

1 **LAND USE AUTHORITY NOTIFICATION OF**
2 **CANAL DEVELOPMENT**

3 2010 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Ben C. Ferry**

6 Senate Sponsor: Dennis E. Stowell

8 **LONG TITLE**

9 **General Description:**

10 This bill requires a municipal or a county land use authority to notify a canal company
11 or canal operator of a land use application to develop within 100 feet of a canal.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ amends notification requirements;
- 15 ▶ requires a municipal or a county land use authority to notify a canal company or
16 canal operator of a land use application to develop within 100 feet of a canal; and
- 17 ▶ makes technical corrections.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **10-9a-509**, as last amended by Laws of Utah 2009, Chapters 181 and 225

25 **17-27a-508**, as last amended by Laws of Utah 2009, Chapters 181 and 225

26 ENACTS:

27 **10-9a-211**, Utah Code Annotated 1953

28 **17-27a-211**, Utah Code Annotated 1953

29

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

31 Section 1. Section **10-9a-211** is enacted to read:

32 **10-9a-211. Canal owner or operator -- Notice to municipality.**

33 (1) For purposes of Subsection 10-9a-509(1)(b)(iv), a canal company or a canal
34 operator shall provide on or before July 1, 2010, any municipality in which the canal company
35 or canal operator owns or operates a canal:

36 (a) a current mailing address and phone number;

37 (b) a contact name; and

38 (c) a general description of the location of each canal owned or operated by the canal
39 owner or canal operator.

40 (2) If the information described in Subsection (1) changes after a canal company or a
41 canal operator has provided the information to the municipality, the canal company or canal
42 operator shall provide the correct information within 30 days of the day on which the
43 information was changed.

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

45 **10-9a-509. Applicant's entitlement to land use application approval --**
46 **Exceptions -- Application relating to land in a high priority transportation corridor --**
47 **Municipality's requirements and limitations -- Vesting upon submission of development**
48 **plan and schedule.**

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

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

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

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

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

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

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

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

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

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

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

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

84 (B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by
85 certified or registered mail to the canal company or canal operator contact described in Section

86 10-9a-211.

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

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

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

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

92 (c) (i) A land use application is exempt from the requirements of [~~Subsection~~]

93 Subsections (1)(b)(i) and (ii) if:

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

96 (B) the previous land use application described under Subsection (1)(c)(i)(A)
97 complied with the requirements of [~~Subsection~~] Subsections (1)(b)(i) and (ii).

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

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

102 (B) the previous land use application described under Subsection (1)(c)(ii)(A)
103 complied with the requirements of [~~Subsection~~] Subsections (1)(b)(i) and (ii).

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

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

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

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

112 (f) An application for a land use approval is considered submitted and complete when
113 the application is provided in a form that complies with the requirements of applicable

114 ordinances and all applicable fees have been paid.

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

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

120 (i) in the land use permit or subdivision plat, documents on which the land use permit
121 or subdivision plat is based, or the written record evidencing approval of the land use permit
122 or subdivision plat; or

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

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

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

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

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

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

136 (4) Upon a specified public agency's submission of a development plan and schedule
137 as required in Subsection 10-9a-305(9) that complies with the requirements of that subsection,
138 the specified public agency vests in the municipality's applicable land use maps, zoning map,
139 hookup fees, impact fees, other applicable development fees, and land use ordinances in effect
140 on the date of submission.

141 Section 3. Section **17-27a-211** is enacted to read:

142 **17-27a-211. Canal owner or operator -- Notice to county.**

143 (1) For purposes of Subsection 17-27a-508(1)(b)(iv), a canal company or a canal
144 operator shall provide on or before July 1, 2010, any county in which the canal company or
145 canal operator owns or operates a canal:

146 (a) a current mailing address and phone number;

147 (b) a contact name; and

148 (c) a general description of the location of each canal owned or operated by the canal
149 owner or canal operator.

150 (2) If the information described in Subsection (1) changes after a canal company or a
151 canal operator has provided the information to the county, the canal company or canal
152 operator shall provide the correct information within 30 days of the day on which the
153 information was changed.

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

155 **17-27a-508. Applicant's entitlement to land use application approval --**

156 **Exceptions -- Application relating to land in a high priority transportation corridor --**

157 **County's requirements and limitations -- Vesting upon submission of development plan**
158 **and schedule.**

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

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

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

168 (b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval
169 of a land use application until the requirements of this [~~Subsection~~] Subsection (1)(b)(i) and

170 Subsection (1)(b)(ii) have been met if the land use application relates to land located within
171 the boundaries of a high priority transportation corridor designated in accordance with Section
172 72-5-403.

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

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

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

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

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

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

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

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

195 (B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by
196 certified or registered mail to the canal company or canal operator contact described in Section
197 17-27a-211.

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

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

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

207 (B) the previous land use application described under Subsection (1)(c)(i)(A)
208 complied with the requirements of ~~[Subsection]~~ Subsections (1)(b)(i) and (ii).

209 (ii) A county may approve a land use application without making the required
210 notifications under ~~[Subsection]~~ Subsections (1)(b)(i) and (ii) if:

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

213 (B) the previous land use application described under Subsection (1)(c)(ii)(A)
214 complied with the requirements of ~~[Subsection]~~ Subsections (1)(b)(i) and (ii).

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

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

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

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

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

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

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

231 (i) in the land use permit or subdivision plat documents on which the land use permit
232 or subdivision plat is based, or the written record evidencing approval of the land use permit
233 or subdivision plat; or

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

235 (i) A county may not withhold issuance of a certificate of occupancy or acceptance of
236 subdivision improvements because of an applicant's failure to comply with a requirement that
237 is not expressed:

238 (i) in the building permit or subdivision plat, documents on which the building permit
239 or subdivision plat is based, or the written record evidencing approval of the building permit
240 or subdivision plat; or

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

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

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

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