

Utah Recording and Processing Standards

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1. Title

Power of attorney required for documents signed as attorney-in fact on behalf of a grantor.

2. Standard Procedure

When a document affecting real property is presented for recording and is signed by an agent as attorney-in-fact, the County Recorder's Office will accept the document if it is accompanied by the power of attorney instrument that evidences the delegated authority of the agent or includes a reference to a power of attorney instrument already recorded in the county. When indexing instruments made by an agent or person acting on behalf of another, such as an executor, administrator, or trustee, the document shall be indexed in the name of the principal whose land is sold or affected as grantor. Also, the agent's name would be indexed as an additional grantor with the capacity title ("attorney-in-fact") should be added to the index entry.

2.1 Power of Attorney Requirements:

2.1.1 Requirement to Record:

The power of attorney instrument must be recorded concurrently with, or be attached as an exhibit to the instrument (e.g., a deed) to provide evidence of the agent's authority to convey real property on behalf of the principal. In the event the power of attorney instrument was recorded previously and is already on record, the county recorder's office will accept the document if it references the recording information of the previously recorded power of attorney instrument or if a copy of the previously recorded power of attorney instrument is attached as an exhibit.

2.1.2 Information Consistency:

It is important that the information on a submitted instrument match the information on a power of attorney instrument and the ownership information on record or be otherwise clarified.

- a. On the power of attorney instrument, the owner of record name must match the name of the principal granting the authority to the agent or contain an aka to clarify that the principal and the record owner are the same.
- b. On an instrument executed by the agent on behalf of the record owner, the name of the agent signing the instrument must match exactly the name given authority on the power of attorney or contain an aka to clarify that they are the same.
- c. On an instrument executed by the agent on behalf of the record owner, the principal listed as grantor on the document must match the record owner of the property described on the

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document or contain an aka to clarify that the principal listed as grantor and the record owner are the same.

2.2 Grantor, Signature, and Notary Requirements:

2.2.1 Grantor Line:

The Grantor line of the document must match the owner of record. If the document identifies the agent signing in their capacity as the attorney-in-fact for the principal, it is accepted.

2.2.2 Signature Block:

In accordance with UCA 17-71-403, the signature block must show the name of the grantor and the agent signing in their capacity as attorney-in-fact. It should be typed or clearly written in a substantially similar format to the following: John Doe by Jane Smith, his attorney-in-fact.

2.2.2 Notary Acknowledgment/Jurat:

The notary acknowledgment must identify the agent and state their capacity as attorney-in-fact and must include language indicating that the agent is signing on behalf of the principal.

2.3 Documents Recorded Without the Attached Power of Attorney

Typically, a document submitted for recording that does not have the power of attorney instrument attached or referenced should be rejected prior to recording. However, if a document is recorded without the attachment, the following options are available for correction:

2.3.1 Re-Record the Document:

Re-recording the document and attaching the power of attorney instrument is acceptable to convey the property, following requirements similar to those referenced for correcting deeds in UCA 57-3-106(8).

2.3.2 Record a Power of Attorney:

A standalone Power of Attorney instrument executed prior to the instrument executed by the agent; recorded with the appropriate legal description and a reference to the said previously recorded instrument executed by the agent is acceptable to establish the authority of the agent.

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2.3.2 Affidavit Evidencing Authority of the Agent:

An affidavit may be used to evidence an agent's authority to sign on behalf of a principal, provided it references a previously recorded instrument and includes an exhibit attaching the power of attorney, or otherwise clearly references the previously recorded power of attorney instrument. Once recorded, the affidavit shall be sufficient to confirm the conveyance of the property as set forth in the referenced, previously recorded instrument.

3. Approvals

Group	Approval	Date
Utah Association of County Recorders		
Utah Land Title Association Board		
Recorder Standards Board		

4. Supporting Information

4.1 References

- Utah Code Title 75, Utah Uniform Probate Code.
- Utah Code Title 75A Chapter 2: Uniform Power of Attorney Act
- UCA 17-71-501: Indexing of deeds and other instruments made by persons with legal authority to act on behalf of another.
- UCA 17-71-403: Requirement for signers' names to be typed or printed on instruments presented for recording.
- UCA 57-3-106(8): Requirement for documents to be re-recorded.

4.2 Definitions

- Principal is the person giving the authority on a power of attorney. Same definition as UCA 75A-2-102(14)
- Agent is the person receiving the authority and has the power to act on behalf of the principal. Same definition as UCA 75A-2-102(1)(a)
- Attorney-in-fact is also an agent under a durable or nondurable power of attorney. see UCA 75-1-201(1)
- Power of Attorney means a writing or other record that grants authority to an agent to act in the place of the principal. Same definition as 75A-2-102(12)

Rules Format: Power of Attorney

(1) (a) An affidavit may be used to evidence an agent's authority to sign on behalf of a principal if it:

(i) references a previously recorded instrument; and

(ii)

(A) includes an exhibit attaching the power of attorney; or

(B) otherwise clearly references the previously recorded power of attorney instrument.

(b) An recorded affidavit that meets the requirements of Subsection (1)(a) shall be sufficient to confirm the conveyance of the property as set forth in the referenced for a previously recorded instrument.