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## 1. Title

Power of attorney requirements for instruments signed as attorney-in-fact or as an agent on behalf of a principal.

## 2. Standard Procedure

When an instrument 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 or other instrument described herein that evidences the delegated authority of the principal to the agent.

When indexing instruments executed by an agent or person acting on behalf of another, the document shall be indexed in the name of the principal whose land is affected. The agent executing the instrument on behalf of the principal shall also be indexed with the capacity title "attorney-in-fact" as an additional party to the principal.

### 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 act on behalf of the principal. The power of attorney evidence should meet one or more of the following:

- A. An original power of attorney instrument prepared in compliance with the Uniform Power of Attorney Act (Utah Code 75A, Chapter 2);
- B. An original power of attorney certification from the agent in substantially the same form as outlined in UCA 75A-2-302;
- C. A copy of the power of attorney may be attached to an original affidavit from the person accepting or relying upon the copy of the power of attorney (UCA 75A-2-106(4));
- D. 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 referencing the recording information of the previously recorded power of attorney instrument; or
- E. A copy of a previously recorded power of attorney instrument attached as an exhibit to an original instrument is acceptable.

#### 2.1.2 Information Consistency:

It is important that the information on a submitted instrument match the information on a power of attorney instrument or other instrument evidencing the delegated

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authority, and the 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 the instrument executed by the agent must contain an also known as (aka) to clarify that the principal and the record owner are the same; and
- b. On an instrument executed by the agent on behalf of the record owner, the name of the agent signing the instrument must match the name given authority on the power of attorney or contain an aka to clarify that they are the same.

## **2.2 Grantor, Principal, Signature, and Notary Requirements:**

### **2.2.1 Grantor Line:**

The following requirements apply to the executing party of an instrument when a party signs pursuant to a power of attorney on behalf of a record owner or other interest holder.

- A. When an instrument is executed pursuant to a power of attorney on behalf of the record owner, the name of the principal identified in the power of attorney must match the name of the record owner, or the instrument must contain an aka to clarify that the principal and the record owner are the same; and
- B. When an instrument is executed pursuant to a power of attorney on behalf of a non-owner interest holder, the name of the principal identified in the power of attorney must match the name of the party whose interest appears on record, or the instrument must contain an aka to clarify that the principal and the name of the party whose interest appears on record are the same.

### **2.2.2 Signature Block:**

In accordance with UCA 17-71-403, the signature block must show the name of the principal and the agent signing in their capacity as attorney-in-fact, authorized agent, or other similar designation. For example: John Doe, by Jane Smith, his attorney-in-fact.

### **2.2.3 Notary Acknowledgment/Jurat:**

The notary acknowledgment must identify the agent and include language indicating that the agent is signing on behalf of the principal. For example: ...personally appeared before me Jane Smith, attorney-in-fact for John Doe...

## **2.3 Instruments Recorded Without the Attached Power of Attorney**

Typically, an instrument submitted for recording should be rejected prior to recording if it does not include a reference to or have attached a power of attorney,

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or other evidence of the delegated authority. However, if an instrument is inadvertently recorded without the appropriate attached power of attorney or other evidence of the delegated authority, the following options are available for correction:

- A. An original affidavit referencing the previously recorded instrument and attaching an original or a copy of a power of attorney instrument prepared in compliance with the Uniform Power of Attorney Act (Utah Code 75A, Chapter 2);
- B. An original power of attorney certification from the agent in substantially the same form as outlined in UCA 75A-2-302 and also references the previously recorded instrument; or
- C. The original instrument re-executed and submitted for re-recording as outlined in UCA 57-3-106(8) and attaching the missing power of attorney or other evidence of the delegated authority.

### 3. Approvals

| Group                                | Approval | Date       |
|--------------------------------------|----------|------------|
| Utah Association of County Recorders | 100%     | 07/02/2026 |
| Utah Land Title Association Board    | 100%     | 07/13/2026 |
| Recorder Standards Board             |          | 08/03/2026 |

## 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.
- UCA 75-1-201(42): "Person" means an individual or an organization.
- UCA 75A-2-301: Statutory form of the power of attorney.

### 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

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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)