



Planning Commission Meeting

Tuesday, August 4, 2020 at 6:30 pm

Attendees: Chairperson Lee Bennett, Commissioner Bob Christensen, Commissioner Scott Burgess, Commissioner Mary Cokenour, Commissioner George Matocha, Commissioner Gordon Reeve, City Manager

Doug Wright, City Recorder Cindi Holyoak

Meeting Location: 17 N 100 E

1. Call to Order

Chairperson Bennett opened the regularly scheduled Planning Commission Meeting at 6:40 p.m. The following visitors were present

2. Minutes Review/Approval

Attachments:

- 2020-07-07 Planning Commission Minutes (planning-commission-meeting_minutes_2020-07-07_204104.pdf)

3. Public Comment

4. Follow-Up: R-1 Setback/Back of Curb (discussion)

In prior meetings, the Planning Commission and Councilwoman Henderson have discussed set back regulations in the R-1 zone for the feasibility of a back of curb measurement when a lot line measurement is not sensible.

Attachments:

- George M Back of Curb Definitions (Back_of_Curb_Definitions_r.pdf)
- Location Requirements (Location_Requirements.docx)
- State Subdivision Law (State_Subdivision_Law_C10-9a-P6_1800010118000101_GRM_NOTED_r.pdf)

5. Subdivision Ordinance Review with Utah Codes (discussion)

Commissioner Matocha will review the Monticello City Subdivision Ordinance for compliance with Utah Code 10-9a-603

<https://le.utah.gov/xcode/Title10/Chapter9A/10-9a-S603.html>

6. Review R-1 & R-2 Amendments Draft (discussion)

The Planning Commission is in the process of amending the zoning codes for Monticello City. These amendments, if approved by the Planning Commission, will be forwarded to the Monticello City Council for formal adoption. Public Hearings will be scheduled in pursuant to Title 10-3-704 of the Utah Code

[https://le.utah.gov/xcode/Title10/Chapter3/C10-3-P7_1800010118000101.pdf#:~:text=10-3-](https://le.utah.gov/xcode/Title10/Chapter3/C10-3-P7_1800010118000101.pdf#:~:text=10-3-704%20Form%20of%20ordinance.%20The%20governing%20body%20shall,states%20the%20need%20or%20reason%20for%20the%20ordinance%3B)

[704%20Form%20of%20ordinance.%20The%20governing%20body%20shall,states%20the%20need%20or%20reason%20for%20the%20ordinance%3B](https://le.utah.gov/xcode/Title10/Chapter3/C10-3-P7_1800010118000101.pdf#:~:text=10-3-704%20Form%20of%20ordinance.%20The%20governing%20body%20shall,states%20the%20need%20or%20reason%20for%20the%20ordinance%3B)

7. Administrative Communications

8. Next Meeting Agenda

9. Adjournment



Planning Commission Meeting Minutes

Tuesday, July 7, 2020 at 6:30 pm

Attendees: Chairperson Lee Bennett, Commissioner Scott Burgess - not present, Commissioner Mary Cokenour, Commissioner George Matocha, City Manager Doug Wright - not present, City Recorder Cindi Holyoak
Meeting Location: 17 N 100 E

1. Call to Order

Chairperson Bennett opened the regularly scheduled Planning Commission Meeting at 6:40 p.m. The following visitors were present

Minutes:

Chairperson Lee Bennett Called the Monticello Planning Commission Meeting to order at 6:34 p.m. Visitors in attendance were Bob Christensen and Councilwoman Kim Henderson.

2. Minutes Review/Approval

Minutes:

Motion was made by Commissioner Mary Cokenour to approve the May 5, 2020 Planning Commission minutes as presented. The motion was seconded by Commissioner George Matocha who abstained from the vote. The motion passed.

Vote results:

Ayes: 2 / Nays: 0

3. Public Comment

Minutes:

There was no public comment.

4. Consider Nomination to Commission (action)

Minutes:

A letter of interest was received by Bob Christensen who said he would like to become more actively involved in the community and that he is confident he can be a valuable asset to the commission. Motion was made by Commissioner George Matocha to nominate Bob Christensen to the Monticello Planning Commission and to forward this nomination to the City Council for appointment. The motion was

seconded by Commissioner Mary Cokenour and opened for discussion.
Chairperson Lee Bennett - Aye Commissioner George Matocha - Aye Commissioner Mary Cokenour - Aye Commissioner Scott Burgess - not present The motion passed unanimously.

Vote results:

Ayes: 3 / Nays: 0

5. City Council Work Session Review (discussion)

Minutes:

Notes from the work meeting were reviewed by Chairperson Bennett. There was discussion about the front setback in the R-1 zone. The controversy is whether to use lot line for reference or back of curb.

6. Subdivision Code Review - (discussion)

Minutes:

The Commission has agreed to compare the Monticello City subdivision code with state code to learn if changes are necessary. Commissioner Matocha will perform the review and bring it to the commission. The draft will then be submitted for review by SEULG.

7. Administrative Communications

Minutes:

The new City Manager Evan Bolt will begin on July 20,2020.

8. Next Meeting Agenda

Minutes:

August 4 Research back of curb/property line Subdivision review against state code
R- & R-2 Review all discussion

9. Adjournment

Minutes:

Motion was made by Commissioner George Matocha to adjourn the meeting at 7:57 p.m. The motion was seconded by Commissioner Mary Cokenour and passed unanimously.

Vote results:

Ayes: 3 / Nays: 0

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DEFINITIONS ▾

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curb

 [kurb] [SHOW IPA](#) [SEE SYNONYMS FOR curb ON THESAURUS.COM](#)*noun*

- ★ 1 Also *British*, **kerb** . a rim, especially of joined stones or concrete, along a street or roadway, forming an edge for a sidewalk.
- ★ 2 anything that restrains or controls; a restraint; check.
- ★ 3 an enclosing framework or border.
- 4 Also called **curb bit** . a bit used with a bridoon for control of a horse, to which a chain (**curb chain**) is hooked.

[SEE MORE](#)*verb (used with object)*

- 13 to control as with a curb; restrain; check.
- 14 to cause to keep near the curb:
Curb your dog.

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definition of "back of curb"



gmatocha@ma...

10



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Back of Curb definition

Back of Curb means the **farthest edge of a Street curb adjacent to a Street**, which in some cases will be ten (10) feet from the boundary line of a Building Site depending upon applicable governmental regulation.

Reference: www.lawinsider.com/dictionary/back-of-curb

Was this helpful?

PEOPLE ALSO ASK

What is the definition of Curb?

Definition of curb (Entry 2 of 2) 1 : to furnish with a curb 2 : to check or control with or as if with a curb trying to curb her curiosity 3 : to lead (a dog) to a suitable place (such as a gutter) for defecation

Curb | Definition of Curb by Merriam-Webster
www.merriam-webster.com/dictionary/curb

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What does curbing mean?

1. verb. If you curb something, you control it and keep it within limits.
 ...advertisements aimed at curbing the spread of the disease. [VERB noun] He called for energy consumption to be curbed. [be VERB-ed] Curb is also a noun. He called for much stricter curbs on immigration.

Curb definition and meaning | Collins English Dictionary
www.collinsdictionary.com/dictionary/english/curb

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Is curb a verb?

What does curb mean in English?

Feedback

Back of Curb | legal definition of Back of Curb by Law Insider

www.lawinsider.com/dictionary/back-of-curb

Back of Curb means the farthest edge of a **Street curb** adjacent to a Street, which in some cases will be ten (10) feet from the boundary line of a Building Site depending upon applicable governmental regulation.

Back of Curb - How is Back of Curb abbreviated?

acronyms.thefreedictionary.com/Back+of+Curb

Back of Curb (planning and zoning) BoC: **Branch Office Connectivity** BoC: **Barring of Outgoing**

Calls BoC: **Budget Object Classification** BoC: **Balance of Contract (payroll)** BoC: **Blinded-Out**

Cabbage (Woot.com) BoC: **Bit-Oriented Code** BoC: **Blade of Carnage** (Everquest gaming) BoC:

Brotherhood of Chaos (Counterstrike clan) BoC: **Badminton Open Club** (France) BoC

Curb | Definition of Curb at Dictionary.com

www.dictionary.com/browse/curb

noun. Also British, kerb. a **rim, especially of joined stones or concrete, along a street or roadway, forming an edge for a sidewalk.** anything that restrains or controls; a restraint; check. an ...

10-6-5

Location Requirements: Setback distances shall be determined by measuring from the property line to the foundation of the building.

A. Front Setback:

1. Main Buildings: All dwellings and other main buildings and structures shall be set back not less than twenty feet (20') from the front lot line (back of curb is acceptable – in any case where the curb is not present, the reference point may be determined by public works examination of approximate placement of curb.)
 - a. If the narrowest distance from a resident's front property line and back of curb is greater than 10 feet (10'), the owner's setback from property line may be reduced to 10 feet (10"). Code exception only applicable to properties with curb to measure from.
 - a. If a lot line is angled, a reduced setback requirement may be applied if the following conditions are met:
 1. The narrowest distance from a resident's front property line and back of curb is greater than ten feet (10'),
 2. The greatest distance is over twenty feet (20')
 3. The set back conforms with surrounding homes.

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 municipality's ordinances and this part before:
 - (a) the subdivision plat may be filed and 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.

Amended by Chapter 384, 2019 General Session

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

- (1) A planning commission shall:
 - (a) review and provide a recommendation to the legislative body on any proposed ordinance that regulates the subdivision of land in the municipality;
 - (b) review and make a recommendation to the legislative body on any 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 the planning commission's final recommendation to the legislative body.
- (2)
 - (a) A legislative body may adopt, modify, revise, or reject an ordinance described in Subsection (1) that the planning commission recommends.
 - (b) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation if the legislative body has provided for that consideration by ordinance.

Amended by Chapter 384, 2019 General Session

10-9a-603 Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification 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 an underground facility, as defined in Section 54-8a-2, and for any other utility facility.
- (2)
 - (a) Subject to Subsections (3), (5), and (6), if the plat conforms to the municipality's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department and the municipality consider the local health department's approval necessary, the municipality shall approve the plat.
 - (b) Municipalities are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.
 - (c) A municipality may not require that a plat be approved or signed by a person or entity who:
 - (i) is not an employee or agent of the municipality; or
 - (ii) does not:
 - (A) have a legal or equitable interest in the property within the proposed subdivision;
 - (B) provide a utility or other service directly to a lot within the subdivision;
 - (C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or
 - (D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.
 - (d) For a subdivision application that includes land located within a notification zone, as determined under Subsection (2)(f), the land use authority shall:
 - (i) within 20 days after the day on which a complete subdivision application is filed, provide written notice of the application to the canal owner or associated canal operator contact described in:
 - (A) Section 10-9a-211;
 - (B) Subsection 73-5-7(2); or
 - (C) Subsection (5)(c); and
 - (ii) wait to approve or reject the subdivision application for at least 20 days after the day on which the land use authority mails the notice described in Subsection (2)(d)(i) in order to receive input from the canal owner or associated canal operator, including input regarding:
 - (A) access to the canal;
 - (B) maintenance of the canal;
 - (C) canal protection; and
 - (D) canal safety.
 - (e) When applicable, the subdivision applicant shall comply with Section 73-1-15.5.
 - (f) The land use authority shall provide the notice described in Subsection (2)(d) to a canal owner or associated canal operator if:
 - (i) the canal's centerline is located within 100 feet of a proposed subdivision; and
 - (ii) the centerline alignment is available to the land use authority:
 - (A) from information provided by the canal company under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the canal owner or associated canal operator;
 - (B) using the state engineer's inventory of canals under Section 73-5-7; or
 - (C) from information provided by a surveyor under Subsection (5)(c).

- (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) Within 30 days after approving a final plat under this section, a municipality shall submit to the Automated Geographic Reference Center, created in Section 63F-1-506, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)
 - (b):
 - (i) an electronic copy of the approved final plat; or
 - (ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.
 - (b) If requested by the Automated Geographic Reference Center, a municipality that approves a final plat under this section shall:
 - (i) coordinate with the Automated Geographic Reference Center to validate the information described in Subsection (4)(a); and
 - (ii) assist the Automated Geographic Reference Center in creating electronic files that contain the information described in Subsection (4)(a) for inclusion in the unified statewide 911 emergency service database.
- (5)
 - (a) A county recorder may not record a plat unless:
 - (i) prior to recordation, the municipality has approved and signed the plat;
 - (ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and
 - (iii) the signature of each owner described in Subsection (5)(a)(ii) 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) To the extent possible, the surveyor shall consult with the owner or operator of an existing or proposed underground facility or utility facility within the proposed subdivision, or a representative designated by the owner or operator, to verify the accuracy of the surveyor's depiction of the:
 - (A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;
 - (B) location of an existing underground facility and utility facility; and
 - (C) physical restrictions governing the location of the underground facility and utility facility within the subdivision.
 - (ii) The cooperation of an owner or operator under Subsection (5)(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 Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.
- (6)

- (a) Except as provided in Subsection (5)(c), after the plat has been acknowledged, certified, and approved, the individual seeking to record the plat shall, within the time period and manner 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) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the land use authority.

Amended by Chapter 434, 2020 General Session

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(5)(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;
 - (c) all approvals described in Subsection (1)(b) are entered in writing on the plat by the designated officers; and
 - (d) if the person submitting the plat intends the plat to be or if the plat is part of a community association subject to Title 57, Chapter 8a, Community Association Act, the plat includes language conveying to the association, as that term is defined in Section 57-8a-102, all common areas, as that term is defined in Section 57-8a-102.
- (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 by the land use authority.

Amended by Chapter 434, 2020 General Session

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

- (1) A land use authority shall establish objective inspection standards for acceptance of a landscaping or infrastructure improvement that the land use authority requires.
- (2)
 - (a) Before an applicant conducts any development activity or records a plat, the applicant shall:
 - (i) complete any required landscaping or infrastructure improvements; or
 - (ii) post an improvement completion assurance for any required landscaping or infrastructure improvements.
 - (b) If an applicant elects to post an improvement completion assurance, the applicant shall provide completion assurance for:
 - (i) completion of 100% of the required landscaping or infrastructure improvements; or
 - (ii) if the municipality has inspected and accepted a portion of the landscaping or infrastructure improvements, 100% of the incomplete or unaccepted landscaping or infrastructure improvements.
 - (c) A municipality shall:
 - (i) establish a minimum of two acceptable forms of completion assurance;
 - (ii) if an applicant elects to post an improvement completion assurance, allow the applicant to post an assurance that meets the conditions of this title, and any local ordinances;

- (iii) establish a system for the partial release of an improvement completion assurance as portions of required landscaping or infrastructure improvements are completed and accepted in accordance with local ordinance; and
 - (iv) issue or deny a building permit in accordance with Section 10-9a-802 based on the installation of landscaping or infrastructure improvements.
- (d) A municipality may not require an applicant to post an improvement completion assurance for:
 - (i) landscaping or an infrastructure improvement that the municipality has previously inspected and accepted;
 - (ii) infrastructure improvements that are private and not essential or required to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use regulation; or
 - (iii) in a municipality where ordinances require all infrastructure improvements within the area to be private, infrastructure improvements within a development that the municipality requires to be private.
- (3) At any time before a municipality accepts a landscaping or infrastructure improvement, and for the duration of each improvement warranty period, the municipality may require the applicant 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) municipal engineer's original estimated cost of completion; or
 - (ii) applicant's reasonable proven cost of completion.
- (4) When a municipality accepts an improvement completion assurance for landscaping or infrastructure improvements for a development in accordance with Subsection (2)(c)(ii), the municipality may not deny an applicant a building permit if the development meets the requirements for the issuance of a building permit under the building code and fire code.
- (5) The provisions of this section do not supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Amended by Chapter 384, 2019 General Session

10-9a-605 Exemptions from plat requirement.

- (1) Notwithstanding any other provision of law, a plat is not required if:
 - (a) a municipality establishes a process to approve an administrative land use decision for a subdivision of 10 or fewer lots without a plat; and
 - (b) the municipality provides in writing that:
 - (i) the municipality has provided notice as required by ordinance; and
 - (ii) the proposed subdivision:
 - (A) is not traversed by the mapped lines of a proposed street as shown in the general plan unless the municipality has approved the location and dedication of any public street, municipal utility easement, any other easement, or any other land for public purposes as the municipality's ordinance requires;
 - (B) has been approved by the culinary water authority and the sanitary sewer authority;
 - (C) is located in a zoned area; and
 - (D) 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 and that complies with Section 57-3-106.

Amended by Chapter 434, 2020 General Session

10-9a-606 Common 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) As used in this section:
- (a) "Association" means the same as that term is defined in:
 - (i) regarding a common area, Section 57-8a-102; and
 - (ii) regarding a common area and facility, Section 57-8-3.
 - (b) "Common area" means the same as that term is defined in Section 57-8a-102.
 - (c) "Common area and facility" means the same as that term is defined in Section 57-8-3.
 - (d) "Declarant" means the same as that term is defined in:
 - (i) regarding a common area, Section 57-8a-102; and
 - (ii) regarding a common area and facility, Section 57-8-3.
 - (e) "Declaration," regarding a common area and facility, means the same as that term is defined in Section 57-8-3.
 - (f) "Period of administrative control" means the same as that term is defined in:
 - (i) regarding a common area, Section 57-8a-102; and
 - (ii) regarding a common area and facility, Section 57-8-3.
- (2) A person may not separately own, convey, or modify a parcel designated as a common area or common area and facility, on a plat recorded in compliance with this part, independent of the other lots, units, or parcels created by the plat unless:
- (a) an association holds in trust the parcel designated as a common area for the owners of the other lots, units, or parcels created by the plat; or
 - (b) the conveyance or modification is approved under Subsection (5).

- (3) If a conveyance or modification of a common area or common area and facility is approved in accordance with Subsection (5), the person who presents the instrument of conveyance to a county recorder shall:
 - (a) attach a notice of the approval described in Subsection (5) as an exhibit to the document of conveyance; or
 - (b) record a notice of the approval described in Subsection (5) concurrently with the conveyance as a separate document.
- (4) When a plat contains a common area or common area and facility:
 - (a) for purposes of assessment, each parcel that the plat creates has an equal ownership interest in the common area or common area and facility within the plat, unless the plat or an accompanying recorded document indicates a different division of interest for assessment purposes; and
 - (b) each instrument describing a parcel on the plat by the parcel's identifying plat number implicitly includes the ownership interest in the common area or common area and facility, even if that ownership interest is not explicitly stated in the instrument.
- (5) Notwithstanding Subsection (2), a person may modify the size or location of or separately convey a common area or common area and facility if the following approve the conveyance or modification:
 - (a) the local government;
 - (b)
 - (i) for a common area that an association owns, 67% of the voting interests in the association; or
 - (ii) for a common area that an association does not own, or for a common area and facility, 67% of the owners of lots, units, and parcels designated on a plat that is subject to a declaration and on which the common area or common area and facility is included; and
 - (c) during the period of administrative control, the declarant.

Amended by Chapter 405, 2017 General Session

10-9a-607 Dedication by plat of public 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 public 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 public streets and other public places that are dedicated in this manner but are unimproved unless:
 - (a) adequate financial assurance has been provided in accordance with this chapter; and
 - (b) the municipality has accepted the dedication.

Amended by Chapter 384, 2019 General Session

10-9a-608 Subdivision amendments.

- (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 request a subdivision amendment.

- (b) Upon filing a written petition to request a subdivision amendment under Subsection (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in accordance with Section 10-9a-603 that:
 - (i) depicts only the portion of the subdivision that is proposed to be amended;
 - (ii) includes a plat name distinguishing the amended plat from the original plat;
 - (iii) describes the differences between the amended plat and the original plat; and
 - (iv) includes references to the original plat.
- (c) 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 petition for a subdivision amendment.
- (d) 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)(d) does not apply and a land use authority may consider at a public meeting an owner's petition for a subdivision amendment 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) A petition under Subsection (1)(a) that contains a request to amend a public street or municipal utility easement is also subject to Section 10-9a-609.5.
- (4) A petition under Subsection (1)(a) that contains a request to 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.

Amended by Chapter 434, 2020 General Session

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 or municipal utility 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.

Amended by Chapter 384, 2019 General Session

10-9a-609.5 Petition to vacate a public street.

- (1) In lieu of vacating some or all of a public street through a plat or amended plat in accordance with Sections 10-9a-603 through 10-9a-609, a legislative body may approve a petition to vacate a public street in accordance with this section.
- (2) A petition to vacate some or all of a public street or municipal utility easement shall include:
 - (a) the name and address of each owner of record of land that is:
 - (i) adjacent to the public street or municipal utility easement between the two nearest public street intersections; or
 - (ii) accessed exclusively by or within 300 feet of the public street or municipal utility easement;
 - (b) proof of written notice to operators of utilities located within the bounds of the public street or municipal utility easement sought to be vacated; and
 - (c) the signature of each owner under Subsection (2)(a) who consents to the vacation.
- (3) If a petition is submitted containing a request to vacate some or all of a public street or municipal utility 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.
- (4) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street or municipal utility 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.
- (5) If the legislative body adopts an ordinance vacating some or all of a public street or municipal utility 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)
 - (i) an ordinance described in Subsection (4); and
 - (ii) a legal description of the public street to be vacated.
- (6) The action of the legislative body vacating some or all of a public street or municipal utility 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 or ordinance, as a revocation of the acceptance of and the relinquishment of the municipality's fee in the vacated public street or municipal utility easement; and
 - (b) may not be construed to impair:
 - (i) any right-of-way or easement of any parcel or lot owner; or
 - (ii) the rights of any public utility.
- (7)
 - (a) A municipality may submit a petition, in accordance with Subsection (2), and initiate and complete a process to vacate some or all of a public street.

- (b) If a municipality submits a petition and initiates a process under Subsection (7)(a):
 - (i) the legislative body shall hold a public hearing;
 - (ii) the petition and process may not apply to or affect a public utility easement, except to the extent:
 - (A) the easement is not a protected utility easement as defined in Section 54-3-27;
 - (B) the easement is included within the public street; and
 - (C) the notice to vacate the public street also contains a notice to vacate the easement; and
 - (iii) a recorded ordinance to vacate a public street has the same legal effect as vacating a public street through a recorded plat or amended plat.

Amended by Chapter 434, 2020 General Session

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.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-611 Prohibited acts.

- (1)
 - (a)
 - (i) If a subdivision requires a plat, 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.
 - (ii) A violation of Subsection (1)(a)(i) is an infraction.
 - (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 or any other appropriate action or proceeding to prevent or enjoin the violation.
 - (c) A municipality need only establish the violation to obtain the injunction.

Amended by Chapter 434, 2020 General Session