

COUNTY USE OF LAND USE ORDINANCE

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bill Wright

Senate Sponsor: Jerry W. Stevenson

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LONG TITLE

General Description:

This bill amends provisions relating to county land use ordinances.

Highlighted Provisions:

This bill:

- ▶ provides that an owner of a platted lot is the owner of record sufficient to re-subdivide the lot in certain circumstances;
- ▶ amends exemptions from a plat requirement provisions; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

**17-27a-603**, as last amended by Laws of Utah 2010, Chapters 269 and 381

**17-27a-604**, as last amended by Laws of Utah 2010, Chapter 381

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

Section 1. Section **17-27a-603** is amended to read:

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

**Recording plat.**

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

33 (a) a subdivision name that is distinct from any subdivision name on a plat recorded in  
34 the county recorder's office;

35 (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by  
36 their boundaries, course, and extent, whether the owner proposes that any parcel of ground is  
37 intended to be used as a street or for any other public use, and whether any such area is  
38 reserved or proposed for dedication for a public purpose;

39 (c) the lot or unit reference, block or building reference, street or site address, street  
40 name or coordinate address, acreage or square footage for all parcels, units, or lots, and length  
41 and width of the blocks and lots intended for sale; and

42 (d) every existing right-of-way and easement grant of record for underground facilities,  
43 as defined in Section 54-8a-2, and for other utility facilities.

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

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

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

52 (4) (a) A plat may not be submitted to a county recorder for recording unless, subject to  
53 Subsection 17-27a-604(2):

54 (i) prior to recordation, each owner of record of land described on the plat has signed  
55 the owner's dedication as shown on the plat; and

56 (ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as  
57 provided by law.

- 58 (b) The surveyor making the plat shall certify that the surveyor:  
59 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and  
60 Professional Land Surveyors Licensing Act;  
61 (ii) has completed a survey of the property described on the plat in accordance with  
62 Section 17-23-17 and has verified all measurements; and  
63 (iii) has placed monuments as represented on the plat.  
64 (c) (i) As applicable, the owner or operator of the underground and utility facilities  
65 shall approve the:  
66 (A) boundary, course, dimensions, and intended use of the right-of-way and easement  
67 grants of record;  
68 (B) location of existing underground and utility facilities; and  
69 (C) conditions or restrictions governing the location of the facilities within the  
70 right-of-way, and easement grants of records, and utility facilities within the subdivision.  
71 (ii) The approval of an owner or operator under Subsection (4)(c)(i):  
72 (A) indicates only that the plat approximates the location of the existing underground  
73 and utility facilities but does not warrant or verify their precise location; and  
74 (B) does not affect a right that the owner or operator has under:  
75 (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;  
76 (II) a recorded easement or right-of-way;  
77 (III) the law applicable to prescriptive rights; or  
78 (IV) any other provision of law.  
79 (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the  
80 land shall, within the time period designated by ordinance, record the plat in the county  
81 recorder's office in the county in which the lands platted and laid out are situated.  
82 (b) An owner's failure to record a plat within the time period designated by ordinance  
83 renders the plat voidable.

84 Section 2. Section **17-27a-604** is amended to read:

85 **17-27a-604. Subdivision plat approval procedure -- Effect of not complying.**

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

88 (a) the person has complied with the requirements of Subsection 17-27a-603(4)(a);

89 (b) the plat has been approved by:

90 (i) the land use authority of the county in whose unincorporated area the land described  
91 in the plat is located; and

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

93 (c) all approvals described in Subsection (1)(b) are entered in writing on the plat by  
94 designated officers.

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

98 [~~2~~] (3) A plat recorded without the signatures required under this section is void.

99 [~~3~~] (4) A transfer of land pursuant to a void plat is voidable.

100 Section 3. Section **17-27a-605** is amended to read:

101 **17-27a-605. Exemptions from plat requirement.**

102 (1) Notwithstanding Sections 17-27a-603 and 17-27a-604, the land use authority may  
103 approve the subdivision of unincorporated land into 10 lots or less without a plat, by certifying  
104 in writing that:

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

106 (b) the proposed subdivision:

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

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

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

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

113 (2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural

114 land is exempt from the plat requirements of Section 17-27a-603 if the lot or parcel:

- 115 (i) qualifies as land in agricultural use under Section 59-2-502;
- 116 (ii) meets the minimum size requirement of applicable land use ordinances; and
- 117 (iii) is not used and will not be used for any nonagricultural purpose.

118 (b) The boundaries of each lot or parcel exempted under Subsection (2)(a) shall be  
119 graphically illustrated on a record of survey map that, after receiving the same approvals as are  
120 required for a plat under Section 17-27a-604, shall be recorded with the county recorder.

121 (c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural  
122 purpose, the county [~~may~~] shall require the lot or parcel to comply with the requirements of  
123 Section 17-27a-603.

124 (3) (a) Except as provided in Subsection (4), a document recorded in the county  
125 recorder's office that divides property by a metes and bounds description does not create an  
126 approved subdivision allowed by this part unless the land use authority's certificate of written  
127 approval required by Subsection (1) is attached to the document.

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

- 130 (i) prohibit the county recorder from recording a document; or
- 131 (ii) affect the validity of a recorded document.

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

135 (4) (a) As used in this Subsection (4):

136 (i) "Divided land" means land that:

- 137 (A) is described as the land to be divided in a notice under Subsection (4)(b)(ii); and
- 138 (B) has been divided by a minor subdivision.

139 (ii) "Land to be divided" means land that is proposed to be divided by a minor  
140 subdivision.

141 (iii) "Minor subdivision" means a division of at least 100 contiguous acres of

142 agricultural land in a county of the third, fourth, fifth, or sixth class to create one new lot that,  
143 after the division, is separate from the remainder of the original 100 or more contiguous acres  
144 of agricultural land.

145 (iv) "Minor subdivision lot" means a lot created by a minor subdivision.

146 (b) Notwithstanding Sections 17-27a-603 and 17-27a-604, an owner of at least 100  
147 contiguous acres of agricultural land may make a minor subdivision by submitting for  
148 recording in the office of the recorder of the county in which the land to be divided is located:

149 (i) a recordable deed containing the legal description of the minor subdivision lot; and

150 (ii) a notice:

151 (A) indicating that the owner of the land to be divided is making a minor subdivision;

152 (B) referring specifically to this section as the authority for making the minor

153 subdivision; and

154 (C) containing the legal description of:

155 (I) the land to be divided; and

156 (II) the minor subdivision lot.

157 (c) A minor subdivision lot:

158 (i) may not be less than one acre in size;

159 (ii) may not be within 1,000 feet of another minor subdivision lot; and

160 (iii) is not subject to the subdivision ordinance of the county in which the minor

161 subdivision lot is located.

162 (d) Land to be divided by a minor subdivision may not include divided land.

163 (e) A county:

164 (i) may not deny a building permit to an owner of a minor subdivision lot based on:

165 (A) the lot's status as a minor subdivision lot; or

166 (B) the absence of standards described in Subsection (4)(e)(ii); and

167 (ii) may, in connection with the issuance of a building permit, subject a minor

168 subdivision lot to reasonable health, safety, and access standards that the county has established

169 and made public.

