

Todd Weiler proposes the following substitute bill:

1

Municipal Land Use Exemption Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor:

2

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- 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, curb cut, traffic circulation, and construction staging;
- provides a sunset; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

63I-2-210, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

21

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

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

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

(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

- 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)(c) and (3), a school district or
37 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 to standards within each zone pertaining to setback,
40 height, bulk and massing regulations, off-site parking, curb cut, traffic
41 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 (c) Notwithstanding Subsection (3), a municipality that is a city of the first class may
54 subject a charter school but not a school district to standards within each zone
55 pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut,
56 traffic circulation, and construction staging.
- 57 (3) A municipality may not:
- 58 (a) impose requirements for landscaping, fencing, aesthetic considerations, construction
59 methods or materials, additional building inspections, municipal building codes,
60 building use for educational purposes, or the placement or use of temporary
61 classroom facilities on school property;
- 62 (b) except as otherwise provided in this section, require a school district or charter
63 school to participate in the cost of any roadway or sidewalk, or a study on the impact

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

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

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

166 (ii) If a floor that is below grade in a home-based microschool is used for home-based
167 microschool purposes, the below grade floor of the home-based microschool shall
168 have at least one emergency escape or rescue window that complies with the
169 requirements for emergency escape and rescue windows as defined by the
170 International Residential Code, as incorporated by Section 15A-1-210.

171 (8)(a) A specified public agency intending to develop its land shall submit to the land
172 use authority a development plan and schedule:

173 (i) as early as practicable in the development process, but no later than the
174 commencement of construction; and

175 (ii) with sufficient detail to enable the land use authority to assess:

176 (A) the specified public agency's compliance with applicable land use ordinances;

177 (B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b),

178 (c), (d), (e), and (g) caused by the development;

179 (C) the amount of any applicable fee described in Section 10-9a-510;

180 (D) any credit against an impact fee; and

181 (E) the potential for waiving an impact fee.

182 (b) The land use authority shall respond to a specified public agency's submission under
183 Subsection (8)(a) with reasonable promptness in order to allow the specified public
184 agency to consider information the municipality provides under Subsection (8)(a)(ii)
185 in the process of preparing the budget for the development.

186 (9) Nothing in this section may be construed to:

187 (a) modify or supersede Section 10-9a-304; or

188 (b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance, that
189 fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair
190 Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with
191 Disabilities Act of 1990, 42 U.S.C. Sec. 12102, or any other provision of federal law.

192 (10) Nothing in Subsection (7) prevents a political subdivision from:

193 (a) requiring a home-based microschool or micro-education entity to comply with
194 municipal zoning and land use regulations that do not conflict with this section,
195 including:

196 (i) parking;

197 (ii) traffic; and

198 (iii) hours of operation;

199 (b) requiring a home-based microschool or micro-education entity to obtain a business

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

207 Section 2. Section **63I-2-210** is amended to read:

208 **63I-2-210 . Repeal dates: Title 10.**

- 209 (1) Subsection 10-2a-205(2)(b)(iii), regarding a feasibility study for the proposed
- 210 incorporation of a community council area, is repealed July 1, 2028.
- 211 (2) Section 10-2a-205.5, Additional feasibility consultant considerations for proposed
- 212 incorporation of community council area -- Additional feasibility study requirements, is
- 213 repealed July 1, 2028.
- 214 (3)(a) Subsection 10-9a-305(3), regarding a municipality that is a city of the first class
- 215 subjecting a charter school but not a school district to standards within each zone
- 216 pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut,
- 217 traffic circulation, and construction staging, is repealed January 1, 2030.
- 218 (b) On January 1, 2030, Subsection 10-9a-305(2)(a) is amended to read, "Except as
- 219 provided in Subsection (3), a school district or charter school is subject to a
- 220 municipality's land use ordinances."
- 221 [~~3~~] (4) Section 10-9a-604.9, Effective dates of Sections 10-9a-604.1 and 10-9a-604.2, is
- 222 repealed January 1, 2025.

223 Section 3. **Effective Date.**

224 This bill takes effect on May 7, 2025.