

Representative Joel Ferry proposes the following substitute bill:

SUBDIVISION PLAT AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel Ferry

Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill amends provisions applicable to the recording of a subdivision plat.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires an owner of land seeking a municipality's or county's approval for the recording of a subdivision plat to describe certain water conveyance facilities located within the plat;
- ▶ modifies provisions related to:
 - a municipality's or county's notification to the owners of certain water conveyance facilities regarding a proposed subdivision; and
 - the comments provided to a municipality or county regarding a proposed subdivision;
- ▶ requires the surveyor making a subdivision plat to verify certain information regarding water conveyance facilities located within the plat, in addition to underground facilities and utility facilities; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **10-9a-603**, as last amended by Laws of Utah 2020, Chapter 434

32 **10-9a-604**, as last amended by Laws of Utah 2020, Chapter 434

33 **17-27a-603**, as last amended by Laws of Utah 2020, Chapter 434

34 **17-27a-604**, as last amended by Laws of Utah 2020, Chapter 434



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

37 Section 1. Section **10-9a-603** is amended to read:

38 **10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner**
39 **acknowledgment, surveyor certification, and verification of plat -- Recording plat.**

40 (1) As used in this section:

41 (a) (i) "Facility owner" means the same as that term is defined in Section [73-1-15.5](#).

42 (ii) "Facility owner" includes a canal owner or associated canal operator contact
43 described in:

44 (A) Section [10-9a-211](#);

45 (B) Subsection [73-5-7\(3\)](#); or

46 (C) Subsection (6)(c).

47 (b) "Local health department" means the same as that term is defined in Section
48 [26A-1-102](#).

49 (c) "State engineer's inventory of canals" means the state engineer's inventory of water
50 conveyance systems established in Section [73-5-7](#).

51 (d) "Underground facility" means the same as that term is defined in Section [54-8a-2](#).

52 (e) "Water conveyance facility" means the same as that term is defined in Section
53 [73-1-15.5](#).

54 [†] (2) Unless exempt under Section [10-9a-605](#) or excluded from the definition of
55 subdivision under Section [10-9a-103](#), whenever any land is laid out and platted, the owner of
56 the land shall provide to the municipality in which the land is located an accurate plat that

57 describes or specifies:

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

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

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

67 (d) every existing right-of-way and recorded easement ~~[grant of record for an~~
68 ~~underground facility, as defined in Section 54-8a-2, and for any other utility facility.]~~ located
69 within the plat for:

70 (i) an underground facility;

71 (ii) a water conveyance facility; or

72 (iii) any other utility facility; and

73 (e) any water conveyance facility located, entirely or partially, within the plat that:

74 (i) is not recorded; and

75 (ii) of which the owner of the land has actual or constructive knowledge, including
76 from information made available to the owner of the land:

77 (A) in the state engineer's inventory of canals; or

78 (B) from a surveyor under Subsection (6)(c).

79 ~~[(2)]~~ (3) (a) Subject to Subsections ~~[(3), (5), and (6)]~~ (4), (6), and (7), if the plat
80 conforms to the municipality's ordinances and this part and has been approved by the culinary
81 water authority, the sanitary sewer authority, and the local health department, ~~[as defined in~~
82 ~~Section 26A-1-102;]~~ if the local health department and the municipality consider the local
83 health department's approval necessary, the municipality shall approve the plat.

84 (b) Municipalities are encouraged to receive a recommendation from the fire authority
85 and the public safety answering point before approving a plat.

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

- 88 (i) is not an employee or agent of the municipality; or
- 89 (ii) does not:
 - 90 (A) have a legal or equitable interest in the property within the proposed subdivision;
 - 91 (B) provide a utility or other service directly to a lot within the subdivision;
 - 92 (C) own an easement or right-of-way adjacent to the proposed subdivision who signs
 - 93 for the purpose of confirming the accuracy of the location of the easement or right-of-way in
 - 94 relation to the plat; or

95 (D) provide culinary public water service whose source protection zone designated as

96 provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

97 [~~(d) For a subdivision application that includes land located within a notification zone,~~

98 ~~as determined under Subsection (2)(f), the land use authority shall:]~~

99 [~~(i) within 20 days after the day on which a complete subdivision application is filed,~~

100 ~~provide written notice of the application to the canal owner or associated canal operator contact~~

101 ~~described in:]~~

102 [~~(A) Section 10-9a-211;~~]

103 [~~(B) Subsection 73-5-7(2); or~~]

104 [~~(C) Subsection (5)(c); and~~]

105 (d) A municipality shall:

106 (i) within 20 days after the day on which an owner of land submits to the municipality

107 a complete subdivision plat land use application, mail written notice of the proposed

108 subdivision to the facility owner of any water conveyance facility located, entirely or partially,

109 within 100 feet of the subdivision plat, as determined using information made available to the

110 municipality:

111 (A) from the facility owner under Section 10-9a-211, using mapping-grade global

112 positioning satellite units or digitized data from the most recent aerial photo available to the

113 facility owner;

114 (B) in the state engineer's inventory of canals; or

115 (C) from a surveyor under Subsection (6)(c); and

116 (ii) ~~[wait to]~~ not approve ~~[or reject]~~ the subdivision ~~[application]~~ plat for at least 20

117 days after the day on which the ~~[land use authority]~~ municipality mails to each facility owner

118 the notice described in Subsection ~~[(2)]~~ (3)(d)(i), in order to receive ~~[input from the canal~~

119 ~~owner or associated canal operator, including input]~~ any comments from each facility owner
 120 regarding:

- 121 (A) access to the ~~[canal]~~ water conveyance facility;
- 122 (B) maintenance of the ~~[canal]~~ water conveyance facility;
- 123 ~~[(C) canal protection; and]~~
- 124 ~~[(D) canal safety;]~~
- 125 (C) protection of the water conveyance facility;
- 126 (D) safety of the water conveyance facility; or
- 127 (E) any other issue related to water conveyance facility operations.

128 (e) When applicable, the owner of the land seeking subdivision ~~[applicant]~~ plat
 129 approval shall comply with Section 73-1-15.5.

130 ~~[(f) The land use authority shall provide the notice described in Subsection (2)(d) to a~~
 131 ~~canal owner or associated canal operator if:]~~

132 ~~[(i) the canal's centerline is located within 100 feet of a proposed subdivision; and]~~

133 ~~[(ii) the centerline alignment is available to the land use authority:]~~

134 ~~[(A) from information provided by the canal company under Section 10-9a-211, using~~
 135 ~~mapping-grade global positioning satellite units or digitized data from the most recent aerial~~
 136 ~~photo available to the canal owner or associated canal operator;]~~

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

138 ~~[(C) from information provided by a surveyor under Subsection (5)(c).]~~

139 (f) A facility owner's failure to provide comments to a municipality in accordance with
 140 Subsection (3)(d)(ii) does not affect or impair the municipality's authority to approve the
 141 subdivision plat.

142 ~~[(3)]~~ (4) The municipality may withhold an otherwise valid plat approval until the
 143 owner of the land provides the legislative body with a tax clearance indicating that all taxes,
 144 interest, and penalties owing on the land have been paid.

145 ~~[(4)]~~ (5) (a) Within 30 days after approving a final plat under this section, a
 146 municipality shall submit to the Automated Geographic Reference Center, created in Section
 147 63F-1-506, for inclusion in the unified statewide 911 emergency service database described in
 148 Subsection 63H-7a-304(4)(b):

149 (i) an electronic copy of the approved final plat; or

150 (ii) preliminary geospatial data that depict any new streets and situs addresses proposed
151 for construction within the bounds of the approved plat.

152 (b) If requested by the Automated Geographic Reference Center, a municipality that
153 approves a final plat under this section shall:

154 (i) coordinate with the Automated Geographic Reference Center to validate the
155 information described in Subsection ~~[(4)]~~ (5)(a); and

156 (ii) assist the Automated Geographic Reference Center in creating electronic files that
157 contain the information described in Subsection ~~[(4)]~~ (5)(a) for inclusion in the unified
158 statewide 911 emergency service database.

159 ~~[(5)]~~ (6) (a) A county recorder may not record a plat unless:

160 (i) prior to recordation, the municipality has approved and signed the plat;

161 (ii) each owner of record of land described on the plat has signed the owner's
162 dedication as shown on the plat; and

163 (iii) the signature of each owner described in Subsection ~~[(5)]~~ (6)(a)(ii) is
164 acknowledged as provided by law.

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

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

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

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

171 (c) (i) To the extent possible, the surveyor shall consult with the owner or operator, or a
172 representative designated by the owner or operator, of an existing ~~[or proposed]~~ water
173 conveyance facility located within the proposed subdivision, or an existing or proposed
174 underground facility or utility facility located within the proposed subdivision, ~~[or a~~
175 ~~representative designated by the owner or operator,]~~ to verify the accuracy of the surveyor's
176 depiction of the:

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

179 (B) location of ~~[an existing]~~ the existing water conveyance facility, or the existing or
180 proposed underground facility ~~[and]~~ or utility facility; and

181 (C) physical restrictions governing the location of the existing or proposed
 182 underground facility [~~and~~] or utility facility [~~within the subdivision~~].

183 (ii) The cooperation of an owner or operator of a water conveyance facility,
 184 underground facility, or utility facility under Subsection [~~(5)~~] (6)(c)(i):

185 (A) indicates only that the plat approximates the location of the existing [~~underground~~
 186 ~~and utility~~] facilities but does not warrant or verify their precise location; and

187 (B) does not affect a right that the owner or operator has under Title 54, Chapter 8a,
 188 Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law
 189 applicable to prescriptive rights, or any other provision of law.

190 [~~(6)~~] (7) (a) Except as provided in Subsection [~~(5)~~] (6)(c), after the plat has been
 191 acknowledged, certified, and approved, the [~~individual~~] owner of the land seeking to record the
 192 plat shall, within the time period and manner designated by ordinance, record the plat in the
 193 county recorder's office in the county in which the lands platted and laid out are situated.

194 (b) A failure to record a plat within the time period designated by ordinance renders the
 195 plat voidable by the [~~land use authority~~] municipality.

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

197 **10-9a-604. Subdivision plat approval procedure -- Effect of not complying.**

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

200 (a) the person has complied with the requirements of Subsection **10-9a-603** [~~(5)~~](6)(a);

201 (b) the plat has been approved by:

202 (i) the land use authority of the municipality in which the land described in the plat is
 203 located; and

204 (ii) other officers that the municipality designates in its ordinance;

205 (c) all approvals described in Subsection (1)(b) are entered in writing on the plat by the
 206 designated officers; and

207 (d) if the person submitting the plat intends the plat to be or if the plat is part of a
 208 community association subject to Title 57, Chapter 8a, Community Association Act, the plat
 209 includes language conveying to the association, as that term is defined in Section **57-8a-102**, all
 210 common areas, as that term is defined in Section **57-8a-102**.

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

212 void.

213 (3) A transfer of land pursuant to a void plat is voidable by the land use authority.

214 Section 3. Section **17-27a-603** is amended to read:

215 **17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner**
216 **acknowledgment, surveyor certification, and verification of plat -- Recording plat.**

217 (1) As used in this section:

218 (a) (i) "Facility owner" means the same as that term is defined in Section [73-1-15.5](#).

219 (ii) "Facility owner" includes a canal owner or associated canal operator contact

220 described in:

221 (A) Section [17-27a-211](#);

222 (B) Subsection [73-5-7\(3\)](#); or

223 (C) Subsection (6)(c).

224 (b) "Local health department" means the same as that term is defined in Section

225 [26A-1-102](#).

226 (c) "State engineer's inventory of canals" means the state engineer's inventory of water

227 conveyance systems established in Section [73-5-7](#).

228 (d) "Underground facility" means the same as that term is defined in Section [54-8a-2](#).

229 (e) "Water conveyance facility" means the same as that term is defined in Section

230 [73-1-15.5](#).

231 ~~[(1)]~~ (2) Unless exempt under Section [17-27a-605](#) or excluded from the definition of
232 subdivision under Section [17-27a-103](#), whenever any land is laid out and platted, the owner of
233 the land shall provide to the county in which the land is located an accurate plat that describes
234 or specifies:

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

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

241 (c) the lot or unit reference, block or building reference, street or site address, street
242 name or coordinate address, acreage or square footage for all parcels, units, or lots, and length

243 and width of the blocks and lots intended for sale; ~~[and]~~

244 (d) every existing right-of-way and recorded easement ~~[grant of record for an~~
 245 ~~underground facility, as defined in Section 54-8a-2, and for any other utility facility.]~~ located
 246 within the plat for:

247 (i) an underground facility;

248 (ii) a water conveyance facility; or

249 (iii) any other utility facility; and

250 (e) any water conveyance facility located, entirely or partially, within the plat that:

251 (i) is not recorded; and

252 (ii) of which the owner of the land has actual or constructive knowledge, including
 253 from information made available to the owner of the land:

254 (A) in the state engineer's inventory of canals; or

255 (B) from a surveyor under Subsection (6)(c).

256 ~~[(2)]~~ (3) (a) Subject to Subsections ~~[(3), (5), and (6)]~~ (4), (6), and (7), if the plat
 257 conforms to the county's ordinances and this part and has been approved by the culinary water
 258 authority, the sanitary sewer authority, and the local health department, ~~[as defined in Section~~
 259 ~~26A-1-102;]~~ if the local health department and the county consider the local health
 260 department's approval necessary, the county shall approve the plat.

261 (b) Counties are encouraged to receive a recommendation from the fire authority and
 262 the public safety answering point before approving a plat.

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

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

266 (ii) does not:

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

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

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

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

274 ~~[(d) For a subdivision application that includes land located within a notification zone,~~
275 ~~as determined under Subsection (2)(f), the land use authority shall:]~~

276 ~~[(i) within 20 days after the day on which a complete subdivision application is filed,~~
277 ~~provide written notice of the application to the canal owner or associated canal operator contact~~
278 ~~described in:]~~

279 ~~[(A) Section 17-27a-211;]~~

280 ~~[(B) Subsection 73-5-7(2); or]~~

281 ~~[(C) Subsection (5)(c); and]~~

282 (d) A county shall:

283 (i) within 20 days after the day on which an owner of land submits to the county a
284 complete subdivision plat land use application, mail written notice of the proposed subdivision
285 to the facility owner of any water conveyance facility located, entirely or partially, within 100
286 feet of the subdivision plat, as determined using information made available to the county:

287 (A) from the facility owner under Section 10-9a-211, using mapping-grade global
288 positioning satellite units or digitized data from the most recent aerial photo available to the
289 facility owner;

290 (B) in the state engineer's inventory of canals; or

291 (C) from a surveyor under Subsection (6)(c); and

292 (ii) ~~[wait to]~~ not approve ~~[or reject]~~ the subdivision ~~[application]~~ plat for at least 20
293 days after the day on which the ~~[land use authority]~~ county mails to each facility owner the
294 notice under Subsection ~~[(2)]~~ (3)(d)(i) in order to receive ~~[input from the canal owner or~~
295 ~~associated canal operator, including input]~~ any comments from each facility owner regarding:

296 (A) access to the [canal] water conveyance facility;

297 (B) maintenance of the [canal] water conveyance facility;

298 ~~[(C) canal protection; and]~~

299 ~~[(D) canal safety;]~~

300 (C) protection of the water conveyance facility integrity;

301 (D) safety of the water conveyance facility; or

302 (E) any other issue related to water conveyance facility operations.

303 (e) When applicable, the owner of the land seeking subdivision ~~[applicant]~~ plat
304 approval shall comply with Section 73-1-15.5.

305 ~~[(f) The land use authority shall provide the notice described in Subsection (2)(d) to a~~
306 ~~canal owner or associated canal operator if:]~~

307 ~~[(i) the canal's centerline is located within 100 feet of a proposed subdivision; and]~~

308 ~~[(ii) the centerline alignment is available to the land use authority:]~~

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

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

313 ~~[(C) from information provided by a surveyor under Subsection (5)(c).]~~

314 (f) A facility owner's failure to provide comments to a county in accordance with
315 Subsection (3)(d)(ii) does not affect or impair the county's authority to approve the subdivision
316 plat.

317 ~~[(3)]~~ (4) The county may withhold an otherwise valid plat approval until the owner of
318 the land provides the legislative body with a tax clearance indicating that all taxes, interest, and
319 penalties owing on the land have been paid.

320 ~~[(4)]~~ (5) (a) Within 30 days after approving a final plat under this section, a county
321 shall submit to the Automated Geographic Reference Center, created in Section 63F-1-506, for
322 inclusion in the unified statewide 911 emergency service database described in Subsection
323 63H-7a-304(4)(b):

324 (i) an electronic copy of the approved final plat; or

325 (ii) preliminary geospatial data that depict any new streets and situs addresses proposed
326 for construction within the bounds of the approved plat.

327 (b) If requested by the Automated Geographic Reference Center, a county that
328 approves a final plat under this section shall:

329 (i) coordinate with the Automated Geographic Reference Center to validate the
330 information described in Subsection ~~[(4)]~~ (5)(a); and

331 (ii) assist the Automated Geographic Reference Center in creating electronic files that
332 contain the information described in Subsection ~~[(4)]~~ (5)(a) for inclusion in the unified
333 statewide 911 emergency service database.

334 ~~[(5)]~~ (6) (a) A county recorder may not record a plat unless, subject to Subsection
335 17-27a-604(1):

- 336 (i) prior to recordation, the county has approved and signed the plat;
- 337 (ii) each owner of record of land described on the plat has signed the owner's
- 338 dedication as shown on the plat; and
- 339 (iii) the signature of each owner described in Subsection [(5)] (6)(a)(ii) is
- 340 acknowledged as provided by law.
- 341 (b) The surveyor making the plat shall certify that the surveyor:
- 342 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
- 343 Professional Land Surveyors Licensing Act;
- 344 (ii) has completed a survey of the property described on the plat in accordance with
- 345 Section 17-23-17 and has verified all measurements; and
- 346 (iii) has placed monuments as represented on the plat.
- 347 (c) (i) To the extent possible, the surveyor shall consult with the owner or operator, or a
- 348 representative designated by the owner or operator, of an existing [~~or proposed~~] water
- 349 conveyance facility located within the proposed subdivision, or an existing or proposed
- 350 underground facility or utility facility located within the proposed subdivision, [~~or a~~
- 351 ~~representative designated by the owner or operator,~~] to verify the accuracy of the surveyor's
- 352 depiction of the:
- 353 (A) boundary, course, dimensions, and intended use of the public rights-of-way, a
- 354 public or private easement, or grants of record;
- 355 (B) location of [~~an~~] the existing water conveyance facility, or the existing or proposed
- 356 underground facility [~~and~~] or utility facility; and
- 357 (C) physical restrictions governing the location of the existing or proposed
- 358 underground facility [~~and~~] or utility facility [~~within the subdivision]~~.
- 359 (ii) The cooperation of an owner or operator of a water conveyance facility,
- 360 underground facility, or utility facility under Subsection [(5)] (6)(c)(i):
- 361 (A) indicates only that the plat approximates the location of the existing [~~underground~~
- 362 ~~and utility~~] facilities but does not warrant or verify their precise location; and
- 363 (B) does not affect a right that the owner or operator has under Title 54, Chapter 8a,
- 364 Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law
- 365 applicable to prescriptive rights, or any other provision of law.
- 366 [(6)] (7) (a) Except as provided in Subsection [(5)] (6)(c), after the plat has been

367 acknowledged, certified, and approved, the ~~[individual]~~ owner of the land seeking to record the
368 plat shall, within the time period and manner designated by ordinance, record the plat in the
369 county recorder's office in the county in which the lands platted and laid out are situated.

370 (b) A failure to record a plat within the time period designated by ordinance renders the
371 plat voidable by the ~~[land use authority]~~ county.

372 Section 4. Section **17-27a-604** is amended to read:

373 **17-27a-604. Subdivision plat approval procedure -- Effect of not complying.**

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

376 (a) the person has complied with the requirements of Subsection ~~17-27a-603(5)~~(6)(a);

377 (b) the plat has been approved by:

378 (i) the land use authority of the:

379 (A) county in whose unincorporated area the land described in the plat is located; or

380 (B) mountainous planning district in whose area the land described in the plat is
381 located; and

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

383 (c) all approvals described in Subsection (1)(b) are entered in writing on the plat by
384 designated officers; and

385 (d) if the person submitting the plat intends the plat to be or if the plat is part of a
386 community association subject to Title 57, Chapter 8a, Community Association Act, the plat
387 includes language conveying to the association, as that term is defined in Section ~~57-8a-102~~, all
388 common areas, as that term is defined in Section ~~57-8a-102~~.

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

392 (3) A plat recorded without the signatures required under this section is void.

393 (4) A transfer of land pursuant to a void plat is voidable by the land use authority.