

First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0936.01 Bob Lackner x4350

SENATE BILL 13-267

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SENATE SPONSORSHIP

Ulibarri,

HOUSE SPONSORSHIP

Kagan,

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Senate Committees  
Local Government

House Committees

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A BILL FOR AN ACT

101 CONCERNING JUDICIAL REVIEW OF LAND USE DETERMINATIONS BY  
102 LOCAL GOVERNMENTS.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

Upon any final action of a county, home rule or statutory city, town, territorial charter city, or city and county (local government) that has the effect of approving or denying, in whole or in part, the use or development of a particular parcel of real property, the bill makes the final action subject to judicial review, whether or not an application for

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

reconsideration of the final action has been filed, unless the filing of an application for reconsideration is required to obtain judicial review under the land development regulations of the local government.

The bill authorizes any person adversely affected or aggrieved by final action by a local government concerning the use or development of a particular parcel of real property, and who was a party to or participated in the proceedings resulting in the final action, to commence an action for judicial review of the final action in the district court in which the real property is located within 30 days after the action becomes final. The bill specifies the parties against whom the action may be brought.

The bill specifies the required components of a complaint requesting judicial review, and additional procedures governing service of the complaint, certification of the record, and a schedule for briefing the matter before the district court.

Judicial review under the bill is limited to a determination of whether the local government or an officer of the local government has exceeded its jurisdiction or abused its discretion, based on the evidence in the record before the defendant local government or officer.

The bill requires the district court to determine the matter within 63 days of the plaintiff's reply brief, or, if no briefs are filed, within 63 days of the filing of the defendant's answer. If the district court has not decided the matter by the applicable deadline, the final action of the local government that is under review is deemed affirmed and valid without any further action by the district court, for all purposes including authorization to seek appellate review of the district court's order. The decision of the district court is subject to appellate review as permitted by existing appellate rules.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** In Colorado Revised Statutes, **add** 29-20-109 as  
3 follows:

4           **29-20-109. Judicial review of local government land use**  
5 **determinations.** (1) UPON ANY FINAL ACTION OF A LOCAL GOVERNMENT  
6 THAT HAS THE EFFECT OF APPROVING OR DENYING, IN WHOLE OR IN PART,  
7 THE USE OR DEVELOPMENT OF A PARTICULAR PARCEL OF REAL PROPERTY,  
8 THE FINAL ACTION IS SUBJECT TO JUDICIAL REVIEW AS PROVIDED IN THIS  
9 SECTION, WHETHER OR NOT AN APPLICATION FOR RECONSIDERATION OF  
10 THE FINAL ACTION HAS BEEN FILED, UNLESS THE FILING OF AN

1 APPLICATION FOR RECONSIDERATION IS REQUIRED AS A CONDITION  
2 PRECEDENT TO JUDICIAL REVIEW OF THE FINAL ACTION BY THE LAND  
3 DEVELOPMENT REGULATIONS OF THE LOCAL GOVERNMENT.

4 (2) ANY PERSON ADVERSELY AFFECTED OR AGGRIEVED BY FINAL  
5 ACTION BY A LOCAL GOVERNMENT CONCERNING THE USE OR  
6 DEVELOPMENT OF A PARTICULAR PARCEL OF REAL PROPERTY, AND WHO  
7 WAS A PARTY TO OR PARTICIPATED IN THE PROCEEDINGS RESULTING IN THE  
8 FINAL ACTION, MAY COMMENCE AN ACTION FOR JUDICIAL REVIEW OF THE  
9 FINAL ACTION IN THE DISTRICT COURT IN WHICH THE REAL PROPERTY IS  
10 LOCATED WITHIN THIRTY DAYS AFTER THE ACTION BECOMES FINAL. AN  
11 ACTION FOR JUDICIAL REVIEW MAY BE BROUGHT AGAINST THE LOCAL  
12 GOVERNMENT IN ITS OFFICIAL NAME OR ANY OFFICER OF THE LOCAL  
13 GOVERNMENT WHO ACTED ON BEHALF OF THE LOCAL GOVERNMENT IN THE  
14 MATTER SOUGHT TO BE REVIEWED.

15 (3) A COMPLAINT FOR JUDICIAL REVIEW IN AN ACTION BROUGHT  
16 PURSUANT TO SUBSECTION (2) OF THIS SECTION MUST STATE THE BASIS  
17 FOR THE DISTRICT COURT'S JURISDICTION, THE FACTS UPON WHICH THE  
18 PLAINTIFF CLAIMS TO HAVE BEEN ADVERSELY AFFECTED OR AGGRIEVED,  
19 THE REASONS ENTITLING THE PLAINTIFF TO RELIEF, AND THE RELIEF  
20 SOUGHT. EACH PARTY TO A PROCEEDING SEEKING JUDICIAL REVIEW THAT  
21 IS NOT APPEARING AS A PLAINTIFF IN THE ACTION MUST BE MADE A  
22 DEFENDANT IN THE ACTION. SERVICE OF THE COMPLAINT FOR JUDICIAL  
23 REVIEW MUST BE MADE IN THE SAME MANNER AS SERVICE OF SUMMONS IN  
24 A CIVIL ACTION UNDER THE COLORADO RULES OF CIVIL PROCEDURE. AN  
25 ANSWER OR OTHER RESPONSIVE PLEADING MUST BE FILED IN ACCORDANCE  
26 WITH THE COLORADO RULES OF CIVIL PROCEDURE.

27 (4) IF A COMPLAINT FOR JUDICIAL REVIEW IS ACCOMPANIED BY A

1 MOTION AND PROPOSED ORDER REQUIRING CERTIFICATION OF A RECORD,  
2 THE DISTRICT COURT MUST ORDER THE LOCAL GOVERNMENT TO FILE WITH  
3 THE CLERK THE ENTIRE RECORD OR SUCH PORTION OR TRANSCRIPTS OF THE  
4 RECORD AS ARE IDENTIFIED IN THE ORDER, TOGETHER WITH A CERTIFICATE  
5 OF AUTHENTICITY. THE RECORD MUST BE FILED WITHIN THIRTY DAYS OF  
6 THE ORDER REQUIRING CERTIFICATION, BUT NO SOONER THAN THE DATE  
7 UPON WHICH AN ANSWER TO THE COMPLAINT MUST BE FILED. A  
8 DEFENDANT LOCAL GOVERNMENT REQUIRED TO CERTIFY A RECORD MUST  
9 GIVE WRITTEN NOTICE TO ALL PARTIES, SIMULTANEOUSLY WITH THE  
10 FILING, OF THE DATE OF FILING THE RECORD WITH THE CLERK.

11 (5) THE PLAINTIFF SHALL FILE AND SERVE ON ALL PARTIES AN  
12 OPENING BRIEF WITHIN FORTY-TWO DAYS AFTER THE DATE ON WHICH THE  
13 RECORD WAS FILED. IF NO RECORD IS REQUESTED, THE PLAINTIFF SHALL  
14 FILE AN OPENING BRIEF WITHIN FORTY-TWO DAYS AFTER THE DEFENDANT  
15 HAS SERVED ITS ANSWER ON THE PLAINTIFF. THE DEFENDANT MAY FILE  
16 AND SERVE AN ANSWER BRIEF WITHIN THIRTY-FIVE DAYS AFTER SERVICE  
17 OF THE PLAINTIFF'S OPENING BRIEF, AND THE PLAINTIFF MAY FILE AND  
18 SERVE A REPLY BRIEF TO THE DEFENDANT'S ANSWER BRIEF WITHIN  
19 FOURTEEN DAYS AFTER SERVICE OF THE ANSWER BRIEF.

20 (6) JUDICIAL REVIEW PURSUANT TO THIS SECTION IS LIMITED TO A  
21 DETERMINATION OF WHETHER THE LOCAL GOVERNMENT OR AN OFFICER OF  
22 THE LOCAL GOVERNMENT HAS EXCEEDED ITS JURISDICTION OR ABUSED ITS  
23 DISCRETION BASED ON THE EVIDENCE IN THE RECORD BEFORE THE  
24 DEFENDANT LOCAL GOVERNMENT OR OFFICER.

25 (7) THE DISTRICT COURT SHALL DETERMINE THE MATTER WITHIN  
26 SIXTY-THREE DAYS OF THE PLAINTIFF'S REPLY BRIEF, OR, IF NO BRIEFS ARE  
27 FILED, WITHIN SIXTY-THREE DAYS OF THE FILING OF THE DEFENDANT'S

1 ANSWER. IF THE DISTRICT COURT HAS NOT DECIDED THE MATTER BY THE  
2 APPLICABLE DEADLINE SPECIFIED IN THIS SUBSECTION (7), THE FINAL  
3 ACTION OF THE LOCAL GOVERNMENT THAT IS UNDER REVIEW IS DEEMED  
4 AFFIRMED AND VALID WITHOUT ANY FURTHER ACTION BY THE DISTRICT  
5 COURT FOR ALL PURPOSES INCLUDING AUTHORIZATION TO SEEK  
6 APPELLATE REVIEW OF THE DISTRICT COURT'S ORDER UNDER SUBSECTION  
7 (8) OF THIS SECTION, AND THE PERIOD FOR SEEKING SUCH APPELLATE  
8 REVIEW SHALL COMMENCE AS OF THE DEADLINE FOR MAKING A  
9 DETERMINATION SPECIFIED IN THIS SUBSECTION (7).

10 (8) THE DECISION OF THE DISTRICT COURT IS SUBJECT TO  
11 APPELLATE REVIEW AS MAY BE PERMITTED BY THE COLORADO APPELLATE  
12 RULES FOR APPEALING ANY FINAL JUDGMENT OR ORDER OF A DISTRICT  
13 COURT.

14 **SECTION 2. Applicability.** This act applies to the entry of any  
15 final action of a local government that has the effect of approving or  
16 denying, in whole or in part, the use or development of a particular parcel  
17 of real property on or after the effective date of this act.

18 **SECTION 3. Safety clause.** The general assembly hereby finds,  
19 determines, and declares that this act is necessary for the immediate  
20 preservation of the public peace, health, and safety.