UTAH LEAGUE OF CITIES AND TOWNS

Land Use Legislative Updates 2006-2017

2017 Legislative Update

Land Use Bills- Reader's Digest Version as of March 25, 2017

All Bills Effective May 8, 2017 (unless noted)

1. **General Land Use Bill: HB232 -**Clarifies Land Use Process Decision Making; requires "Plain Language" in code; requires codification of engineering standards; Reiterates compliance with State Law.

2. **Short-term Rentals: HB253** -A city cannot prohibit a person from listing a short-term rental on a website.

3. **Fire Sprinklers**: **HB281**- Repeals provisions for some cities provisions related to structural requirements for fire safety, fire notification systems, and fire suppression systems.

4. **Plan Checks**: **SB241** - Local Government Plan Review Amendments - Requires 14 days and 21 days for single and multi-family plan check reviews of construction plans or lose review authority to review. Sunsets in one year. Dates: July 1,2017-July 1, 2018

5. **Historic Districts**: **HB30-** A City Council will become the appeal authority for decisions made by the Historic Preservation Board.

6. **Food Trucks**: **SB 250**- Cities must honor full reciprocity of each other's licensing, health and fire inspections, and other related requirements.

7. **Alcohol**: **HB 442** -Buffer between establishments serving alcohol and community locations (e.g., parks, schools, churches) was decreased to 450 feet from 300. (Existing establishments were grandfathered in and the variance requirement was eliminated.)

Other Bills passed:
HB36 - Affordable Housing Amendments
HB89 - Impact Fee Reporting Requirements
HB243 - Common Area Land Use Amendments
HB279 - Impact Fee Amendments
HB281 - Construction and Fire Codes Amendments
HB293 - Mountainous Planning District Amendments
HB301 - Canal Safety Amendments
HB355 - Unified Commercial Development Amendments
HB407 - Utah Public Land Management Act Amendments
HB441 - Housing and Homeless Reform Initiative Amendments
HB448 - Community Reinvestment Amendments
SB81 - Local Government Licensing Amendments
SB174 - Public Transit and Transportation Governance Amendments
SB178 - Military Installation Development Authority Amendments
SB181 - High Priority Transportation Corridors Amendments
SB251 - Local Government Criminal Penalty Amendments
SB261 - Substance Use Disorder Programs
Sidelined: **State Property & School and Institutional Trust Land Amendment:** HB408 Sent to interim session for further study. Would remove local rights to zone on state school trust lands.

Anatomy of SB 81 Local Government Licensing Amendments aka The Business License Bill

Prepared by Jodi Hoffman for the Utah League of Cities & Towns
Hoffman Law

SB 81 Local Government Licensing Amendments ("Business License Bill") rescinded local jurisdictions' authority to:

1. Charge business license fees to raise revenues for general purposes;
2. Charge business license fees for a small segment of home occupations; and
3. Require a business operated "only occasionally" by a person under the age of 18 (e.g. a child's lemonade stand) to obtain a business license.

Of all of the legislation directed at local governments in 2017, the Business License Bill has generated the most confusion and the largest number of questions from ULCT members. Why? Because the Business Licensing Bill impacts hundreds of business licenses that are issued on a daily basis and then tens (hundreds?) of thousands of licenses that will be re-issued annually.

Each jurisdiction has a business license fee schedule that is tied to its mandatory annual licensing system. Each business license system is interconnected with the jurisdiction's land use regulations and its local code enforcement. Each jurisdiction's zoning, code enforcement, business license system and fee schedule is different from the next. However, there is some common ground.

This memo is an attempt to answer the wide variety of questions the UCLT staff has received about the Business Licensing Bill. Let's start with the basics.

Why Do Cities License Businesses?

Cities license businesses for a variety of reasons:

1. Ensure annual inspections for public safety;
2. Register and track the point of sale for sales tax rates, collection and distribution;
3. Land use review (is the business operating how and where it should?);
4. Recover costs of annual inspections, regulation and land use review;
5. Recover disproportionate costs of public services consumed by a business;
6. Pay for an enhanced level of public service requested by businesses (i.e. bus service);
7. Proof that the business is validly operating--required for a variety of reasons including lender inquiries, certifications, promotions, and state or federal regulations; and

~~8. To raise general fund revenues~~

This year, the Business License Bill eliminated cities' authority to raise general fund revenues from business license fees.

How does the "Revenue" Restriction in the Business License Bill Impact Your City?

The Business License Bill allows cities to charge fees *only to recover the cost of regulation.* As a result, each jurisdiction must determine how much it costs them to "regulate" each category of business. The business license fee is limited to a licensee's proportionate share of those costs. Each jurisdiction's business license fee schedule should be based on a current business license fee study that identifies the jurisdiction's actual costs of regulation.

What is a Home Based Business?

The Business License Bill exempts "home based businesses" from business license fees. The term "home based business" is narrow. For most, it is a small subset of business authorized as a "home occupation".

A home-based business is one that your code already allows within a primary residential home and has *no material offsite impact in addition to the primary residential use.* In layman's terms: it is a business that no one would know is there.

Home Based Business License—Fee Exemption

The Business License Bill does not prohibit jurisdictions from requiring home-based businesses from obtaining a business license. It just exempts them from the business license fee.

Because the Business License Bill eliminates the "revenue" component of a business license fee, the practical effect of the fee exemption should be nominal.

To minimize the financial impact of the "home based business" aspect of the bill, some jurisdictions may want to amend their land use codes and their business license ordinances/fee schedules to include a narrow land use category that would qualify for the fee exemption, such as:

> Home Occupation-Exempt— A business, transaction or activity conducted entirely within no more than 25% of a primary dwelling and exclusively by persons residing within the dwelling, in a manner that is indiscernible from, clearly incidental, and secondary to the residential use, without altering the dwelling site or structure, the character of the neighborhood, the demand for public facilities or services, creating an unsafe condition or providing a short term residential rental.

For those jurisdictions with an expansive definition of a Home Occupation--one that allows outdoor activities, outdoor storage, non-resident employees, customer visits, or other apparent business staging, a separate definition of an "Exempt Home Occupation", coordinated with the specific definitions in your code, could help.

How to Implement a Fee Exemption

Each jurisdiction should consider modifying its business license application form to include an applicant's requirement to request the fee exemption. The applicant should affirm that the *business will have no material offsite impact in addition to the impacts of the primary residential use.*

In short, the Business License Bill does not require your staff to be a private investigator, or to quiz the applicant with 20 questions to identify a home-based business. If an applicant requests the exemption (and the business is otherwise entitled to a license), simply issue the license without a fee. Remember: the neighbors will let you know if the business has off-site impacts.

What About Recouping Our Cost to Issue the License?

The Business License Bill prohibits a jurisdiction from imposing a business license fee on an exempt home-based business. After the session, the bill sponsor indicated that he might support a bill that would allow for a nominal fee. Stay tuned.

Until then, your jurisdiction must either issue the license without a fee, or consider modifying your ordinance to remove the business license requirement for this type of business.

What is a Business, Operated Occasionally, by Persons Under 18 Years of Age?

The Business License Bill prohibits cities from requiring a business license for a kid's occasional lemonade stand.

Technically, before the bill passed, operating a kid's lemonade stand without a business license was a crime in most jurisdictions. A lemonade stand fits the definition of a business. Most cities require all business to be licensed.

Apparently, one jurisdiction took this authority to its logical extreme and cited children for operating their lemonade stand without a business license. Bad facts often make bad law.

Recommendations:

1. Review your business license fee system.
    a. If your fee system generates general fund "revenue" in excess of your costs of business regulation, you will need to adjust your system:
    b. Update/adopt a study and business license fee system for "cost recovery" only;
    c. If certain types of businesses use disproportionate levels of public services (police, fire, EMT, transit, etc.?): consider a separate study/system to recoup disproportionate costs through annual business license fees for those businesses.
2. Consider/adopt legislation to:
    a. Define a "no material offsite impact" type of home occupation;
    b. Revise your current business license application form to allow applicants to request business license fee waiver for home occupations without offsite impacts;
    c. Revise business license chapter code to exempt businesses operated only occasionally by minors (under 18 years of age) from the obligation to obtain a business license;
    d. Adopt the new business license fee schedule.
3. Train staff to implement the new system.

May 2016
Land use ordinance review
Suggested by the Utah League of Cities and Towns

Items to review in your land use codes:

1. Remove criminal penalties for Land Use Code violations (2016 Gen. Session SB187S1: misdemeanors are now only infractions).
2. Remove any conditional use that your City expects to deny. Make sure you have standards of review in place for those that you keep.
3. Conduct a Word search throughout your code for stale concepts, such as:
   - "approve, deny or approve with conditions"
   - "in its sole discretion"
4. Does your code read in active voice? Or passive voice? (unclear) Strive for objective clear language. If you don't understand it how can you enforce and how can the public know how to develop their land?
5. Ferret out ambiguity: Could a reasonable person interpret your land use restrictions differently?
6. Does your Council issue Conditional Use Permits/Subdivisions? Should they?
7. Does Council attend Planning Commission meetings? Sit on the Planning Commission?
8. Are development fees based on a % of construction value?
9. Are staff reports sent to applicants at least three days before a hearing/meeting?
10. Does your code postpone vested rights?
11. Are subdivision/engineering standards codified?
12. Have you updated your Impact Fees in this decade?
13. Are non-conforming use permits tied to the applicant or the address?
14. Do you have an independent appeal process?
15. Annually update your codes.

SB 124 Land Use Amendments 2015

SB124 is a ULCT Land Use Task Force Bill, vetted by over 60 public and private stakeholders in the land development process.

This year, the Land Use Task Force focused on a variety of land use topics, including: 1) subdivision for utilities; 2) illegal exactions; 3) security for public infrastructure; 4) modifying common area on a plat and 5) easing state imposed site plan restrictions in first class counties.

Subdivision for Utilities:
Lines 390-391 address how to allow for the subdivision of a large parcel to create a legal parcel that is so small, it would be undevelopable for anything other than its intended use: a small utility substation or use. Lines 390-91 allow a jurisdiction to exempt a subdivision of land from subdivision standards to accommodate siting public utility infrastructure.

Illegal Exactions:
Lines 415-421 compliment state law provisions that prohibit unconstitutional exactions in the subdivision context. This language limits the signature requirements on subdivision plats to public entities, utilities, the subdividing landowners, and their agents.

Lines 436-446 instruct a surveyor to consult with underground utilities to assure the accuracy of a surveyed plat prior to final plat approval. Existing law had required the surveyor to obtain approval from underground utilities, which included private canal companies.

Security for Public Infrastructure:
Lines 150-158 refine the definitions of what we know more commonly as subdivision improvement bonds and warranties.

Lines 173-180 define what an "infrastructure improvement" is in order to limit the extent and cost of subdivision improvement bonds and guaranties. Some jurisdictions have been using infrastructure bonds to assure construction of private amenities. They should use development agreements and phasing plans for those items, rather than infrastructure bonds.

Lines 464-467 are technical changes.

Lines 486-87 have been inserted to confirm that an applicant and a local government can and do enter into enforceable phasing plans and development agreements, which will control when building permits will be issued. Often, with large developments, a developer promises to construct certain amenities after it has the right to construct some homes, but before it has the right to build additional homes or structures. These amenities may not qualify to be included in a public infrastructure bond and this bill adds clarity to what can and cannot be include in infrastructure bonds. However, to assure completion of important private improvements, the local government and the developer may enter into an agreement that is enforceable independent of the infrastructure bond.

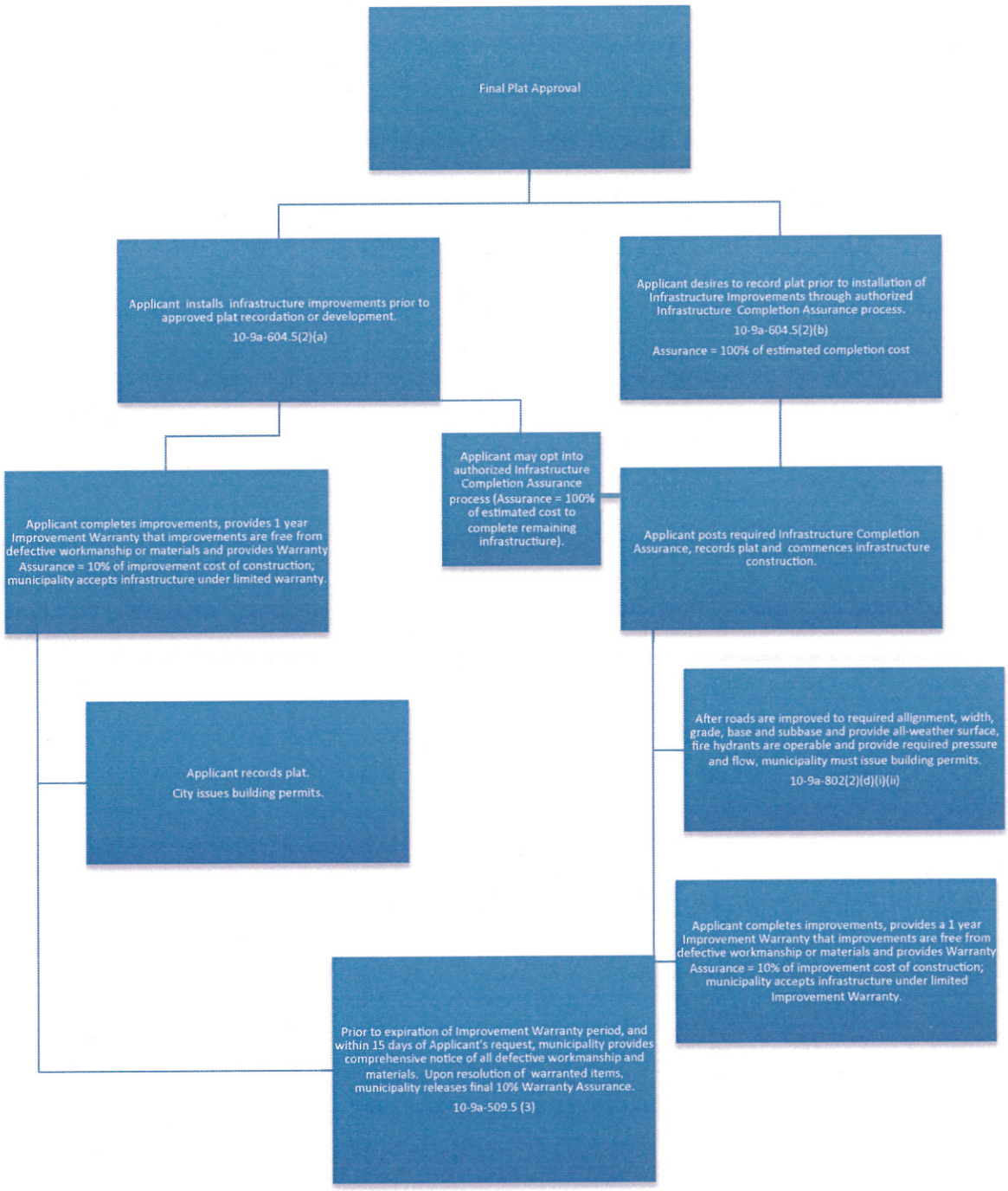
Common Area in Plats:
Lines 508-515 describe that common area on a plat can be modified in size and location with local approval and the consent of 75% of an HOA.

Each of these changes are also made to the County's Land Use Act in Chapter 17.27a

One change is unique to Counties:

First Class Counties Site Plan Restrictions:
Line 882 allows a County of the first class to regulate landscaping and re-vegetation of a development lot. That authority had been removed for all counties and should be restored for an urbanized County.

Typical Subdivision Plat Recording Process



Effective 5/12/2015

10-9a-103. Definitions.

As used in this chapter:

(8) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) *any change in the use of land that creates additional demand and need for public facilities*.

(18) "*Improvement completion assurance*" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(19) "*Improvement warranty*" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the *municipality's written standards* for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(20) "*Improvement warranty period*" means a period:

(a) no later than *one year* after a municipality's acceptance of required landscaping; or

(b) no later than *one year* after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

(21) "*Infrastructure improvement*" means permanent infrastructure that an applicant must install:

(a) pursuant to *published installation and inspection specifications* for public improvements; and

(b) as a condition of:

(i) *recording a subdivision plat*; or

(ii) development of a commercial, industrial, mixed use, condominium, or multifamily project.

(25) "*Land use ordinance*" means a planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan.

(26) "*Land use permit*" means a permit issued by a land use authority.

(38) "*Plat*" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

10-9a-509.5. Review for application completeness -- Substantive application review -- Reasonable diligence required for determination of whether improvements or warranty work meets standards -- Money damages claim prohibited.

(3) (a) *With reasonable diligence*, each land use authority shall determine whether the installation of required subdivision improvements or the performance of warranty work meets the *municipality's adopted standards.*

(b) (i) An applicant may in writing request the land use authority to accept or reject the applicant's installation of required subdivision improvements or performance of warranty work.

(ii) *The land use authority shall accept or reject subdivision improvements within 15 days* after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 15-day period if inspection of the subdivision improvements is impeded by winter weather conditions.

(iii) *The land use authority shall accept or reject the performance of warranty work within 45 days* after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 45-day period if inspection of the warranty work is impeded by winter weather conditions.

(c) If a land use authority determines that the installation of required subdivision improvements or the performance of warranty work does not meet the municipality's adopted standards, the land use authority *shall comprehensively and with specificity list the reasons for its determination*.

(4) Subject to Section 10-9a-509, nothing in this section and no action or inaction of the land use authority relieves an applicant's duty to comply with all applicable substantive ordinances and regulations.

Effective 5/12/2015

10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.

(2) (a) Subject to Subsections (3), (4), and (5), *if the plat conforms to the municipality's ordinances* and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department and the municipality consider the local health department's approval necessary, *the municipality shall approve the plat.*

(5) (a) After the plat has been acknowledged, certified, and approved, *the owner of the land shall*, within the time period designated by ordinance, *record the plat in the county recorder's office* in the county in which the lands platted and laid out are situated.

Effective 5/12/2015

10-9a-604.5. Subdivision plat recording or development activity before required infrastructure is completed -- Infrastructure completion assurance -- Infrastructure warranty.

(1) A land use authority shall establish *objective inspection standards for acceptance of a required landscaping or infrastructure improvement*.

(2) (a) *A land use authority shall require an applicant to complete a required landscaping or infrastructure improvement prior to any plat recordation or development activity*.

(b) Subsection (2)(a) does not apply if:

(i) ***upon the applicant's request****, the land use authority has authorized the applicant to post an*

Prepared by Jodi Hoffman, 8/28/14

2013 Infrastructure "Bond" Laws

Remember: the 2013 infrastructure "bond" laws have now taken effect. Under the new laws there are two different "sureties" to protect the public from shoddy subdividers: one "surety" is to make certain the infrastructure is actually built; a separate surety is a "warranty" that can and should be used to guard against "latent" defects in materials and workmanship.

Many cities had combined the two concepts into a single "bond" and are still using that practice today. Each jurisdiction should review the new law with its staff/project engineers to be certain its "bond" practice includes these two concepts and meets the letter of the new law.

In a nutshell:

1. **Surety #1.** A City should require an infrastructure completion bond, but may do so ***only if*** a subdivider/developer asks to ***record a plat prior to building required infrastructure***. If the subdivider wishes to complete the required infrastructure before recording the approved plat, the city may not require an infrastructure completion bond. The surety for the city in this instance is to hold the plat until the infrastructure is complete, and then allow the subdivider to record it.

    a. This first "surety" is now referred to in the statute as an "improvement completion assurance".

    b. It can be cash, a letter of credit, a traditional surety bond "or other security".

    c. It is held by the city to construct the improvements if the subdivider fails to do so.

    d. Surety #1 must be released upon the:

    i. city's acceptance of the infrastructure; and if the City requests, the

    ii. subdivider's execution and delivery of the Improvement Warranty (aka Surety #2).

2. **Surety #2.** Upon acceptance of the completed infrastructure, the city can/should require the subdivider provide an Improvement Warranty.

    a. The Improvement Warranty has two parts:

    i. A written contract obligating the subdivider to an unconditional warranty that the infrastructure:

A. is built as the city has directed: it complies with the city's written standards for design, materials and workmanship; and it

B. will not fail as a result of poor workmanship or materials; within

C. **one year**

b. A "surety": a letter of credit, surety bond, cash or other security.

A. This "surety" is limited to requiring the subdivider to "post" 10% of ***the lesser of***:

- the engineer's estimated cost of completion; or the
-subdivider's proven "actual" cost of completion; and

B. Must be released or called within a year*.

Practice Tips: The big differences between past practice and the new law are threefold:

1. The distinction between completion and warranty assurances;
2. The one year warranty period (which **cannot** be extended in most instances); and
3. Neither surety creates a maintenance obligation.

Utah League Of Cities & Towns 2006
Implementing SB60

Implementing SB60 may appear to be a daunting task to many jurisdictions and we have heard a number of different approaches to the task by several cities and towns. Nevertheless, criticism from lobbyists and legislators abounds that a large portion of our membership has delayed implementing SB60.

Land use ordinances take a great deal of time, thought and public process to change. Virtually every city's land use code is different from the next (and should be), so a model ordinance to bring all cities into compliance simply will not work. So where should a city begin?

From a pragmatic point of view, there are five substantive components of SB60 (and its progeny) that must be implemented. If implemented, the five changes would solve the lion's share of the complaints that we hear and may stave off future attempts at more objectionable legislation.

A quick check of your land use ordinances in the following five areas would go a very long way:

1. Conditional Use;
2. Exaction;
3. Vested Rights;
4. Nonconforming Use and a Noncomplying Structure
5. Building Permit and Impact Fees

Conditional Use.

If your city's current ordinance on conditional uses reads something like:

> The (city, planning commission, planning staff, etc.) ***may permit, deny or permit with conditions*** a conditional use . . . it must be changed to comply with SB60.

The fix relatively easy. Substitute the language above with the following language:

> ***(a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.***
>
> ***(b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.***

As a corollary, each jurisdiction might want to reexamine its use tables to be certain that it really wants each of those conditional uses in a particular zone and that the standards

for each of those uses are written in the code. So many jurisdictions have operated under a false sense that they could always just so "no" to a conditional use, for any reason, and therefore it wasn't so bad to have several types of conditional uses in the zone. However, the law is clear: a jurisdiction cannot say "no" to a conditional use listed in a zone if the developer offers to mitigate impacts to achieve compliance with standards written in the code.

Exactions.

The code fix for exactions is actually easier than the solution for conditional uses. Most cities simply do not have code provisions relating to exactions. So for the overwhelming majority of jurisdictions, there is no code provision to eliminate, just one to add, which is:

> *The city (or town) may impose an exaction or exactions on proposed land use development if:*
>
> > *(1) an essential nexus exists between a legitimate governmental interest and each exaction; and*
> >
> > *(2) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.*

This provision needs to be added to each municipality's land management code. More importantly, the requirements of this provision must be followed.

For each exaction, can the city or town honestly conclude that the proposed development both caused the need for the exaction and caused the need in a roughly proportionate relationship to the exaction? If not, it is illegal to require the exaction without paying for it: either monetarily; or by additional compensatory density with which the developer agrees.

Vested Rights.

We are a government of laws and not men (or women). Cities and towns regulation of land use must be written and must be followed until it is properly changed.

Like exactions provisions, few cities have an ordinance which speaks to "vested rights". Vested rights are the law an applicant is entitled to rely on as the applicant wends its way through the city's land use processes.

Each city and town should adopt a vesting ordinance, in its land management code, which confirms that:

> ***(1)(a) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the [city's/town's] zoning map and applicable land use ordinance in effect when a complete application is submitted and all fees have been paid, unless:***
>
> ***(i) the governing body, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the application; or***
>
> ***(ii) in the manner provided by local ordinance and before the application is submitted, the municipality has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application as submitted.***

(b) The [city/town] shall process an application without regard to proceedings initiated to amend the municipality's ordinances if:

(i) 180 days have passed since the proceedings were initiated; and
(ii) The proceedings have not resulted in an enactment that prohibits the approval of the application as submitted.

(c) An application for a land use approval is considered submitted and complete when the application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.
(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) The [city/town] shall not impose on a holder of an issued land use permit a requirement that is not expressed: (i) in the land use permit or in documents on which the land use permit is based; or (ii) in the [city's/town's] ordinances. (f) The [city/town] will not withhold issuance of a certificate of occupancy because of an applicant's failure to comply with a requirement that is not expressed: (i) in the building permit or in documents on which the building permit is based; or (ii) in the [city's/town's] ordinances. (2) The [city/town] is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances.

It almost goes without saying that each city's and town's land use regulation is only valid to the extent that it is written. Almost. What we have learned is that some cities and towns attempt to enforce unwritten rules. There is no defense to that criticism. Pass the ordinances that you want to have enforced. There is no substitute for written rules.

Nonconforming Use/Noncomplying Structures.
Virtually all cities and towns need to amend their ordinances pertaining to nonconforming uses. Most will need to add a new concept: Non-complying structure. Under SB60:

"Noncomplying structure" means a structure that: (a) legally existed before its current land use designation; and (b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.
"Nonconforming use" means a use of land that: (a) legally existed before its current land use designation; (b) has been maintained continuously since the time the land use ordinance governing the land changed; and
(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

The simplest fix is to substitute your existing ordinance definition for these.
Further, most cities and towns have a code provision, which allows the city to order the demolition of a nonconforming use/noncomplying structure if the building is partially destroyed by fire or other natural calamity. SB60 requires each city and town to **repeal** such an ordinance and thereby allow the reconstruction of an NCU/NCS that succumbs to a natural disaster.

Building Permit/Impact Fees.
SB60 did not adjust building permit or impact fee requirements. However, SB267 from the 2006 session enacted additional reporting requirements, of which all cities and towns should be cognizant. Since 1995, building permit fees must be for "cost recovery" only. Since 1995, all impact fees must follow the strict procedures of the impact fees act and specifically, must be spent on the facilities for which they were collected within six years of their collection. If they are not spent within six years (with a few minor exceptions) they must be refunded.
This year, all cities and towns will be required to account for impact fees by payee, fee type, date of collection and date of expenditure in their annual financial report. While the law does not require an ordinance change, it does require a level of accounting that is beyond what most cities and towns have practiced in the past.