

HB0188S01 compared with HB0188

~~{deleted text}~~ shows text that was in HB0188 but was deleted in HB0188S01.

inserted text shows text that was not in HB0188 but was inserted into HB0188S01.

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~~{BUILDING PERMITS REQUIREMENTS}~~ 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 ~~{building permits issued by}~~ 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

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- 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:

AMENDS:

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

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

ENACTS:

10-9a-538, Utah Code Annotated 1953

15A-6-301, Utah Code Annotated 1953

17-27a-534, Utah Code Annotated 1953

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

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

10-9a-509. Applicant's entitlement to land use application approval --

Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

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

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

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

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

(A) the land use authority, on the record, formally finds that a compelling,

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countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

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

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

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

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

(B) during the 12 months prior to the municipality processing the application, or multiple applications of the same type, are impaired or prohibited under the terms of a temporary land use regulation adopted under Section 10-9a-504.

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

(d) A subsequent incorporation of a municipality or a petition that proposes the incorporation of a municipality does not affect a land use application approved by a county in accordance with Section 17-27a-508.

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

(f) A municipality may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance in effect on the date that the applicant submits a complete application, subject to Subsection 10-9a-509(1)(a)(ii); or

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

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

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- (i) in a land use permit;
- (ii) on the subdivision plat;
- (iii) in a document on which the land use permit or subdivision plat is based;
- (iv) in the written record evidencing approval of the land use permit or subdivision plat;
- (v) in this chapter;
- (vi) in a municipal ordinance; or
- (vii) in a municipal specification for residential roadways in effect at the time a residential subdivision was approved.

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

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

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

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

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

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

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

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

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the

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specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

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

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

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(5).

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

(i) the relevant land use approval; and

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

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

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

(A) requested by the building permit holder; or

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

(a) approval of a building permit; or

(b) authorization of a development activity.

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

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

(b) the affected land is within:

(i) an airport overlay zone; or

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

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

Part 3. Tower Cranes

15A-6-301. Tower crane operation.

(1) As used in this section:

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

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

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

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

(ii) carries the live load.

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

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

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

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

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

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

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

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

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

Section ~~{2}~~4. Section 17-27a-508 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) this chapter;

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

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

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

(i) in a land use permit;

(ii) on the subdivision plat;

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

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

(v) in this chapter;

(vi) in a county ordinance; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) the relevant land use approval; and
- (ii) any land use regulation enacted specifically in relation to the land use approval.

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

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

(A) requested by the building permit holder; or

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

(a) approval of a building permit; or

(b) authorization of a development activity.

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

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

(b) the affected land is within:

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(i) an airport overlay zone; or

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

Section ~~3~~6. **Effective date.**

This bill takes effect on May 1, 2024.