

Todd Weiler proposes the following substitute bill:

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Municipal Land Use Exemption Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor:

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LONG TITLE

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General Description:

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This bill addresses entities required to conform to a municipality's land use ordinances.

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Highlighted Provisions:

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This bill:

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▸ provides that a city of the first class may not subject a school district to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking,

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curb cut, traffic circulation, and construction staging; and

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▸ makes technical and conforming changes.

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Money Appropriated in this Bill:

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None

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Other Special Clauses:

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None

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Utah Code Sections Affected:

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AMENDS:

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

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

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

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

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

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(b) In addition to any other remedies provided by law, when a municipality's land use

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30 ordinance is violated or about to be violated by another political subdivision, that
31 municipality may institute an injunction, mandamus, abatement, or other appropriate
32 action or proceeding to prevent, enjoin, abate, or remove the improper installation,
33 improvement, or use.

34 (2)(a) Except as provided in [~~Subsection~~] Subsections (2)(c) and (3), a school district or
35 charter school is subject to a municipality's land use ordinances.

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

37 (A) subject a charter school to standards within each zone pertaining to setback,
38 height, bulk and massing regulations, off-site parking, curb cut, traffic
39 circulation, and construction staging; and

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

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

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

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

51 (c) Notwithstanding Subsection (3), a municipality that is a city of the first class may
52 subject a charter school but not a school district to standards within each zone
53 pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut,
54 traffic circulation, and construction staging.

55 (3) A municipality may not:

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

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

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

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

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

- 166 have at least one emergency escape or rescue window that complies with the
167 requirements for emergency escape and rescue windows as defined by the
168 International Residential Code, as incorporated by Section 15A-1-210.
- 169 (8)(a) A specified public agency intending to develop its land shall submit to the land
170 use authority a development plan and schedule:
- 171 (i) as early as practicable in the development process, but no later than the
172 commencement of construction; and
- 173 (ii) with sufficient detail to enable the land use authority to assess:
- 174 (A) the specified public agency's compliance with applicable land use ordinances;
175 (B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b),
176 (c), (d), (e), and (g) caused by the development;
177 (C) the amount of any applicable fee described in Section 10-9a-510;
178 (D) any credit against an impact fee; and
179 (E) the potential for waiving an impact fee.
- 180 (b) The land use authority shall respond to a specified public agency's submission under
181 Subsection (8)(a) with reasonable promptness in order to allow the specified public
182 agency to consider information the municipality provides under Subsection (8)(a)(ii)
183 in the process of preparing the budget for the development.
- 184 (9) Nothing in this section may be construed to:
- 185 (a) modify or supersede Section 10-9a-304; or
- 186 (b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance, that
187 fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair
188 Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with
189 Disabilities Act of 1990, 42 U.S.C. Sec. 12102, or any other provision of federal law.
- 190 (10) Nothing in Subsection (7) prevents a political subdivision from:
- 191 (a) requiring a home-based microschool or micro-education entity to comply with
192 municipal zoning and land use regulations that do not conflict with this section,
193 including:
- 194 (i) parking;
195 (ii) traffic; and
196 (iii) hours of operation;
- 197 (b) requiring a home-based microschool or micro-education entity to obtain a business
198 license;
- 199 (c) enacting municipal ordinances and regulations consistent with this section;

- 200 (d) subjecting a micro-education entity to standards within each zone pertaining to
- 201 setback, height, bulk and massing regulations, off-site parking, curb cut, traffic
- 202 circulation, and construction staging; and
- 203 (e) imposing regulations on the location of a project that are necessary to avoid risks to
- 204 health or safety.

205 Section 2. **Effective Date.**

206 This bill takes effect on May 7, 2025.