LOCAL PERMITTING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: ___________

LONG TITLE

General Description:

This bill enacts the Local Permitting Act.

Highlighted Provisions:

This bill:

- defines terms;
- requires a local entity to include certain information in a local permit application;
- requires a local entity to make a final determination on a local permit application within a specified time and allows for certain extensions;
- provides that a local permit application is deemed approved if a local entity fails to make a final determination within a specified time, unless certain conditions are met; and
- allows a local permit applicant to challenge the denial of a local permit through an administrative appeal process and subsequent judicial review.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

11-65-101, Utah Code Annotated 1953
Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-65-101 is enacted to read:

CHAPTER 65. LOCAL PERMITTING ACT


11-65-101. Title.

This chapter is known as the "Local Permitting Act."

Section 2. Section 11-65-102 is enacted to read:


As used in this section:

(1) "Applicant" means a person who submits an application for a local permit to a local entity.

(2) "Local entity" means the same as that term is defined in Section 11-38-12.

(3) (a) "Local permit" means a permit that a local entity requires to allow a person to engage in an activity within the local entity's jurisdiction.

(b) "Local permit" does not include:

(i) a building permit; or

(ii) a land use permit issued under:

(A) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or

(B) Title 17, Chapter 27a, County Land Use, Development, and Management Act.

Section 3. Section 11-65-201 is enacted to read:

Part 2. Local Permitting Requirements

11-65-201. Content of local permit application -- Local permitting process.

(1) (a) A local entity that requires a local permit shall include in the local permit application the criteria that the local entity uses to determine whether to grant the local permit to an applicant.

(b) The criteria described in Subsection (1)(a) shall be:

(i) in writing; and
(ii) stated in clear and unambiguous language.

(2) Subject to Subsections (3) and (4), within 30 days after the day on which an applicant submits a local permit application to a local entity, the local entity shall:

(a) make a final determination on a local permit application; and

(b) notify the applicant of the final determination.

(3) If a local permit requires the approval of a state or federal agency:

(a) Subsection (2) does not apply; and

(b) within 60 days after the day on which an applicant submits a local permit application to a local entity, the local entity shall:

(i) make a final determination on the local permit application; and

(ii) notify the applicant of the final determination.

(4) (a) A local entity may extend a deadline described in Subsection (2) or (3) if:

(i) before the day of the deadline, the local entity provides written notice to the applicant that an extension of time is needed, including:

(A) the reasons for needing the extension; and

(B) if the local entity needs additional information from the applicant, a description of the additional information; or

(ii) the applicant requests an extension in writing.

(b) A local entity that provides written notice of an extension under Subsection (4)(a)(i) shall make a final determination on the local permit application and notify the applicant regarding the final determination:

(i) within 30 days after the day on which the local entity provides written notice of the extension; or

(ii) if the local entity requests additional information under Subsection (4)(a)(i)(B), within 30 days after the day on which the applicant provides the additional information.

(5) If a local entity fails to make a final determination on a local permit application in accordance with Subsections (2) through (4), the local permit application is deemed approved unless:

(a) the local permit application submitted by the applicant is incomplete or otherwise deficient;

(b) the local entity provides written notice of the deficiency to the applicant before the
day of the deadline; and
   (c) the applicant fails to correct the deficiency within 30 days after the day on which
the local entity provides written notice of the deficiency.
(6) If a provision of this section conflicts with another provision of code, the other
provision of code controls.
Section 4. Section 11-65-202 is enacted to read:

(1) If a local entity denies an application for a local permit in accordance with Section
10-20-201, the local entity shall:
   (a) notify the applicant in writing of the reasons for the denial; and
   (b) give the applicant an opportunity to challenge the denial through an administrative
appeal process established by the local entity.
(2) The administrative appeal process described in Subsection (1)(b) shall substantially
comply with the provisions of Title 63G, Chapter 4, Administrative Procedures Act.
(3) An applicant who challenges the denial of a local permit through the administrative
appeal process described in Subsection (1)(b) may bring an action in a court of competent
jurisdiction for de novo review of the local entity's final decision.