

MUNICIPAL AND COUNTY DEVELOPMENT STANDARDS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad R. Wilson

Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill amends subdivision and development provisions of the municipal and county land use code.

Highlighted Provisions:

This bill:

- ▶ prohibits a municipality or county from adopting an amendment to a specification for a public improvement unless the municipality or county holds a public hearing and gives notices;
- ▶ prohibits a municipality or county from imposing certain requirements on an applicant for preliminary subdivision approval;
- ▶ prohibits a municipality or county from imposing certain requirements on a holder of an issued land use permit or a final, unexpired subdivision plat; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-509, as last amended by Laws of Utah 2010, Chapter 332



28 17-27a-508, as last amended by Laws of Utah 2010, Chapter 332

29 ENACTS:

30 10-9a-212, Utah Code Annotated 1953

31 17-27a-212, Utah Code Annotated 1953



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

34 Section 1. Section 10-9a-212 is enacted to read:

35 **10-9a-212. Notice for an amendment to public improvements in a subdivision or**
36 **development.**

37 (1) A municipality may not adopt an amendment to a specification for a public
38 improvement that applies to a subdivision or development unless the municipality:

39 (a) holds a public hearing; and

40 (b) gives notice of the hearing date, time, and place as provided in Subsection (2).

41 (2) At least 30 days before the day of the public hearing described in Subsection (1)(a),
42 a municipality shall:

43 (a) mail notice to a person who requests with the municipality to receive notice of a
44 proposed amendment to a public improvement specification; and

45 (b) publish notice on the Utah Public Notice Website created in Section 63F-1-701.

46 Section 2. Section 10-9a-509 is amended to read:

47 **10-9a-509. Applicant's entitlement to land use application approval -- Exceptions**
48 **-- Application relating to land in a high priority transportation corridor -- Municipality's**
49 **requirements and limitations -- Vesting upon submission of development plan and**
50 **schedule.**

51 (1) (a) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a
52 land use application if the application conforms to the requirements of the municipality's land
53 use maps, zoning map, ~~and~~ a municipal specification for public improvements applicable to a
54 subdivision or development, and an applicable land use ordinance in effect when a complete
55 application is submitted and all application fees have been paid, unless:

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

58 (ii) in the manner provided by local ordinance and before the application is submitted,

59 the municipality has formally initiated proceedings to amend its ordinances in a manner that
60 would prohibit approval of the application as submitted.

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

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

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

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

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

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

78 (iv) (A) If an application is an application for a subdivision approval, including any
79 land, subject to Subsection (1)(b)(iv)(C), located within 100 feet of the center line of a canal,
80 the land use authority shall:

81 (I) within 30 days after the day on which the application is filed, notify the canal
82 company or canal operator responsible for the canal, if the canal company or canal operator has
83 provided information under Section 10-9a-211; and

84 (II) wait at least 10 days after the day on which the land use authority notifies a canal
85 company or canal operator under Subsection (1)(b)(iv)(A)(I) to approve or reject the
86 subdivision application described in Subsection (1)(b)(iv)(A).

87 (B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by
88 certified or registered mail to the canal company or canal operator contact described in Section
89 10-9a-211.

90 (C) The location of land described in Subsection (1)(b)(iv)(A) shall be:
91 (I) provided by a canal company or canal operator to the land use authority; and
92 (II) (Aa) determined by use of mapping-grade global positioning satellite units; or
93 (Bb) digitized from the most recent aerial photo available to the canal company or
94 canal operator.

95 (c) (i) A land use application is exempt from the requirements of Subsections (1)(b)(i)
96 and (ii) if:
97 (A) the land use application relates to land that was the subject of a previous land use
98 application; and
99 (B) the previous land use application described under Subsection (1)(c)(i)(A) complied
100 with the requirements of Subsections (1)(b)(i) and (ii).

101 (ii) A municipality may approve a land use application without making the required
102 notifications under Subsection (1)(b)(ii)(A) if:
103 (A) the land use application relates to land that was the subject of a previous land use
104 application; and
105 (B) the previous land use application described under Subsection (1)(c)(ii)(A)
106 complied with the requirements of Subsections (1)(b)(i) and (ii).

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

110 (e) The municipality shall process an application without regard to proceedings
111 initiated to amend the municipality's ordinances as provided in Subsection (1)(a)(ii) if:
112 (i) 180 days have passed since the proceedings were initiated; and
113 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
114 application as submitted.

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

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

120 (h) A municipality may not impose on ~~[a holder of an issued land use permit or~~

121 ~~approved subdivision plat]~~ an applicant for preliminary subdivision approval a requirement that
122 is not expressed in:

123 ~~[(i) in the land use permit or subdivision plat, documents]~~

124 (i) this chapter;

125 (ii) a municipal ordinance; or

126 (iii) a municipal specification for public improvements applicable to a subdivision or
127 development that is in effect on the date that the applicant submits an application.

128 (i) A municipality may not impose on a holder of an issued land use permit or a final,
129 unexpired subdivision plat a requirement that is not expressed:

130 (i) in a land use permit;

131 (ii) on the subdivision plat;

132 (iii) in a document on which the land use permit or subdivision plat is based~~[, or]~~;

133 (iv) in the written record evidencing approval of the land use permit or subdivision
134 plat; ~~[or]~~

135 ~~[(iv)]~~ (v) in this chapter; or ~~[the municipality's ordinances.]~~

136 (vi) in a municipal ordinance.

137 ~~[(iv)]~~ (j) A municipality may not withhold issuance of a certificate of occupancy or
138 acceptance of subdivision improvements because of an applicant's failure to comply with a
139 requirement that is not expressed:

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

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

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

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

149 (4) Upon a specified public agency's submission of a development plan and schedule as
150 required in Subsection 10-9a-305(9) that complies with the requirements of that subsection, the
151 specified public agency vests in the municipality's applicable land use maps, zoning map,

152 hookup fees, impact fees, other applicable development fees, and land use ordinances in effect
153 on the date of submission.

154 Section 3. Section 17-27a-212 is enacted to read:

155 **17-27a-212. Notice for an amendment to public improvements in a subdivision or**
156 **development.**

157 (1) A county may not adopt an amendment to a specification for a public improvement
158 that applies to a subdivision or development unless the county:

159 (a) holds a public hearing; and

160 (b) gives notice of the hearing date, time, and place as provided in Subsection (2).

161 (2) At least 30 days before the day of the public hearing described in Subsection (1)(a),
162 a county shall:

163 (a) mail notice to a person who requests with the county to receive notice of a proposed
164 amendment to a public improvement specification; and

165 (b) publish notice on the Utah Public Notice Website created in Section 63F-1-701.

166 Section 4. Section 17-27a-508 is amended to read:

167 **17-27a-508. Applicant's entitlement to land use application approval --**
168 **Exceptions -- Application relating to land in a high priority transportation corridor --**
169 **County's requirements and limitations -- Vesting upon submission of development plan**
170 **and schedule.**

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

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

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

180 (b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval
181 of a land use application until the requirements of this Subsection (1)(b)(i) and Subsection
182 (1)(b)(ii) have been met if the land use application relates to land located within the boundaries

183 of a high priority transportation corridor designated in accordance with Section 72-5-403.

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

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

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

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

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

197 (iv) (A) If an application is an application for a subdivision approval, including any
198 land, subject to Subsection (1)(b)(iv)(C), located within 100 feet of the center line of a canal,
199 the land use authority shall:

200 (I) within 30 days after the day on which the application is filed, notify the canal
201 company or canal operator responsible for the canal, if the canal company or canal owner has
202 provided information under Section 17-27a-211; and

203 (II) wait at least 10 days after the day on which the land use authority notifies a canal
204 company or canal operator under Subsection (1)(b)(iv)(A)(I) to approve or reject the
205 subdivision application described in Subsection (1)(b)(iv)(A).

206 (B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by
207 certified or registered mail to the canal company or canal operator contact described in Section
208 17-27a-211.

209 (C) The location of land described in Subsection (1)(b)(iv)(A) shall be:

210 (I) provided by a canal company or canal operator to the land use authority; and

211 (II) (Aa) determined by use of mapping-grade global positioning satellite units; or

212 (Bb) digitized from the most recent aerial photo available to the canal company or
213 canal operator.

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

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

218 (B) the previous land use application described under Subsection (1)(c)(i)(A) complied
219 with the requirements of Subsections (1)(b)(i) and (ii).

220 (ii) A county may approve a land use application without making the required
221 notifications under Subsections (1)(b)(i) and (ii) if:

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

224 (B) the previous land use application described under Subsection (1)(c)(ii)(A)
225 complied with the requirements of Subsections (1)(b)(i) and (ii).

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

229 (e) The county shall process an application without regard to proceedings initiated to
230 amend the county's ordinances as provided in Subsection (1)(a)(ii) if:

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

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

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

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

239 (h) A county may not impose on ~~[a holder of an issued land use permit or approved~~
240 ~~subdivision plat]~~ an applicant for preliminary subdivision approval a requirement that is not
241 expressed:

242 ~~[(i) in the land use permit or subdivision plat documents]~~

243 (i) in this chapter;

244 (ii) in a county ordinance; or

245 (iii) in a county specification for public improvements applicable to a subdivision or
246 development that is in effect on the date that the applicant submits an application.

247 (i) A county may not impose on a holder of an issued land use permit or a final,
248 unexpired subdivision plat a requirement that is not expressed:

249 (i) in a land use permit;

250 (ii) on the subdivision plat;

251 (iii) in a document on which the land use permit or subdivision plat is based[~~, or~~];

252 (iv) in the written record evidencing approval of the land use permit or subdivision
253 plat; [~~or~~]

254 [~~(ii)~~] (v) in this chapter; or [~~the county's ordinances.~~]

255 (vi) in a county ordinance.

256 [~~(i)~~] (j) A county may not withhold issuance of a certificate of occupancy or acceptance
257 of subdivision improvements because of an applicant's failure to comply with a requirement
258 that is not expressed:

259 (i) in the building permit or subdivision plat, documents on which the building permit
260 or subdivision plat is based, or the written record evidencing approval of the building permit or
261 subdivision plat; or

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

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

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

268 (4) Upon a specified public agency's submission of a development plan and schedule as
269 required in Subsection 17-27a-305(9) that complies with the requirements of that subsection,
270 the specified public agency vests in the county's applicable land use maps, zoning map, hookup
271 fees, impact fees, other applicable development fees, and land use ordinances in effect on the
272 date of submission.

Legislative Review Note
as of 1-16-12 9:51 AM

Office of Legislative Research and General Counsel