

Part 6 Subdivisions

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.

Renumbered and Amended by Chapter 254, 2005 General Session

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.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-603 Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.

- (1) Unless exempt under Section 10-9a-605 or excluded from the definition of subdivision under Section 10-9a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:
 - (a) a subdivision name that is distinct from any subdivision name on a plat 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 an underground facility, as defined in Section 54-8a-2, and for any other utility facility.
- (2)

- (a) 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, the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department and the municipality consider the local health department's approval necessary, the municipality shall approve the plat.
- (b) Municipalities are encouraged to receive a recommendation from the fire authority before approving a plat.
- (c) A municipality may not require that a plat be approved or signed by a person or entity who:
 - (i) is not an employee or agent of the municipality;
 - (ii) does not:
 - (A) have a legal or equitable interest in the property within the proposed subdivision;
 - (B) provide a utility or other service directly to a lot within the subdivision;
 - (C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or
 - (D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision; or
 - (iii) is not entitled to notice of the subdivision pursuant to Subsection 10-9a-509(1)(b)(iv) for the purpose of determining the accuracy of the information depicted on 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) A plat may not be submitted to a county recorder for recording unless:
 - (i) prior to recordation, each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and
 - (ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as provided by law.
 - (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)
 - (i) To the extent possible, the surveyor shall consult with the owner or operator of an existing or proposed underground facility or utility facility within the proposed subdivision, or a representative designated by the owner or operator, to verify the accuracy of the surveyor's depiction of the:
 - (A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;
 - (B) location of an existing underground facility and utility facility; and
 - (C) physical restrictions governing the location of the underground facility and utility facility within the subdivision.
 - (ii) The cooperation of an owner or operator under Subsection (4)(c)(i):
 - (A) indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location; and

- (B) does not affect a right that the owner or operator has under:
 - (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;
 - (II) a recorded easement or right-of-way;
 - (III) the law applicable to prescriptive rights; or
 - (IV) any other provision of law.

- (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.

Amended by Chapter 327, 2015 General Session

10-9a-604 Subdivision plat approval procedure -- Effect of not complying.

- (1) A person may not submit a subdivision plat to the county recorder's office for recording unless:
 - (a) the person has complied with the requirements of Subsection 10-9a-603(4)(a);
 - (b) the plat has been approved by:
 - (i) the land use authority of the municipality in which the land described in the plat is located; and
 - (ii) other officers that the municipality designates in its ordinance; and
 - (c) all approvals described in Subsection (1)(b) are entered in writing on the plat by the designated officers.
- (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.

Amended by Chapter 381, 2010 General Session

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

- (1) A land use authority shall establish objective inspection standards for acceptance of a required landscaping or infrastructure improvement.
- (2)
 - (a) A land use authority shall require an applicant to complete a required landscaping or infrastructure improvement prior to any plat recordation or development activity.
 - (b) Subsection (2)(a) does not apply if:
 - (i) upon the applicant's request, the land use authority has authorized the applicant to post an improvement completion assurance in a manner that is consistent with local ordinance; and
 - (ii) the land use authority has established a system for the partial release of the improvement completion assurance as portions of required improvements are completed and accepted.
- (3) At any time up to the land use authority's acceptance of a landscaping or infrastructure improvement, and for the duration of each improvement warranty period, the land use authority may require the developer to:
 - (a) execute an improvement warranty for the improvement warranty period; and
 - (b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the municipality, in the amount of up to 10% of the lesser of the:
 - (i) municipal engineer's original estimated cost of completion; or

- (ii) applicant's reasonable proven cost of completion.
- (4) The provisions of this section may not be interpreted to supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Amended by Chapter 327, 2015 General Session

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 10 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 (2)(a) 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:
 - (i) prohibit the county recorder from recording a document; or
 - (ii) 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.

Amended by Chapter 381, 2010 General Session

10-9a-606 Common or community 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) A parcel designated as a common or community area on a plat recorded in compliance with this part may not be separately owned or conveyed independent of the other lots, units, or parcels created by the plat unless:
 - (i) the parcel is being acquired by a municipality for a governmental purpose; and
 - (ii) the conveyance is approved by the owners of at least 75% of the lots, units, or parcels on the plat, after the municipality gives its approval.
- (b) A notice of the owner approval described in Subsection (1)(a)(ii) shall be:
 - (i) attached as an exhibit to the document of conveyance; or
 - (ii) recorded concurrently with the conveyance as a separate document.
- (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 or community area interest is not explicitly stated in the instrument.
- (3) A parcel designated as common or community area on a plat before, on, or after May 12, 2015, may be modified in size and location if the modification:
 - (a) is approved as part of a subdivision plat amendment by the local government;
 - (b) is approved by at least 75% of the voting interests in a homeowners association having an interest in the common or community area, if any;
 - (c) is approved by at least 75% of the owners of lots, units, or parcels on the plat if there is no homeowners association having an interest in the common or community area, if any; and
 - (d) does not create a new buildable lot.
- (4) A parcel designated as common or community area on a plat before, on, or after May 12, 2015, may be modified in size without a subdivision plat amendment approval by the local government, if the modification:
 - (a) is a lot line adjustment approved by at least 75% of the voting interests in a homeowners association having an interest in the common or community area, if any;
 - (b) is approved by at least 75% of the owners of lots, units, or parcels on the plat if there is no homeowners association having an interest in the common or community area, if any; and
 - (c) does not create a new buildable lot.

Amended by Chapter 327, 2015 General Session

10-9a-607 Dedication of streets and other public places.

- (1) A plat that is signed, dedicated, and acknowledged by each owner of record, and approved according to the procedures specified in this part, operates, when recorded, as a dedication of all streets and other public places, and vests the fee of those parcels of land in the municipality for the public for the uses named or intended in the plat.
- (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.

Amended by Chapter 381, 2010 General Session

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

- (1)

- (a) A fee owner of land, as shown on the last county assessment roll, in a subdivision that has been laid out and platted as provided in this part may file a written petition with the land use authority to have some or all of the plat vacated or amended.
- (b) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being vacated or amended at least 10 calendar days before the land use authority may approve the vacation or amendment of the plat.
- (c) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:
 - (i) any owner within the plat notifies the municipality of the owner's objection in writing within 10 days of mailed notification; or
 - (ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.
- (2) Unless a local ordinance provides otherwise, the public hearing requirement of Subsection (1)(c) does not apply and a land use authority may consider at a public meeting an owner's petition to vacate or amend a subdivision plat if:
 - (a) the petition seeks to:
 - (i) join two or more of the petitioner fee owner's contiguous lots;
 - (ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;
 - (iii) adjust the lot lines of adjoining lots or parcels if the fee owners of each of the adjoining lots or parcels join in the petition, regardless of whether the lots or parcels are located in the same subdivision;
 - (iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or
 - (v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:
 - (A) owned by the petitioner; or
 - (B) designated as a common area; and
 - (b) notice has been given to adjacent property owners in accordance with any applicable local ordinance.
- (3) Each request to vacate or amend a plat that contains a request to vacate or amend a public street, right-of-way, or easement is also subject to Section 10-9a-609.5.
- (4) Each petition to vacate or amend an entire plat or a portion of a plat shall include:
 - (a) the name and address of each owner of record of the land contained in the entire plat or on that portion of the plat described in the petition; and
 - (b) the signature of each owner described in Subsection (4)(a) who consents to the petition.
- (5)
 - (a) The owners of record of adjacent parcels that are described by either a metes and bounds description or by a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).
 - (b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.
 - (c) If an exchange of title is approved under Subsection (5)(b):
 - (i) a notice of approval shall be recorded in the office of the county recorder which:
 - (A) is executed by each owner included in the exchange and by the land use authority;

- (B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and
 - (C) recites the descriptions of both the original parcels and the parcels created by the exchange of title; and
 - (ii) a document of conveyance shall be recorded in the office of the county recorder.
 - (d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required in order to record a document conveying title to real property.
- (6)
- (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).
 - (b) The surveyor preparing the amended plat shall certify that the surveyor:
 - (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;
 - (ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and
 - (iii) has placed monuments as represented on the plat.
 - (c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office.
 - (d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

Amended by Chapter 136, 2014 General Session

10-9a-609 Land use authority approval of vacation or amendment of plat -- Recording the amended plat.

- (1) The land use authority may approve the vacation or amendment of a plat by signing an amended plat showing the vacation or amendment if the land use authority finds that:
 - (a) there is good cause for the vacation or amendment; and
 - (b) no public street, right-of-way, or easement has been vacated or amended.
- (2)
 - (a) The land use authority shall ensure that the amended plat showing the vacation or amendment is recorded in the office of the county recorder in which the land is located.
 - (b) If the amended plat is approved and recorded in accordance with this section, the recorded plat shall vacate, supersede, and replace any contrary provision in a previously recorded plat of the same land.
- (3)
 - (a) A legislative body may vacate a subdivision or a portion of a subdivision by recording in the county recorder's office an ordinance describing the subdivision or the portion being vacated.
 - (b) The recorded vacating ordinance shall replace a previously recorded plat described in the vacating ordinance.
- (4) An amended plat may not be submitted to the county recorder for recording unless it is:
 - (a) signed by the land use authority; and
 - (b) signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.
- (5) A management committee may sign and dedicate an amended plat as provided in Title 57, Chapter 8, Condominium Ownership Act.

(6) A plat may be corrected as provided in Section 57-3-106.

Amended by Chapter 136, 2014 General Session

10-9a-609.5 Vacating a street, right-of-way, or easement.

- (1) A petition to vacate some or all of a public street, right-of-way, or easement shall include:
- (a) the name and address of each owner of record of land that is:
 - (i) adjacent to the public street, right-of-way, or easement; or
 - (ii) accessed exclusively by or within 300 feet of the public street, right-of-way, or easement;and
 - (b) the signature of each owner under Subsection (1)(a) who consents to the vacation.
- (2) If a petition is submitted containing a request to vacate some or all of a street, right-of-way, or easement, the legislative body shall hold a public hearing in accordance with Section 10-9a-208 and determine whether:
- (a) good cause exists for the vacation; and
 - (b) the public interest or any person will be materially injured by the proposed vacation.
- (3) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street, right-of-way, or easement if the legislative body finds that:
- (a) good cause exists for the vacation; and
 - (b) neither the public interest nor any person will be materially injured by the vacation.
- (4) If the legislative body adopts an ordinance vacating some or all of a public street, right-of-way, or easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:
- (a) a plat reflecting the vacation; or
 - (b) an ordinance described in Subsection (3).
- (5) The action of the legislative body vacating some or all of a street, right-of-way, or easement that has been dedicated to public use:
- (a) operates to the extent to which it is vacated, upon the effective date of the recorded plat, as a revocation of the acceptance of and the relinquishment of the municipality's fee in the vacated street, right-of-way, or easement; and
 - (b) may not be construed to impair:
 - (i) any right-of-way or easement of any lot owner; or
 - (ii) the franchise rights of any public utility.

Amended by Chapter 381, 2010 General Session

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.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-611 Prohibited acts.

- (1)

- (a)
 - (i) 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.
 - (ii) A violation of Subsection (1)(a)(i) is an infraction.
- (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.

Amended by Chapter 303, 2016 General Session