

**MUNICIPAL AND COUNTY LAND USE
CHANGES**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Mike Thompson

This act modifies the Utah Municipal Code and provisions relating to Counties to require state and local entities to comply with municipal and county land use ordinances. The act also makes technical changes.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

10-9-104, as last amended by Chapter 55, Laws of Utah 1996

10-9-106, as last amended by Chapter 149, Laws of Utah 1999

17-27-104, as last amended by Chapter 55, Laws of Utah 1996

17-27-105, as last amended by Chapter 149, Laws of Utah 1999

53-7-103, as renumbered and amended by Chapter 234, Laws of Utah 1993

53A-20-102, as last amended by Chapter 10, Laws of Utah 1997

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

Section 1. Section **10-9-104** is amended to read:

10-9-104. Stricter requirements.

(1) Except as provided in Subsection (2), municipalities may enact ordinances imposing stricter requirements or higher standards than are required by this chapter.

(2) A municipality may not impose stricter requirements or higher standards than are required by:

~~[(a) Section 10-9-106;]~~

~~[(b)]~~ (a) Section 10-9-106.5;

~~[(c)]~~ (b) Part 5, Residential Facilities for Elderly Persons; and

~~[(d)]~~ (c) Part 6, Residential Facilities for Handicapped Persons.

28 Section 2. Section **10-9-106** is amended to read:

29 **10-9-106. Property owned by other government units -- Compliance with municipal**
30 **land use ordinances required.**

31 (1) ~~[(a) Each]~~ If installing, constructing, operating, developing, or otherwise using any
32 area, land, or building situated within a municipality, the state and each department, agency, board,
33 commission, and division of the state, however denominated, including each state educational
34 institution, and each county, municipality, school district, special district, and other political
35 subdivision of ~~[Utah shall conform to]~~ the state shall comply with all applicable land use and
36 development ordinances of [any] the municipality [when installing, constructing, operating, or
37 otherwise using any area, land, or building situated within that municipality only in a manner or
38 for a purpose that conforms to that municipality's ordinances].

39 ~~[(b)]~~ (2) In addition to any other remedies provided by law, when a municipality's land use
40 and development ordinances are being violated or about to be violated by the state or by another
41 political subdivision, that municipality may institute an injunction, mandamus, abatement, or other
42 appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation,
43 improvement, or use.

44 ~~[(2) A school district is subject to a municipality's land use regulations under this chapter,~~
45 ~~except that a municipality may not:]~~

46 ~~[(a) impose requirements for landscaping, fencing, aesthetic considerations, construction~~
47 ~~methods or materials, building codes, building use for educational purposes, or the placement or~~
48 ~~use of temporary classroom facilities on school property;]~~

49 ~~[(b) require a school district to participate in the cost of any roadway or sidewalk not~~
50 ~~reasonably necessary for the safety of school children and not located on or contiguous to school~~
51 ~~property, unless the roadway or sidewalk is required to connect an otherwise isolated school site~~
52 ~~to an existing roadway;]~~

53 ~~[(c) require a district to pay fees not authorized by this section;]~~

54 ~~[(d) provide for inspection of school construction or assess a fee or other charges for~~
55 ~~inspection, unless the school district is unable to provide for inspection by an inspector, other than~~
56 ~~the project architect or contractor, who is qualified under criteria established by the state~~
57 ~~superintendent;]~~

58 ~~[(e) require a school district to pay any impact fee for an improvement project that is not~~

59 reasonably related to the impact of the project upon the need that the improvement is to address;
60 or]

61 [~~(f)~~ impose regulations upon the location of a project except as necessary to avoid
62 unreasonable risks to health or safety.]

63 [~~(3)~~ Subject to Section 53A-20-108, a school district shall coordinate the siting of a new
64 school with the municipality in which the school is to be located, to avoid or mitigate existing and
65 potential traffic hazards to maximize school safety.]

66 Section 3. Section **17-27-104** is amended to read:

67 **17-27-104. Stricter requirements.**

68 (1) Except as provided in Subsection (2), counties may enact ordinances imposing stricter
69 requirements or higher standards than are required by this chapter.

70 (2) A county may not impose stricter requirements or higher standards than are required
71 by:

72 [~~(a)~~ Section 17-27-105;]

73 [~~(b)~~ (a) Section 17-27-105.5;

74 [~~(c)~~ (b) Part 5, Residential Facilities for Elderly Persons; and

75 [~~(d)~~ (c) Part 6, Residential Facilities for Handicapped Persons.

76 Section 4. Section **17-27-105** is amended to read:

77 **17-27-105. Property owned by other government units -- Compliance with county**
78 **land use ordinances required.**

79 (1) [~~(a)~~ Each] If installing, constructing, operating, developing, or otherwise using any
80 area, land, or building situated within the unincorporated area of a county, the state and each
81 department, agency, board, commission, and division of the state, however denominated, including
82 each state educational institution, and each county, municipality, school district, special district,
83 and other political subdivision of Utah shall [conform to] comply with the land use and
84 development ordinances of [any] the county [when installing, constructing, operating, or otherwise
85 using any area, land, or building situated within that county only in a manner or for a purpose that
86 conforms to that county's ordinances].

87 [~~(b)~~ (2) In addition to any other remedies provided by law, when a county's land use and
88 development ordinances are being violated or about to be violated by the state or by another
89 political subdivision, that county may institute injunction, mandamus, abatement, or other

90 appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation,
91 improvement, or use.

92 ~~[(2) A school district is subject to a county's land use regulations under this chapter, except~~
93 ~~that a county may not:]~~

94 ~~[(a) impose requirements for landscaping, fencing, aesthetic considerations, construction~~
95 ~~methods or materials, building codes, building use for educational purposes, or the placement or~~
96 ~~use of temporary classroom facilities on school property;]~~

97 ~~[(b) require a school district to participate in the cost of any roadway or sidewalk not~~
98 ~~reasonably necessary for the safety of school children and not located on or contiguous to school~~
99 ~~property, unless the roadway or sidewalk is required to connect an otherwise isolated school site~~
100 ~~to an existing roadway;]~~

101 ~~[(c) require a district to pay fees not authorized by this section;]~~

102 ~~[(d) provide for inspection of school construction or assess a fee or other charges for~~
103 ~~inspection, unless the school district is unable to provide for inspection by an inspector, other than~~
104 ~~the project architect or contractor, who is qualified under criteria established by the state~~
105 ~~superintendent;]~~

106 ~~[(e) require a school district to pay any impact fee for an improvement project that is not~~
107 ~~reasonably related to the impact of the project upon the need that the improvement is to address;~~
108 ~~or]~~

109 ~~[(f) impose regulations upon the location of a project except as necessary to avoid~~
110 ~~unreasonable risks to health or safety.]~~

111 ~~[(3) Subject to Section 53A-20-108, a school district shall coordinate the siting of a new~~
112 ~~school with the county in which the school is to be located, to avoid or mitigate existing and~~
113 ~~potential traffic hazards to maximize school safety.]~~

114 Section 5. Section **53-7-103** is amended to read:

115 **53-7-103. State Fire Marshal Division -- Creation -- State fire marshal --**

116 **Appointment, qualifications, duties, and compensation.**

117 (1) There is created within the department the State Fire Marshal Division.

118 (2) (a) The director of the division is the state fire marshal, who shall be appointed by the
119 commissioner upon the recommendation of the Utah Fire Prevention Board created in Section
120 53-7-203 and with the approval of the governor.

121 (b) The state fire marshal is the executive and administrative head of the division, and shall
122 be qualified by experience and education to enforce rules made under this chapter and perform the
123 duties prescribed by the commissioner.

124 (3) The state fire marshal acts under the supervision and control of the commissioner and
125 may be removed from his position at the will of the commissioner.

126 (4) The state fire marshal shall:

127 (a) enforce rules made under this chapter as provided in accordance with Section 53-7-104;

128 (b) complete the duties assigned by the commissioner;

129 (c) examine plans and specifications for school buildings, as required by Section
130 53A-20-104;

131 (d) approve modifications or additions to plans and specifications for school building
132 construction adopted by the State Board of Education, as required by Section 53A-20-102; and

133 [~~(e) approve criteria established by the state superintendent for building inspectors, as~~
134 ~~required by Sections 10-9-106 and 17-27-105; and]~~

135 [~~(f)~~ (e) perform all other duties provided in this chapter.

136 (5) The state fire marshal shall receive compensation as provided by Title 67, Chapter 19,
137 Utah State Personnel Management Act.

138 Section 6. Section **53A-20-102** is amended to read:

139 **53A-20-102. Superintendent to approve school building project plans -- Conditions**
140 **for approval.**

141 (1) If the total annual accumulative building project costs for any contract for construction
142 or alteration of a school building exceed \$100,000, the superintendent of public instruction or the
143 superintendent's designee must approve and endorse the plans and specifications prior to the
144 commencement of construction or alteration.

145 (2) Approval must be given if it is determined that:

146 (a) the project is necessary to meet program requirements, ensure safety, contain costs,
147 correct existing or reasonably anticipated overcrowding, or resolve some other substantial
148 problem;

149 (b) the plans and specifications provide for functional utility, economy, and a reasonable
150 balance between initial and long-term costs;

151 (c) the plans and specifications comply with the Uniform Building Code, including any

152 modifications or additions adopted by the State Board of Education, with the approval of the state
153 fire marshal, and the State Building Board;

154 (d) the architect for the project has certified that the plans and specifications comply with
155 all standards and building code requirements imposed under this chapter;

156 (e) if the estimated building project cost exceeds \$300,000, the school district has made
157 value engineering reviews of the plans and specifications; and

158 (f) the district has complied with the requirements of [~~Section 10-9-106 or 17-27-105 and~~]
159 Section 53A-20-108.

160 (3) (a) A district may submit project plans and specifications for approval by the state
161 superintendent under this section even though the costs do not exceed the requirements of
162 Subsection (1).

163 (b) If a district chooses to proceed without state superintendent approval on a project
164 exempt from Subsection (1), the district superintendent shall ensure that the requirements of
165 Subsections (2)(c) and (f) are met.

Legislative Review Note
as of 1-17-01 8:47 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel