

1 CANAL SAFETY AMENDMENTS

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 Chief Sponsor: Scott D. Sandall

5 Senate Sponsor: Margaret Dayton

7 LONG TITLE

8 General Description:

9 This bill modifies provisions regarding notice to canal owners about land use
10 applications.

11 Highlighted Provisions:

12 This bill:

- 13 ▶ removes the requirement that a canal owner receive notice as a condition to rights
14 vesting in a land use application;
- 15 ▶ requires a land use authority to send notice to certain canal owners and operators
16 about a land use application;
- 17 ▶ requires a land use authority to wait for a period of days before acting on a land use
18 application in order to allow input from the canal owners and operators;
- 19 ▶ identifies a canal owner or operator who is entitled to notice from a land use
20 authority regarding certain land use applications; and
- 21 ▶ makes technical and conforming changes.

22 Money Appropriated in this Bill:

23 None

24 Other Special Clauses:

25 None

26 Utah Code Sections Affected:

27 AMENDS:

28 [10-9a-211](#), as enacted by Laws of Utah 2010, Chapter 332

29 [10-9a-509](#), as last amended by Laws of Utah 2014, Chapter 136

30 **10-9a-603**, as last amended by Laws of Utah 2015, Chapter 327
 31 **17-27a-211**, as enacted by Laws of Utah 2010, Chapter 332
 32 **17-27a-508**, as last amended by Laws of Utah 2014, Chapter 136
 33 **17-27a-603**, as last amended by Laws of Utah 2015, Chapter 327
 34 **73-5-7**, as last amended by Laws of Utah 2014, Chapter 355

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

37 Section 1. Section **10-9a-211** is amended to read:

38 **10-9a-211. Canal owner or operator -- Notice to municipality.**

39 (1) [~~For purposes of Subsection 10-9a-509(1)(b)(iv), a~~] A canal company or a canal
 40 operator shall [~~provide on or before July 1, 2010, any~~] ensure that each municipality in which
 41 the canal company or canal operator owns or operates a canal has on file, regarding the canal
 42 company or canal operator:

- 43 (a) a current mailing address and phone number;
- 44 (b) a contact name; and
- 45 (c) a general description of the location of each canal owned or operated by the canal
 46 owner or canal operator.

47 (2) If the information described in Subsection (1) changes after a canal company or a
 48 canal operator has provided the information to the municipality, the canal company or canal
 49 operator shall provide the correct information within 30 days of the day on which the
 50 information [~~was changed~~] changes.

51 Section 2. Section **10-9a-509** is amended to read:

52 **10-9a-509. Applicant's entitlement to land use application approval -- Exceptions**
 53 **-- Application relating to land in a high priority transportation corridor -- Municipality's**
 54 **requirements and limitations -- Vesting upon submission of development plan and**
 55 **schedule.**

56 (1) (a) (i) An applicant who has filed a complete land use application, including the
 57 payment of all application fees, is entitled to substantive land use review of the land use

58 application under the land use laws in effect on the date that the application is complete and as
59 further provided in this section.

60 (ii) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a
61 land use application if the application conforms to the requirements of the municipality's land
62 use maps, zoning map, a municipal specification for public improvements applicable to a
63 subdivision or development, and an applicable land use ordinance in effect when a complete
64 application is submitted and all application fees have been paid, unless:

65 (A) the land use authority, on the record, finds that a compelling, countervailing public
66 interest would be jeopardized by approving the application; or

67 (B) in the manner provided by local ordinance and before the application is submitted,
68 the municipality has formally initiated proceedings to amend its ordinances in a manner that
69 would prohibit approval of the application as submitted.

70 (b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval
71 of a land use application until the requirements of this Subsection (1)(b) have been met if the
72 land use application relates to land located within the boundaries of a high priority
73 transportation corridor designated in accordance with Section [72-5-403](#).

74 (ii) (A) A municipality shall notify the executive director of the Department of
75 Transportation of any land use applications that relate to land located within the boundaries of
76 a high priority transportation corridor.

77 (B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by
78 certified or registered mail to the executive director of the Department of Transportation.

79 (iii) Except as provided in Subsection (1)(c), a municipality may not approve a land
80 use application that relates to land located within the boundaries of a high priority
81 transportation corridor until:

82 (A) 30 days after the notification under Subsection (1)(b)(ii)(A) is received by the
83 Department of Transportation if the land use application is for a building permit; or

84 (B) 45 days after the notification under Subsection (1)(b)(ii)(A) is received by the
85 Department of Transportation if the land use application is for any land use other than a

86 building permit.

87 ~~[(iv)(A) If an application is an application for a subdivision approval, including any~~
88 ~~land, subject to Subsection (1)(b)(iv)(C), located within 100 feet of the center line of a canal,~~
89 ~~the land use authority shall:]~~

90 ~~[(F) within 30 days after the day on which the application is filed, notify the canal~~
91 ~~company or canal operator responsible for the canal, if the canal company or canal operator has~~
92 ~~provided information under Section 10-9a-211; and]~~

93 ~~[(H) wait at least 10 days after the day on which the land use authority notifies a canal~~
94 ~~company or canal operator under Subsection (1)(b)(iv)(A)(F) to approve or reject the~~
95 ~~subdivision application described in Subsection (1)(b)(iv)(A):]~~

96 ~~[(B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by~~
97 ~~certified or registered mail to the canal company or canal operator contact described in Section~~
98 ~~10-9a-211:]~~

99 ~~[(C) The location of land described in Subsection (1)(b)(iv)(A) shall be:]~~

100 ~~[(F) provided by a canal company or canal operator to the land use authority; and]~~

101 ~~[(H) (Aa) determined by use of mapping-grade global positioning satellite units; or]~~

102 ~~[(Bb) digitized from the most recent aerial photo available to the canal company or~~
103 ~~canal operator:]~~

104 (c) (i) A land use application is exempt from the requirements of Subsections (1)(b)(i)
105 and (ii) if:

106 (A) the land use application relates to land that was the subject of a previous land use
107 application; and

108 (B) the previous land use application described under Subsection (1)(c)(i)(A) complied
109 with the requirements of Subsections (1)(b)(i) and (ii).

110 (ii) A municipality may approve a land use application without making the required
111 notifications under Subsection (1)(b)(ii)(A) if:

112 (A) the land use application relates to land that was the subject of a previous land use
113 application; and

114 (B) the previous land use application described under Subsection (1)(c)(ii)(A)
115 complied with the requirements of Subsections (1)(b)(i) and (ii).

116 (d) After a municipality has complied with the requirements of Subsection (1)(b) for a
117 land use application, the municipality may not withhold approval of the land use application for
118 which the applicant is otherwise entitled under Subsection (1)(a).

119 (e) The municipality shall process an application without regard to proceedings
120 initiated to amend the municipality's ordinances as provided in Subsection (1)(a)(ii)(B) if:

- 121 (i) 180 days have passed since the proceedings were initiated; and
- 122 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
123 application as submitted.

124 (f) An application for a land use approval is considered submitted and complete when
125 the application is provided in a form that complies with the requirements of applicable
126 ordinances and all applicable fees have been paid.

127 (g) The continuing validity of an approval of a land use application is conditioned upon
128 the applicant proceeding after approval to implement the approval with reasonable diligence.

129 (h) A municipality may not impose on an applicant who has submitted a complete
130 application for preliminary subdivision approval a requirement that is not expressed in:

- 131 (i) this chapter;
- 132 (ii) a municipal ordinance; or
- 133 (iii) a municipal specification for public improvements applicable to a subdivision or
134 development that is in effect on the date that the applicant submits an application.

135 (i) A municipality may not impose on a holder of an issued land use permit or a final,
136 unexpired subdivision plat a requirement that is not expressed:

- 137 (i) in a land use permit;
- 138 (ii) on the subdivision plat;
- 139 (iii) in a document on which the land use permit or subdivision plat is based;
- 140 (iv) in the written record evidencing approval of the land use permit or subdivision
141 plat;

142 (v) in this chapter; or

143 (vi) in a municipal ordinance.

144 (j) A municipality may not withhold issuance of a certificate of occupancy or
145 acceptance of subdivision improvements because of an applicant's failure to comply with a
146 requirement that is not expressed:

147 (i) in the building permit or subdivision plat, documents on which the building permit
148 or subdivision plat is based, or the written record evidencing approval of the land use permit or
149 subdivision plat; or

150 (ii) in this chapter or the municipality's ordinances.

151 (2) A municipality is bound by the terms and standards of applicable land use
152 ordinances and shall comply with mandatory provisions of those ordinances.

153 (3) A municipality may not, as a condition of land use application approval, require a
154 person filing a land use application to obtain documentation regarding a school district's
155 willingness, capacity, or ability to serve the development proposed in the land use application.

156 (4) Upon a specified public agency's submission of a development plan and schedule as
157 required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the
158 specified public agency vests in the municipality's applicable land use maps, zoning map,
159 hookup fees, impact fees, other applicable development fees, and land use ordinances in effect
160 on the date of submission.

161 Section 3. Section 10-9a-603 is amended to read:

162 **10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner**
163 **acknowledgment, surveyor certification, and underground utility facility owner**
164 **verification of plat -- Recording plat.**

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

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

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

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

177 (d) every existing right-of-way and easement grant of record for an underground
178 facility, as defined in Section 54-8a-2, and for any other utility facility.

179 (2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the municipality's
180 ordinances and this part and has been approved by the culinary water authority, the sanitary
181 sewer authority, and the local health department, as defined in Section 26A-1-102, if the local
182 health department and the municipality consider the local health department's approval
183 necessary, the municipality shall approve the plat.

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

186 (c) A municipality may not require that a plat be approved or signed by a person or
187 entity who:

188 (i) is not an employee or agent of the municipality; or

189 (ii) does not:

190 (A) have a legal or equitable interest in the property within the proposed subdivision;

191 (B) provide a utility or other service directly to a lot within the subdivision;

192 (C) own an easement or right-of-way adjacent to the proposed subdivision who signs
193 for the purpose of confirming the accuracy of the location of the easement or right-of-way in
194 relation to the plat; or

195 (D) provide culinary public water service whose source protection zone designated as
196 provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision[;
197 or].

198 ~~[(iii) is not entitled to notice of the subdivision pursuant to Subsection~~
199 ~~10-9a-509(1)(b)(iv) for the purpose of determining the accuracy of the information depicted on~~
200 ~~the plat.]~~

201 (d) For a subdivision application that includes land located within a notification zone,
202 as determined under Subsection (2)(e), the land use authority shall:

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

- 206 (A) Section 10-9a-211;
- 207 (B) Subsection 73-5-7(2); or
- 208 (C) Subsection (4)(c); and

209 (ii) wait to approve or reject the subdivision application for at least 20 days after the
210 day on which the land use authority mails the notice described in Subsection (2)(d)(i) in order
211 to receive input from the canal owner or associated canal operator, including input regarding:

- 212 (A) access to the canal;
- 213 (B) maintenance of the canal;
- 214 (C) canal protection; and
- 215 (D) canal safety.

216 (e) The land use authority shall provide the notice described in Subsection (2)(d) to a
217 canal owner or associated canal operator if:

- 218 (i) the canal's centerline is located within 100 feet of a proposed subdivision; and
- 219 (ii) the centerline alignment is available to the land use authority:
 - 220 (A) from information provided by the canal company under Section 10-9a-211, using
 - 221 mapping-grade global positioning satellite units or digitized data from the most recent aerial
 - 222 photo available to the canal owner or associated canal operator;
 - 223 (B) using the state engineer's inventory of canals under Section 73-5-7; or
 - 224 (C) from information provided by a surveyor under Subsection (4)(c).

225 (3) The municipality may withhold an otherwise valid plat approval until the owner of

226 the land provides the legislative body with a tax clearance indicating that all taxes, interest, and
227 penalties owing on the land have been paid.

228 (4) (a) A plat may not be submitted to a county recorder for recording unless:

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

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

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

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

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

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

239 (c) (i) To the extent possible, the surveyor shall consult with the owner or operator of
240 an existing or proposed underground facility or utility facility within the proposed subdivision,
241 or a representative designated by the owner or operator, to verify the accuracy of the surveyor's
242 depiction of the:

243 (A) boundary, course, dimensions, and intended use of the public rights-of-way, a
244 public or private easement, or grants of record;

245 (B) location of an existing underground facility and utility facility; and

246 (C) physical restrictions governing the location of the underground facility and utility
247 facility within the subdivision.

248 (ii) The cooperation of an owner or operator under Subsection (4)(c)(i):

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

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

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

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

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

255 (IV) any other provision of law.

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

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

261 Section 4. Section 17-27a-211 is amended to read:

262 **17-27a-211. Canal owner or operator -- Notice to county.**

263 (1) [~~For purposes of Subsection 17-27a-508(1)(b)(iv), a~~] A canal company or a canal
264 operator shall [provide on or before July 1, 2010, any] ensure that each county in which the
265 canal company or canal operator owns or operates a canal has on file, regarding the canal
266 company or canal operator:

267 (a) a current mailing address and phone number;

268 (b) a contact name; and

269 (c) a general description of the location of each canal owned or operated by the canal
270 owner or canal operator.

271 (2) If the information described in Subsection (1) changes after a canal company or a
272 canal operator has provided the information to the county, the canal company or canal operator
273 shall provide the correct information within 30 days of the day on which the information [~~was~~
274 ~~changed~~] changes.

275 Section 5. Section 17-27a-508 is amended to read:

276 **17-27a-508. Applicant's entitlement to land use application approval --**
277 **Exceptions -- Application relating to land in a high priority transportation corridor --**
278 **County's requirements and limitations -- Vesting upon submission of development plan**
279 **and schedule.**

280 (1) (a) (i) An applicant who has filed a complete land use application, including the
281 payment of all application fees, is entitled to substantive land use review of the land use

282 application under the land use laws in effect on the date that the application is complete and as
283 further provided in this section.

284 (ii) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a
285 land use application if the application conforms to the requirements of the county's land use
286 maps, zoning map, and applicable land use ordinance in effect when a complete application is
287 submitted and all application fees have been paid, unless:

288 (A) the land use authority, on the record, finds that a compelling, countervailing public
289 interest would be jeopardized by approving the application; or

290 (B) in the manner provided by local ordinance and before the application is submitted,
291 the county has formally initiated proceedings to amend its ordinances in a manner that would
292 prohibit approval of the application as submitted.

293 (b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval
294 of a land use application until the requirements of this Subsection (1)(b)(i) and Subsection
295 (1)(b)(ii) have been met if the land use application relates to land located within the boundaries
296 of a high priority transportation corridor designated in accordance with Section 72-5-403.

297 (ii) (A) A county shall notify the executive director of the Department of
298 Transportation of any land use applications that relate to land located within the boundaries of
299 a high priority transportation corridor.

300 (B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by
301 certified or registered mail to the executive director of the Department of Transportation.

302 (iii) Except as provided in Subsection (1)(c), a county may not approve a land use
303 application that relates to land located within the boundaries of a high priority transportation
304 corridor until:

305 (A) 30 days after the notification under Subsection (1)(b)(ii)(A) is received by the
306 Department of Transportation if the land use application is for a building permit; or

307 (B) 45 days after the notification under Subsection (1)(b)(ii)(A) is received by the
308 Department of Transportation if the land use application is for any land use other than a
309 building permit.

310 ~~[(iv)(A) If an application is an application for a subdivision approval, including any~~
311 ~~land, subject to Subsection (1)(b)(iv)(C), located within 100 feet of the center line of a canal,~~
312 ~~the land use authority shall:]~~

313 ~~[(F) within 30 days after the day on which the application is filed, notify the canal~~
314 ~~company or canal operator responsible for the canal, if the canal company or canal owner has~~
315 ~~provided information under Section 17-27a-211; and]~~

316 ~~[(H) wait at least 10 days after the day on which the land use authority notifies a canal~~
317 ~~company or canal operator under Subsection (1)(b)(iv)(A)(f) to approve or reject the~~
318 ~~subdivision application described in Subsection (1)(b)(iv)(A).]~~

319 ~~[(B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by~~
320 ~~certified or registered mail to the canal company or canal operator contact described in Section~~
321 ~~17-27a-211.]~~

322 ~~[(C) The location of land described in Subsection (1)(b)(iv)(A) shall be:]~~

323 ~~[(f) provided by a canal company or canal operator to the land use authority, and]~~

324 ~~[(H) (Aa) determined by use of mapping-grade global positioning satellite units; or]~~

325 ~~[(Bb) digitized from the most recent aerial photo available to the canal company or~~
326 ~~canal operator.]~~

327 (c) (i) A land use application is exempt from the requirements of Subsection (1)(b)(i)
328 if:

329 (A) the land use application relates to land that was the subject of a previous land use
330 application; and

331 (B) the previous land use application described under Subsection (1)(c)(i)(A) complied
332 with the requirements of Subsections (1)(b)(i) and (ii).

333 (ii) A county may approve a land use application without making the required
334 notifications under Subsections (1)(b)(i) and (ii) if:

335 (A) the land use application relates to land that was the subject of a previous land use
336 application; and

337 (B) the previous land use application described under Subsection (1)(c)(ii)(A)

338 complied with the requirements of Subsections (1)(b)(i) and (ii).

339 (d) After a county has complied with the requirements of Subsection (1)(b) for a land
340 use application, the county may not withhold approval of the land use application for which the
341 applicant is otherwise entitled under Subsection (1)(a).

342 (e) The county shall process an application without regard to proceedings initiated to
343 amend the county's ordinances as provided in Subsection (1)(a)(ii)(B) if:

344 (i) 180 days have passed since the proceedings were initiated; and

345 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
346 application as submitted.

347 (f) An application for a land use approval is considered submitted and complete when
348 the application is provided in a form that complies with the requirements of applicable
349 ordinances and all applicable fees have been paid.

350 (g) The continuing validity of an approval of a land use application is conditioned upon
351 the applicant proceeding after approval to implement the approval with reasonable diligence.

352 (h) A county may not impose on an applicant who has submitted a complete
353 application for preliminary subdivision approval a requirement that is not expressed:

354 (i) in this chapter;

355 (ii) in a county ordinance; or

356 (iii) in a county specification for public improvements applicable to a subdivision or
357 development that is in effect on the date that the applicant submits an application.

358 (i) A county may not impose on a holder of an issued land use permit or a final,
359 unexpired subdivision plat a requirement that is not expressed:

360 (i) in a land use permit;

361 (ii) on the subdivision plat;

362 (iii) in a document on which the land use permit or subdivision plat is based;

363 (iv) in the written record evidencing approval of the land use permit or subdivision
364 plat;

365 (v) in this chapter; or

366 (vi) in a county ordinance.

367 (j) A county may not withhold issuance of a certificate of occupancy or acceptance of
368 subdivision improvements because of an applicant's failure to comply with a requirement that
369 is not expressed:

370 (i) in the building permit or subdivision plat, documents on which the building permit
371 or subdivision plat is based, or the written record evidencing approval of the building permit or
372 subdivision plat; or

373 (ii) in this chapter or the county's ordinances.

374 (2) A county is bound by the terms and standards of applicable land use ordinances and
375 shall comply with mandatory provisions of those ordinances.

376 (3) A county may not, as a condition of land use application approval, require a person
377 filing a land use application to obtain documentation regarding a school district's willingness,
378 capacity, or ability to serve the development proposed in the land use application.

379 (4) Upon a specified public agency's submission of a development plan and schedule as
380 required in Subsection 17-27a-305(8) that complies with the requirements of that subsection,
381 the specified public agency vests in the county's applicable land use maps, zoning map, hookup
382 fees, impact fees, other applicable development fees, and land use ordinances in effect on the
383 date of submission.

384 Section 6. Section 17-27a-603 is amended to read:

385 **17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner**
386 **acknowledgment, surveyor certification, and underground utility facility owner**
387 **verification of plat -- Recording plat.**

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

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

393 (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by

394 their boundaries, course, and extent, whether the owner proposes that any parcel of ground is
395 intended to be used as a street or for any other public use, and whether any such area is
396 reserved or proposed for dedication for a public purpose;

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

400 (d) every existing right-of-way and easement grant of record for an underground
401 facility, as defined in Section 54-8a-2, and for any other utility facility.

402 (2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's
403 ordinances and this part and has been approved by the culinary water authority, the sanitary
404 sewer authority, and the local health department, as defined in Section 26A-1-102, if the local
405 health department and the county consider the local health department's approval necessary, the
406 county shall approve the plat.

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

409 (c) A county may not require that a plat be approved or signed by a person or entity
410 who:

411 (i) is not an employee or agent of the county; or

412 (ii) does not:

413 (A) have a legal or equitable interest in the property within the proposed subdivision;

414 (B) provide a utility or other service directly to a lot within the subdivision;

415 (C) own an easement or right-of-way adjacent to the proposed subdivision who signs
416 for the purpose of confirming the accuracy of the location of the easement or right-of-way in
417 relation to the plat; or

418 (D) provide culinary public water service whose source protection zone designated as
419 provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision[;
420 ~~or~~].

421 [~~(iii) is not entitled to notice of the subdivision pursuant to Subsection~~

422 ~~17-27a-508(1)(b)(iv) for the purpose of determining the accuracy of the information depicted~~
423 ~~on the plat.]~~

424 (d) For a subdivision application that includes land located within a notification zone,
425 as determined under Subsection (2)(e), the land use authority shall:

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

- 429 (A) Section 17-27a-211;
- 430 (B) Subsection 73-5-7(2); or
- 431 (C) Subsection (4)(c); and

432 (ii) wait to approve or reject the subdivision application for at least 20 days after the
433 day on which the land use authority mails the notice under Subsection (2)(d)(i) in order to
434 receive input from the canal owner or associated canal operator, including input regarding:

- 435 (A) access to the canal;
- 436 (B) maintenance of the canal;
- 437 (C) canal protection; and
- 438 (D) canal safety.

439 (e) The land use authority shall provide the notice described in Subsection (2)(d) to a
440 canal owner or associated canal operator if:

- 441 (i) the canal's centerline is located within 100 feet of a proposed subdivision; and
- 442 (ii) the centerline alignment is available to the land use authority:

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

- 446 (B) using the state engineer's inventory of canals under Section 73-5-7; or
- 447 (C) from information provided by a surveyor under Subsection (4)(c).

448 (3) The county may withhold an otherwise valid plat approval until the owner of the
449 land provides the legislative body with a tax clearance indicating that all taxes, interest, and

450 penalties owing on the land have been paid.

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

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

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

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

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

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

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

463 (c) (i) To the extent possible, the surveyor shall consult with the owner or operator of
464 an existing or proposed underground facility or utility facility within the proposed subdivision,
465 or a representative designated by the owner or operator, to verify the accuracy of the surveyor's
466 depiction of the:

467 (A) boundary, course, dimensions, and intended use of the public rights-of-way, a
468 public or private easement, or grants of record;

469 (B) location of an existing underground facility and utility facility; and

470 (C) physical restrictions governing the location of the underground facility and utility
471 facility within the subdivision.

472 (ii) The cooperation of an owner or operator under Subsection (4)(c)(i):

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

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

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

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

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

479 (IV) any other provision of law.

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

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

485 Section 7. Section 73-5-7 is amended to read:

486 **73-5-7. Inspection of ditches and diverting works by engineer.**

487 (1) (a) The state engineer shall have authority to examine and inspect any ditch or other
488 diverting works, and at the time of such inspection, the state engineer may order the owners
489 thereof to make any addition or alteration that the state engineer considers necessary for the
490 security of such works, the safety of persons, or the protection of property.

491 (b) If any person, firm, copartnership, association, or corporation refuses or neglects to
492 comply with the requirements of the state engineer as described in Subsection (1)(a), the state
493 engineer may bring action in the name of the state in the district court to enforce the order.

494 (2) (a) The state engineer shall, to the extent reasonably practicable, by July 1, [2017]
495 2019, inventory and maintain a list of all open, human-made water conveyance systems that
496 carry 5 cubic feet per second or more in the state, including the following information on each
497 conveyance system:

498 [~~(a)~~] (i) alignment;

499 [~~(b)~~] (ii) contact information of the owner;

500 [~~(c)~~] (iii) maximum flow capacity in cubic feet per second;

501 [~~(d)~~] (iv) whether the conveyance system is used for flood or storm water management;

502 and

503 [~~(e)~~] (v) notice of the adoption of a management plan for the conveyance system as
504 reported to the Division of Water Resources under Section 73-10-33.

505 (b) In counties of the first or second class, the state engineer shall include in the

506 inventory described in Subsection (2)(a) any enclosed segments of each open, human-made
507 water conveyance system.

508 (3) The owner of an open, human-made water conveyance system that carries 5 cubic
509 feet per second or more shall inform the state engineer if the information described in
510 Subsection (2) changes.

511 (4) The state engineer:

512 (a) may contract with a local conservation district created in Title 17D, Chapter 3,
513 Conservation District Act, to fulfill the duties described in Subsection (2); and

514 (b) may contract a local conservation district created in Title 17D, Chapter 3,
515 Conservation District Act, to provide technical support for a canal owner who is adopting a
516 management plan, as described in Section [73-10-33](#).