

1 **LOCAL LAND USE REQUIREMENTS**

2 2006 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Michael T. Morley**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions relating to local government land use and impact fees.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ prohibits counties and municipalities from withholding a building permit because of
13 an applicant's failure to comply with a requirement that is not expressed in
14 ordinance; and

15 ▶ prohibits counties and municipalities from imposing a requirement on a holder of a
16 building permit if that requirement is not expressed in the building permit.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 **AMENDS:**

23 **10-9a-802**, as renumbered and amended by Chapter 254, Laws of Utah 2005

24 **17-27a-802**, as renumbered and amended by Chapter 254, Laws of Utah 2005

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

27 Section 1. Section **10-9a-802** is amended to read:



28 **10-9a-802. Enforcement.**

29 (1) (a) A municipality or any adversely affected owner of real estate within the
30 municipality in which violations of this chapter or ordinances enacted under the authority of
31 this chapter occur or are about to occur may, in addition to other remedies provided by law,
32 institute:

- 33 (i) injunctions, mandamus, abatement, or any other appropriate actions; or
- 34 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
- 35 (b) A municipality need only establish the violation to obtain the injunction.

36 (2) (a) (i) [The] Subject to Subsection (2)(a)(ii), a municipality may enforce the
37 ordinance by withholding building permits.

38 (ii) A municipality may not withhold a building permit because of an applicant's failure
39 to comply with a requirement that is not expressed in the municipality's ordinances.

40 (b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any
41 building or other structure within a municipality without approval of a building permit.

42 (c) The municipality may not issue a building permit unless the plans of and for the
43 proposed erection, construction, reconstruction, alteration, or use fully conform to all
44 [regulations] ordinances then in effect.

45 (3) A municipality may not impose a requirement on the holder of an issued building
46 permit if that requirement is not expressed in the building permit.

47 Section 2. Section **17-27a-802** is amended to read:

48 **17-27a-802. Enforcement.**

49 (1) (a) A county or any adversely affected owner of real estate within the county in
50 which violations of this chapter or ordinances enacted under the authority of this chapter occur
51 or are about to occur may, in addition to other remedies provided by law, institute:

- 52 (i) injunctions, mandamus, abatement, or any other appropriate actions; or
- 53 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
- 54 (b) A county need only establish the violation to obtain the injunction.

55 (2) (a) (i) [The] Subject to Subsection (2)(a)(ii), a county may enforce the ordinance by
56 withholding building permits.

57 (ii) A county may not withhold a building permit because of an applicant's failure to
58 comply with a requirement that is not expressed in the county's ordinances.

59 (b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any
60 building or other structure within a county without approval of a building permit.

61 (c) The county may not issue a building permit unless the plans of and for the proposed
62 erection, construction, reconstruction, alteration, or use fully conform to all [~~regulations~~]
63 ordinances then in effect.

64 (3) A county may not impose a requirement on the holder of an issued building permit
65 if that requirement is not expressed in the building permit.

Legislative Review Note

as of 1-4-06 10:39 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0132

Local Land Use Requirements

23-Jan-06

1:30 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst