

Senator Kirk A. Cullimore proposes the following substitute bill:

PERMITTING AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: Robert M. Spendlove

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 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 determination within a specified time, unless certain conditions are met;
- ▶ establishes certain requirements for a local permit that considers criteria related to health;
- ▶ 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:



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 ENACTS:

31 **11-65-101**, Utah Code Annotated 1953

32 **11-65-102**, Utah Code Annotated 1953

33 **11-65-103**, Utah Code Annotated 1953

34 **11-65-201**, Utah Code Annotated 1953

35 **11-65-202**, Utah Code Annotated 1953

36 **63G-27-101**, Utah Code Annotated 1953

37 **63G-27-102**, Utah Code Annotated 1953

38 **63G-27-103**, Utah Code Annotated 1953

39 **63G-27-201**, Utah Code Annotated 1953

40 **63G-27-202**, Utah Code Annotated 1953



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

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

44 **CHAPTER 65. LOCAL PERMITTING ACT**

45 **Part 1. General Provisions**

46 **11-65-101. Title.**

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

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

49 **11-65-102. Definitions.**

50 As used in this section:

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

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

54 (3) (a) "Local permit" means an objective administrative approval issued by a local
55 entity when the local entity requires a person to obtain the local entity's approval to engage in
56 an activity within the local entity's jurisdiction.

- 57 (b) "Local permit" does not include:
- 58 (i) a building permit;
- 59 (ii) a land use permit issued under:
- 60 (A) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or
- 61 (B) Title 17, Chapter 27a, County Land Use, Development, and Management Act;
- 62 (iii) a negotiated contract;
- 63 (iv) a permit issued by a local entity on behalf or under the direction of a state agency
- 64 as defined in Section 67-25-102, in accordance with a permitting process established in a
- 65 written policy; or
- 66 (v) a permit issued by an airport operator, as defined in Section 72-10-102, for airport
- 67 operations.

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

69 **11-65-103. Applicability of chapter limited.**

70 This chapter does not apply to a local permit if a specific permitting process for the

71 local permit is established in another provision in the Utah Code.

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

73 **Part 2. Local Permitting Requirements**

74 **11-65-201. Content of local permit application -- Local permitting process.**

75 (1) (a) A local entity that requires a local permit shall include in the local permit

76 application the criteria that the local entity uses to determine whether to grant the local permit

77 to an applicant.

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

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

81 (2) Subject to Subsections (3) and (4), within 30 days after the day on which an

82 applicant submits a local permit application to a local entity, the local entity shall:

- 83 (a) make a determination on the local permit application; and
- 84 (b) notify the applicant of the determination.

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

- 86 (a) Subsection (2) does not apply; and
- 87 (b) within 60 days after the day on which an applicant submits a local permit

88 application to a local entity, the local entity shall:

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

90 (ii) notify the applicant of the determination.

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

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

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

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

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

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

99 (4)(a)(i) shall make a determination on the local permit application and notify the applicant
100 regarding the determination:

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

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

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

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

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

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

114 (6) If a local entity considers criteria related to health in issuing a local permit, the
115 criteria may not be more restrictive than the criteria established by the local health department
116 with jurisdiction over the area in which the local entity is located.

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

118 **11-65-202. Appeals.**

119 (1) (a) If a local entity denies an application for a local permit in accordance with
120 Section 11-65-201, the local entity shall:

- 121 (i) notify the applicant in writing of the reasons for the denial; and
- 122 (ii) give the applicant an opportunity to challenge the denial through an administrative
- 123 appeal process established by the local entity.

124 (b) Subsection (1)(a) does not apply to a denial under Subsection 11-65-201(5).

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

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

129 **CHAPTER 27. STATE PERMITTING ACT**

130 **Part 1. General Provisions**

131 **63G-27-101. Title.**

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

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

134 **63G-27-102. Definitions.**

135 As used in this section:

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

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

139 (3) (a) "State permit" means an objective administrative approval issued by a state
140 agency when the state agency requires a person to obtain the state agency's approval to engage
141 in an activity within the state's jurisdiction.

142 (b) "State permit" does not include:

- 143 (i) a negotiated contract; or
- 144 (ii) a permit issued by an airport operator, as defined in Section 72-10-102, for airport
- 145 operations.

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

147 **63G-27-103. Applicability of chapter limited.**

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

150 (1) in another provision in the Utah Code;
151 (2) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
152 Rulemaking Act; or

153 (3) in a written policy adopted by the state agency that issues the state permit.
154 Section 9. Section **63G-27-201** is enacted to read:

155 **Part 2. State Permitting Requirements**

156 **63G-27-201. Content of state permit application -- State permitting process.**

157 (1) (a) A state agency that requires a state permit shall include in the state permit
158 application the criteria that the state agency uses to determine whether to grant the state permit
159 to an applicant.

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

161 (i) in writing; and

162 (ii) stated in clear and unambiguous language.

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

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

166 (b) notify the applicant of the determination.

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

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

169 (b) within 60 days after the day on which an applicant submits a state permit
170 application to a state agency, the state agency shall:

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

172 (ii) notify the applicant of the determination.

173 (4) (a) A state agency may extend the deadline described in Subsection (2) or (3) if:

174 (i) before the day of the deadline, the state agency provides written notice to the
175 applicant that an extension of time is needed, including:

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

177 (B) if the state agency needs additional information from the applicant, a description of
178 the additional information; or

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

180 (b) A state agency that provides written notice of an extension under Subsection

181 (4)(a)(i) shall make a determination on the state permit application and notify the applicant
182 regarding the determination:

183 (i) within 30 days after the day on which the state agency provides written notice of the
184 extension; or

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

187 (5) If a state agency fails to make a determination on a state permit application in
188 accordance with Subsections (2) through (4), the state permit application is deemed approved
189 unless:

190 (a) the state permit application submitted by the applicant is incomplete or otherwise
191 deficient;

192 (b) the state agency provides written notice of the deficiency to the applicant before the
193 day of the deadline; and

194 (c) the applicant fails to correct the deficiency within 30 days after the day on which
195 the state agency provides written notice of the deficiency.

196 Section 10. Section **63G-27-202** is enacted to read:

197 **63G-27-202. Appeals.**

198 (1) (a) If a state agency denies an application for a state permit in accordance with
199 Section [63G-27-201](#), the state agency shall:

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

201 (ii) give the applicant an opportunity to challenge the denial through an administrative
202 appeal under Title 63G, Chapter 4, Administrative Procedures Act.

203 (b) Subsection (1)(a) does not apply to a denial under Subsection [63G-27-201](#)(5).

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