

Subdivisions:

PLATS, PARCELS, AND PLANNING

Elliot R. Lawrence, Office of the Property Rights Ombudsman
March 27, 2015

I. Objectives—Legal Aspects of Subdivision Process

- a. Purpose of Subdivision Regulation
- b. What Is and Isn't a Subdivision
- c. Plat Approval Process
- d. Minor Subdivisions
- e. Required Procedures and Hearings
- f. Amendment and Vacation of Subdivisions
- g. Infrastructure Guarantees
- h. Vested Rights
- i. Conditions on Plat or Development Approval

II. Purposes of Subdivision Regulation

- a. Accurate Property Descriptions
- b. Ensures Compliance With General Plans and Zoning Ordinances
- c. Facilitates Development and Use of Real Property
- d. Provides for Efficient Development and Delivery of Utilities and Public Services
- e. Helps Prevent Title Disputes

III. What Is a Subdivision?

- a. Subdivision Statutes are found in Part 6 of LUDMA
 - i. Cities: §§ 10-9a-601 to -611
 - ii. Counties: §§ 17-27a-601 to -611
- b. Definition found at Utah Code Ann. §§ 10-9a-103(52) and 17-27a-103(57)
- c. A "Subdivision" is any land that is divided into two or more lots
 - i. For the purpose (present or future) for offer, sale, lease, or development
 - ii. May be created by plat, deed, metes and bounds description, device and testacy (wills), maps, or other recorded document
 - iii. Includes all types of land use, including agricultural
- d. Approval from a land use authority is required for any subdivision

IV. What Isn't a Subdivision?

- a. Some divisions or boundary adjustments are exempt from regulation
- b. A bond fide division of agricultural land:

- i. In a County’s jurisdiction (unincorporated), for agricultural purposes
 - ii. In a City jurisdiction (incorporated), division to join one of the new parcels to a contiguous parcel of unsubdivided agricultural land
- c. Boundary Adjustment, if no new lot is created and no zoning violation occurs
- d. In Counties other than First Class Counties (not cities):
 - i. Division for siting electrical, natural gas, or telecommunications facilities
 - ii. County of the First Class has a population over 700,000 (Salt Lake County Only)
- e. In Cities only:
 - i. Joining parcels into one property description
 - ii. Joining subdivided parcel to an unsubdivided parcel
- f. Boundary adjustment between two subdivided properties, if no new lot or housing unit is created
- g. Any division approved by a land use authority, in anticipation of future development approvals
- h. Boundary Adjustment (again)

V. Subdivision Ordinances

- a. Local Governments may adopt ordinances regulating approval of subdivisions
 - i. May adopt procedures and processes
 - ii. Must be consistent with state law
- b. Ordinances are reviewed and recommended by a planning commission, and adopted by legislative body
- c. If no ordinance is adopted, regulation limited to state law only.

VI. Subdivision Plat Approval—LUDMA § 603

- a. Unless otherwise exempt, a subdivision requires a plat approved by a land use authority
 - i. Minor subdivisions may be exempt from plat requirement
 - ii. Land Use Authority is the board or person that makes decisions on subdivision issues
- b. Subdivision Requirements
 - i. Accurate plat describing the parcels to be created, including portions dedicated to public
 - ii. A distinct name
 - iii. Identification of individual lots to be sold (or public areas)
 - 1. Identify street name and address for each lot
 - 2. Area and dimensions of each lot
 - iv. Location of public utility easements
- c. Approval from local water and sewer authorities is required
 - i. Fire authorities may also be consulted

- ii. Approval may be withheld until all taxes have been paid
- iii. Local Ordinance may require other approvals, within reason
- d. Prior to Recording Approved Plat
 - i. Notarized signatures of ALL property owners are required
 - ii. Certification of licensed surveyor
 - 1. Verifying measurements
 - 2. Verifying location of monuments
 - iii. Signatures from affected utilities
 - 1. Verifying at least the approximate location of utilities
 - 2. Indicates use of easement
 - 3. States restrictions due to utilities
 - iv. Other signatures required by ordinance
 - 1. City Council/Mayor
 - 2. Planning Commission
 - 3. Legal Counsel
- e. If plat is not promptly recorded (within time required by ordinance) it may be voided (voidable)
 - i. A plat may not be presented for recording without required approvals and signatures
 - ii. Plats recorded without all required signatures are void
 - iii. Land transfers based on a void plat are voidable
- f. Approved and recorded plats dedicate and transfer ownership of streets and other public properties to local government—LUDMA § 607

VII. “Minor” Subdivisions (10 lots or less)—LUDMA § 605

- a. May be approved without a plat (may use metes and bounds)
 - i. Must meet zoning requirements
 - ii. Does not cross a proposed street
 - iii. Culinary water and sewer authorities approve
- b. Approved after notice and public hearings (if required).
- c. Division of agricultural land may not require a plat
 - i. Land must be agricultural, and must remain agricultural
 - ii. Comply with zoning requirements (cities)
 - iii. Division of property in counties must record the following:
 - 1. Legal Description of parcels
 - 2. Statement that property will remain agricultural until zoning is changed
- d. Metes and bounds description must be accompanied by certification showing approval from land use authority

VIII. Procedures and Hearings

- a. LUDMA does not specifically require public hearings or meetings
 - i. Action by Land Use Authority should be in a public meeting
 - ii. Local ordinances may require public hearings

- b. If public hearings are required, notice must comply with Part 2 of LUDMA
 - i. Public hearing required for proposed street vacation
 - ii. May be required for subdivision amendment
- c. Open and Public Meetings Act
 - i. Any meeting of a planning commission or legislative body is subject to open meetings act
 - ii. Meeting should be recorded, and all votes taken in public
 - iii. Decisions based on substantial evidence in the record
- d. Local ordinances may establish reasonable review and approval process
 - i. May include preliminary and final review of proposed plat
 - ii. May govern approval in phases
 - iii. Review must be within a reasonable time

IX. Amending or Vacating a Subdivision Plat—LUDMA §§ 608 & 609

- a. Any owner of land within a subdivision may petition that a plat be amended or vacated
 - i. Petition must be submitted in writing
 - ii. If required, the land use authority shall conduct a public hearing on the proposal
 - 1. Owners within plat must be notified
 - 2. Utilities must also be notified
 - 3. Hearing may not be required if all property owners sign petition
- b. Approval of proposed amendment or vacation
 - i. If proposal does not violate land use ordinances
 - ii. There is good cause for approval—LUDMA § 609
- c. Amended plat (or notice of vacation) should be recorded after approval from land use authority
 - i. Includes approval from Land Use Authority
 - ii. Signature of every owner affected by the amendment
- d. Portions of adjacent parcels may transferred using a metes and bounds description (plat not necessarily required)
 - i. Approval from Land Use Authority is required
 - ii. New descriptions (or plats) must be recorded
 - iii. Separate conveyances must be executed and recorded (the approved division does not convey title)
- e. Vacating Public Streets—LUDMA § 609.5
 - i. May be approved, if in public interest and good cause exists.
 - ii. Any person using the street for access should be notified
 - 1. Vacation may not impair access or easement rights,
 - 2. May not impair utility franchises
 - iii. If vacation is approved, either an amended plat or the ordinance vacating the street should be recorded
 - iv. Vacation is also relinquishment of any public rights to the street

X. Infrastructure Guarantees—LUDMA § 604.5

- a. Local government may require completion of infrastructure or landscaping before a plat may be recorded
- b. Plat may be recorded if
 - i. Local ordinance allows a completion guarantee (money, or bond, etc), including provision allowing partial release of obligation as construction is completed.
 - ii. Developer requests option (may choose not to use the guaranty, but complete improvements prior to recording)
- c. Inspection standards must be reasonable and objective
- d. Improvement warranty, up to 10% of the cost, may also be required

XI. Vested Rights

- a. The Vested Rights Rule: An application that complies with the zoning regulations in place when the application was filed is entitled to consideration and approval according to the ordinances in place when the application is filed
 - i. Subsequent ordinance changes may not be applied to the application
 - 1. Rights do not vest until the application complies with local ordinances
 - 2. An application is “complete” when it complies with local requirements, and all fees have been paid
 - ii. An application must be evaluated under the ordinances in place on the date of the application
- b. Two exceptions:
 - i. If there is a “compelling, countervailing” public interest that would be jeopardized if the application were approved
 - ii. There is an ordinance change pending when the application is submitted
 - 1. The change must affect the application
 - 2. A change is “pending” when it appears as an agenda item
 - 3. The changes must be implemented within six months

XII. Conditions on Subdivision Approval

- a. Land Use Authority may impose reasonable conditions on subdivision approval
 - i. Preferably established by ordinance
 - ii. May also be imposed at the time of approval (not after)
- b. Reasonable conditions
 - i. Should promote a legitimate government interest
 - ii. Should be reasonable in cost and extent
- c. Exactions

- i. Exactions are contributions of property required for development approval
- ii. Must satisfy rough proportionality
 - 1. There must be an impact caused by the development
 - 2. The exaction must be linked to a government purpose
 - 3. The exaction must be roughly proportionate in nature and extent
 - a. Nature: Exaction must address impact, or “solve” the “problem” caused by the impact
 - b. Extent: Cost of exaction must be roughly equal to public expense to address impact

XIII. Your Friendly Neighborhood Ombudsman

- a. The Office of the Property Rights Ombudsman has been established to advise and help local governments
- b. We are a neutral agency, not an advocate for property owners or government agencies
 - i. Advise
 - ii. Help facilitate resolution of disputes
 - iii. Educate
- c. Ombudsman Website: www.propertyrights.utah.gov
- d. Phone: 801-530-6391

Subdivision Statutes

Utah Code §§ 10-9a-601 to -611
Utah Code §§ 17-27a-601 to -611

Part 6 Subdivisions

10-9a-601 Enactment of subdivision ordinance.

(1) The legislative body of a municipality may enact ordinances requiring that a subdivision plat comply with the provisions of the ordinance and this part before:

- (a) it may be filed or recorded in the county recorder's office; and
- (b) lots may be sold.

(2) If the legislative body fails to enact a subdivision ordinance, the municipality may regulate subdivisions only to the extent provided in this part.

10-9a-602 Planning commission preparation and recommendation of subdivision ordinance -- Adoption or rejection by legislative body.

(1) The planning commission shall:

- (a) prepare and recommend a proposed ordinance to the legislative body that regulates the subdivision of land;
- (b) prepare and recommend or consider and recommend a proposed ordinance that amends the regulation of the subdivision of the land in the municipality;
- (c) provide notice consistent with Section 10-9a-205; and
- (d) hold a public hearing on the proposed ordinance before making its final recommendation to the legislative body.

(2) The municipal legislative body may adopt or reject the ordinance either as proposed by the planning commission or after making any revision the legislative body considers appropriate.

10-9a-603 Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facilities owner approval of plat -- Recording plat.

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

- (a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;
- (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;
- (c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and
- (d) every existing right-of-way and easement grant of record for underground facilities, as defined in Section 54-8a-2, and for other utility facilities.

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

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

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

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

- (4)(a) A plat may not be submitted to a county recorder for recording unless:
- (i) prior to recordation, each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and
 - (ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as provided by law.
- (b) The surveyor making the plat shall certify that the surveyor:
- (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;
 - (ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and
 - (iii) has placed monuments as represented on the plat.
- (c)(i) As applicable, the owner or operator of the underground and utility facilities shall approve the:
- (A) boundary, course, dimensions, and intended use of the right-of-way and easement grants of record;
 - (B) location of existing underground and utility facilities; and
 - (C) conditions or restrictions governing the location of the facilities within the right-of-way, and easement grants of records, and utility facilities within the subdivision.
- (ii) The approval of an owner or operator under Subsection (4)(c)(i):
- (A) indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location; and
 - (B) does not affect a right that the owner or operator has under:
 - (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;
 - (II) a recorded easement or right-of-way;
 - (III) the law applicable to prescriptive rights; or
 - (IV) any other provision of law.
- (5)(a) After the plat has been acknowledged, certified, and approved, the owner of the land shall, within the time period designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.
- (b) An owner's failure to record a plat within the time period designated by ordinance renders the plat voidable.

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

- (1) A person may not submit a subdivision plat to the county recorder's office for recording unless:
- (a) the person has complied with the requirements of Subsection 10-9a-603(4)(a);
 - (b) the plat has been approved by:
 - (i) the land use authority of the municipality in which the land described in the plat is located; and
 - (ii) other officers that the municipality designates in its ordinance; and
 - (c) all approvals described in Subsection (1)(b) are entered in writing on the plat by the designated officers.
- (2) A subdivision plat recorded without the signatures required under this section is void.
- (3) A transfer of land pursuant to a void plat is voidable.

10-9a-604.5 Subdivision plat recording or development activity before required infrastructure is completed -- Infrastructure completion assurance -- Infrastructure warranty.

- (1) A land use authority shall establish objective inspection standards for acceptance of a landscaping or infrastructure improvement required by the land use authority as a condition of:
- (a) subdivision; or
 - (b) development activity.
- (2)(a) A land use authority shall require an applicant to complete a required landscaping or infrastructure

improvement prior to any plat recordation or development activity.

(b) Subsection (2)(a) does not apply if:

- (i) upon the applicant's request, the land use authority has authorized the applicant to post an improvement completion assurance in a manner that is consistent with local ordinance; and
- (ii) the land use authority has established a system for the partial release of the improvement completion assurance as portions of required improvements are completed and accepted.

(3) At any time up to the land use authority's acceptance of a landscaping or infrastructure improvement, and for the duration of each improvement warranty period, the land use authority may require the developer to:

- (a) execute an improvement warranty for the improvement warranty period; and
- (b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the municipality, in the amount of up to 10% of the lesser of the:
 - (i) engineer's original estimated cost of completion; or
 - (ii) applicant's reasonable proven cost of completion.

10-9a-605 Exemptions from plat requirement.

(1) Notwithstanding Sections 10-9a-603 and 10-9a-604, the land use authority may approve a subdivision of 10 lots or less without a plat, by certifying in writing that:

- (a) the municipality has provided notice as required by ordinance; and
- (b) the proposed subdivision:

- (i) is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes;
- (ii) has been approved by the culinary water authority and the sanitary sewer authority;
- (iii) is located in a zoned area; and
- (iv) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.

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

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

(b) The boundaries of each lot or parcel exempted under Subsection (2)(a) shall be graphically illustrated on a record of survey map that, after receiving the same approvals as are required for a plat under Section 10-9a-604, shall be recorded with the county recorder.

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

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

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

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

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

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

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

- (i) the parcel is being acquired by a municipality for a governmental purpose; and
 - (ii) the conveyance is approved by the owners of at least 75% of the lots, units, or parcels on the plat, after the municipality gives its approval.
- (b) A notice of the owner approval described in Subsection (1)(a)(ii) shall be:
- (i) attached as an exhibit to the document of conveyance; or
 - (ii) recorded concurrently with the conveyance as a separate document.
- (2) The ownership interest in a parcel described in Subsection (1) shall:
- (a) for purposes of assessment, be divided equally among all parcels created by the plat, unless a different division of interest for assessment purposes is indicated on the plat or an accompanying recorded document; and
 - (b) be considered to be included in the description of each instrument describing a parcel on the plat by its identifying plat number, even if the common or community area interest is not explicitly stated in the instrument.

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

- (1) A plat that is signed, dedicated, and acknowledged by each owner of record, and approved according to the procedures specified in this part, operates, when recorded, as a dedication of all streets and other public places, and vests the fee of those parcels of land in the municipality for the public for the uses named or intended in the plat.
- (2) The dedication established by this section does not impose liability upon the municipality for streets and other public places that are dedicated in this manner but are unimproved.

10-9a-608 Vacating, altering, or amending a subdivision plat.

- (1)(a) A fee owner of land, as shown on the last county assessment roll, in a subdivision that has been laid out and platted as provided in this part may file a written petition with the land use authority to have some or all of the plat vacated or amended.
- (b) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being vacated or amended at least 10 calendar days before the land use authority may approve the vacation or amendment of the plat.
 - (c) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:
 - (i) any owner within the plat notifies the municipality of the owner’s objection in writing within 10 days of mailed notification; or
 - (ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.
- (2) Unless a local ordinance provides otherwise, the public hearing requirement of Subsection (1)(c) does not apply and a land use authority may consider at a public meeting an owner’s petition to vacate or amend a subdivision plat if:
- (a) the petition seeks to:
 - (i) join two or more of the petitioner fee owner’s contiguous lots;
 - (ii) subdivide one or more of the petitioning fee owner’s lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;
 - (iii) adjust the lot lines of adjoining lots or parcels if the fee owners of each of the adjoining lots or parcels join in the petition, regardless of whether the lots or parcels are located in the same subdivision;
 - (iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or
 - (v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:
 - (A) owned by the petitioner; or

- (B) designated as a common area; and
- (b) notice has been given to adjacent property owners in accordance with any applicable local ordinance.
- (3) Each request to vacate or amend a plat that contains a request to vacate or amend a public street, right-of-way, or easement is also subject to Section 10-9a-609.5.
- (4) Each petition to vacate or amend an entire plat or a portion of a plat shall include:
 - (a) the name and address of each owner of record of the land contained in the entire plat or on that portion of the plat described in the petition; and
 - (b) the signature of each owner described in Subsection (4)(a) who consents to the petition.
- (5)(a) The owners of record of adjacent parcels that are described by either a metes and bounds description or by a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).
 - (b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.
 - (c) If an exchange of title is approved under Subsection (5)(b):
 - (i) a notice of approval shall be recorded in the office of the county recorder which:
 - (A) is executed by each owner included in the exchange and by the land use authority;
 - (B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and
 - (C) recites the descriptions of both the original parcels and the parcels created by the exchange of title; and
 - (ii) a document of conveyance shall be recorded in the office of the county recorder.
 - (d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required in order to record a document conveying title to real property.
- (6)(a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).
 - (b) The surveyor preparing the amended plat shall certify that the surveyor:
 - (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;
 - (ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and
 - (iii) has placed monuments as represented on the plat.
 - (c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office.
 - (d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

10-9a-609 Land use authority approval of vacation or amendment of plat -- Recording the amended plat.

- (1) The land use authority may approve the vacation or amendment of a plat by signing an amended plat showing the vacation or amendment if the land use authority finds that:
 - (a) there is good cause for the vacation or amendment; and
 - (b) no public street, right-of-way, or easement has been vacated or amended.
- (2)(a) The land use authority shall ensure that the amended plat showing the vacation or amendment is recorded in the office of the county recorder in which the land is located.
 - (b) If the amended plat is approved and recorded in accordance with this section, the recorded plat shall vacate, supersede, and replace any contrary provision in a previously recorded plat of the same land.
- (3)(a) A legislative body may vacate a subdivision or a portion of a subdivision by recording in the county recorder's office an ordinance describing the subdivision or the portion being vacated.
 - (b) The recorded vacating ordinance shall replace a previously recorded plat described in the vacating

ordinance.

- (4) An amended plat may not be submitted to the county recorder for recording unless it is:
 - (a) signed by the land use authority; and
 - (b) signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.
- (5) A management committee may sign and dedicate an amended plat as provided in Title 57, Chapter 8, Condominium Ownership Act.
- (6) A plat may be corrected as provided in Section 57-3-106.

10-9a-609.5 Vacating a street, right-of-way, or easement.

- (1) A petition to vacate some or all of a public street, right-of-way, or easement shall include:
 - (a) the name and address of each owner of record of land that is:
 - (i) adjacent to the public street, right-of-way, or easement; or
 - (ii) accessed exclusively by or within 300 feet of the public street, right-of-way, or easement; and
 - (b) the signature of each owner under Subsection (1)(a) who consents to the vacation.
- (2) If a petition is submitted containing a request to vacate some or all of a street, right-of-way, or easement, the legislative body shall hold a public hearing in accordance with Section 10-9a-208 and determine whether:
 - (a) good cause exists for the vacation; and
 - (b) the public interest or any person will be materially injured by the proposed vacation.
- (3) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street, right-of-way, or easement if the legislative body finds that:
 - (a) good cause exists for the vacation; and
 - (b) neither the public interest nor any person will be materially injured by the vacation.
- (4) If the legislative body adopts an ordinance vacating some or all of a public street, right-of-way, or easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:
 - (a) a plat reflecting the vacation; or
 - (b) an ordinance described in Subsection (3).
- (5) The action of the legislative body vacating some or all of a street, right-of-way, or easement that has been dedicated to public use:
 - (a) operates to the extent to which it is vacated, upon the effective date of the recorded plat, as a revocation of the acceptance of and the relinquishment of the municipality's fee in the vacated street, right-of-way, or easement; and
 - (b) may not be construed to impair:
 - (i) any right-of-way or easement of any lot owner; or
 - (ii) the franchise rights of any public utility.

10-9a-610 Restrictions for solar and other energy devices.

The land use authority may refuse to approve or renew any plat, subdivision plan, or dedication of any street or other ground, if deed restrictions, covenants, or similar binding agreements running with the land for the lots or parcels covered by the plat or subdivision prohibit or have the effect of prohibiting reasonably sited and designed solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on lots or parcels covered by the plat or subdivision.

10-9a-611 Prohibited acts.

- (1)(a) An owner of any land located in a subdivision who transfers or sells any land in that subdivision before a plat of the subdivision has been approved and recorded violates this part for each lot or parcel transferred or sold.
- (b) The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring does not exempt the transaction from being a violation of Subsection

- (1)(a) or from the penalties or remedies provided in this chapter.
- (c) Notwithstanding any other provision of this Subsection (1), the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this part:
- (i) does not affect the validity of the instrument or other document; and
 - (ii) does not affect whether the property that is the subject of the instrument or other document complies with applicable municipal ordinances on land use and development.
- (2)(a) A municipality may bring an action against an owner to require the property to conform to the provisions of this part or an ordinance enacted under the authority of this part.
- (b) An action under this Subsection (2) may include an injunction, abatement, merger of title, or any other appropriate action or proceeding to prevent, enjoin, or abate the violation.
- (c) A municipality need only establish the violation to obtain the injunction.

Part 6 Subdivisions

17-27a-601 Enactment of subdivision ordinance.

- (1) The legislative body of a county may enact ordinances requiring that a subdivision plat comply with the provisions of the ordinance and this part before:
- (a) it may be filed or recorded in the county recorder's office; and
 - (b) lots may be sold.
- (2) If the legislative body fails to enact a subdivision ordinance, the county may regulate subdivisions only as provided in this part.

17-27a-602 Planning commission preparation and recommendation of subdivision ordinance -- Adoption or rejection by legislative body.

- (1) The planning commission shall:
- (a) prepare and recommend a proposed ordinance to the legislative body that regulates the subdivision of land;
 - (b) prepare and recommend or consider and recommend a proposed ordinance that amends the regulation of the subdivision of the unincorporated land in the county;
 - (c) provide notice consistent with Section 17-27a-205; and
 - (d) hold a public hearing on the proposed ordinance before making its final recommendation to the legislative body.
- (2) The county legislative body may adopt or reject the ordinance either as proposed by the planning commission or after making any revision the county legislative body considers appropriate.

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

- (1) Unless exempt under Section 17-27a-605 or excluded from the definition of subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:
- (a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;
 - (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;
 - (c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and

lots intended for sale; and

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

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

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

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

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

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

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

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

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

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

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

(c)(i) As applicable, the owner or operator of the underground and utility facilities shall approve the: (A) boundary, course, dimensions, and intended use of the right-of-way and easement grants of record;

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

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

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

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

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

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

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

(III) the law applicable to prescriptive rights; or

(IV) any other provision of law.

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

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

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

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

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

(b) the plat has been approved by:

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

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

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

officers.

- (2) An owner of a platted lot is the owner of record sufficient to re-subdivide the lot if the owner's platted lot is not part of a community association subject to Title 57, Chapter 8a, Community Association Act.
- (3) A plat recorded without the signatures required under this section is void.
- (4) A transfer of land pursuant to a void plat is voidable.

17-27a-604.5 Subdivision plat recording or development activity before required infrastructure is completed -- Infrastructure completion assurance -- Infrastructure warranty.

(1) A land use authority shall establish objective inspection standards for acceptance of a landscaping or infrastructure improvement required by the land use authority as a condition of:

- (a) subdivision; or
- (b) development activity.

(2)(a) A land use authority shall require an applicant to complete a required landscaping or infrastructure improvement prior to any plat recordation or development activity.

(b) Subsection (2)(a) does not apply if:

- (i) upon the applicant's request, the land use authority has authorized the applicant to post an improvement completion assurance in a manner that is consistent with local ordinance; and
- (ii) the land use authority has established a system for the partial release of the improvement completion assurance as portions of required improvements are completed and accepted.

(3) At any time up to the land use authority's acceptance of a landscaping or infrastructure improvement, and for the duration of each improvement warranty period, the land use authority may require the developer to:

- (a) execute an improvement warranty for the improvement warranty period; and
- (b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the county, in the amount of up to 10% of the lesser of the:
 - (i) engineer's original estimated cost of completion; or
 - (ii) applicant's reasonable proven cost of completion.

17-27a-605 Exemptions from plat requirement.

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

- (a) the county has provided notice as required by ordinance; and
- (b) the proposed subdivision:
 - (i) is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes;
 - (ii) has been approved by the culinary water authority and the sanitary sewer authority;
 - (iii) is located in a zoned area; and
 - (iv) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.

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

- (i) the lot or parcel:
 - (A) qualifies as land in agricultural use under Section 59-2-502; and
 - (B) is not used and will not be used for any nonagricultural purpose; and
- (ii) the new owner of record completes, signs, and records with the county recorder a notice:
 - (A) describing the parcel by legal description; and
 - (B) stating that the lot or parcel is created for agricultural purposes as defined in Section 59-2-502 and will remain so until a future zoning change permits other uses.

(b) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the county shall require the lot or parcel to comply with the requirements of Section 17-27a-603 and all applicable land use ordinance requirements.

(3)(a) Except as provided in Subsection (4), a document recorded in the county recorder's office that

divides property by a metes and bounds description does not create an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1) is attached to the document.

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

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

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

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

(i) "Divided land" means land that:

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

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

(iii) "Minor subdivision" means a division of at least 100 contiguous acres of agricultural land in a county of the third, fourth, fifth, or sixth class to create one new lot that, after the division, is separate from the remainder of the original 100 or more contiguous acres of agricultural land.

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

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

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

(ii) a notice:

- (A) indicating that the owner of the land to be divided is making a minor subdivision;
- (B) referring specifically to this section as the authority for making the minor subdivision; and
- (C) containing the legal description of:
 - (I) the land to be divided; and
 - (II) the minor subdivision lot.

(c) A minor subdivision lot:

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

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

(iii) is not subject to the subdivision ordinance of the county in which the minor subdivision lot is located.

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

(e) A county:

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

- (A) the lot's status as a minor subdivision lot; or
- (B) the absence of standards described in Subsection (4)(e)(ii); and

(ii) may, in connection with the issuance of a building permit, subject a minor subdivision lot to reasonable health, safety, and access standards that the county has established and made public.

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

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

(i) the parcel is being acquired by a county for a governmental purpose; and

(ii) the conveyance is approved by the owners of at least 75% of the lots, units, or parcels on the plat, after the county gives its approval.

(b) A notice of the approval required in Subsection (1)(a)(ii) shall be:

(i) attached as an exhibit to the document of conveyance; or

- (ii) recorded concurrently with the conveyance as a separate document.
- (2) The ownership interest in a parcel described in Subsection (1) shall:
 - (a) for purposes of assessment, be divided equally among all parcels created by the plat, unless a different division of interest for assessment purposes is indicated on the plat or an accompanying recorded document; and
 - (b) be considered to be included in the description of each instrument describing a parcel on the plat by its identifying plat number, even if the common or community area interest is not explicitly stated in the instrument.

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

- (1) A plat that is signed, dedicated, and acknowledged by each owner of record, and approved according to the procedures specified in this part, operates, when recorded, as a dedication of all streets and other public places, and vests the fee of those parcels of land in the county for the public for the uses named or intended in the plat.
- (2) The dedication established by this section does not impose liability upon the county for streets and other public places that are dedicated in this manner but are unimproved.

17-27a-608 Vacating or amending a subdivision plat.

- (1)(a) A fee owner of land, as shown on the last county assessment roll, in a subdivision that has been laid out and platted as provided in this part may file a written petition with the land use authority to have some or all of the plat vacated or amended.
 - (b) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being vacated or amended at least 10 calendar days before the land use authority may approve the vacation or amendment of the plat.
 - (c) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:
 - (i) any owner within the plat notifies the county of the owner's objection in writing within 10 days of mailed notification; or
 - (ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.
- (2) Unless a local ordinance provides otherwise, the public hearing requirement of Subsection (1)(c) does not apply and a land use authority may consider at a public meeting an owner's petition to vacate or amend a subdivision plat if:
 - (a) the petition seeks to:
 - (i) join two or more of the petitioning fee owner's contiguous lots;
 - (ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;
 - (iii) adjust the lot lines of adjoining lots or parcels if the fee owners of each of the adjoining lots or parcels join the petition, regardless of whether the lots or parcels are located in the same subdivision;
 - (iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or
 - (v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:
 - (A) owned by the petitioner; or
 - (B) designated as a common area; and
 - (b) notice has been given to adjacent property owners in accordance with any applicable local ordinance.
- (3) Each request to vacate or amend a plat that contains a request to vacate or amend a public street, right-of-way, or easement is also subject to Section 17-27a-609.5.

- (4) Each petition to vacate or amend an entire plat or a portion of a plat shall include:
- (a) the name and address of each owner of record of the land contained in:
 - (i) the entire plat; or
 - (ii) that portion of the plan described in the petition; and
 - (b) the signature of each owner who consents to the petition.
- (5)(a) The owners of record of adjacent parcels that are described by either a metes and bounds description or by a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).
- (b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.
 - (c) If an exchange of title is approved under Subsection (5)(b):
 - (i) a notice of approval shall be recorded in the office of the county recorder which:
 - (A) is executed by each owner included in the exchange and by the land use authority;
 - (B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and
 - (C) recites the descriptions of both the original parcels and the parcels created by the exchange of title; and
 - (ii) a document of conveyance of title reflecting the approved change shall be recorded in the office of the county recorder.
 - (d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required to record a document conveying title to real property.
- (6)(a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).
- (b) The surveyor preparing the amended plat shall certify that the surveyor:
 - (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;
 - (ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and
 - (iii) has placed monuments as represented on the plat.
 - (c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision recorded in the county recorder's office.
 - (d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

17-27a-609 Land use authority approval of vacation or amendment of plat -- Recording the amended plat.

- (1) The land use authority may approve the vacation or amendment of a plat by signing an amended plat showing the vacation or amendment if the land use authority finds that:
- (a) there is good cause for the vacation or amendment; and
 - (b) no public street, right-of-way, or easement has been vacated or amended.
- (2)(a) The land use authority shall ensure that the amended plat showing the vacation or amendment is recorded in the office of the county recorder in which the land is located.
- (b) If the amended plat is approved and recorded in accordance with this section, the recorded plat shall vacate, supersede, and replace any contrary provision in a previously recorded plat of the same land.
- (3)(a) A legislative body may vacate a subdivision or a portion of a subdivision by recording in the county recorder's office an ordinance describing the subdivision or the portion being vacated.
- (b) The recorded vacating ordinance shall replace a previously recorded plat described in the vacating ordinance.
- (4) An amended plat may not be submitted to the county recorder for recording unless it is:
- (a) signed by the land use authority; and
 - (b) signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is

amended.

- (5) A management committee may sign and dedicate an amended plat as provided in Title 57, Chapter 8, Condominium Ownership Act.
- (6) A plat may be corrected as provided in Section 57-3-106.

17-27a-609.5 Vacating a street, right-of-way, or easement.

- (1) A petition to vacate some or all of a public street, right-of-way, or easement shall include:
 - (a) the name and address of each owner of record of land that is:
 - (i) adjacent to the public street, right-of-way, or easement; or
 - (ii) accessed exclusively by or within 300 feet of the public street, right-of-way, or easement; and
 - (b) the signature of each owner under Subsection (1)(a) who consents to the vacation.
- (2) If a petition is submitted containing a request to vacate some or all of a street, right-of-way, or easement, the legislative body shall hold a public hearing in accordance with Section 17-27a-208 and determine whether:
 - (a) good cause exists for the vacation; and
 - (b) the public interest or any person will be materially injured by the proposed vacation.
- (3) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street, right-of-way, or easement if the legislative body finds that:
 - (a) good cause exists for the vacation; and
 - (b) neither the public interest nor any person will be materially injured by the vacation.
- (4) If the legislative body adopts an ordinance vacating some or all of a public street, right-of-way, or easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:
 - (a) a plat reflecting the vacation; or
 - (b) an ordinance described in Subsection (3).
- (5) The action of the legislative body vacating some or all of a street, right-of-way, or easement that has been dedicated to public use:
 - (a) operates to the extent to which it is vacated, upon the effective date of the recorded plat, as a revocation of the acceptance of and the relinquishment of the county's fee in the vacated street, right-of-way, or easement; and
 - (b) may not be construed to impair:
 - (i) any right-of-way or easement of any lot owner; or
 - (ii) the franchise rights of any public utility.

17-27a-610 Restrictions for solar and other energy devices.

The land use authority may refuse to approve or renew any plat, subdivision plan, or dedication of any street or other ground, if deed restrictions, covenants, or similar binding agreements running with the land for the lots or parcels covered by the plat or subdivision prohibit or have the effect of prohibiting reasonably sited and designed solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on lots or parcels covered by the plat or subdivision.

17-27a-611 Prohibited acts.

- (1)(a) An owner of any land located in a subdivision who transfers or sells any land in that subdivision before a plat of the subdivision has been approved and recorded violates this part for each lot or parcel transferred or sold.
 - (b) The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring does not exempt the transaction from being a violation of Subsection (1)(a) or from the penalties or remedies provided in this chapter.
 - (c) Notwithstanding any other provision of this Subsection (1), the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this

part:

- (i) does not affect the validity of the instrument or other document; and
- (ii) does not affect whether the property that is the subject of the instrument or other document complies with applicable county ordinances on land use and development.

(2)(a) A county may bring an action against an owner to require the property to conform to the provisions of this part or an ordinance enacted under the authority of this part.

(b) An action under this Subsection (2) may include an injunction, abatement, merger of title, or any other appropriate action or proceeding to prevent, enjoin, or abate the violation.

(c) A county need only establish the violation to obtain the injunction.