

Representative R. Neil Walter proposes the following substitute bill:

MODIFICATIONS RELATING TO THE USE OF LAND

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Neil Walter

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions related to uses of land within a county or municipality.

Highlighted Provisions:

This bill:

- ▶ prohibits a county or municipality from changing or adding to building permit requirements after issuance of the building permit, except in certain circumstances;
- ▶ prohibits a county or municipality from revoking a building permit, or taking action that has the effect of revoking a building permit, after issuance of the building permit;
- ▶ enacts provisions limiting the ability of a county or municipality to impose requirements on the operation of a tower crane as a condition of approving a building permit or authorizing a development activity; and
- ▶ enacts a provision relating to the operation of a tower crane.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 AMENDS:

27 **10-9a-509**, as last amended by Laws of Utah 2023, Chapter 478

28 **17-27a-508**, as last amended by Laws of Utah 2023, Chapter 478

29 ENACTS:

30 **10-9a-538**, Utah Code Annotated 1953

31 **15A-6-301**, Utah Code Annotated 1953

32 **17-27a-534**, Utah Code Annotated 1953

33

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

35 Section 1. Section **10-9a-509** is amended to read:

36 **10-9a-509. Applicant's entitlement to land use application approval --**
37 **Municipality's requirements and limitations -- Vesting upon submission of development**
38 **plan and schedule.**

39 (1) (a) (i) An applicant who has submitted a complete land use application as described
40 in Subsection (1)(c), including the payment of all application fees, is entitled to substantive
41 review of the application under the land use regulations:

42 (A) in effect on the date that the application is complete; and

43 (B) applicable to the application or to the information shown on the application.

44 (ii) An applicant is entitled to approval of a land use application if the application
45 conforms to the requirements of the applicable land use regulations, land use decisions, and
46 development standards in effect when the applicant submits a complete application and pays
47 application fees, unless:

48 (A) the land use authority, on the record, formally finds that a compelling,
49 countervailing public interest would be jeopardized by approving the application and specifies
50 the compelling, countervailing public interest in writing; or

51 (B) in the manner provided by local ordinance and before the applicant submits the
52 application, the municipality formally initiates proceedings to amend the municipality's land
53 use regulations in a manner that would prohibit approval of the application as submitted.

54 (b) The municipality shall process an application without regard to proceedings the
55 municipality initiated to amend the municipality's ordinances as described in Subsection

56 (1)(a)(ii)(B) if:

- 57 (i) 180 days have passed since the municipality initiated the proceedings; and
- 58 (ii) (A) the proceedings have not resulted in an enactment that prohibits approval of the
59 application as submitted; or
- 60 (B) during the 12 months prior to the municipality processing the application, or
61 multiple applications of the same type, are impaired or prohibited under the terms of a
62 temporary land use regulation adopted under Section 10-9a-504.
- 63 (c) A land use application is considered submitted and complete when the applicant
64 provides the application in a form that complies with the requirements of applicable ordinances
65 and pays all applicable fees.
- 66 (d) A subsequent incorporation of a municipality or a petition that proposes the
67 incorporation of a municipality does not affect a land use application approved by a county in
68 accordance with Section 17-27a-508.
- 69 (e) The continuing validity of an approval of a land use application is conditioned upon
70 the applicant proceeding after approval to implement the approval with reasonable diligence.
- 71 (f) A municipality may not impose on an applicant who has submitted a complete
72 application a requirement that is not expressed in:
- 73 (i) this chapter;
- 74 (ii) a municipal ordinance in effect on the date that the applicant submits a complete
75 application, subject to Subsection 10-9a-509(1)(a)(ii); or
- 76 (iii) a municipal specification for public improvements applicable to a subdivision or
77 development that is in effect on the date that the applicant submits an application.
- 78 (g) A municipality may not impose on a holder of an issued land use permit or a final,
79 unexpired subdivision plat a requirement that is not expressed:
- 80 (i) in a land use permit;
- 81 (ii) on the subdivision plat;
- 82 (iii) in a document on which the land use permit or subdivision plat is based;
- 83 (iv) in the written record evidencing approval of the land use permit or subdivision
84 plat;
- 85 (v) in this chapter;
- 86 (vi) in a municipal ordinance; or
- 87 (vii) in a municipal specification for residential roadways in effect at the time a

88 residential subdivision was approved.

89 (h) Except as provided in Subsection (1)(i), a municipality may not withhold issuance
90 of a certificate of occupancy or acceptance of subdivision improvements because of an
91 applicant's failure to comply with a requirement that is not expressed:

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

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

96 (i) A municipality may not unreasonably withhold issuance of a certificate of
97 occupancy where an applicant has met all requirements essential for the public health, public
98 safety, and general welfare of the occupants, in accordance with this chapter, unless:

99 (i) the applicant and the municipality have agreed in a written document to the
100 withholding of a certificate of occupancy; or

101 (ii) the applicant has not provided a financial assurance for required and uncompleted
102 public landscaping improvements or infrastructure improvements in accordance with an
103 applicable ordinance that the legislative body adopts under this chapter.

104 (2) A municipality is bound by the terms and standards of applicable land use
105 regulations and shall comply with mandatory provisions of those regulations.

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

109 (4) Upon a specified public agency's submission of a development plan and schedule as
110 required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the
111 specified public agency vests in the municipality's applicable land use maps, zoning map,
112 hookup fees, impact fees, other applicable development fees, and land use regulations in effect
113 on the date of submission.

114 (5) (a) If sponsors of a referendum timely challenge a project in accordance with
115 Subsection 20A-7-601(6), the project's affected owner may rescind the project's land use
116 approval by delivering a written notice:

117 (i) to the local clerk as defined in Section 20A-7-101; and

118 (ii) no later than seven days after the day on which a petition for a referendum is

119 determined sufficient under Subsection 20A-7-607(5).

120 (b) Upon delivery of a written notice described in Subsection (5)(a) the following are
121 rescinded and are of no further force or effect:

122 (i) the relevant land use approval; and

123 (ii) any land use regulation enacted specifically in relation to the land use approval.

124 (6) (a) After issuance of a building permit, a municipality may not:

125 (i) change or add to the requirements expressed in the building permit, unless the
126 change or addition is:

127 (A) requested by the building permit holder; or

128 (B) necessary to comply with an applicable state building code; or

129 (ii) revoke the building permit or take action that has the effect of revoking the
130 building permit.

131 (b) Subsection (6)(a) does not prevent a municipality from issuing a building permit
132 that contains an expiration date defined in the building permit.

133 Section 2. Section 10-9a-538 is enacted to read:

134 **10-9a-538. Operation of a tower crane.**

135 (1) As used in this section:

136 (a) "Affected land" means a parcel of land over which a part of a tower crane travels,
137 other than the parcel on which the tower crane is located.

138 (b) "Airspace approval" means a license, easement, permission of the owner of affected
139 land, or other approval for a part of a tower crane to travel within the air space over affected
140 land.

141 (c) (i) "Live load" means material being suspended from or lifted by a tower crane;

142 (ii) "Live load" does not include the components of a tower crane.

143 (d) "Permit period" means the period during which a land use permit is in effect.

144 (e) (i) "Tower crane" means a crane that is attached to and supported by a building or
145 foundation.

146 (ii) "Tower crane" does not include a crane supported by tracks or tires.

147 (2) Except as provided in Subsection (3), a municipality may not require airspace
148 approval as a condition for the municipality's:

149 (a) approval of a building permit; or

150 (b) authorization of a development activity.
151 (3) A municipality may require airspace approval relating to affected land as a
152 condition for the municipality's approval of a building permit or for the municipality's
153 authorization of a development activity if:

154 (a) the tower crane will, during the permit period or development activity, carry a live
155 load over the affected land; or

156 (b) the affected land is within:

157 (i) an airport overlay zone; or

158 (ii) another zone designated to protect the airspace around an airport.

159 Section 3. Section **15A-6-301** is enacted to read:

160 **Part 3. Tower Cranes**

161 **15A-6-301. Tower crane operation.**

162 (1) As used in this section:

163 (a) "Affected land" means the same as that term is defined in Section [10-9a-538](#).

164 (b) "Airspace approval" means the same as that term is defined in Section [10-9a-538](#).

165 (c) "Jib" means the part of a tower crane that:

166 (i) extends horizontally or almost horizontally from the main vertical component of the
167 tower crane; and

168 (ii) carries the live load.

169 (d) "Live load" means the same as that term is defined in Section [10-9a-538](#).

170 (e) "Minimum hook height" means the distance that, measured from the lowest point of
171 a hook suspended from a jib, is:

172 (i) 50 feet above the ground level of affected land; or

173 (ii) 20 feet above a building on affected land.

174 (f) "Tower crane" means the same as that term is defined in Section [10-9a-538](#).

175 (2) An operator of a tower crane shall operate the tower crane in accordance with the
176 requirements of the manufacturer of the tower crane.

177 (3) (a) A live load may travel over affected land at the minimum hook height with
178 airspace approval.

179 (b) A jib, but not a live load, may travel over the affected land at the minimum hook
180 height without airspace approval.

181 (4) The functioning of a tower crane in accordance with Subsection (3) does not
182 constitute a trespass on affected land.

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

184 **17-27a-508. Applicant's entitlement to land use application approval --**
185 **Application relating to land in a high priority transportation corridor -- County's**
186 **requirements and limitations -- Vesting upon submission of development plan and**
187 **schedule.**

188 (1) (a) (i) An applicant who has submitted a complete land use application, including
189 the payment of all application fees, is entitled to substantive review of the application under the
190 land use regulations:

191 (A) in effect on the date that the application is complete; and

192 (B) applicable to the application or to the information shown on the submitted
193 application.

194 (ii) An applicant is entitled to approval of a land use application if the application
195 conforms to the requirements of the applicable land use regulations, land use decisions, and
196 development standards in effect when the applicant submits a complete application and pays all
197 application fees, unless:

198 (A) the land use authority, on the record, formally finds that a compelling,
199 countervailing public interest would be jeopardized by approving the application and specifies
200 the compelling, countervailing public interest in writing; or

201 (B) in the manner provided by local ordinance and before the applicant submits the
202 application, the county formally initiates proceedings to amend the county's land use
203 regulations in a manner that would prohibit approval of the application as submitted.

204 (b) The county shall process an application without regard to proceedings the county
205 initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:

206 (i) 180 days have passed since the county initiated the proceedings; and

207 (ii) (A) the proceedings have not resulted in an enactment that prohibits approval of the
208 application as submitted; or

209 (B) during the 12 months prior to the county processing the application or multiple
210 applications of the same type, the application is impaired or prohibited under the terms of a
211 temporary land use regulation adopted under Section [17-27a-504](#).

212 (c) A land use application is considered submitted and complete when the applicant
213 provides the application in a form that complies with the requirements of applicable ordinances
214 and pays all applicable fees.

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

217 (e) A county may not impose on an applicant who has submitted a complete
218 application a requirement that is not expressed in:

219 (i) this chapter;

220 (ii) a county ordinance in effect on the date that the applicant submits a complete
221 application, subject to Subsection 17-27a-508(1)(a)(ii); or

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

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

226 (i) in a land use permit;

227 (ii) on the subdivision plat;

228 (iii) in a document on which the land use permit or subdivision plat is based;

229 (iv) in the written record evidencing approval of the land use permit or subdivision
230 plat;

231 (v) in this chapter;

232 (vi) in a county ordinance; or

233 (vii) in a county specification for residential roadways in effect at the time a residential
234 subdivision was approved.

235 (g) Except as provided in Subsection (1)(h), a county may not withhold issuance of a
236 certificate of occupancy or acceptance of subdivision improvements because of an applicant's
237 failure to comply with a requirement that 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 or
240 subdivision plat; or

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

242 (h) A county may not unreasonably withhold issuance of a certificate of occupancy

243 where an applicant has met all requirements essential for the public health, public safety, and
244 general welfare of the occupants, in accordance with this chapter, unless:

245 (i) the applicant and the county have agreed in a written document to the withholding
246 of a certificate of occupancy; or

247 (ii) the applicant has not provided a financial assurance for required and uncompleted
248 public landscaping improvements or infrastructure improvements in accordance with an
249 applicable ordinance that the legislative body adopts under this chapter.

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

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

255 (4) Upon a specified public agency's submission of a development plan and schedule as
256 required in Subsection [17-27a-305\(8\)](#) that complies with the requirements of that subsection,
257 the specified public agency vests in the county's applicable land use maps, zoning map, hookup
258 fees, impact fees, other applicable development fees, and land use regulations in effect on the
259 date of submission.

260 (5) (a) If sponsors of a referendum timely challenge a project in accordance with
261 Subsection [20A-7-601\(6\)](#), the project's affected owner may rescind the project's land use
262 approval by delivering a written notice:

263 (i) to the local clerk as defined in Section [20A-7-101](#); and

264 (ii) no later than seven days after the day on which a petition for a referendum is
265 determined sufficient under Subsection [~~[20A-7-607\(5\)](#)~~] [20A-7-607\(4\)](#).

266 (b) Upon delivery of a written notice described in Subsection(5)(a) the following are
267 rescinded and are of no further force or effect:

268 (i) the relevant land use approval; and

269 (ii) any land use regulation enacted specifically in relation to the land use approval.

270 (6) (a) After issuance of a building permit, a county may not:

271 (i) change or add to the requirements expressed in the building permit, unless the
272 change or addition is:

273 (A) requested by the building permit holder; or

274 (B) necessary to comply with an applicable state building code; or
275 (ii) revoke the building permit or take action that has the effect of revoking the
276 building permit.

277 (b) Subsection (6)(a) does not prevent a county from issuing a building permit that
278 contains an expiration date defined in the building permit.

279 Section 5. Section **17-27a-534** is enacted to read:

280 **17-27a-534. Operation of a tower crane.**

281 (1) As used in this section:

282 (a) "Affected land" means the same as that term is defined in Section [10-9a-538](#).

283 (b) "Airspace approval" means the same as that term is defined in Section [10-9a-538](#).

284 (c) "Live load" means the same as that term is defined in Section [10-9a-538](#).

285 (d) "Permit period" means the same as that term is defined in Section [10-9a-538](#).

286 (e) "Tower crane" means the same as that term is defined in Section [10-9a-538](#).

287 (2) Except as provided in Subsection (3), a county may not require airspace approval as
288 a condition for the county's:

289 (a) approval of a building permit; or

290 (b) authorization of a development activity.

291 (3) A county may require airspace approval relating to affected land as a condition for
292 the county's approval of a building permit or for the county's authorization of a development
293 activity if:

294 (a) the tower crane will, during the permit period or development activity, carry a live
295 load over the affected land; or

296 (b) the affected land is within:

297 (i) an airport overlay zone; or

298 (ii) another zone designated to protect the airspace around an airport.

299 Section 6. **Effective date.**

300 This bill takes effect on May 1, 2024.