

1 **Municipal and County Land Use Exemption Amendments**

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor:

3 **LONG TITLE**

4 **General Description:**

5 This bill addresses entities required to conform to a municipality's or county's land use
6 ordinances.

7 **Highlighted Provisions:**

8 This bill:

9 ▶ provides that a municipality or county may not subject a school district to standards
10 within each zone pertaining to setback, height, bulk and massing regulations, off-site
11 parking, curb cut, traffic circulation, and construction staging; and

12 ▶ makes technical and conforming changes.

13 **Money Appropriated in this Bill:**

14 None

15 **Other Special Clauses:**

16 None

17 **Utah Code Sections Affected:**

18 AMENDS:

19 **10-9a-305**, as last amended by Laws of Utah 2024, Chapter 464

20 **17-27a-305**, as last amended by Laws of Utah 2024, Chapter 464

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

23 Section 1. Section **10-9a-305** is amended to read:

24 **10-9a-305 . Other entities required to conform to municipality's land use**
25 **ordinances -- Exceptions -- School districts, charter schools, home-based microschools,**
26 **and micro-education entities -- Submission of development plan and schedule.**

27 (1)(a) Each county, municipality, school district, charter school, special district, special
28 service district, and political subdivision of the state shall conform to any applicable
29 land use ordinance of any municipality when installing, constructing, operating, or
30 otherwise using any area, land, or building situated within that municipality.

31 (b) In addition to any other remedies provided by law, when a municipality's land use
32 ordinance is violated or about to be violated by another political subdivision, that
33 municipality may institute an injunction, mandamus, abatement, or other appropriate
34 action or proceeding to prevent, enjoin, abate, or remove the improper installation,
35 improvement, or use.

36 (2)(a) Except as provided in [~~Subsection~~] Subsections (2)(b)(i)(A) and (3), a school
37 district or charter school is subject to a municipality's land use ordinances.

38 (b)(i) Notwithstanding Subsection (3), a municipality may:

39 (A) subject a charter school but not a school district to standards within each zone
40 pertaining to setback, height, bulk and massing regulations, off-site parking,
41 curb cut, traffic circulation, and construction staging; and

42 (B) impose regulations upon the location of a project that are necessary to avoid
43 unreasonable risks to health or safety, as provided in Subsection (3)(f).

44 (ii) The standards to which a municipality may subject a charter school under
45 Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

46 (iii) Except as provided in Subsection (7)(d), the only basis upon which a
47 municipality may deny or withhold approval of a charter school's land use
48 application is the charter school's failure to comply with a standard imposed under
49 Subsection (2)(b)(i).

50 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of
51 an obligation to comply with a requirement of an applicable building or safety
52 code to which it is otherwise obligated to comply.

53 (3) A municipality may not:

54 (a) impose requirements for landscaping, fencing, aesthetic considerations, construction
55 methods or materials, additional building inspections, municipal building codes,
56 building use for educational purposes, or the placement or use of temporary
57 classroom facilities on school property;

58 (b) except as otherwise provided in this section, require a school district or charter
59 school to participate in the cost of any roadway or sidewalk, or a study on the impact
60 of a school on a roadway or sidewalk, that is not reasonably necessary for the safety
61 of school children and not located on or contiguous to school property, unless the
62 roadway or sidewalk is required to connect an otherwise isolated school site to an
63 existing roadway;

64 (c) require a district or charter school to pay fees not authorized by this section;

- 65 (d) provide for inspection of school construction or assess a fee or other charges for
66 inspection, unless the school district or charter school is unable to provide for
67 inspection by an inspector, other than the project architect or contractor, who is
68 qualified under criteria established by the state superintendent;
- 69 (e) require a school district or charter school to pay any impact fee for an improvement
70 project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact
71 Fees Act;
- 72 (f) impose regulations upon the location of an educational facility except as necessary to
73 avoid unreasonable risks to health or safety; or
- 74 (g) for a land use or a structure owned or operated by a school district or charter school
75 that is not an educational facility but is used in support of providing instruction to
76 pupils, impose a regulation that:
- 77 (i) is not imposed on a similar land use or structure in the zone in which the land use
78 or structure is approved; or
- 79 (ii) uses the tax exempt status of the school district or charter school as criteria for
80 prohibiting or regulating the land use or location of the structure.
- 81 (4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the
82 siting of a new school with the municipality in which the school is to be located, to:
- 83 (a) avoid or mitigate existing and potential traffic hazards, including consideration of the
84 impacts between the new school and future highways; and
- 85 (b) maximize school, student, and site safety.
- 86 (5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:
- 87 (a) provide a walk-through of school construction at no cost and at a time convenient to
88 the district or charter school; and
- 89 (b) provide recommendations based upon the walk-through.
- 90 (6)(a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:
- 91 (i) a municipal building inspector;
- 92 (ii)(A) for a school district, a school district building inspector from that school
93 district; or
- 94 (B) for a charter school, a school district building inspector from the school
95 district in which the charter school is located; or
- 96 (iii) an independent, certified building inspector who is not an employee of the
97 contractor, licensed to perform the inspection that the inspector is requested to
98 perform, and approved by a municipal building inspector or:

- 99 (A) for a school district, a school district building inspector from that school
100 district; or
- 101 (B) for a charter school, a school district building inspector from the school
102 district in which the charter school is located.
- 103 (b) The approval under Subsection (6)(a)(iii) may not be unreasonably withheld.
- 104 (c) If a school district or charter school uses a school district or independent building
105 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall
106 submit to the state superintendent of public instruction and municipal building
107 official, on a monthly basis during construction of the school building, a copy of each
108 inspection certificate regarding the school building.
- 109 (7)(a) A charter school, home-based microschool, or micro-education entity shall be
110 considered a permitted use in all zoning districts within a municipality.
- 111 (b) Each land use application for any approval required for a charter school, home-based
112 microschool, or micro-education entity, including an application for a building
113 permit, shall be processed on a first priority basis.
- 114 (c) Parking requirements for a charter school or a micro-education entity may not exceed
115 the minimum parking requirements for schools or other institutional public uses
116 throughout the municipality.
- 117 (d) If a municipality has designated zones for a sexually oriented business, or a business
118 which sells alcohol, a charter school or a micro-education entity may be prohibited
119 from a location which would otherwise defeat the purpose for the zone unless the
120 charter school or micro-education entity provides a waiver.
- 121 (e)(i) A school district, charter school, or micro-education entity may seek a
122 certificate authorizing permanent occupancy of a school building from:
- 123 (A) the state superintendent of public instruction, as provided in Subsection
124 53E-3-706(3), if the school district or charter school used an independent
125 building inspector for inspection of the school building; or
- 126 (B) a municipal official with authority to issue the certificate, if the school district,
127 charter school, or micro-education entity used a municipal building inspector
128 for inspection of the school building.
- 129 (ii) A school district may issue its own certificate authorizing permanent occupancy
130 of a school building if it used its own building inspector for inspection of the
131 school building, subject to the notification requirement of Subsection 53E-3-706
132 (3)(a)(ii).

- 133 (iii) A charter school or micro-education entity may seek a certificate authorizing
134 permanent occupancy of a school building from a school district official with
135 authority to issue the certificate, if the charter school or micro-education entity
136 used a school district building inspector for inspection of the school building.
- 137 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
138 of public instruction under Subsection 53E-3-706(3) or a school district official
139 with authority to issue the certificate shall be considered to satisfy any municipal
140 requirement for an inspection or a certificate of occupancy.
- 141 (f)(i) A micro-education entity may operate in a facility that meets Group E
142 Occupancy requirements as defined by the International Building Code, as
143 incorporated by Subsection 15A-2-103(1)(a).
- 144 (ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i):
145 (A) may have up to 100 students in the facility; and
146 (B) shall have enough space for at least 20 net square feet per student.
- 147 (g) A micro-education entity may operate in a facility that is subject to and complies
148 with the same occupancy requirements as a Class B Occupancy as defined by the
149 International Building Code, as incorporated by Subsection 15A-2-103(1)(a), if:
- 150 (i) the facility has a code compliant fire alarm system and carbon monoxide detection
151 system;
- 152 (ii)(A) each classroom in the facility has an exit directly to the outside at the level
153 of exit or discharge; or
154 (B) the structure has a code compliant fire sprinkler system;
- 155 (iii) the facility has an automatic fire sprinkler system in fire areas of the facility that
156 are greater than 12,000 square feet; and
- 157 (iv) the facility has enough space for at least 20 net square feet per student.
- 158 (h)(i) A home-based microschool is not subject to additional occupancy
159 requirements beyond occupancy requirements that apply to a primary dwelling,
160 except that the home-based microschool shall have enough space for at least 35
161 net square feet per student.
- 162 (ii) If a floor that is below grade in a home-based microschool is used for home-based
163 microschool purposes, the below grade floor of the home-based microschool shall
164 have at least one emergency escape or rescue window that complies with the
165 requirements for emergency escape and rescue windows as defined by the
166 International Residential Code, as incorporated by Section 15A-1-210.

- 167 (8)(a) A specified public agency intending to develop its land shall submit to the land
168 use authority a development plan and schedule:
- 169 (i) as early as practicable in the development process, but no later than the
170 commencement of construction; and
 - 171 (ii) with sufficient detail to enable the land use authority to assess:
 - 172 (A) the specified public agency's compliance with applicable land use ordinances;
 - 173 (B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b),
174 (c), (d), (e), and (g) caused by the development;
 - 175 (C) the amount of any applicable fee described in Section 10-9a-510;
 - 176 (D) any credit against an impact fee; and
 - 177 (E) the potential for waiving an impact fee.
 - 178 (b) The land use authority shall respond to a specified public agency's submission under
179 Subsection (8)(a) with reasonable promptness in order to allow the specified public
180 agency to consider information the municipality provides under Subsection (8)(a)(ii)
181 in the process of preparing the budget for the development.
- 182 (9) Nothing in this section may be construed to:
- 183 (a) modify or supersede Section 10-9a-304; or
 - 184 (b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance, that
185 fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair
186 Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with
187 Disabilities Act of 1990, 42 U.S.C. Sec. 12102, or any other provision of federal law.
- 188 (10) Nothing in Subsection (7) prevents a political subdivision from:
- 189 (a) requiring a home-based microschool or micro-education entity to comply with
190 municipal zoning and land use regulations that do not conflict with this section,
191 including:
 - 192 (i) parking;
 - 193 (ii) traffic; and
 - 194 (iii) hours of operation;
 - 195 (b) requiring a home-based microschool or micro-education entity to obtain a business
196 license;
 - 197 (c) enacting municipal ordinances and regulations consistent with this section;
 - 198 (d) subjecting a micro-education entity to standards within each zone pertaining to
199 setback, height, bulk and massing regulations, off-site parking, curb cut, traffic
200 circulation, and construction staging; and

201 (e) imposing regulations on the location of a project that are necessary to avoid risks to
202 health or safety.

203 Section 2. Section **17-27a-305** is amended to read:

204 **17-27a-305 . Other entities required to conform to county's land use ordinances**
205 **-- Exceptions -- School districts, charter schools, home-based microschoools, and**
206 **micro-education entities -- Submission of development plan and schedule.**

207 (1)(a) Each county, municipality, school district, charter school, special district, special
208 service district, and political subdivision of the state shall conform to any applicable
209 land use ordinance of any county when installing, constructing, operating, or
210 otherwise using any area, land, or building situated within a mountainous planning
211 district or the unincorporated portion of the county, as applicable.

212 (b) In addition to any other remedies provided by law, when a county's land use
213 ordinance is violated or about to be violated by another political subdivision, that
214 county may institute an injunction, mandamus, abatement, or other appropriate action
215 or proceeding to prevent, enjoin, abate, or remove the improper installation,
216 improvement, or use.

217 (2)(a) Except as provided in [~~Subsection~~] Subsections (2)(b)(i)(A) and (3), a school
218 district or charter school is subject to a county's land use ordinances.

219 (b)(i) Notwithstanding Subsection (3), a county may:

220 (A) subject a charter school but not a school district to standards within each zone
221 pertaining to setback, height, bulk and massing regulations, off-site parking,
222 curb cut, traffic circulation, and construction staging; and

223 (B) impose regulations upon the location of a project that are necessary to avoid
224 unreasonable risks to health or safety, as provided in Subsection (3)(f).

225 (ii) The standards to which a county may subject a charter school under Subsection
226 (2)(b)(i) shall be objective standards only and may not be subjective.

227 (iii) Except as provided in Subsection (7)(d), the only basis upon which a county may
228 deny or withhold approval of a charter school's land use application is the charter
229 school's failure to comply with a standard imposed under Subsection (2)(b)(i).

230 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of
231 an obligation to comply with a requirement of an applicable building or safety
232 code to which it is otherwise obligated to comply.

233 (3) A county may not:

234 (a) impose requirements for landscaping, fencing, aesthetic considerations, construction

- 235 methods or materials, additional building inspections, county building codes,
236 building use for educational purposes, or the placement or use of temporary
237 classroom facilities on school property;
- 238 (b) except as otherwise provided in this section, require a school district or charter
239 school to participate in the cost of any roadway or sidewalk, or a study on the impact
240 of a school on a roadway or sidewalk, that is not reasonably necessary for the safety
241 of school children and not located on or contiguous to school property, unless the
242 roadway or sidewalk is required to connect an otherwise isolated school site to an
243 existing roadway;
- 244 (c) require a district or charter school to pay fees not authorized by this section;
- 245 (d) provide for inspection of school construction or assess a fee or other charges for
246 inspection, unless the school district or charter school is unable to provide for
247 inspection by an inspector, other than the project architect or contractor, who is
248 qualified under criteria established by the state superintendent;
- 249 (e) require a school district or charter school to pay any impact fee for an improvement
250 project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact
251 Fees Act;
- 252 (f) impose regulations upon the location of an educational facility except as necessary to
253 avoid unreasonable risks to health or safety; or
- 254 (g) for a land use or a structure owned or operated by a school district or charter school
255 that is not an educational facility but is used in support of providing instruction to
256 pupils, impose a regulation that:
- 257 (i) is not imposed on a similar land use or structure in the zone in which the land use
258 or structure is approved; or
- 259 (ii) uses the tax exempt status of the school district or charter school as criteria for
260 prohibiting or regulating the land use or location of the structure.
- 261 (4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the
262 siting of a new school with the county in which the school is to be located, to:
- 263 (a) avoid or mitigate existing and potential traffic hazards, including consideration of the
264 impacts between the new school and future highways; and
- 265 (b) maximize school, student, and site safety.
- 266 (5) Notwithstanding Subsection (3)(d), a county may, at its discretion:
- 267 (a) provide a walk-through of school construction at no cost and at a time convenient to
268 the district or charter school; and

- 269 (b) provide recommendations based upon the walk-through.
- 270 (6)(a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:
- 271 (i) a county building inspector;
- 272 (ii)(A) for a school district, a school district building inspector from that school
- 273 district; or
- 274 (B) for a charter school, a school district building inspector from the school
- 275 district in which the charter school is located; or
- 276 (iii) an independent, certified building inspector who is not an employee of the
- 277 contractor, licensed to perform the inspection that the inspector is requested to
- 278 perform, and approved by a county building inspector or:
- 279 (A) for a school district, a school district building inspector from that school
- 280 district; or
- 281 (B) for a charter school, a school district building inspector from the school
- 282 district in which the charter school is located.
- 283 (b) The approval under Subsection (6)(a)(iii) may not be unreasonably withheld.
- 284 (c) If a school district or charter school uses a school district or independent building
- 285 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall
- 286 submit to the state superintendent of public instruction and county building official,
- 287 on a monthly basis during construction of the school building, a copy of each
- 288 inspection certificate regarding the school building.
- 289 (7)(a) A charter school, home-based microschool, or micro-education entity shall be
- 290 considered a permitted use in all zoning districts within a county.
- 291 (b) Each land use application for any approval required for a charter school, home-based
- 292 microschool, or micro-education entity, including an application for a building
- 293 permit, shall be processed on a first priority basis.
- 294 (c) Parking requirements for a charter school or micro-education entity may not exceed
- 295 the minimum parking requirements for schools or other institutional public uses
- 296 throughout the county.
- 297 (d) If a county has designated zones for a sexually oriented business, or a business which
- 298 sells alcohol, a charter school or micro-education entity may be prohibited from a
- 299 location which would otherwise defeat the purpose for the zone unless the charter
- 300 school or micro-education entity provides a waiver.
- 301 (e)(i) A school district, charter school, or micro-education entity may seek a
- 302 certificate authorizing permanent occupancy of a school building from:

- 303 (A) the state superintendent of public instruction, as provided in Subsection
304 53E-3-706(3), if the school district, charter school, or micro-education entity
305 used an independent building inspector for inspection of the school building; or
306 (B) a county official with authority to issue the certificate, if the school district,
307 charter school, or micro-education entity used a county building inspector for
308 inspection of the school building.
- 309 (ii) A school district may issue its own certificate authorizing permanent occupancy
310 of a school building if it used its own building inspector for inspection of the
311 school building, subject to the notification requirement of Subsection 53E-3-706
312 (3)(a)(ii).
- 313 (iii) A charter school or micro-education entity may seek a certificate authorizing
314 permanent occupancy of a school building from a school district official with
315 authority to issue the certificate, if the charter school or micro-education entity
316 used a school district building inspector for inspection of the school building.
- 317 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
318 of public instruction under Subsection 53E-3-706(3) or a school district official
319 with authority to issue the certificate shall be considered to satisfy any county
320 requirement for an inspection or a certificate of occupancy.
- 321 (f)(i) A micro-education entity may operate a facility that meets Group E Occupancy
322 requirements as defined by the International Building Code, as incorporated by
323 Subsection 15A-2-103(1)(a).
- 324 (ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i):
325 (A) may have up to 100 students in the facility; and
326 (B) shall have enough space for at least 20 net square feet per student[;] .
- 327 (g) A micro-education entity may operate a facility that is subject to and complies with
328 the same occupancy requirements as a Class B Occupancy as defined by the
329 International Building Code, as incorporated by Subsection 15A-2-103(1)(a), if:
- 330 (i) the facility has a code compliant fire alarm system and carbon monoxide detection
331 system;
- 332 (ii)(A) each classroom in the facility has an exit directly to the outside at the level
333 of exit discharge; or
334 (B) the structure has a code compliant fire sprinkler system;
- 335 (iii) the facility has an automatic fire sprinkler system in fire areas of the facility that
336 are greater than 12,000 square feet; and

- 337 (iv) the facility has enough space for at least 20 net square feet per student.
- 338 (h)(i) A home-based microschoo is not subject to additional occupancy requirements
339 beyond occupancy requirements that apply to a primary dwelling, except that the
340 home-based microschoo shall have enough space for at least 35 square feet per
341 student.
- 342 (ii) If a floor that is below grade in a home-based microschoo is used for home-based
343 microschoo purposes, the below grade floor of the home-based microschoo shall
344 have at least one emergency escape or rescue window that complies with the
345 requirements for emergency escape and rescue windows as defined by the
346 International Residential Code, as incorporated in Section 15A-1-210.
- 347 (8)(a) A specified public agency intending to develop its land shall submit to the land
348 use authority a development plan and schedule:
- 349 (i) as early as practicable in the development process, but no later than the
350 commencement of construction; and
- 351 (ii) with sufficient detail to enable the land use authority to assess:
- 352 (A) the specified public agency's compliance with applicable land use ordinances;
- 353 (B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b),
354 (c), (d), (e), and (g) caused by the development;
- 355 (C) the amount of any applicable fee described in Section 17-27a-509;
- 356 (D) any credit against an impact fee; and
- 357 (E) the potential for waiving an impact fee.
- 358 (b) The land use authority shall respond to a specified public agency's submission under
359 Subsection (8)(a) with reasonable promptness in order to allow the specified public
360 agency to consider information the municipality provides under Subsection (8)(a)(ii)
361 in the process of preparing the budget for the development.
- 362 (9) Nothing in this section may be construed to:
- 363 (a) modify or supersede Section 17-27a-304; or
- 364 (b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that fails
365 to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing
366 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with
367 Disabilities Act of 1990, 42 U.S.C. Sec. 12102, or any other provision of federal law.
- 368 (10) Nothing in Subsection (7) prevents a political subdivision from:
- 369 (a) requiring a home-based microschoo or micro-education entity to comply with local
370 zoning and land use regulations that do not conflict with this section, including:

- 371 (i) parking;
372 (ii) traffic; and
373 (iii) hours of operation;
374 (b) requiring a home-based microschool or micro-education entity to obtain a business
375 license;
376 (c) enacting county ordinances and regulations consistent with this section;
377 (d) subjecting a micro-education entity to standards within each zone pertaining to
378 setback, height, bulk and massing regulations, off-site parking, curb cut, traffic
379 circulation, and construction staging; and
380 (e) imposing regulations on the location of a project that are necessary to avoid risks to
381 health or safety.
382 (11) Notwithstanding any other provision of law, the proximity restrictions that apply to
383 community locations do not apply to a micro-education entity.

384 **Section 3. Effective Date.**

385 This bill takes effect on May 7, 2025.