

MUNICIPAL LAND USE REGULATION MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen L. Whyte

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to municipal land use regulation.

Highlighted Provisions:

This bill:

- ▶ requires a municipality to accept and process a complete land use application under specified conditions;
- ▶ modifies provisions relating to development agreements;
- ▶ modifies the limitation of a provision on building design elements;
- ▶ authorizes a municipality to require a seller to notify a buyer of water wise landscaping requirements;
- ▶ enacts language relating to residential rear setback limitations;
- ▶ modifies provisions relating to the review of subdivision applications and subdivision improvement plans;
- ▶ modifies a provision relating to the landscaping of residential lots or open space;
- ▶ modifies provisions relating to the enforcement of municipal land use regulations;
- ▶ provides an exception to the optional use of the Utah coordinate system; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **10-9a-509**, as last amended by Laws of Utah 2023, Chapter 478

32 **10-9a-532**, as last amended by Laws of Utah 2023, Chapter 478

33 **10-9a-534**, as last amended by Laws of Utah 2023, Chapters 160, 478

34 **10-9a-536**, as last amended by Laws of Utah 2023, Chapters 139, 247

35 **10-9a-604.2**, as enacted by Laws of Utah 2023, Chapter 501

36 **10-9a-604.5**, as last amended by Laws of Utah 2023, Chapter 478

37 **10-9a-802**, as last amended by Laws of Utah 2020, Chapter 434

38 **38-9-102**, as last amended by Laws of Utah 2023, Chapter 16

39 **57-10-9**, as last amended by Laws of Utah 2001, Chapter 62

40 ENACTS:

41 **10-9a-538**, Utah Code Annotated 1953



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

44 Section 1. Section **10-9a-509** is amended to read:

45 **10-9a-509. Applicant's entitlement to land use application approval --**

46 **Municipality's requirements and limitations -- Vesting upon submission of development**
47 **plan and schedule.**

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

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

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

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

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

59 the compelling, countervailing public interest in writing; or

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

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

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

67 (ii) (A) the proceedings have not resulted in an enactment that prohibits approval of the
68 application as submitted; or

69 (B) during the 12 months prior to the municipality processing the application, or
70 multiple applications of the same type, are impaired or prohibited under the terms of a
71 temporary land use regulation adopted under Section 10-9a-504.

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

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

78 (e) Unless a phasing sequence is required in an executed development agreement, a
79 municipality shall, without regard to any other separate and distinct land use application, accept
80 and process a complete land use application.

81 [~~e~~] (f) The continuing validity of an approval of a land use application is conditioned
82 upon the applicant proceeding after approval to implement the approval with reasonable
83 diligence.

84 [~~f~~] (g) A municipality may not impose on an applicant who has submitted a complete
85 application a requirement that is not expressed in:

86 (i) this chapter;

87 (ii) a municipal ordinance in effect on the date that the applicant submits a complete
88 application, subject to Subsection 10-9a-509(1)(a)(ii); or

89 (iii) a municipal specification for public improvements applicable to a subdivision or

90 development that is in effect on the date that the applicant submits an application.

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

93 (i) in a land use permit;

94 (ii) on the subdivision plat;

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

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

98 (v) in this chapter;

99 (vi) in a municipal ordinance; or

100 (vii) in a municipal specification for residential roadways in effect at the time a
101 residential subdivision was approved.

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

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

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

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

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

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

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

119 (3) A municipality may not, as a condition of land use application approval, require a
120 person filing a land use application to obtain documentation regarding a school district's

121 willingness, capacity, or ability to serve the development proposed in the land use application.

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

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

- 130 (i) to the local clerk as defined in Section 20A-7-101; and
- 131 (ii) no later than seven days after the day on which a petition for a referendum is
132 determined sufficient under Subsection 20A-7-607(5).

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

- 135 (i) the relevant land use approval; and
- 136 (ii) any land use regulation enacted specifically in relation to the land use approval.

137 Section 2. Section 10-9a-532 is amended to read:

138 **10-9a-532. Development agreements.**

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

- 142 (a) a master planned development;
- 143 (b) a planned unit development;
- 144 (c) an annexation;
- 145 (d) affordable or moderate income housing with development incentives;
- 146 (e) a public private partnership; or
- 147 (f) a density transfer or bonus within a development project or between development
148 projects.

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

- 150 (i) limit a municipality's authority in the future to:
- 151 (A) enact a land use regulation; or

152 (B) take any action allowed under Section 10-8-84;
153 (ii) require a municipality to change the zoning designation of an area of land within
154 the municipality in the future; or
155 (iii) allow a use or development of land that applicable land use regulations governing
156 the area subject to the development agreement would otherwise prohibit, unless the legislative
157 body approves the development agreement in accordance with the same procedures for
158 enacting a land use regulation under Section 10-9a-502, including a review and
159 recommendation from the planning commission and a public hearing.

160 (b) A development agreement that requires the implementation of an existing land use
161 regulation as an administrative act does not require a legislative body's approval under Section
162 10-9a-502.

163 ~~[(c)(i) If a development agreement restricts an applicant's rights under clearly
164 established state law, the municipality shall disclose in writing to the applicant the rights of the
165 applicant the development agreement restricts.]~~

166 ~~[(ii) A municipality's failure to disclose in accordance with Subsection (2)(c)(i) voids
167 any provision in the development agreement pertaining to the undisclosed rights.]~~

168 ~~[(d) A municipality may not require a development agreement as a condition for
169 developing land if the municipality's land use regulations establish all applicable standards for
170 development on the land.]~~

171 (c) A municipality may require a development agreement for developing land within
172 the municipality if the development otherwise complies with applicable municipal ordinances.

173 (d) Subject to Subsection (2)(e), a municipality may require a development agreement
174 for developing land within the municipality if the applicant has applied for legislative or
175 discretionary approval, including an approval relating to:

- 176 (i) the height of a structure;
- 177 (ii) a parking or setback exception;
- 178 (iii) a density transfer or bonus;
- 179 (iv) a development incentive;
- 180 (v) a zoning amendment; or
- 181 (vi) an amendment to a prior development agreement.
- 182 (e) A municipality may not require a development agreement:

183 (i) as a condition for developing land with an allowed or permitted use; or
 184 (ii) if the municipality's land use regulations otherwise establish all applicable
 185 standards for development on the land.

186 (f) A municipality may submit to a county recorder's office for recording:

187 (i) a fully executed agreement; or

188 (ii) a document related to:

189 (A) code enforcement;

190 (B) a special assessment area; or

191 (C) a local historic district boundary.

192 (g) Subject to Subsection (2)(f)(i), a municipality may not cause to be recorded against
 193 private real property a document that imposes development requirements, development
 194 regulations, or development controls on the property.

195 ~~[(e)]~~ (h) To the extent that a development agreement does not specifically address a
 196 matter or concern related to land use or development, the matter or concern is governed by:

197 (i) this chapter; and

198 (ii) any applicable land use regulations.

199 Section 3. Section **10-9a-534** is amended to read:

200 **10-9a-534. Regulation of building design elements prohibited -- Exceptions.**

201 (1) As used in this section, "building design element" means:

202 (a) exterior color;

203 (b) type or style of exterior cladding material;

204 (c) style, dimensions, or materials of a roof structure, roof pitch, or porch;

205 (d) exterior nonstructural architectural ornamentation;

206 (e) location, design, placement, or architectural styling of a window or door;

207 (f) location, design, placement, or architectural styling of a garage door, not including a
 208 rear-loading garage door;

209 (g) number or type of rooms;

210 (h) interior layout of a room;

211 (i) minimum square footage over 1,000 square feet, not including a garage;

212 (j) rear yard landscaping requirements;

213 (k) minimum building dimensions; or

- 214 (1) a requirement to install front yard fencing.
- 215 (2) Except as provided in Subsection (3), a municipality may not impose a requirement
- 216 for a building design element on a one- or two-family dwelling.
- 217 (3) Subsection (2) does not apply to:
- 218 (a) a dwelling located within an area designated as a historic district in:
- 219 (i) the National Register of Historic Places;
- 220 (ii) the state register as defined in Section 9-8a-402; or
- 221 (iii) a local historic district or area, or a site designated as a local landmark, created by
- 222 ordinance before January 1, 2021, except as provided under Subsection (3)(b);
- 223 (b) an ordinance enacted as a condition for participation in the National Flood
- 224 Insurance Program administered by the Federal Emergency Management Agency;
- 225 (c) an ordinance enacted to implement the requirements of the Utah Wildland Urban
- 226 Interface Code adopted under Section 15A-2-103;
- 227 (d) building design elements agreed to under a development agreement;
- 228 (e) a dwelling located within an area that:
- 229 (i) is zoned primarily for residential use; and
- 230 (ii) was substantially developed before calendar year 1950;
- 231 (f) an ordinance enacted to implement water efficient landscaping in a rear yard;
- 232 (g) an ordinance enacted to regulate type of cladding, in response to findings or
- 233 evidence from the construction industry of:
- 234 (i) defects in the material of existing cladding; or
- 235 (ii) consistent defects in the installation of existing cladding; [or]
- 236 (h) a land use regulation, including a planned unit development or overlay zone, that a
- 237 property owner requests:
- 238 (i) the municipality to apply to the owner's property; and
- 239 (ii) in exchange for an increase in density or other benefit not otherwise available as a
- 240 permitted use in the zoning area or district[:]; or
- 241 (i) an ordinance enacted to mitigate the impacts of an accidental explosion:
- 242 (i) in excess of 20,000 pounds of trinitrotoluene equivalent;
- 243 (ii) that would create overpressure waves equal to or greater than .2 pounds per square
- 244 inch; and

245 (iii) that would pose a risk of damage to a window, garage, door, or carport of a
246 structure within the area covered by the ordinance.

247 Section 4. Section **10-9a-536** is amended to read:

248 **10-9a-536. Water wise landscaping.**

249 (1) As used in this section:

250 (a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed
251 grasses.

252 (b) "Mulch" means material such as rock, bark, wood chips, or other materials left
253 loose and applied to the soil.

254 (c) "Overhead spray irrigation" means above ground irrigation heads that spray water
255 through a nozzle.

256 (d) (i) "Vegetative coverage" means the ground level surface area covered by the
257 exposed leaf area of a plant or group of plants at full maturity.

258 (ii) "Vegetative coverage" does not mean the ground level surface area covered by the
259 exposed leaf area of a tree or trees.

260 (e) "Water wise landscaping" means any or all of the following:

261 (i) installation of plant materials suited to the microclimate and soil conditions that
262 can:

263 (A) remain healthy with minimal irrigation once established; or

264 (B) be maintained without the use of overhead spray irrigation;

265 (ii) use of water for outdoor irrigation through proper and efficient irrigation design
266 and water application; or

267 (iii) use of other landscape design features that:

268 (A) minimize the need of the landscape for supplemental water from irrigation; or

269 (B) reduce the landscape area dedicated to lawn or turf.

270 (2) A municipality may not enact or enforce an ordinance, resolution, or policy that
271 prohibits, or has the effect of prohibiting, a property owner from incorporating water wise
272 landscaping on the property owner's property.

273 (3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a municipality
274 from requiring a property owner to:

275 (i) comply with a site plan review or other review process before installing water wise

276 landscaping;

277 (ii) maintain plant material in a healthy condition; and

278 (iii) follow specific water wise landscaping design requirements adopted by the
279 municipality, including a requirement that:

280 (A) restricts or clarifies the use of mulches considered detrimental to municipal
281 operations;

282 (B) imposes minimum or maximum vegetative coverage standards; or

283 (C) restricts or prohibits the use of specific plant materials.

284 (b) A municipality may not require a property owner to install or keep in place lawn or
285 turf in an area with a width less than eight feet.

286 (4) A municipality may require a seller of a newly constructed residence to inform the
287 first buyer of the newly constructed residence of a municipal ordinance requiring water wise
288 landscaping.

289 [~~4~~] (5) A municipality shall report to the Division of Water Resources the existence,
290 enactment, or modification of an ordinance, resolution, or policy that implements
291 regional-based water use efficiency standards established by the Division of Water Resources
292 by rule under Section 73-10-37.

293 Section 5. Section 10-9a-538 is enacted to read:

294 **10-9a-538. Residential rear setback limitations.**

295 (1) As used in this section:

296 (a) "Allowable feature" means:

297 (i) a landing or walkout porch that:

298 (A) is no more than 32 square feet in size; and

299 (B) is used for ingress to and egress from the rear of the residential dwelling; or

300 (ii) a window well.

301 (b) "Landing" means an uncovered, above-ground platform, with or without stairs,
302 connected to the rear of a residential dwelling.

303 (c) "Setback" means the required distance between the property line of a lot or parcel
304 and the location where a structure is allowed to be placed under an adopted land use regulation.

305 (d) "Walkout porch" means an uncovered platform that is on the ground and connected
306 to the rear of a residential dwelling.

307 (e) "Window well" means a recess in the ground around a residential dwelling to allow
308 for ingress and egress through a window installed in a basement that is fully or partially below
309 ground.

310 (2) A municipality may not enact or enforce an ordinance, resolution, or policy that
311 prohibits or has the effect of prohibiting an allowable feature within the rear setback of a
312 residential building lot or parcel.

313 (3) Subsection (2) does not apply to a historic district within the municipality.

314 Section 6. Section **10-9a-604.2** is amended to read:

315 **10-9a-604.2. Review of subdivision applications and subdivision improvement**
316 **plans.**

317 (1) As used in this section:

318 (a) "Review cycle" means the occurrence of:

319 (i) the applicant's submittal of a complete subdivision [~~land use~~] application;

320 (ii) the municipality's review of that subdivision [~~land use~~] application;

321 (iii) the municipality's response to that subdivision [~~land use~~] application, in

322 accordance with this section; and

323 (iv) the applicant's reply to the municipality's response that addresses each of the
324 municipality's required modifications or requests for additional information.

325 (b) "Subdivision application" means a land use application for the subdivision of land.

326 [~~(b)~~] (c) "Subdivision improvement plans" means the civil engineering plans associated
327 with required infrastructure improvements and municipally controlled utilities required for a
328 subdivision.

329 [~~(c)~~] (d) "Subdivision ordinance review" means review by a municipality to verify that
330 a subdivision [~~land use~~] application meets the criteria of the municipality's [~~subdivision~~]
331 ordinances.

332 [~~(d)~~] (e) "Subdivision plan review" means a review of the applicant's subdivision
333 improvement plans and other aspects of the subdivision [~~land use~~] application to verify that the
334 application complies with municipal ordinances and applicable installation standards and
335 inspection specifications for infrastructure improvements.

336 (2) The review cycle restrictions and requirements of this section do not apply to the
337 review of subdivision applications affecting property within identified geological hazard areas.

338 (3) (a) A municipality may require a subdivision improvement plan to be submitted
339 with a subdivision application.

340 (b) A municipality may not require a subdivision improvement plan to be submitted
341 with both a preliminary subdivision application and a final subdivision application.

342 (4) (a) The review cycle requirements of this section apply:

343 (i) to the review of a preliminary subdivision application, if the municipality requires a
344 subdivision improvement plan to be submitted with a preliminary subdivision application; or

345 (ii) to the review of a final subdivision application, if the municipality requires a
346 subdivision improvement plan to be submitted with a final subdivision application.

347 (b) A municipality may not, outside the review cycle, engage in a substantive review of
348 required infrastructure improvements or a municipally controlled utility.

349 ~~[(3)] (5) [(a) No later than 15 business days after the day on which an applicant submits~~
350 ~~a complete preliminary subdivision land use application for a residential subdivision for~~
351 ~~single-family dwellings, two-family dwellings, or townhomes, the municipality shall complete~~
352 ~~the initial review of the application, including subdivision improvement plans.]~~

353 ~~[(b)] (a) A municipality shall complete the initial review of a complete subdivision~~
354 ~~application submitted for ordinance review for a residential subdivision for single-family~~
355 ~~dwellings, two-family dwellings, or town homes:~~

356 ~~(i) no later than 15 business days after the complete subdivision application is~~
357 ~~submitted, if the municipality has a population over 5,000; or~~

358 ~~(ii) no later than 30 business days after the complete subdivision application is~~
359 ~~submitted, if the municipality has a population of 5,000 or less.~~

360 ~~(b) A municipality shall maintain and publish a list of the items comprising the~~
361 ~~complete [preliminary] subdivision [land use] application, including:~~

362 ~~(i) the application;~~

363 ~~(ii) the owner's affidavit;~~

364 ~~(iii) an electronic copy of all plans in PDF format;~~

365 ~~(iv) the preliminary subdivision plat drawings; and~~

366 ~~(v) a breakdown of fees due upon approval of the application.~~

367 ~~[(4) (a) A municipality shall publish a list of the items that comprise a complete final~~
368 ~~subdivision land use application.]~~

369 ~~[(b) No later than 20 business days after the day on which an applicant submits a plat,~~
370 ~~the municipality shall complete a review of the applicant's final subdivision land use~~
371 ~~application for a residential subdivision for single-family dwellings, two-family dwellings, or~~
372 ~~townhomes, including all subdivision plan reviews.]~~

373 (6) A municipality shall complete a subdivision plan review of a subdivision
374 improvement plan that is submitted with a complete subdivision application for a residential
375 subdivision for single-family dwellings, two-family dwellings, or town homes:

376 (a) within 20 business days after the complete subdivision application is submitted, if
377 the municipality has a population over 5,000; or

378 (b) within 40 business days after the complete subdivision application is submitted, if
379 the municipality has a population of 5,000 or less.

380 ~~[(5)]~~ (7) (a) In reviewing a subdivision ~~[land use]~~ application, a municipality may
381 require:

382 (i) additional information relating to an applicant's plans to ensure compliance with
383 municipal ordinances and approved standards and specifications for construction of public
384 improvements; and

385 (ii) modifications to plans that do not meet current ordinances, applicable standards or
386 specifications, or do not contain complete information.

387 (b) A municipality's request for additional information or modifications to plans under
388 Subsection ~~[(5)(a)(i)]~~ (7)(a)(i) or (ii) shall be specific and include citations to ordinances,
389 standards, or specifications that require the modifications to subdivision plans, and shall be
390 logged in an index of requested modifications or additions.

391 (c) A municipality may not require more than four review cycles for a subdivision plan
392 review.

393 (d) (i) Subject to Subsection ~~[(5)(d)(ii)]~~ (7)(a)(ii), unless the change or correction is
394 necessitated by the applicant's adjustment to a subdivision plan ~~[set]~~ or an update to a phasing
395 plan that adjusts the infrastructure needed for the specific development, a change or correction
396 not addressed or referenced in a municipality's subdivision plan review is waived.

397 (ii) A modification or correction necessary to protect public health and safety or to
398 enforce state or federal law may not be waived.

399 (iii) If an applicant makes a material change to a subdivision plan ~~[set]~~, the

400 municipality has the discretion to restart the review process at the first review of the [~~final~~
401 ~~application~~] subdivision plan review, but only with respect to the portion of the subdivision
402 plan [~~set~~] that the material change substantively effects.

403 (e) (i) [~~Hf~~] This Subsection (7)(e) applies if an applicant does not submit a revised
404 subdivision plan within:

405 (A) 20 business days after the municipality requires a modification or correction, [~~the~~
406 municipality shall have an additional 20 business days to respond to the plans] if the
407 municipality has a population over 5,000; or

408 (B) 40 business days after the municipality requires a modification or correction, if the
409 municipality has a population of 5,000 or less.

410 (ii) If an applicant does not submit a revised subdivision plan within the time specified
411 in Subsection (7)(e)(i), a municipality has an additional 20 business days after the time
412 specified in Subsection (6) to respond to a revised subdivision plan.

413 [~~(6)~~] (8) After the applicant has responded to the final review cycle, and the applicant
414 has complied with each modification requested in the municipality's previous review cycle, the
415 municipality may not require additional revisions if the applicant has not materially changed
416 the plan, other than changes that were in response to requested modifications or corrections.

417 [~~(7)~~] (9) (a) In addition to revised plans, an applicant shall provide a written
418 explanation in response to the municipality's review comments, identifying and explaining the
419 applicant's revisions and reasons for declining to make revisions, if any.

420 (b) The applicant's written explanation shall be comprehensive and specific, including
421 citations to applicable standards and ordinances for the design and an index of requested
422 revisions or additions for each required correction.

423 (c) If an applicant fails to address a review comment in the response, the review cycle
424 is not complete and the subsequent review cycle may not begin until all comments are
425 addressed.

426 [~~(8)~~] (10) (a) If, on the fourth or final review, a municipality fails to respond within 20
427 business days, the municipality shall, upon request of the property owner, and within 10
428 business days after the day on which the request is received:

429 (i) for a dispute arising from the subdivision improvement plans, assemble an appeal
430 panel in accordance with Subsection 10-9a-508(5)(d) to review and approve or deny the final

431 revised set of plans; or

432 (ii) for a dispute arising from the subdivision ordinance review, advise the applicant, in
433 writing, of the deficiency in the application and of the right to appeal the determination to a
434 designated appeal authority.

435 Section 7. Section **10-9a-604.5** is amended to read:

436 **10-9a-604.5. Subdivision plat recording or development activity before required**
437 **landscaping or infrastructure is completed -- Improvement completion assurance --**
438 **Improvement warranty.**

439 (1) As used in this section, "public landscaping improvement" means landscaping that
440 an applicant is required to install to comply with published installation and inspection
441 specifications for public improvements that:

442 (a) will be dedicated to and maintained by the municipality; or

443 (b) are associated with and proximate to trail improvements that connect to planned or
444 existing public infrastructure.

445 (2) A land use authority shall establish objective inspection standards for acceptance of
446 a public landscaping improvement or infrastructure improvement that the land use authority
447 requires.

448 (3) (a) Before an applicant conducts any development activity or records a plat, the
449 applicant shall:

450 (i) complete any required public landscaping improvements or infrastructure
451 improvements; or

452 (ii) post an improvement completion assurance for any required public landscaping
453 improvements or infrastructure improvements.

454 (b) If an applicant elects to post an improvement completion assurance, the applicant
455 shall provide completion assurance for:

456 (i) completion of 100% of the required public landscaping improvements or
457 infrastructure improvements; or

458 (ii) if the municipality has inspected and accepted a portion of the public landscaping
459 improvements or infrastructure improvements, 100% of the incomplete or unaccepted public
460 landscaping improvements or infrastructure improvements.

461 (c) A municipality shall:

- 462 (i) establish a minimum of two acceptable forms of completion assurance;
- 463 (ii) if an applicant elects to post an improvement completion assurance, allow the
464 applicant to post an assurance that meets the conditions of this title, and any local ordinances;
- 465 (iii) establish a system for the partial release of an improvement completion assurance
466 as portions of required public landscaping improvements or infrastructure improvements are
467 completed and accepted in accordance with local ordinance; and
- 468 (iv) issue or deny a building permit in accordance with Section 10-9a-802 based on the
469 installation of public landscaping improvements or infrastructure improvements.
- 470 (d) A municipality may not require an applicant to post an improvement completion
471 assurance for:
 - 472 (i) public landscaping improvements or an infrastructure improvement that the
473 municipality has previously inspected and accepted;
 - 474 (ii) infrastructure improvements that are private and not essential or required to meet
475 the building code, fire code, flood or storm water management provisions, street and access
476 requirements, or other essential necessary public safety improvements adopted in a land use
477 regulation;
 - 478 (iii) in a municipality where ordinances require all infrastructure improvements within
479 the area to be private, infrastructure improvements within a development that the municipality
480 requires to be private; or
 - 481 (iv) landscaping improvements that are not public landscaping improvements[~~as~~
482 ~~defined in Section 10-9a-103~~], unless the landscaping improvements and completion assurance
483 are required under the terms of a development agreement.
- 484 (4) (a) Except as provided in Subsection (4)(c), as a condition for increased density or
485 other entitlement benefit not currently available under the existing zone, a municipality may
486 require a completion assurance bond for landscaped amenities and common area that are
487 dedicated to and maintained by a homeowners association.
- 488 (b) Any agreement regarding a completion assurance bond under Subsection (4)(a)
489 between the applicant and the municipality shall be memorialized in a development agreement.
- 490 (c) A municipality may not require a completion assurance bond for or dictate who
491 installs or is responsible for the cost of the landscaping of residential lots or the equivalent
492 open space surrounding single-family attached homes, whether platted as lots or common area.

493 (5) The sum of the improvement completion assurance required under Subsections (3)
494 and (4) may not exceed the sum of:

495 (a) 100% of the estimated cost of the public landscaping improvements or
496 infrastructure improvements, as evidenced by an engineer's estimate or licensed contractor's
497 bid; and

498 (b) 10% of the amount of the bond to cover administrative costs incurred by the
499 municipality to complete the improvements, if necessary.

500 (6) At any time before a municipality accepts a public landscaping improvement or
501 infrastructure improvement, and for the duration of each improvement warranty period, the
502 municipality may require the applicant to:

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

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

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

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

508 (7) When a municipality accepts an improvement completion assurance for public
509 landscaping improvements or infrastructure improvements for a development in accordance
510 with Subsection (3)(c)(ii), the municipality may not deny an applicant a building permit if the
511 development meets the requirements for the issuance of a building permit under the building
512 code and fire code.

513 (8) The provisions of this section do not supersede the terms of a valid development
514 agreement, an adopted phasing plan, or the state construction code.

515 Section 8. Section **10-9a-802** is amended to read:

516 **10-9a-802. Enforcement.**

517 (1) (a) A municipality or an adversely affected party may, in addition to other remedies
518 provided by law, institute:

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

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

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

522 (2) (a) [~~A~~] Except as provided in Subsections (3) and (4), a municipality may enforce
523 the municipality's ordinance by withholding a building permit.

524 (b) It is an infraction to erect, construct, reconstruct, alter, or change the use of any
525 building or other structure within a municipality without approval of a building permit.

526 (c) A municipality may not issue a building permit unless the plans of and for the
527 proposed erection, construction, reconstruction, alteration, or use fully conform to all
528 regulations then in effect.

529 (d) A municipality may not deny an applicant a building permit or certificate of
530 occupancy because the applicant has not completed an infrastructure improvement:

531 (i) that is not essential to meet the requirements for the issuance of a building permit or
532 certificate of occupancy under the building code and fire code; and

533 (ii) for which the municipality has accepted an improvement completion assurance for
534 a public landscaping improvement, as defined in Section [10-9a-604.5](#), or an infrastructure
535 [improvements] improvement for the development.

536 (3) A municipality may not deny an applicant a building permit or certificate of
537 occupancy based on the lack of completion of a landscaping improvement that is not a public
538 landscaping improvement, as defined in Section [10-9a-604.5](#).

539 (4) A municipality may not withhold a building permit based on the lack of completion
540 of a portion of a public sidewalk to be constructed within a public right-of-way serving a lot
541 where a single-family or two-family residence or town home is proposed in a building permit
542 application if an improvement completion assurance has been posted for the incomplete portion
543 of the public sidewalk.

544 (5) A municipality may not prohibit the construction of a single-family or two-family
545 residence or town home, withhold recording a plat, or withhold acceptance of a public
546 landscaping improvement, as defined in Section [10-9a-604.5](#), or an infrastructure improvement
547 based on the lack of installation of a public sidewalk if an improvement completion assurance
548 has been posted for the public sidewalk.

549 (6) A municipality may not redeem an improvement completion assurance securing the
550 installation of a public sidewalk sooner than 18 months after the date the improvement
551 completion assurance is posted.

552 (7) A municipality shall allow an applicant to post an improvement completion
553 assurance for a public sidewalk separate from an improvement completion assurance for:

554 (a) another infrastructure improvement; or

555 (b) a public landscaping improvement, as defined in Section [10-9a-604.5](#).
556 (8) A municipality may withhold a certificate of occupancy for a single-family or
557 two-family residence or town home until the portion of the public sidewalk to be constructed
558 within a public right-of-way and serving the single-family or two-family residence or town
559 home is completed and accepted by the municipality.

560 Section 9. Section **38-9-102** is amended to read:

561 **38-9-102. Definitions.**

562 As used in this chapter:

563 (1) "Affected person" means:

564 (a) a person who is a record interest holder of the real property that is the subject of a
565 recorded nonconsensual common law document; or

566 (b) the person against whom a recorded nonconsensual common law document
567 purports to reflect or establish a claim or obligation.

568 (2) "Document sponsor" means a person who, personally or through a designee, signs
569 or submits for recording a document that is, or is alleged to be, a nonconsensual common law
570 document.

571 (3) "Interest holder" means a person who holds or possesses a present, lawful property
572 interest in certain real property, including an owner, title holder, mortgagee, trustee, or
573 beneficial owner.

574 (4) "Lien claimant" means a person claiming an interest in real property who offers a
575 document for recording or filing with any county recorder in the state asserting a lien, or notice
576 of interest, or other claim of interest in certain real property.

577 (5) "Nonconsensual common law document" means a document that is submitted to a
578 county recorder's office for recording against public official property that:

579 (a) purports to create a lien or encumbrance on or a notice of interest in the real
580 property;

581 (b) at the time the document is recorded, is not:

582 (i) expressly authorized by this chapter or a state or federal statute;

583 (ii) authorized by or contained in an order or judgment of a court of competent
584 jurisdiction; or

585 (iii) signed by or expressly authorized by a document signed by the owner of the real

586 property; and

587 (c) is submitted in relation to the public official's status or capacity as a public official.

588 (6) "Owner" means a person who has a vested ownership interest in real property.

589 (7) "Political subdivision" means a county, city, town, school district, special
590 improvement or taxing district, special district, special service district, or other governmental
591 subdivision or public corporation.

592 (8) "Public official" means:

593 (a) a current or former:

594 (i) member of the Legislature;

595 (ii) member of Congress;

596 (iii) judge;

597 (iv) member of law enforcement;

598 (v) corrections officer;

599 (vi) active member of the Utah State Bar; or

600 (vii) member of the Board of Pardons and Parole;

601 (b) an individual currently or previously appointed or elected to an elected position in:

602 (i) the executive branch of state or federal government; or

603 (ii) a political subdivision;

604 (c) an individual currently or previously appointed to or employed in a position in a
605 political subdivision, or state or federal government that:

606 (i) is a policymaking position; or

607 (ii) involves:

608 (A) purchasing or contracting decisions;

609 (B) drafting legislation or making rules;

610 (C) determining rates or fees; or

611 (D) making adjudicative decisions; or

612 (d) an immediate family member of a person described in Subsections (8)(a) through

613 (c).

614 (9) "Public official property" means real property that has at least one record interest
615 holder who is a public official.

616 (10) (a) "Record interest holder" means a person who holds or possesses a present,

617 lawful property interest in real property, including an owner, titleholder, mortgagee, trustee, or
618 beneficial owner, and whose name and interest in that real property appears in the county
619 recorder's records for the county in which the property is located.

620 (b) "Record interest holder" includes any grantor in the chain of the title in real
621 property.

622 (11) "Record owner" means an owner whose name and ownership interest in certain
623 real property is recorded or filed in the county recorder's records for the county in which the
624 property is located.

625 (12) (a) "Wrongful lien" means any document that purports to create a lien, notice of
626 interest, or encumbrance on an owner's interest in certain real property and at the time it is
627 recorded is not:

628 [~~(a)~~] (i) expressly authorized by this chapter or another state or federal statute;

629 [~~(b)~~] (ii) authorized by or contained in an order or judgment of a court of competent
630 jurisdiction in the state; or

631 [~~(c)~~] (iii) signed by or authorized pursuant to a document signed by the owner of the
632 real property.

633 (b) "Wrongful lien" includes a document recorded in violation of Subsection
634 [10-9a-532\(2\)\(d\)](#).

635 Section 10. Section **57-10-9** is amended to read:

636 **57-10-9. Use of coordinate system optional.**

637 The use of the Utah coordinate system by any person, corporation, or governmental
638 agency engaged in land surveying or mapping, or both, is optional unless required under
639 Section [57-10-11](#).

640 Section 11. **Effective date.**

641 (1) Except as provided in Subsection (2), this bill takes effect on November 1, 2024.

642 (2) (a) Except as provided in Subsection (2)(b), the actions affecting Sections
643 [10-9a-532](#) and [38-9-102](#) take effect on May 1, 2024.

644 (b) If this bill is approved by two-thirds of all the members elected to each house, the
645 actions affecting Sections [10-9a-532](#) and [38-9-102](#) take effect upon approval by the governor,
646 or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8,
647 without the governor's signature, or in the case of a veto, the date of veto override.