

HB0107S01 compared with HB0107

~~{deleted text}~~ shows text that was in HB0107 but was deleted in HB0107S01.

inserted text shows text that was not in HB0107 but was inserted into HB0107S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Joel Ferry proposes the following substitute bill:

SUBDIVISION PLAT AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel Ferry

Senate Sponsor: ~~{~~ Derrin R. Owens

LONG TITLE

General Description:

This bill amends provisions applicable to the recording of a subdivision plat.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires an owner of land seeking a municipality's or county's approval for the recording of a subdivision plat to~~{~~

~~• } describe certain water conveyance facilities {in} located within the plat {, and~~

~~• notify the owners of certain water conveyance facilities about the proposed subdivision before submitting the plat for approval};~~

- ▶ modifies provisions related to:

- a municipality's or county's notification to the owners of certain water

HB0107S01 compared with HB0107

conveyance facilities regarding a proposed subdivision; and

- the ~~{input}~~ comments provided to a municipality or county regarding a proposed subdivision;
- ▶ requires the surveyor making a subdivision plat to verify certain information regarding water conveyance facilities located within the plat, in addition to underground facilities and utility facilities; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-603, as last amended by Laws of Utah 2020, Chapter 434

10-9a-604, as last amended by Laws of Utah 2020, Chapter 434

17-27a-603, as last amended by Laws of Utah 2020, Chapter 434

17-27a-604, as last amended by Laws of Utah 2020, Chapter 434

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

Section 1. Section **10-9a-603** is amended to read:

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

(1) As used in this section:

(a) (i) "Facility owner" means the same as that term is defined in Section 73-1-15.5.

(ii) "Facility owner" includes a canal owner or associated canal operator contact

described in:

(A) Section 10-9a-211;

(B) Subsection 73-5-7(3); or

(C) Subsection (~~73~~6)(c).

(b) "Local health department" means the same as that term is defined in Section

26A-1-102.

HB0107S01 compared with HB0107

(c) "State engineer's inventory of canals" means the state engineer's inventory of water conveyance systems established in Section ~~72-5-7~~73-5-7.

(d) "Underground facility" means the same as that term is defined in Section 54-8a-2.

(e) "Water conveyance facility" means the same as that term is defined in Section 73-1-15.5.

~~(+)~~ (2) 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 to the municipality in which the land is located 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 recorded easement [~~grant of record for an underground facility, as defined in Section 54-8a-2, and for any other utility facility.~~] located within the plat for:

(i) an underground facility;

(ii) a water conveyance facility; or

(iii) any other utility facility; and

(e) any water conveyance facility located, entirely or partially, within ~~100 feet of~~ the plat that:

(i) is not recorded; and

(ii) of which the owner of the land has actual or constructive knowledge, including from information made available to the owner of the land:

(A) in the state engineer's inventory of canals; or

(B) from a surveyor under Subsection ~~(7)(c).~~

HB0107S01 compared with HB0107

~~(3) Before submitting a subdivision plat to a municipality for approval under this section, the owner of the land shall provide written notice of the proposed subdivision to the facility owner of any water conveyance facility described in Subsection (2)(c).~~

~~[(2)] (4)(6)(c).~~

(2) (3) (a) Subject to Subsections ~~[(3), (5), and (6)]~~ (5)(4), (7)(6), and (8)(7), 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 and the public safety answering point 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; or

(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.

~~[(d) For a subdivision application that includes land located within a notification zone, as determined under Subsection (2)(f), the land use authority shall:]~~

~~[(i) within 20 days after the day on which a complete subdivision application is filed, provide written notice of the application to the canal owner or associated canal operator contact described in:]~~

~~[(A) Section 10-9a-211,]~~

~~[(B) Subsection 73-5-7(2), or]~~

~~[(C) Subsection (5)(c), and]~~

(d) A municipality shall:

HB0107S01 compared with HB0107

(i) within 20 days after the day on which an owner of land submits to the municipality a complete subdivision plat land use application, mail written notice of the proposed subdivision to the facility owner of any water conveyance facility located, entirely or partially, within 100 feet of the subdivision plat, as determined using information made available to the municipality:

(A) from the facility owner under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the facility owner;

(B) in the state engineer's inventory of canals; or

(C) from a surveyor under Subsection ~~(7)6~~(c); and

(ii) ~~[wait to]~~ not approve ~~[or reject]~~ the subdivision ~~[application]~~ plat for at least 20 days after the day on which the ~~[land use authority]~~ municipality mails to each facility owner the notice described in Subsection ~~[(2)]~~ ~~(4)3~~(d)(i), in order to receive ~~[input from the canal owner or associated canal operator, including input]~~ any comments from each facility owner's input; owner regarding:

(A) access to the ~~[canal]~~ water conveyance facility;

(B) maintenance of the ~~[canal]~~ water conveyance facility;

~~[(C) canal protection; and]~~

~~[(D) canal safety.]~~

(C) ~~{preservation}~~ protection of the water conveyance facility ~~{integrity};~~

(D) ~~{subterranean seepage; and~~

~~— (E) safety of the water conveyance facility; or~~

(E) any other issue related to water conveyance facility ~~{safety};~~

~~— (iii) subject to Subsection (4)(f), consider each facility owner's input described in Subsection (4)(d)(ii) in determining whether to approve or reject the subdivision plat; operations.~~

(e) When applicable, the owner of the land seeking subdivision ~~[applicant]~~ plat approval shall comply with Section 73-1-15.5.

~~[(f) The land use authority shall provide the notice described in Subsection (2)(d) to a canal owner or associated canal operator if:]~~

~~[(i) the canal's centerline is located within 100 feet of a proposed subdivision; and]~~

HB0107S01 compared with HB0107

~~[(ii) the centerline alignment is available to the land use authority:]~~

~~[(A) from information provided by the canal company under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the canal owner or associated canal operator;]~~

~~[(B) using the state engineer's inventory of canals under Section 73-5-7; or]~~

~~[(C) from information provided by a surveyor under Subsection (5)(c).]~~

(f) A facility owner's failure to provide ~~{input}~~ **comments** to a municipality in accordance with Subsection ~~(~~4~~)~~3(d)(ii) does not affect or impair the municipality's authority to approve ~~{or reject}~~ the subdivision plat.

~~[(3)]~~ ~~(~~5~~)~~4 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)]~~ ~~(~~6~~)~~5 (a) Within 30 days after approving a final plat under this section, a municipality shall submit to the Automated Geographic Reference Center, created in Section 63F-1-506, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the Automated Geographic Reference Center, a municipality that approves a final plat under this section shall:

(i) coordinate with the Automated Geographic Reference Center to validate the information described in Subsection ~~[(4)]~~ ~~(~~6~~)~~5(a); and

(ii) assist the Automated Geographic Reference Center in creating electronic files that contain the information described in Subsection ~~[(4)]~~ ~~(~~6~~)~~5(a) for inclusion in the unified statewide 911 emergency service database.

~~[(5)]~~ ~~(~~7~~)~~6 (a) A county recorder may not record a plat unless:

(i) prior to recordation, the municipality has approved and signed the plat;

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(iii) the signature of each owner described in Subsection ~~[(5)]~~ ~~(~~7~~)~~6(a)(ii) is

HB0107S01 compared with HB0107

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 }~~ ~~{ water conveyance facility, underground facility or utility facility within the proposed subdivision }~~, or a representative designated by the owner or operator, of an existing [or proposed] water conveyance facility located within the proposed subdivision, or an existing or proposed underground facility or utility facility located 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]~~ the existing water conveyance facility, or the existing or proposed underground facility ~~[and] ~~{,}~~~~ or utility facility; and

(C) physical restrictions governing the location of the ~~{ water conveyance facility }~~ existing or proposed underground facility ~~[and] ~~{,}~~~~ or utility facility ~~[within the subdivision].~~

(ii) The cooperation of an owner or operator of a water conveyance facility, underground facility, or utility facility under Subsection ~~[(5)]~~ ~~(~~17~~;6)~~(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 Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.

~~[(6)]~~ ~~(~~18~~;7)~~ (a) Except as provided in Subsection ~~[(5)]~~ ~~(~~17~~;6)~~(c), after the plat has been acknowledged, certified, and approved, the ~~[individual]~~ owner of the land seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the

HB0107S01 compared with HB0107

county recorder's office in the county in which the lands platted and laid out are situated.

(b) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the [~~land use authority~~] municipality.

Section 2. Section **10-9a-604** is amended to read:

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[~~(5)~~](~~7~~)(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;

(c) all approvals described in Subsection (1)(b) are entered in writing on the plat by the designated officers; and

(d) if the person submitting the plat intends the plat to be or if the plat is part of a community association subject to Title 57, Chapter 8a, Community Association Act, the plat includes language conveying to the association, as that term is defined in Section 57-8a-102, all common areas, as that term is defined in Section 57-8a-102.

(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 by the land use authority.

Section 3. Section **17-27a-603** is amended to read:

17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and verification of plat -- Recording plat.

(1) As used in this section:

(a) (i) "Facility owner" means the same as that term is defined in Section 73-1-15.5.

(ii) "Facility owner" includes a canal owner or associated canal operator contact described in:

(A) Section 17-27a-211;

(B) Subsection 73-5-7(3); or

HB0107S01 compared with HB0107

(C) Subsection (~~77~~6)(c).

(b) "Local health department" means the same as that term is defined in Section 26A-1-102.

(c) "State engineer's inventory of canals" means the state engineer's inventory of water conveyance systems established in Section ~~72-5-7~~73-5-7.

(d) "Underground facility" means the same as that term is defined in Section 54-8a-2.

(e) "Water conveyance facility" means the same as that term is defined in Section 73-1-15.5.

[+] (2) Unless exempt under Section 17-27a-605 or excluded from the definition of subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of the land shall provide to the county in which the land is located 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 recorded easement [~~grant of record for an underground facility, as defined in Section 54-8a-2, and for any other utility facility.~~] located within the plat for:

(i) an underground facility;

(ii) a water conveyance facility; or

(iii) any other utility facility; and

(e) any water conveyance facility located, entirely or partially, within ~~100 feet of~~ the plat that:

(i) is not recorded; and

(ii) of which the owner of the land has actual or constructive knowledge, including

HB0107S01 compared with HB0107

from information made available to the owner of the land:

(A) in the state engineer's inventory of canals; or

(B) from a surveyor under Subsection (7)(c).

~~(3) Before submitting a subdivision plat to a county for approval under this section, the owner of the land shall provide written notice of the proposed subdivision to the facility owner of any water conveyance facility described in Subsection (2)(c).~~

~~[(2)] (4)(6)(c).~~

~~[(2)] (3)~~ (a) Subject to Subsections ~~[(3), (5), and (6)]~~ ~~(5)(4)~~, ~~(7)(6)~~, and ~~(8)(7)~~, if the plat conforms to the county'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 county consider the local health department's approval necessary, the county shall approve the plat.

(b) Counties are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.

(c) A county 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 county; or

(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.

~~[(d) For a subdivision application that includes land located within a notification zone, as determined under Subsection (2)(f), the land use authority shall:]~~

~~[(i) within 20 days after the day on which a complete subdivision application is filed, provide written notice of the application to the canal owner or associated canal operator contact described in:]~~

~~[(A) Section 17-27a-211;]~~

HB0107S01 compared with HB0107

~~[(B) Subsection 73-5-7(2); or]~~

~~[(C) Subsection (5)(c); and]~~

(d) A county shall:

(i) within 20 days after the day on which an owner of land submits to the county a complete subdivision plat land use application, mail written notice of the proposed subdivision to the facility owner of any water conveyance facility located, entirely or partially, within 100 feet of the subdivision plat, as determined using information made available to the county:

(A) from the facility owner under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the facility owner;

(B) in the state engineer's inventory of canals; or

(C) from a surveyor under Subsection ~~(7)6~~(c); and

(ii) ~~[wait to]~~ not approve ~~[or reject]~~ the subdivision [application] plat for at least 20 days after the day on which the ~~[land use authority]~~ county mails to each facility owner the notice under Subsection ~~[(2) (4)3~~(d)(i) in order to receive [input from the canal owner or associated canal operator, including input] ~~{the} any comments from each facility {owner's input} owner~~ regarding:

(A) access to the [canal] water conveyance facility;

(B) maintenance of the [canal] water conveyance facility;

~~[(C) canal protection; and]~~

~~[(D) canal safety;]~~

(C) ~~{preservation}~~ protection of the water conveyance facility integrity;

(D) ~~{subterranean seepage; and~~

~~— (E) safety of the water conveyance facility; or~~

(E) any other issue related to water conveyance facility ~~{safety; and~~

~~— (iii) subject to Subsection (4)(f), consider each facility owner's input described in Subsection (4)(d)(ii) in determining whether to approve or reject the subdivision plat} operations.~~

(e) When applicable, the owner of the land seeking subdivision [applicant] plat approval shall comply with Section 73-1-15.5.

~~[(f) The land use authority shall provide the notice described in Subsection (2)(d) to a~~

HB0107S01 compared with HB0107

canal owner or associated canal operator if:]

~~[(i) the canal's centerline is located within 100 feet of a proposed subdivision; and]~~

~~[(ii) the centerline alignment is available to the land use authority:]~~

~~[(A) from information provided by the canal company under Section 17-27a-211 using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the canal owner or canal operator;]~~

~~[(B) using the state engineer's inventory of canals under Section 73-5-7; or]~~

~~[(C) from information provided by a surveyor under Subsection (5)(c).]~~

(f) A facility owner's failure to provide input comments to a county in accordance with Subsection ~~(4)3~~(d)(ii) does not affect or impair the county's authority to approve ~~for~~ reject the subdivision plat.

~~(3)~~ ~~(5)4~~ The county 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)~~ ~~(6)5~~ (a) Within 30 days after approving a final plat under this section, a county shall submit to the Automated Geographic Reference Center, created in Section 63F-1-506, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the Automated Geographic Reference Center, a county that approves a final plat under this section shall:

(i) coordinate with the Automated Geographic Reference Center to validate the information described in Subsection ~~(4)~~ ~~(6)5~~(a); and

(ii) assist the Automated Geographic Reference Center in creating electronic files that contain the information described in Subsection ~~(4)~~ ~~(6)5~~(a) for inclusion in the unified statewide 911 emergency service database.

~~(5)~~ ~~(7)6~~ (a) A county recorder may not record a plat unless, subject to Subsection 17-27a-604(1):

(i) prior to recordation, the county has approved and signed the plat;

HB0107S01 compared with HB0107

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(iii) the signature of each owner described in Subsection [(5)] (~~(7)~~6)(a)(ii) 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 } {water conveyance facility, underground facility or utility facility within the proposed subdivision}~~, or a representative designated by the owner or operator, of an existing [or proposed] water conveyance facility located within the proposed subdivision, or an existing or proposed underground facility or utility facility located 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] the existing water conveyance facility, or the existing or proposed underground facility [and] ~~{, }~~ or utility facility; and

(C) physical restrictions governing the location of the ~~{water conveyance facility, } existing or proposed~~ underground facility [and] ~~{, }~~ or utility facility [within the subdivision].

(ii) The cooperation of an owner or operator of a water conveyance facility, underground facility, or utility facility under Subsection [(5)] (~~(7)~~6)(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 Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.

HB0107S01 compared with HB0107

~~[(6)]~~ ~~(187)~~ (a) Except as provided in Subsection ~~[(5)]~~ ~~(176)~~(c), after the plat has been acknowledged, certified, and approved, the ~~[individual]~~ owner of the land seeking to record the plat shall, within the time period and manner 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) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the ~~[land use authority]~~ county.

Section 4. Section **17-27a-604** is amended to read:

17-27a-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 17-27a-603~~[(5)]~~~~(176)~~(a);

(b) the plat has been approved by:

(i) the land use authority of the:

(A) county in whose unincorporated area the land described in the plat is located; or

(B) mountainous planning district in whose area the land described in the plat is located; and

(ii) other officers that the county designates in its ordinance;

(c) all approvals described in Subsection (1)(b) are entered in writing on the plat by designated officers; and

(d) if the person submitting the plat intends the plat to be or if the plat is part of a community association subject to Title 57, Chapter 8a, Community Association Act, the plat includes language conveying to the association, as that term is defined in Section 57-8a-102, all common areas, as that term is defined in Section 57-8a-102.

(2) An owner of a platted lot is the owner of record sufficient to re-subdivide the lot if the owner's platted lot is not part of a community association subject to Title 57, Chapter 8a, Community Association Act.

(3) A plat recorded without the signatures required under this section is void.

(4) A transfer of land pursuant to a void plat is voidable by the land use authority.