

**MODIFICATIONS TO RECORDING
REQUIREMENTS - SUBDIVISIONS**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ralph Okerlund

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies county and municipal provisions relating to the recording of subdivision plats.

Highlighted Provisions:

This bill:

- ▶ authorizes the county recorder to assign a different name to a subdivision on a plat if the name duplicates one already assigned to a subdivision on a recorded plat;
- ▶ requires landowners to sign and dedicate a plat;
- ▶ requires a surveyor making a plat to certify that the surveyor has provided a reference to the filing number of a record of survey map, rather than that the surveyor has completed a survey;
- ▶ requires the filing of a surveyor's affidavit by a surveyor who sets monuments during construction if that surveyor is not the same surveyor who made the plat;
- ▶ prohibits a person from submitting a subdivision plat for recording unless the plat has been dedicated by each owner;
- ▶ provides that the absence of a certificate of written approval does not prohibit the county recorder from recording the document;
- ▶ clarifies a provision relating to common or community areas on a plat;
- ▶ modifies the process applicable to the dedication of public places under a plat;



- 28 ▶ modifies provisions relating to vacating or changing a subdivision plat;
- 29 ▶ modifies provisions relating to a legislative body's vacating a subdivision, street,
- 30 alley, or easement and clarifies that the legislative body may vacate by recording an
- 31 ordinance describing what is being vacated;
- 32 ▶ adds provisions relating to amended plats, correcting plats, and the signing of a plat
- 33 by a management committee;
- 34 ▶ modifies a provision relating to the abstracting of instruments; and
- 35 ▶ makes technical changes.

36 Monies Appropriated in this Bill:

37 None

38 Other Special Clauses:

39 None

40 Utah Code Sections Affected:

41 AMENDS:

- 42 **10-9a-603**, as last amended by Laws of Utah 2008, Chapter 326
- 43 **10-9a-604**, as last amended by Laws of Utah 2006, Chapter 240
- 44 **10-9a-605**, as last amended by Laws of Utah 2006, Chapter 240
- 45 **10-9a-606**, as last amended by Laws of Utah 2007, Chapter 268
- 46 **10-9a-607**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 47 **10-9a-608**, as last amended by Laws of Utah 2006, Chapter 163
- 48 **10-9a-609**, as last amended by Laws of Utah 2007, Chapter 243
- 49 **10-9a-609.5**, as last amended by Laws of Utah 2007, Chapter 243
- 50 **17-21-20**, as last amended by Laws of Utah 2007, Chapter 147
- 51 **17-27a-603**, as last amended by Laws of Utah 2008, Chapters 250 and 326
- 52 **17-27a-604**, as last amended by Laws of Utah 2006, Chapter 240
- 53 **17-27a-605**, as last amended by Laws of Utah 2006, Chapter 240
- 54 **17-27a-606**, as last amended by Laws of Utah 2007, Chapter 268
- 55 **17-27a-607**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 56 **17-27a-608**, as last amended by Laws of Utah 2006, Chapter 163
- 57 **17-27a-609**, as last amended by Laws of Utah 2007, Chapter 243
- 58 **17-27a-609.5**, as last amended by Laws of Utah 2007, Chapter 243

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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 underground utility facilities owner approval of plat -- Recording plat.

(1) (a) Unless exempt under Section 10-9a-605 or excluded from the definition of subdivision under Subsection 10-9a-103(44), whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

~~[(a)]~~ (i) a subdivision name ~~[or designation of the subdivision]~~ that is distinct from any subdivision name on a plat ~~[already]~~ recorded in the county recorder's office;

~~[(b)]~~ (ii) 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)]~~ (iii) 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)]~~ (iv) 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.

(b) The county recorder may assign a different name to a subdivision on a plat submitted for recording if necessary to make the plat comply with the requirement of Subsection (1)(a)(i).

(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 and the sanitary sewer authority, the municipality shall approve the plat.

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

90 (4) (a) ~~[The]~~ Each owner of the land ~~[shall]~~ described on the plat shall sign, dedicate,
91 and acknowledge the plat [before an officer authorized by law to take the acknowledgment of
92 conveyances of real estate and shall obtain the signature of each individual designated by the
93 municipality].

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

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

97 (ii) has ~~[completed a]~~ provided a reference to the filing number of a record of survey
98 map of the existing property boundary described on the plat and filed in accordance with
99 Section 17-23-17 [and has verified all measurements; and];

100 (iii) has placed monuments as represented on the plat~~[-];~~ and

101 (iv) has indicated monuments to be set during construction.

102 (c) If a monument is set during construction by a surveyor other than the surveyor who
103 made the plat, the surveyor setting the monument shall record a surveyor's affidavit in the
104 office of the county in which the property is located indicating:

105 (i) that the surveyor setting the monument holds a license in accordance with Title 58,
106 Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

107 (ii) that each monument is set in the location specified on the plat;

108 (iii) that the surveyor setting the monument has verified all measurements;

109 (iv) the location of each street and lot monument that varies from the monuments
110 specified on the plat; and

111 (v) the physical description of each monument set.

112 ~~[(c)]~~ (d) (i) As applicable, the owner or operator of the underground and utility
113 facilities shall approve the:

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

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

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

119 (ii) The approval of an owner or operator under Subsection (4)~~[(c)]~~(d)(i):

120 (A) indicates only that the plat approximates the location of the existing underground

121 and utility facilities but does not warrant or verify their precise location; and

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

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

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

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

126 (IV) any other provision of law.

127 (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the

128 land shall, within the time period designated by ordinance, record the plat in the county

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

130 (b) An owner's failure to record a plat within the time period designated by ordinance

131 renders the plat voidable.

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

133 **10-9a-604. Subdivision plat approval procedure -- Effect of not complying.**

134 (1) (a) A person may not submit a subdivision plat to the county recorder's office for

135 recording unless:

136 (i) the plat has been dedicated by each owner of record;

137 ~~[(i)]~~ (ii) except as provided in Subsection (1)(b), a recommendation has been received

138 from the planning commission;

139 ~~[(ii)]~~ (iii) the plat has been approved by:

140 (A) the land use authority of the municipality in which the land described in the plat is

141 located; and

142 (B) other officers that the municipality designates in its ordinance; and

143 ~~[(iii)]~~ (iv) all approvals are entered in writing on the plat by the designated officers.

144 (b) Subsection (1)(a) does not apply if the planning commission is the land use

145 authority.

146 (2) A subdivision plat recorded without the signatures required under this section is

147 void.

148 (3) A transfer of land pursuant to a void plat is voidable.

149 Section 3. Section **10-9a-605** is amended to read:

150 **10-9a-605. Exemptions from plat requirement.**

151 (1) Notwithstanding Sections 10-9a-603 and 10-9a-604, the land use authority may

152 approve a subdivision of ten lots or less without a plat, by certifying in writing that:

153 (a) the municipality has provided notice as required by ordinance; and

154 (b) the proposed subdivision:

155 (i) is not traversed by the mapped lines of a proposed street as shown in the general
156 plan and does not require the dedication of any land for street or other public purposes;

157 (ii) has been approved by the culinary water authority and the sanitary sewer authority;

158 (iii) is located in a zoned area; and

159 (iv) conforms to all applicable land use ordinances or has properly received a variance
160 from the requirements of an otherwise conflicting and applicable land use ordinance.

161 (2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural
162 land is exempt from the plat requirements of Section 10-9a-603 if the lot or parcel:

163 (i) qualifies as land in agricultural use under Section 59-2-502;

164 (ii) meets the minimum size requirement of applicable land use ordinances; and

165 (iii) is not used and will not be used for any nonagricultural purpose.

166 (b) The boundaries of each lot or parcel exempted under Subsection (1) shall be
167 graphically illustrated on a record of survey map that, after receiving the same approvals as are
168 required for a plat under Section 10-9a-604, shall be recorded with the county recorder.

169 (c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural
170 purpose, the municipality may require the lot or parcel to comply with the requirements of
171 Section 10-9a-603.

172 (3) (a) Documents recorded in the county recorder's office that divide property by a
173 metes and bounds description do not create an approved subdivision allowed by this part unless
174 the land use authority's certificate of written approval required by Subsection (1) is attached to
175 the document.

176 (b) The absence of the certificate or written approval required by Subsection (1) does
177 not:

178 (i) prohibit the county recorder from recording a document; or

179 (ii) affect the validity of a recorded document.

180 (c) A document which does not meet the requirements of Subsection (1) may be
181 corrected by the recording of an affidavit to which the required certificate or written approval is
182 attached in accordance with Section 57-3-106.

183 Section 4. Section **10-9a-606** is amended to read:

184 **10-9a-606. Common or community area parcels on a plat -- No separate**
185 **ownership -- Ownership interest equally divided among other parcels on plat and**
186 **included in description of other parcels.**

187 (1) A parcel designated as common or community area on a plat recorded in
188 compliance with this part may not be separately owned or conveyed independent of the other
189 lots, units, or parcels created by the plat.

190 (2) The ownership interest in a parcel described in Subsection (1) shall:

191 (a) for purposes of assessment, be divided equally among all lots, units, and parcels
192 created by the plat, unless a different division of interest for assessment purposes is indicated
193 on the plat or an accompanying recorded document; and

194 (b) be considered to be included in the description of each instrument describing a
195 parcel on the plat by its identifying plat number, even if the common or community area
196 interest is not explicitly stated in the instrument.

197 Section 5. Section **10-9a-607** is amended to read:

198 **10-9a-607. Dedication of streets and other public places.**

199 (1) [~~Plats, when made, acknowledged, and recorded~~] A plat that is signed, dedicated,
200 and acknowledged by each owner of record, and approved according to the procedures
201 specified in this part, [~~operate~~] operates, when recorded, as a dedication of all streets and other
202 public places, and [~~vest~~] vests the fee of those parcels of land in the municipality for the public
203 for the uses named or intended in [~~those plats~~] the plat.

204 (2) The dedication established by this section does not impose liability upon the
205 municipality for streets and other public places that are dedicated in this manner but are
206 unimproved.

207 Section 6. Section **10-9a-608** is amended to read:

208 **10-9a-608. Vacating or changing a subdivision plat.**

209 (1) (a) Subject to Section 10-9a-609.5, and provided that notice has been given
210 pursuant to local ordinance and Section 10-9a-208, the land use authority may, with or without
211 a petition, consider and resolve any proposed vacation[~~, alteration,~~] or amendment of a
212 subdivision plat, any portion of a subdivision plat, or any lot, street, or easement contained in a
213 subdivision plat.

214 (b) If a petition is filed, the land use authority shall hold a public hearing within 45
215 days after the petition is filed or, if applicable, within 45 days after receipt of the planning
216 commission's recommendation under Subsection (2), if:

217 (i) any owner within the plat notifies the municipality of ~~[their]~~ the owner's objection
218 in writing within ten days of mailed notification; or

219 (ii) ~~[a public hearing is required because]~~ all of the owners in the subdivision or the
220 portion of the subdivision described in the partition have not signed the revised plat.

221 (2) (a) (i) The planning commission shall consider and provide a recommendation for a
222 proposed vacation~~[-alteration,]~~ or amendment under Subsection (1)(a) before the land use
223 authority takes final action.

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

227 (b) Subsection (2)(a) does not apply if the planning commission has been designated as
228 the land use authority.

229 (3) The public hearing requirement of Subsection (1)(b) does not apply and a land use
230 authority may consider at a public meeting an owner's petition to alter a subdivision plat if:

231 (a) the petition seeks to join two or more of the owner's contiguous, residential lots;
232 and

233 (b) notice has been given pursuant to local ordinance.

234 (4) Each request to vacate or ~~[alter]~~ amend a street or alley, contained in a petition to
235 vacate~~[-alter,]~~ or amend a subdivision plat, is also subject to Section 10-9a-609.5.

236 (5) Any fee owner, as shown on the last county assessment rolls, of land within the
237 subdivision that has been laid out and platted as provided in this part may, in writing, petition
238 to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or
239 amended as provided in this section and Section 10-9a-609.5.

240 (6) Each petition to vacate~~[-alter,]~~ or amend an entire plat, a portion of a plat, or a
241 street or lot contained in a plat shall include:

242 (a) the name and address of all owners of record of the land contained in the entire plat
243 or on that portion of the plat described in the petition;

244 (b) the name and address of all owners of record of land adjacent to any street that is

245 proposed to be vacated~~[, altered,]~~ or amended; and

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

247 (7) (a) The owners of record of adjacent parcels that are described by either a metes
248 and bounds description or a recorded plat may exchange title to portions of those parcels if the
249 exchange of title is approved by the land use authority in accordance with Subsection (7)(b).

250 (b) The land use authority shall approve an exchange of title under Subsection (7)(a) if
251 the exchange of title will not result in a violation of any land use ordinance.

252 (c) If an exchange of title is approved under Subsection (7)(b):

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

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

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

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

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

261 (d) A notice of approval recorded under this Subsection (7):

262 (i) does not act as a conveyance of title to real property; and

263 (ii) is not required ~~[for the recording of]~~ in order to record a document ~~[purporting to~~
264 ~~convey]~~ conveying title to real property.

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

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

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

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

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

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

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

278 Section 7. Section 10-9a-609 is amended to read:

279 **10-9a-609. Land use authority consideration of petition to vacate or change a plat**
280 **-- Criteria for vacating or changing a plat -- Recording the vacation or change.**

281 (1) If the land use authority is satisfied that neither the public interest nor any person
282 will be materially injured by the proposed vacation[~~-, alteration,~~] or amendment, and that there
283 is good cause for the vacation[~~-, alteration,~~] or amendment, the land use authority may vacate,
284 alter, or amend the plat or any portion of the plat, subject to Section 10-9a-609.5.

285 (2) The land use authority may approve the vacation[~~-, alteration,~~] or amendment by
286 signing an amended plat showing the vacation[~~-, alteration,~~] or amendment.

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

290 [~~(4) If an entire subdivision is vacated, the legislative body shall ensure that a~~
291 ~~legislative body resolution containing a legal description of the entire vacated subdivision is~~
292 ~~recorded in the county recorder's office.]~~

293 (4) A legislative body may vacate a subdivision or a portion of a subdivision by
294 recording in the county recorder's office an ordinance describing the subdivision or the portion
295 being vacated.

296 (5) An amended plat may not be submitted to the county recorder for recording unless
297 it is signed, acknowledged, and dedicated by each owner of record of the portion of the plat
298 that is amended.

299 (6) A management committee may sign and dedicate an amended plat as provided in
300 Title 57, Chapter 8, Condominium Ownership Act.

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

302 Section 8. Section 10-9a-609.5 is amended to read:

303 **10-9a-609.5. Vacating or amending a street, alley, or easement.**

304 (1) (a) If a petition is submitted containing a request to vacate or [~~alter~~] amend any
305 portion of a street [~~or~~], alley [~~within a subdivision~~], or easement:

306 (i) the planning commission shall, after providing notice pursuant to local ordinance

307 and Section 10-9a-208, make a recommendation to the land use authority concerning the
308 request to vacate or [~~alter~~] amend; and

309 (ii) the land use authority shall hold a public hearing in accordance with Section
310 10-9a-208 and determine whether good cause exists for the vacation or [~~alteration~~] amendment.

311 (b) Subsection (1)(a)(i) does not apply if the planning commission has been designated
312 as a land use authority.

313 (2) If the land use authority vacates or [~~alters~~] amends any portion of a street [~~or~~], alley,
314 or easement, the land use authority shall ensure that the plat is recorded in the office of the
315 recorder of the county in which the land is located.

316 (3) A legislative body may vacate some or all of a street, alley, or easement by
317 recording in the county recorder's office an ordinance containing a legal description of the
318 vacated street, alley, or easement or the vacated portion of the street, alley, or easement, as the
319 case may be.

320 [~~(3)~~] (4) The action of the land use authority vacating or [~~narrowing~~] amending a street
321 [~~or~~], alley, or easement that has been dedicated to public use shall operate to the extent to
322 which it is vacated or [~~narrowed~~] amended, upon the effective date of the vacating plat, as a
323 revocation of the acceptance thereof, and the relinquishment of the city's fee therein, but the
324 right-of-way and easements therein, if any, of any lot owner and the franchise rights of any
325 public utility may not be impaired thereby.

326 Section 9. Section 17-21-20 is amended to read:

327 **17-21-20. Recording required -- Recorder may impose requirements on**
328 **documents to be recorded -- Prerequisites -- Additional fee for noncomplying documents**
329 **-- Recorder may require tax serial number -- Exceptions.**

330 (1) Subject to Subsections (2), (3), and (4), each paper, notice, and instrument required
331 by law to be [~~filed~~] recorded in the office of the county recorder shall be recorded unless
332 otherwise provided.

333 (2) Each document executed on or after July 1, 2007 that is submitted for recording to
334 a county recorder's office shall:

335 (a) unless otherwise provided by law, be an original or certified copy of the document;

336 (b) be in English or be accompanied by an accurate English translation of the
337 document;

338 (c) contain a brief title, heading, or caption on the first page stating the nature of the
339 document;

340 (d) contain the legal description of the property that is the subject of the document;

341 (e) comply with the requirements of Section 17-21-25 and Subsections 57-3-105(1)
342 and (2);

343 (f) be notarized with the notary stamp with the seal legible; and

344 (g) have original signatures.

345 (3) (a) Beginning September 1, 2007, a county recorder may require that each paper,
346 notice, and instrument submitted for recording in the county recorder's office:

347 (i) be on white paper that is 8-1/2 inches by 11 inches in size;

348 (ii) have a margin of one inch on the left and right sides and at the bottom of each
349 page;

350 (iii) have a space of 2-1/2 inches down and 4-1/2 inches across the upper right corner
351 of the first page and a margin of one inch at the top of each succeeding page;

352 (iv) not be on sheets of paper that are continuously bound together at the side, top, or
353 bottom;

354 (v) not contain printed material on more than one side of each page;

355 (vi) be printed in black ink and not have text smaller than seven lines of text per
356 vertical inch; and

357 (vii) be sufficiently legible to make certified copies.

358 (b) A county recorder who intends to establish requirements under Subsection (3)(a)
359 shall first:

360 (i) provide formal notice of the requirements; and

361 (ii) establish and publish an effective date for the requirements that is at least three
362 months after the formal notice under Subsection (3)(b)(i).

363 (c) If a county recorder establishes requirements under this Subsection (3), the county
364 recorder may charge and collect from persons who submit a document for recording that does
365 not comply with the requirements, in addition to any other fee that the county recorder is
366 authorized to charge and collect, a fee that:

367 (i) is calculated to recover the additional cost of handling and recording noncomplying
368 documents; and

369 (ii) may not exceed \$2 per page.

370 (4) (a) To facilitate the abstracting of an instrument, a county recorder may require that
 371 the applicable tax serial number of each parcel [~~affected by~~] described in the instrument
 372 [~~appear on each~~] be noted on the instrument before it may be accepted for recording.

373 (b) If a county recorder requires the applicable tax serial number to be on an instrument
 374 before it may be recorded:

375 (i) the county recorder shall post a notice of that requirement in a conspicuous place at
 376 the recorder's office;

377 (ii) the tax serial number may not be considered to be part of the legal description and
 378 may be indicated on the margin of the instrument; and

379 (iii) an error in the tax serial number does not affect the validity of the instrument or
 380 effectiveness of the recording.

381 (5) Subsections (2), (3), and (4) do not apply to:

382 (a) a map;

383 (b) a certificate or affidavit of death;

384 (c) a military discharge;

385 (d) a document regarding taxes that is issued by the Internal Revenue Service of the
 386 United States Department of the Treasury;

387 (e) a document submitted for recording that has been filed with a court and conforms to
 388 the formatting requirements established by the court; or

389 (f) a document submitted for recording that is in a form required by law.

390 Section 10. Section **17-27a-603** is amended to read:

391 **17-27a-603. Plat required when land is subdivided -- Approval of plat --**

392 **Recording plat.**

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

396 [~~(a)~~] (i) a subdivision name [~~or designation of the subdivision~~] that is distinct from any
 397 subdivision name on a plat [~~already~~] recorded in the county recorder's office;

398 [~~(b)~~] (ii) the boundaries, course, and dimensions of all of the parcels of ground divided,
 399 by their boundaries, course, and extent, whether the owner proposes that any parcel of ground

400 is intended to be used as a street or for any other public use, and whether any such area is
401 reserved or proposed for dedication for a public purpose;

402 ~~[(c)]~~ (iii) the lot or unit reference, block or building reference, street or site address,
403 street name or coordinate address, acreage or square footage for all parcels, units, or lots, and
404 length and width of the blocks and lots intended for sale; and

405 ~~[(d)]~~ (iv) every existing right-of-way and easement grant of record for underground
406 facilities, as defined in Section 54-8a-2, and for other utility facilities.

407 (b) The county recorder may assign a different name to a subdivision on a plat
408 submitted for recording if necessary to make the plat comply with the requirement of
409 Subsection (1)(a)(i).

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

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

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

418 (4) (a) ~~[(The)]~~ Each owner of the land ~~[shall]~~ described on the plat shall sign, dedicate,
419 and acknowledge the plat [before an officer authorized by law to take the acknowledgment of
420 conveyances of real estate and shall obtain the signature of each individual designated by the
421 county].

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

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

425 (ii) has ~~[completed a]~~ provided a reference to the filing number of a record of survey
426 map of the existing property boundary described on the plat and filed in accordance with
427 Section 17-23-17 ~~[and has verified all measurements; and];~~

428 (iii) has placed monuments as represented on the plat~~[-]; and~~

429 (iv) has indicated monuments to be set during construction.

430 (c) If a monument is set during construction by a surveyor other than the surveyor who

431 made the plat, the surveyor setting the monument shall record a surveyor's affidavit in the
432 office of the county in which the property is located indicating:

433 (i) that the surveyor setting the monument holds a license in accordance with Title 58,
434 Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

435 (ii) that each monument is set in the location specified on the plat;

436 (iii) that the surveyor setting the monument has verified all measurements;

437 (iv) the location of each street and lot monument that varies from the monuments
438 specified on the plat; and

439 (v) the physical description of each monument set.

440 ~~(c)~~ (d) (i) As applicable, the owner or operator of the underground and utility
441 facilities shall approve the:

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

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

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

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

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

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

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

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

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

454 (IV) any other provision of law.

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

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

460 Section 11. Section **17-27a-604** is amended to read:

461 **17-27a-604. Subdivision plat approval procedure -- Effect of not complying.**

462 (1) (a) A person may not submit a subdivision plat to the county recorder's office for
463 recording unless:

464 (i) the plat has been dedicated by each owner of record;

465 [~~(i)~~] (ii) except as provided in Subsection (1)(b), a recommendation has been received
466 from the planning commission;

467 [~~(ii)~~] (iii) the plat has been approved by:

468 (A) the land use authority of the county in whose unincorporated area the land
469 described in the plat is located; and

470 (B) other officers that the county designates in its ordinance; and

471 [~~(iii)~~] (iv) all approvals are entered in writing on the plat by designated officers.

472 (b) Subsection (1)(a) does not apply if the planning commission is the land use
473 authority.

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

475 (3) A transfer of land pursuant to a void plat is voidable.

476 Section 12. Section **17-27a-605** is amended to read:

477 **17-27a-605. Exemptions from plat requirement.**

478 (1) Notwithstanding Sections 17-27a-603 and 17-27a-604, the land use authority may
479 approve the subdivision of unincorporated land into ten lots or less without a plat, by certifying
480 in writing that:

481 (a) the county has provided notice as required by ordinance; and

482 (b) the proposed subdivision:

483 (i) is not traversed by the mapped lines of a proposed street as shown in the general
484 plan and does not require the dedication of any land for street or other public purposes;

485 (ii) has been approved by the culinary water authority and the sanitary sewer authority;

486 (iii) is located in a zoned area; and

487 (iv) conforms to all applicable land use ordinances or has properly received a variance
488 from the requirements of an otherwise conflicting and applicable land use ordinance.

489 (2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural
490 land is exempt from the plat requirements of Section 17-27a-603 if the lot or parcel:

491 (i) qualifies as land in agricultural use under Section 59-2-502;

492 (ii) meets the minimum size requirement of applicable land use ordinances; and

493 (iii) is not used and will not be used for any nonagricultural purpose.

494 (b) The boundaries of each lot or parcel exempted under Subsection (1) shall be
495 graphically illustrated on a record of survey map that, after receiving the same approvals as are
496 required for a plat under Section 17-27a-604, shall be recorded with the county recorder.

497 (c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural
498 purpose, the county may require the lot or parcel to comply with the requirements of Section
499 17-27a-603.

500 (3) (a) Documents recorded in the county recorder's office that divide property by a
501 metes and bounds description do not create an approved subdivision allowed by this part unless
502 the land use authority's certificate of written approval required by Subsection (1)(a)(ii) is
503 attached to the document.

504 (b) The absence of the certificate or written approval required by Subsection (1) does
505 not;

506 (i) prohibit the county recorder from recording a document; or

507 (ii) affect the validity of a recorded document.

508 (c) A document which does not meet the requirements of Subsection (1) may be
509 corrected by the recording of an affidavit to which the required certificate or written approval is
510 attached in accordance with Section 57-3-106.

511 Section 13. Section **17-27a-606** is amended to read:

512 **17-27a-606. Common or community area parcels on a plat -- No separate**
513 **ownership -- Ownership interest equally divided among other parcels on plat and**
514 **included in description of other parcels.**

515 (1) A parcel designated as common or community area on a plat recorded in
516 compliance with this part may not be separately owned or conveyed independent of the other
517 lots, units, or parcels created by the plat.

518 (2) The ownership interest in a parcel described in Subsection (1) shall:

519 (a) for purposes of assessment, be divided equally among all lots, units, and parcels
520 created by the plat, unless a different division of interest for assessment purposes is indicated
521 on the plat or an accompanying recorded document; and

522 (b) be considered to be included in the description of each instrument describing a
523 parcel on the plat by its identifying plat number, even if the common or community area

524 interest is not explicitly stated in the instrument.

525 Section 14. Section **17-27a-607** is amended to read:

526 **17-27a-607. Dedication of streets and other public places.**

527 (1) [~~Plats, when made, acknowledged, and recorded~~] A plat that is signed, dedicated,
528 and acknowledged by each owner of record, and approved according to the procedures
529 specified in this part, [~~operate~~] operates, when recorded, as a dedication of all streets and other
530 public places, and [~~vest~~] vests the fee of those parcels of land in the county for the public for
531 the uses named or intended in [~~those plats~~] the plat.

532 (2) The dedication established by this section does not impose liability upon the county
533 for streets and other public places that are dedicated in this manner but are unimproved.

534 Section 15. Section **17-27a-608** is amended to read:

535 **17-27a-608. Vacating or changing a subdivision plat.**

536 (1) (a) Subject to Section 17-27a-609.5, and provided that notice has been given
537 pursuant to local ordinance and Section 17-27a-208, the land use authority may, with or
538 without a petition, consider and resolve any proposed vacation[~~,-alteration,~~] or amendment of a
539 subdivision plat, any portion of a subdivision plat, or any lot, street, or easement contained in a
540 subdivision plat.

541 (b) If a petition is filed, the land use authority shall hold a public hearing within 45
542 days after the petition is filed or, if applicable, within 45 days after receipt of the planning
543 commission's recommendation under Subsection (2), if:

544 (i) any owner within the plat notifies the county of [~~their~~] the owner's objection in
545 writing within ten days of mailed notification; or

546 (ii) [~~a public hearing is required because~~] all of the owners in the subdivision or the
547 portion of the subdivision described in the partition have not signed the revised plat.

548 (2) (a) (i) The planning commission shall consider and provide a recommendation for a
549 proposed vacation[~~,-alteration,~~] or amendment under Subsection (1)(a) before the land use
550 authority takes final action.

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

554 (b) Subsection (2)(a) does not apply if the planning commission has been designated as

555 the land use authority.

556 (3) The public hearing requirement of Subsection (1)(b) does not apply and a land use
557 authority may consider at a public meeting an owner's petition to alter a subdivision plat if:

558 (a) the petition seeks to join two or more of the owner's contiguous, residential lots;
559 and

560 (b) notice has been given pursuant to local ordinance.

561 (4) Each request to vacate or [~~alter~~] amend a street or alley, contained in a petition to
562 vacate[~~alter~~,] or amend a subdivision plat, is also subject to Section 17-27a-609.5.

563 (5) Any fee owner, as shown on the last county assessment rolls, of land within the
564 subdivision that has been laid out and platted as provided in this part may, in writing, petition
565 to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or
566 amended as provided in this section and Section 17-27a-609.5.

567 (6) Each petition to vacate[~~alter~~,] or amend an entire plat, a portion of a plat, or a
568 street or lot contained in a plat shall include:

569 (a) the name and address of all owners of record of the land contained in the entire plat
570 or on that portion of the plat described in the petition;

571 (b) the name and address of all owners of record of land adjacent to any street that is
572 proposed to be vacated[~~altered~~,] or amended; and

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

574 (7) (a) The owners of record of adjacent parcels that are described by either a metes
575 and bounds description or a recorded plat may exchange title to portions of those parcels if the
576 exchange of title is approved by the land use authority in accordance with Subsection (7)(b).

577 (b) The land use authority shall approve an exchange of title under Subsection (7)(a) if
578 the exchange of title will not result in a violation of any land use ordinance.

579 (c) If an exchange of title is approved under Subsection (7)(b):

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

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

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

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

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

588 (d) A notice of approval recorded under this Subsection (7);

589 (i) does not act as a conveyance of title to real property; and

590 (ii) is not required [~~for the recording of~~] in order to record a document [~~purporting to~~
591 ~~convey~~] conveying title to real property.

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

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

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

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

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

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

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

605 Section 16. Section ~~17-27a-609~~ is amended to read:

606 **17-27a-609. Land use authority consideration of petition to vacate or change a**
607 **plat -- Criteria for vacating or changing a plat -- Recording the vacation or change.**

608 (1) If the land use authority is satisfied that neither the public interest nor any person
609 will be materially injured by the proposed vacation[~~, alteration,~~] or amendment, and that there
610 is good cause for the vacation[~~, alteration,~~] or amendment, the land use authority may vacate[~~;~~
611 ~~alter,~~] or amend the plat or any portion of the plat, subject to Section 17-27a-609.5.

612 (2) The land use authority may approve[~~, alteration,~~] or amendment by
613 signing an amended plat showing the vacation[~~, alteration,~~] or amendment.

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

617 ~~[(4) If an entire subdivision is vacated, the legislative body shall ensure that a~~
618 ~~legislative body resolution containing a legal description of the entire vacated subdivision is~~
619 ~~recorded in the county recorder's office.]~~

620 (4) A legislative body may vacate a subdivision or a portion of a subdivision by
621 recording in the county recorder's office an ordinance describing the subdivision or the portion
622 being vacated.

623 (5) An amended plat may not be submitted to the county recorder for recording unless
624 it is signed, acknowledged, and dedicated by each owner of record of the portion of the plat
625 that is amended.

626 (6) A management committee may sign and dedicate an amended plat as provided in
627 Title 57, Chapter 8, Condominium Ownership Act.

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

629 Section 17. Section **17-27a-609.5** is amended to read:

630 **17-27a-609.5. Vacating or amending a street, alley, or easement.**

631 (1) (a) If a petition is submitted containing a request to vacate or ~~[alter]~~ amend any
632 portion of a street ~~[or]~~, alley ~~[within a subdivision]~~, or easement:

633 (i) the planning commission shall, after providing notice pursuant to local ordinance
634 and Section 17-27a-208, make a recommendation to the land use authority concerning the
635 request to vacate or ~~[alter]~~ amend; and

636 (ii) the land use authority shall hold a public hearing in accordance with Section
637 17-27a-208 and determine whether good cause exists for the vacation or ~~[alteration]~~
638 amendment.

639 (b) Subsection (1)(a)(i) does not apply if the planning commission has been designated
640 as a land use authority.

641 (2) If the land use authority vacates or ~~[alters]~~ amends any portion of a street ~~[or]~~, alley,
642 or easement, the land use authority shall ensure that the plat is recorded in the office of the
643 recorder of the county in which the land is located.

644 (3) A legislative body may vacate some or all of a street, alley, or easement by
645 recording in the county recorder's office an ordinance containing a legal description of the
646 vacated street, alley, or easement or the vacated portion of the street, alley, or easement, as the
647 case may be.

648 [~~(3)~~] (4) The action of the land use authority vacating or [~~narrowing~~] amending a street
649 [~~or~~], alley, or easement that has been dedicated to public use shall operate to the extent to
650 which it is vacated or [~~narrowed~~] amended, upon the effective date of the vacating plat, as a
651 revocation of the acceptance thereof, and the relinquishment of the county's fee therein, but the
652 right-of-way and easements therein, if any, of any lot owner and the franchise rights of any
653 public utility may not be impaired thereby.

Legislative Review Note
as of 2-4-09 4:18 PM

Office of Legislative Research and General Counsel

S.B. 63 - Modifications to Recording Requirements - Subdivisions

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
