

1 **MUNICIPAL AND COUNTY DEVELOPMENT STANDARDS**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Brad R. Wilson**

5 Senate Sponsor: J. Stuart Adams

7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ requires that a municipality or county that adopts an amendment to a specification
14 for a public improvement give notice;
- 15 ▶ prohibits a municipality or county from imposing certain requirements on an
16 applicant for preliminary subdivision approval;
- 17 ▶ prohibits a municipality or county from imposing certain requirements on a holder
18 of an issued land use permit or a final, unexpired subdivision plat; and
- 19 ▶ makes technical corrections.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **10-9a-509**, as last amended by Laws of Utah 2010, Chapter 332

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

28 ENACTS:

29 **10-9a-212**, Utah Code Annotated 1953

30 17-27a-212, Utah Code Annotated 1953



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

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

34 **10-9a-212. Notice for an amendment to public improvements in a subdivision or**
35 **development.**

36 Prior to implementing an amendment to adopted specifications for public
37 improvements that apply to subdivision or development, a municipality shall give 30 days
38 mailed notice and an opportunity to comment to anyone who has requested the notice in
39 writing.

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

41 **10-9a-509. Applicant's entitlement to land use application approval -- Exceptions**
42 **-- Application relating to land in a high priority transportation corridor -- Municipality's**
43 **requirements and limitations -- Vesting upon submission of development plan and**
44 **schedule.**

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

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

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

55 (b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval
56 of a land use application until the requirements of this Subsection (1)(b) have been met if the
57 land use application relates to land located within the boundaries of a high priority

58 transportation corridor designated in accordance with Section 72-5-403.

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

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

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

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

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

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

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

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

81 (B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by
82 certified or registered mail to the canal company or canal operator contact described in Section
83 10-9a-211.

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

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

86 (II) (Aa) determined by use of mapping-grade global positioning satellite units; or
87 (Bb) digitized from the most recent aerial photo available to the canal company or
88 canal operator.

89 (c) (i) A land use application is exempt from the requirements of Subsections (1)(b)(i)
90 and (ii) if:

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

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

95 (ii) A municipality may approve a land use application without making the required
96 notifications under Subsection (1)(b)(ii)(A) 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)(ii)(A)
100 complied with the requirements of Subsections (1)(b)(i) and (ii).

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

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

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

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

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

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

114 (h) A municipality may not impose on ~~[a holder of an issued land use permit or~~
115 ~~approved subdivision plat]~~ an applicant who has submitted a complete application for
116 preliminary subdivision approval a requirement that is not expressed in:

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

118 (i) this chapter;

119 (ii) a municipal ordinance; or

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

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

124 (i) in a land use permit;

125 (ii) on the subdivision plat;

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

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

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

130 (vi) in a municipal ordinance.

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

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

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

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

140 (3) A municipality may not, as a condition of land use application approval, require a
141 person filing a land use application to obtain documentation regarding a school district's

142 willingness, capacity, or ability to serve the development proposed in the land use application.

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

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

149 **17-27a-212. Notice for an amendment to public improvements in a subdivision or**
150 **development.**

151 Prior to implementing an amendment to adopted specifications for public
152 improvements that apply to subdivision or development, a county shall give 30 days mailed
153 notice and an opportunity to comment to anyone who has requested the notice in writing.

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 a
160 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 (1)(b)(i) and Subsection

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

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

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

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

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

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

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

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

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

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

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

198 (I) provided by a canal company or canal operator to the land use authority; and
199 (II) (Aa) determined by use of mapping-grade global positioning satellite units; or
200 (Bb) digitized from the most recent aerial photo available to the canal company or
201 canal operator.

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

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

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

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

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

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

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

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

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

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

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

225 (g) The continuing validity of an approval of a land use application is conditioned upon

226 the applicant proceeding after approval to implement the approval with reasonable diligence.

227 (h) A county may not impose on ~~[a holder of an issued land use permit or approved~~
228 ~~subdivision plat]~~ an applicant who has submitted a complete application for preliminary
229 subdivision approval a requirement that is not expressed:

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

231 (i) in this chapter;

232 (ii) in a county ordinance; or

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

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

237 (i) in a land use permit;

238 (ii) on the subdivision plat;

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

240 (iv) in the written record evidencing approval of the land use permit or subdivision
241 plat; [or]

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

243 (vi) in a county ordinance.

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

247 (i) in the building permit or subdivision plat, documents on which the building permit
248 or subdivision plat is based, or the written record evidencing approval of the building permit or
249 subdivision plat; or

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

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

253 (3) A county may not, as a condition of land use application approval, require a person

254 filing a land use application to obtain documentation regarding a school district's willingness,
255 capacity, or ability to serve the development proposed in the land use application.

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