Planning Commission Meeting

Tuesday, May 4, 2021 at 6:30 pm

Attendees: Chairperson Lee Bennett, Commissioner Robert Christensen, Commissioner Scott Burgess, Commissioner Mary Cokenour, Commissioner George Matocha, City Manager Evan Bolt, City Recorder Shalena Black

Meeting Location: 17 N 100 E

1. **Call to Order**
2. **Minutes Review/Approval**

   Attachments:

   - **planning-commission-meeting_minutes_2021-04-06** (planning-commission-meeting_minutes_2021-04-06.pdf)

3. **Public Comment**
4. **Subdivision Preapplication Meeting: Jacob Satterfield (discussion)**

   For parcel number A33230257213

   11-2-3B

   Preapplication Meeting With Planning Commission: The sketch plan will be reviewed by the developer and planning commission at a preapplication meeting. At this preliminary meeting, the city will be notified of the developer's intent to subdivide; and the developer will be notified of various city ordinances, standards, special requirements and any other matters of concern to be considered in proceeding with preparation of the preliminary plat. No binding commitments should be made and no formal action by the planning commission or city council is required at this time. The intent of this preapplication meeting is to provide a mutual exchange of information that will help avoid future problems and misunderstandings. The preliminary plat should be prepared in accordance with information discussed at this preapplication meeting, in addition to complying with other sections of this title. (Ord. 2012-01, 7-10-2012)

   Attachments:

   - **Moore Concept Subdivision** (Moore_Concept_Subdivision.png)
   - **Moore Property** (Moore_Property.pdf)

5. **Consider R-2 to C-2 Zone Change Request: Helaman Tait (action)**

   Recommendation: Motion to recommend to the City Council the approval and adoption of the zone change request for parcel number A33230250609, as presented.

   The Planning Commission will consider the following zone change application:

   1) For parcel A33230250609 located at approximately 849 N Pehrson Lane. Requesting

change from R-2 residential to C-2 commercial zone.

Attachments:

- **Helaman Tait Zone Change Request** (Helaman_Tait_Zone_Change_Request.pdf)
- **Helaman Tait Zone Change Request Map** (Helaman_Tait_Zone_Change_Request_Map.docx)
- **Janice Ames Letter of Concern for Zone Change** (Janice_Ames_Letter_of_Concern_for_Zone_Change.pdf)

6. **Review House Bill 409 Municipal and County Land Use and Development Revisions (discussion)**
   The Planning Commission will be reviewing all zoning codes for the City of Monticello to ensure they are in compliance with Utah State Codes.

   Attachments:

   - **2021 Title 10 Ch 1 edits** (2021_Title_10_Ch_1_edits.docx)
   - **2021 Title 10 Ch 2 edits** (2021_Title_10_Ch_2_edits.docx)
   - **2021 Title 10 Ch 3 edits** (2021_Title_10_Ch_3_edits.docx)
   - **HB0409** (HB0409.pdf)

7. **Review House Bill 82 Single-family Housing Modifications (discussion)**
   The Planning Commission will be reviewing all zoning codes for the City of Monticello to ensure they are in compliance with Utah State Codes.

   Attachments:

   - **HB0082** (HB0082.pdf)

8. **Review Senate Bill 164 Utah Housing Affordability Amendments (discussion)**
   The Planning Commission will be reviewing all zoning codes for the City of Monticello to ensure they are in compliance with Utah State Codes.

   Attachments:

   - **2021 Title 10 STRs** (2021_Title_10_STRs.pdf)
   - **SB0164** (SB0164.pdf)

9. **Consider Including the Growing of Field Crops and Fruit as a Permitted Use in R2 Residential Zone (discussion/action)**
10. **Discuss Timeline and Public Hearing Schedule for Code Updates (discussion)**
11. **Administrative Communications**
12. **Next Meeting Agenda**
13. **Adjournment**

Audio File

https://soundcloud.com/user-250815044/2021-05-04-planning-commission-meeting

Notice of Special Accomodations

THE PUBLIC IS INVITED TO ATTEND ALL CITY MEETINGS In accordance with the Americans with Disabilities Act, anyone needing special accommodations to attend a meeting may contact the City Office, 587-2271, at least three working days prior to the meeting. City Council may adjourn to closed session by majority vote, pursuant to Utah Code §52-4-4 & 5

Contact: Shalena Black (shalena@monticelloutah.org 435-587-2271) | Agenda published on 04/30/2021 at 1:55 PM

Planning Commission Meeting

Minutes

Tuesday, April 6, 2021 at 6:30 pm

Attendees: Chairperson Lee Bennett, Commissioner Robert Christensen, Commissioner Scott Burgess-Not Present, Commissioner Mary Cokenour, Commissioner George Matocha, City Manager Evan Bolt, City Recorder Shalena Black

Electronic

https://teams.microsoft.com/l/meetup-join/19%3ameeting_N2QzZDU2YzktMWU3Ni00YjczLWFjMjQtZDQ2YzI0ZWQ1ODc2%40thread.v2/0?context=%7b%22Tid%22%3a%2269bfa748-4f2f-4be5-adec-484d29028b47%22%2c%22Oid%22%3a%229559c17f-b545-4ecc-9a42-55777d51927b%22%7d

1. **Call to Order**

   Minutes:
   Chairperson Bennett opened the regularly scheduled Planning Commission Meeting at 6:30 p.m. The following visitors were present: Ben Nielson, Guy Wallace, Beth Lament, Helaman Tait, and RL Wilcox.

2. **Minutes Review/Approval**

   Minutes:
   MOTION made by Commissioner Mary Cokenour to approve the February 2, 2021, minutes as presented. The motion was seconded by Commissioner George Matocha and passed unanimously. Motion made by Commissioner George Matocha to approve the March 2, 2021, minutes as presented. The motion was seconded by Commissioner Mary Cokenour and passed unanimously.
   Vote results:
   Ayes: 3 / Nays: 0

3. **Public Comment**

   Minutes:
   There was no public comment.

4. **Public Hearing: R-2 to C-2 Zone Change Request**

   Minutes:
   Chairperson Lee Bennett explained the purpose of the hearing was to receive input from the public for the proposed zone change request for parcel A33230250609 from

R-2 Residential to C-2 Commercial. The parcel is located at approximately 849 N Pehrson Lane. Recorder Shalena Black showed the Commissioners a zoning map which included said parcel and those abutting it. She explained that property owner Helaman Tait would like to build a metal shop on the property. Commissioner George Machota asked where the access to the property was located. Recorder Black said she assumed the property would be accessed on the east side of the property. Commissioner Mary Cokenour asked for clarification on property boundaries. Recorder Black explained that the parcel mapping system used by the City is slightly off and showed on the map where the boundaries should be. She also informed the Commission of the sewer line running through a portion of the property. Commissioner Matocha asked what zone the surrounding properties were. Recorder Black explained that the parcel was surrounded by R-2 zoning. Commissioner Cokenour asked what the purpose of the shop was. Recorder Black said the shop would be used to work on his vehicles, and a portion of the building might be dedicated to his wife's t shirt business. Manager Evan Bolt explained the conversations he and Recorder Black had with Mr. Tait concerning this property. He said Mr. Tait was informed of the setback requirements for R-2 zoning. Manager Bolt said Mr. Tait expressed that he would like to maximize the square footage of the property to allow for a larger shop and wouldn't be using the building for commercial use. Chairperson Bennett asked if C-2 zoning allows for auto repair. Manager Bolt said it wouldn't be used for a commercial business but as a garage with the possibility of Mr. Tait's wife doing her t shirt business in a portion of it. The t shirt business is a permitted use in C-2 zoning. Chairperson Bennett read from a letter neighboring property owner, Janice Ames, submitted in response to the zone change request. Mrs. Ames, whose property is located at 65 E Pehrson Lane, isn't in opposition to the zone change but had some items she would like the City to consider before making a decision. In her letter, she informs that Mr. Tait has been known to work late into the night keeping the neighbors awake, she asked for Mr. Tait to be required to put up a privacy fence and had concerns about vehicles being parked along the access road which is a City street. Commissioner Cokenour expressed her concern that it might look like an extension of Schafer's Auto. Chairperson invited Beth Lament to make a comment. Ms. Lament said she was concerned about traffic and the accumulation of junk decreasing her property value. It was at this point in the public hearing that Helaman Tait joined the meeting. Mr. Tait said he didn't buy this lot to turn it into a commercial business but to have it changed to a C-2 zoning for tax purposes. He informed the Commission if he were to build in the current zoning, it would be taxed as a second dwelling and at a higher tax rate. He assured it will be a personal shop not a business location. Ms. Lament asked what stops it from becoming more of a business. Mr. Tait said the purpose for requesting it to be zoned C-2 was to protect against it being turned into a commercial business and to show that he isn't interested in doing a commercial business. Chairperson Bennett asked what the permitted uses were in C-2 zone. Manager Bolt read the list of permitted uses. Chairperson Bennett asked what the parcel dimensions were. Mr. Tait said the

dimessions were approximately 89 ft by 125 ft. Chairperson Bennett asked if there were any more questions. MOTION made by Commissioner Mary Cokenour to close the public hearing at 7:09 p.m. The motion was seconded by Commissioner George Matocha. Chairperson Lee Bennett – Aye, Commissioner George Matocha – Aye, Commissioner Robert Christensen – Aye, Commissioner Mary Cokenour – Aye, Commissioner Scott Burgess – Not Present. The motion passed unanimously.

Vote results:
Ayes: 4 / Nays: 0

5. **Subdivision Preapplication Meeting: Ben Nielson (discussion)**

Minutes:
Ben Nielson said he would like to put on his property located at 133 E 200 West some covered wagons to rent out nightly. Mr. Nielson presented a site plan to the Commission and assured he spoke with his neighbors of his plans as well. He asked with this type of nightly rentals not being a current permitted use in the C-2 zoning, if the Commission had any recommendations on what he could do to make this work. Commissioner Matocha suggested he look into doing a PUD. Manager Bolt said the parcel size isn't big enough to do a PUD but maybe it could be considered a variance. Chairperson Bennett said with the new Legislative bills on land use, it may be addressed. She said at this point, the Commission will have to wait to see what the changes are to the land use ordinances.

6. **Review House Bill 82 Single-family Housing Modifications (discussion)**

Minutes:
Chairperson Bennett said on line 82 of HB82 is where the single-family designation starts. She pointed out the lines where changes in definitions were made and suggested the City makes changes to their definitions to be the same. Manager Bolt said he spoke with the City attorney and there are definitions that need to be added to our code such as hotels and motels. Commissioner Matocha said he would like short term rentals to be put in a separate piece of code. Manager Bolt added that more investigation can be done on short term rental codes around the state.

7. **Review House Bill 409 Municipal and County Land Use and Development Revisions (discussion)**

Minutes:
Chairperson Bennett explained that HB 409 is lengthy and includes many definitions. Commissioner Matocha suggested the City Council be aware of how the Legislative bills might affect the City's zoning codes before moving forward with any suggested zoning changes. It was agreed to take them before the City Council for review.

8. **Review Senate Bill 164 Utah Housing Affordability Amendments (discussion)**

Minutes:
Chairperson Bennett said SB 164 addresses affordable housing. She said this is an area Monticello is lacking in but is much needed. It also brings up training

requirements for the Commission. Chairperson Bennett feels that it should be brought to the City Council because it might create changes to the City's General Plan.

9. **Administrative Communications**

Minutes:
Manager Bolt and Recorder Black will research short term rentals and solar permitting. They will be implementing new software for building permits and code violations. The new website will also have features to follow code violations.

10. **Next Meeting Agenda**

Minutes:
Orchards in R2, short term rentals, solar permitting, update on Legislative bills, and zone change request.

11. **Adjournment**

Minutes:
MOTION was made by Commissioner Mary Cokenour to adjourn the meeting at 8:17 p.m. The motion was seconded by Commissioner Robert Christensen and passed unanimously.
Vote results:
Ayes: 4 / Nays: 0

Audio File

https://soundcloud.com/user-250815044/04-06-2021-public-hearing-planning-commission-meeting

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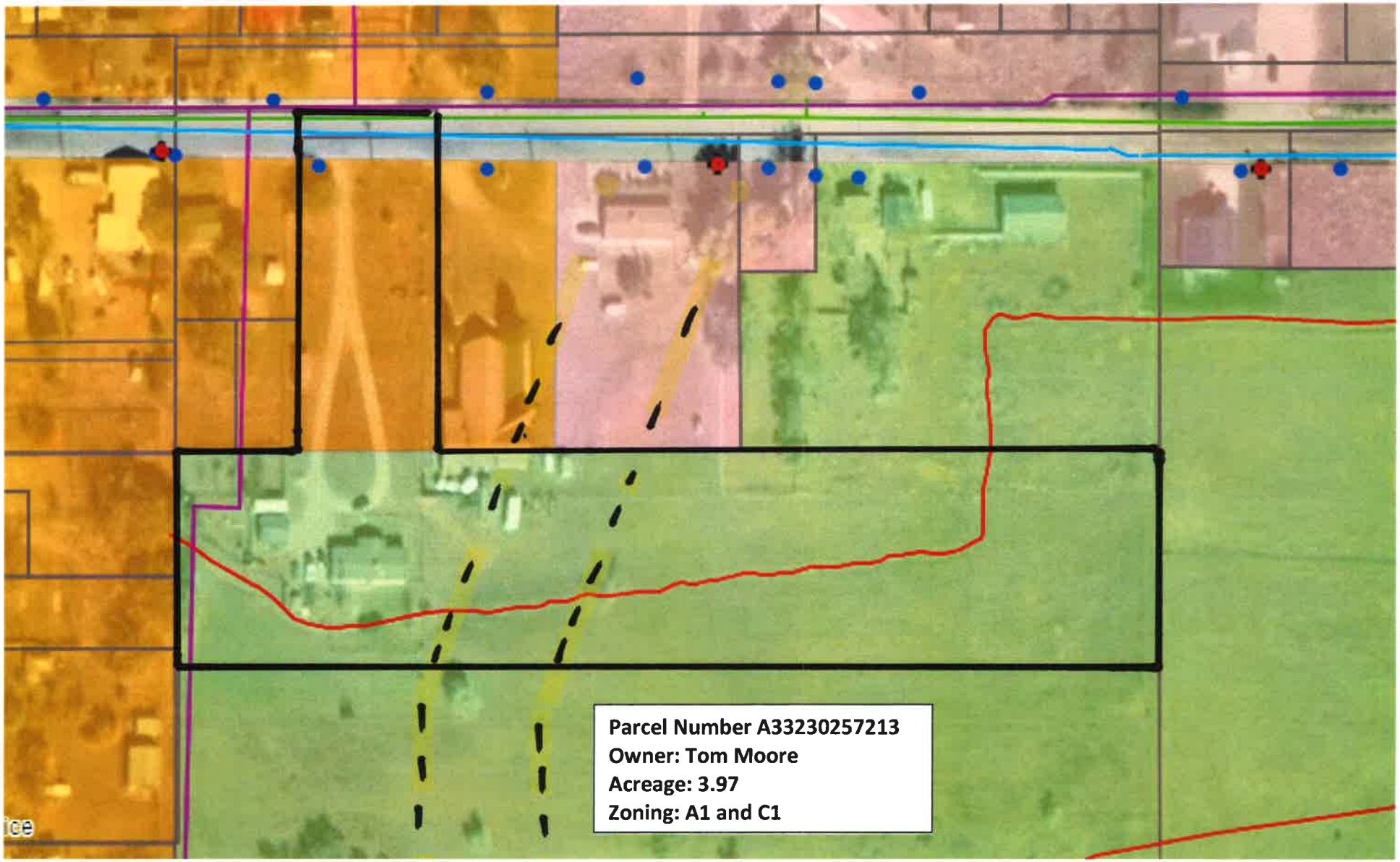
E 6th St
E 6th St
191
Inn at the Canyons
E 500 N
E 500 N
E 500 N
E 500 N
Mountain View Trailer Park
Possible Storage units
Multi Family
Conoco
W 400 N
Kaaj
1
2
3
4
5
6
7
8
Re-route Drainage line
Road Corridore Conection change
Shake Shack
Temporarily closed
U.S. Highway 191


Parcel Number A33230257213
Owner: Tom Moore
Acreage: 3.97
Zoning: A1 and C1

Monticello City Zone Change

APPLICATION

Email address *

helamantait@gmail.com

Date *

MM DD YYYY

02 / 17 / 2021

PROPERTY ADDRESS *

~~863~~ North Pehrson Lane 849

Applicant Name *

Helaman Tait

PROPERTY TAX PARCEL NUMBER *

A33230250609

Current Zone *

- ( ) R-1 RESIDENTIAL
- (•) R-2 RESIDENTIAL
- ( ) A-1 AGRICULTURE
- ( ) C-1 COMMERCIAL
- ( ) C-2 COMMERCIAL
- ( ) I-1 INDUSTRIAL

CHANGE ZONE TO: *

- ( ) R-1 RESIDENTIAL
- ( ) R-2 RESIDENTIAL
- ( ) A-1 AGRICULTURE
- ( ) C-1 COMMERCIAL
- (•) C-2 COMMERCIAL
- ( ) I-1 INDUSTRIAL

USE OF PROPERTY *

- (●) RESIDENTIAL
- ( ) COMMERCIAL
- ( ) INDUSTRIAL
- ( ) COMBINED COMMERCIAL/RESIDENTIAL
- ( ) AGRICULTURE

APPLICANT PHONE NUMBER *

4356697775

SIZE OF LOT (sq ft) *

11,125

FILED DATE *

MM DD YYYY

02 / 17 / 2021

This section is for city staff use only.

Reviews Completed

- [ ] Future Road Corridors
- [ ] Drainage Corridors
- [ ] Permitted Use
- [ ] Adjacent zoning is contiguous to requested zone change

Filing Fees Collected

- ◯ 50.00

Zoning Administrator Signature

DATE of Scheduled Planning Commission Public Hearing and Review

MM DD YYYY

/ /

DATE of City Council Review

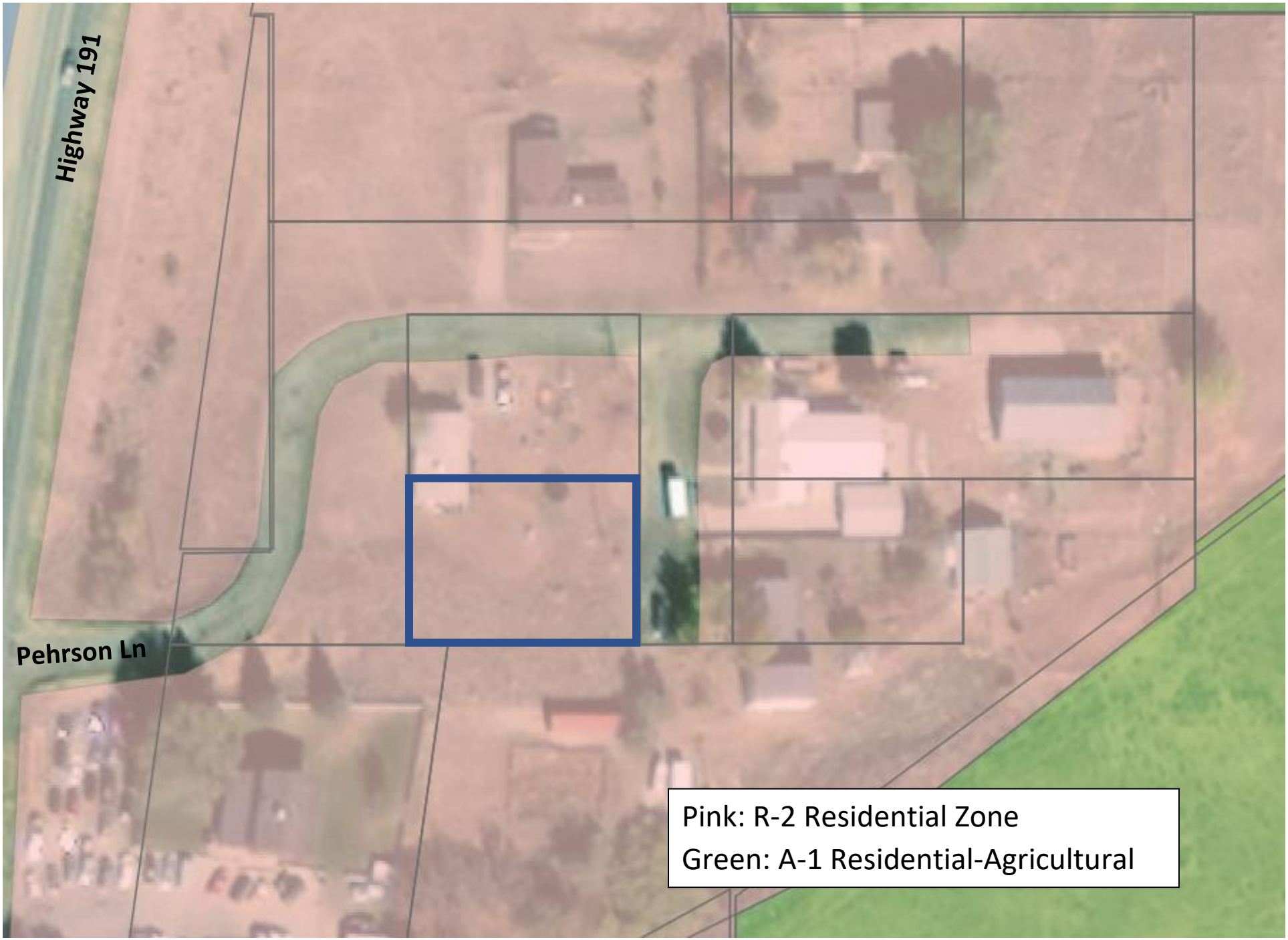
MM DD YYYY

/ /

Zoning Administrator Comments

Applicant Signature

Helaman Tait


Highway 191
Pehrson Ln
Pink: R-2 Residential Zone
Green: A-1 Residential-Agricultural

April 1, 2021

Dear Monticello City Council Members.

My husband and I are not opposed to the zone change that Hellaman and Dawn Tait want to make to parcel A33230250609 at 849 N on Pehrson Lane. However, we would like to add a few stipulations that need to be considered. 1) Helaman is a great provider for his family. But, while remodeling his house he didn't seem to know when to put the hammer and saw away, working well into the night keeping his neighbors awake. He needs to be made aware that there is a noise ordnance and it needs to be enforced. Sun goes down, put the tools to down. 2) A privacy fence would be appreciated. Especially if he is using his new shop to fix cars for others, and may need to consider getting a city license. 3) No trailers, container, or vehicles parked on the road. Our road is too narrow. Park them well within your property line.

That said, I understand that a few of the neighbors on Pehrson Lane believe their property lines are half way in the road. The city needs to look into this. I for one hope this is not so. In my option a road is a road. Our road is narrow and we don't have room for parked vehicles on the road. I have had a hard time getting in and out of my driveway occasionally, especially if I am trying to back into my driveway because of vehicles parked in the road. My husband and I have often commented that neighbors are driving onto our property (I would say grass but we don't have grass because of past water restrictions) while backing their vehicles out of their driveway or off the side street. I would like to see the city enforce the law, if there is a law about parking on the street.

Thank you for your time and consideration of my requests regarding the parcel A33230250609 located at approximately 849 N Pehrson Lane from a R – 2 residential to C – 2 commercial zone.

Janice Ames

Janice Ames

Owner of property at 65 E. Pehrson Lane Monticello, Utah

TITLE 10
ZONING REGULATIONS

Blue = Reorganization and updates from prior laws
Orange = Changes necessitated by 2021 laws

CHAPTER 1
GENERAL PROVISIONS

SECTION:

10-1-1: TITLE, INTENT AND PURPOSE:

A. This title shall be known as, and shall be entitled the AMENDED ZONING ORDINANCE OF THE CITY OF MONTICELLO, UTAH, dated July 10, 2012, and may be so cited and pleaded.

B. It is the intent and purpose of the city council of Monticello, Utah, to promote the health, safety, morals, convenience, order, prosperity and general welfare of the present and future inhabitants of the city by guiding development within said city in accordance with a comprehensive plan which plan has been designed:

1. To encourage and facilitate orderly growth and development in the area;
2. To promote safety from fires, floods, traffic hazards and other dangers;
3. To promote sanitation and health of the inhabitants;
4. To discourage undue scattering of population and unnecessary expenditures of the monies for excessive streets, water and sewer lines, and other public requirements;
5. To stabilize and improve property values;
6. To protect the residents from objectionable noise, odor, dust, fumes, and other deleterious substances or conditions;
7. To promote a more attractive and wholesome environment. It is also the intent and purpose of the city council of Monticello that the regulations and restrictions as set forth in this title shall be so interpreted and construed as to further the purposes of this title. (Ord. 2012-01, 7-10-2012)

10-1-2: DECLARATION:

In establishing the zones, the boundaries thereof and regulations and restrictions applying within each of the zones, due and careful consideration was given, among other things, to the suitability of the land for particular uses and to the character of the zone with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city. (Ord. 2012-01, 7-10-2012)

10-1-3: INTERPRETATION:

A. In interpreting and applying this title, the provisions thereof shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.

B. Except as specifically herein provided, it is not intended by the adoption of the ordinance codified herein to repeal, abrogate, annul or in any way to impair or interfere with any existing provisions of law or ordinance, or any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued, pursuant to law relating to the erection, construction, establishment, moving, alteration or enlargement of any building or improvement; nor is it intended by this title to interfere with, abrogate or annul any easement, covenant or other agreement between parties; provided, however, that in cases in which this title imposes a greater restriction than is imposed or required by other existing provisions of law or ordinance, the provisions of this title shall control. (Ord. 2012-01, 7-10-2012)

10-1-4: DEFINITIONS:

It is the intent of the city council to define certain words and phrases as a means of facilitating understanding of terms which may not be universally understood in the sense that the city council intends that they should be understood.

ACCESSORY DWELLING UNIT: A habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

ADVERSELY AFFECT PARTY: A person other than a land use applicant who:

A. Owns real property adjoining the property that is the subject of a land use application of land use decision; or

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

AFFECTED ENTITY: A county, municipality, local district, ~~independent~~ special district under ~~Utah Code Annotated Title 17B; title 11, chapter 13~~,Title 17D, Chapter 1, Special Service District Act, school district; interlocal cooperation ~~act~~entity established under Title 11, Chapter 13, Interlocal Cooperation Act; specified public utility; a property owner; ~~a~~ property owners' association; or the Utah Department of Transportation, if:

A. The entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

B. The entity has filed with the municipality a copy of the entity's general or long-range plan; or

C. The entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under ~~state statute~~ this chapter.

AFFECTED OWNER; The owner of real property that is:

A. A single project;
B. The subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsectioin 20A-7-60(5)(a); and
C. Determined to be legally referable under Section 20!-7-602.8.

AGRICULTURE: The growing of soil crops in the customary manner in the open. It shall not include livestock raising activities; nor shall it include retailing of crops on the premises.

APARTMENT HOUSE (MULTIPLE DWELLING): Any building or portion thereof which is designed, built, rented or leased, let, or hired out to be occupied or which is occupied as the home or residence of three (3) or more families living independently of each other and doing their own cooking within the premises.

APPEAL AUTHORITY: ~~A~~ The person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

APPROVED WATER SYSTEM, PUBLIC WATER SYSTEM: The Monticello city water system.

BILLBOARD: A freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

BOARDING HOUSE, LODGING HOUSE: A building containing not more than one kitchen where for compensation meals are provided pursuant to previous arrangements on a daily, weekly or monthly basis as distinguished from a motel, cafe or rooming house.

BUILDABLE AREA: That portion of a lot which will fit the construction of a structure under the provisions of the building codes adopted by the city and this title, either without grading and excavation or with grading and excavation, as specified in this title.

BUILDING: Any structure built for the support, shelter or enclosure of person, animals, chattels or property of any kind.

A. Building, Accessory: A subordinate building, the use of which is incidental to that of the main building.
B. Building Line: A line designating the minimum distance which buildings must set back from a street or lot line.
C. Building, Main: The principal building or buildings upon a lot.

CARPORT: A structure for the shelter of automobiles that is not completely enclosed by walls.

CHARTER SCHOOL:

A. An operating charter school;
B. A charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or
C. An entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

A Charter School does not include a therapeutic school.

CITY ENGINEER: Until such time as the city hires a permanent registered engineer, the city engineer shall be a licensed surveyor, a registered engineer, or an engineering firm as designated by the city council on either a retainer or per job basis.

CIVIL ENGINEER: A professional engineer registered in the state of Utah to practice in the field of civil engineering work.

CLINIC: A building used for the diagnosis and treatment of ill, infirm, and injured persons which does not provide board, room or regular hospital care and services.

CLUB: A building used, occupied and operated by an organized association of persons for social, fraternal, religious or patriotic purposes, whose activities are confined to the members and their guests, but not including any building used principally to render a service usually and ordinarily carried on as a business.

COMMON AREA: An area designed to serve two (2) or more dwelling units which have convenient access to the area.

COMPREHENSIVE PLAN: A coordinated plan which has been prepared and adopted for the purpose of guiding development, including, but not limited to, a plan or plans of land use, circulation, housing and public facilities and grounds.

CONDITIONAL USE: A land use that, because of ~~its~~ the unique characteristics or potential impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

CONSTITUTIONAL TAKING: A governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

A. Fifth or Fourteenth Amendment of the Constitution of the United States; or
B. Utah Constitution Article I, Section 22.

CONVALESCENT HOME: See definition of Rest Home, Nursing Home, Convalescent Home.

CULINARY WATER AUTHORITY: The department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

CURB CUT: A cut in the curb line for the passage of vehicles.

CUT: A process of excavation. See definition of Excavation.

DENSITY: Density of population, measured by the number of dwelling units per acre of land.

?DESIGNATED FLOOD HAZARD AREA: Zone A on the flood hazard boundary map issued by the federal insurance administration for this community, dated December 24, 1976, with panel number H-01-02, community number 490212, and any officially published revision to this map.

DETACHED STRUCTURE: Any structure being secondary to the primary use of the parcel (i.e., a garage, storage sheds, barns, coops, etc.).

DEVELOPMENT ACTIVITY:

A. Any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;
B. Any change in use of a building or structure that creates additional demand and need for public facilities; or
C. Any change in the use of the land that creates additional demand and need for public facilities.

DEVELOPMENT AGREEMENT: A written agreement or amendment to a written agreement between a municipality and one or more parties that regulates or controls the use of development of a specific area of land. A development agreement does not include an improvement completion assurance.

DISABILITY: A physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment. Disability does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 or the Controlled Substantces Act, 21 U.S.C. 802.

DRIVE-IN RETAIL: Any form of merchandising, serving or dispensing of goods in which the customer is served while in his automobile.

?DWELLING:

A. Dwelling, Bachelor's: A dwelling unit which is occupied by four (4) or more nonrelated adults.
B. Dwelling, Caretaker's: A dwelling which is occupied by a person whose function is to watch or take care of a business or industry which is located on the same premises as the dwelling.
C. Dwelling, Conventional: A dwelling which is constructed in compliance with the provisions of the building codes 1 adopted by the city.
D. Dwelling, Multiple-Family: A building containing three (3) or more separate dwelling units, each of which is designed for or occupied by one family.
E. Dwelling, Single-Family: A building containing one dwelling unit which is designed for or occupied by one family.
F. Dwelling, Two-Family: A building containing two (2) separate dwelling units, each of which is designed for or occupied by one family.
G. Dwelling Units: A unit of a residential building consisting of one or more rooms, a kitchen or cooking facility and an independent water closet and bathing facility.

EASEMENT: A land use right offered for a specific purpose or use over, upon, or beneath the land; its location and extent being accurately described in the letting process or by separate document using metes and bounds; distinct from land ownership and granted to the public, a particular party or public utility.

EDUCATIONAL FACILITY: A school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities; A structure or faciliity:

A. Located on the same property as a building described as an educational facility; and
B. Used in support of the use of that building;
C. A building or provide office and related space to a school district's administrative personnel;

An educational facility does not include land or structure including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is

A. Not located on the same property as the building described as an educational facility; and

B. Used in support of the purposes of a building described as an educational facility

An educational facility does not include a therapeutic school

EXCAVATION: Any act by which vegetation matter, earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed, and shall include the conditions resulting from it.

FACILITY: A public service developed, owned and maintained by the city (i.e., water, sewer, etc.).

FAMILY: An individual or two (2) or more persons related by blood, marriage or adoption living together in a single dwelling unit and maintaining a common household. A family may include four (4), but not more than four (4), persons not related to the family, but living as guests with the residing family. The term "family" shall not be construed to mean a group of unrelated individuals, a fraternity, club or institutional group.

FENCE, SIGHT OBSCURING: A fence having a height of six feet (6') or more above grade, which permits vision through less than ten percent (10%) of each square foot that is more than eight inches (8") aboveground.

FILL: A deposit of earth material by artificial means.

FINAL PLAT: A permanent map or chart, accurately describing a division of land which has been surveyed and marked on the ground so that streets, blocks, lots and other divisions may be identified and located.

FINAL PLAT, RECORD OF SURVEY MAP: A plat or plats of survey of land within a subdivision or other large scale development which has been prepared in accordance with applicable city standards and/or state statutes for the purpose of recording in the office of the county recorder.

FIRE AUTHORITY: The department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

FLOOD PLAIN: Land that

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

FLOOR AREA: The floor area of a building is the sum of the areas of headroom height on all floors of the building, including basements, mezzanines and penthouses, measured from the exterior walls or from the centerline of walls separating buildings. The floor area does not include unoccupied structures such as pipe trenches, exterior terraces, or steps, chimneys, roof overhangs, etc.

FRACTIONAL NUMBERS OF MEASUREMENTS: In determining the requirements of this title, whenever a fraction of a number or a unit is one-half (1/2) or more, and whenever a fraction of a number or a unit resulting from a computation is one-half (1/2) or more, said fraction shall be considered as a whole number or a unit. Where the fraction is less than one-half (1/2), said fraction shall not be included in determining requirements.

GARAGE, PRIVATE: A building or part thereof designed for the parking or temporary storage of automobiles of the occupants of the premises.

GENERAL PLAN: A document that a municipality adopts that sets forth general guidelines for proposed future development of land within the municipality.

GEOLOGIC HAZARD: Includes

A. A surface fault rupture;
B. Shallow groundwater;
C. Liquefaction;
D. A landslide;
E. A debris flow;
F. Unstable soil;
G. A rock fall; or
H. Any other geologic condition that presents a risk: (1)To life; (2) Of substantial loss of real property; or(3) Of substantial damage to real property.

GRADE: The top of the foundation or stem wall must be a minimum of one foot (1') higher than the top of the curb. Grade shall be determined by:

A. For buildings fronting one street only, the elevation of the top of the curb, at right angles to the midpoint of the foundation.
B. For buildings fronting more than one street, the average of the elevations of the top of the curb, at right angles to the midpoint of the foundation.

GRADING: Any excavating or filling, or combination thereof, and shall include the conditions resulting from any excavation or fill.

HARD SURFACE: Hard surface is limited to concrete or asphalt only. Hard surface specifications are as approved by the city.

HEIGHT OF BUILDING: The vertical distance from the average grade to top of the building walls.

HILLSIDE AREA: Any lot or parcel with an average slope greater than eight percent (8%).

HISTORIC PRESERVATION AUTHORITY: A person, board, commission, or other body designated by a legislative body to:

A. Recommend land use regulations to preserve local historic districts or area; and
B. Administer local historic preservation land use regulations within a local historic district or area.

HOME OCCUPATION: Any occupation conducted within a dwelling and carried on by persons residing in the dwelling.

HOOKUP FEE: A fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

IDENTICAL PLANS: Building plans submitted to a municipality that:

A. Are clearly marked as "identical plans";
B. Are substantially identical to building plans that were previously submitted to and reviewed and proved by the municipality; and

C. Describe a building that (1) Is located on land zoned the same as the land on which the building described in the previously approved plan is located; (2) Is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans; (3) Has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and (4) Does not require any additional engineering or analysis.

IMPACT FEE: A payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

IMPROVEMENT COMPLETION ASSURANCE: A surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

A. Recording a subdivision plat; or
B. Development of a commercial, industrial, mixed use, or multifamily project.

IMPROVEMENT WARRANTY: An applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

A. Complies with the municipality's written standards for design, materials, and workmanship; and
B. Will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

IMPROVEMENT WARRANTY PERIOD: A period

A. No later than one year after a municipality's acceptance of required landscaping; or
B. No later than one year after a municipality's acceptance of required infrastructure, unless the municipality:
    1. Determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and
    2. Has substantial evidence, on record:
        a. Of prior poor performance by the applicant; or
        b. That the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

INFRASTRUCTURE IMPROVEMENT: Permanent infrastructure that is essential for the public health and safety or that:

A. Is required for human occupation; and
B. An applicant must install
    1. In accordance with published installation and inspection specifications for public improvements; and
    2. Whether the improvement is public or private, as a condition of:
        a. Recording a subdivision plat;
        b. Obtaining a building permit; or
        c. Development of a commercial, industrial, mixed us, condominium, or multifamily project.

INTERNAL LOT RESTRICTION: A platted note, platted demarcation, or platted designation that:

A. Runs with the land; and
B. Creates a restriction that is enclosed within the perimeter of a lot described on the plat; or
C. Designates a development condition that is enclosed within the perimeter of a lot described on the plat.

INTERVENING PROPERTY: Property located between an existing service facility and the property under development.

JUNK: Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris and tires, construction waste, waste, iron, steel, and other old or scrap ferrous or nonferrous materials in sufficient quantity to pose a public health or safety hazard, or to be aesthetically unattractive, and shall also include inoperable, unlicensed, junked, dismantled, or wrecked automobiles, or parts thereof.

JUNKYARD: A place where scrap, waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled or stored, including auto wrecking yards, house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building or where salvaged materials are kept incidental to manufacturing operations conducted on the premises.

KENNEL: Land or buildings used in the keeping of four (4) or more dogs over four (4) months old.

LAND USE APPLICANT: A property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

LAND USE APPLICATION: ~~An application that is required by the municipality's land use code.~~ An application that is:

A. Required by the municipality; and
B. Submitted by a land use applicant to obtain a land use decision; and
C. Does not mean an application to enact, amend, or repeal a land use regulation.

LAND USE AUTHORITY: A person, board, commission, agency, or ~~other~~ body, including the local legislative body, designated by the local legislative body to act upon a land use application; or if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

LAND USE DECISION: An administrative decision of a land use authority or appeal authority regarding:

A. A land use permit;
B. A land use application; or
C. The enforcement of a land use regulation, land use permit, or development agreement.

~~LAND USE ORDINANCE: A planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan.~~

LAND USE PERMIT: A permit issued by a land use authority.

LAND USE PLAN: A plan adopted and maintained by the City Council which shows how the land should be used; an element of the master plan.

LANDSCAPE PLAN, PLANTING PLAN: A plan showing the location and dimensions of plants, irrigation equipment, curbs and other protective features around the edge of the planting beds and the location and species of plants to be planted.

LAND USE REGULATION: A legislative decision enacted by ordinance, law, code, map, resolution, specification, fee or rule that governs the use or development of land including the adoption or amendment of a zoning map or the text of the zoning code. A Land Use Regulation does not include:

A. A land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or
B. A temporary revision to an engineering specification that does not materially (1) Increase a land use applicant's cost of development compared to the existing specification; or (2) Impact a land use applicant's use of land.

LANDSCAPING: The use and integration of a combination of planted trees, shrubs, vines, ground covers, lawns, rocks, fountains, pools, artworks, screens, walls, fences, benches or surfaced walkways set into an aesthetically pleasing arrangement as determined by the planning commission or their authorized representative.

LEGISLATIVE BODY: The municipal council.

LIVESTOCK CORRAL: A place or pen where livestock are kept on a seasonal basis as part of an agricultural enterprise or operation as distinguished from a livestock feed yard.

LIVING OPEN SPACE: That portion of the yard on a zoning lot which is not used by automotive vehicles, but reserved for outdoor living space, recreational space, and landscaping.

LOCAL DISTRICT: An entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

LOCAL HISTORIC DISTRICT OR AREA: A geographically definable area that:

A. Contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and
B. Is subject to land use regulations to preserve the historic significance of the local historic district or area.

LODGING HOUSE: See definition of Boarding House, Lodging House.

~~LOT: A single parcel or tract of land.~~

~~A. A parcel of real property shown as a delineated parcel of land with a number and designation on the final plat of a subdivision recorded in the office of the San Juan County recorder; or~~
~~B. A parcel of land, the dimensions or boundaries of which are defined by record in the office of the San Juan County recorder.~~

LOT: A tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

?Lot, Corner: A lot situated at a junction of two (2) city streets or situated on a curved street or way, the radius of which is thirty five feet (35') or less, and where the angle formed by the intersection of the tangent is one hundred five degrees (105°) or less.

?Lot, Interior: A lot other than a corner lot.

?Lot Of Record: A lot designated on a subdivision plat or deed, duly recorded pursuant to statute in the county recorder's office. A lot of record may or may not coincide with a zoning lot.

? Lot, Zoning: A parcel of land which:

A. Complies with all existing area frontage, width, and supplementary requirements of the zone in which it is located;

B. Has frontage on a city street, which street has been accepted by the city council and has been improved in accordance with city standards and is in use by the public;

C. Is shown as a separate lot in an approved subdivision plat or large scale development plan, which plat or plan has been approved in accordance with the applicable ordinances.

LOT AREA: The total area measured on a horizontal plane included within the lot lines of the lot ~~or parcel of land~~.

LOT LINE ADJUSTMENT: A relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 10-9a-608:

A. Whether or not the lots are located in the same subdivision; and

B. With the consent of the owners of record.

Lot Line Adjustment does not mean a new boundary line that

A. Creates an additional lot; or

B. Constitutes a subdivision.

Lot Line Adjustment does not include a boundary line adjustment made by the Department of Transportation.

?LOT WIDTH: The distance across a lot or parcel of property, measured along a line parallel to the front lot line, or parallel to a straight line, connecting the ends of an arc which makes up the front lot line.

MANUFACTURED HOME: A dwelling unit which meets the building code for permanent structures designed to be transported after fabrication and which is ready for occupancy as an independent unit except for connection to utilities and location on a foundation.

MAJOR TRANSIT INVESTMENT CORRIDOR: Public transit service that uses or occupies:

A. Public transit right-of-way;

B. Dedicated road right-of-way for the use of public transit, such as a bus rapid transit; or

C. Fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and (1) A public transit district as defined in Section 17B-2a-802; or (2) An eligible political subdivision as defined in Section 59-12-2219.

METES AND BOUNDS: The description of a lot or parcel of land by courses and distances.

MOBILE HOME: A dwelling unit designed to be transported, after fabrication, on its own wheels or on detachable wheels, and which is ready for occupancy as an independent dwelling unit except for connection to utilities and/or location on a foundation. The term "mobile home" includes both single and double wide sizes, but shall not include conventional houses which are manufactured elsewhere and moved into an area for use as permanent housing.

MOBILE HOME PARK: An area or tract of land used to accommodate mobile homes, regulations and standards for which are found under chapter 13 of this title.

MODERATE INCOME HOUSING: Housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

MUNICIPAL UTILITY EASEMENT: An easement that:

A. Is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;
B. Is not a protected utility easement or a public utility easement as defined in Section 54-3-27;
C. The municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data line;
D. Is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;
E. Is Used or occupied by a specified public utility in accordance with an authorized franchise or other agreement and is located in a utility easement granted for public use; or
F. Is described in Section 10-9a-529 and is used by a specified public utility.

NATURAL STATE: The description of a lot or parcel of land by courses and distances.

NOMINAL FEE: A fee that reasonably reimburses a municipality only for time spent and expenses incurred in

A. Verifying that building plans are identical plans; and
B. Reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

NONCOMPLYING STRUCTURE: A structure that:

A. Legally existed before ~~its~~ the structure's current land use designation; and
B. Because of one or more subsequent land use ordinance changes, does not conform to setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

NONCONFORMING BUILDING: A building, structure, or portion thereof, which does not conform to the regulations of this title applicable to the zone or district in which such building is situated, but which existed on the effective date hereof.

NONCONFORMING USE: A use of land that:

A. Legally existed before its current land use designation;
B. Has been maintained continuously since the time the land use ordinance ~~regulation~~ governing the land changed; and
C. Because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

NURSERY, DAYCARE: A home or building in which children are tended or kept for compensation. Does not include overnight accommodations for children, as in a foster home or an orphanage.

OFF SITE IMPROVEMENTS: Improvements, as required by this title, installed outside the perimeter of the subdivision which are designed and located to serve the needs of the subdivision or adjacent properties, lying between the subdivision and existing improvements.

OFFICIAL MAP: A map drawn by municipal authorities and recorded in a county recorder's office that

A. Shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
B. Provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and
C. Has been adopted as an element of the municipality's general plan.

ON SITE IMPROVEMENTS: Improvements, as required by this title, installed within or on the perimeter of the subdivision or development site.

OVERSIZED IMPROVEMENTS: Improvements with added capacity designed to serve other property in addition to the land within the boundaries of the subdivision or development.

PARCEL: ~~See definition of Lot~~. Any real property that is not a lot.

PARCEL BOUNDARY ADJUSTMENT: A recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 10-9a-524, if no additional parcel is created and:

A. None of the property identified in the agreement is a lot; or
B. The adjustment is to the boundaries of a single person's parcels.

Parcel Boundary Adjustment does not mean an adjustment of a parcel boundary line that:

A. Creates an additional parcel; or
B. Constitutes a subdivision.

A Parcel Boundary Adjustment does not include a boundary line adjustment made by the Department of Transportation.

PARKING SPACE: Spaces within a building or parking area, exclusive of driveways, ramps, columns, office and working area, for the parking of a motor vehicle, not less than eighteen feet (18') in length and nine feet (9') in width. Exception: Spaces reserved for the disabled will be no less than twenty feet (20') in length and thirteen feet (13') in width.

PERSON: An individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

PLAN FOR MODERATE INCOME HOUSING: A written document adopted by a municipality's legislative body that include:

A. An estimate of the existing supply of moderate income housing located within the municipality;
B. An estimate of the need for moderate income housing in the municipality for the next five years;
C. A survey of total residential land use;
D. An evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

E. A description of the municipality's program to encourage an adequate supply of moderate income housing.

PLAT: An instrument subdividing property into lots as depicted on a map or other graphical representation of land that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

POTENTIAL GEOLOGIC HAZARD AREA: An area that

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

PRELIMINARY PLAT: A map or plan of a proposed land division, prepared in accordance with the regulations of this title.

PRIVATE DRIVE: An accessway from a city street or highway to private land that does not front a city street or highway. A private drive is owned and maintained by the landowner.

PUBLIC AGENCY: The federal government, state, county, municipality, school district, local district, special service district, or other political subdivision of the state; or a charter school.

PUBLIC HEARING: A hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

PUBLIC MEETING: A meeting that is required to be open to the public under ~~Utah Code Annotated title 52, chapter 4, open and public meetings act~~. Title 52, Chapter 4, Open and Public Meetings Act.

PUBLIC STREET: A public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public land, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

RECEIVING ZONE: An area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

RECORD OF SURVEY MAP: A map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

RECREATIONAL VEHICLE:

A. A vehicle, with or without self- power, maintained primarily as a temporary dwelling for travel, vacation, or recreation purposes, and having a width of ten feet (10') or less;
B. Off highway vehicle (OHV), including, but not limited to, all-terrain vehicle (ATV), side by side utility task vehicle (UTV), recreational off highway vehicle (ROV), golf cart, and the trailer used to transport such vehicle;
C. Boat, other than canoe or kayak, and the trailer used to transport it.

RECREATIONAL VEHICLE PARK: A minimum three (3) acre area or tract of land used to accommodate two (2) or more recreational vehicles.

REMOVAL: The killing of vegetation by spraying, complete extraction or cutting of such vegetation to the ground, or down to trunks or stumps.

RESIDENTIAL ACCESSORY STRUCTURE: A building or other structure which is incidental to and which is constructed on the same zoning lot as the dwelling for the exclusive use of the residents of such dwelling including, but not limited to, a detached garage or carport for not more than three (3) automobiles, swimming pools, pergolas, tennis courts, and private greenhouses.

RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY: A residence

A. In which more than one person with a disability resides; and
B. Which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or
C. Which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

REST HOME, NURSING HOME, CONVALESCENT HOME: A building for the care and keeping of elderly or infirm people afflicted with infirmities or chronic illness.

RESUBDIVISION: The changing or amending of any existing lot or lots of any subdivision plat previously recorded in the records of the county recorder as provided in section 11-2-6 of this code.

RETENTION BASIN: An area recessed or designed to receive and retain stormwater discharge or runoff.

RIPRAP: A loose assemblage of broken stone placed on the surface of the ground to prevent erosion.

ROUGH GRADE: The state of excavation at which grading is within four inches (4") of the final grade as shown on the approved grading plan.

RULES OF ORDER AND PROCEDURE: A set of rules that govern and prescribe in a public meeting:

A. Parliamentary order and procedure;
B. Ethical behavior; and
C. Civil discourse.

SALVAGE YARD: See definition of Junkyard.

SANITARY SEWER AUTHORITY: The department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or on site wastewater systems.

SENDING ZONE: An area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

SETBACK: The shortest distance between the property line and the foundation wall, or main frame of the building.

SIGN: Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including a flagpole.

Sign, Accessory: An on premises sign which directs attention to a business or profession.

Sign, Area Of: The area of a sign shall be considered to include all lettering, wording and accompanying designs or symbols, together with any background material, whether painted or applied. Where a sign consists of individual letters attached to or painted on a

building or wall or window, the area of the sign shall be considered to be that of the smallest rectangle which encompasses all the letters or symbols.

Sign, Nonaccessory; Billboard~~: An off premises sign which directs attention to a business, commodity, service or entertainment conducted, sold, or offered elsewhere and only incidentally on the premises, if at all.~~ See definition of Billboard

SITE: Any lot or parcel of land.

SKETCH PLAN: A preliminary map or preapplication plat, showing the concept of the proposed development or subdivision, having sufficient detail to illustrate on site characteristics of the proposed subdivision and adjacent parcels.

SPECIAL DISTRICT: Any entity established under the authority of Utah Code Annotated title 17B, special districts, and any other governmental or quasi-governmental entity that is not a county, municipality, or school district.

SPECIFIED PUBLIC UTILITY: An electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

STATE: Any department, division, or agency of the state.

STREET: Any street, avenue, boulevard, road, lane, parkway, viaduct or other way, for the movement of vehicular traffic which is an existing state, county, or city roadway, or a street or way shown upon a plat, formerly approved, pursuant to law, or approved by official action; and includes the land between street lanes, whether improved or unimproved and may comprise pavement, shoulders, gutter, sidewalks, parking areas, and other areas within the right of way. For the purpose of this title, streets shall be classified as follows:

City Street: Any street within the city's incorporated boundary that is recognized and maintained by the city.

Cul-De-Sac: A street open at one end with a designated vehicular turnaround area at the closed end.

Dead End: A street open at one end with no turnaround.

Major Highway: A major regional highway, including an expressway, freeway or interstate highway designed to carry vehicular traffic:

A. Into, out of, or throughout the regional area (interregion); and
B. From one political subdivision of the region to another, or from an interregional highway.
C. Service Road: A street or road paralleling and abutting major streets to provide access to adjacent property so that each adjacent lot will not have direct access to the major street.

Stub: A street or road extending from within a subdivision and which terminates at the subdivision boundary with no provision for a vehicular turnaround. Stub streets are normally required to connect to street systems of adjacent developments.

STREET RIGHT OF WAY: That portion of land dedicated to public use for street and utility purposes.

SUBDIVIDER: Any person or legal entity laying out or making a land division for the purpose of sale, offering for sale or selling for himself or others, any subdivision or any part of it.

SUBDIVISION: ~~Includes:~~ Any land that is divided, resubdivided or proposed to be divided into two (2) or more lots, ~~parcels, sites, units, plots,~~ or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

"Subdivision" includes:

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

B. Except as provided in Subsection (65)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

"Subdivision" does not include:

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

B. ~~A recorded~~ A boundary line agreement recorded with the county recorder's office between owners of adjoining ~~unsubdivided properties~~ parcels adjusting ~~their~~ the mutual boundary ~~if: 1) no new lot is created; and 2) the adjustment does not violate applicable land use ordinances;~~ in accordance with Section 10-9a-524 if no new parcel is created.

C. A recorded document, executed by the landowner of record: (1) revising the legal ~~description of more than one contiguous unsubdivided parcel of property~~ descriptions of multiple parcels into one legal description encompassing all such parcels ~~of property~~; or (2) joining a ~~subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances~~ lot to a parcel;

D. A ~~recorded~~ boundary line agreement between owners of adjoining subdivided properties adjusting ~~their~~ the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if: (1) no new dwelling lot or housing unit will result from the adjustment; and (2) the adjustment will not violate any applicable land use ordinance; ~~or~~

E. A bona fide division ~~or partition~~ of land by deed or other instrument ~~where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels~~ if the deed or other instrument states in writing that the division

   1. Is in anticipation of future land use approvals on the parcel or parcels;
   2. Does not confer any land use approvals, and
   3. Has not been approved by the land use authority.

F. A parcel boundary adjustment;

G. A lot line adjustment;

H. A road, street, or highway dedications plat;

I. A deed or easement for a road, street, or highway purpose; or

J. Any other division of land authorized by law.

~~The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this definition as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.~~

SUBDIVISION AMENDMENT: An amendment of a recorded subdivision in accordance with Section 10-9a-608 that:

A. Vacates all or a portion of the subdivision;
B. Alters the outside boundary of the subdivision;
C. Changes the number of lots within the subdivision;
D. Alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or
E. Alters a common area or other common amenity within the subdivision

SUBSTANTIAL EVIDENCE: Evidence that (1) is beyond a scintilla and (2) a reasonable mind would accept as adequate to support a conclusion.

SUSPECT SOIL: Soil that has

A. A High susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;
B. Bedrock units with high shrink or swell susceptibility; or
C. Gypsiferous silt and caly, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

THERAPEUTIC SCHOOL: A residential group living facility

A. For four or more individuals who are not related to
    1. The owner of the facility or
    2. The primary service provider of the facility;
B. That serves students who have a history of failing to function:
    1. At home,
    2. In a public school, or
    3. In a nonresidential private school; and
C. That offers room and board, and
    1. An academic education integrated with a specialized structure and supervision; or
    2. Services or treatment related to a disability, emotional development, behavioral development, familial development, or a social development.

TRANSFERABLE DEVELOPMENT RIGHT: A right to develop and use land that originates by an ordinance and authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

UNINCORPORATED: The area outside of the incorporated area of a city or town.

VARIANCE: A waiver of specific regulations of this title granted by the board of adjustment in accordance with the provisions set forth in this code.

VICINITY PLAN: A map or chart, showing the relationship of streets and land within a proposed subdivision to the streets and lands in the surrounding area.

WATER INTEREST: Any right to the beneficial use of water, including

A. Each of the rights listed in Section 73-1-11; and
B. An ownership interest in the right to the beneficial use of water represented by (1) a contract or (2) a share in a water company, as defined in Section 73-3-3.5.

YARD: An open space on the same lot as a building unoccupied or unobstructed from the ground upward, except as otherwise provided in this title.

Yard, Front: The minimum horizontal distance between the street line and the front line of the building or any projection thereof, excluding nonenclosed steps. On a corner lot, the front yard may be applied to either street.

Yard, Rear: The area between the rear line of the building (exclusive of steps) and the rear lot line, and extending for the entire width of the lot. In case of a corner lot where the building facade faces on the side street, the rear yard may be established from the side of the house to the side property line.

Yard, Required: The open space around buildings which is required by the terms of this title.

Yard, Side: A yard between the building and the side line of the lot, and extending from the front yard to the rear yard. (Ord. 2012-01, 7-10-2012; amd. Ord. 2016-6, 6-28-2016)

ZONING MAP: A map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

10-1-9: TEMPORARY LAND USE REGULATIONS

A. The City Council may, without prior consideration of or recommendation from the Planning Commission, enact an ordinance establishing a temporary land use regulation for any part or all of the area within the city if:
   1. The City Council makes a finding of compelling, countervailing public interest; or
   2. The area is unregulated
B. A temporary land use regulation under this subsection may prohibit or regulate the erection, construction, reconstruction, or alteration of any building or structure or any subdivision approval.
C. A temporary land use regulation under this subsection may not impose an impact fee or other financial requirement on building or development.
D. The City Council shall establish a period of limited effect for the ordinance not to exceed six (6) months.
E. The City Council may, without prior Planning Commission consideration or recommendation, enact an ordinance:
   1. Establishing a temporary land use regulation prohibiting construction, subdivision approval, and other development activities within an area that is the subject of an Environmental Impact Statement or a Major Investment Study examining the area as a proposed highway or transportation corridor.
   2. A regulation under this subjection:
      a. May not exceed six (6) months in duration;

b. May be renewed, if requested by the Transportation Commission created under Section 72-1-301 of Utah code, for up to two additional six-month periods by ordinance enacted before the expiration of the previous regulation; and
c. Notwithstanding the requirement of this section, is effective only as long as the Environmental Impact Statement or Major Investment Study is in progress.

TITLE 10
ZONING REGULATIONS

Blue = Reorganization & correction of existing code
Orange = Changes necessitated by 2021 laws

CHAPTER 2
SUPPLEMENTARY REQUIREMENTS AND PROCEDURES
APPLICABLE WITHIN ZONES

SECTION:

10-2-1: LOTS TO HAVE FRONTAGE ON CITY STREET

A. Except as may be authorized through the approval of a large scale development, each lot shall abut upon a City maintained street.

1. The length of said abutting side as measured at the setback line shall be not less than the minimum frontage requirement of the zone;
2. The Planning Commission may authorize a reduction of the minimum frontage requirement subject to the following conditions:
    a. The lot will abut the City maintained street for a minimum distance of thirty five feet (35');
    b. The buildable portion of the lot shall comply with the minimum area, width and setback requirements of the zone;
    c. The lot configuration created by the granting of the reduction will not result in an undue adverse condition for the proper development of adjacent properties;

d. In the opinion of the Planning Commission, the reduction of the frontage requirement is necessary to more fully promote the effective and proper development of the city.

B. All lots in an approved subdivision plat which have frontages of less than the minimum shall be considered as having qualified under the frontage reduction provisions of subsection ---.

NOTE: This needs review to determine if "parcel" should be added to the stipulations.

10-2-2: USES PROHIBITED IN ZONES UNLESS EXPRESSLY PERMITTED

Uses of land which are not expressly permitted within a zone are expressly prohibited therein, except as may be permitted by action of the board of adjustment pursuant to express authority under the terms of this title. The board of adjustment shall not permit a use within a zone which is not expressly permitted by the terms of this title.

NOTE: Board of Adjustment reference needs verification

10-2-3: PROPERTY BOUNDARY ADJUSTMENT:

A. To make a parcel boundary adjustment, a property owner shall execute a boundary adjustment through
   1. A quitclaim deed; or
   2. A boundary line agreement under section ----; and
   3. Record the quitclaim deed or boundary line agreement in the office of the county recorder of the county in which each property is located.

B. To make a lot line adjustment, a property owner shall obtain approval of the boundary adjustment under Section ---; and execute a boundary adjustment through:
   1. A quiteclaim deed or
   2. A boundary line agreement; and
   3. Record the quitclaim deed or boundary line agreement in the office of the county recorder of the county in which the property is located.

C. 3. A parcel boundary adjustment under subsection --- is not subject to review of the city unless:
   1. The parcel includes a dwelling; and
   2. The city's approval is required under subsection ---.

D. The recording of a boundary line agreement or other document used to adject a mutal boundary line that is not subject to review by the city

1. Does not constitute a land use approval; and
2. Does not affect the validity of the boundary line agreement or other document used to adjust a mutual boundary line.

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

10-2-4: BOUNDARY LINE AGREEMENT:

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

B. Adjoining property owners executing a boundary line agreement described in this section shall ensure that the agreement includes:
   1. A legal description of the agreed upon boundary line and each parcel or lot after the boundary line changed;
   2. The name and signature of each grantor that is party to the agreement;
   3. A sufficient acknowledgement for each grantor's signature;
   4. The address of each grantee for assessment purposes;
   5. A legal description of the parcel or lot each grantor owns before the boundary line is changed; and
   6. The date of the agreement if the date is not included in the acknowledgement in a form substantially similar to a quitclaim deed as described in section ---.

C. If any of the property subject to the boundary line agreement is a lot, prepare an amended plat in accordance with section --- before executing the boundary line agreement;

D. If none of the property subject to the boundary line agreement is a lot, ensure that the boundary line agreement includes a statement citing the file number of a record of survey map in accordance with section ---, unless the statement is exempted by the City.

E. A boundary line agreement described in subsection 1 that complies with subsection 2 presumptively:

1. Has no detrimental effect on any easement on the property that is recorded before the day on which the agreement is executed unless the owner of the property benefitting from the easement specifically modifies the easement within the boundary line agreement or a separate recorded easement modification or relinquishment document; and
2. Relocates the parties' common boundary line for an exchange of consideration.

F. Not withstanding Title 11, Subdivisions, a boundary line agreement that only affects parcels is not subject to:
   1. Any public notice, public hearing, or preliminary platting requirement;
   2. The review of a land use authority; or
   3. An engineering review or approval of the city, except as provided in subsection ---.

NOTE: Rule allows the city to adopt an ordinance requiring review and approval of a boundary line agreement affecting a parcel or lot containing a dwelling; rule specifies what must be considered, but those prospective changes were not added to this draft.

10-2-5: OFF STREET PARKING REQUIREMENTS:

A. At the time any residence or any public or commercial building is erected, hard surfaced off street parking spaces of cement or asphalt shall be provided for automobiles on private property.

B. At the time any residence or building is enlarged or increased in capacity or any use is established or changed, thereby creating the need for additional parking, off street hard surfaced parking spaces of cement or asphalt shall be provided on private property.

C. Provision of off street parking shall be in accordance with the following requirements:
   1. Size:
      a. The dimensions of each off street parking space or stall shall be at least nine feet by eighteen feet (9' x 18'), for diagonal or ninety degree (90°) spaces; or nine by twenty two feet (9 x 22') for parallel spaces, exclusive of access drives or aisles.
      b. A parking stall may be reduced by two feet (2') lengthwise if landscaping separated from the paved area of the parking stall by a curb or tire bumper guard is provided in the remaining two feet (2') of the parking stall. All areas within the parking area not paved shall be landscaped.
   2. Access To Individual Parking Spaces: Except for single- family and two-family dwellings, access to each parking space shall be from a private driveway and not from a city street.
      a. One-way driveways shall be a minimum of twelve feet (12') in width.
      b. Two-way driveways shall be a minimum of twenty five feet (25') in width.

c. All garage and carport spaces shall be set back a minimum of twenty feet (20') from the private access drive serving them.

d. Garage and carport spaces shall be counted as one parking space unless: a) such garage or carport is a minimum of four hundred eighty (480) square feet with a minimum width of twenty feet (20'); or b) the individual driveway to the garage or carport is at least twenty feet (20') in length, in which case such parking areas shall count as two (2) spaces. (Ord. 2012-01, 7-10-2012)

3. Parking Spaces Required For Residential Areas: The number of off street parking spaces required for residential development shall be as follows:
    a. Single-Family Dwelling: Two (2) parking spaces per single- family dwelling. Tandem parking shall be allowed at single- family residences only.
    b. All Other Dwellings:
        1) All other dwellings, including townhouses and condominiums, shall have two (2) parking spaces per dwelling unit. Covered parking may be located within the side and rear setback areas. No street parking shall be counted toward meeting the parking requirement. Tandem parking shall not count toward the parking requirement. No parking area shall be located within the required front setback facing a city street. All parking shall be on site.
        2) Front yard setback from streets shall be twenty feet (20') minimum from property lines for garages or carports.
        3) In residential zones, no recreational vehicle shall be parked or stored unless it conforms to the requirements of section 10-2-3 of this chapter. (Corner lots are considered to have 2 front yard areas.) (Ord. 2016-6, 6-28-2016)
4. Parking Spaces Required For Nonresidential Areas: The number of off street parking spaces required for all nonresidential developments shall be as follows:
    a. Business Or Professional Offices: One space for each two hundred fifty (250) square feet of gross floor area.
    b. Churches, Sports Arenas, Auditoriums, Theaters, Assembly Halls, Lodge Halls, Or Other Meeting Rooms: One space for each four (4) fixed seats of maximum seating capacity, or one space for each thirty five (35) square feet of seating area within the main auditorium where there are no fixed seats. Eighteen (18) linear inches of bench shall be considered a fixed seat.
    c. Stores, Appliance Stores And Lumberyards: One space for each six hundred (600) square feet of floor area.
    d. Hospitals: Two (2) parking spaces for each bed.
    e. Homes: One parking space for each five (5) beds.
    f. Hotels, Motels, Motor Hotels: One space for each living or sleeping unit, plus two (2) spaces for resident manager or owner.
    g. Retail Stores And Shops, Commercial Banks, Savings And Loan Offices, And Other Financial Institutions, General Retail Stores, Food Stores, Supermarkets, Drugstores And Other Similar Commercial Businesses: One space for each two hundred fifty (250) square feet of gross floor area.

h. Mortuaries And Funeral Homes: Five (5) spaces plus one space for each thirty five (35) square feet of assembly room floor area.
i. Automotive Repair And Supply: One space for each four hundred (400) square feet of gross floor area.
j. Bowling Alleys And Billiard Halls: Five (5) spaces for each alley, plus two (2) spaces for each billiard table contained therein.
k. Libraries: One space for each three hundred (300) square feet of gross floor area.
l. Restaurants, Taverns, Lounges, Drive-In, Drive-Through, Take-Out Restaurants And Other Establishments Where Food Or Beverages Are Consumed: Ten (10) spaces minimum, or one space for each one hundred (100) square feet of gross floor area, whichever is greater.
m. Day Nurseries In Commercial Zones, Including Preschools And Nursery Schools: One space for each staff member, plus one space for each five (5) children for which said establishment is licensed.
n. Golf Courses: Six (6) spaces per hole.
o. Skating Rinks, Ice Or Roller: One for each three hundred (300) square feet of gross floor area.
p. Swimming Pools (Public): One space for each one hundred (100) square feet of water surface, or ten (10) stalls, whichever is greater.
q. Tennis, Handball And Racquetball Courts (Commercial): Six (6) spaces minimum, or three (3) spaces per court, whichever is greater.
r. Studios And Spas: One space for each two hundred fifty (250) square feet of gross floor area, or ten (10) spaces minimum, whichever is greater.
s. Educational Uses:
    1) Elementary: Two (2) spaces per classroom.
    2) Senior and junior high schools: One space for each member of the faculty and one space for each six (6) regularly enrolled students.
    3) College, universities, trade schools: One space for each faculty member, plus one space for each three (3) students.
    4) Schools having an arena or auditorium shall meet this requirement or the requirements of subsection C.4.b of this section, whichever is greater.
t. Veterinary Hospitals: Five (5) spaces for each doctor.
u. Manufacturing Plants, Warehouses, Storage Buildings Or Structures Especially For Storage Purposes: One space for each one thousand (1,000) square feet of gross floor area and one space for each two hundred fifty (250) square feet of office or sales area.
v. Service Commercial Businesses: Businesses such as electrical, plumbing, cabinets, printing and other similar shops shall have one space for each two hundred fifty (250) square feet of retail or office area and one space for each five hundred (500) square feet of additional building area.

w. Outdoor Sales Lots For Autos, Mobile Homes And Recreational Vehicles: One space for each seven (7) vehicles or items of equipment to be displayed, plus two (2) spaces for manager and employee parking.

x. Consideration By Planning Commission:

1) Notwithstanding all provisions of this section the planning commission shall: Take into account in each instance of nonresidential parking the type of development, use, location, adjoining uses and possible future uses in setting parking requirements, and

2) Recommend to the City Council a requirement of that number of spaces it deems reasonably necessary in each instance for all employees, business vehicles and equipment, customers, clients and patients of such nonresidential property.

y. Reduction: Where the applicant can demonstrate that adequate off street parking exists, the city council, upon recommendation of the planning commission, may grant a parking reduction of up to twenty five percent (25%) of the listed parking requirement for new construction in the commercial zones.

G. Parking On Unimproved Lots; Vehicle Display: Parking of more than three (3) vehicles on any unimproved lot or parcel is prohibited. Parking of vehicles for display other than in designated and improved areas shall be prohibited.

H. Parking Lot Lights: Parking lots used during hours of darkness shall be lighted by standards a maximum of sixteen feet (16') in height above grade and using indirect, hooded light sources.

I. Development Standards: Every lot or parcel of land hereafter used as a parking lot shall:

a. Be paved with an approved surfacing material of asphalt or concrete composition or some other all weather surfacing material approved by the Planning Commission;

b. Have appropriate bumper guards where needed as determined by the Planning Commission; and

c. Lights used to illuminate the lot shall be so arranged as to reflect the light away from the adjoining premises wherever those premises are used for residence or sleeping purposes.

J. Optional Provisions; Shared Parking Facilities:

a. Shared parking facilities may be used jointly with parking facilities for other uses when operations are not normally conducted during the same hours, or when peak uses vary.

b. Requests for shared parking are subject to the approval of the Planning Commission in accordance with the following guidelines:

1) Sufficient evidence shall be presented to show that there will be no substantial conflict in the periods of peak demand of uses for which the joint use is proposed.
2) number of parking stalls which may be credited against the requirements for the uses involved will not exceed the number of spaces that may normally be required for any one of the uses sharing the parking.
3) Parking facilities should not be located further than two hundred fifty feet (250') from any use proposing to use such parking and should be contiguous to the businesses sharing the lot.
4) A written agreement shall be executed by all parties concerned, assuring the continued availability of shared parking facilities in the event that one of the uses shall be sold or otherwise change ownership or management.

K. Uses Not Specifically Identified Above: For all parking uses not listed above, the Planning Commission shall determine the number of spaces required based upon the nearest comparable use standard available. (Ord. 2012-01, 7-10-2012)

L. Adjust Or Reduce Off Street Parking Requirements: The planning commission may approve substitute parking locations where sufficient off street parking is readily available within the vicinity and/or where acquisition of land for such use is not necessary to carry out the spirit of this title.

10-2-6: SIGNS:

A building permit shall be required for the placement, construction, and/or alterations of all signs, unless a sign qualifies as an exempt sign or an identified temporary sign.

A. Signs On Highway:
   1. Height Limitations: There shall be a thirty five foot (35') height limitation for all signs that front on a highway (including freestanding, wall and roof signs).
   2. Size Limitations:
      a. Three hundred twenty (320) square feet maximum per lot.
      b. One hundred sixty (160) square feet per individual sign face.
      c. Square footage is two (2) square feet for each linear foot of frontage along a public right of way, not to exceed three hundred twenty (320) square feet.

B. Signs On City Streets In Zones C-1, C-2, I-1:
   1. Height Limitations: There shall be a twenty foot (20') height limitation for all signs that front off a highway (including freestanding, wall and roof signs).
   2. Size Limitations On City Streets: Size limitations for signs that do not front a highway are as follows:
      a. One hundred sixty (160) square feet maximum per lot.

b. Maximum square footage is one square foot for each linear foot of frontage along a public right of way, not to exceed one hundred sixty (160) square feet.
c. The total square footage on a lot with two (2) tenants must be divided between the tenants with proportions decided by the tenants and/or landlords, and cannot exceed one hundred (100) square feet per individual sign face.

C. Projecting And Suspended Signs:
1. Height limit will be a maximum of thirty five feet (35') or the height of the wall of the building, whichever is lower.
2. There shall be an eight foot (8') minimum vertical clearance above sidewalks, walking areas, or rights of way, and thirty six (36) square feet maximum size per sign face.
3. Owners of projecting signs over public rights of way must furnish proof of liability insurance for such signs before a permit will be issued.

D. Roof Signs:
1. Shall not exceed five feet (5') above the wall line or top of the exterior wall; unless
2. If the peak of the roof is over four feet (4') above the wall line, roof signs cannot exceed the height of the peak.
3. All roof signs must adhere to a thirty five foot (35') overall height limitation.

E. Lighted Signs:
1. All lighted signs shall have stationary and constant lighting. Signs which use subtle lighting changes as part of a video screen, or electronic message center, are permitted.
2. Lighted signs adjacent to A-1, R-1 and R-2 zones shall be subdued and shall not be allowed to penetrate beyond the property in such a manner as to annoy or interfere with the adjacent residential properties. Any complaints concerning lighted signs adjacent to residential properties can be taken before the city council. The city council has the authority to dismiss unreasonable complaints or require the sign(s) to be shielded.

F. Residential Signs:
1. No advertising signs of any kind shall be allowed in any residential zone, except signs pertaining to the sale or lease of residential property, nameplates, institutional signs, or signs indicating the existence of:
a. An office of a professional person;
b. A home occupation; or
c. A guest apartment and/or bed and breakfast establishment.
2. Except for institutional signs as described below, no lighted signs will be permitted.
3. Residential signs, except for apartments and public and religious institutional signs, shall not exceed two (2) square feet in size.

a. Apartments and guest apartments may be allowed up to sixteen (16) square feet of signage if they have more than four (4) units; quadriplexes, triplexes and duplexes may be allowed up to eight (8) square feet of signage. (See exempt and temporary sign subsections 1 for exceptions to the square foot rule.)
b. Public, public educational, or religious institutional signs shall be located entirely upon the premises of that institution, shall not exceed an area of fifty (50) square feet per frontage, and will be permitted to have indirect lighting. If mounted on a building, these signs shall be flat wall signs and shall not project above the roofline. If ground mounted, the top shall be no more than six feet (6') above ground level.
c. Nonprofit, charitable, and private institutional signs in residential zones shall not exceed two (2) square feet.

G. Flags: Flags other than government flags, i.e., country and state, shall be added toward the maximum allowable signage. Flagpoles that display government flags shall not exceed thirty five feet (35') in height in commercial zones.

H. Computations:
1. Height: The height of a sign shall be computed as the distance from the highest attached component of the sign to the nearest sidewalk, curb, or street crown, whichever is highest.
2. Individual One Sided Sign: The area of the sign face that will encompass the extreme limits of the display, not including any supporting framework or other backdrop which is clearly incidental to the display, shall be measured.
3. Multifaced Signs: The sign area shall be computed by adding together the area of all sign faces visible from any point. When two (2) identical sign faces are placed back to back and are part of the same sign structure, not more than forty two inches (42") apart, the sign area shall be computed by the measurement of one of the faces.

I. Number Of Freestanding Signs Per Lot:
1. Primary Frontage: One freestanding sign per lot; one additional freestanding sign is permitted if property has more than two hundred feet (200') of frontage (exception: shopping center restrictions). Two (2) freestanding signs on one property must be separated by one hundred feet (100'), and the second sign shall not be higher than fifty percent (50%) of the allowed height.
2. Secondary Frontage: One freestanding sign is allowed for each additional frontage and shall not be higher than fifty percent (50%) of the allowed height. Two (2) freestanding signs on one property must be separated by one hundred feet (100'), and the second sign shall not be higher than fifty percent (50%) of the allowed height.

J. Setbacks: Signs may not block traffic visibility. If a sign is located at an intersection, the following rules apply: Signs located within a forty five foot (45') triangle (measured 45 feet from the street corner both ways) must be under two and one-half feet (21/2') tall,

or should have over eight feet (8') of clearance at the bottom of the sign. This triangle shall be maintained in an open manner so as to provide proper clear view area. All advertising signs shall be set back from city streets, a distance at least equal to the distance that buildings are located.

K. Shopping Centers; Office Building Complexes: Only one freestanding sign is allowed for shopping centers and office building complexes which lease to three (3) or more businesses on one lot of record. The group freestanding sign identifying the shopping center/office building complexes and its businesses may use all sign area allowed for that lot. In addition, individual businesses may have one square foot of signage for each front line of the building, up to a maximum of one hundred twenty eight (128) square feet.

L. Off Premises Signs: Off premises signs shall be limited to Highways 666 and 191 and regulated the same as on premises signs. Off premises signs may not exceed a maximum of one hundred twenty eight (128) square feet.

M. Prohibited Signs: It is prohibited for signs erected after adoption hereof to be in noncompliance with the provisions herein.
   1. Parked Vehicle Signs: Parked vehicles with a sign painted or placed on them for the express intent of directing attention to a business are prohibited. This does not include vehicles used regularly in the course of conducting daily business activities.
   2. Signs On Public Rights Of Way: No private sign shall be placed on public rights of way.
   3. Signs Attached To Public Property: No private sign shall be attached to public property or public utility poles.
   4. Flashing Signs: Signs which use flashing, blinking, or strobing lights are prohibited.

N. Temporary Signs: Temporary signs shall be figured in the total square footage allowed per lot. Sign owners must designate areas where temporary signs will be displayed. Temporary signs displayed outside of designated areas require a permit. Temporary signs must be maintained and in good condition while being displayed. Signs less than six (6) square feet in size and associated with an event do not require a permit.
   1. Mobile Changeable Copy Signs: Mobile changeable copy signs shall not exceed thirty two (32) square feet and shall not be displayed for more than thirty (30) consecutive days.
   2. Balloon Signs: Balloon signs may be displayed for up to thirty (30) days per lot, per year.
   3. Construction Signs: No more than one construction sign identifying a project to be built and the project participants shall be allowed per lot. Construction signs in residential zones shall not exceed six (6) square feet in area and five feet (5') in height. In commercial zones, the sign area shall not exceed fifty (50) square feet and shall not exceed eight feet (8') in height. Construction signs must not exceed the time period of construction and/or the day the business opens, whichever comes

first, and shall be counted into the square footage of the total footage allowed for the lot. An additional thirty two (32) square feet would be allowed in commercial zones for artist renditions of the project. Proposed development signs may be allowed for ninety (90) days prior to groundbreaking. (Ord. 2012-01, 7-10-2012)

4. Political Campaign Signs: Political campaign signs shall pertain to a specific election. They shall not be located closer than one hundred fifty feet (150') to any designated polling place and shall not exceed thirty two (32) square feet in area. Political campaign signs shall be removed within one day after the election. The candidate or persons responsible for the placement of the sign shall be responsible for its removal. (Ord. 2014-6, 10-14-2014, eff. 10-14-2014)
5. Real Estate Signs: In residential zones, real estate signs shall not exceed six (6) square feet in area and five feet (5') in height. In commercial zones, real estate signs shall not exceed thirty two (32) square feet. Real estate signs must be placed on the premises of the property being sold. Only one sign per street frontage, per real estate company, is permitted.

O. Exempt Signs: Sign permits are not required for the following signs unless the limitation and requirements of this section cannot be met:
   1. Public Signs: Signs of a noncommercial nature, erected by, or on the order of, a public officer in the performance of his duty.
   2. Integral Signs: Names of buildings, dates of erection, monumental citations, commemorative tablets and the like when carved into stone, concrete or similar material or made of metal or other permanent type construction and made an integral part of the structure.
   3. Private Traffic Direction Signs: Signs directing traffic movement into a premises or within a premises, not exceeding two (2) square feet in area for each sign. Horizontal directional signs on paved areas and flush with paved areas are exempt from these standards. Only one exempt directional sign is allowed per frontage, per lot.
   4. Service Sign: A sign that is incidental to a use lawfully occupying the property upon which the sign is located, and which sign is necessary to provide information to the public, such as direction to parking lots, location of restrooms, entrance and exits, etc. These signs shall not exceed two (2) square feet in size.
   5. Nameplates: A nameplate shall contain only the name of a resident.
   6. Temporary Decorations: Temporary decorations or displays clearly incidental and associated with national or local holiday celebrations for a period not to exceed ninety (90) days per year, per lot.
   7. Nonbusiness Temporary Signs: Temporary signs not associated with a business may be displayed not more than thirty (30) days per year or exceed six (6) square feet in size.
   8. Rear Entrance Signs: Rear entrance signs, when associated with pedestrian walk through buildings. These signs shall not exceed sixteen (16) square feet in area and shall be flush mounted, identifying only the name of the establishment and containing directional information.

9. Menu Signs: Menu signs at drive-in restaurants which are not readable from the nearest public right of way; and signs not visible beyond the boundaries of the lot or parcel upon which they are located or from any public right of way.
10. Private Warning Or Instructional Signs: Private warning or instructional signs not exceeding two (2) square feet per sign.
11. Murals: Murals must be painted or attached to the wall of buildings and are exempt from the sign ordinance except for the lettering and logo portion of the mural.
12. Pennants, Window Dressings, Window Banners: Pennants, window dressings, window banners are exempt.

P. Design, Construction, Maintenance And Liability: All signs shall be designed, constructed, and maintained to comply with applicable provisions of the building codes adopted by the city. All signs shall be maintained and in good structural condition. Sign owners are liable for their signs. The city of Monticello, its officials and other agents, shall in no way be liable for damages caused by signs.

Q. Abandoned Signs: Any of the following criteria shall be used to determine abandonment:
   1. A sign which identifies an establishment, service(s), goods or products no longer provided on the premises shall have its copy vacated within thirty (30) days of when the circumstance commenced. If the copy then remains vacant for six (6) months, the sign structure shall be removed by the owner within five (5) working days following expiration of the six (6) month period.
   2. A sign which identifies a time, event, or purpose which passed or no longer applies shall be removed by the sign owner within three (3) working days from the time the event or purpose passed or no longer applies.
   3. An off premises advertising sign which is vacant of copy or which advertises an establishment, service, goods, or product which no longer exists, shall be removed by the sign owner within five (5) working days after remaining in the defined condition for one month.
   4. When building mounted and painted wall signs or murals are removed, the face of the structure shall be treated to conform to surrounding building conditions. Such removal shall not leave evidence of the sign's existence.

R. Permit Procedures And Enforcement:
   1. Permit Required: If a sign requiring a permit under the provisions of this title is to be placed, constructed, erected, or altered on a lot, the sign owner shall secure a building permit from the city prior to the construction, placement, erection, or alteration of such sign.
   2. Applications: One application and permit may include multiple signs on the same lot. An application for construction, creation, or installation of a new sign, or for the structural alteration of an existing sign, shall be accompanied by detailed drawings to scale of all existing and proposed signs on a lot and must show:
      a. The height of all signs on a lot;

b. The square footage of all individual signs on a lot;
c. The total combined square footage of all signs on a lot;
d. site plan indicating length of street frontage, location of buildings, parking lots, driveways, landscaped areas, and all existing and proposed signs on the site;
e. overall dimensions, design, structure, materials, proposed copy and illumination specifications of all signs;
f. Photographs of the lot.

3. Fees: Each application shall be accompanied by the applicable fee, which shall be established by resolution of the city council.
4. Action: Within five (5) days of the date the application is submitted, it shall be reviewed by the zoning administrator. If the applicant complies to all sign ordinance regulations, a permit will be issued. If the application is found to be incomplete, the applicant shall be notified of the deficiencies.
5. Inspections: The zoning administrator shall cause an inspection for each permit issued. If the signs do not comply, the applicant shall be notified and allowed thirty (30) days to correct the deficiencies. If the deficiencies are not corrected within thirty (30) days, the permit shall be rescinded.
6. Renewal Of Sign Permits: If sign owners comply with the provisions of this title and make no structural alterations or changes to their existing signs, the city shall automatically renew sign permits at the end of every year when the business license is renewed, without an additional sign permit fee, if the sign owner has not constructed, placed, erected, or structurally altered existing signage. A new application must be processed and an applicable fee shall be charged for signs constructed, placed, erected, or structurally altered.
7. Lapse Of Sign Permit: A sign permit shall lapse automatically if it is not renewed, if the business license for the premises lapses or is revoked, or if the sign is abandoned. If a sign permit elapses, a new permit and payment of applicable fees are required.
8. Registration Of Existing Signs: All signs existing at the time the ordinance codified herein is passed must be registered with the city by the sign owner within a two (2) year period and a permit obtained. Existing signs that do not comply with the ordinance codified herein will be issued a noncomplying sign permit.
9. Nonconforming Sign: A nonconforming sign may not be moved to a new location, structurally altered, enlarged, or replaced unless it be made to comply with the provisions of this title. If a nonconforming sign changes ownership, the sign must comply with the provisions of this title within six (6) months of close of purchase.
10. Violations: Any of the following shall be in violation of this title and subject to the enforcement remedies and penalties provided by this title, other applicable city ordinances, and state laws:
    a. To install, create, erect, alter, or maintain any sign in a way that is inconsistent with any plan or permit governing such sign or the zone lot on which the sign is located;
    b. To install, create, erect, alter, or maintain any sign requiring a permit without such a permit;

c. To fail to remove any sign that is installed, created, erected, altered, or maintained in violation of this title, or for which the sign permit has lapsed; or
d. To continue any such violation. Each day of continued violation shall be considered a separate violation when applying the penalty portions of this title.

11. Notice, Action And Penalty: The zoning administrator shall issue notice to sign owners who display signs without a permit and allow thirty (30) days from the date of notice for the deficiencies to be corrected. If the deficiencies are not corrected within the given time, the sign owner's business license may be revoked, a fine may be imposed, or the sign owner may be convicted of violating a class B misdemeanor.
12. , Illegal, And Nonmaintained Signs: The zoning administrator shall issue written notice of violation to the sign owner, for any sign found unsafe, illegal, or not maintained.
13. Removal Of Signs: If any unsafe sign is not repaired or made safe within five (5) days after the owner has been given notice, the zoning administrator shall have the sign removed. Within thirty (30) days after the owner has been given written notice of a sign which is found in violation of this title, is illegal, or not maintained, the zoning administrator shall have the sign removed. Costs incurred for removal of a sign will be the responsibility of the owner and shall be paid to the city within thirty (30) days.

S. Right Of Appeal: Any person who has been ordered by the zoning administrator to alter or remove any sign, or any person whose application for a sign permit has been refused, may appeal to the board of adjustment. The board of adjustment shall have power to review and allow or disallow variances to the sign ordinance based on powers and duties defined in section 2-2-4 of this code. (Ord. 2012-01, 7-10-2012)

NOTE: The sign ordinance has not been reviewed in recent years and may be out of compliance with state las

10-2-6: PARKING AND STORAGE OF RECREATIONAL VEHICLES:

A. Intent: The intent of this section is to define locations for the parking and storage of recreational vehicles such that neighborhood quality and character are maintained.
1. "Recreational vehicle" as defined in section 10-1-4 of this title.
2. "Residential areas" as used in this section means property located within a residential zone and property used for residential purposes located in a commercial zone.
3. "Parking" as used in this section means the temporary parking of a recreational vehicle for a limited period of time as specified in subsection B or D of this section.
4. "Storage" as used in this section means the parking of a recreational vehicle when it is not in use off site.
5. Exemptions:

a. Pickup or light truck of ten thousand (10,000) pounds' gross weight or less with or without a mounted camper unit that is used primarily by the property owner or tenant for transportation purposes.
b. Travel trailer, camp trailer, or motor home when temporarily located on a lot on which a building is being constructed and said vehicle is connected to approved water and sewer facilities for a period of one year or less.

B. Parking Restrictions:
1. No recreational vehicle may be parked upon a city street for longer than twenty four (24) consecutive hours.
2. A recreational vehicle may not be parked on a city street in a manner that obstructs visibility from adjacent driveways or street corners.
3. While parked on a city street no pop outs or other lateral extension of the recreational vehicle shall be deployed.
4. No recreational vehicle parked on a city street may be used as a dwelling.
5. A recreational vehicle may be parked in the front setback area of a residential dwelling for no more than fourteen (14) days per vehicle in any one calendar year, provided:
a. The recreational vehicle is parked on a driveway.
b. The residential parking requirement at subsection 10-2-1C of this chapter is still satisfied.
c. No portion of the recreational vehicle may extend into the city street or sidewalk.
d. No portion of the vehicle may extend beyond the property line of the lot upon which it is parked.
e. No effluent, petroleum product, or wastewater is discharged from the recreational vehicle.

C. Storage Requirements:
1. No recreational vehicle may be stored upon a city street or sidewalk.
2. A recreational vehicle may be kept in a side or rear yard at the owner's residence, provided:
a. The vehicle is screened from adjacent properties by vegetation, or a fence built in compliance with section 10-2-10 of this chapter.
b. The vehicle is maintained in a clean, well kept condition that does not detract from the appearance of the surrounding area.
c. The vehicle is operational and currently registered and licensed.
d. No effluent, petroleum product, or wastewater is discharged from the vehicle.

D. Recreational Vehicle As A Temporary Dwelling Unit:
1. It is unlawful for any person to use any parked or stored recreational vehicle as a permanent dwelling.

2. A recreational vehicle may be used as a temporary dwelling when the vehicle is used by guests who travel in it, provided:
    a. The recreational vehicle is situated on the host's property in conformance with subsection B4 or C of this section.
    b. The vehicle is equipped for sleeping.
    c. The stay does not exceed fourteen (14) days per vehicle in any one calendar year.
3. A stored recreational vehicle may be used for temporary sleeping space, provided:
    a. The vehicle is stored on the owner's property in conformance with subsection C of this section.
    b. vehicle is equipped for sleeping.
    c. effluent or wastewater is discharged from the vehicle.
    d. portion of the vehicle may extend beyond the property line of the lot on which it is situated.
    e. use does not exceed thirty (30) days in any one calendar year. (Ord. 2016-6, 6-28-2016)

10-2-8: CONDITIONAL USES:

The City of Monticello's authority to approve or deny a conditional use is an administrative land use decision. The city will classify any use in a zoning district as either permitted or conditional use under this section.

A. The City May Issue A Conditional Use Permit When

1. The use complies with objective standards set forth in this section;
2. The use does not conflict with a provision of city code or other state or federal law;
3. If reasonable conditions are proposed or can be imposed to mitigate reasonably anticipated detrimental effects of the proposed used in accordance with applicable standards;
4. If the city imposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of a proposed conditional use; and
5. Reasonable mitigation of anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effect.

~~B. If reasonably anticipated detrimental effects of the proposed conditional use cannot be substantially mitigated by the proposed imposition of reasonable conditions to achieve compliance with applicable standards, the city may deny the conditional use.~~

C. Conditional Use Standards Of Review:

1. An applicant for a conditional use in the zone must demonstrate:

2. The proposed use complies with all applicable provisions of this chapter, state and federal law;
3. The structures associated with the use are compatible with surrounding structures in terms of use, scale, mass and circulation;
4. The use is not detrimental to the public health, safety and welfare;
5. The use is consistent with the city general plan as amended;
6. Traffic conditions are not adversely affected by the proposed use, including the existence or need for dedicated turn lanes, pedestrian access, and capacity of the existing streets;
7. There is sufficient utility capacity;
8. There is sufficient emergency vehicle access;
9. The location and design of off street parking complies with off street parking standards;
10. A plan for fencing, screening, and landscaping to separate the use from adjoining uses and mitigate the potential for conflict in uses;
11. Exterior lighting that complies with the lighting standards of the zone;
12. Within and adjoining the site, impacts on the aquifer, slope retention, and flood potential have been reasonably mitigated and are appropriate to the topography of the site.

D. Specific Review Criteria For Home Occupation Conditional Use:

In addition to the requirements at 10-2-4(C), the planning commission must evaluate the applicant's compliance with each of the following criteria when considering whether to approve, deny or conditionally approve an application for a home occupation.

1. The home occupation is permitted in the zone;
2. The home occupation is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the building from that of a dwelling;
3. The physical appearance, traffic, and other activities in connection with the home occupation is not contrary to the objectives and characteristics of the zone in which the home occupation is located, and does not depreciate surrounding residential values by creating a nuisance in a residential neighborhood including, but not limited to, generating increased traffic, excessive noise, offensive odors, etc;
4. The home occupation is conducted within the main residential dwelling and is carried on by residing members of the dwelling, except that individuals not residing in the dwelling may work at the home occupation, provided:
    a. No more than one nonresiding employee shall be allowed to work in the home occupation at any given time; and
    b. The nonresiding employee shall be given access to an on premises, hard surfaced parking space (see section 10-2-1, "Off Street Parking Requirements", of this chapter).
5. Less than twenty five percent (25%) of the ground floor area of the dwelling is devoted to the home occupation.

6. The home occupation may use an accessory building for business storage, provided the accessory building meets all city building and zoning codes including, but not limited to, setbacks designated for R-1 and R-2 residential zones (see sections 10-6-5 and 10-7-5 of this title).
7. The use of yard space for storage of business-related materials shall not be permitted.
8. Signs designating the home occupation are limited to one nonflashing sign, not larger in area than two hundred twenty six (226) square inches. If lighted, the light shall be diffused or shielded.
9. Entrance to the home occupation shall be left to the discretion of the homeowner, and may be defined by a second small directional sign, limited to twelve inches by twelve inches (12" x 12") in size, at the predesignated entryway, except:
    a. The structure and entrance shall be compatible with the objectives and characteristics of the zone in which the home occupation is located, and
    b. When applicable, the entrance to the home occupation shall conform to regulations imposed by Utah state statute.
10. No commercial vehicles are used except one delivery truck which does not exceed three-fourths (3/4) ton rated capacity.
11. The home occupation shall be registered with the license division or department of the city

F. Small Lots: Where a parcel of land at the time of the adoption hereof is at least one and eight-tenths (1.8) times as wide and one and eight-tenths (1.8) times as large in area as required for a lot in the zone, the board of adjustment may permit the division of a parcel into two (2) lots, provided:

1. Such division will not cause undue concentration of buildings;
2. The characteristics of the zone in which the lot is located will be maintained;
3. In the opinion of the board of adjustment, values in the area will be safeguarded.

G. Utility Buildings And Structures Permitted: Water, sewer and electric buildings and structures may be constructed in all residential zones, subject to the approval of the board of adjustment. The planning commission may impose conditions which are reasonably necessary to protect surrounding property values and residential amenities.

NOTE: The authority of the "Board of Adjustment" to implement sections F and G needs verification

F. Moved Buildings:

1. No permit for the moving within the city of any residential, commercial or industrial building which has had prior use shall be issued, as required under section 10-16-1 of this title without first filing an application with the zoning administrator. Said application shall contain the following information:
    a. Location and address of the old and new site;

b. Plot plan of the new location showing adjacent lots on all sides of the property and indicating all structures and improvements on said lots;
c. Plans and specifications for the proposed improvements at the new location, including plans for landscaping treatment when required by the zoning administrator;
d. Certification by the zoning administrator that the structure is sound enough to be moved and that the condition, location and use of the building will comply with this title and all other applicable codes and ordinances;
e. Said building and the lot on which the building is to be located will conform to the requirements of this title and other applicable codes, ordinances and regulations;
f. Its location on the lot does not, in any substantial way, adversely affect buildings or uses in abutting properties;
g. All required dedications and improvements for streets, facilities and buildings shall be provided in conformity with the standards of the city;
h. That adequate provision has been made through the posting of a bond or other assurance that the building and grounds shall be brought up to the standards of a new building before it is occupied and that the vacated site shall be restored to a safe and sightly condition.

2. The requirements of this provision shall also apply to the moving of mobile homes, demountable homes, manufactured homes and similar movable structures, except when being moved from outside the city into a mobile home park.

G. Transitional Uses: Uses which are permitted on either portion of a lot which is divided by a zone boundary line, or which is coterminous with a zone boundary line, may be permitted to extend to the entire lot, but not more than one hundred feet (100') beyond the boundary line of such zone in which such use is permitted. Before a permit for such a use may be granted, however, the planning commission must find that the comprehensive plan of zoning will be maintained and that a more harmonious mixing of uses will be achieved thereby.

NOTE: Clause G needs clarification and validation.

H. Applicant's Entitlement To Conditional Use Application Approval:

1. An applicant is entitled to approval of a conditional use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pay application fees, unless:
   a. The land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or
   b. In the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the

municipality's land use regulations in a manner than would prohibit approval of the application as submitted.

2. The city shall process an application without regard to proceedings the city initiated to amend the city's ordinances as described in 10-2-E.1.b if:
   a. 180 days have passed since the city initiated the proceedings; and
   b. The proceedings have not resulted in an enactment that prohibits approval of the conditional use application as submitted.
3. A conditional use application is considered submitted and complete when the applicant provides the application form that complies with the requirements of applicable ordinances and pays all applicable fees.
4. The continuing validity of an approval of a conditional use permit is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

I. Permit Revocation:

1. The city council may revoke the conditional use permit of any person upon a finding that the holder of the permit has failed to comply with any of the conditions imposed at the time the permit was issued. The city council shall send notice of the revocation to the holder of the permit and the holder of the permit shall immediately cease any use of the property which was based on the conditional use permit.
2. If the city council revokes any permit under this section, the holder of the permit shall have a right to appeal the revocation of the permit. The holder must file the appeal with the city recorder within fifteen (15) days of the date of the notice that the city has revoked the conditional use permit.
3. Upon receipt of the appeal, the city council shall set a hearing on the appeal at its next regularly scheduled meeting which is more than fifteen (15) days after the time the city recorder received the appeal. The city shall supply the permit holder of the time, date and place of the hearing at least fifteen (15) days before the hearing. At the hearing, the permit holder shall have the right to be heard on the revocation.

J. Time Limit:

1. Action authorized by a conditional use permit must commence within one year of the time the permit is issued.
2. If the permit holder has not commenced action under the permit within this time, the permit shall expire and the holder must apply for a new permit.
3. The planning commission may grant an extension for good cause shown. Only one extension may be granted and the maximum extension shall be six (6) months. In order to obtain an extension, the permit holder must :
   a. Apply for an extension in writing before the expiration of the original permit;
   b. Submit the application to the city recorder; and
   c. Describe on the application the cause for requesting the extension. (Ord. 2012-01, 7-10-2012)

~~A. Conditional Use Standards Of Review: The city shall not issue a conditional use permit unless the planning and zoning administrator, in the case of an administrative conditional use, or the planning commission, for all other conditional uses, concludes that the application fully mitigates all identified adverse impacts and complies with the following general standards applicable to all conditional uses, as well as the specific standards for the use. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.~~

~~1. General Review Criteria: An applicant for a conditional use in the zone must demonstrate:~~

~~a. The application complies with all applicable provisions of this chapter, state and federal law;~~

~~b. The structures associated with the use are compatible with surrounding structures in terms of use, scale, mass and circulation;~~

~~c. The use is not detrimental to the public health, safety and welfare;~~

~~d. The use is consistent with the city general plan as amended;~~

~~e. Traffic conditions are not adversely affected by the proposed use including the existence or need for dedicated turn lanes, pedestrian access, and capacity of the existing streets;~~

~~f. There is sufficient utility capacity;~~

~~g. There is sufficient emergency vehicle access;~~

~~h. The location and design of off street parking as well as compliance with off street parking standards;~~

~~i. A plan for fencing, screening, and landscaping to separate the use from adjoining uses and mitigate the potential for conflict in uses;~~

~~j. Exterior lighting that complies with the lighting standards of the zone;~~

~~k. Within and adjoining the site, impacts on the aquifer, slope retention, and flood potential have been fully mitigated and is appropriate to the topography of the site.~~

~~2. Specific Review Criteria For Certain Conditional Uses: In addition to the foregoing, the planning commission must evaluate the applicant's compliance with each of the following criteria when considering whether to approve, deny or conditionally approve an application for each of the following conditional uses.~~

~~B. Approval Required: The following use shall be permitted only after approval as set forth herein:~~

~~Home occupations. The city may grant a permit for a home occupation subject to the following conditions:~~

~~1. The home occupation is permitted in the zone.~~

~~2. The home occupation is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the building from that of a dwelling.~~

~~3. The physical appearance, traffic, and other activities in connection with the home occupation is not contrary to the objectives and characteristics of the zone in which the~~

~~home occupation is located, and does not depreciate surrounding residential values by creating a nuisance in a residential neighborhood including, but not limited to, generating increased traffic, excessive noise, offensive odors, etc.~~

~~4. The home occupation is conducted within the main residential dwelling and is carried on by residing members of the dwelling, except that individuals not residing in the dwelling may work at the home occupation, provided:~~

~~a. No more than one nonresiding employee shall be allowed to work in the home occupation at any given time;~~

~~b. The nonresiding employee shall be given access to an on premises, hard surfaced parking space (see section 10-2-1, "Off Street Parking Requirements", of this chapter).~~

~~5. Less than twenty five percent (25%) of the ground floor area of the dwelling is devoted to the home occupation.~~

~~6. The home occupation may use an accessory building for business storage, provided the accessory building meets all city building and zoning codes including, but not limited to, setbacks designated for R-1 and R-2 residential zones (see sections 10-6-5 and 10-7-5 of this title).~~

~~7. The use of yard space for storage of business related materials shall not be permitted.~~

~~8. Signs designating the home occupation are limited to one nonflashing sign, not larger in area than two hundred twenty six (226) square inches. If lighted, the light shall be diffused or shielded.~~

~~9. Entrance to the home occupation shall be left to the discretion of the homeowner, and may be defined by a second small directional sign, limited to twelve inches by twelve inches (12" x 12") in size, at the predesignated entryway, except:~~

~~a. The structure and entrance shall be compatible with the objectives and characteristics of the zone in which the home occupation is located.~~

~~b. When applicable, the entrance to the home occupation shall conform to regulations imposed by Utah state statute.~~

~~10. No commercial vehicles are used except one delivery truck which does not exceed three-fourths (3/4) ton rated capacity.~~

~~11. The home occupation shall be registered with the license division or department of the city.~~

10-2-9: CONCESSIONS IN PUBLIC PARKS AND PLAYGROUNDS:

Concessions including, but not limited to, amusement devices, recreational buildings and refreshment stands, shall be permitted on a public park or playground when approved by the city council as a conditional use permit. (Ord. 2012-01, 7-10-2012)

10-2-10: TEMPORARY USES:

A. Intent: The following regulations are provided to accommodate certain uses which are temporary or seasonal in nature.

B. Permitted Temporary Uses: Certain uses may be permitted on a temporary basis in any zone when approved by the city council. Said temporary uses may include, but will not be limited to:

Carnivals and circuses.
Christmas tree sales lots.
Construction storage yards, when required in connection with a primary construction project.
Flower stands.
Music festivals.
Political rallies.
Promotional displays.
Rummage sales.
Tents for religious services.

C. Application For Temporary Use:
   1. Prior to the establishment of any temporary use, an application for a temporary use permit shall be submitted to and approved by the city council. Said application shall contain the following information:
      a. A description of the proposed use;
      b. A description of the property to be used, rented, or leased for the temporary use, including all information necessary to accurately portray the property;
      c. Sufficient information to determine the yard requirements, sanitary facilities and availability of parking space to service the proposed use.
   2. Approval Required: The city council may approve said application provided the council finds:
      a. The proposed use is listed as a permitted temporary use or, in the opinion of the city council, is similar to those uses permitted.
      b. The proposed use will not create excessive traffic hazards or other unsafe conditions in the area and, if traffic control is required, it will be provided at the expense of the applicant.
      c. The proposed use shall not occupy the site for more than ten (10) days, except for Christmas tree lots which shall not occupy the site for more than forty (40) days, and construction storage yards which shall be removed within thirty (30) days following completion of the primary construction project for which the temporary permit was issued.
      d. The applicant will have sufficient liability insurance for the requested use or event.
      e. The applicant shall provide, at his own expense, for the restoration of the site to its original conditions, including cleanup and replacement of facilities as may be necessary.

D. City Council May Delegate Approval Responsibility; Exceptions:

1. The city council may authorize the zoning administrator to issue temporary use permits for certain temporary uses without council review. Where the request is for a temporary use which is not listed or where, the characteristics of the proposed use are not in compliance with the above standards, the zoning administrator shall refer the application to the city council for its action.
2. In granting approval, the city council may attach additional conditions as it deems appropriate to ensure that the use will not pose any detriment to persons or property. The Council may also require a bond to ensure that necessary cleanup or restoration work will be performed. (Ord. 2012-01, 7-10-2012)

10-2-11: PORTABLE STORAGE CONTAINER REGULATIONS:

A. Definition: A "portable storage container" includes any of the following types of buildings, structures, or vehicles:
   1. Metal shipping container of the type commonly marketed for storage and which can be delivered or removed by semitrailer, regardless of whether such structure is located on a foundation or slab.
   2. Semitrailer or other trailer whether such vehicle is parked on or off a City street, and which does not have a current Utah license and inspection.
   3. Box from a delivery truck when such has been removed from the chassis.

B. Appropriate Use Of Portable Storage Containers: No portable storage container may be placed in any zone unless it meets one of the following criteria:
   1. Permanent placement is allowed for commercial purposes within the I-1 Industrial, C-1 Commercial, and C-2 Light Commercial Zones when it is authorized by City permit. The placement of the portable storage container cannot block traffic or interfere with access for public safety. Used containers must have all prior identifying markings removed. Advertising on such containers will be limited to the promotion of the commercial entity located on the same lot as the container and shall comply with the sign ordinance. The container must be maintained to match the commercial building decor located on the same lot or it must be hidden from view by a fence. Semitrailers or other trailers used as storage containers must also have axles removed.
   2. Permanent placement is allowed within residential zones when it is authorized by City permit. Container cannot be placed in a front yard or within the twenty foot (20') side setback of a side yard that fronts on a street. The placement of the portable storage container cannot block traffic or interfere with access for public safety or utilities. Used containers must have all prior identifying markings removed. The container must be maintained to match the residential building decor located on the same lot. Semitrailers or other trailers used as storage containers must also have axles removed.
   3. Temporary placement is allowed for storage of tools, materials, and supplies at an active construction site in all zones, for a period not to exceed eight (8) months and when authorized by permit. Placement of the portable storage container cannot

block traffic or interfere with access for public safety. Temporary placement is limited to one container per lot for any twelve (12) month period. (Ord. 2012-01, 7-10-2012)

C. Maximum Size: The maximum size for any permitted portable storage container located in R-1, R-2, and C-2 Zones is three hundred sixty (360) square feet and cannot exceed ten feet (10') in height. The maximum size for any permitted portable storage container located in C-1, I-1, and A-1 Zones is four hundred twenty four (424) square feet, with the exception of residences located in C-1 and I-1 Zones; in which case, the maximum size for any permitted portable storage container is three hundred sixty (360) square feet. Portable storage containers can be attached or detached from the main structure. (Ord. 2018-4, 4-10-2018)

D. Permit Required: A permit is required for all portable storage containers.
   1. Any portable storage container greater than or equal to two hundred (200) square feet is considered an accessory building and requires a separate building permit in addition to a portable storage container permit.
   2. Any portable storage container less than two hundred (200) square feet requires only a portable storage container permit, unless electricity is proposed to be installed.

E. Prohibited Uses: No modular home, house trailer, vehicle, or camp trailer can be used for storage, whether permanent or temporary. All existing portable storage containers that do not meet the appropriate uses (above) will be removed at the owner's expense. (Ord. 2012-01, 7-10-2012)

10-2-12: CHICKENS:

This section shall provide residents of the community the opportunity to maintain up to ten (10) hen chickens as pets and for the purpose of producing eggs, subject to the described restrictions and regulations. The objective is to cultivate localized self-supporting and sustainable behavior for the betterment of the local, regional, and world community.

A. General Conditions: In all A-1, R-1, R-2 Zones and planned unit developments in the City of Monticello, and only for those single-family residential uses in the commercial zones, up to and not exceeding more than ten (10) hen chickens for egg production as family food, shall be allowed. This use is solely to allow hens per household as pets and for the purpose of producing eggs, subject to the following restrictions.

B. Prohibited Uses:
   1. No roosters shall be allowed in the R-1, R-2, and any commercial zone or in planned unit developments. If chickens are purchased as chicks and any are determined at a later date to be roosters, they shall be removed immediately upon determination of gender;

2. Fighting chickens are not allowed;
3. Hen chickens shall not be raised for slaughter for commercial purposes.

C Standards For Containment:

1 Hens shall be securely fenced and confined to the rear yard of the property.

2 Any permanent hen shelter must comply with the accessory structure requirements. (Ord. 2012-01, 7-10-2012)

10-2-13: DIAGONAL PARKING:

Diagonal parking will be permitted on any City street located in a C-1 or C-2 Zone so long as the following conditions are met:

A. Size/Marking:

1. The dimensions of each diagonal parking space shall be at least nine feet by eighteen feet (9' x 18'), and set at an angle of sixty degrees (60°) from the curb.
2. All diagonal parking spaces must be clearly marked with approved white marking paint, and must be four inches (4") wide. It is the responsibility of the property owner abutting the diagonal parking spaces to paint and maintain the markings of the parking spaces.

B Street Width:

1. The City street where the diagonal parking will be located must be at least sixty feet (60') wide.

C Setbacks:

1. Diagonal parking must be set back from any intersection not less than thirty feet (30'). No diagonal parking space is permitted to encroach into a driveway access. Clear access to any fire hydrant shall be no less than three feet (3') on both sides of the fire hydrant. This clear space shall be striped as a no parking zone. (Ord. 2012-01, 7-10-2012)

10-2-14: FENCES:

All heights of fences will be measured from the ground level.

A. Interior Lots:

1 Fences in a front yard will have a maximum height of four feet (4').

a A front yard is the yard of the property that fronts a City street.

2 Side and back yard fences will have a maximum height of six feet (6').

B. Corner Lots:

1. Corner lot fences must maintain a forty five degree (45°) clear view triangle on the corner, at a height of no more than four feet (4').

2. A front yard on a corner lot is the yard that contains the formal public entrance. The height of the fence in the front yard on a corner lot will have a maximum height of four feet (4').
3. Side and back yard fences will have a maximum height of six feet (6') as long as it does not infringe upon the forty five degree (45°) clear view triangle space.

C. Clear View Of Intersecting Streets: In all zones which require a front yard, no obstruction which will obscure the view of automobile drivers shall be placed on any corner lot within a triangular area formed by the street property lines and a line connecting them at points of forty five feet (45') from the intersection of the street lines. (Ord. 2012-01, 7-10-2012)

10-2-15: SPECIFIED PUBLIC UTILITY LOCATED IN A CITY UTILITY EASEMENT

A specified public utility may exercise each power of a public utility under section ---- if the specified public utility uses an easement:

1. With the consent of the city; and
2. That is located within a city utility easement described in subsections ---.

TITLE 10
ZONING REGULATIONS

Blue = Reorganization or correction to existing code
Orange = Changes necessitated by 2018 laws

CHAPTER 3
NONCONFORMING USES AND NONCOMPLYING STRUCTURES; AMENDMENTS TO TITLE AND MAP

SECTION:
10-3-1: Intent
10-3-2: Nonconforming Buildings And Uses
10-3-3: Nonconforming Lots Of Record
10-3-4: Amendments To Title And Map *NOTE: Should this be moved elsewhere?*

10-3-1: INTENT:
The intent of this chapter is to accumulate provisions applying to all land and buildings within the incorporated area of the city into one section rather than to repeat them several times. (Ord. 2012-01, 7-10-2012)

10-3-2: NONCONFORMING BUILDINGS AND USES:
No further development or change in use can be undertaken contrary to the provisions of this title, therefore it is the intent of this title that nonconforming uses shall not be increased nor expanded except where a health or safety official, acting in his official capacity, requires such increase or expansion. Such expansion shall be no greater than that which is required to comply with the minimum requirements as set forth by the health or safety official. Nevertheless, a nonconforming building or structure or use of land may be continued as provided in this subsection.

A. Except as provided in this section, a nonconforming use or noncomplying structure may be continued by the present or future property owner.
B. A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.
C. For purposes of this subsection the addition of a solar energy device to a building is not a structural alteration.
D. The city may not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.

E. The city may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:

F. The structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six (6) months after the day on which written notice is served to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within sic (6) months; or

G. The property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.

H. Notwithstanding a prohibition in this subsection, the city may permit a billboard owner to relocate a nonconforming billboard:

1. Within the city's boundaries to a location that is mutually acceptable to the city and the billboard owner; or

2. If the city and billboard owner cannot agree to a mutually acceptable location within 180 days after the day on which the owner submits a written request to relocate the billboard, the billboard owner may relocate the billboard in accordance with subsection ----. *NOTE: Should clause H stay here or go to Signs in Chapter 2?*

A. Presumption of legal existence for nonconforming structure or use:

B. Unless the city establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use.

C. Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.

1. Abandonment may be presumed to have occurred if:

a. A majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the city regarding an extension of the nonconforming use;

b. The use has been discontinued for a minimum of one year; or

c. The primary structure associated with the nonconforming use remains vacant for a period of one year.

2. The property owner may rebut the presumption of abandonment under subsection I(3)(c), and has the burden of establishing that any claimed abandonment under subsection I(3((b) has not occurred.

D. Change To A Conforming Use: A nonconforming use or building may be changed to a conforming use or building. Any nonconforming use or building which has been changed to a conforming use or building shall not thereafter be changed back to a nonconforming use.

E. Change To Another Nonconforming Use Prohibited: A nonconforming use of a building or lot shall not be changed to another nonconforming use whatsoever. Changes in use shall be made only to a conforming use.

F. Reclassification Of Territory: The provisions pertaining to nonconforming uses of land and buildings shall also apply to land and buildings which hereafter become nonconforming due to an amendment in this zoning title.

G. Permits Granted Prior To Passage Of The Ordinance Or Amendment Thereto: Notwithstanding the issuance of a permit therefor, no building which becomes nonconforming upon the passage of the ordinance codified herein, or which becomes nonconforming due to an amendment to the ordinance codified herein, shall be built unless construction has taken place thereon to the extent of at least five hundred dollars ($500.00) in replaceable value by the date on which the ordinance codified herein or said amendment becomes effective. Replaceable value shall be construed to mean the expenditure necessary to duplicate the materials and labor at market prices. (Ord. 2012-01, 7-10-2012)

~~A. Damaged Building May Be Restored: A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or destroyed by fire, flood, wind, earthquake, or other calamity or act of God or public enemy, may be restored; and the occupancy or use of such buildings, structure or part thereof which legally existed at the time of such damage or destruction may be continued or resumed; provided, that such restoration is started within a period of one year from the date of destruction and is diligently pursued to completion and; provided, that such restoration does not increase the floor space devoted to the nonconforming use over that which existed at the time the building became nonconforming.~~

~~B. Discontinuance Or Abandonment: A nonconforming building or structure or portion thereof, or a lot occupied by a nonconforming use which is or hereafter becomes abandoned or is discontinued for a continuous period of one year or more, shall not thereafter be occupied, except by a use which conforms to the use regulations of the zone in which it is located.~~

10-3-3: NONCONFORMING LOTS OF RECORD:

Notwithstanding any other provision of this title, a single-family dwelling may be permitted on any lot of record in any zone in which dwellings are permitted, even though such lot fails to meet the area or width requirements for single-family dwellings within the zone; provided, that where two (2) or more contiguous lots of record having continuous frontage are owned by the same person at the time of the passage of the controlling ordinance, the land included in the lots shall be considered to be an undivided parcel and no portion of said parcel shall be used as a dwelling site or sold which does not meet the area and width requirements of the zone in which the lot is located. Yard dimensions and other requirements not involving area or width shall conform to the regulations of the zone in which the lot is located, except when granted by a variance by the board of adjustment. (Ord. 2012-01, 7-10-2012)

10-3-4: AMENDMENTS TO TITLE AND MAP:

This zoning title, including the map, may be amended as hereinafter provided.

A. Intent With Respect To Amendments: It is hereby declared to be public policy that this title shall not be changed except to correct manifest errors or to more fully carry out the intent and purpose of the master plan for the city and of this title.

B. Procedure: Any person seeking an amendment to this zoning title or map shall submit to the planning commission a written petition designating the change desired and the reasons therefor and shall pay a filing fee to the city, the amount to be established by resolution of the city council. Upon receipt of the petition and the payment of the filing fee, the planning commission shall consider the request and shall certify its recommendations to the city council with respect to the request within thirty (30) days from receipt of the request. Failure on the part of the planning commission to certify its recommendations to the city council within thirty (30) days shall be deemed to constitute approval unless a longer period is granted by the city council. The fee required herein shall not be returned to the applicant. The planning commission or city council may also initiate amendments to this title.

C. Public Hearing Required Before Amending; Notice: Amendments to this title may be adopted only after a public hearing in relation thereto before the city council, at which parties in interest and citizens shall have an opportunity to be heard. A notice of the time and place of such hearing shall be published in a newspaper of general circulation within the area at least fourteen (14) days before the date of hearing, as required by law. (Ord. 2012-01, 7-10-2012)

MUNICIPAL AND COUNTY LAND USE AND DEVELOPMENT REVISIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Waldrip

Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- defines terms;
- establishes certain annual training requirements for a municipal or county planning commission;
- requires a local land use authority to establish objective standards for conditional uses;
- prohibits a municipality or county from imposing certain land use regulations on specified building permit applicants;
- establishes certain requirements governing municipal and county development agreements;
- prohibits a municipality or county from imposing certain requirements related to the installation of pavement for specified infrastructure improvements involving roadways;
- requires a municipality or county to establish by ordinance certain standards for infrastructure improvements involving roadways;
- modifies provisions related to property boundary adjustments, subdivision amendments, and public street vacations;

- prohibits a municipal or county land use appeal authority from hearing an appeal from the enactment of a land use regulation; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-103, as last amended by Laws of Utah 2020, Chapter 434

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17-27a-523, as enacted by Laws of Utah 2013, Chapter 334

17-27a-601, as last amended by Laws of Utah 2019, Chapter 384
17-27a-608, as last amended by Laws of Utah 2020, Chapter 434
17-27a-609.5, as last amended by Laws of Utah 2020, Chapter 434
17-27a-701, as last amended by Laws of Utah 2020, Chapter 434
17-27a-801, as last amended by Laws of Utah 2020, Chapter 434
57-1-13, as last amended by Laws of Utah 2019, Chapter 384
57-1-45, as last amended by Laws of Utah 2019, Chapter 384
63I-2-217, as last amended by Laws of Utah 2020, Chapters 47, 114, and 434

ENACTS:

10-9a-530, Utah Code Annotated 1953
10-9a-531, Utah Code Annotated 1953
17-27a-526, Utah Code Annotated 1953
17-27a-527, Utah Code Annotated 1953

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

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

10-9a-103. Definitions.

As used in this chapter:

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

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

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

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

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

public utility, property owner, property owners association, or the Utah Department of Transportation, if:

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

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

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

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

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(5)(a); and

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

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

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

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

(i) an operating charter school;

(ii) a charter school applicant that [~~has its application approved by~~] a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

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

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

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

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

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

(b) Utah Constitution Article I, Section 22.

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

(11) "Development activity" means:

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

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

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

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

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

[~~(12)~~] (13) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

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

[~~(13)~~] (14) "Educational facility":

(a) means:

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

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection [~~(13)~~] (14)(a)(i); and

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

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

(b) does not include:

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

(A) not located on the same property as a building described in Subsection [~~(13)~~] (14)(a)(i); and

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

(ii) a therapeutic school.

[~~(14)~~] (15) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

[~~(15)~~] (16) "Flood plain" means land that:

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

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

Federal Emergency Management Agency.

[~~(16)~~] (17) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

[~~(17)~~] (18) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

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

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

[~~(18)~~] (19) "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:

(a) recommend land use regulations to preserve local historic districts or areas; and

(b) administer local historic preservation land use regulations within a local historic district or area.

[~~(19)~~] (20) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

[~~(20)~~] (21) "Identical plans" means building plans submitted to a municipality that:

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

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

(c) describe a building that:

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

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

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

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

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

[~~(22)~~] (23) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

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

[~~(23)~~] (24) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

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

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

[~~(24)~~] (25) "Improvement warranty period" means a period:

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

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

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

(ii) has substantial evidence, on record:

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

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

[~~(25)~~] (26) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human occupation; and

(b) an applicant must install:

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

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

(A) recording a subdivision plat;

(B) obtaining a building permit; or

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

[~~(26)~~] (27) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

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

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

[~~(27)~~] (28) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

[~~(28)~~] (29) "Land use application":

(a) means an application that is:

(i) required by a municipality; and

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

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

[~~(29)~~] (30) "Land use authority" means:

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

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

[~~(30)~~] (31) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

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

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

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

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

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

(c) does not include:

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

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

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

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

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

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

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

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

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

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

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

(i) whether or not the lots are located in the same subdivision[~~, in accordance with Section 10-9a-608,~~]; and

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

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

(i) creates an additional lot; or

(ii) constitutes a subdivision.

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

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

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

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

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

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

[~~(39)~~] (40) "Moderate income housing" means housing occupied or reserved for

occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

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

(a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;

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

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

(d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;

(e) (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and

(ii) is located in a utility easement granted for public use; or

(f) is described in Section 10-9a-529 and is used by a specified public utility.

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

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

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

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

(a) legally existed before [~~its~~] the structure's current land use designation; and

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

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

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

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

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

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

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

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

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

[~~(45)~~] (46) "Parcel" means any real property that is not a lot [~~created by and shown on a subdivision plat recorded in the office of the county recorder~~].

[~~(46)~~] (47) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section [~~57-1-45~~] 10-9a-524, if no additional parcel is created and:

(i) none of the property identified in the agreement is [~~subdivided land~~] a lot; or

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

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

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

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

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

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

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

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

(c) a survey of total residential land use;

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

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

[~~(49)~~] (50) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

[~~(50)~~] (51) "Potential geologic hazard area" means an area that:

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

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

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

(a) the federal government;

(b) the state;

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

(d) a charter school.

[~~(52)~~] (53) "Public hearing" means a hearing at which members of the public are

provided a reasonable opportunity to comment on the subject of the hearing.

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

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

[~~(55)~~] (56) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

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

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

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

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

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

[~~(58)~~] (59) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[~~(59)~~] (60) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[~~(60)~~] (61) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable

development right.

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

(a) the state;

(b) a school district; or

(c) a charter school.

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

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

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

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

(b) "Subdivision" includes:

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

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

(c) "Subdivision" does not include:

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

(ii) [~~an~~] a boundary line agreement recorded with the county recorder's office between owners of adjoining [~~unsubdivided properties~~] parcels adjusting the mutual boundary [~~by a~~

~~boundary line agreement~~] in accordance with Section [~~57-1-45 if:~~] 10-9a-524 if no new parcel is created;

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

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

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

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

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

(iv) [~~an~~] a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with [~~Section 10-9a-603~~] Sections 10-9a-524 and 10-9a-608 if:

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

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

(v) a bona fide division [~~or partition~~] of land by deed or other instrument [~~where the land use authority expressly approves~~] if the deed or other instrument states in writing that the division:

(A) [~~in writing the division~~] is in anticipation of [~~further~~] future land use approvals on the parcel or parcels;

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

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

(vi) a parcel boundary adjustment;

(vii) a lot line adjustment;

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

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

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

[~~(d) The joining of a subdivided parcel of property to another parcel of property that~~

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

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

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

(b) alters the outside boundary of the subdivision;

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

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

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

(67) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

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

[~~(67)~~] (68) "Suspect soil" means soil that has:

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

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

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

[~~(68)~~] (69) "Therapeutic school" means a residential group living facility:

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

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

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

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

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

[~~(69)~~] (70) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

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

[~~(71)~~] (72) "Water interest" means any right to the beneficial use of water, including:

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

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

(i) a contract; or

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

[~~(72)~~] (73) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 2. Section **10-9a-302** is amended to read:

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

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

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

(b) land use regulations, including:

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

(ii) amendments to existing land use regulations;

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

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

(e) application processes that:

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

(ii) shall protect the right of each:

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

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

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

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

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

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

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

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

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

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

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

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

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

Bureau; or

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

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

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

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

(A) appeals and variances;

(B) conditional use permits;

(C) exactions;

(D) impact fees;

(E) vested rights;

(F) subdivision regulations and improvement guarantees;

(G) land use referenda;

(H) property rights;

(I) real estate procedures and financing;

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

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

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

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

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

(i) municipal staff;

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

(iii) a list of training courses selected by:

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

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

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

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

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

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

10-9a-507. Conditional uses.

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

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

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

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

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

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

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

administrative land use decision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) this chapter;

(ii) a municipal ordinance; or

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

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

(i) in a land use permit;

(ii) on the subdivision plat;

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

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

(v) in this chapter; or

(vi) in a municipal ordinance.

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

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

subdivision plat; or

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

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

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

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

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

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

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

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

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

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

approval by delivering a written notice:

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

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

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

(i) the relevant land use approval; and

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

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

10-9a-523. Property boundary adjustment.

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

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

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

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

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

(a) execute a boundary adjustment through:

(i) a quitclaim deed; or

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

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

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

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

(b) execute a boundary adjustment through:

(i) a quitclaim deed; or

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

(c) record the quitclaim deed or boundary line agreement described in Subsection

(2)(b) in the office of the county recorder of the county in which each property is located.

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

(a) the parcel includes a dwelling; and

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

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

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

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

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

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

10-9a-524. Boundary line agreement.

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

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

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

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

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

(1) If properly executed and acknowledged as required by law, an agreement between owners of adjoining property that designates the boundary line between the adjoining properties acts, upon recording in the office of the recorder of the county in which each

property is located, as a quitclaim deed to convey all of each party's right, title, interest, and estate in property outside the agreed boundary line that had been the subject of the boundary line agreement or dispute that led to the boundary line agreement.

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

(a) ensure that the agreement includes:

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

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

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

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

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

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

(b) if any of the property subject to the boundary line agreement is a lot, prepare an amended plat in accordance with Section 10-9a-608 before executing the boundary line agreement; and

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

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

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

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

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

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

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

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

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

(i) adopts an ordinance that:

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

(B) includes specific criteria for approval; and

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

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

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

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

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

(c) If a municipality fails to send a written notice under Subsection (5)(b) within the

time period described in Subsection (5)(a)(ii), the property owner may record the boundary line agreement as if no review under this Subsection (5) was required.

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

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

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

(1) with the consent of a municipality; and

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

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

10-9a-530. Development agreements.

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

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

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

(A) enact a land use regulation; or

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

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

(iii) contain a term that conflicts with, or is different from, a standard set forth in an existing land use regulation that governs the area subject to the development agreement, unless the legislative body approves the development agreement in accordance with the same procedures for enacting a land use regulation under Section 10-9a-502, including a review and recommendation from the planning commission and a public hearing.

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

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

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

(i) this chapter; and

(ii) any applicable land use regulations.

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

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

(1) As used in this section:

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

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

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

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

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

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

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

(A) a traffic impact study;

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

(C) an adopted phasing plan; or

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

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

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

(i) in a vehicle turnaround area; or

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

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

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

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

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

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

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

(b) lots may be sold.

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

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

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

10-9a-608. Subdivision amendments.

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

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

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

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

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

(iv) includes references to the original plat.

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

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

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

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

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

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

(a) the petition seeks to:

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

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

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

regardless of whether the [~~lots or parcels~~] properties are located in the same subdivision;

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

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

(A) owned by the petitioner; or

(B) designated as a common area; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) If a petition is submitted containing a request to vacate some or all of a public street or municipal utility easement, the legislative body shall hold a public hearing in accordance with Section 10-9a-208 and determine whether:

(a) good cause exists for the vacation; and

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

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

(a) good cause exists for the vacation; and

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

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

(a) a plat reflecting the vacation; or

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

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

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

(a) operates to the extent to which it is vacated, upon the effective date of the recorded plat or ordinance, as a revocation of the acceptance of and the relinquishment of the

municipality's fee in the vacated public street or municipal utility easement; and

(b) may not be construed to impair:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) shall:

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

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

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

(4) By ordinance, a municipality may:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) the arbitrator issues a final award; or

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

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

(iii) A request for arbitration filed with the property rights ombudsman after the time

under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

(3) (a) A court shall:

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

(ii) determine only whether:

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

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

(b) A court shall:

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

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

(A) arbitrary and capricious; or

(B) illegal.

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

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

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

(B) contrary to law.

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

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

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

decision.

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

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

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

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

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

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

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

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

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

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

(iii) After a petition is filed under this section or a request for mediation or arbitration

of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an injunction staying the appeal authority's land use decision.

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

Section 15. Section **17-27a-103** is amended to read:

17-27a-103. Definitions.

As used in this chapter:

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

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

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

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

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

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

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

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

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

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(5)(a); and

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

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

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

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

(i) an operating charter school;

(ii) a charter school applicant that [~~has its application approved by~~] a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

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

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

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

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

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

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

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

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

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

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

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

(d) (i) either:

(A) no person uses or occupies; or

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

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

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

(13) "Development activity" means:

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

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

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

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

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

[~~(14)~~] (15) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such

an impairment or being regarded as having such an impairment.

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

[~~(15)~~] (16) "Educational facility":

(a) means:

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

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection [~~(15)~~] (16)(a)(i); and

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

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

(b) does not include:

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

(A) not located on the same property as a building described in Subsection [~~(15)~~] (16)(a)(i); and

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

(ii) a therapeutic school.

[~~(16)~~] (17) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

[~~(17)~~] (18) "Flood plain" means land that:

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

Management Agency; or

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

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

[~~(19)~~] (20) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of:

(a) the unincorporated land within the county; or

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

[~~(20)~~] (21) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

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

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

[~~(21)~~] (22) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

[~~(22)~~] (23) "Identical plans" means building plans submitted to a county that:

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

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

(c) describe a building that:

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

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

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

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

[~~(23)~~] (24) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

[~~(24)~~] (25) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

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

[~~(25)~~] (26) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

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

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

[~~(26)~~] (27) "Improvement warranty period" means a period:

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

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

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

(ii) has substantial evidence, on record:

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

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

[~~(27)~~] (28) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human consumption; and

(b) an applicant must install:

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

(ii) as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

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

[~~(28)~~] (29) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

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

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

[~~(29)~~] (30) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

[~~(30)~~] (31) "Intrastate pipeline company" means a person or entity engaged in natural

gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

[~~(31)~~] (32) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

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

(a) means an application that is:

(i) required by a county; and

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

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

[~~(33)~~] (34) "Land use authority" means:

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

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

[~~(34)~~] (35) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

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

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

[~~(36)~~] (37) "Land use regulation":

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

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

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if

the decision is expressed in a resolution or ordinance; or

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

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

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

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

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

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

[~~(40)~~] (41) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels[~~,~~] in accordance with Section 17-27a-608:

(i) whether or not the lots are located in the same subdivision[~~, in accordance with Section 17-27a-608,~~]; and

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

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

(i) creates an additional lot; or

(ii) constitutes a subdivision.

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

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

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

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

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

municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

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

[~~(43)~~] (44) "Mountainous planning district" means an area:

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

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

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

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

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

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

(a) legally existed before [~~its~~] the structure's current land use designation; and

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

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

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

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

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

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

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

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

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

[~~(48)~~] (49) "Parcel" means any real property that is not a lot [~~created by and shown on a subdivision plat recorded in the office of the county recorder~~].

[~~(49)~~] (50) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section [~~57-1-45~~] 17-27a-523, if no additional parcel is created and:

(i) none of the property identified in the agreement is [~~subdivided land~~] a lot; or

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

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

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

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

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

[~~(51)~~] (52) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

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

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

(c) a survey of total residential land use;

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

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

[~~(52)~~] (53) "Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

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

[~~(54)~~] (55) "Potential geologic hazard area" means an area that:

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

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

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

(a) the federal government;

(b) the state;

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

(d) a charter school.

[~~(56)~~] (57) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

[~~(57)~~] (58) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

[~~(58)~~] (59) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

[~~(59)~~] (60) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[~~(60)~~] (61) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

[~~(61)~~] (62) "Residential facility for persons with a disability" means a residence:

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

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

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

[~~(62)~~] (63) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[~~(63)~~] (64) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[~~(64)~~] (65) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

[~~(65)~~] (66) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

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

(a) the state;

(b) a school district; or

(c) a charter school.

[~~(67)~~] (68) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

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

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

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

(b) "Subdivision" includes:

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

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

(c) "Subdivision" does not include:

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

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

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

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

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

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

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

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

(A) an electrical transmission line or a substation;

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

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

(v) [~~an~~] a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with [~~Section 10-9a-603~~] Sections 17-27a-523 and 17-27a-608 if:

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

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

(vi) a bona fide division [~~or partition~~] of land by deed or other instrument [~~where the land use authority expressly approves~~] if the deed or other instrument states in writing that the division:

(A) [~~in writing the division~~] is in anticipation of [~~further~~] future land use approvals on the parcel or parcels;

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

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

(vii) a parcel boundary adjustment;

(viii) a lot line adjustment;

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

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

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

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

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

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

(b) alters the outside boundary of the subdivision;

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

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

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

(72) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

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

[~~(72)~~] (73) "Suspect soil" means soil that has:

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

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

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

[~~(73)~~] (74) "Therapeutic school" means a residential group living facility:

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

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

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

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

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

[~~(74)~~] (75) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

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

[~~(76)~~] (77) "Water interest" means any right to the beneficial use of water, including:

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

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

(i) a contract; or

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

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

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

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

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

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

(b) land use regulations, including:

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

(ii) amendments to existing land use regulations;

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

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

(e) application processes that:

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

(ii) shall protect the right of each:

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

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

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

(2) Before making a recommendation to a legislative body on an item described in Subsection (1)(a) or (b), the planning commission shall hold a public hearing in accordance with Section 17-27a-404.

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

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

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

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

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

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

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

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

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

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

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

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

(A) appeals and variances;

(B) conditional use permits;

(C) exactions;

(D) impact fees;

(E) vested rights;

(F) subdivision regulations and improvement guarantees;

(G) land use referenda;

(H) property rights;

(I) real estate procedures and financing;

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

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

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

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

meetings of the planning commission within a calendar year.

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

(i) county staff;

(ii) the Utah Association of Counties; or

(iii) a list of training courses selected by:

(A) the Utah Association of Counties; or

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

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

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

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

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

17-27a-506. Conditional uses.

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

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

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

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

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

(c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to

achieve compliance with applicable standards, the land use authority may deny the conditional use.

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

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

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

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

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

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

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

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

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

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

(b) The county shall process an application without regard to proceedings the county

initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:

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

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

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

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

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

(i) in this chapter;

(ii) in a county ordinance; or

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

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

(i) in a land use permit;

(ii) on the subdivision plat;

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

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

(v) in this chapter; or

(vi) in a county ordinance.

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

(i) in the building permit or subdivision plat, documents on which the building permit

or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or

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

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

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

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

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

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

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

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

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

[~~(5)~~] (6) (a) If sponsors of a referendum timely challenge a project in accordance with

Subsection 20A-7-601(5)(a), the project's affected owner may rescind the project's land use approval by delivering a written notice:

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

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

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

(i) the relevant land use approval; and

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

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

17-27a-522. Property boundary adjustment.

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

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

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

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

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

(a) execute a boundary adjustment through:

(i) a quitclaim deed; or

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

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

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

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

(b) execute a boundary adjustment through:

(i) a quitclaim deed; or

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

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

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

(a) the parcel includes a dwelling; and

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

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

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

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

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

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

17-27a-523. Boundary line agreement.

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

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

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

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

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

(1) If properly executed and acknowledged as required by law, an agreement between owners of adjoining property that designates the boundary line between the adjoining properties acts, upon recording in the office of the recorder of the county in which each

property is located, as a quitclaim deed to convey all of each party's right, title, interest, and estate in property outside the agreed boundary line that had been the subject of the boundary line agreement or dispute that led to the boundary line agreement.

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

(a) ensure that the agreement includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) adopts an ordinance that:

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

(B) includes specific criteria for approval; and

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

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

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

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

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

(c) If a county fails to send a written notice under Subsection (5)(b) within the time period described in Subsection (5)(a)(ii), the property owner may record the boundary line

agreement as if no review under this Subsection (5) was required.

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

17-27a-526. Development agreements.

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

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

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

(A) enact a land use regulation; or

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

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

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

(b) A development agreement that requires the implementation of an existing land use regulation as an administrative act does not require a legislative body's approval under Section 17-27a-502.

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

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

(i) this chapter; and

(ii) any applicable land use regulations.

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

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

(1) As used in this section:

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

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

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

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

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

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

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

(A) a traffic impact study;

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

(C) an adopted phasing plan; or

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

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

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

(i) in a vehicle turnaround area; or

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

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

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

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

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

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

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

(b) lots may be sold.

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

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

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

17-27a-608. Subdivision amendments.

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

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

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

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

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

(iv) includes references to the original plat.

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

(d) If a petition is filed under Subsection (1)(a), the land use authority shall hold a

public hearing within 45 days after the day on which the petition is filed if:

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

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

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

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

(a) the petition seeks to:

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

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

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

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

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

(A) owned by the petitioner; or

(B) designated as a common area; and

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

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

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

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

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

(i) the entire plat; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 25. Section **17-27a-609.5** is amended to read:

17-27a-609.5. Petition to vacate a public street.

(1) In lieu of vacating some or all of a public street through a plat or amended plat in accordance with Sections 17-27a-603 through 17-27a-609, a legislative body may approve a petition to vacate a public street in accordance with this section.

(2) A petition to vacate some or all of a public street or county utility easement shall include:

(a) the name and address of each owner of record of land that is:

(i) adjacent to the public street or county utility easement between the two nearest public street intersections; or

(ii) accessed exclusively by or within 300 feet of the public street or county utility easement;

(b) proof of written notice to operators of utilities and culinary water or sanitary sewer facilities located within the bounds of the public street or county utility easement sought to be vacated; and

(c) the signature of each owner under Subsection (2)(a) who consents to the vacation.

(3) If a petition is submitted containing a request to vacate some or all of a public street or county utility easement, the legislative body shall hold a public hearing in accordance with

Section 17-27a-208 and determine whether:

(a) good cause exists for the vacation; and

(b) the public interest or any person will be materially injured by the proposed vacation.

(4) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street or county utility easement if the legislative body finds that:

(a) good cause exists for the vacation; and

(b) neither the public interest nor any person will be materially injured by the vacation.

(5) If the legislative body adopts an ordinance vacating some or all of a public street or county utility easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:

(a) a plat reflecting the vacation; or

(b) (i) an ordinance described in Subsection (4); and

(ii) a legal description of the public street to be vacated.

(6) The action of the legislative body vacating some or all of a public street or county utility easement that has been dedicated to public use:

(a) operates to the extent to which it is vacated, upon the effective date of the recorded plat or ordinance, as a revocation of the acceptance of and the relinquishment of the county's fee in the vacated street, right-of-way, or easement; and

(b) may not be construed to impair:

(i) any right-of-way or easement of any parcel or lot owner; [~~or~~]

(ii) the rights of any public utility[~~.~~]; or

(iii) the rights of a culinary water authority or sanitary sewer authority.

(7) (a) A county may submit a petition, in accordance with Subsection (2), and initiate and complete a process to vacate some or all of a public street.

(b) If a county submits a petition and initiates a process under Subsection (7)(a):

(i) the legislative body shall hold a public hearing;

(ii) the petition and process may not apply to or affect a public utility easement, except

to the extent:

(A) the easement is not a protected utility easement as defined in Section 54-3-27;

(B) the easement is included within the public street; and

(C) the notice to vacate the public street also contains a notice to vacate the easement; and

(iii) a recorded ordinance to vacate a public street has the same legal effect as vacating a public street through a recorded plat or amended plat.

(8) A legislative body may not approve a petition to vacate a public street under this section unless the vacation identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the public street.

Section 26. Section **17-27a-701** is amended to read:

17-27a-701. Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.

(1) (a) Each county adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities [~~to hear and decide:~~].

(b) An appeal authority shall hear and decide:

[~~(a)~~] (i) requests for variances from the terms of [~~the~~] land use ordinances;

[~~(b)~~] (ii) appeals from land use decisions applying [~~the~~] land use ordinances; and

[~~(c)~~] (iii) appeals from a fee charged in accordance with Section 17-27a-509.

(c) An appeal authority may not hear an appeal from the enactment of a land use regulation.

(2) As a condition precedent to judicial review, each adversely affected party shall timely and specifically challenge a land use authority's land use decision, in accordance with local ordinance.

(3) An appeal authority described in Subsection (1)(a):

(a) shall:

(i) act in a quasi-judicial manner; and

(ii) serve as the final arbiter of issues involving the interpretation or application of land

use ordinances; and

(b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

(4) By ordinance, a county may:

(a) designate a separate appeal authority to hear requests for variances than the appeal authority [~~it~~] the county designates to hear appeals;

(b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;

(c) require an adversely affected party to present to an appeal authority every theory of relief that [~~it~~] the adversely affected party can raise in district court;

(d) not require a land use applicant or adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of an appealing party's duty to exhaust administrative remedies; and

(e) provide that specified types of land use decisions may be appealed directly to the district court.

(5) If the county establishes or, prior to the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:

(a) notify each of [~~its~~] the members of the board, body, or panel of any meeting or hearing of the board, body, or panel;

(b) provide each of [~~its~~] the members of the board, body, or panel with the same information and access to municipal resources as any other member;

(c) convene only if a quorum of [~~its~~] the members of the board, body, or panel is present; and

(d) act only upon the vote of a majority of [~~its~~] the convened members of the board, body, or panel.

Section 27. Section **17-27a-801** is amended to read:

17-27a-801. No district court review until administrative remedies exhausted --

Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.

(1) No person may challenge in district court a land use decision until that person has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.

(2) (a) [~~A~~] Subject to Subsection (1), a land use applicant or adversely affected party may file a petition for review of [~~the~~] a land use decision with the district court within 30 days after the decision is final.

(b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 13-43-204 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the property rights ombudsman issues a written statement under Subsection 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

(iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

(3) (a) A court shall:

(i) presume that a land use regulation properly enacted under the authority of this chapter is valid; and

(ii) determine only whether:

(A) the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and

(B) it is reasonably debatable that the land use regulation is consistent with this chapter.

(b) A court shall:

(i) presume that a final land use decision of a land use authority or an appeal authority is valid; and

(ii) uphold the land use decision unless the land use decision is:

(A) arbitrary and capricious; or

(B) illegal.

(c) (i) A land use decision is arbitrary and capricious if the land use decision is not supported by substantial evidence in the record.

(ii) A land use decision is illegal if the land use decision is:

(A) based on an incorrect interpretation of a land use regulation; or

(B) contrary to law.

(d) (i) A court may affirm or reverse [~~the decision of a land use authority~~] a land use decision.

(ii) If the court reverses a [~~denial of a land use application~~] land use decision, the court shall remand the matter to the land use authority with instructions to issue [~~an approval~~] a land use decision consistent with the court's decision.

(4) The provisions of Subsection (2)(a) apply from the date on which the county takes final action on a land use application, if the county conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending land use decision.

(5) If the county has complied with Section 17-27a-205, a challenge to the enactment of a land use regulation or general plan may not be filed with the district court more than 30 days after the enactment.

(6) A challenge to a land use decision is barred unless the challenge is filed within 30 days after the land use decision is final.

(7) (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of [~~its~~] the proceedings of the land use authority or appeal authority, including [~~its~~] the minutes, findings, orders and, if available, a true and correct transcript of [~~its~~] the proceedings.

(b) If the proceeding was recorded, a transcript of that recording is a true and correct

transcript for purposes of this Subsection (7).

(8) (a) (i) If there is a record, the district court's review is limited to the record provided by the land use authority or appeal authority, as the case may be.

(ii) The court may not accept or consider any evidence outside the record of the land use authority or appeal authority, as the case may be, unless that evidence was offered to the land use authority or appeal authority, respectively, and the court determines that [~~it~~] the evidence was improperly excluded.

(b) If there is no record, the court may call witnesses and take evidence.

(9) (a) The filing of a petition does not stay the land use decision of the land use authority or appeal authority, as the case may be.

(b) (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 13-43-204, a land use applicant may petition the appeal authority to stay [~~its~~] the appeal authority's decision.

(ii) Upon receipt of a petition to stay, the appeal authority may order [~~its~~] the appeal authority's decision stayed pending district court review if the appeal authority finds [~~it~~] the order to be in the best interest of the county.

(iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an injunction staying the appeal authority's land use decision.

(10) If the court determines that a party initiated or pursued a challenge to [~~the~~] a land use decision on a land use application in bad faith, the court may award attorney fees.

Section 28. Section **57-1-13** is amended to read:

57-1-13. Form of quitclaim deed -- Effect.

(1) A conveyance of land may also be substantially in the following form:

"QUITCLAIM DEED

____ (here insert name), grantor, of ____ (insert place of residence), hereby quitclaims to ____ (insert name), grantee, of ____ (here insert place of residence), for the sum of ____ dollars, the following described tract ____ of land in ____ County, Utah, to wit: (here describe

the premises).

Witness the hand of said grantor this _____(month\day\year).

A quitclaim deed when executed as required by law shall have the effect of a conveyance of all right, title, interest, and estate of the grantor in and to the premises therein described and all rights, privileges, and appurtenances thereunto belonging, at the date of the conveyance."

(2) A boundary line agreement operating as a quitclaim deed shall meet the requirements described in Section [~~57-1-45~~] 10-9a-524 or 17-27a-523, as applicable.

Section 29. Section **57-1-45** is amended to read:

57-1-45. Boundary line agreements.

[~~(1) If properly executed and acknowledged as required under this chapter, and when recorded in the office of the recorder of the county in which the property is located, an agreement between adjoining property owners of land that designates the boundary line between the adjoining properties acts as a quitclaim deed to convey all of each party's right, title, interest, and estate in property outside the agreed boundary line that had been the subject of the boundary line agreement or dispute that led to the boundary line agreement.~~]

[~~(2) Adjoining property owners executing a boundary line agreement described in Subsection (1) shall:~~]

[~~(a) ensure that the agreement includes:~~]

[~~(i) a legal description of the agreed upon boundary line;~~]

[~~(ii) the name and signature of each grantor that is party to the agreement;~~]

[~~(iii) a sufficient acknowledgment for each grantor's signature;~~]

[~~(iv) the address of each grantee for assessment purposes;~~]

[~~(v) the parcel or lot each grantor owns before the boundary line is changed;~~]

[~~(vi) a statement citing the file number of a record of a survey map, as defined in Sections 10-9a-103 and 17-27a-103, that the parties prepare and file, in accordance with Section 17-23-17, in conjunction with the boundary line agreement; and~~]

[~~(vii) the date of the agreement if the date is not included in the acknowledgment in a~~

~~form substantially similar to a quitclaim deed as described in Section 57-1-13; and~~]

[~~(b) prepare an amended plat in accordance with Title 10, Chapter 9a, Part 6, Subdivisions, or Title 17, Chapter 27a, Part 6, Subdivisions.~~]

[~~(3) A boundary line agreement described in Subsection (1) that complies with Subsection (2) presumptively:~~]

[~~(a) has no detrimental effect on any easement on the property that is recorded before the date on which the agreement is executed unless the owner of the property benefitting from the easement specifically modifies the easement within the boundary line agreement or a separate recorded easement modification or relinquishment document; and~~]

[~~(b) relocates the parties' common boundary line for an exchange of consideration.~~]

[~~(4) Notwithstanding Title 10, Chapter 9a, Part 6, Subdivisions, Title 17, Chapter 27a, Part 6, Subdivisions, or the local entity's ordinances or policies, a boundary line agreement is not subject to:~~]

[~~(a) any public notice, public hearing, or preliminary platting requirement;~~]

[~~(b) the local entity's planning commission review or recommendation; or~~]

[~~(c) an engineering review or approval of the local entity.~~]

A boundary line agreement to adjust the boundaries of adjoining properties shall comply with Section 10-9a-524 or 17-27a-523, as applicable.

Section 30. Section **63I-2-217** is amended to read:

63I-2-217. Repeal dates -- Title 17.

(1) Section 17-22-32.2, regarding restitution reporting, is repealed January 1, 2021.

(2) Section 17-22-32.3, regarding the Jail Incarceration and Transportation Costs Study Council, is repealed January 1, 2021.

(3) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous planning district" is repealed June 1, 2021.

(4) (a) Subsection 17-27a-103[~~(18)~~](20)(b), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-103[~~(42)~~](44), regarding a mountainous planning district, is

repealed June 1, 2021.

(5) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning district area" is repealed June 1, 2021.

(6) (a) Subsection 17-27a-301(1)(b)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-301(1)(c), regarding a mountainous planning district, is repealed June 1, 2021.

(c) Subsection 17-27a-301(3)(a), the language that states " or (c)" is repealed June 1, 2021.

(7) Section 17-27a-302, the language that states ", or mountainous planning district" and "or the mountainous planning district," is repealed June 1, 2021.

(8) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning district or" and ", as applicable" is repealed June 1, 2021.

(9) (a) Subsection 17-27a-401(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-401(7), regarding a mountainous planning district, is repealed June 1, 2021.

(10) (a) Subsection 17-27a-403(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-403(1)(c)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(c) Subsection 17-27a-403(2)(a)(iii), the language that states "or the mountainous planning district" is repealed June 1, 2021.

(d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning district" is repealed June 1, 2021.

(11) Subsection 17-27a-502(1)(d)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.

(12) Subsection 17-27a-505.5(2)(a)(iii), regarding a mountainous planning district, is

repealed June 1, 2021.

(13) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a mountainous planning district, the mountainous planning district" is repealed June 1, 2021.

(14) Subsection 17-27a-604(1)(b)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.

(15) Subsection 17-27a-605(1)(a), the language that states "or mountainous planning district land" is repealed June 1, 2021.

(16) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1, 2021.

(17) On June 1, 2021, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3):

(i) make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's understanding of the Legislature's intent; and

(ii) make necessary changes to subsection numbering and cross references; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2017, Chapter 448.

(18) Subsection 17-34-1(5)(d), regarding county funding of certain municipal services in a designated recreation area, is repealed June 1, 2021.

(19) Title 17, Chapter 35b, Consolidation of Local Government Units, is repealed January 1, 2022.

(20) On June 1, 2022:

(a) Section 17-52a-104 is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states "or under a provision described in Subsection 17-52a-104(1)(b) or (2)(b)," is repealed; and

(c) Subsection 17-52a-301(3)(a)(iv), regarding the first initiated process, is repealed.

(21) On January 1, 2028, Subsection 17-52a-103(3), requiring certain counties to

initiate a change of form of government process by July 1, 2018, is repealed.

SINGLE-FAMILY HOUSING MODIFICATIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Raymond P. Ward

Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill modifies provisions related to single-family housing.

Highlighted Provisions:

This bill:

- modifies and defines terms applicable to municipal and county land use development and management;
- allows a municipality or county to punish an individual who lists or offers a certain licensed or permitted accessory dwelling unit as a short-term rental;
- allows municipalities and counties to require specified physical changes to certain accessory dwelling units;
- in any single-family residential land use zone:
  - requires municipalities and counties to classify certain accessory dwelling units as a permitted land use; and
  - prohibits municipalities and counties from establishing restrictions or requirements for certain accessory dwelling units with limited exceptions;
- allows a municipality or county to hold a lien against real property containing certain accessory dwelling units in certain circumstances;
- provides for statewide amendments to the International Residential Code related to accessory dwelling units;
- requires the executive director of the Olene Walker Housing Loan Fund to establish a two-year pilot program to provide loan guarantees for certain loans related to accessory dwelling units;

- prevents a homeowners association from prohibiting the construction or rental of certain accessory dwelling units; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-8-85.4, as enacted by Laws of Utah 2017, Chapter 335

10-9a-505.5, as last amended by Laws of Utah 2012, Chapter 172

10-9a-511.5, as enacted by Laws of Utah 2015, Chapter 205

15A-3-202, as last amended by Laws of Utah 2020, Chapter 441

15A-3-204, as last amended by Laws of Utah 2016, Chapter 249

15A-3-206, as last amended by Laws of Utah 2018, Chapter 186

17-27a-505.5, as last amended by Laws of Utah 2015, Chapter 465

17-27a-510.5, as enacted by Laws of Utah 2015, Chapter 205

17-50-338, as enacted by Laws of Utah 2017, Chapter 335

35A-8-505, as last amended by Laws of Utah 2020, Chapter 241

57-8a-209, as last amended by Laws of Utah 2018, Chapter 395

57-8a-218, as last amended by Laws of Utah 2017, Chapter 131

ENACTS:

10-9a-530, Utah Code Annotated 1953

17-27a-526, Utah Code Annotated 1953

35A-8-504.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-8-85.4** is amended to read:

10-8-85.4. Ordinances regarding short-term rentals -- Prohibition on ordinances restricting speech on short-term rental websites.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means the same as that term is defined in Section 10-9a-511.5.

[~~(a)~~] (b) "Residential unit" means a residential structure or any portion of a residential structure that is occupied as a residence.

[~~(b)~~] (c) "Short-term rental" means a residential unit or any portion of a residential unit that the owner of record or the lessee of the residential unit offers for occupancy for fewer than 30 consecutive days.

[~~(c)~~] (d) "Short-term rental website" means a website that:

(i) allows a person to offer a short-term rental to one or more prospective renters; and

(ii) facilitates the renting of, and payment for, a short-term rental.

(2) Notwithstanding Section 10-9a-501 or Subsection 10-9a-503(1), a legislative body may not:

(a) enact or enforce an ordinance that prohibits an individual from listing or offering a short-term rental on a short-term rental website; or

(b) use an ordinance that prohibits the act of renting a short-term rental to fine, charge, prosecute, or otherwise punish an individual solely for the act of listing or offering a short-term rental on a short-term rental website.

(3) Subsection (2) does not apply to an individual who lists or offers an internal accessory dwelling unit as a short-term rental on a short-term rental website if the municipality records a notice for the internal accessory dwelling unit under Subsection 10-9a-530(6).

Section 2. Section **10-9a-505.5** is amended to read:

10-9a-505.5. Limit on single family designation.

(1) As used in this section, "single-family limit" means the number of [~~unrelated~~] individuals allowed to occupy each residential unit that is recognized by a land use authority in a zone permitting occupancy by a single family.

(2) A municipality may not adopt a single-family limit that is less than:

(a) three, if the municipality has within its boundary:

(i) a state university; or

(ii) a private university with a student population of at least 20,000; or

(b) four, for each other municipality.

Section 3. Section **10-9a-511.5** is amended to read:

10-9a-511.5. Changes to dwellings -- Egress windows.

(1) [~~For purposes of~~] As used in this section[~~, "rental~~]:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(b) "Primary dwelling" means a single-family dwelling that:

(i) is detached; and

(ii) is occupied as the primary residence of the owner of record.

(c) "Rental dwelling" means the same as that term is defined in Section 10-8-85.5.

(2) A municipal ordinance adopted under Section 10-1-203.5 may not:

(a) require physical changes in a structure with a legal nonconforming rental dwelling use unless the change is for:

(i) the reasonable installation of:

(A) a smoke detector that is plugged in or battery operated;

(B) a ground fault circuit interrupter protected outlet on existing wiring;

(C) street addressing;

(D) except as provided in Subsection (3), an egress bedroom window if the existing bedroom window is smaller than that required by current State Construction Code;

(E) an electrical system or a plumbing system, if the existing system is not functioning or is unsafe as determined by an independent electrical or plumbing professional who is

licensed in accordance with Title 58, Occupations and Professions;

(F) hand or guard rails; or

(G) occupancy separation doors as required by the International Residential Code; or

(ii) the abatement of a structure; or

(b) be enforced to terminate a legal nonconforming rental dwelling use.

(3) (a) A municipality may not require physical changes to install an egress or emergency escape window in an existing bedroom that complied with the State Construction Code in effect at the time the bedroom was finished if:

[~~(a)~~] (i) the dwelling is an owner-occupied dwelling or a rental dwelling that is:

[~~(i)~~] (A) a detached one-, two-, three-, or four-family dwelling; or

[~~(ii)~~] (B) a town home that is not more than three stories above grade with a separate means of egress; and

[~~(b) (i)~~] (ii) (A) the window in the existing bedroom is smaller than that required by current State Construction Code; and

[~~(ii)~~] (B) the change would compromise the structural integrity of the structure or could not be completed in accordance with current State Construction Code, including set-back and window well requirements.

(b) Subsection (3)(a) does not apply to an internal accessory dwelling unit.

(4) Nothing in this section prohibits a municipality from:

(a) regulating the style of window that is required or allowed in a bedroom;

(b) requiring that a window in an existing bedroom be fully openable if the openable area is less than required by current State Construction Code; or

(c) requiring that an existing window not be reduced in size if the openable area is smaller than required by current State Construction Code.

Section 4. Section **10-9a-530** is enacted to read:

10-9a-530. Internal accessory dwelling units.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(b) "Primary dwelling" means a single-family dwelling that:

(i) is detached; and

(ii) is occupied as the primary residence of the owner of record.

(2) In any area zoned primarily for residential use:

(a) the use of an internal accessory dwelling unit is a permitted use; and

(b) except as provided in Subsections (3) and (4), a municipality may not establish any restrictions or requirements for the construction or use of one internal accessory dwelling unit within a primary dwelling, including a restriction or requirement governing:

(i) the size of the internal accessory dwelling unit in relation to the primary dwelling;

(ii) total lot size; or

(iii) street frontage.

(3) An internal accessory dwelling unit shall comply with all applicable building, health, and fire codes.

(4) A municipality may:

(a) prohibit the installation of a separate utility meter for an internal accessory dwelling unit;

(b) require that an internal accessory dwelling unit be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling;

(c) require a primary dwelling:

(i) to include one additional on-site parking space for an internal accessory dwelling unit, regardless of whether the primary dwelling is existing or new construction; and

(ii) to replace any parking spaces contained within a garage or carport if an internal accessory dwelling unit is created within the garage or carport;

(d) prohibit the creation of an internal accessory dwelling unit within a mobile home as

defined in Section 57-16-3;

(e) require the owner of a primary dwelling to obtain a permit or license for renting an internal accessory dwelling unit;

(f) prohibit the creation of an internal accessory dwelling unit within a zoning district covering an area that is equivalent to:

(i) 25% or less of the total area in the municipality that is zoned primarily for residential use; or

(ii) 67% or less of the total area in the municipality that is zoned primarily for residential use, if the main campus of a state or private university with a student population of 10,000 or more is located within the municipality;

(g) prohibit the creation of an internal accessory dwelling unit if the primary dwelling is served by a failing septic tank;

(h) prohibit the creation of an internal accessory dwelling unit if the lot containing the primary dwelling is 6,000 square feet or less in size;

(i) prohibit the rental or offering the rental of an internal accessory dwelling unit for a period of less than 30 consecutive days;

(j) prohibit the rental of an internal accessory dwelling unit if the internal accessory dwelling unit is located in a dwelling that is not occupied as the owner's primary residence;

(k) hold a lien against a property that contains an internal accessory dwelling unit in accordance with Subsection (5); and

(l) record a notice for an internal accessory dwelling unit in accordance with Subsection (6).

(5) (a) In addition to any other legal or equitable remedies available to a municipality, a municipality may hold a lien against a property that contains an internal accessory dwelling unit if:

(i) the owner of the property violates any of the provisions of this section or any ordinance adopted under Subsection (4);

(ii) the municipality provides a written notice of violation in accordance with

Subsection (5)(b);

(iii) the municipality holds a hearing and determines that the violation has occurred in accordance with Subsection (5)(d), if the owner files a written objection in accordance with Subsection (5)(b)(iv);

(iv) the owner fails to cure the violation within the time period prescribed in the written notice of violation under Subsection (5)(b);

(v) the municipality provides a written notice of lien in accordance with Subsection (5)(c); and

(vi) the municipality records a copy of the written notice of lien described in Subsection (5)(a)(iv) with the county recorder of the county in which the property is located.

(b) The written notice of violation shall:

(i) describe the specific violation;

(ii) provide the owner of the internal accessory dwelling unit a reasonable opportunity to cure the violation that is:

(A) no less than 14 days after the day on which the municipality sends the written notice of violation, if the violation results from the owner renting or offering to rent the internal accessory dwelling unit for a period of less than 30 consecutive days; or

(B) no less than 30 days after the day on which the municipality sends the written notice of violation, for any other violation;

(iii) state that if the owner of the property fails to cure the violation within the time period described in Subsection (5)(b)(ii), the municipality may hold a lien against the property in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) notify the owner of the property:

(A) that the owner may file a written objection to the violation within 14 days after the day on which the written notice of violation is post-marked or posted on the property; and

(B) of the name and address of the municipal office where the owner may file the written objection;

(v) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(vi) be posted on the property.

(c) The written notice of lien shall:

(i) comply with the requirements of Section 38-12-102;

(ii) state that the property is subject to a lien;

(iii) specify the lien amount, in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(v) be posted on the property.

(d) (i) If an owner of property files a written objection in accordance with Subsection (5)(b)(iv), the municipality shall:

(A) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act, to conduct a review and determine whether the specific violation described in the written notice of violation under Subsection (5)(b) has occurred; and

(B) notify the owner in writing of the date, time, and location of the hearing described in Subsection (5)(d)(i)(A) no less than 14 days before the day on which the hearing is held.

(ii) If an owner of property files a written objection under Subsection (5)(b)(iv), a municipality may not record a lien under this Subsection (5) until the municipality holds a hearing and determines that the specific violation has occurred.

(iii) If the municipality determines at the hearing that the specific violation has occurred, the municipality may impose a lien in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires, regardless of

whether the hearing is held after the day on which the opportunity to cure the violation has expired.

(e) If an owner cures a violation within the time period prescribed in the written notice of violation under Subsection (5)(b), the municipality may not hold a lien against the property, or impose any penalty or fee on the owner, in relation to the specific violation described in the written notice of violation under Subsection (5)(b).

(6) (a) A municipality that issues, on or after October 1, 2021, a permit or license to an owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to an owner of a primary dwelling to create an internal accessory dwelling unit, may record a notice in the office of the recorder of the county in which the primary dwelling is located.

(b) The notice described in Subsection (6)(a) shall include:

(i) a description of the primary dwelling;

(ii) a statement that the primary dwelling contains an internal accessory dwelling unit; and

(iii) a statement that the internal accessory dwelling unit may only be used in accordance with the municipality's land use regulations.

(c) The municipality shall, upon recording the notice described in Subsection (6)(a), deliver a copy of the notice to the owner of the internal accessory dwelling unit.

Section 5. Section **15A-3-202** is amended to read:

15A-3-202. Amendments to Chapters 1 through 5 of IRC.

(1) In IRC, Section R102, a new Section R102.7.2 is added as follows: "R102.7.2 Physical change for bedroom window egress. A structure whose egress window in an existing bedroom is smaller than required by this code, and that complied with the construction code in effect at the time that the bedroom was finished, is not required to undergo a physical change to conform to this code if the change would compromise the structural integrity of the structure or could not be completed in accordance with other applicable requirements of this code, including setback and window well requirements."

(2) In IRC, Section R108.3, the following sentence is added at the end of the section:

"The building official shall not request proprietary information."

(3) In IRC, Section 109:

(a) A new IRC, Section 109.1.5, is added as follows: "R109.1.5 Weather-resistant exterior wall envelope inspections. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section R703.1 and flashings as required by Section R703.8 to prevent water from entering the weather-resistive barrier."

(b) The remaining sections are renumbered as follows: R109.1.6 Other inspections; R109.1.6.1 Fire- and smoke-resistance-rated construction inspection; R109.1.6.2 Reinforced masonry, insulating concrete form (ICF) and conventionally formed concrete wall inspection; and R109.1.7 Final inspection.

(4) IRC, Section R114.1, is deleted and replaced with the following: "R114.1 Notice to owner. Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or other pertinent laws or ordinances or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent or to the person doing the work; and shall state the conditions under which work will be permitted to resume."

(5) In IRC, Section R202, the following definition is added: "ACCESSORY DWELLING UNIT: A habitable living unit created within the existing footprint of a primary owner-occupied single-family dwelling."

[~~(5)~~] (6) In IRC, Section R202, the following definition is added: "CERTIFIED BACKFLOW PREVENTER ASSEMBLY TESTER: A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Utah Code, Subsection 19-4-104(4)."

[~~(6)~~] (7) In IRC, Section R202, the definition of "Cross Connection" is deleted and replaced with the following: "CROSS CONNECTION. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam,

gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see "Backflow, Water Distribution")."

[~~(7)~~] (8) In IRC, Section 202, in the definition for gray water a comma is inserted after the word "washers"; the word "and" is deleted; and the following is added to the end: "and clear water wastes which have a pH of 6.0 to 9.0; are non-flammable; non-combustible; without objectionable odors; non-highly pigmented; and will not interfere with the operation of the sewer treatment facility."

[~~(8)~~] (9) In IRC, Section R202, the definition of "Potable Water" is deleted and replaced with the following: "POTABLE WATER. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Utah Code, Title 19, Chapter 4, Safe Drinking Water Act, and Title 19, Chapter 5, Water Quality Act, and the regulations of the public health authority having jurisdiction."

[~~(9)~~] (10) IRC, Figure R301.2(5), is deleted and replaced with R301.2(5) as follows:

"TABLE R301.2(5)

GROUND SNOW LOADS FOR SELECTED LOCATIONS IN UTAH

City/Town	County	Ground Snow Load (lb/ft2)	Elevation (ft)
Beaver	Beaver	35	5886
Brigham City	Box Elder	42	4423
Castle Dale	Emery	32	5669
Coalville	Summit	57	5581
Duchesne	Duchesne	39	5508
Farmington	Davis	35	4318
Fillmore	Millard	30	5138
Heber City	Wasatch	60	5604
Junction	Piute	27	6030
Kanab	Kane	25	4964

Loa	Wayne	37	7060
Logan	Cache	43	4531
Manila	Daggett	26	6368
Manti	Sanpete	37	5620
Moab	Grand	21	4029
Monticello	San Juan	67	7064
Morgan	Morgan	52	5062
Nephi	Juab	39	5131
Ogden	Weber	37	4334
Panguitch	Garfield	41	6630
Parowan	Iron	32	6007
Price	Carbon	31	5558
Provo	Utah	31	4541
Randolph	Rich	50	6286
Richfield	Sevier	27	5338
St. George	Washington	21	2585
Salt Lake City	Salt Lake	28	4239
Tooele	Tooele	35	5029
Vernal	Uintah	39	5384

Note: To convert lb/ft2 to kN/m2, multiply by 0.0479. To convert feet to meters, multiply by 0.3048. 1. Statutory requirements of the Authority Having Jurisdiction are not included in this state ground snow load table. 2. For locations where there is substantial change in altitude over the city/town, the load applies at and below the cited elevation, with a tolerance of 100 ft (30 m). 3. For other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utahsnowload.usu.edu/, for ground snow load values.

[~~(10)~~] (11) IRC, Section R301.6, is deleted and replaced with the following: "R301.6 Utah Snow Loads. The snow loads specified in Table R301.2(5b) shall be used for the jurisdictions identified in that table. Otherwise, for other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utahsnowload.usu.edu/, for ground snow load values."

[~~(11)~~] (12) In IRC, Section R302.2, the following sentence is added after the second sentence: "When an access/maintenance agreement or easement is in place, plumbing, mechanical ducting, schedule 40 steel gas pipe, and electric service conductors including feeders, are permitted to penetrate the common wall at grade, above grade, or below grade."

(13) In IRC, Section R302.3, a new exception 3 is added as follows: "3. Accessory dwelling units separated by walls or floor assemblies protected by not less than 1/2-inch (12.7 mm) gypsum board or equivalent on each side of the wall or bottom of the floor assembly are exempt from the requirements of this section."

[~~(12)~~] (14) In IRC, Section R302.5.1, the words "self-closing device" are deleted and replaced with "self-latching hardware."

[~~(13)~~] (15) IRC, Section R302.13, is deleted.

[~~(14)~~] (16) In IRC, Section R303.4, the number "5" is changed to "3" in the first sentence.

(17) In IRC, Section R310.6, in the exception, the words "or accessory dwelling units" are added after the words "sleeping rooms".

[~~(15)~~] (18) IRC, Sections R311.7.4 through R311.7.5.3, are deleted and replaced with the following: "R311.7.4 Stair treads and risers. R311.7.5.1 Riser height. The maximum riser height shall be 8 inches (203 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.2 Tread depth. The minimum tread depth shall be 9 inches (228 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Winder treads shall have a minimum tread depth of 10 inches (254 mm) measured as above at a point 12 inches (305 mm) from the side where the treads are narrower. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point. Within any flight of stairs, the greatest winder tread depth at the 12-inch (305 mm) walk line shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.3 Profile. The radius of curvature at the leading edge of the tread shall be no greater than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inch (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosing shall not exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading edge of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted, provided that the opening between treads does not permit the passage of a 4-inch diameter (102 mm) sphere.

Exceptions.

1. A nosing is not required where the tread depth is a minimum of 10 inches (254 mm).

2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches

(762 mm) or less."

[~~(16)~~] (19) IRC, Section R312.2, is deleted.

[~~(17)~~] (20) IRC, Sections R313.1 through R313.2.1, are deleted and replaced with the following: "R313.1 Design and installation. When installed, automatic residential fire sprinkler systems for townhouses or one- and two-family dwellings shall be designed and installed in accordance with Section P2904 or NFPA 13D."

(21) In IRC, Section R314.2.2, the words "or accessory dwelling units" are added after the words "sleeping rooms".

(22) In IRC, Section R315.2.2, the words "or accessory dwelling units" are added after the words "sleeping rooms".

[~~(18)~~] (23) In IRC, Section 315.3, the following words are added to the first sentence after the word "installed": "on each level of the dwelling unit and."

[~~(19)~~] (24) In IRC, Section R315.5, a new exception, 3, is added as follows: "3. Hard wiring of carbon monoxide alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for hard wiring, without the removal of interior finishes."

[~~(20)~~] (25) A new IRC, Section R315.7, is added as follows: " R315.7 Interconnection. Where more than one carbon monoxide alarm is required to be installed within an individual dwelling unit in accordance with Section R315.1, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

Exception: Interconnection of carbon monoxide alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes."

[~~(21)~~] (26) In IRC, Section R317.1.5, the period is deleted and the following language

is added to the end of the paragraph: "or treated with a moisture resistant coating."

[~~(22)~~] (27) In IRC, Section 326.1, the words "residential provisions of the" are added after the words "pools and spas shall comply with".

[~~(23)~~] (28) In IRC, Section R403.1.6, a new Exception 3 is added as follows: "3. When anchor bolt spacing does not exceed 32 inches (813 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls."

[~~(24)~~] (29) In IRC, Section R403.1.6.1, a new exception is added at the end of Item 2 and Item 3 as follows: "Exception: When anchor bolt spacing does not exceed 32 inches (816 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls."

[~~(25)~~] (30) In IRC, Section R404.1, a new exception is added as follows: "Exception: As an alternative to complying with Sections R404.1 through R404.1.5.3, concrete and masonry foundation walls may be designed in accordance with IBC Sections 1807.1.5 and 1807.1.6 as amended in Section 1807.1.6.4 and Table 1807.1.6.4 under these rules."

[~~(26)~~] (31) In IRC, Section R405.1, a new exception is added as follows: "Exception: When a geotechnical report has been provided for the property, a drainage system is not required unless the drainage system is required as a condition of the geotechnical report. The geological report shall make a recommendation regarding a drainage system."

Section 6. Section **15A-3-204** is amended to read:

15A-3-204. Amendments to Chapters 16 through 25 of IRC.

(1) In IRC, Section M1602.2, a new exception is added at the end of Item 6 as follows: "Exception: The discharge of return air from an accessory dwelling unit into another dwelling unit, or into an accessory dwelling unit from another dwelling unit, is not prohibited."

(2) A new IRC, Section G2401.2, is added as follows: "G2401.2 Meter Protection. Fuel gas services shall be in an approved location and/or provided with structures designed to

protect the fuel gas meter and surrounding piping from physical damage, including falling, moving, or migrating ice and snow. If an added structure is used, it must provide access for service and comply with the IBC or the IRC."

Section 7. Section **15A-3-206** is amended to read:

15A-3-206. Amendments to Chapters 36 through 44 and Appendix F of IRC.

(1) In IRC, Section E3601.6.2, a new exception is added as follows: "Exception: An occupant of an accessory dwelling unit is not required to have access to the disconnect serving the dwelling unit in which they reside."

[~~(1)~~] (2) In IRC, Section E3705.4.5, the following words are added after the word "assemblies": "with ungrounded conductors 10 AWG and smaller".

[~~(2)~~] (3) In IRC, Section E3901.9, the following exception is added: "Exception: Receptacles or other outlets adjacent to the exterior walls of the garage, outlets adjacent to an exterior wall of the garage, or outlets in a storage room with entry from the garage may be connected to the garage branch circuit."

[~~(3)~~] (4) IRC, Section E3902.16 is deleted.

[~~(4)~~] (5) In Section E3902.17:

(a) following the word "Exception" the number "1." is added; and

(b) at the end of the section, the following sentences are added: "2. This section does not apply for a simple move or an extension of a branch circuit or an outlet which does not significantly increase the existing electrical load. This exception does not include changes involving remodeling or additions to a residence."

[~~(5)~~] (6) IRC, Chapter 44, is amended by adding the following reference standard:

"Standard reference number	Title	Referenced in code section number
USC-FCCCHR 10th Edition Manual of Cross Connection Control	Foundation for Cross-Connection Control and Hydraulic Research University of Southern California Kaprielian Hall 300 Los Angeles CA 90089-2531	Table P2902.3"

[~~(6)~~] (7) (a) When passive radon controls or portions thereof are voluntarily installed, the voluntary installation shall comply with Appendix F of the IRC.

(b) An additional inspection of a voluntary installation described in Subsection [~~(6)~~] (7)(a) is not required.

Section 8. Section **17-27a-505.5** is amended to read:

17-27a-505.5. Limit on single family designation.

(1) As used in this section, "single-family limit" means the number of [~~unrelated~~] individuals allowed to occupy each residential unit that is recognized by a land use authority in a zone permitting occupancy by a single family.

(2) A county may not adopt a single-family limit that is less than:

(a) three, if the county has within its unincorporated area:

(i) a state university;

(ii) a private university with a student population of at least 20,000; or

(iii) a mountainous planning district; or

(b) four, for each other county.

Section 9. Section **17-27a-510.5** is amended to read:

17-27a-510.5. Changes to dwellings -- Egress windows.

(1) [~~For purposes of~~] As used in this section[~~, "rental~~]:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(b) "Primary dwelling" means a single-family dwelling that:

(i) is detached; and

(ii) is occupied as the primary residence of the owner of record.

(c) "Rental dwelling" means the same as that term is defined in Section 10-8-85.5.

(2) A county ordinance adopted under Section 10-1-203.5 may not:

(a) require physical changes in a structure with a legal nonconforming rental dwelling use unless the change is for:

(i) the reasonable installation of:

(A) a smoke detector that is plugged in or battery operated;

(B) a ground fault circuit interrupter protected outlet on existing wiring;

(C) street addressing;

(D) except as provided in Subsection (3), an egress bedroom window if the existing bedroom window is smaller than that required by current State Construction Code;

(E) an electrical system or a plumbing system, if the existing system is not functioning or is unsafe as determined by an independent electrical or plumbing professional who is licensed in accordance with Title 58, Occupations and Professions;

(F) hand or guard rails; or

(G) occupancy separation doors as required by the International Residential Code; or

(ii) the abatement of a structure; or

(b) be enforced to terminate a legal nonconforming rental dwelling use.

(3) (a) A county may not require physical changes to install an egress or emergency escape window in an existing bedroom that complied with the State Construction Code in effect at the time the bedroom was finished if:

[~~(a)~~] (i) the dwelling is an owner-occupied dwelling or a rental dwelling that is:

[~~(i)~~] (A) a detached one-, two-, three-, or four-family dwelling; or

[~~(ii)~~] (B) a town home that is not more than three stories above grade with a separate means of egress; and

[~~(b) (i)~~] (ii) (A) the window in the existing bedroom is smaller than that required by current State Construction Code; and

[~~(ii)~~] (B) the change would compromise the structural integrity of the structure or could not be completed in accordance with current State Construction Code, including set-back and window well requirements.

(b) Subsection (3)(a) does not apply to an internal accessory dwelling unit.

(4) Nothing in this section prohibits a county from:

(a) regulating the style of window that is required or allowed in a bedroom;

(b) requiring that a window in an existing bedroom be fully openable if the openable area is less than required by current State Construction Code; or

(c) requiring that an existing window not be reduced in size if the openable area is smaller than required by current State Construction Code.

Section 10. Section **17-27a-526** is enacted to read:

17-27a-526. Internal accessory dwelling units.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(b) "Primary dwelling" means a single-family dwelling that:

(i) is detached; and

(ii) is occupied as the primary residence of the owner of record.

(2) In any area zoned primarily for residential use:

(a) the use of an internal accessory dwelling unit is a permitted use; and

(b) except as provided in Subsections (3) and (4), a county may not establish any restrictions or requirements for the construction or use of one internal accessory dwelling unit within a primary dwelling, including a restriction or requirement governing:

(i) the size of the internal accessory dwelling unit in relation to the primary dwelling;

(ii) total lot size; or

(iii) street frontage.

(3) An internal accessory dwelling unit shall comply with all applicable building, health, and fire codes.

(4) A county may:

(a) prohibit the installation of a separate utility meter for an internal accessory dwelling unit;

(b) require that an internal accessory dwelling unit be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling;

(c) require a primary dwelling:

(i) to include one additional on-site parking space for an internal accessory dwelling unit, regardless of whether the primary dwelling is existing or new construction; and

(ii) to replace any parking spaces contained within a garage or carport if an internal accessory dwelling unit is created within the garage or carport;

(d) prohibit the creation of an internal accessory dwelling unit within a mobile home as defined in Section 57-16-3;

(e) require the owner of a primary dwelling to obtain a permit or license for renting an internal accessory dwelling unit;

(f) prohibit the creation of an internal accessory dwelling unit within a zoning district covering an area that is equivalent to 25% or less of the total unincorporated area in the county that is zoned primarily for residential use;

(g) prohibit the creation of an internal accessory dwelling unit if the primary dwelling is served by a failing septic tank;

(h) prohibit the creation of an internal accessory dwelling unit if the lot containing the primary dwelling is 6,000 square feet or less in size;

(i) prohibit the rental or offering the rental of an internal accessory dwelling unit for a period of less than 30 consecutive days;

(j) prohibit the rental of an internal accessory dwelling unit if the internal accessory dwelling unit is located in a dwelling that is not occupied as the owner's primary residence;

(k) hold a lien against a property that contains an internal accessory dwelling unit in accordance with Subsection (5); and

(l) record a notice for an internal accessory dwelling unit in accordance with Subsection (6).

(5) (a) In addition to any other legal or equitable remedies available to a county, a county may hold a lien against a property that contains an internal accessory dwelling unit if:

(i) the owner of the property violates any of the provisions of this section or any ordinance adopted under Subsection (4);

(ii) the county provides a written notice of violation in accordance with Subsection (5)(b);

(iii) the county holds a hearing and determines that the violation has occurred in accordance with Subsection (5)(d), if the owner files a written objection in accordance with Subsection (5)(b)(iv);

(iv) the owner fails to cure the violation within the time period prescribed in the written notice of violation under Subsection (5)(b);

(v) the county provides a written notice of lien in accordance with Subsection (5)(c); and

(vi) the county records a copy of the written notice of lien described in Subsection (5)(a)(iv) with the county recorder of the county in which the property is located.

(b) The written notice of violation shall:

(i) describe the specific violation;

(ii) provide the owner of the internal accessory dwelling unit a reasonable opportunity to cure the violation that is:

(A) no less than 14 days after the day on which the county sends the written notice of violation, if the violation results from the owner renting or offering to rent the internal accessory dwelling unit for a period of less than 30 consecutive days; or

(B) no less than 30 days after the day on which the county sends the written notice of violation, for any other violation; and

(iii) state that if the owner of the property fails to cure the violation within the time period described in Subsection (5)(b)(ii), the county may hold a lien against the property in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) notify the owner of the property:

(A) that the owner may file a written objection to the violation within 14 days after the day on which the written notice of violation is post-marked or posted on the property; and

(B) of the name and address of the county office where the owner may file the written objection;

(v) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(vi) be posted on the property.

(c) The written notice of lien shall:

(i) comply with the requirements of Section 38-12-102;

(ii) describe the specific violation;

(iii) specify the lien amount, in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(v) be posted on the property.

(d) (i) If an owner of property files a written objection in accordance with Subsection (5)(b)(iv), the county shall:

(A) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act, to conduct a review and determine whether the specific violation described in the written notice of violation under Subsection (5)(b) has occurred; and

(B) notify the owner in writing of the date, time, and location of the hearing described in Subsection (5)(d)(i)(A) no less than 14 days before the day on which the hearing is held.

(ii) If an owner of property files a written objection under Subsection (5)(b)(iv), a

county may not record a lien under this Subsection (5) until the county holds a hearing and determines that the specific violation has occurred.

(iii) If the county determines at the hearing that the specific violation has occurred, the county may impose a lien in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires, regardless of whether the hearing is held after the day on which the opportunity to cure the violation has expired.

(e) If an owner cures a violation within the time period prescribed in the written notice of violation under Subsection (5)(b), the county may not hold a lien against the property, or impose any penalty or fee on the owner, in relation to the specific violation described in the written notice of violation under Subsection (5)(b).

(6) (a) A county that issues, on or after October 1, 2021, a permit or license to an owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to an owner of a primary dwelling to create an internal accessory dwelling unit, may record a notice in the office of the recorder of the county in which the primary dwelling is located.

(b) The notice described in Subsection (6)(a) shall include:

(i) a description of the primary dwelling;

(ii) a statement that the primary dwelling contains an internal accessory dwelling unit; and

(iii) a statement that the internal accessory dwelling unit may only be used in accordance with the county's land use regulations.

(c) The county shall, upon recording the notice described in Subsection (6)(a), deliver a copy of the notice to the owner of the internal accessory dwelling unit.

Section 11. Section **17-50-338** is amended to read:

17-50-338. Ordinances regarding short-term rentals -- Prohibition on ordinances restricting speech on short-term rental websites.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means the same as that term is defined in Section 10-9a-511.5.

[~~(a)~~] (b) "Residential unit" means a residential structure or any portion of a residential structure that is occupied as a residence.

[~~(b)~~] (c) "Short-term rental" means a residential unit or any portion of a residential unit that the owner of record or the lessee of the residential unit offers for occupancy for fewer than 30 consecutive days.

[~~(c)~~] (d) "Short-term rental website" means a website that:

(i) allows a person to offer a short-term rental to one or more prospective renters; and

(ii) facilitates the renting of, and payment for, a short-term rental.

(2) Notwithstanding Section 17-27a-501 or Subsection 17-27a-503(1), a legislative body may not:

(a) enact or enforce an ordinance that prohibits an individual from listing or offering a short-term rental on a short-term rental website; or

(b) use an ordinance that prohibits the act of renting a short-term rental to fine, charge, prosecute, or otherwise punish an individual solely for the act of listing or offering a short-term rental on a short-term rental website.

(3) Subsection (2) does not apply to an individual who lists or offers an internal accessory dwelling unit as a short-term rental on a short-term rental website if the county records a notice for the internal accessory dwelling unit under Subsection 17-27a-526(6).

Section 12. Section **35A-8-504.5** is enacted to read:

35A-8-504.5. Low-income ADU loan guarantee pilot program.

(1) As used in this section:

(a) "Accessory dwelling unit" means the same as that term is defined in Section 10-9a-103.

(b) "Borrower" means a residential property owner who receives a low-income ADU loan from a lender.

(c) "Lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other entity that provides low-income ADU loans directly to borrowers.

(d) "Low-income ADU loan" means a loan made by a lender to a borrower for the

purpose of financing the construction of an accessory dwelling unit that is:

(i) located on the borrower's residential property; and

(ii) rented to a low-income individual.

(e) "Low-income individual" means an individual whose household income is less than 80% of the area median income.

(f) "Pilot program" means the two-year pilot program created in this section.

(2) The executive director shall establish a two-year pilot program to provide loan guarantees on behalf of borrowers for the purpose of insuring the repayment of low-income ADU loans.

(3) The executive director may not provide a loan guarantee for a low-income ADU loan under the pilot program unless:

(a) the lender:

(i) agrees in writing to participate in the pilot program;

(ii) makes available to prospective borrowers the option of receiving a low-income ADU loan that:

(A) has a term of 15 years; and

(B) charges interest at a fixed rate;

(iii) monitors the activities of the borrower on a yearly basis during the term of the loan to ensure the borrower's compliance with:

(A) Subsection (3)(c); and

(B) any other term or condition of the loan; and

(iv) promptly notifies the executive director in writing if the borrower fails to comply with:

(A) Subsection (3)(c); or

(B) any other term or condition of the loan;

(b) the loan terms of the low-income ADU loan:

(i) are consistent with the loan terms described in Subsection (3)(a)(ii); or

(ii) if different from the loan terms described in Subsection (3)(a)(ii), are mutually

agreed upon by the lender and the borrower; and

(c) the borrower:

(i) agrees in writing to participate in the pilot program;

(ii) constructs an accessory dwelling unit on the borrower's residential property within one year after the day on which the borrower receives the loan;

(iii) occupies the primary residence to which the accessory dwelling unit is associated:

(A) after the accessory dwelling unit is completed; and

(B) for the remainder of the term of the loan; and

(iv) rents the accessory dwelling unit to a low-income individual:

(A) after the accessory dwelling unit is completed; and

(B) for the remainder of the term of the loan.

(4) At the direction of the board, the executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the minimum criteria for lenders and borrowers to participate in the pilot program;

(b) the terms and conditions for loan guarantees provided under the pilot program, consistent with Subsection (3); and

(c) procedures for the pilot program's loan guarantee process.

(5) The executive director shall submit a report on the pilot program to the Business and Labor Interim Committee on or before November 30, 2023.

Section 13. Section **35A-8-505** is amended to read:

35A-8-505. Activities authorized to receive fund money -- Powers of the executive director.

At the direction of the board, the executive director may:

(1) provide fund money to any of the following activities:

(a) the acquisition, rehabilitation, or new construction of low-income housing units;

(b) matching funds for social services projects directly related to providing housing for special-need renters in assisted projects;

(c) the development and construction of accessible housing designed for low-income

persons;

(d) the construction or improvement of a shelter or transitional housing facility that provides services intended to prevent or minimize homelessness among members of a specific homeless subpopulation;

(e) the purchase of an existing facility to provide temporary or transitional housing for the homeless in an area that does not require rezoning before providing such temporary or transitional housing;

(f) the purchase of land that will be used as the site of low-income housing units;

(g) the preservation of existing affordable housing units for low-income persons; [~~and~~]

(h) providing loan guarantees under the two-year pilot program established in Section 35A-8-504.5; and

[~~(h)~~] (i) other activities that will assist in minimizing homelessness or improving the availability or quality of housing in the state for low-income persons; and

(2) do any act necessary or convenient to the exercise of the powers granted by this part or reasonably implied from those granted powers, including:

(a) making or executing contracts and other instruments necessary or convenient for the performance of the executive director and board's duties and the exercise of the executive director and board's powers and functions under this part, including contracts or agreements for the servicing and originating of mortgage loans;

(b) procuring insurance against a loss in connection with property or other assets held by the fund, including mortgage loans, in amounts and from insurers it considers desirable;

(c) entering into agreements with a department, agency, or instrumentality of the United States or this state and with mortgagors and mortgage lenders for the purpose of planning and regulating and providing for the financing and refinancing, purchase, construction, reconstruction, rehabilitation, leasing, management, maintenance, operation, sale, or other disposition of residential housing undertaken with the assistance of the department under this part;

(d) proceeding with a foreclosure action, to own, lease, clear, reconstruct, rehabilitate,

repair, maintain, manage, operate, assign, encumber, sell, or otherwise dispose of real or personal property obtained by the fund due to the default on a mortgage loan held by the fund in preparation for disposition of the property, taking assignments of leases and rentals, proceeding with foreclosure actions, and taking other actions necessary or incidental to the performance of its duties; and

(e) selling, at a public or private sale, with public bidding, a mortgage or other obligation held by the fund.

Section 14. Section **57-8a-209** is amended to read:

57-8a-209. Rental restrictions.

(1) (a) Subject to Subsections (1)(b), (5), [~~and~~] (6), and (10), an association may:

(i) create restrictions on the number and term of rentals in an association; or

(ii) prohibit rentals in the association.

(b) An association that creates a rental restriction or prohibition in accordance with Subsection (1)(a) shall create the rental restriction or prohibition in a recorded declaration of covenants, conditions, and restrictions, or by amending the recorded declaration of covenants, conditions, and restrictions.

(2) If an association prohibits or imposes restrictions on the number and term of rentals, the restrictions shall include:

(a) a provision that requires the association to exempt from the rental restrictions the following lot owner and the lot owner's lot:

(i) a lot owner in the military for the period of the lot owner's deployment;

(ii) a lot occupied by a lot owner's parent, child, or sibling;

(iii) a lot owner whose employer has relocated the lot owner for two years or less;

(iv) a lot owned by an entity that is occupied by an individual who:

(A) has voting rights under the entity's organizing documents; and

(B) has a 25% or greater share of ownership, control, and right to profits and losses of the entity; or

(v) a lot owned by a trust or other entity created for estate planning purposes if the trust

or other estate planning entity was created for:

(A) the estate of a current resident of the lot; or

(B) the parent, child, or sibling of the current resident of the lot;

(b) a provision that allows a lot owner who has a rental in the association before the time the rental restriction described in Subsection (1)(a) is recorded with the county recorder of the county in which the association is located to continue renting until:

(i) the lot owner occupies the lot;

(ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the lot, occupies the lot; or

(iii) the lot is transferred; and

(c) a requirement that the association create, by rule or resolution, procedures to:

(i) determine and track the number of rentals and lots in the association subject to the provisions described in Subsections (2)(a) and (b); and

(ii) ensure consistent administration and enforcement of the rental restrictions.

(3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the following occur:

(a) the conveyance, sale, or other transfer of a lot by deed;

(b) the granting of a life estate in the lot; or

(c) if the lot is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.

(4) This section does not limit or affect residency age requirements for an association that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.

(5) A declaration of covenants, conditions, and restrictions or amendments to the declaration of covenants, conditions, and restrictions recorded before the transfer of the first lot from the initial declarant may prohibit or restrict rentals without providing for the exceptions,

provisions, and procedures required under Subsection (2).

(6) (a) Subsections (1) through (5) do not apply to:

(i) an association that contains a time period unit as defined in Section 57-8-3;

(ii) any other form of timeshare interest as defined in Section 57-19-2; or

(iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009, unless, on or after May 12, 2015, the association:

(A) adopts a rental restriction or prohibition; or

(B) amends an existing rental restriction or prohibition.

(b) An association that adopts a rental restriction or amends an existing rental restriction or prohibition before May 9, 2017, is not required to include the exemption described in Subsection (2)(a)(iv).

(7) Notwithstanding this section, an association may restrict or prohibit rentals without an exception described in Subsection (2) if:

(a) the restriction or prohibition receives unanimous approval by all lot owners; and

(b) when the restriction or prohibition requires an amendment to the association's recorded declaration of covenants, conditions, and restrictions, the association fulfills all other requirements for amending the recorded declaration of covenants, conditions, and restrictions described in the association's governing documents.

(8) Except as provided in Subsection (9), an association may not require a lot owner who owns a rental lot to:

(a) obtain the association's approval of a prospective renter;

(b) give the association:

(i) a copy of a rental application;

(ii) a copy of a renter's or prospective renter's credit information or credit report;

(iii) a copy of a renter's or prospective renter's background check; or

(iv) documentation to verify the renter's age; or

(c) pay an additional assessment, fine, or fee because the lot is a rental lot.

(9) (a) A lot owner who owns a rental lot shall give an association the documents

described in Subsection (8)(b) if the lot owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.

(b) If an association's declaration of covenants, conditions, and restrictions lawfully prohibits or restricts occupancy of the lots by a certain class of individuals, the association may require a lot owner who owns a rental lot to give the association the information described in Subsection (8)(b), if:

(i) the information helps the association determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions; and

(ii) the association uses the information to determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions.

(10) Notwithstanding Subsection (1)(a), an association may not restrict or prohibit the rental of an internal accessory dwelling unit, as defined in Section 10-9a-530, constructed within a lot owner's residential lot, if the internal accessory dwelling unit complies with all applicable:

(a) land use ordinances;

(b) building codes;

(c) health codes; and

(d) fire codes.

[~~(10)~~] (11) The provisions of Subsections (8) [~~and (9)~~] through (10) apply to an association regardless of when the association is created.

Section 15. Section **57-8a-218** is amended to read:

57-8a-218. Equal treatment by rules required -- Limits on association rules and design criteria.

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association provides to lot

owners;

(ii) differ between residential and nonresidential uses; and

(iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner.

(2) (a) If a lot owner owns a rental lot and is in compliance with the association's governing documents and any rule that the association adopts under Subsection (4), a rule may not treat the lot owner differently because the lot owner owns a rental lot.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental lot owner from using the common areas for purposes other than attending an association meeting or managing the rental lot;

(ii) if the rental lot owner retains the right to use the association's common areas, even occasionally:

(A) charge a rental lot owner a fee to use the common areas; or

(B) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner; or

(iii) include a provision in the association's governing documents that:

(A) requires each tenant of a rental lot to abide by the terms of the governing documents; and

(B) holds the tenant and the rental lot owner jointly and severally liable for a violation of a provision of the governing documents.

(3) (a) A rule criterion may not abridge the rights of a lot owner to display religious and holiday signs, symbols, and decorations inside a dwelling on a lot.

(b) Notwithstanding Subsection (3)(a), the association may adopt time, place, and manner restrictions with respect to displays visible from outside the dwelling or lot.

(4) (a) A rule may not regulate the content of political signs.

(b) Notwithstanding Subsection (4)(a):

(i) a rule may regulate the time, place, and manner of posting a political sign; and

(ii) an association design provision may establish design criteria for political signs.

(5) (a) A rule may not interfere with the freedom of a lot owner to determine the composition of the lot owner's household.

(b) Notwithstanding Subsection (5)(a), an association may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas.

(6) (a) A rule may not interfere with an activity of a lot owner within the confines of a dwelling or lot, to the extent that the activity is in compliance with local laws and ordinances.

(b) Notwithstanding Subsection (6)(a), a rule may prohibit an activity within a dwelling on an owner's lot if the activity:

(i) is not normally associated with a project restricted to residential use; or

(ii) (A) creates monetary costs for the association or other lot owners;

(B) creates a danger to the health or safety of occupants of other lots;

(C) generates excessive noise or traffic;

(D) creates unsightly conditions visible from outside the dwelling;

(E) creates an unreasonable source of annoyance to persons outside the lot; or

(F) if there are attached dwellings, creates the potential for smoke to enter another lot owner's dwelling, the common areas, or limited common areas.

(c) If permitted by law, an association may adopt rules described in Subsection (6)(b) that affect the use of or behavior inside the dwelling.

(7) (a) A rule may not, to the detriment of a lot owner and over the lot owner's written objection to the board, alter the allocation of financial burdens among the various lots.

(b) Notwithstanding Subsection (7)(a), an association may:

(i) change the common areas available to a lot owner;

(ii) adopt generally applicable rules for the use of common areas; or

(iii) deny use privileges to a lot owner who:

(A) is delinquent in paying assessments;

(B) abuses the common areas; or

(C) violates the governing documents.

(c) This Subsection (7) does not permit a rule that:

(i) alters the method of levying assessments; or

(ii) increases the amount of assessments as provided in the declaration.

(8) (a) Subject to Subsection (8)(b), a rule may not:

(i) prohibit the transfer of a lot; or

(ii) require the consent of the association or board to transfer a lot.

(b) Unless contrary to a declaration, a rule may require a minimum lease term.

(9) (a) A rule may not require a lot owner to dispose of personal property that was in or on a lot before the adoption of the rule or design criteria if the personal property was in compliance with all rules and other governing documents previously in force.

(b) The exemption in Subsection (9)(a):

(i) applies during the period of the lot owner's ownership of the lot; and

(ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of the rule described in Subsection (9)(a).

(10) A rule or action by the association or action by the board may not unreasonably impede a declarant's ability to satisfy existing development financing for community improvements and right to develop:

(a) the project; or

(b) other properties in the vicinity of the project.

(11) A rule or association or board action may not interfere with:

(a) the use or operation of an amenity that the association does not own or control; or

(b) the exercise of a right associated with an easement.

(12) A rule may not divest a lot owner of the right to proceed in accordance with a completed application for design review, or to proceed in accordance with another approval process, under the terms of the governing documents in existence at the time the completed application was submitted by the owner for review.

(13) Unless otherwise provided in the declaration, an association may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas; and

(ii) a service provided to a lot owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association's officers and board consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(14) (a) Except as provided in Subsection (14)(b), a rule may not prohibit the owner of a residential lot from constructing an internal accessory dwelling unit, as defined in Section 10-9a-530, within the owner's residential lot.

(b) Subsection (14)(a) does not apply if the construction would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

[~~(14)~~] (15) A rule shall be reasonable.

[~~(15)~~] (16) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (13), except Subsection (1)(b)(ii).

[~~(16)~~] (17) A rule may not be inconsistent with a provision of the association's declaration, bylaws, or articles of incorporation.

[~~(17)~~] (18) This section applies to an association regardless of when the association is created.

Section 16. **Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on May 5, 2021.

(2) The actions affecting the following sections take effect on October 1, 2021:

(a) Section 10-8-85.4;

(b) Section 10-9a-530;

(c) Section 17-27a-526;

(d) Section 17-50-338;

(e) Section 57-8a-209; and

(f) Section 57-8a-218.

Title ___

CHAPTER __

SECTION:

NOTES:
Need to add long-term rental unit as permitted use in R-1, R-2 zone
Need to add short-term rental unit as permitted use in C-1, C-2 zones

10-__: RENTAL OF DWELLING UNITS

A. Definitions as used in this section:

1. Internal accessory dwelling unit means an accessory dwelling unit created
   a. Within a primary dwelling;
   b. Within the footprint of the primary dwelling at the time the internal accessory dwelling unit is created; and
   c. For the purpose of offering a long-term rental of 30 consecutive days or longer. >>can it be used for short-term rental?<<
2. Primary dwelling means a single-family dwelling that
   a. Is detached, and
   b. Is occupied as the primary residence of the owner of the rental
3. Rental dwelling means a single-family dwelling that is: >what about apartments?<
   a. Used or designated for use as a residence by one or more persons; and is
   b. Available to be rented, loaned, leased, or hired out for a period of one month or longer; or
   c. Arranged, designed, or built to be rented, loaned, leased, or hired out for a period of one month or longer.
4. Short-term rental dwelling unit means a building or portion of a building that is:
   a. Used or designated for use as a residence by one or more persons; and
   b. Available to be rented, loaned, leased, or hired out for a period of no more than 30 days; or
   c. Arranged, designed, or built to be rented, loaned, leased, or hired out for a period of no more than 30 days.

B. Internal accessory dwelling units:

1. Will be designed in a manner that does not change the appearance of the primary dwelling unit;
2. Will not be created within a zoning district covering an area that is equivalent to 25% or less of the total area in the city that is zoned primarily for residential use; >>is this necessary?<<
3. Will include one additional on-site parking space regardless of whether the primary dwelling unit is existing or new construction;
4. Will replace existing parking spaces if the internal accessory dwelling unit is created within a garage or carport;

5. Will not be created on a lot or parcel of land containing the primary dwelling unit if the lot or parcel of land is 6,000 square feet or less in size;
6. Will not be created in a primary dwelling unit served by a failing septic tank;
7. Do not require a separate city utility meter;
8. Will meet all applicable building codes.

C. Short-term dwelling units:
1. Meet all applicable building codes;
2. Conform to maintenance standards as defined by the city in _>noise, trespass, prohibited activities<;
3. Include in a clear and prominent location within each short-term dwelling unit:
   a. A copy of the owner's business license;
   b. The name, address, and phone number of the owner or property manager;
   c. A statement of maximum occupancy for the short-term rental unit
4. Provide a minimum of four (4) off-street parking spaces with all-weather surface;
5. The owner of any short-term dwelling unit is required to collect and remit Transient Room Tax and any other tax deemed necessary by the State Tax Commission.

D. Business license required:
1. Owners of primary dwelling units containing an internal accessory dwelling will obtain a city license in advance of advertising for or renting, loaning, leasing, or hiring out the internal accessory unit.
2. Owners of rental dwellings will obtain a city license in advance of advertising for or renting, loaning, leasing, or hiring out the internal accessory unit.
3. Owners of short-term dwelling units will obtain a city license in advance of advertising for or renting, loaning, leasing, or hiring out the internal accessory unit.
4. One city license may include more than one rental dwelling unit and internal accessory dwelling unit owned by the same individual but will not include short-term rental units.
5. One city license may include more than one short-term dwelling unit owned by the same individual but will not include other rental units or internal accessory dwelling units.
6. >>Add the lien clauses from HB0082?<<

UTAH HOUSING AFFORDABILITY AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: Steve Waldrip

LONG TITLE

General Description:

This bill modifies provisions related to affordable housing and the provision of services related to affordable housing.

Highlighted Provisions:

This bill:

- provides that a political subdivision may grant real property that will be used for affordable housing units;
- describes additional activities that may receive funding from the Olene Walker Housing Loan Fund, including a mediation program and predevelopment grants;
- modifies the responsibilities of the Automated Geographic Reference Center; and
- makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to the Department of Workforce Services -- Olene Walker Housing Loan Fund as a one-time appropriation:
  - from the General Fund, One-time, $800,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-401, as last amended by Laws of Utah 2019, Chapters 136 and 327

10-9a-404, as last amended by Laws of Utah 2020, Chapter 434

10-9a-408, as last amended by Laws of Utah 2020, Chapter 434

35A-8-505, as last amended by Laws of Utah 2020, Chapter 241

63F-1-507, as last amended by Laws of Utah 2019, Chapter 35

ENACTS:

10-8-501, Utah Code Annotated 1953

35A-8-507.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-8-501** is enacted to read:

Part 5. Grants for Affordable Housing

10-8-501. Grant of real property for affordable housing.

(1) As used in this part, "affordable housing unit" means a rental housing unit where a household whose income is no more than 50% of the area median income for households where the housing unit is located is able to occupy the housing unit paying no more than 31% of the household's income for gross housing costs including utilities.

(2) Subject to the requirements of this section, and for a municipality, Subsection 10-8-2(4), a political subdivision may grant real property owned by the political subdivision to an entity for the development of one or more affordable housing units on the real property that will serve households at various income levels whereby at least 20% of the housing units are affordable housing units.

(3) A political subdivision shall ensure that real property granted as described in Subsection (2) is deed restricted for affordable housing for at least 30 years after the day on which each affordable housing unit is completed and occupied.

(4) If applicable, a political subdivision granting real property under this section shall comply with the provisions of Title 78B, Chapter 6, Part 5, Eminent Domain.

(5) A municipality granting real property under this section is not subject to the

provisions of Subsection 10-8-2(3).

Section 2. Section **10-9a-401** is amended to read:

10-9a-401. General plan required -- Content.

(1) In order to accomplish the purposes of this chapter, each municipality shall prepare and adopt a comprehensive, long-range general plan for:

(a) present and future needs of the municipality; and

(b) growth and development of all or any part of the land within the municipality.

(2) The general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) if the municipality is a town, the protection or promotion of moderate income housing;

(g) the protection and promotion of air quality;

(h) historic preservation;

(i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and

(j) an official map.

(3) (a) The general plan of a municipality, other than a town, shall plan for moderate income housing growth.

(b) On or before December 1, 2019, each of the following that have a general plan that

does not comply with Subsection (3)(a) shall amend the general plan to comply with Subsection (3)(a):

(i) a city of the first, second, third, or fourth class;

(ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; and

(iii) a metro township with a population of 5,000 or more.

(c) The population figures described in Subsections (3)(b)(ii) and (iii) shall be derived from:

(i) the most recent official census or census estimate of the United States Census Bureau; or

(ii) if a population figure is not available under Subsection (3)(c)(i), an estimate of the Utah Population Committee.

(4) Subject to Subsection 10-9a-403[~~(2)~~](3), the municipality may determine the comprehensiveness, extent, and format of the general plan.

Section 3. Section **10-9a-404** is amended to read:

10-9a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

(1) (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 10-9a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) The legislative body may adopt, reject, or make any revisions to the proposed general plan or amendment that it considers appropriate.

(b) If the municipal legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for the planning commission's review and recommendation.

(4) The legislative body shall adopt:

(a) a land use element as provided in Subsection 10-9a-403[~~(2)~~](3)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 10-9a-403[~~(2)~~](3)(a)(ii); and

(c) for a municipality, other than a town, after considering the factors included in Subsection 10-9a-403[~~(2)(b)(ii)~~](3)(b)(iii), a plan to provide a realistic opportunity to meet the need for additional moderate income housing within the next five years.

Section 4. Section **10-9a-408** is amended to read:

10-9a-408. Reporting requirements and civil action regarding moderate income housing element of general plan.

(1) The legislative body of a municipality described in Subsection 10-9a-401(3)(b) shall annually:

(a) review the moderate income housing plan element of the municipality's general plan and implementation of that element of the general plan;

(b) prepare a report on the findings of the review described in Subsection (1)(a); and

(c) post the report described in Subsection (1)(b) on the municipality's website.

(2) The report described in Subsection (1) shall include:

(a) a revised estimate of the need for moderate income housing in the municipality for the next five years;

(b) a description of progress made within the municipality to provide moderate income housing, demonstrated by analyzing and publishing data on the number of housing units in the municipality that are at or below:

(i) 80% of the adjusted median family income;

(ii) 50% of the adjusted median family income; and

(iii) 30% of the adjusted median family income;

(c) a description of any efforts made by the municipality to utilize a moderate income housing set-aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; and

(d) a description of how the municipality has implemented any of the recommendations related to moderate income housing described in Subsection 10-9a-403[~~(2)~~](3)(b)(iii).

(3) The legislative body of each municipality described in Subsection (1) shall send a copy of the report under Subsection (1) to the Department of Workforce Services, the association of governments in which the municipality is located, and, if located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization.

(4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 5. Section **35A-8-505** is amended to read:

35A-8-505. Activities authorized to receive fund money -- Powers of the executive director.

At the direction of the board, the executive director may:

(1) provide fund money to any of the following activities:

(a) the acquisition, rehabilitation, or new construction of low-income housing units;

(b) matching funds for social services projects directly related to providing housing for special-need renters in assisted projects;

(c) the development and construction of accessible housing designed for low-income persons;

(d) the construction or improvement of a shelter or transitional housing facility that

provides services intended to prevent or minimize homelessness among members of a specific homeless subpopulation;

(e) the purchase of an existing facility to provide temporary or transitional housing for the homeless in an area that does not require rezoning before providing such temporary or transitional housing;

(f) the purchase of land that will be used as the site of low-income housing units;

(g) the preservation of existing affordable housing units for low-income persons; [~~and~~]

(h) the award of predevelopment grants in accordance with Section 35A-8-507.5;

(i) the creation or financial support of a mediation program for landlords and tenants designed to minimize the loss of housing for low-income persons, which program may include:

(i) funding for the hiring or training of mediators;

(ii) connecting landlords and tenants with mediation services; and

(iii) providing a limited amount of gap funding to assist a tenant in making a good faith payment towards attorney fees, damages, or other costs associated with eviction proceedings or avoiding eviction proceedings; and

[~~(h)~~] (j) other activities that will assist in minimizing homelessness or improving the availability or quality of housing in the state for low-income persons; and

(2) do any act necessary or convenient to the exercise of the powers granted by this part or reasonably implied from those granted powers, including:

(a) making or executing contracts and other instruments necessary or convenient for the performance of the executive director and board's duties and the exercise of the executive director and board's powers and functions under this part, including contracts or agreements for the servicing and originating of mortgage loans;

(b) procuring insurance against a loss in connection with property or other assets held by the fund, including mortgage loans, in amounts and from insurers it considers desirable;

(c) entering into agreements with a department, agency, or instrumentality of the United States or this state and with mortgagors and mortgage lenders for the purpose of

planning and regulating and providing for the financing and refinancing, purchase, construction, reconstruction, rehabilitation, leasing, management, maintenance, operation, sale, or other disposition of residential housing undertaken with the assistance of the department under this part;

(d) proceeding with a foreclosure action, to own, lease, clear, reconstruct, rehabilitate, repair, maintain, manage, operate, assign, encumber, sell, or otherwise dispose of real or personal property obtained by the fund due to the default on a mortgage loan held by the fund in preparation for disposition of the property, taking assignments of leases and rentals, proceeding with foreclosure actions, and taking other actions necessary or incidental to the performance of its duties; and

(e) selling, at a public or private sale, with public bidding, a mortgage or other obligation held by the fund.

Section 6. Section **35A-8-507.5** is enacted to read:

35A-8-507.5. Predevelopment grants.

(1) The executive director under the direction of the board may:

(a) award one or more predevelopment grants to nonprofit or for-profit entities in preparation for the construction of low-income housing units;

(b) award a predevelopment grant in an amount of no more than $50,000 per project;

(c) may only award a predevelopment grant in relation to a project in:

(i) a city of the fifth or sixth class, or a town, in a rural area of the state; or

(ii) any municipality or unincorporated area in a county of the fourth, fifth, or sixth class.

(2) The executive director under the direction of the board shall award each predevelopment grant in accordance with the provisions of this section and the provisions related to grant applications, grant awards, and reporting requirements in this part.

(3) A predevelopment grant:

(a) may be used by a recipient for offsetting the predevelopment funds needed to

prepare for the construction of low-income housing units, including market studies, surveys, environmental and impact studies, technical assistance, and preliminary architecture, engineering, or legal work; and

(b) may not be used by a recipient for staff salaries of a grant recipient or construction costs.

(4) The executive director under the direction of the board shall prioritize the awarding of a predevelopment grant for a project in a county of the fifth or sixth class and where the municipality or unincorporated area has underdeveloped infrastructure as demonstrated by at least two of the following:

(a) limited or no availability of natural gas;

(b) limited or no availability of a sewer system;

(c) limited or no availability of broadband Internet;

(d) unpaved residential streets; or

(e) limited local construction professionals, vendors, or services.

Section 7. Section **63F-1-507** is amended to read:

63F-1-507. State Geographic Information Database.

(1) There is created a State Geographic Information Database to be managed by the center.

(2) The database shall:

(a) serve as the central reference for all information contained in any GIS database by any state agency;

(b) serve as a clearing house and repository for all data layers required by multiple users;

(c) serve as a standard format for geographic information acquired, purchased, or produced by any state agency;

(d) include an accurate representation of all civil subdivision boundaries of the state; and

(e) for each public highway, as defined in Section 72-1-102, in the state, include an accurate representation of the highway's centerline, physical characteristics, and associated street address ranges.

(3) The center shall, in coordination with municipalities, counties, emergency communications centers, and the Department of Transportation:

(a) develop the information described in Subsection (2)(e); and

(b) update the information described in Subsection (2)(e) in a timely manner after a county recorder records a final plat.

(4) The center, in coordination with county assessors and metropolitan planning organizations:

(a) shall inventory existing housing units and their general characteristics within each county of the first or second class to support infrastructure planning and economic development in each of those counties; and

(b) may inventory existing housing units and their general characteristics within one or more counties of the third, fourth, fifth, or sixth class to support infrastructure planning and economic development in one or more of those counties.

[~~(4)~~] (5) Each state agency that acquires, purchases, or produces digital geographic information data shall:

(a) inform the center of the existence of the data layers and their geographic extent;

(b) allow the center access to all data classified public; and

(c) comply with any database requirements established by the center.

[~~(5)~~] (6) At least annually, the State Tax Commission shall deliver to the center information the State Tax Commission receives under Section 67-1a-6.5 relating to the creation or modification of the boundaries of political subdivisions.

[~~(6)~~] (7) The boundary of a political subdivision within the State Geographic Information Database is the official boundary of the political subdivision for purposes of meeting the needs of the United States Bureau of the Census in identifying the boundary of the

political subdivision.

Section 8. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Worforce Services -- Olene Walker Housing Loan Fund

From General Fund, One-time $800,000

Schedule of Programs:

Olene Walker Housing Loan Fund $800,000

The Legislature intends that:

(1) up to $300,000 of the appropriation in ITEM 1 be used for financing a mediation program for landlords and tenants of low-income housing units;

(2) up to $500,000 of the appropriation in ITEM 1 be used for financing predevelopment grants in advance of the construction of low-income housing units; and

(3) under Section 63J-1-603, appropriations under Subsections (1) and (2) not lapse at the close of fiscal year 2022.