

SUBDIVISION AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: Michael T. Morley

LONG TITLE

General Description:

This bill defines terms and amends provisions relating to vacating, altering, or amending a subdivision plat.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ for a municipality or a county, amends provisions relating to vacating, altering, or amending a subdivision plat; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-103, as last amended by Laws of Utah 2009, Chapters 163, 181, and 286

10-9a-603, as last amended by Laws of Utah 2008, Chapter 326

10-9a-608, as last amended by Laws of Utah 2009, Chapters 67 and 338

17-27a-103, as last amended by Laws of Utah 2009, Chapters 163, 181, and 286

17-27a-603, as last amended by Laws of Utah 2008, Chapters 250 and 326

17-27a-608, as last amended by Laws of Utah 2009, Chapters 67 and 338

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

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

32 **10-9a-103. Definitions.**

33 As used in this chapter:

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

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

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

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

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

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

53 (4) "Charter school" includes:

54 (a) an operating charter school;

55 (b) a charter school applicant that has its application approved by a chartering entity
56 in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

57 (c) an entity who is working on behalf of a charter school or approved charter

58 applicant to develop or construct a charter school building.

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

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

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

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

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

70 (8) "Development activity" means:

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

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

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

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

80 (b) "Disability" does not include current illegal use of, or addiction to, any federally
81 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
82 802.

83 (10) "Educational facility":

84 (a) means:

85 (i) a school district's building at which pupils assemble to receive instruction in a

86 program for any combination of grades from preschool through grade 12, including
87 kindergarten and a program for children with disabilities;

88 (ii) a structure or facility:

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

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

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

93 (b) does not include land or a structure, including land or a structure for inventory
94 storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or
95 other use in support of providing instruction to pupils, that is:

96 (i) not located on the same property as a building described in Subsection (10)(a)(i);
97 and

98 (ii) used in support of the purposes of a building described in Subsection (10)(a)(i).

99 (11) "Elderly person" means a person who is 60 years old or older, who desires or
100 needs to live with other elderly persons in a group setting, but who is capable of living
101 independently.

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

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

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

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

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

- 114 (15) "Geologic hazard" means:
- 115 (a) a surface fault rupture;
- 116 (b) shallow groundwater;
- 117 (c) liquefaction;
- 118 (d) a landslide;
- 119 (e) a debris flow;
- 120 (f) unstable soil;
- 121 (g) a rock fall; or
- 122 (h) any other geologic condition that presents a risk:
- 123 (i) to life;
- 124 (ii) of substantial loss of real property; or
- 125 (iii) of substantial damage to real property.
- 126 (16) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 127 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other
- 128 utility system.
- 129 (17) "Identical plans" means building plans submitted to a municipality that are
- 130 substantially identical to building plans that were previously submitted to and reviewed and
- 131 approved by the municipality and describe a building that is:
- 132 (a) located on land zoned the same as the land on which the building described in the
- 133 previously approved plans is located; and
- 134 (b) subject to the same geological and meteorological conditions and the same law as
- 135 the building described in the previously approved plans.
- 136 (18) "Impact fee" means a payment of money imposed under Title 11, Chapter 36,
- 137 Impact Fees Act.
- 138 (19) "Improvement assurance" means a surety bond, letter of credit, cash, or other
- 139 security:
- 140 (a) to guaranty the proper completion of an improvement;
- 141 (b) that is required as a condition precedent to:

142 (i) recording a subdivision plat; or
143 (ii) beginning development activity; and
144 (c) that is offered to a land use authority to induce the land use authority, before actual
145 construction of required improvements, to:

146 (i) consent to the recording of a subdivision plat; or
147 (ii) issue a permit for development activity.

148 (20) "Improvement assurance warranty" means a promise that the materials and
149 workmanship of improvements:

150 (a) comport with standards that the municipality has officially adopted; and
151 (b) will not fail in any material respect within a warranty period.

152 (21) "Internal lot restriction" means a platted note, platted demarcation, or platted
153 designation that:

154 (a) runs with the land; and

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

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

159 [~~(21)~~] (22) "Land use application" means an application required by a municipality's
160 land use ordinance.

161 [~~(22)~~] (23) "Land use authority" means a person, board, commission, agency, or other
162 body designated by the local legislative body to act upon a land use application.

163 [~~(23)~~] (24) "Land use ordinance" means a planning, zoning, development, or
164 subdivision ordinance of the municipality, but does not include the general plan.

165 [~~(24)~~] (25) "Land use permit" means a permit issued by a land use authority.

166 [~~(25)~~] (26) "Legislative body" means the municipal council.

167 [~~(26)~~] (27) "Local district" means an entity under Title 17B, Limited Purpose Local
168 Government Entities - Local Districts, and any other governmental or quasi-governmental
169 entity that is not a county, municipality, school district, or the state.

170 [~~(27)~~] (28) "Lot line adjustment" means the relocation of the property boundary line in
171 a subdivision between two adjoining lots with the consent of the owners of record.

172 [~~(28)~~] (29) "Moderate income housing" means housing occupied or reserved for
173 occupancy by households with a gross household income equal to or less than 80% of the
174 median gross income for households of the same size in the county in which the city is
175 located.

176 [~~(29)~~] (30) "Nominal fee" means a fee that reasonably reimburses a municipality only
177 for time spent and expenses incurred in:

- 178 (a) verifying that building plans are identical plans; and
- 179 (b) reviewing and approving those minor aspects of identical plans that differ from the
180 previously reviewed and approved building plans.

181 [~~(30)~~] (31) "Noncomplying structure" means a structure that:

- 182 (a) legally existed before its current land use designation; and
- 183 (b) because of one or more subsequent land use ordinance changes, does not conform
184 to the setback, height restrictions, or other regulations, excluding those regulations, which
185 govern the use of land.

186 [~~(31)~~] (32) "Nonconforming use" means a use of land that:

- 187 (a) legally existed before its current land use designation;
- 188 (b) has been maintained continuously since the time the land use ordinance governing
189 the land changed; and
- 190 (c) because of one or more subsequent land use ordinance changes, does not conform
191 to the regulations that now govern the use of the land.

192 [~~(32)~~] (33) "Official map" means a map drawn by municipal authorities and recorded
193 in a county recorder's office that:

- 194 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
195 highways and other transportation facilities;
- 196 (b) provides a basis for restricting development in designated rights-of-way or between
197 designated setbacks to allow the government authorities time to purchase or otherwise reserve

198 the land; and

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

200 [~~(33)~~] (34) "Person" means an individual, corporation, partnership, organization,
201 association, trust, governmental agency, or any other legal entity.

202 [~~(34)~~] (35) "Plan for moderate income housing" means a written document adopted by
203 a city legislative body that includes:

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

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

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

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

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

213 [~~(35)~~] (36) "Plat" means a map or other graphical representation of lands being laid
214 out and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

215 [~~(36)~~] (37) "Potential geologic hazard area" means an area that:

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

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

222 [~~(37)~~] (38) "Public agency" means:

223 (a) the federal government;

224 (b) the state;

225 (c) a county, municipality, school district, local district, special service district, or

226 other political subdivision of the state; or

227 (d) a charter school.

228 [~~(38)~~] (39) "Public hearing" means a hearing at which members of the public are
229 provided a reasonable opportunity to comment on the subject of the hearing.

230 [~~(39)~~] (40) "Public meeting" means a meeting that is required to be open to the public
231 under Title 52, Chapter 4, Open and Public Meetings Act.

232 [~~(40)~~] (41) "Record of survey map" means a map of a survey of land prepared in
233 accordance with Section 17-23-17.

234 [~~(41)~~] (42) "Receiving zone" means an area of a municipality that the municipality's
235 land use authority designates as an area in which an owner of land may receive transferrable
236 development rights.

237 [~~(42)~~] (43) "Residential facility for elderly persons" means a single-family or
238 multiple-family dwelling unit that meets the requirements of Section 10-9a-516, but does not
239 include a health care facility as defined by Section 26-21-2.

240 [~~(43)~~] (44) "Residential facility for persons with a disability" means a residence:

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

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

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

246 [~~(44)~~] (45) "Sanitary sewer authority" means the department, agency, or public entity
247 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
248 wastewater systems.

249 [~~(45)~~] (46) "Sending zone" means an area of a municipality that the municipality's
250 land use authority designates as an area from which an owner of land may transfer
251 transferrable development rights to an owner of land in a receiving zone.

252 [~~(46)~~] (47) "Specified public agency" means:

253 (a) the state;

254 (b) a school district; or

255 (c) a charter school.

256 [~~(47)~~] (48) "Specified public utility" means an electrical corporation, gas corporation,
257 or telephone corporation, as those terms are defined in Section 54-2-1.

258 [~~(48)~~] (49) "State" includes any department, division, or agency of the state.

259 [~~(49)~~] (50) "Street" means a public right-of-way, including a highway, avenue,
260 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
261 or other way.

262 [~~(50)~~] (51) (a) "Subdivision" means any land that is divided, resubdivided or proposed
263 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
264 purpose, whether immediate or future, for offer, sale, lease, or development either on the
265 installment plan or upon any and all other plans, terms, and conditions.

266 (b) "Subdivision" includes:

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

269 (ii) except as provided in Subsection [~~(50)~~] (51)(c), divisions of land for residential
270 and nonresidential uses, including land used or to be used for commercial, agricultural, and
271 industrial purposes.

272 (c) "Subdivision" does not include:

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

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

279 (A) no new lot is created; and

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

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

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

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

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

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

289 (B) the adjustment will not violate any applicable land use ordinance[~~;~~]; or

290 (v) a bona fide division or partition of land by deed or other instrument where the land
291 use authority expressly approves in writing the division in anticipation of further land use
292 approvals on the parcel or parcels.

293 (d) The joining of a subdivided parcel of property to another parcel of property that
294 has not been subdivided does not constitute a subdivision under this Subsection [~~(50)~~] (51) as
295 to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
296 subdivision ordinance.

297 [~~(51)~~] (52) "Transferrable development right" means the entitlement to develop land
298 within a sending zone that would vest according to the municipality's existing land use
299 ordinances on the date that a completed land use application is filed seeking the approval of
300 development activity on the land.

301 [~~(52)~~] (53) "Unincorporated" means the area outside of the incorporated area of a city
302 or town.

303 [~~(53)~~] (54) "Water interest" means any right to the beneficial use of water, including:

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

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

306 (i) a contract; or

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

308 [~~(54)~~] (55) "Zoning map" means a map, adopted as part of a land use ordinance, that
309 depicts land use zones, overlays, or districts.

310 Section 2. Section **10-9a-603** is amended to read:

311 **10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner**
312 **acknowledgment, surveyor certification, and underground utility facilities owner**
313 **approval of plat -- Recording plat.**

314 (1) Unless exempt under Section 10-9a-605 or excluded from the definition of
315 subdivision under [~~Subsection 10-9a-103(50)~~] Section 10-9a-103, whenever any land is laid
316 out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

317 (a) a name or designation of the subdivision that is distinct from any plat already
318 recorded in the county recorder's office;

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

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

326 (d) every existing right-of-way and easement grant of record for underground
327 facilities, as defined in Section 54-8a-2, and for other utility facilities.

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

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

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

336 (4) (a) The owner of the land shall acknowledge the plat before an officer authorized
337 by law to take the acknowledgment of conveyances of real estate and shall obtain the signature

338 of each individual designated by the municipality.

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

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

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

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

345 (c) (i) As applicable, the owner or operator of the underground and utility facilities
346 shall approve the:

347 (A) boundary, course, dimensions, and intended use of the right-of-way and easement
348 grants of record;

349 (B) location of existing underground and utility facilities; and

350 (C) conditions or restrictions governing the location of the facilities within the
351 right-of-way, and easement grants of records, and utility facilities within the subdivision.

352 (ii) The approval of an owner or operator under Subsection (4)(c)(i):

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

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

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

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

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

359 (IV) any other provision of law.

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

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

365 Section 3. Section **10-9a-608** is amended to read:

366 **10-9a-608. Vacating, altering, or amending a subdivision plat.**

367 (1) (a) A fee owner of land, as shown on the last county assessment roll, in a
368 subdivision that has been laid out and platted as provided in this part may file a written
369 petition with the land use authority to have some or all of the plat vacated, altered, or
370 amended.

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

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

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

377 (2) ~~[The]~~ Unless a local ordinance provides otherwise, the public hearing requirement
378 of Subsection (1)(b) does not apply and a land use authority may consider at a public meeting
379 an owner's petition to vacate, alter, or amend a subdivision plat if:

380 (a) the petition seeks to:

381 (i) join two or more of the petitioner fee owner's contiguous~~[, residential]~~ lots; [and]

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

384 (iii) adjust the lot lines of adjoining lots or parcels if the fee owners of each of the
385 adjoining lots or parcels join in the petition, regardless of whether the lots or parcels are
386 located in the same subdivision;

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

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

391 (A) owned by the petitioner; or

392 (B) designated as a common area; and

393 (b) notice has been given to adjacent property owners ~~[and pursuant to]~~ in accordance

394 with any applicable local ordinance.

395 (3) Each request to vacate or alter a plat that contains a request to vacate or alter a
396 public street, right-of-way, or easement is also subject to Section 10-9a-609.5.

397 (4) Each petition to vacate, alter, or amend an entire plat or a portion of a plat shall
398 include:

399 (a) the name and address of each owner of record of the land contained in the entire
400 plat; and

401 (b) the signature of each [~~of these owners~~] owner who consents to the petition.

402 (5) (a) The owners of record of adjacent parcels that are described by either a metes
403 and bounds description or a recorded plat may exchange title to portions of those parcels if the
404 exchange of title is approved by the land use authority in accordance with Subsection (5)(b).

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

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

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

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

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

412 (C) recites the descriptions of both the original parcels and the parcels created by the
413 exchange of title; and

414 (ii) a conveyance of title reflecting the approved change shall be recorded in the office
415 of the county recorder.

416 (d) A notice of approval recorded under this Subsection (5) does not act as a
417 conveyance of title to real property and is not required for the recording of a document
418 purporting to convey title to real property.

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

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

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

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

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

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

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

432 Section 4. Section **17-27a-103** is amended to read:

433 **17-27a-103. Definitions.**

434 As used in this chapter:

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

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

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

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

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

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

454 (4) "Charter school" includes:

455 (a) an operating charter school;

456 (b) a charter school applicant that has its application approved by a chartering entity
457 in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

458 (c) an entity who is working on behalf of a charter school or approved charter
459 applicant to develop or construct a charter school building.

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

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

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

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

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

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

473 (9) "Development activity" means:

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

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

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

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

483 (b) "Disability" does not include current illegal use of, or addiction to, any federally
484 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
485 802.

486 (11) "Educational facility":

487 (a) means:

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

491 (ii) a structure or facility:

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

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

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

496 (b) does not include land or a structure, including land or a structure for inventory
497 storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or
498 other use in support of providing instruction to pupils, that is:

499 (i) not located on the same property as a building described in Subsection (11)(a)(i);
500 and

501 (ii) used in support of the purposes of a building described in Subsection (11)(a)(i).

502 (12) "Elderly person" means a person who is 60 years old or older, who desires or
503 needs to live with other elderly persons in a group setting, but who is capable of living
504 independently.

505 (13) "Fire authority" means the department, agency, or public entity with

506 responsibility to review and approve the feasibility of fire protection and suppression services
507 for the subject property.

508 (14) "Flood plain" means land that:

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

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

515 (15) "Gas corporation" has the same meaning as defined in Section 54-2-1.

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

518 (17) "Geologic hazard" means:

519 (a) a surface fault rupture;

520 (b) shallow groundwater;

521 (c) liquefaction;

522 (d) a landslide;

523 (e) a debris flow;

524 (f) unstable soil;

525 (g) a rock fall; or

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

527 (i) to life;

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

529 (iii) of substantial damage to real property.

530 (18) "Internal lot restriction" means a platted note, platted demarcation, or platted
531 designation that:

532 (a) runs with the land; and

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

534 the plat; or

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

537 [~~18~~] (19) "Hookup fee" means a fee for the installation and inspection of any pipe,
538 line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other
539 utility system.

540 [~~19~~] (20) "Identical plans" means building plans submitted to a county that are
541 substantially identical building plans that were previously submitted to and reviewed and
542 approved by the county and describe a building that is:

543 (a) located on land zoned the same as the land on which the building described in the
544 previously approved plans is located; and

545 (b) subject to the same geological and meteorological conditions and the same law as
546 the building described in the previously approved plans.

547 [~~20~~] (21) "Impact fee" means a payment of money imposed under Title 11, Chapter
548 36, Impact Fees Act.

549 [~~21~~] (22) "Improvement assurance" means a surety bond, letter of credit, cash, or
550 other security:

551 (a) to guaranty the proper completion of an improvement;

552 (b) that is required as a condition precedent to:

553 (i) recording a subdivision plat; or

554 (ii) beginning development activity; and

555 (c) that is offered to a land use authority to induce the land use authority, before actual
556 construction of required improvements, to:

557 (i) consent to the recording of a subdivision plat; or

558 (ii) issue a permit for development activity.

559 [~~22~~] (23) "Improvement assurance warranty" means a promise that the materials and
560 workmanship of improvements:

561 (a) comport with standards that the county has officially adopted; and

562 (b) will not fail in any material respect within a warranty period.

563 [~~(23)~~] (24) "Interstate pipeline company" means a person or entity engaged in natural
564 gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission
565 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

566 [~~(24)~~] (25) "Intrastate pipeline company" means a person or entity engaged in natural
567 gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
568 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

569 [~~(25)~~] (26) "Land use application" means an application required by a county's land
570 use ordinance.

571 [~~(26)~~] (27) "Land use authority" means a person, board, commission, agency, or other
572 body designated by the local legislative body to act upon a land use application.

573 [~~(27)~~] (28) "Land use ordinance" means a planning, zoning, development, or
574 subdivision ordinance of the county, but does not include the general plan.

575 [~~(28)~~] (29) "Land use permit" means a permit issued by a land use authority.

576 [~~(29)~~] (30) "Legislative body" means the county legislative body, or for a county that
577 has adopted an alternative form of government, the body exercising legislative powers.

578 [~~(30)~~] (31) "Local district" means any entity under Title 17B, Limited Purpose Local
579 Government Entities - Local Districts, and any other governmental or quasi-governmental
580 entity that is not a county, municipality, school district, or the state.

581 [~~(31)~~] (32) "Lot line adjustment" means the relocation of the property boundary line in
582 a subdivision between two adjoining lots with the consent of the owners of record.

583 [~~(32)~~] (33) "Moderate income housing" means housing occupied or reserved for
584 occupancy by households with a gross household income equal to or less than 80% of the
585 median gross income for households of the same size in the county in which the housing is
586 located.

587 [~~(33)~~] (34) "Nominal fee" means a fee that reasonably reimburses a county only for
588 time spent and expenses incurred in:

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

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

592 [~~34~~] (35) "Noncomplying structure" means a structure that:

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

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

597 [~~35~~] (36) "Nonconforming use" means a use of land that:

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

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

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

603 [~~36~~] (37) "Official map" means a map drawn by county authorities and recorded in
604 the county recorder's office that:

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

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

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

611 [~~37~~] (38) "Person" means an individual, corporation, partnership, organization,
612 association, trust, governmental agency, or any other legal entity.

613 [~~38~~] (39) "Plan for moderate income housing" means a written document adopted by
614 a county legislative body that includes:

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

617 (b) an estimate of the need for moderate income housing in the county for the next five

618 years as revised biennially;

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

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

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

624 [~~(39)~~] (40) "Plat" means a map or other graphical representation of lands being laid
625 out and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

626 [~~(40)~~] (41) "Potential geologic hazard area" means an area that:

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

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

633 [~~(41)~~] (42) "Public agency" means:

634 (a) the federal government;

635 (b) the state;

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

638 (d) a charter school.

639 [~~(42)~~] (43) "Public hearing" means a hearing at which members of the public are
640 provided a reasonable opportunity to comment on the subject of the hearing.

641 [~~(43)~~] (44) "Public meeting" means a meeting that is required to be open to the public
642 under Title 52, Chapter 4, Open and Public Meetings Act.

643 [~~(44)~~] (45) "Receiving zone" means an unincorporated area of a county that the
644 county's land use authority designates as an area in which an owner of land may receive
645 transferrable development rights.

646 [~~(45)~~] (46) "Record of survey map" means a map of a survey of land prepared in
647 accordance with Section 17-23-17.

648 [~~(46)~~] (47) "Residential facility for elderly persons" means a single-family or
649 multiple-family dwelling unit that meets the requirements of Section 17-27a-515, but does not
650 include a health care facility as defined by Section 26-21-2.

651 [~~(47)~~] (48) "Residential facility for persons with a disability" means a residence:

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

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

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

657 [~~(48)~~] (49) "Sanitary sewer authority" means the department, agency, or public entity
658 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
659 wastewater systems.

660 [~~(49)~~] (50) "Sending zone" means an unincorporated area of a county that the county's
661 land use authority designates as an area from which an owner of land may transfer
662 transferrable development rights to an owner of land in a receiving zone.

663 [~~(50)~~] (51) "Specified public agency" means:

664 (a) the state;

665 (b) a school district; or

666 (c) a charter school.

667 [~~(51)~~] (52) "Specified public utility" means an electrical corporation, gas corporation,
668 or telephone corporation, as those terms are defined in Section 54-2-1.

669 [~~(52)~~] (53) "State" includes any department, division, or agency of the state.

670 [~~(53)~~] (54) "Street" means a public right-of-way, including a highway, avenue,
671 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
672 or other way.

673 [~~(54)~~] (55) (a) "Subdivision" means any land that is divided, resubdivided or proposed

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

677 (b) "Subdivision" includes:

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

680 (ii) except as provided in Subsection [~~(54)~~] (55)(c), divisions of land for residential
681 and nonresidential uses, including land used or to be used for commercial, agricultural, and
682 industrial purposes.

683 (c) "Subdivision" does not include:

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

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

687 (A) no new lot is created; and

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

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

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

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

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

696 [~~(A) an unmanned facility appurtenant to a pipeline owned or operated by a gas
697 corporation, interstate pipeline company, or intrastate pipeline company; or]~~

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

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

700 [~~(B)~~] (C) an unmanned telecommunications, microwave, fiber optic, electrical, or
701 other utility service regeneration, transformation, retransmission, or amplification facility; [or]

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

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

705 (B) the adjustment will not violate any applicable land use ordinance~~[-];~~ or

706 (vi) a bona fide division or partition of land by deed or other instrument where the
707 land use authority expressly approves in writing the division in anticipation of further land use
708 approvals on the parcel or parcels.

709 (d) The joining of a subdivided parcel of property to another parcel of property that
710 has not been subdivided does not constitute a subdivision under this Subsection [~~(54)~~] (55) as
711 to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's
712 subdivision ordinance.

713 [~~(55)~~] (56) "Township" means a contiguous, geographically defined portion of the
714 unincorporated area of a county, established under this part or reconstituted or reinstated under
715 Section 17-27a-306, with planning and zoning functions as exercised through the township
716 planning commission, as provided in this chapter, but with no legal or political identity
717 separate from the county and no taxing authority, except that "township" means a former
718 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

719 [~~(56)~~] (57) "Transferrable development right" means the entitlement to develop land
720 within a sending zone that would vest according to the county's existing land use ordinances
721 on the date that a completed land use application is filed seeking the approval of development
722 activity on the land.

723 [~~(57)~~] (58) "Unincorporated" means the area outside of the incorporated area of a
724 municipality.

725 [~~(58)~~] (59) "Water interest" means any right to the beneficial use of water, including:

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

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

728 (i) a contract; or

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

730 [(59)] (60) "Zoning map" means a map, adopted as part of a land use ordinance, that
731 depicts land use zones, overlays, or districts.

732 Section 5. Section 17-27a-603 is amended to read:

733 **17-27a-603. Plat required when land is subdivided -- Approval of plat --**
734 **Recording plat.**

735 (1) Unless exempt under Section 17-27a-605 or excluded from the definition of
736 subdivision under [~~Subsection 17-27a-103(48)~~] Section 17-27a-103, whenever any land is laid
737 out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

738 (a) a name or designation of the subdivision that is distinct from any plat already
739 recorded in the county recorder's office;

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

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

747 (d) every existing right-of-way and easement grant of record for underground
748 facilities, as defined in Section 54-8a-2, and for other utility facilities.

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

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

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

757 (4) (a) The owner of the land shall acknowledge the plat before an officer authorized

758 by law to take the acknowledgment of conveyances of real estate and shall obtain the signature
759 of each individual designated by the county.

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

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

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

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

766 (c) (i) As applicable, the owner or operator of the underground and utility facilities
767 shall approve the:

768 (A) boundary, course, dimensions, and intended use of the right-of-way and easement
769 grants of record;

770 (B) location of existing underground and utility facilities; and

771 (C) conditions or restrictions governing the location of the facilities within the
772 right-of-way, and easement grants of records, and utility facilities within the subdivision.

773 (ii) The approval of an owner or operator under Subsection (4)(c)(i):

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

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

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

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

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

780 (IV) any other provision of law.

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

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

786 Section 6. Section **17-27a-608** is amended to read:

787 **17-27a-608. Vacating, altering, or amending a subdivision plat.**

788 (1) (a) A fee owner of land, as shown on the last county assessment roll, in a
789 subdivision that has been laid out and platted as provided in this part may file a written
790 petition with the land use authority to have some or all of the plat vacated, altered, or
791 amended.

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

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

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

798 (2) [~~The~~] Unless a local ordinance provides otherwise, the public hearing requirement
799 of Subsection (1)(b) does not apply and a land use authority may consider at a public meeting
800 an owner's petition to vacate, alter, or amend a subdivision plat if:

801 (a) the petition seeks to:

802 (i) join two or more of the petitioning fee owner's contiguous~~[, residential]~~ lots; [~~and~~]

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

805 (iii) adjust the lot lines of adjoining lots or parcels if the fee owners of each of the
806 adjoining lots or parcels join the petition, regardless of whether the lots or parcels are located
807 in the same subdivision;

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

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

812 (A) owned by the petitioner; or

813 (B) designated as a common area; and

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

816 (3) Each request to vacate or alter a plat that contains a request to vacate or alter a
817 public street, right-of-way, or easement is also subject to Section 17-27a-609.5.

818 (4) Each petition to vacate, alter, or amend an entire plat or a portion of a plat shall
819 include:

820 (a) the name and address of each owner of record of the land contained in the entire
821 plat; and

822 (b) the signature of each [~~of these owners~~] owner who consents to the petition.

823 (5) (a) The owners of record of adjacent parcels that are described by either a metes
824 and bounds description or a recorded plat may exchange title to portions of those parcels if the
825 exchange of title is approved by the land use authority in accordance with Subsection (5)(b).

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

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

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

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

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

833 (C) recites the descriptions of both the original parcels and the parcels created by the
834 exchange of title; and

835 (ii) a conveyance of title reflecting the approved change shall be recorded in the office
836 of the county recorder.

837 (d) A notice of approval recorded under this Subsection (5) does not act as a
838 conveyance of title to real property and is not required for the recording of a document
839 purporting to convey title to real property.

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

- 842 (b) The surveyor preparing the amended plat shall certify that the surveyor:
843 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
844 Professional Land Surveyors Licensing Act;
845 (ii) has completed a survey of the property described on the plat in accordance with
846 Section 17-23-17 and has verified all measurements; and
847 (iii) has placed monuments as represented on the plat.
848 (c) An owner of land may not submit for recording an amended plat that gives the
849 subdivision described in the amended plat the same name as a subdivision in a plat already
850 recorded in the county recorder's office.
851 (d) Except as provided in Subsection (6)(a), the recording of a declaration or other
852 document that purports to change the name of a recorded plat is voidable.