

1 **TRANSPORTATION CORRIDOR**
2 **PRESERVATION AMENDMENTS**

3 2008 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Sheldon L. Killpack**

6 House Sponsor: Brad L. Dee

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Municipal Land Use, Development, and Management Act, the
11 County Land Use, Development, and Management Act, and the Transportation Code by
12 amending provisions relating to transportation corridor preservation.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ authorizes the Department of Transportation to identify and the Transportation
16 Commission to approve transportation corridors as high priority transportation
17 corridors;
- 18 ▶ requires the Department of Transportation to notify a municipality or county if a
19 high priority transportation corridor is located within the boundaries of a
20 municipality or county;
- 21 ▶ requires a municipality or county to notify the executive director of the Department
22 of Transportation if the municipality receives a land use application that relates to
23 land located within the boundaries of a high priority transportation corridor;
- 24 ▶ provides that a municipality or county may not approve certain land use applications
25 until a certain time after notifications have been received by the Department of
26 Transportation if a land use application relates to land located within the boundaries
27 of a high priority transportation corridor with an exception;
- 28 ▶ provides that an applicant for a land use application is not entitled to receive
29 approval of certain land use applications until a certain time after notifications have

30 been received by the executive director of the Department of Transportation with an exception;

31 and

32 ▶ makes technical changes.

33 **Monies Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 AMENDS:

39 **10-9a-509**, as last amended by Laws of Utah 2007, Chapter 363

40 **17-27a-508**, as last amended by Laws of Utah 2007, Chapter 363

41 **72-5-403**, as last amended by Laws of Utah 2003, Chapter 300



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

44 Section 1. Section **10-9a-509** is amended to read:

45 **10-9a-509. When a land use applicant is entitled to approval -- Exception --**

46 **Municipality may not impose unexpressed requirements -- Municipality required to**

47 **comply with land use ordinances.**

48 (1) (a) ~~Am~~ Except as provided in Subsection (1)(b), an applicant is entitled to approval
49 of a land use application if the application conforms to the requirements of the municipality's
50 land use maps, zoning map, and applicable land use ordinance in effect when a complete
51 application is submitted and all fees have been paid, unless:

52 (i) the land use authority, on the record, finds that a compelling, countervailing public
53 interest would be jeopardized by approving the application; or

54 (ii) in the manner provided by local ordinance and before the application is submitted,
55 the municipality has formally initiated proceedings to amend its ordinances in a manner that
56 would prohibit approval of the application as submitted.

57 (b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval

58 of a land use application until the requirements of this Subsection (1)(b) have been met if the
59 land use application relates to land located within the boundaries of a high priority
60 transportation corridor designated in accordance with Section 72-5-403.

61 (ii) (A) A municipality shall notify the executive director of the Department of
62 Transportation of any land use applications that relate to land located within the boundaries of a
63 high priority transportation corridor.

64 (B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by
65 certified or registered mail to the executive director of the Department of Transportation.

66 (iii) Except as provided in Subsection (1)(c), a municipality may not approve a land use
67 application that relates to land located within the boundaries of a high priority transportation
68 corridor until:

69 (A) 30 days after the notification under Subsection (1)(b)(ii) is received by the
70 Department of Transportation if the land use application is for a building permit; or

71 (B) 45 days after the notification under Subsection (1)(b)(ii) is received by the
72 Department of Transportation if the land use application is for any land use other than a building
73 permit.

74 (c) (i) A land use application is exempt from the requirements of Subsection (1)(b) if:

75 (A) the land use application relates to land that was the subject of a previous land use
76 application; and

77 (B) the previous land use application described under Subsection (1)(c)(i)(A) complied
78 with the requirements of Subsection (1)(b).

79 (ii) A municipality may approve a land use application without making the required
80 notifications under Subsection (1)(b) if:

81 (A) the land use application relates to land that was the subject of a previous land use
82 application; and

83 (B) the previous land use application described under Subsection (1)(c)(ii)(A) complied
84 with the requirements of Subsection (1)(b).

85 (d) After a municipality has complied with the requirements of Subsection (1)(b) for a

86 land use application, the municipality may not withhold approval of the land use application for
87 which the applicant is otherwise entitled under Subsection (1)(a).

88 [~~(b)~~] (e) The municipality shall process an application without regard to proceedings
89 initiated to amend the municipality's ordinances if:

90 (i) 180 days have passed since the proceedings were initiated; and

91 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
92 application as submitted.

93 [~~(c)~~] (f) An application for a land use approval is considered submitted and complete
94 when the application is provided in a form that complies with the requirements of applicable
95 ordinances and all applicable fees have been paid.

96 [~~(d)~~] (g) The continuing validity of an approval of a land use application is conditioned
97 upon the applicant proceeding after approval to implement the approval with reasonable
98 diligence.

99 [~~(e)~~] (h) A municipality may not impose on a holder of an issued land use permit a
100 requirement that is not expressed:

101 (i) in the land use permit or in documents on which the land use permit is based; or

102 (ii) in this chapter or the municipality's ordinances.

103 [~~(f)~~] (i) A municipality may not withhold issuance of a certificate of occupancy because
104 of an applicant's failure to comply with a requirement that is not expressed:

105 (i) in the building permit or in documents on which the building permit is based; or

106 (ii) in this chapter or the municipality's ordinances.

107 (2) A municipality is bound by the terms and standards of applicable land use
108 ordinances and shall comply with mandatory provisions of those ordinances.

109 Section 2. Section **17-27a-508** is amended to read:

110 **17-27a-508. When a land use applicant is entitled to approval -- Exception --**

111 **County may not impose unexpressed requirements -- County required to comply with**
112 **land use ordinances.**

113 (1) (a) [~~An~~] Except as provided in Subsection (1)(b), an applicant is entitled to approval

114 of a land use application if the application conforms to the requirements of the county's land use
115 maps, zoning map, and applicable land use ordinance in effect when a complete application is
116 submitted and all fees have been paid, unless:

117 (i) the land use authority, on the record, finds that a compelling, countervailing public
118 interest would be jeopardized by approving the application; or

119 (ii) in the manner provided by local ordinance and before the application is submitted,
120 the county has formally initiated proceedings to amend its ordinances in a manner that would
121 prohibit approval of the application as submitted.

122 (b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval
123 of a land use application until the requirements of this Subsection (1)(b) have been met if the
124 land use application relates to land located within the boundaries of a high priority
125 transportation corridor designated in accordance with Section 72-5-403.

126 (ii) (A) A county shall notify the executive director of the Department of Transportation
127 of any land use applications that relate to land located within the boundaries of a high priority
128 transportation corridor.

129 (B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by
130 certified or registered mail to the executive director of the Department of Transportation.

131 (iii) Except as provided in Subsection (1)(c), a county may not approve a land use
132 application that relates to land located within the boundaries of a high priority transportation
133 corridor until:

134 (A) 30 days after the notification under Subsection (1)(b)(ii) is received by the
135 Department of Transportation if the land use application is for a building permit; or

136 (B) 45 days after the notification under Subsection (1)(b)(ii) is received by the
137 Department of Transportation if the land use application is for any land use other than a building
138 permit.

139 (c) (i) A land use application is exempt from the requirements of Subsection (1)(b) if:

140 (A) the land use application relates to land that was the subject of a previous land use
141 application; and

142 (B) the previous land use application described under Subsection (1)(c)(i)(A) complied
143 with the requirements of Subsection (1)(b).

144 (ii) A county may approve a land use application without making the required
145 notifications under Subsection (1)(b) if:

146 (A) the land use application relates to land that was the subject of a previous land use
147 application; and

148 (B) the previous land use application described under Subsection (1)(c)(ii)(A) complied
149 with the requirements of Subsection (1)(b).

150 (d) After a county has complied with the requirements of Subsection (1)(b) for a land
151 use application, the county may not withhold approval of the land use application for which the
152 applicant is otherwise entitled under Subsection (1)(a).

153 ~~[(b)]~~ (e) The county shall process an application without regard to proceedings initiated
154 to amend the county's ordinances if:

155 (i) 180 days have passed since the proceedings were initiated; and

156 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
157 application as submitted.

158 ~~[(c)]~~ (f) An application for a land use approval is considered submitted and complete
159 when the application is provided in a form that complies with the requirements of applicable
160 ordinances and all applicable fees have been paid.

161 ~~[(d)]~~ (g) The continuing validity of an approval of a land use application is conditioned
162 upon the applicant proceeding after approval to implement the approval with reasonable
163 diligence.

164 ~~[(e)]~~ (h) A county may not impose on a holder of an issued land use permit a
165 requirement that is not expressed:

166 (i) in the land use permit or in documents on which the land use permit is based; or

167 (ii) in this chapter or the county's ordinances.

168 ~~[(f)]~~ (i) A county may not withhold issuance of a certificate of occupancy because of an
169 applicant's failure to comply with a requirement that is not expressed:

170 (i) in the building permit or in documents on which the building permit is based; or
171 (ii) in this chapter or the county's ordinances.

172 (2) A county is bound by the terms and standards of applicable land use ordinances and
173 shall comply with mandatory provisions of those ordinances.

174 Section 3. Section **72-5-403** is amended to read:

175 **72-5-403. Transportation corridor preservation powers.**

176 (1) The department, counties, and municipalities may:

177 (a) act in cooperation with one another and other government entities to promote
178 planning for and enhance the preservation of transportation corridors and to more effectively
179 use the monies available in the Transportation Corridor Preservation Revolving Loan Fund
180 created in Section 72-2-117;

181 (b) undertake transportation corridor planning, review, and preservation processes; and

182 (c) acquire fee simple rights and other rights of less than fee simple, including easement
183 and development rights, or the rights to limit development, including rights in alternative
184 transportation corridors, and to make these acquisitions up to a projected 30 years in advance of
185 using those rights in actual transportation facility construction.

186 (2) In addition to the powers described under Subsection (1), counties and
187 municipalities may:

188 (a) limit development for transportation corridor preservation by land use regulation
189 and by official maps; and

190 (b) by ordinance prescribe procedures for approving limited development in
191 transportation corridors until the time transportation facility construction begins.

192 (3) (a) The department shall identify and the commission shall approve transportation
193 corridors as high priority transportation corridors for transportation corridor preservation.

194 (b) The department shall notify a county or municipality if the county or municipality
195 has land within its boundaries that is located within the boundaries of a high priority
196 transportation corridor.

197 (c) The department may, on a voluntary basis, acquire private property rights within the

198 boundaries of a high priority transportation corridor for which a notification has been received
199 in accordance with Section 10-9a-509 or 17-27a-508.