

1 **VACATING OR CHANGING A SUBDIVISION**

2 **PLAT**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Peter C. Knudson**

6 House Sponsor: _____

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies county and municipal provisions relating to land use and
11 development.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ modifies the process for vacating or altering a street or alley described in a
15 subdivision plat;
- 16 ▶ eliminates a requirement that a public hearing be held under certain circumstances;
- 17 ▶ eliminates a requirement for planning commission review and recommendation of a
18 request to vacate, alter, or amend a subdivision plat;
- 19 ▶ authorizes a land use authority to consider an owner's land use application to join
20 two or more contiguous, residential lots;
- 21 ▶ eliminates a requirement for notice before planning commission consideration for a
22 petition that lacks the consent of all property owners;
- 23 ▶ requires a conveyance of title to be recorded after an exchange of title is approved;
- 24 ▶ eliminates a provision requiring land use authority consideration of a petition to
25 vacate or change a plat within a certain time;
- 26 ▶ modifies the method for expressing approval of a vacation, alteration, or
27 amendment of a subdivision plat;



28 ▶ requires a land use authority to make a recommendation concerning a request to
29 vacate or alter a street or alley; and

30 ▶ requires the legislative body to hold a public hearing concerning a request to vacate
31 or alter a street or alley and to determine whether good cause exists for the vacation
32 or alteration.

33 **Monies Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 AMENDS:

39 **10-9a-608**, as renumbered and amended by Chapter 254, Laws of Utah 2005

40 **10-9a-609**, as renumbered and amended by Chapter 254, Laws of Utah 2005

41 **17-27a-608**, as renumbered and amended by Chapter 254, Laws of Utah 2005

42 **17-27a-609**, as renumbered and amended by Chapter 254, Laws of Utah 2005

43 ENACTS:

44 **10-9a-609.5**, Utah Code Annotated 1953

45 **17-27a-609.5**, Utah Code Annotated 1953



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

48 Section 1. Section **10-9a-608** is amended to read:

49 **10-9a-608. Vacating or changing a subdivision plat.**

50 (1) (a) Subject to Section [~~10-9a-610~~] 10-9a-609.5, and provided that notice has been
51 given pursuant to local ordinance and Section 10-9a-208, the land use authority may, with or
52 without a petition, consider and resolve any proposed vacation, alteration, or amendment of a
53 subdivision plat, any portion of a subdivision plat, or any [~~street,~~] lot[~~, or alley~~] contained in a
54 subdivision plat.

55 ~~[(b) If a petition is filed, the land use authority shall hold a public hearing within 45~~
56 ~~days after receipt of the planning commission's recommendation under Subsection (2) if:]~~

57 ~~[(i) the plat change includes the vacation of a public street or alley;]~~

58 ~~[(ii) any owner within the plat notifies the municipality of their objection in writing]~~

59 ~~within ten days of mailed notification; or]~~

60 ~~[(iii) a public hearing is required because all of the owners in the subdivision have not~~
61 ~~signed the revised plat.]~~

62 ~~[(2) (a) The planning commission shall consider and provide a recommendation for a~~
63 ~~proposed vacation, alteration, or amendment under Subsection (1)(a) or (6) before the land use~~
64 ~~authority takes final action.]~~

65 ~~[(b) The planning commission shall give its recommendation within 30 days after the~~
66 ~~proposed vacation, alteration, or amendment is referred to it, or as that time period is extended~~
67 ~~by agreement with the applicant.]~~

68 (b) The land use authority may consider at a public meeting an owner's petition to join
69 two or more of the owner's contiguous, residential lots, if notice has been given pursuant to
70 local ordinance.

71 (c) Each request to vacate or alter a street or alley, contained in a petition to vacate,
72 alter, or amend a subdivision plat, is also subject to Section 10-9a-609.5.

73 ~~[(3)]~~ (2) Any fee owner, as shown on the last county assessment rolls, of land within
74 the subdivision that has been laid out and platted as provided in this part may, in writing,
75 petition to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or
76 amended as provided in this section and Section 10-9a-609.5.

77 ~~[(4)]~~ (3) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a
78 street or lot contained in a plat shall include:

79 (a) the name and address of all owners of record of the land contained in the entire plat;

80 (b) the name and address of all owners of record of land adjacent to any street that is
81 proposed to be vacated, altered, or amended; and

82 (c) the signature of each of these owners who consents to the petition.

83 ~~[(5) (a) A petition that lacks the consent of all owners referred to in Subsection (4) may~~
84 ~~not be scheduled for consideration at a public hearing before the planning commission until the~~
85 ~~notice required by Section 10-9a-207 or 10-9a-208, as applicable is given.]~~

86 ~~[(b) The petitioner shall pay the cost of the notice.]~~

87 ~~[(6) Subject to Subsection (2), if the applicant proposes to vacate, alter, or amend a~~
88 ~~subdivision plat, or any street or lot contained in a subdivision plat, the planning commission~~
89 ~~shall consider the issue at a public hearing after giving the notice required by Section~~

90 ~~10-9a-207 or 10-9a-208, as applicable.]~~

91 [~~(7)~~] (4) (a) The owners of record of adjacent parcels that are described by either a
92 metes and bounds description or a recorded plat may exchange title to portions of those parcels
93 if the exchange of title is approved by the land use authority in accordance with Subsection
94 [~~(7)~~] (4)(b).

95 (b) The land use authority shall approve an exchange of title under Subsection [~~(7)~~]
96 (4)(a) if:

97 (i) no new dwelling lot or housing unit will result from the exchange of title; and

98 (ii) the exchange of title will not result in a violation of any land use ordinance.

99 (c) If an exchange of title is approved under Subsection [~~(7)~~] (4)(b), a notice of
100 approval and a conveyance of title shall be recorded in the office of the county recorder which:

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

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

104 (iii) recites the descriptions of both the original parcels and the parcels created by the
105 exchange of title.

106 (d) A notice of approval recorded under this Subsection [~~(7)~~] (4) does not act as a
107 conveyance of title to real property and is not required for the recording of a document
108 purporting to convey title to real property.

109 [~~(8)~~] (5) (a) The name of a recorded subdivision may be changed by recording an
110 amended plat making that change, as provided in this section and subject to Subsection [~~(8)~~]
111 (5)(c).

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

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

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

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

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

121 (d) Except as provided in Subsection ~~[(8)]~~ (5)(a), the recording of a declaration or other
 122 document that purports to change the name of a recorded plat is voidable.

123 Section 2. Section **10-9a-609** is amended to read:

124 **10-9a-609. Land use authority consideration of petition to vacate or change a plat**
 125 **-- Criteria for vacating or changing a plat -- Recording the vacation or change.**

126 ~~[(1) Within 30 days after the public hearing required by this part, or as that time period~~
 127 ~~may be extended by agreement of the parties, the land use authority shall consider the petition~~
 128 ~~to vacate or change a plat.]~~

129 ~~[(2)]~~ (1) If the land use authority is satisfied that ~~[neither]~~ the public interest ~~[nor any~~
 130 ~~person]~~ will not be materially injured by the proposed vacation, alteration, or amendment, and
 131 that there is good cause for the vacation, alteration, or amendment, the land use authority may
 132 vacate, alter, or amend the plat~~;~~ or any portion of the plat, [or any street or lot] subject to
 133 Section 10-9a-609.5.

134 ~~[(3)]~~ (2) The land use authority may approve the vacation, alteration, or amendment by
 135 ~~[resolution, amended plat, administrative order, or deed containing a stamp or mark indicating~~
 136 ~~approval by the land use authority]~~ signing an amended plat showing the vacation, alteration, or
 137 amendment.

138 ~~[(4)]~~ (3) The land use authority shall ensure that the amended plat showing the
 139 vacation, alteration, or amendment is recorded in the office of the county recorder in which the
 140 land is located.

141 ~~[(5) The action of the land use authority vacating or narrowing a street or alley that has~~
 142 ~~been dedicated to public use shall operate to the extent to which it is vacated or narrowed, upon~~
 143 ~~the effective date of the vacating ordinance, as a revocation of the acceptance thereof, and the~~
 144 ~~relinquishment of the city's fee therein, but the right-of-way and easements therein, if any, of~~
 145 ~~any lot owner and the franchise rights of any public utility may not be impaired thereby.]~~

146 Section 3. Section **10-9a-609.5** is enacted to read:

147 **10-9a-609.5. Vacating or altering a road or alley.**

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

150 (a) the land use authority shall, after providing notice pursuant to local ordinance and
 151 Section 10-9a-208, make a recommendation to the legislative body concerning the request to

152 vacate or alter; and

153 (b) the legislative body shall hold a public hearing in accordance with Section
154 10-9a-208 and determine whether good cause exists for the vacation or alteration.

155 (2) If the legislative body vacates or alters any portion of a street or alley, the
156 legislative body shall ensure that the plat is recorded in the office of the recorder of the county
157 in which the land is located.

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

163 Section 4. Section **17-27a-608** is amended to read:

164 **17-27a-608. Vacating or changing a subdivision plat.**

165 (1) (a) Subject to Section [~~17-27a-610~~] 17-27a-609.5, and provided that notice has
166 been given pursuant to local ordinance and Section 17-27a-208, the land use authority may,
167 with or without a petition, consider and resolve any proposed vacation, alteration, or
168 amendment of a subdivision plat, any portion of a subdivision plat, or any [~~street,~~] lot[~~, or~~
169 ~~alley~~] contained in a subdivision plat.

170 [~~(b) If a petition is filed, the land use authority shall hold a public hearing within 45~~
171 ~~days after receipt of the planning commission's recommendation under Subsection (2) if:]~~

172 [~~(i) the plat change includes the vacation of a public street or alley;~~]

173 [~~(ii) any owner within the plat notifies the county of their objection in writing within~~
174 ~~ten days of mailed notification; or]~~

175 [~~(iii) a public hearing is required because all of the owners in the subdivision have not~~
176 ~~signed the revised plat.]~~

177 [~~(2) (a) The planning commission shall consider and provide a recommendation for a~~
178 ~~proposed vacation, alteration, or amendment under Subsection (1)(a) or (6) before the land use~~
179 ~~authority takes final action.]~~

180 [~~(b) The planning commission shall give its recommendation within 30 days after the~~
181 ~~proposed vacation, alteration, or amendment is referred to it, or as that time period is extended~~
182 ~~by agreement with the applicant.]~~

183 (b) The land use authority may consider at a public meeting an owner's petition to join
184 two or more of the owner's contiguous, residential lots, if notice has been given pursuant to
185 local ordinance.

186 (c) Each request to vacate or alter a street or alley, contained in a petition to vacate,
187 alter, or amend a subdivision plat, is also subject to Section 17-27a-609.5.

188 ~~[(3)]~~ (2) Any fee owner, as shown on the last county assessment rolls, of land within
189 the subdivision that has been laid out and platted as provided in this part may, in writing,
190 petition to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or
191 amended as provided in this section and Section 17-27a-609.5.

192 ~~[(4)]~~ (3) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a
193 street or lot contained in a plat shall include:

194 (a) the name and address of all owners of record of the land contained in the entire plat;

195 (b) the name and address of all owners of record of land adjacent to any street that is
196 proposed to be vacated, altered, or amended; and

197 (c) the signature of each of these owners who consents to the petition.

198 ~~[(5)(a) A petition that lacks the consent of all owners referred to in Subsection (4) may~~
199 ~~not be scheduled for consideration at a public hearing before the planning commission until the~~
200 ~~notice required by Section 17-27a-207 or 17-27a-208, as applicable, is given.]~~

201 ~~[(b) The petitioner shall pay the cost of the notice.]~~

202 ~~[(6) Subject to Subsection (2), if the applicant proposes to vacate, alter, or amend a~~
203 ~~subdivision plat, or any street or lot contained in a subdivision plat, the planning commission~~
204 ~~shall consider the issue at a public hearing after giving the notice required by Section~~
205 ~~17-27a-207 or 17-27a-208, as applicable.]~~

206 ~~[(7)]~~ (4) (a) The owners of record of adjacent parcels that are described by either a
207 metes and bounds description or a recorded plat may exchange title to portions of those parcels
208 if the exchange of title is approved by the land use authority in accordance with Subsection
209 ~~[(7)]~~ (4)(b).

210 (b) The land use authority shall approve an exchange of title under Subsection ~~[(7)]~~
211 (4)(a) if:

212 (i) no new dwelling lot or housing unit will result from the exchange of title; and

213 (ii) the exchange of title will not result in a violation of any land use ordinance.

214 (c) If an exchange of title is approved under Subsection [(7)] (4)(b), a notice of
215 approval and a conveyance of title shall be recorded in the office of the county recorder which:

- 216 (i) is executed by each owner included in the exchange and by the land use authority;
217 (ii) contains an acknowledgment for each party executing the notice in accordance with
218 the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and
219 (iii) recites the descriptions of both the original parcels and the parcels created by the
220 exchange of title.

221 (d) A notice of approval recorded under this Subsection [(7)] (4) does not act as a
222 conveyance of title to real property and is not required for the recording of a document
223 purporting to convey title to real property.

224 [(8)] (5) (a) The name of a recorded subdivision may be changed by recording an
225 amended plat making that change, as provided in this section and subject to Subsection [(8)]
226 (5)(c).

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

- 228 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
229 Land Surveyors Licensing Act;
230 (ii) has completed a survey of the property described on the plat in accordance with
231 Section 17-23-17 and has verified all measurements; and
232 (iii) has placed monuments as represented on the plat.

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

236 (d) Except as provided in Subsection [(8)] (5)(a), the recording of a declaration or other
237 document that purports to change the name of a recorded plat is voidable.

238 Section 5. Section **17-27a-609** is amended to read:

239 **17-27a-609. Land use authority consideration of petition to vacate or change a**
240 **plat -- Criteria for vacating or changing a plat -- Recording the vacation or change.**

241 [~~(1) Within 30 days after the public hearing required by this part, or as that time period~~
242 ~~may be extended by agreement of the parties, the land use authority shall consider the petition~~
243 ~~to vacate or change a plat.]~~

244 [(2)] (1) If the land use authority is satisfied that the public interest will not be

245 materially injured by the proposed vacation, alteration, or amendment, and that there is good
 246 cause for the vacation, alteration, or amendment, the land use authority may vacate, alter, or
 247 amend the plat[;] or any portion of the plat, [or any street or lot] subject to Section
 248 17-27a-609.5.

249 ~~[(3)]~~ (2) The land use authority may approve the vacation, alteration, or amendment by
 250 ~~[resolution, amended plat, administrative order, or deed containing a stamp or mark indicating~~
 251 ~~approval by the land use authority]~~ signing an amended plat showing the vacation, alteration, or
 252 amendment.

253 ~~[(4)]~~ (3) The land use authority shall ensure that the amended plat showing the
 254 vacation, alteration, or amendment is recorded in the office of the county recorder in which the
 255 land is located.

256 ~~[(5)]~~ ~~The action of the land use authority vacating or narrowing a street or alley that has~~
 257 ~~been dedicated to public use shall operate to the extent to which it is vacated or narrowed, upon~~
 258 ~~the effective date of the vacating ordinance, as a revocation of the acceptance thereof, and the~~
 259 ~~relinquishment of the county's fee therein, but the right-of-way and easements therein, if any, of~~
 260 ~~any lot owner and the franchise rights of any public utility may not be impaired thereby.]~~

261 Section 6. Section **17-27a-609.5** is enacted to read:

262 **17-27a-609.5. Vacating or altering a road or alley.**

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

265 (a) the land use authority shall, after providing notice pursuant to local ordinance and
 266 Section 17-27a-208, make a recommendation to the legislative body concerning the request to
 267 vacate or alter; and

268 (b) the legislative body shall hold a public hearing in accordance with Section
 269 17-27a-208 and determine whether good cause exists for the vacation or alteration.

270 (2) If the legislative body vacates or alters any portion of a street or alley, the
 271 legislative body shall ensure that the plat is recorded in the office of the recorder of the county
 272 in which the land is located.

273 (3) The action of the legislative body vacating or narrowing a street or alley that has
 274 been dedicated to public use shall operate to the extent to which it is vacated or narrowed, upon
 275 the effective date of the vacating plat, as a revocation of the acceptance thereof, and the

276 relinquishment of the county's fee therein, but the right-of-way and easements therein, if any, of
277 any lot owner and the franchise rights of any public utility may not be impaired thereby.

Legislative Review Note
as of 11-29-05 2:52 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0127

Vacating or Changing a Subdivision Plat

18-Jan-06

5:11 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst