

**LAND USE AUTHORITY NOTIFICATION OF
CANAL DEVELOPMENT**

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ben C. Ferry

Senate Sponsor: _____

LONG TITLE

General Description:

This bill requires a municipal or a county land use authority to notify a canal company or canal operator of a land use application to develop within 100 feet of a canal.

Highlighted Provisions:

This bill:

- ▶ amends notification requirements;
- ▶ requires a municipal or a county land use authority to notify a canal company or canal operator of a land use application to develop within 100 feet of a canal; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-509, as last amended by Laws of Utah 2009, Chapters 181 and 225

17-27a-508, as last amended by Laws of Utah 2009, Chapters 181 and 225

ENACTS:

10-9a-211, Utah Code Annotated 1953



28 17-27a-211, Utah Code Annotated 1953



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

31 Section 1. Section 10-9a-211 is enacted to read:

32 **10-9a-211. Canal owner or operator -- Notice to municipality.**

33 (1) For purposes of Subsection 10-9a-509(1)(b)(iv), a canal company or a canal
34 operator shall provide on or before July 1, 2010, any municipality in which the canal company
35 or canal operator owns or operates a canal:

36 (a) a current mailing address and phone number;

37 (b) a contact name; and

38 (c) a general description of the location of each canal owned or operated by the canal
39 owner or canal operator.

40 (2) If the information described in Subsection (1) changes after a canal company or a
41 canal operator has provided the information to the municipality, the canal company or canal
42 operator shall provide the correct information within 30 days of the day on which the
43 information was changed.

44 Section 2. Section 10-9a-509 is amended to read:

45 **10-9a-509. Applicant's entitlement to land use application approval -- Exceptions**
46 **-- Application relating to land in a high priority transportation corridor -- Municipality's**
47 **requirements and limitations -- Vesting upon submission of development plan and**
48 **schedule.**

49 (1) (a) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a
50 land use application if the application conforms to the requirements of the municipality's land
51 use maps, zoning map, and applicable land use ordinance in effect when a complete application
52 is submitted and all application fees have been paid, unless:

53 (i) the land use authority, on the record, finds that a compelling, countervailing public
54 interest would be jeopardized by approving the application; or

55 (ii) in the manner provided by local ordinance and before the application is submitted,
56 the municipality has formally initiated proceedings to amend its ordinances in a manner that
57 would prohibit approval of the application as submitted.

58 (b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval

59 of a land use application until the requirements of this Subsection (1)(b) have been met if the
60 land use application relates to land located within the boundaries of a high priority
61 transportation corridor designated in accordance with Section 72-5-403.

62 (ii) (A) A municipality shall notify the executive director of the Department of
63 Transportation of any land use applications that relate to land located within the boundaries of
64 a high priority transportation corridor.

65 (B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by
66 certified or registered mail to the executive director of the Department of Transportation.

67 (iii) Except as provided in Subsection (1)(c), a municipality may not approve a land
68 use application that relates to land located within the boundaries of a high priority
69 transportation corridor until:

70 (A) 30 days after the notification under Subsection (1)(b)(ii)(A) is received by the
71 Department of Transportation if the land use application is for a building permit; or

72 (B) 45 days after the notification under Subsection (1)(b)(ii)(A) is received by the
73 Department of Transportation if the land use application is for any land use other than a
74 building permit.

75 (iv) (A) If a land use application is an application to develop, construct, alter, repair,
76 maintain, or improve land, including any related moving, demolition, or excavation, within 100
77 feet of the center line of a canal, the land use authority shall, within 30 days after the day on
78 which the application is filed, notify the canal company or canal operator responsible for the
79 canal if the canal company or canal operator has provided information under Section
80 10-9a-211.

81 (B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by
82 certified or registered mail to the canal company or canal operator contact described in Section
83 10-9a-211.

84 (c) (i) A land use application is exempt from the requirements of [~~Subsection~~]
85 Subsections (1)(b)(i) and (ii) if:

86 (A) the land use application relates to land that was the subject of a previous land use
87 application; and

88 (B) the previous land use application described under Subsection (1)(c)(i)(A) complied
89 with the requirements of [~~Subsection~~] Subsections (1)(b)(i) and (ii).

90 (ii) A municipality may approve a land use application without making the required
91 notifications under Subsection (1)(b)(ii)(A) if:

92 (A) the land use application relates to land that was the subject of a previous land use
93 application; and

94 (B) the previous land use application described under Subsection (1)(c)(ii)(A)
95 complied with the requirements of ~~Subsection~~ Subsections (1)(b)(i) and (ii).

96 (d) After a municipality has complied with the requirements of Subsection (1)(b) for a
97 land use application, the municipality may not withhold approval of the land use application for
98 which the applicant is otherwise entitled under Subsection (1)(a).

99 (e) The municipality shall process an application without regard to proceedings
100 initiated to amend the municipality's ordinances as provided in Subsection (1)(a)(ii) if:

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

102 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
103 application as submitted.

104 (f) An application for a land use approval is considered submitted and complete when
105 the application is provided in a form that complies with the requirements of applicable
106 ordinances and all applicable fees have been paid.

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

109 (h) A municipality may not impose on a holder of an issued land use permit or
110 approved subdivision plat a requirement that is not expressed:

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

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

115 (i) A municipality may not withhold issuance of a certificate of occupancy or
116 acceptance of subdivision improvements because of an applicant's failure to comply with a
117 requirement that is not expressed:

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

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

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

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

127 (4) Upon a specified public agency's submission of a development plan and schedule as
128 required in Subsection 10-9a-305(9) that complies with the requirements of that subsection, the
129 specified public agency vests in the municipality's applicable land use maps, zoning map,
130 hookup fees, impact fees, other applicable development fees, and land use ordinances in effect
131 on the date of submission.

132 Section 3. Section 17-27a-211 is enacted to read:

133 **17-27a-211. Canal owner or operator -- Notice to county.**

134 (1) For purposes of Subsection 17-27a-508(1)(b)(iv), a canal company or a canal
135 operator shall provide on or before July 1, 2010, any county in which the canal company or
136 canal operator owns or operates a canal:

137 (a) a current mailing address and phone number;

138 (b) a contact name; and

139 (c) a general description of the location of each canal owned or operated by the canal
140 owner or canal operator.

141 (2) If the information described in Subsection (1) changes after a canal company or a
142 canal operator has provided the information to the county, the canal company or canal operator
143 shall provide the correct information within 30 days of the day on which the information was
144 changed.

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

146 **17-27a-508. Applicant's entitlement to land use application approval --**

147 **Exceptions -- Application relating to land in a high priority transportation corridor --**

148 **County's requirements and limitations -- Vesting upon submission of development plan**
149 **and schedule.**

150 (1) (a) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a
151 land use application if the application conforms to the requirements of the county's land use

152 maps, zoning map, and applicable land use ordinance in effect when a complete application is
153 submitted and all application fees have been paid, unless:

154 (i) the land use authority, on the record, finds that a compelling, countervailing public
155 interest would be jeopardized by approving the application; or

156 (ii) in the manner provided by local ordinance and before the application is submitted,
157 the county has formally initiated proceedings to amend its ordinances in a manner that would
158 prohibit approval of the application as submitted.

159 (b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval
160 of a land use application until the requirements of this ~~[Subsection]~~ Subsections (1)(b)(i) and
161 (ii) have been met if the land use application relates to land located within the boundaries of a
162 high priority transportation corridor designated in accordance with Section 72-5-403.

163 (ii) (A) A county shall notify the executive director of the Department of
164 Transportation of any land use applications that relate to land located within the boundaries of
165 a high priority transportation corridor.

166 (B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by
167 certified or registered mail to the executive director of the Department of Transportation.

168 (iii) Except as provided in Subsection (1)(c), a county may not approve a land use
169 application that relates to land located within the boundaries of a high priority transportation
170 corridor until:

171 (A) 30 days after the notification under Subsection (1)(b)(ii)(A) is received by the
172 Department of Transportation if the land use application is for a building permit; or

173 (B) 45 days after the notification under Subsection (1)(b)(ii)(A) is received by the
174 Department of Transportation if the land use application is for any land use other than a
175 building permit.

176 (iv) (A) If a land use application is an application to develop, construct, alter, repair,
177 maintain, or improve land, including any related moving, demolition, or excavation, within 100
178 feet of the center line of a canal, the land use authority shall, within 30 days after the day on
179 which the application is filed, notify the canal company or canal operator responsible for the
180 canal if the canal company or canal owner has provided information under Section 17-2a-211.

181 (B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by
182 certified or registered mail to the canal company or canal operator contact described in Section

183 17-27a-211.

184 (c) (i) A land use application is exempt from the requirements of Subsection (1)(b)(i)
185 if:

186 (A) the land use application relates to land that was the subject of a previous land use
187 application; and

188 (B) the previous land use application described under Subsection (1)(c)(i)(A) complied
189 with the requirements of ~~Subsection~~ Subsections (1)(b)(i) and (ii).

190 (ii) A county may approve a land use application without making the required
191 notifications under ~~Subsection~~ Subsections (1)(b)(i) and (ii) if:

192 (A) the land use application relates to land that was the subject of a previous land use
193 application; and

194 (B) the previous land use application described under Subsection (1)(c)(ii)(A)
195 complied with the requirements of ~~Subsection~~ Subsections (1)(b)(i) and (ii).

196 (d) After a county has complied with the requirements of Subsection (1)(b) for a land
197 use application, the county may not withhold approval of the land use application for which the
198 applicant is otherwise entitled under Subsection (1)(a).

199 (e) The county shall process an application without regard to proceedings initiated to
200 amend the county's ordinances as provided in Subsection (1)(a)(ii) if:

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

202 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
203 application as submitted.

204 (f) An application for a land use approval is considered submitted and complete when
205 the application is provided in a form that complies with the requirements of applicable
206 ordinances and all applicable fees have been paid.

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

209 (h) A county may not impose on a holder of an issued land use permit or approved
210 subdivision plat a requirement that is not expressed:

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

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

215 (i) A county may not withhold issuance of a certificate of occupancy or acceptance of
216 subdivision improvements because of an applicant's failure to comply with a requirement that
217 is not expressed:

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

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

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

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

227 (4) Upon a specified public agency's submission of a development plan and schedule as
228 required in Subsection 17-27a-305(9) that complies with the requirements of that subsection,
229 the specified public agency vests in the county's applicable land use maps, zoning map, hookup
230 fees, impact fees, other applicable development fees, and land use ordinances in effect on the
231 date of submission.

Legislative Review Note
as of 2-2-10 4:28 PM

Office of Legislative Research and General Counsel

H.B. 298 - Land Use Authority Notification of Canal Development

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
