

COUNTY AND MUNICIPAL LAND USE

AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mark B. Madsen

House Sponsor: Michael T. Morley

LONG TITLE

General Description:

This bill modifies county and municipal land use provisions.

Highlighted Provisions:

This bill:

▶ prohibits counties and municipalities from requiring, as a condition of land use application approval, a person to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application;

▶ prohibits counties and municipalities from charging fees that exceed applicable costs; and

▶ requires counties and municipalities, on request, to itemize and show the basis of fees they impose.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-509, as last amended by Laws of Utah 2008, Chapters 112 and 279



28 **10-9a-510**, as renumbered and amended by Laws of Utah 2005, Chapter 254
 29 **17-27a-508**, as last amended by Laws of Utah 2008, Chapters 112 and 279
 30 **17-27a-509**, as renumbered and amended by Laws of Utah 2005, Chapter 254



31
 32 *Be it enacted by the Legislature of the state of Utah:*

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

34 **10-9a-509. When a land use applicant is entitled to approval -- Exception --**
 35 **Municipality may not impose unexpressed requirements -- Municipality required to**
 36 **comply with land use ordinances.**

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

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

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

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

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

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

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

58 (A) 30 days after the notification under Subsection (1)(b)(ii) is received by the

59 Department of Transportation if the land use application is for a building permit; or
60 (B) 45 days after the notification under Subsection (1)(b)(ii) is received by the
61 Department of Transportation if the land use application is for any land use other than a
62 building permit.

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

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

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

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

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

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

74 (d) After a municipality has complied with the requirements of Subsection (1)(b) for a
75 land use application, the municipality may not withhold approval of the land use application for
76 which the applicant is otherwise entitled under Subsection (1)(a).

77 (e) The municipality shall process an application without regard to proceedings
78 initiated to amend the municipality's ordinances if:

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

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

82 (f) An application for a land use approval is considered submitted and complete when
83 the application is provided in a form that complies with the requirements of applicable
84 ordinances and all applicable fees have been paid.

85 (g) The continuing validity of an approval of a land use application is conditioned upon
86 the applicant proceeding after approval to implement the approval with reasonable diligence.

87 (h) A municipality may not impose on a holder of an issued land use permit or
88 approved subdivision plat a requirement that is not expressed:

89 (i) in the land use permit or subdivision plat, documents on which the land use permit

90 or subdivision plat is based, or the written record evidencing approval of the land use permit or
91 subdivision plat; or

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

93 (i) A municipality may not withhold issuance of a certificate of occupancy or
94 acceptance of subdivision improvements because of an applicant's failure to comply with a
95 requirement that is not expressed:

96 (i) in the building permit or subdivision plat, documents on which the building permit
97 or subdivision plat is based, or the written record evidencing approval of the land use permit or
98 subdivision plat; or

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

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

102 (3) A municipality may not, as a condition of land use application approval, require a
103 person filing a land use application to obtain documentation regarding a school district's
104 willingness, capacity, or ability to serve the development proposed in the land use application.

105 Section 2. Section **10-9a-510** is amended to read:

106 **10-9a-510. Limit on fees for review and approving building plans.**

107 (1) A municipality may not impose or collect a fee for reviewing or approving the
108 plans for a commercial or residential building that exceeds the lesser of:

109 (a) the actual cost of performing the plan review; and

110 (b) 65% of the amount the municipality charges for a building permit fee for that
111 building.

112 (2) Subject to Subsection (1), a municipality may impose and collect only a nominal
113 fee for reviewing and approving identical plans.

114 (3) A municipality may not impose or collect:

115 (a) a land use application fee that exceeds the cost of processing the application; or

116 (b) an inspection or review fee that exceeds the cost of performing the inspection or
117 review.

118 (4) Upon the request of an applicant or an owner of residential property, the
119 municipality shall itemize each fee that the municipality imposes on the applicant or on the
120 residential property, respectively, showing the basis of each calculation for each fee imposed.

121 Section 3. Section **17-27a-508** is amended to read:

122 **17-27a-508. When a land use applicant is entitled to approval -- Exception --**
123 **County may not impose unexpressed requirements -- County required to comply with**
124 **land use ordinances.**

125 (1) (a) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a
126 land use application if the application conforms to the requirements of the county's land use
127 maps, zoning map, and applicable land use ordinance in effect when a complete application is
128 submitted and all fees have been paid, unless:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

165 (e) The county shall process an application without regard to proceedings initiated to
166 amend the county's ordinances if:

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

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

170 (f) An application for a land use approval is considered submitted and complete when
171 the application is provided in a form that complies with the requirements of applicable
172 ordinances and all applicable fees have been paid.

173 (g) The continuing validity of an approval of a land use application is conditioned upon
174 the applicant proceeding after approval to implement the approval with reasonable diligence.

175 (h) A county may not impose on a holder of an issued land use permit or approved
176 subdivision plat a requirement that is not expressed:

177 (i) in the land use permit or subdivision plat documents on which the land use permit
178 or subdivision plat is based, or the written record evidencing approval of the land use permit or
179 subdivision plat; or

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

181 (i) A county may not withhold issuance of a certificate of occupancy or acceptance of
182 subdivision improvements because of an applicant's failure to comply with a requirement that

183 is not expressed:

184 (i) in the building permit or subdivision plat, documents on which the building permit
185 or subdivision plat is based, or the written record evidencing approval of the building permit or
186 subdivision plat; or

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

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

190 (3) A county may not, as a condition of land use application approval, require a person
191 filing a land use application to obtain documentation regarding a school district's willingness,
192 capacity, or ability to serve the development proposed in the land use application.

193 Section 4. Section 17-27a-509 is amended to read:

194 **17-27a-509. Limit on fee for review and approving building plans.**

195 (1) A county may not impose or collect a fee for reviewing or approving the plans for a
196 commercial or residential building that exceeds the lesser of:

197 (a) the actual cost of performing the plan review; and

198 (b) 65% of the amount the county charges for a building permit fee for that building.

199 (2) Subject to Subsection (1), a county may impose and collect only a nominal fee for
200 reviewing and approving identical plans.

201 (3) A county may not impose or collect:

202 (a) a land use application fee that exceeds the cost of processing the application; or

203 (b) an inspection or review fee that exceeds the cost of performing the inspection or
204 review.

205 (4) Upon the request of an applicant or an owner of residential property, the county
206 shall itemize each fee that the county imposes on the applicant or on the residential property,
207 respectively, showing the basis of each calculation for each fee imposed.

Legislative Review Note
as of 2-2-09 2:29 PM

Office of Legislative Research and General Counsel

S.B. 153 - County and Municipal Land Use Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
