

**CANAL SAFETY AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott D. Sandall**

Senate Sponsor: \_\_\_\_\_

---

---

**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ removes the requirement that a canal owner receive notice as a condition to rights vesting in a land use application;
- ▶ requires a land use authority to send notice to certain canal owners and operators about a land use application;
- ▶ requires a land use authority to wait for a period of days before acting on a land use application in order to allow input from the canal owners and operators;
- ▶ identifies a canal owner or operator who is entitled to notice from a land use authority regarding certain land use applications;
- ▶ requires a surveyor making a plat to consult with the owner or operator of a certain water conveyance facility; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **10-9a-211**, as enacted by Laws of Utah 2010, Chapter 332

31 **10-9a-509**, as last amended by Laws of Utah 2014, Chapter 136

32 **10-9a-603**, as last amended by Laws of Utah 2015, Chapter 327

33 **17-27a-211**, as enacted by Laws of Utah 2010, Chapter 332

34 **17-27a-508**, as last amended by Laws of Utah 2014, Chapter 136

35 **17-27a-603**, as last amended by Laws of Utah 2015, Chapter 327

36 **73-5-7**, as last amended by Laws of Utah 2014, Chapter 355



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

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

40 **10-9a-211. Canal owner or operator -- Notice to municipality.**

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

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

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

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

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

58 (1) (a) (i) An applicant who has filed a complete land use application, including the

59 payment of all application fees, is entitled to substantive land use review of the land use  
60 application under the land use laws in effect on the date that the application is complete and as  
61 further provided in this section.

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

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

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

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

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

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

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

84 (A) 30 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 a building permit; or

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

89 ~~[(iv) (A) If an application is an application for a subdivision approval, including any~~

90 land, subject to ~~Subsection (1)(b)(iv)(C)~~, located within 100 feet of the center line of a canal,  
91 the land use authority shall:]

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

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

98 [~~(B)~~ The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by  
99 certified or registered mail to the canal company or canal operator contact described in Section  
100 ~~10-9a-211~~.:]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 139 (i) in a land use permit;
- 140 (ii) on the subdivision plat;
- 141 (iii) in a document on which the land use permit or subdivision plat is based;
- 142 (iv) in the written record evidencing approval of the land use permit or subdivision  
143 plat;
- 144 (v) in this chapter; or
- 145 (vi) in a municipal ordinance.

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

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

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

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

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

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

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

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

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

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

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

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

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

181 (2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the municipality's  
182 ordinances and this part and has been approved by the culinary water authority, the sanitary

183 sewer authority, and the local health department, as defined in Section 26A-1-102, if the local  
 184 health department and the municipality consider the local health department's approval  
 185 necessary, the municipality shall approve the plat.

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

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

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

191 (ii) does not:

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

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

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

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

200 [~~(iii) is not entitled to notice of the subdivision pursuant to Subsection~~  
 201 ~~10-9a-509(1)(b)(iv) for the purpose of determining the accuracy of the information depicted on~~  
 202 ~~the plat.~~]

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

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

208 (A) Section 10-9a-211;

209 (B) Subsection 73-5-7(2); or

210 (C) Subsection (4)(d); and

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

214           (A) access to the canal;  
215           (B) maintenance of the canal;  
216           (C) canal protection; and  
217           (D) canal safety.  
218           (e) The land use authority shall provide the notice described in Subsection (2)(d) to a  
219 canal owner or associated canal operator if:  
220           (i) the canal's centerline is located within 100 feet of a proposed subdivision; and  
221           (ii) the centerline alignment is available to the land use authority:  
222           (A) from information provided by the canal company under Section 10-9a-211, using  
223 mapping-grade global positioning satellite units or digitized data from the most recent aerial  
224 photo available to the canal owner or associated canal operator;  
225           (B) using the state engineer's inventory of canals under Section 73-5-7; or  
226           (C) from information provided by a surveyor under Subsection (4)(d).  
227           (3) The municipality may withhold an otherwise valid plat approval until the owner of  
228 the land provides the legislative body with a tax clearance indicating that all taxes, interest, and  
229 penalties owing on the land have been paid.  
230           (4) (a) A plat may not be submitted to a county recorder for recording unless:  
231           (i) prior to recordation, each owner of record of land described on the plat has signed  
232 the owner's dedication as shown on the plat; and  
233           (ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as  
234 provided by law.  
235           (b) The surveyor making the plat shall certify that the surveyor:  
236           (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and  
237 Professional Land Surveyors Licensing Act;  
238           (ii) has completed a survey of the property described on the plat in accordance with  
239 Section 17-23-17 and has verified all measurements; and  
240           (iii) has placed monuments as represented on the plat.  
241           (c) (i) To the extent possible, the surveyor shall consult with the owner or operator of  
242 an existing or proposed underground facility or utility facility within the proposed subdivision,  
243 or a representative designated by the owner or operator, to verify the accuracy of the surveyor's  
244 depiction of the:

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

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

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

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

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

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

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

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

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

257 (IV) any other provision of law.

258 (d) (i) The surveyor shall ensure that the consultation required by Subsection (4)(c)(i)  
259 includes consultation with the owner or operator of a water conveyance facility, as that term is  
260 defined in Section 73-10-33, located within 100 feet of the subdivision boundary.

261 (ii) The surveyor shall provide to the land use authority the contact information of the  
262 facility owner or operator with whom the surveyor consulted if the proposed subdivision  
263 includes:

264 (A) land across which a water conveyance facility runs; or

265 (B) land within 100 feet of a water conveyance facility.

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

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

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

272 **17-27a-211. Canal owner or operator -- Notice to county.**

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

276 company or canal operator:

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

278 (b) a contact name; and

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

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

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

286 **17-27a-508. Applicant's entitlement to land use application approval --**  
287 **Exceptions -- Application relating to land in a high priority transportation corridor --**  
288 **County's requirements and limitations -- Vesting upon submission of development plan**  
289 **and schedule.**

290 (1) (a) (i) An applicant who has filed a complete land use application, including the  
291 payment of all application fees, is entitled to substantive land use review of the land use  
292 application under the land use laws in effect on the date that the application is complete and as  
293 further provided in this section.

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

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

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

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

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

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

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

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

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

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

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

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

329 ~~[(B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by~~  
330 ~~certified or registered mail to the canal company or canal operator contact described in Section~~  
331 ~~17-27a-211.]~~

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

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

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

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

337 (c) (i) A land use application is exempt from the requirements of Subsection (1)(b)(i)

338 if:

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

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

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

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

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

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

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

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

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

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

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

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

364 (i) in this chapter;

365 (ii) in a county ordinance; or

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

368 (i) A county may not impose on a holder of an issued land use permit or a final,

369 unexpired subdivision plat a requirement that is not expressed:

- 370 (i) in a land use permit;
- 371 (ii) on the subdivision plat;
- 372 (iii) in a document on which the land use permit or subdivision plat is based;
- 373 (iv) in the written record evidencing approval of the land use permit or subdivision
- 374 plat;
- 375 (v) in this chapter; or
- 376 (vi) in a county ordinance.

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

380 (i) in the building permit or subdivision plat, documents on which the building permit  
381 or subdivision plat is based, or the written record evidencing approval of the building permit or  
382 subdivision plat; or

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

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

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

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

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

395 **17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner**  
396 **acknowledgment, surveyor certification, and underground utility facility owner**  
397 **verification of plat -- Recording plat.**

398 (1) Unless exempt under Section 17-27a-605 or excluded from the definition of  
399 subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of

400 the land shall provide an accurate plat that describes or specifies:

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

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

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

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

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

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

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

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

422 (ii) does not:

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

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

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

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

431 ~~[(iii) is not entitled to notice of the subdivision pursuant to Subsection~~  
432 ~~17-27a-508(1)(b)(iv) for the purpose of determining the accuracy of the information depicted~~  
433 ~~on the plat.]~~

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

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

439 (A) Section 17-27a-211;

440 (B) Subsection 73-5-7(2); or

441 (C) Subsection (4)(d); and

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

445 (A) access to the canal;

446 (B) maintenance of the canal;

447 (C) canal protection; and

448 (D) canal safety.

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

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

452 (ii) the centerline alignment is available to the land use authority:

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

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

457 (C) from information provided by a surveyor under Subsection (4)(d).

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

461 (4) (a) A plat may not be submitted to a county recorder for recording unless, subject to

462 Subsection 17-27a-604(2):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

489 (IV) any other provision of law.

490 (d) (i) The surveyor shall ensure that the consultation required by Subsection (4)(c)(i)  
491 includes consultation with the owner or operator of a water conveyance facility, as that term is  
492 defined in Section 73-10-33, located within 100 feet of the subdivision boundary.

493 (ii) The surveyor shall provide to the land use authority the contact information of the  
 494 facility owner or operator with whom the surveyor consulted if the proposed subdivision  
 495 includes:

496 (A) land across which a water conveyance facility runs; or

497 (B) land within 100 feet of a water conveyance facility.

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

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

503 Section 7. Section **73-5-7** is amended to read:

504 **73-5-7. Inspection of ditches and diverting works by engineer.**

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

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

512 (2) (a) The state engineer shall, to the extent reasonably practicable, by July 1, [2017]  
 513 2019, inventory and maintain a list of all open, human-made water conveyance systems that  
 514 carry 5 cubic feet per second or more in the state, including the following information on each  
 515 conveyance system:

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

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

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

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

520 and

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

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

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

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

529 (4) The state engineer:

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

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

---

---

**Legislative Review Note**  
**Office of Legislative Research and General Counsel**