

"Municipal Land Use,  
Development, and  
Management Act."

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**10-9a-101. Title.**

This chapter is known as the "Municipal Land Use, Development, and Management Act."

**10-9a-102. Purposes -- General land use authority.**

(1) The purposes of this chapter are to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of each municipality and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, and to protect property values.

(2) To accomplish the purposes of this chapter, municipalities may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that they consider necessary or appropriate for the use and development of land within the municipality, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing uses, density, open spaces, structures, buildings, energy efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, and height and location of vegetation, trees, and landscaping, unless expressly prohibited by law.

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

As used in this chapter:

(1) "Affected entity" means a county, municipality, independent special district under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, a property owner, a property owners association, or the Utah Department of Transportation, if:

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

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

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

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

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

(4) "Charter school" includes:

(a) an operating charter school;

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

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

(5) "Chief executive officer" means the:

(a) mayor in municipalities operating under all forms of municipal government except the council-manager form; or

(b) city manager in municipalities operating under the council-manager form of municipal government.

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

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

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

(b) Utah Constitution Article I, Section 22.

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

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

(10)

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

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

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

(12) "Identical plans" means building plans submitted to a municipality that are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality and describe a building that is:

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

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

(13) "Land use application" means an application required by a municipality's land use ordinance.

(14) "Land use authority" means a person, board, commission, agency, or other body designated by the local legislative body to act upon a land use application.

(15) "Land use ordinance" means a planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan.

(16) "Land use permit" means a permit issued by a land use authority.

(17) "Legislative body" means the municipal council.

(18) "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

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

(20) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

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

(21) "Noncomplying structure" means a structure that:

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

(22) "Nonconforming use" means a use of land that:

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

(23) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

- (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
- (b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and
- (c) has been adopted as an element of the municipality's general plan.

(24) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(25) "Plan for moderate income housing" means a written document adopted by a city legislative body that includes:

- (a) an estimate of the existing supply of moderate income housing located within the city;
- (b) an estimate of the need for moderate income housing in the city for the next five years as revised biennially;
- (c) a survey of total residential land use;
- (d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and
- (e) a description of the city's program to encourage an adequate supply of moderate income housing.

(26) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section **10-9a-603**, **17-23-17**, or **57-8-13**.

(27) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(28) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings.

(29) "Record of survey map" means a map of a survey of land prepared in accordance with Section **17-23-17**.

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

(31) "Residential facility for persons with a disability" means a residence:

- (a) in which more than one person with a disability resides; and
- (b)
  - (i) is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or
  - (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

- (32) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.
- (33) "Special district" means an entity established under the authority of Title 17A, Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or unit of the state.
- (34) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section **54-2-1**.
- (35) "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.
- (36) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.
- (b) "Subdivision" includes:
- (i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and
  - (ii) except as provided in Subsection (35)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.
- (c) "Subdivision" does not include:
- (i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;
  - (ii) a recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:
    - (A) no new lot is created; and
    - (B) the adjustment does not violate applicable land use ordinances;
  - (iii) a recorded document, executed by the owner of record:

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

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

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

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

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

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (35) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

(37) "Unincorporated" means the area outside of the incorporated area of a city or town.

(38) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

**10-9a-104. Stricter requirements.**

(1) Except as provided in Subsection (2), a municipality may enact an ordinance imposing stricter requirements or higher standards than are required by this chapter.

(2) A municipality may not impose stricter requirements or higher standards than are required by:

(a) Section **10-9a-305**;

(b) Section **10-9a-514**;

(c) Section **10-9a-516**; and

(d) Section **10-9a-520**.

**10-9a-201. Required notice.**

(1) At a minimum, each municipality shall provide actual notice or the notice required by this part.

(2) A municipality may by ordinance require greater notice than required under this part.

**10-9a-202. Applicant notice.**

(1) For each land use application, the municipality shall:

(kk) notify the applicant of the date, time, and place of each public hearing and public meeting to consider the application;

(ll) provide to each applicant a copy of each staff report regarding the applicant or the pending application at least three business days before the public hearing or public meeting; and

(mm) notify the applicant of any final action on a pending application.

(2) If a municipality fails to comply with the requirements of Subsection (1)(a) or (b) or both, an applicant may waive the failure so that the application may stay on the public hearing or public meeting agenda and be considered as if the requirements had been met.

**10-9a-203. Notice of intent to prepare a general plan or comprehensive general plan amendments in certain municipalities.**

(1) Before preparing a proposed general plan or a comprehensive general plan amendment, each municipality within a county of the first or second class shall provide ten calendar days notice of its intent to prepare a proposed general plan or a comprehensive general plan amendment to:

(a) each affected entity;

(b) the Automated Geographic Reference Center created in Section **63F-1-506**;

(c) the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the municipality is a member; and

(d) the state planning coordinator appointed under Section **63-38d-202**.

(2) Each notice under Subsection (1) shall:

(a) indicate that the municipality intends to prepare a general plan or a comprehensive general plan amendment, as the case may be;

(b) describe or provide a map of the geographic area that will be affected by the general plan or amendment;

(c) be sent by mail, e-mail, or other effective means;

(d) invite the affected entities to provide information for the municipality to consider in the process of preparing, adopting, and implementing a general plan or amendment concerning:

(i) impacts that the use of land proposed in the proposed general plan or amendment may have; and

(ii) uses of land within the municipality that the affected entity is considering that may conflict with the proposed general plan or amendment; and

(e) include the address of an Internet website, if the municipality has one, and the name and telephone number of a person where more information can be obtained concerning the municipality's proposed general plan or amendment.

**10-9a-204. Notice of public hearings and public meetings to consider general plan or modifications.**

(1) Each municipality shall provide:

(a) notice of the date, time, and place of the first public hearing to consider the original adoption or any modification of all or any portion of a general plan; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be at least ten calendar days before the public hearing and shall be:

(a) published in a newspaper of general circulation in the area;

(b) mailed to each affected entity; and

(c) posted:

(i) in at least three public locations within the municipality; or

(ii) on the municipality's official website.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be:

(a) submitted to a newspaper of general circulation in the area; and

(b) posted:

(i) in at least three public locations within the municipality; or

(ii) on the municipality's official website.

**10-9a-205. Notice of public hearings and public meetings on adoption or modification of land use ordinance.**

(1) Each municipality shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or any modification of a land use ordinance; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least ten calendar days before the public hearing;

(b) posted:

(i) in at least three public locations within the municipality; or

(ii) on the municipality's official website; and

(c) (i) published in a newspaper of general circulation in the area at least ten calendar days before the public hearing; or

(ii) mailed at least three days before the public hearing to:

(A) each property owner whose land is directly affected by the land use ordinance change; and

(B) each adjacent property owner within the parameters specified by municipal ordinance.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be posted:

- (a) in at least three public locations within the municipality; or
- (b) on the municipality's official website.

**10-9a-206. Third party notice.**

(1) If a municipality requires notice to adjacent property owners, the municipality shall:

- (a) mail notice to the record owner of each parcel within parameters specified by municipal ordinance; or
- (b) post notice on the property with a sign of sufficient size, durability, print quality, and location that is reasonably calculated to give notice to passers-by.

(2) If a municipality mails notice to third party property owners under Subsection (1), it shall mail equivalent notice to property owners within an adjacent jurisdiction.

**10-9a-207. Notice for a proposed subdivision or amendment or a multiple-unit residential or commercial or industrial development.**

(1) Except for an exempt subdivision under **Section 10-9a-605**, for a proposed subdivision or an amendment to a subdivision, each municipality shall provide notice of the date, time, and place of a public hearing that is:

- (a) mailed not less than three calendar days before the public hearing and addressed to the record owner of each parcel within specified parameters of that property; or
- (b) posted not less than three calendar days before the public hearing, on the property proposed for subdivision, in a visible location, with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to passers-by.

(2) Each municipality shall mail notice to each affected entity of a public hearing to consider a preliminary plat describing a multiple-unit residential development or a commercial or industrial development.

(3) Each municipality shall provide notice as required by Section **10-9a-208** for a subdivision that involves a vacation, alteration, or amendment of a street.

**10-9a-208. Hearing and notice for proposal to vacate, alter, or amend a plat.**

For any proposal to vacate, alter, or amend a public street or right-of-way, the land use authority shall hold a public hearing and shall give notice of the date, place, and time of the hearing by:

- (1) mailing notice as required in Section **10-9a-207**;
- (2) mailing notice to each affected entity; and
- (3)
  - (a) publishing notice once a week for four consecutive weeks before the hearing in a newspaper of general circulation in the municipality in which the land subject to the petition is located; or
  - (b) if there is no newspaper of general circulation in the municipality, posting the property and posting notice in three public places for four consecutive weeks before the hearing.

**10-9a-209. Notice challenge.**

If notice given under authority of this part is not challenged under Section **10-9a-801** within 30 days after the meeting or action for which notice is given, the notice is considered adequate and proper.

**10-9a-210. Notice to municipality when a private institution of higher education is constructing student housing.**

- (1) Each private institution of higher education that intends to construct student housing on property owned by the institution shall provide written notice of the intended construction, as provided in Subsection (2), before any funds are committed to the construction, if any of the proposed student housing buildings is within 300 feet of privately owned residential property.
- (2) Each notice under Subsection (1) shall be provided to the legislative body and, if applicable, the mayor of:
  - (a) the county in whose unincorporated area the privately owned residential property is located; or
  - (b) the municipality in whose boundaries the privately owned residential property is located.
- (3) At the request of a county or municipality that is entitled to notice under this section, the institution and the legislative body of the affected county or municipality shall jointly hold a public hearing to provide information to the public and receive input from the public about the proposed construction.

**10-9a-301. Ordinance establishing planning commission required -- Ordinance requirements -- Compensation.**

(1) (a) Each municipality shall enact an ordinance establishing a planning commission.

(b) The ordinance shall define:

- (i) the number and terms of the members and, if the municipality chooses, alternate members;
- (ii) the mode of appointment;
- (iii) the procedures for filling vacancies and removal from office;
- (iv) the authority of the planning commission; and
- (v) other details relating to the organization and procedures of the planning commission.

(2) The legislative body may fix per diem compensation for the members of the planning commission, based on necessary and reasonable expenses and on meetings actually attended.

**10-9a-302. Planning commission powers and duties.**

The planning commission shall make a recommendation to the legislative body for:

- (1) a general plan and amendments to the general plan;
- (2) land use ordinances, zoning maps, official maps, and amendments;
- (3) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;
- (4) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and
- (5) application processes that:
  - (a) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and
  - (b) shall protect the right of each:
    - (i) applicant and third party to require formal consideration of any application by a land use authority;

(ii) applicant, adversely affected party, or municipal officer or employee to appeal a land use authority's decision to a separate appeal authority; and

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

### **10-9a-303. Entrance upon land.**

The municipality may enter upon any land at reasonable times to make examinations and surveys pertinent to the:

- (1) preparation of its general plan; or
- (2) preparation or enforcement of its land use ordinances.

### **10-9a-304. State and federal property.**

Unless otherwise provided by law, nothing contained in this chapter may be construed as giving a municipality jurisdiction over property owned by the state or the United States.

### **10-9a-305. Other entities required to conform to municipality's land use ordinances -- Exceptions -- School districts and charter schools.**

- (1) (a) Each county, municipality, school district, charter school, special district, and political subdivision of the state shall conform to any applicable land use ordinance of any municipality when installing, constructing, operating, or otherwise using any area, land, or building situated within that municipality.
  - (b) In addition to any other remedies provided by law, when a municipality's land use ordinances is violated or about to be violated by another political subdivision, that municipality may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.
- (2) (a) Except as provided in Subsection (3), a school district or charter school is subject to a municipality's land use ordinances.
  - (b) (i) Notwithstanding Subsection (3) a municipality may subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging.
    - (ii) The standards to which a municipality may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.
    - (iii) Except as provided in Subsection (7)(d), the only basis upon which a municipality may deny or withhold approval of a charter school's land use

application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

(iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

(3) A municipality may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district or charter school to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

(e) require a school district or charter school to pay any impact fee for an improvement project that is not reasonably related to the impact of the project upon the need that the improvement is to address; or

(f) impose regulations upon the location of a project except as necessary to avoid unreasonable risks to health or safety.

(4) Subject to Section **53A-20-108**, a school district or charter school shall coordinate the siting of a new school with the municipality in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) to maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:

- (a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and
  - (b) provide recommendations based upon the walk-through.
- (6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:
- (i) a municipal building inspector;
  - (ii) a school district building inspector; or
  - (iii) an independent, certified building inspector who is:
    - (A) not an employee of the contractor;
    - (B) approved by a municipal building inspector or a school district building inspector; and
- (c) licensed to perform the inspection that the inspector is requested to perform.
- (b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.
- (c) If a school district or charter school uses an independent building inspector under Subsection (6)(a)(iii), the school district or charter school shall submit to the state superintendent of public instruction, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.
- (7) (a) A charter school shall be considered a permitted use in all zoning districts within a municipality.
- (b) Each land use application for any approval required for a charter school, including an application for a building permit, shall be processed on a first priority basis.
- (c) Parking requirements for a charter school may not exceed the minimum parking requirements for schools or other institutional public uses throughout the municipality.
- (d) If a municipality has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school provides a waiver.
- (e) (i) A school district or a charter school may seek a certificate authorizing permanent occupancy of a school building from:

(A) the state superintendent of public instruction, as provided in Subsection 53A-20-104(3), if the school district or charter school used an independent building inspector for inspection of the school building; or

(B) a municipal official with authority to issue the certificate, if the school district or charter school used a municipal building inspector for inspection of the school building.

(ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53A-20-104(3)(a)(ii).

(iii) A charter school may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school used a school district building inspector for inspection of the school building.

(iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53A-20-104(3) or a school district official with authority to issue the certificate shall be considered to satisfy any municipal requirement for an inspection or a certificate of occupancy.

#### **10-9a-401. General plan required -- Content.**

(1) In order to accomplish the purposes of this chapter, each municipality shall prepare and adopt a comprehensive, long-range general plan for:

- (a) present and future needs of the municipality; and
- (b) growth and development of all or any part of the land within the municipality.

(2) The plan may provide for:

- (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

- (b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;
- (c) the efficient and economical use, conservation, and production of the supply of:
  - (i) food and water; and
  - (ii) drainage, sanitary, and other facilities and resources;
- (d) the use of energy conservation and solar and renewable energy resources;
- (e) the protection of urban development;
- (f) the protection or promotion of moderate income housing;
- (g) the protection and promotion of air quality;
- (h) historic preservation;
- (i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and
- (j) an official map.

(3) Subject to Subsection **10-9a-403(2)**, the municipality may determine the comprehensiveness, extent, and format of the general plan.

**10-9a-402. Information and technical assistance from the state.**

Each state official, department, and agency shall:

- (1) promptly deliver any data and information requested by a municipality unless the disclosure is prohibited by Title 63, Chapter 2, Government Records Access and Management Act; and
- (2) furnish any other technical assistance and advice that they have available to the municipality without additional cost to the municipality.

**10-9a-403. Plan preparation.**

- (1)
  - (a) The planning commission shall provide notice, as provided in Section **10-9a-203**, of its intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.
  - (b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.
  - (c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.
  - (d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.
- (2)
  - (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:
    - (i) a land use element that:
      - (A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and
      - (B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that the planning commission considers appropriate, all correlated with the population projections and the proposed land use element of the general plan; and

(iii) for cities, an estimate of the need for the development of additional moderate income housing within the city, and a plan to provide a realistic opportunity to meet estimated needs for additional moderate income housing if long-term projections for land use and development occur.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that cities should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

- (A) to meet the needs of people desiring to live there; and
- (B) to allow persons with moderate incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) may include an analysis of why the recommended means, techniques, or combination of means and techniques provide a realistic opportunity for the development of moderate income housing within the planning horizon, which means or techniques may include a recommendation to:

- (A) rezone for densities necessary to assure the production of moderate income housing;
- (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;
- (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider general fund subsidies to waive construction related fees that are otherwise generally imposed by the city;

(E) consider utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(F) consider utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and

(G) consider utilization of affordable housing programs administered by the Department of Community and Culture.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation; and

- (ii) the diminution or elimination of blight; and
- (iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;
- (d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;
- (e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;
- (f) provisions addressing any of the matters listed in Subsection **10-9a-401(2)**; and
- (g) any other element the municipality considers appropriate.

**10-9a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.**

- (3) (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.
  - (b) The planning commission shall provide notice of the public hearing, as required by Section **10-9a-204**.
  - (c) After the public hearing, the planning commission may modify the proposed general plan or amendment.
- (2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) The legislative body may make any revisions to the proposed general plan or amendment that it considers appropriate.

(4) (a) The municipal legislative body may adopt or reject the proposed general plan or amendment either as proposed by the planning commission or after making any revision that the municipal legislative body considers appropriate.

(b) If the municipal legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for its consideration.

(5) The legislative body shall adopt:

(a) a land use element as provided in Subsection **10-9a-403(2)(a)(i)**;

(b) a transportation and traffic circulation element as provided in Subsection **10-9a-403(2)(a)(ii)**; and

(c) for all cities, after considering the factors included in Subsection **10-9a-403(2)(b)(ii)**, a plan to provide a realistic opportunity to meet estimated needs for additional moderate income housing if long-term projections for land use and development occur.

#### **10-9a-405. Effect of general plan.**

Except as provided in Section **10-9a-406**, the general plan is an advisory guide for land use decisions, the impact of which shall be determined by ordinance.

#### **10-9a-406. Public uses to conform to general plan.**

After the legislative body has adopted a general plan, no street, park, or other public way, ground, place, or space, no publicly owned building or structure, and no public utility, whether publicly or privately owned, may be constructed or authorized until and unless it conforms to the current general plan.

#### **10-9a-407. Effect of official maps.**

- (1) Municipalities may adopt an official map.
- (2) (a) An official map does not:
  - (i) require a landowner to dedicate and construct a street as a condition of development approval, except under circumstances provided in Subsection (2)(b)(iii); or
  - (ii) require a municipality to immediately acquire property it has designated for eventual use as a public street.
- (b) This section does not prohibit a municipality from:
  - (i) recommending that an applicant consider and accommodate the location of the proposed streets in the planning of a development proposal in a manner that is consistent with Section **10-9a-508**;
  - (ii) acquiring the property through purchase, gift, voluntary dedication, or eminent domain; or
  - (iii) requiring the dedication and improvement of a street if the street is found necessary by the municipality because of a proposed development and if the dedication and improvement are consistent with Section **10-9a-508**.

**10-9a-408. Biennial review of moderate income housing element of general plan.**

- (1) The legislative body of each city shall biennially:
  - (a) review the moderate income housing plan element of its general plan and its implementation; and
  - (b) prepare a report setting forth the findings of the review.
- (2) Each report under Subsection (1) shall include a description of:
  - (a) efforts made by the city to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;

(b) actions taken by the city to encourage preservation of existing moderate income housing and development of new moderate income housing;

(c) progress made within the city to provide moderate income housing, as measured by permits issued for new units of moderate income housing; and

(d) efforts made by the city to coordinate moderate income housing plans and actions with neighboring municipalities.

(3) The legislative body of each city shall send a copy of the report under Subsection (1) to the Department of Community and Culture and the association of governments in which the city is located.

(4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection **10-9a-404(5)(c)**, a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

**10-9a-501. Authority to enact land use ordinances and zoning map.**

The legislative body may enact land use ordinances and a zoning map consistent with the purposes set forth in this chapter.

**10-9a-502. Preparation and adoption of land use ordinance or zoning map.**

(1) The planning commission shall:

(a) provide notice as required by Subsection **10-9a-205(1)(a)**;

(b) hold a public hearing on a proposed land use ordinance or zoning map; and

(c) prepare and recommend to the legislative body a proposed land use ordinance or ordinances and zoning map that represent the planning commission's recommendation for regulating the use and development of land within all or any part of the area of the municipality.

(2) The municipal legislative body shall consider each proposed land use ordinance and zoning map recommended to it by the planning commission, and, after providing notice as required by Subsection **10-9a-205**(1)(b) and holding a public meeting, the legislative body may adopt or reject the ordinance or map either as proposed by the planning commission or after making any revision the municipal legislative body considers appropriate.

**10-9a-503. Land use ordinance or zoning map amendments.**

(1) The legislative body may amend:(a) the number, shape, boundaries, or area of any zoning district;(b) any regulation of or within the zoning district; or(c) any other provision of a land use ordinance.(2) The legislative body may not make any amendment authorized by this subsection unless the amendment was proposed by the planning commission or was first submitted to the planning commission for its recommendation.(3) The legislative body shall comply with the procedure specified in Section **10-9a-502** in preparing and adopting an amendment to a land use ordinance or a zoning map.

**10-9a-504. Temporary land use regulations.**(1) (a) A municipal legislative body may, without prior consideration of or recommendation from the planning commission, enact an ordinance establishing a temporary land use regulation for any part or all of the area within the municipality if:(i) the legislative body makes a finding of compelling, countervailing public interest; or(ii) the area is unregulated.(b) A temporary land use regulation under Subsection (1)(a) may prohibit or regulate the erection, construction, reconstruction, or alteration of any building or structure or any subdivision approval.(c) A temporary land use regulation under Subsection (1)(a) may not impose an impact fee or other financial requirement on building or development.(2) The municipal legislative body shall establish a period of limited effect for the ordinance not to exceed six months.(3) (a) A municipal legislative body may, without prior planning commission consideration or recommendation, enact an ordinance establishing a temporary land use regulation prohibiting construction, subdivision approval, and other development activities within an area that is the subject of an Environmental Impact Statement or a Major Investment Study examining the area as a proposed highway or transportation corridor.(b) A regulation under Subsection (3)(a):(i) may not exceed six months in duration;(ii) may be renewed, if requested by the Transportation Commission created under Section **72-1-301**, for up to two additional six-month periods by ordinance enacted before the expiration of the previous regulation; and(iii) notwithstanding Subsections (3)(b)(i) and (ii), is effective only as long as the Environmental Impact Statement or Major Investment Study is in progress.

**10-9a-505. Zoning districts.**(1) (a) The legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry out the purposes of this chapter.(b) Within those zoning districts, the legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land.(2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each zoning district, but the regulations in one zone may differ from those in other zones.(3) (a) There is no minimum area or diversity of ownership requirement for a zone designation.(b) Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or of the invalidity of a municipal decision.

**10-9a-506. Regulating annexed territory.**(1) The legislative body of each municipality shall assign a land use zone or a variety thereof to territory annexed to the municipality at the time the territory is annexed.(2) If the legislative body fails to assign a land use zone at the time the territory is annexed, all land uses within the annexed territory shall be compatible with surrounding uses within the municipality.

**10-9a-507. Conditional uses.**(1) A land use ordinance may include conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.(2) (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.(b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

**10-9a-508. Exactions.**A municipality may impose an exaction or exactions on development proposed in a land use application if:(1) an essential link exists between a legitimate governmental interest and each exaction; and(2) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

**10-9a-509. When a land use applicant is entitled to approval -- Exception -- Municipality required to comply with land use ordinances.**(1) (a) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the municipality's land use maps, zoning map, and applicable land use ordinance in effect when a complete application is submitted and all fees have been paid, unless:(i) the land use authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the

application; or(ii) in the manner provided by local ordinance and before the application is submitted, the municipality has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application as submitted.(b) The municipality shall process an application without regard to proceedings initiated to amend the municipality's ordinances if:(i) 180 days have passed since the proceedings were initiated; and(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.(c) An application for a land use approval is considered submitted and complete when the application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.(d) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(e) A municipality may not impose on a holder of an issued land use permit a requirement that is not expressed:

(i) in the land use permit or in documents on which the land use permit is based; or

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

(f) A municipality may not withhold issuance of a certificate of occupancy because of an applicant's failure to comply with a requirement that is not expressed:

(iii) in the building permit or in documents on which the building permit is based; or

(iv) in this chapter or the municipality's ordinances.(2) A municipality is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances.

(3) Each municipality shall process and render a decision on each land use application with reasonable diligence.

**10-9a-510. Limit on fees for review and approving building plans.**(1) A municipality may not impose or collect a fee for reviewing or approving the plans for a commercial or residential building that exceeds the lesser of:(a) the actual cost of performing the plan review; and(b) 65% of the amount the municipality charges for a building permit fee for that building.(2) Subject to Subsection (1), a municipality may impose and collect only a nominal fee for reviewing and approving identical plans.

**10-9a-511. Nonconforming uses and noncomplying structures.**(1) (a) Except as provided in this section, a nonconforming use or noncomplying structure may be continued by the present or a future property owner.(b) A nonconforming use may be extended through the same building,

provided no structural alteration of the building is proposed or made for the purpose of the extension.(c) For purposes of this Subsection (1), the addition of a solar energy device to a building is not a structural alteration.(2) The legislative body may provide for:(a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance;(b) the termination of all nonconforming uses, except billboards, by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and(c) the termination of a nonconforming use due to its abandonment.(3) (a) A municipality may not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.(b) A municipality may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:(i) the structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after written notice to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or(ii) the property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.(4) (a) Unless the municipality establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use.(b) Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.(c) Abandonment may be presumed to have occurred if:(i) a majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the municipality regarding an extension of the nonconforming use;(ii) the use has been discontinued for a minimum of one year; or(iii) the primary structure associated with the nonconforming use remains vacant for a period of one year.(d) The property owner may rebut the presumption of abandonment under Subsection (4)(c), and shall have the burden of establishing that any claimed abandonment under Subsection (4)(c) has not in fact occurred.(5) A municipality may terminate the nonconforming status of a school district or charter school use or structure when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period established by ordinance.

**10-9a-512. Termination of a billboard and associated rights.**(1) A municipality may only require termination of a billboard and associated property rights through:(a) gift;(b) purchase;(c)

agreement;(d) exchange; or(e) eminent domain.(2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent of the billboard owner.

**10-9a-513. Municipality's acquisition of billboard by eminent domain -- Removal without providing compensation -- Limit on allowing nonconforming billboards to be rebuilt.**(1) (a) A municipality is considered to have initiated the acquisition of a billboard structure by eminent domain if the municipality prevents a billboard owner from:(i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged by casualty, an act of God, or vandalism; or(ii) except as provided in Subsection (1)(b), relocating or rebuilding a billboard structure, or taking other measures, to correct a mistake in the placement or erection of a billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit.(b) A municipality's denial of a billboard owner's request to relocate or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the placement or erection of a billboard does not constitute the initiation of acquisition by eminent domain under Subsection (1)(a) if the mistake in placement or erection of the billboard is determined by clear and convincing evidence to have resulted from an intentionally false or misleading statement:(i) by the billboard applicant in the application; and(ii) regarding the placement or erection of the billboard.(2) Notwithstanding Subsection (1) and Section **10-9a-512**, a municipality may remove a billboard without providing compensation if:(a) the municipality determines:(i) by clear and convincing evidence that the applicant for a permit intentionally made a false or misleading statement in the applicant's application regarding the placement or erection of the billboard; or(ii) by substantial evidence that the billboard:(A) is structurally unsafe;(B) is in an unreasonable state of repair; or(C) has been abandoned for at least 12 months;(b) the municipality notifies the owner in writing that the owner's billboard meets one or more of the conditions listed in Subsections (2)(a)(i) and (ii);(c) the owner fails to remedy the condition or conditions within:(i) except as provided in Subsection (2)(c)(ii), 90 days following the billboard owner's receipt of written notice under Subsection (2)(b); or(ii) if the condition forming the basis of the municipality's intention to remove the billboard is that it is structurally unsafe, ten business days, or a longer period if necessary because of a natural disaster, following the billboard owner's receipt of written notice under Subsection (2)(b); and(d) following the expiration of the applicable period under Subsection (2)(c) and after providing the owner with reasonable notice of proceedings and an opportunity for a hearing, the municipality finds:(i) by clear and convincing evidence, that the applicant for a permit intentionally made a false or misleading statement in the application regarding the placement or erection of the billboard; or(ii) by substantial evidence that the billboard is structurally unsafe, is in an unreasonable state of repair, or has been abandoned for at least 12 months.

(3) A municipality may not allow a nonconforming billboard to be rebuilt or replaced by anyone other than its owner or the owner acting through its contractors.(4) A permit issued, extended, or renewed by a municipality for a billboard remains valid for a period of 180 days after a required state permit is issued for the billboard if:(a) the billboard requires a state permit; and(b) an application for the state permit is filed within 30 days after the municipality issues, extends, or renews a permit for the billboard.

**10-9a-514. Manufactured homes.**(1) For purposes of this section, a manufactured home is the same as defined in Section **58-56-3**, except that the manufactured home must be attached to a permanent foundation in accordance with plans providing for vertical loads, uplift, and lateral forces and frost protection in compliance with the applicable building code. All appendages, including carports, garages, storage buildings, additions, or alterations must be built in compliance with the applicable building code.(2) A manufactured home may not be excluded from any land use zone or area in which a single-family residence would be permitted, provided the manufactured home complies with all local land use ordinances, building codes, and any restrictive covenants, applicable to a single family residence within that zone or area.(3) A municipality may not:(a) adopt or enforce an ordinance or regulation that treats a proposed development that includes manufactured homes differently than one that does not include manufactured homes; or(b) reject a development plan based on the fact that the development is expected to contain manufactured homes.

**10-9a-515. Regulation of amateur radio antennas.**(1) A municipality may not enact or enforce an ordinance that does not comply with the ruling of the Federal Communications Commission in "Amateur Radio Preemption, 101 FCC 2nd 952 (1985)" or a regulation related to amateur radio service adopted under 47 C.F.R. Part 97.(2) If a municipality adopts an ordinance involving the placement, screening, or height of an amateur radio antenna based on health, safety, or aesthetic conditions, the ordinance shall:(a) reasonably accommodate amateur radio communications; and(b) represent the minimal practicable regulation to accomplish the municipality's purpose.

**10-9a-516. Residential facilities for elderly persons.**(1) A residential facility for elderly persons may not operate as a business.(2) A residential facility for elderly persons shall:(a) be owned by one of the residents or by an immediate family member of one of the residents or be a facility for which the title has been placed in trust for a resident;(b) be consistent with any existing, applicable land use ordinance affecting the desired location; and(c) be occupied on a 24-hour-per-day basis by eight or fewer elderly persons in a family-type arrangement.(3) A

residential facility for elderly persons may not be considered a business because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility.

**10-9a-517. Municipal ordinances governing elderly residential facilities.**(1) Each municipality shall adopt ordinances that establish that a residential facility for elderly persons is a permitted use in any area where residential dwellings are allowed, except an area zoned to permit exclusively single-family dwellings.(2) The ordinances shall establish a permit process that may require only that:(a) the facility meet each building, safety, land use, and health ordinance applicable to similar dwellings;(b) adequate off-street parking space be provided;(c) the facility be capable of use as a residential facility for elderly persons without structural or landscaping alterations that would change the structure's residential character;(d) residential facilities for elderly persons be reasonably dispersed throughout the municipality;(e) no person being treated for alcoholism or drug abuse be placed in a residential facility for elderly persons; and(f) placement in a residential facility for elderly persons be on a strictly voluntary basis and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility.

**10-9a-518. Municipal approval of elderly residential facilities.**(1) Upon application for a permit to establish a residential facility for elderly persons in any area where residential dwellings are allowed, except an area zoned to permit exclusively single-family dwellings, the municipality shall grant the requested permit to the facility if the facility is proposed outside of a zone regulated exclusively for single-family homes and shall otherwise comply with Section **10-9a-519** if the facility is proposed in a land use zone regulated exclusively for single-family homes.(2) The use granted and permitted by this section is nontransferable and terminates if the structure is devoted to a use other than a residential facility for elderly persons or if the structure fails to comply with the ordinances adopted under this section.(3) If a municipality has not adopted ordinances under this section at the time an application for a permit to establish a residential facility for elderly persons is made, the municipality shall grant the permit if it is established that the criteria set forth in this part have been met by the facility.

**10-9a-519. Elderly residential facilities in areas zoned exclusively for single-family dwellings.**(1) For purposes of this section:(a) no person who is being treated for alcoholism or drug abuse may be placed in a residential facility for elderly persons; and(b) placement in a residential facility for elderly persons shall be on a strictly voluntary basis and may not be a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution.(2) Subject to the granting of a conditional use permit, a residential facility for elderly persons shall be allowed in any zone that is regulated to permit exclusively single-family dwelling use, if that

facility:(a) conforms to all applicable health, safety, land use, and building codes;(b) is capable of use as a residential facility for elderly persons without structural or landscaping alterations that would change the structure's residential character; and(c) conforms to the municipality's criteria, adopted by ordinance, governing the location of residential facilities for elderly persons in areas zoned to permit exclusively single-family dwellings.(3) A municipality may, by ordinance, provide that no residential facility for elderly persons be established within three-quarters mile of another existing residential facility for elderly persons or residential facility for persons with a disability.(4) The use granted and permitted by this section is nontransferable and terminates if the structure is devoted to a use other than as a residential facility for elderly persons or if the structure fails to comply with applicable health, safety, and building codes.(5) (a) Municipal ordinances shall prohibit discrimination against elderly persons and against residential facilities for elderly persons.(b) The decision of a municipality regarding the application for a permit by a residential facility for elderly persons must be based on legitimate land use criteria and may not be based on the age of the facility's residents.(6) The requirements of this section that a residential facility for elderly persons obtain a conditional use permit or other permit do not apply if the facility meets the requirements of existing land use ordinances that allow a specified number of unrelated persons to live together.

**10-9a-520. Residences for persons with a disability.**(1) Each municipality shall adopt an ordinance for residential facilities for persons with a disability.(2) Each ordinance under Subsection (1) shall:(a) comply with Title 57, Chapter 21, Utah Fair Housing Act, and the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.; and(b) to the extent required by federal law, provide that a residential facility for persons with a disability is a permitted use in any zone where similar residential dwellings that are not residential facilities for persons with a disability are allowed.(3) Subject to Subsection (2), an ordinance under Subsection (1) may:(a) require residential facilities for persons with a disability:(i) to be reasonably dispersed throughout the municipality;(ii) to be limited by number of occupants;(iii) for residential facilities for persons with a disability that are substance abuse facilities and are located within 500 feet of a school, to provide, in accordance with rules established by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities:(A) a security plan satisfactory to local law enforcement authorities;(B) 24-hour supervision for residents; and(C) other 24-hour security measures; and(iv) to obtain permits that verify compliance with the same building, safety, and health regulations as are applicable in the same zone to similar uses that are not residential facilities for persons with a disability; and(b) provide that a residential facility for persons with a disability that would likely create a fundamental change in the character of a residential neighborhood may be excluded from a

zone.(4) The responsibility to license programs or entities that operate facilities for persons with a disability, as well as to require and monitor the provision of adequate services to persons residing in those facilities, shall rest with:(a) for programs or entities licensed or certified by the Department of Human Services, the Department of Human Services as provided in Title 62A, Chapter 5, Services to People with Disabilities; and(b) for programs or entities licensed or certified by the Department of Health, the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

**10-9a-601. Enactment of subdivision ordinance.**(1) The legislative body of a municipality may enact ordinances requiring that a subdivision plat comply with the provisions of the ordinance and this part before:(a) it may be filed or recorded in the county recorder's office; and(b) lots may be sold.(2) If the legislative body fails to enact a subdivision ordinance, the municipality may regulate subdivisions only to the extent provided in this part.

**10-9a-602. Planning commission preparation and recommendation of subdivision ordinance -- Adoption or rejection by legislative body.**(1) The planning commission shall:(a) prepare and recommend a proposed ordinance to the legislative body that regulates the subdivision of land;(b) prepare and recommend or consider and recommend a proposed ordinance that amends the regulation of the subdivision of the land in the municipality;(c) provide notice consistent with Section **10-9a-205**; and(d) hold a public hearing on the proposed ordinance before making its final recommendation to the legislative body.(2) The municipal legislative body may adopt or reject the ordinance either as proposed by the planning commission or after making any revision the legislative body considers appropriate.

**10-9a-603. Plat required when land is subdivided -- Approval of plat -- Recording plat.**(1) Unless exempt under Section **10-9a-605** or excluded from the definition of subdivision under Subsection **10-9a-103(35)**, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:(a) a name or designation of the subdivision that is distinct from any plat already recorded in the county recorder's office;(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and(d) every existing right-of-way and easement grant of record for underground facilities, as defined in Section **54-8a-2**, and for other

utility facilities.(2) Subject to Subsections (3), (4), and (5), if the plat conforms to the municipality's ordinances and this part and has been approved by the culinary water authority and the sanitary sewer authority, the municipality shall approve the plat.(3) The municipality may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.(4) (a) The owner of the land shall acknowledge the plat before an officer authorized by law to take the acknowledgement of conveyances of real estate and shall obtain the signature of each individual designated by the municipality.(b) The surveyor making the plat shall certify that the surveyor:(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;(ii) has completed a survey of the property described on the plat in accordance with Section **17-23-17** and has verified all measurements; and(iii) has placed monuments as represented on the plat.(c) As applicable, the owner or operator of the underground and utility facilities shall approve the:(i) boundary, course, dimensions, and intended use of the right-of-way and easement grants of record;(ii) location of existing underground and utility facilities; and(iii) conditions or restrictions governing the location of the facilities within the right-of-way, and easement grants of records, and utility facilities within the subdivision.(5) (a) After the plat has been acknowledged, certified, and approved, the owner of the land shall, within the time period designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.(b) An owner's failure to record a plat within the time period designated by ordinance renders the plat voidable.

**10-9a-604. Subdivision plat approval procedure -- Effect of not complying.**(1)(a) A person may not submit a subdivision plat to the county recorder's office for recording unless: (i) except as provided in Subsection (1)(b), a recommendation has been received from the planning commission;(ii) the plat has been approved by:(A) the land use authority of the municipality in which the land described in the plat is located; and(B) other officers that the municipality designates in its ordinance; and(iii) all approvals are entered in writing on the plat by the designated officers. (b) Subsection (1)(a) does not apply if the planning commission is the land use authority(2) A subdivision plat recorded without the signatures required under this section is void.(3) A transfer of land pursuant to a void plat is voidable.

**10-9a-605. Exemptions from plat requirement.**(1) Notwithstanding Sections **10-9a-603** and **10-9a-604**, the land use authority may approve a subdivision of ten lots or less without a plat, by certifying in writing that:(a) the municipality has provided notice as required by ordinance;

and(b) the proposed subdivision:(i) is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes;(ii) has been approved by the culinary water authority and the sanitary sewer authority;(iii) is located in a zoned area; and(iv) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.(2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural land is exempt from the plat requirements of Section **10-9a-603** if the lot or parcel:(i) qualifies as land in agricultural use under Section **59-2-502**;(ii) meets the minimum size requirement of applicable land use ordinances; and(iii) is not used and will not be used for any nonagricultural purpose.(b) The boundaries of each lot or parcel exempted under Subsection (1) shall be graphically illustrated on a record of survey map that, after receiving the same approvals as are required for a plat under Section **10-9a-604**, shall be recorded with the county recorder.(c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the municipality may require the lot or parcel to comply with the requirements of Section **10-9a-603**.(3) (a) Documents recorded in the county recorder's office that divide property by a metes and bounds description do not create an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1) is attached to the document.(b) The absence of the certificate or written approval required by Subsection (1) does not affect the validity of a recorded document.(c) A document which does not meet the requirements of Subsection (1) may be corrected by the recording of an affidavit to which the required certificate or written approval is attached in accordance with Section **57-3-106**.

**10-9a-606. Common area parcels on a plat -- No separate ownership -- Ownership interest equally divided among other parcels on plat and included in description of other parcels.**(1) A parcel designated as common area on a plat recorded in compliance with this part may not be separately owned or conveyed independent of the other parcels created by the plat.(2) The ownership interest in a parcel described in Subsection (1) shall:(a) for purposes of assessment, be divided equally among all parcels created by the plat, unless a different division of interest for assessment purposes is indicated on the plat or an accompanying recorded document; and(b) be considered to be included in the description of each instrument describing a parcel on the plat by its identifying plat number, even if the common area interest is not explicitly stated in the instrument.

**10-9a-607. Dedication of streets and other public places.**(1) Plats, when made, acknowledged, and recorded according to the procedures specified in this part, operate as a dedication of all

streets and other public places, and vest the fee of those parcels of land in the municipality for the public for the uses named or intended in those plats.(2) The dedication established by this section does not impose liability upon the municipality for streets and other public places that are dedicated in this manner but are unimproved.

**10-9a-608. Vacating or changing a subdivision plat.**(1) (a) Subject to Section **10-9a-609.5**, and provided that notice has been given pursuant to local ordinance and Section **10-9a-208**, the land use authority may, with or without a petition, consider and resolve any proposed vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any lot contained in a subdivision plat.(b) If a petition is filed, the land use authority shall hold a public hearing within 45 days after the petition is filed or, if applicable, within 45 days after receipt of the planning commission's recommendation under Subsection (2). if:(i) any owner within the plat notifies the municipality of their objection in writing within ten days of mailed notification; or(ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.(2) (a)(i) The planning commission shall consider and provide a recommendation for a proposed vacation, alteration, or amendment under Subsection (1)(a) before the land use authority takes final action.(ii) The planning commission shall give its recommendation within 30 days after the proposed vacation, alteration, or amendment is referred to it, or as that time period is extended by agreement with the applicant.  
(b) Subsection (2)(a) does not apply if the planning commission has been designated as the land use authority.  
(3) The public hearing requirement of Subsection (1)(b) does not apply and a land use authority may consider at a public meeting an owner's petition to alter a subdivision plat if:  
(a) the petition seeks to join two or more of the owner's contiguous, residential lots; and  
(b) notice has been given pursuant to local ordinance.  
(4) Each request to vacate or alter a street or alley, contained in a petition to vacate, alter, or amend a subdivision plat, is also subject to Section 10-9a-609.5.(5) Any fee owner, as shown on the last county assessment rolls, of land within the subdivision that has been laid out and platted as provided in this part may, in writing, petition to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or amended as provided in this section.(6) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street or lot contained in a plat shall include:(a) the name and address of all owners of record of the land contained in the entire plat;(b) the name and address of all owners of record of land adjacent to any street that is proposed to be vacated, altered, or amended; and(c) the signature of each of these owners who consents to the petition.(7) (a) The owners of record of adjacent parcels that are described by either a metes and bounds description or a recorded plat may exchange title to portions of those

parcels if the exchange of title is approved by the land use authority in accordance with Subsection (7)(b). (b) The land use authority shall approve an exchange of title under Subsection (7)(a) if the exchange of title will not result in a violation of any land use ordinance. (c) If an exchange of title is approved under Subsection (7)(b):

(i) a notice of approval shall be recorded in the office of the county recorder which: (A) is executed by each owner included in the exchange and by the land use authority; (B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and (C) recites the descriptions of both the original parcels and the parcels created by the exchange of title; and (ii) a conveyance of title reflecting the approved change shall be recorded in the office of the county recorder. (d) A notice of approval recorded under this Subsection (7) does not act as a conveyance of title to real property and is not required for the recording of a document purporting to convey title to real property. (8) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (8)(c). (b) The surveyor preparing the amended plat shall certify that the surveyor: (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; (ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and (iii) has placed monuments as represented on the plat. (c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office. (d) Except as provided in Subsection (8)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is voidable.

**10-9a-609. Land use authority consideration of petition to vacate or change a plat -- Criteria for vacating or changing a plat -- Recording the vacation or change.** (1) If the land use authority is satisfied that the public interest will not be materially injured by the proposed vacation, alteration, or amendment, and that there is good cause for the vacation, alteration, or amendment, the land use authority may vacate, alter, or amend the plat or any portion of the plat, subject to Section 10-9a-609.5. (2) The land use authority may approve the vacation, alteration, or amendment by signing an amended plat showing the vacation, alteration, or amendment. (3) The land use authority shall ensure that the amended plat showing the vacation, alteration, or amendment is recorded in the office of the county recorder in which the land is located. (4) If an entire subdivision is vacated, the legislative body shall ensure that a legislative body resolution containing a legal description of the entire vacated subdivision is recorded in the county recorder's office.

**10-9a-609.5. Vacating or altering a street or alley.**

(1) (a) If a petition is submitted containing a request to vacate or alter any portion of a street or alley within a subdivision:

(i) the land use authority shall, after providing notice pursuant to local ordinance and Section 10-9a-208, make a recommendation to the chief executive officer concerning the request to vacate or alter; and

(ii) the chief executive officer shall hold a public hearing in accordance with Section 10-9a-208 and determine whether good cause exists for the vacation or alteration.

(b) Subsection (1)(a)(i) does not apply if the chief executive officer has been designated as a land use authority.

(2) If the chief executive officer vacates or alters any portion of a street or alley, the chief executive officer shall ensure that the plat is recorded in the office of the recorder of the county in which the land is located.

(3) The action of the chief executive officer vacating or narrowing a street or alley that has been dedicated to public use shall operate to the extent to which it is vacated or narrowed, upon the effective date of the vacating plat, as a revocation of the acceptance thereof, and the relinquishment of the city's fee therein, but the right-of-way and easements therein, if any, of any lot owner and the franchise rights of any public utility may not be impaired thereby.

**10-9a-610. Restrictions for solar and other energy devices.** The land use authority may refuse to approve or renew any plat, subdivision plan, or dedication of any street or other ground, if deed restrictions, covenants, or similar binding agreements running with the land for the lots or parcels covered by the plat or subdivision prohibit or have the effect of prohibiting reasonably sited and designed solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on lots or parcels covered by the plat or subdivision.

**10-9a-611. Prohibited acts.**(1) (a) An owner of any land located in a subdivision who transfers or sells any land in that subdivision before a plat of the subdivision has been approved and recorded violates this part for each lot or parcel transferred or sold.(b) The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring does not exempt the transaction from being a violation of Subsection (1)(a) or from the penalties or remedies provided in this chapter.(c) Notwithstanding any other provision of this Subsection (1), the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this part:(i) does not affect the validity of the

instrument or other document; and(ii) does not affect whether the property that is the subject of the instrument or other document complies with applicable municipal ordinances on land use and development.(2) (a) A municipality may bring an action against an owner to require the property to conform to the provisions of this part or an ordinance enacted under the authority of this part.(b) An action under this Subsection (2) may include an injunction, abatement, merger of title, or any other appropriate action or proceeding to prevent, enjoin, or abate the violation.(c) A municipality need only establish the violation to obtain the injunction.

**10-9a-701. Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.**(1) Each municipality adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities to hear and decide:(a) requests for variances from the terms of the land use ordinances; and(b) appeals from decisions applying the land use ordinances.(2) As a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge a land use authority's decision, in accordance with local ordinance.(3) An appeal authority:(a) shall:(i) act in a quasi-judicial manner; and(ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances; and(b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.(4) By ordinance, a municipality may:(a) designate a separate appeal authority to hear requests for variances than the appeal authority it designates to hear appeals;(b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;(c) require an adversely affected party to present to an appeal authority every theory of relief that it can raise in district court;(d) not require an adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of the adversely affected party's duty to exhaust administrative remedies; and(e) provide that specified types of land use decisions may be appealed directly to the district court.(5) If the municipality establishes or, prior to the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:(a) notify each of its members of any meeting or hearing of the board, body, or panel;(b) provide each of its members with the same information and access to municipal resources as any other member;(c) convene only if a quorum of its members is present; and(d) act only upon the vote of a majority of its convened members.

**10-9a-702. Variances.**(1) Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.(2) (a) The appeal authority may grant a variance only

if:(i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;(ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;(iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;(iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and(v) the spirit of the land use ordinance is observed and substantial justice done.(b) (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:(A) is located on or associated with the property for which the variance is sought; and(B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.(ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.(c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:(i) relate to the hardship complained of; and(ii) deprive the property of privileges granted to other properties in the same zone.(3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.(4) Variances run with the land.(5) The appeal authority may not grant a use variance.(6) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:(a) mitigate any harmful affects of the variance; or(b) serve the purpose of the standard or requirement that is waived or modified.

**10-9a-703. Appealing a land use authority's decision.** The applicant, a board or officer of the municipality, or any person adversely affected by the land use authority's decision administering or interpreting a land use ordinance may, within the time period provided by ordinance, appeal that decision to the appeal authority by alleging that there is error in any order, requirement, decision, or determination made by the land use authority in the administration or interpretation of the land use ordinance.

**10-9a-704. Time to appeal.** (1) The municipality shall enact an ordinance establishing a reasonable time of not less than ten days to appeal to an appeal authority a written decision issued by a land use authority.(2) In the absence of an ordinance establishing a reasonable time to appeal, an adversely affected party shall have ten calendar days to appeal to an appeal authority a written decision issued by a land use authority.

**10-9a-705. Burden of proof.** The appellant has the burden of proving that the land use authority erred.

**10-9a-706. Due process.**(1) Each appeal authority shall conduct each appeal and variance request as provided in local ordinance.(2) Each appeal authority shall respect the due process rights of each of the participants.

**10-9a-707. Standard of review for appeals.**(1) A municipality may, by ordinance, designate the standard of review for appeals of land use authority decisions.(2) If the municipality fails to designate a standard of review of factual matters, the appeal authority shall review the matter de novo.(3) The appeal authority shall determine the correctness of a decision of the land use authority in its interpretation and application of a land use ordinance.(4) Only those decisions in which a land use authority has applied a land use ordinance to a particular application, person, or parcel may be appealed to an appeal authority.

**10-9a-708. Final decision.**(1) A decision of an appeal authority takes effect on the date when the appeal authority issues a written decision, or as otherwise provided by ordinance.(2) A written decision, or other event as provided by ordinance, constitutes a final decision under Subsection

**10-9a-801(2)(a)** or a final action under Subsection **10-9a-801(4)**.

**10-9a-801. No district court review until administrative remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.**(1) No person may challenge in district court a municipality's land use decision made under this chapter, or under a regulation made under authority of this chapter, until that person has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.(2) (a) Any person adversely affected by a final decision made in the exercise of or in violation of the provisions of this chapter may file a petition for review of the decision with the district court within 30 days after the local land use decision is final.(b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section **63-34-13** until 30 days after:(A) the arbitrator issues a final award; or(B) the property rights ombudsman issues a written statement under Subsection **63-34-13(4)(b)** declining to arbitrate or to appoint an arbitrator.(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.(iii) A request for arbitration filed with the

property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.(3) (a) The courts shall:(i) presume that a decision, ordinance, or regulation made under the authority of this chapter is valid; and(ii) determine only whether or not the decision, ordinance, or regulation is arbitrary, capricious, or illegal.(b) A decision, ordinance, or regulation involving the exercise of legislative discretion is valid if the decision, ordinance, or regulation is reasonably debatable and not illegal.(c) A final decision of a land use authority or an appeal authority is valid if the decision is supported by substantial evidence in the record and is not arbitrary, capricious, or illegal.(d) A determination of illegality requires a determination that the decision, ordinance, or regulation violates a law, statute, or ordinance in effect at the time the decision was made or the ordinance or regulation adopted.(4) The provisions of Subsection (2)(a) apply from the date on which the municipality takes final action on a land use application for any adversely affected third party, if the municipality conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending decision.(5) If the municipality has complied with Section **10-9a-205**, a challenge to the enactment of a land use ordinance or general plan may not be filed with the district court more than 30 days after the enactment.(6) The petition is barred unless it is filed within 30 days after the appeal authority's decision is final.(7) (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of its proceedings, including its minutes, findings, orders, and, if available, a true and correct transcript of its proceedings.

**10-9a-802. Enforcement.**(1) (a) A municipality or any adversely affected owner of real estate within the municipality in which violations of this chapter or ordinances enacted under the authority of this chapter occur or are about to occur may, in addition to other remedies provided by law, institute:(i) injunctions, mandamus, abatement, or any other appropriate actions; or(ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.(b) A municipality need only establish the violation to obtain the injunction.(2) (a) The municipality may enforce the ordinance by withholding building permits.(b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within a municipality without approval of a building permit.(c) The municipality may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

**10-9a-803. Penalties.**(1) The municipality may, by ordinance, establish civil penalties for violations of any of the provisions of this chapter or of any ordinances adopted under the authority of this chapter.(2) Violation of any of the provisions of this chapter or of any ordinances adopted under the authority of this chapter is punishable as a class C misdemeanor

upon conviction either:(a) as a class C misdemeanor; or(b) by imposing the appropriate civil penalty adopted under the authority of this section.