

PERMITTING AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to permitting.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 ENACTS:

29 **11-65-101**, Utah Code Annotated 1953

30 **11-65-102**, Utah Code Annotated 1953

31 **11-65-103**, Utah Code Annotated 1953

32 **11-65-201**, Utah Code Annotated 1953

33 **11-65-202**, Utah Code Annotated 1953

34 **63G-27-101**, Utah Code Annotated 1953

35 **63G-27-102**, Utah Code Annotated 1953

36 **63G-27-103**, Utah Code Annotated 1953

37 **63G-27-201**, Utah Code Annotated 1953

38 **63G-27-202**, Utah Code Annotated 1953

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

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

CHAPTER 65. LOCAL PERMITTING ACT

Part 1. General Provisions

44 **11-65-101. Title.**

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

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

47 **11-65-102. Definitions.**

48 As used in this section:

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

51 (2) "Local entity" means a county, city, town, or metro township.

52 (3) (a) "Local permit" means a permit issued by a local entity when the local entity
53 requires a permit for a person to engage in an activity within the local entity's jurisdiction.

54 (b) "Local permit" does not include:

55 (i) a building permit; or

56 (ii) a land use permit issued under:

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

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

59 Section 3. Section **11-65-103** is enacted to read:

60 **11-65-103. Applicability of chapter limited.**

61 This chapter does not apply to a local permit if a specific permitting process for the
62 local permit is established in another provision in the Utah Code.

63 Section 4. Section **11-65-201** is enacted to read:

64 **Part 2. Local Permitting Requirements**

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

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

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

70 (i) in writing; and

71 (ii) stated in clear and unambiguous language.

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

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

75 (b) notify the applicant of the final determination.

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

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

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

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

81 (ii) notify the applicant of the final determination.

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

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

85 (A) the reasons for needing the extension; and

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

88 (ii) the applicant requests an extension in writing.

89 (b) A local entity that provides written notice of an extension under Subsection

90 (4)(a)(i) shall make a final determination on the local permit application and notify the
91 applicant regarding the final determination:

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

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

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

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

101 (b) the local entity provides written notice of the deficiency to the applicant before the
102 day of the deadline; and

103 (c) the applicant fails to correct the deficiency within 30 days after the day on which
104 the local entity provides written notice of the deficiency.

105 Section 5. Section **11-65-202** is enacted to read:

106 **11-65-202. Appeals.**

107 (1) (a) If a local entity denies an application for a local permit in accordance with
108 Section [11-65-201](#), the local entity shall:

109 (i) notify the applicant in writing of the reasons for the denial; and

110 (ii) give the applicant an opportunity to challenge the denial through an administrative
111 appeal process established by the local entity.

112 (b) Subsection (1)(a) does not apply to a denial under Subsection [11-65-201\(5\)](#).

113 (2) The administrative appeal process described in Subsection (1)(a)(ii) shall
114 substantially comply with the provisions of Title 63G, Chapter 4, Administrative Procedures
115 Act.

116 (3) An applicant that challenges the denial of a local permit through the administrative
117 appeal process described in Subsection (1)(a)(ii) may bring an action in a court of competent
118 jurisdiction for de novo review of the local entity's final decision.

119 Section 6. Section **63G-27-101** is enacted to read:

120 **CHAPTER 27. STATE PERMITTING ACT**

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Part 1. General Provisions

63G-27-101. Title.

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

Section 7. Section **63G-27-102** is enacted to read:

63G-27-102. Definitions.

As used in this section:

(1) "Applicant" means a person that submits an application for a state permit to a state agency.

(2) "State agency" means the same as that term is defined in Section [67-25-102](#).

(3) "State permit" means a permit issued by a state agency when the state agency requires a permit for a person to engage in an activity within the state's jurisdiction.

Section 8. Section **63G-27-103** is enacted to read:

63G-27-103. Applicability of chapter limited.

This chapter does not apply to a state permit if a specific permitting process for the state permit is established:

(1) in another provision in the Utah Code;

(2) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(3) in a written policy adopted by the state agency that issues the state permit.

Section 9. Section **63G-27-201** is enacted to read:

Part 2. State Permitting Requirements

63G-27-201. Content of state permit application -- State permitting process.

(1) (a) A state agency that requires a state permit shall include in the state permit application the criteria that the state agency uses to determine whether to grant the state 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 state permit application to a state agency, the state agency shall:

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

152 (b) notify the applicant of the final determination.
153 (3) If a state permit requires the approval of a state or federal agency:
154 (a) Subsection (2) does not apply; and
155 (b) within 60 days after the day on which an applicant submits a state permit
156 application to a state agency, the state agency shall:
157 (i) make a final determination on the state permit application; and
158 (ii) notify the applicant of the final determination.
159 (4) (a) A state agency may extend the deadline described in Subsection (2) or (3) if:
160 (i) before the day of the deadline, the state agency provides written notice to the
161 applicant that an extension of time is needed, including:
162 (A) the reasons for needing the extension; and
163 (B) if the state agency needs additional information from the applicant, a description of
164 the additional information; or
165 (ii) the applicant requests an extension in writing.
166 (b) A state agency that provides written notice of an extension under Subsection
167 (4)(a)(i) shall make a final determination on the state permit application and notify the
168 applicant regarding the final determination:
169 (i) within 30 days after the day on which the state agency provides written notice of the
170 extension; or
171 (ii) if the state agency requests additional information under Subsection (4)(a)(i)(B),
172 within 30 days after the day on which the applicant provides the additional information.
173 (5) If a state agency fails to make a final determination on a state permit application in
174 accordance with Subsections (2) through (4), the state permit application is deemed approved
175 unless:
176 (a) the state permit application submitted by the applicant is incomplete or otherwise
177 deficient;
178 (b) the state agency provides written notice of the deficiency to the applicant before the
179 day of the deadline; and
180 (c) the applicant fails to correct the deficiency within 30 days after the day on which
181 the state agency provides written notice of the deficiency.
182 Section 10. Section **63G-27-202** is enacted to read:

183 **63G-27-202. Appeals.**

184 (1) (a) If a state agency denies an application for a state permit in accordance with
185 Section 63G-27-201, the state agency shall:

186 (i) notify the applicant in writing of the reasons for the denial; and

187 (ii) give the applicant an opportunity to challenge the denial through an administrative
188 appeal process established by the state agency.

189 (b) Subsection (1)(a) does not apply to a denial under Subsection 63G-27- 202(5).

190 (2) The administrative appeal process described in Subsection (1)(a)(ii) shall
191 substantially comply with the provisions of Title 63G, Chapter 4, Administrative Procedures
192 Act.

193 (3) An applicant that challenges the denial of a state permit through the administrative
194 appeal process described in Subsection (1)(a)(ii) may bring an action in a court of competent
195 jurisdiction for de novo review of the state agency's final decision.