

**CHARTER SCHOOL CONSTRUCTION**

**AMENDMENTS**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: James A. Ferrin**

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to the construction of charter schools.

**Highlighted Provisions:**

This bill:

- ▶ exempts charter schools from certain municipal land use regulations;
- ▶ exempts charter schools from certain county land use regulations;
- ▶ provides certain land use regulation authority over charter schools for municipalities and counties;
- ▶ allows the termination of the nonconforming status of charter school property when the property ceases to be used for charter school purposes;
- ▶ requires charter schools to provide local governments of intent to purchase a school site or construct a school building; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an immediate effective date.

**Utah Code Sections Affected:**

AMENDS:

**10-9-103**, as last amended by Chapters 34 and 209, Laws of Utah 2000

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

**10-9-408**, as last amended by Chapter 138, Laws of Utah 2004

17-27-103, as last amended by Chapters 66 and 241, Laws of Utah 2001

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

17-27-407, as last amended by Chapter 138, Laws of Utah 2004

53A-20-104, as last amended by Chapter 149, Laws of Utah 1999

53A-20-104.5, as enacted by Chapter 150, Laws of Utah 1999

53A-20-108, as last amended by Chapter 78, Laws of Utah 1990

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

Section 1. Section 10-9-103 is amended to read:

**10-9-103. Definitions -- Notice.**

(1) As used in this chapter:

(a) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(b) "Charter school" includes:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a chartering entity in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

(iii) an entity who is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

~~[(b)]~~ (c) "Chief executive officer" means:

(i) the mayor in municipalities operating under all forms of municipal government except the council-manager form; or

(ii) the city manager in municipalities operating under the council-manager form of municipal government.

~~[(c)]~~ (d) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that

mitigate or eliminate the detrimental impacts.

~~[(d)]~~ (e) "Constitutional taking" has the meaning as defined in Section 63-34-13.

~~[(e)]~~ (f) "County" means the unincorporated area of the county.

~~[(f)]~~ (g) "Elderly person" means a person who is 60 years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

~~[(g)]~~ (h) (i) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality, as set forth in Sections 10-9-301 and 10-9-302.

(ii) "General plan" includes what is also commonly referred to as a "master plan."

~~[(h)]~~ (i) "Legislative body" means the city council or city commission.

~~[(i)]~~ (j) "Lot line adjustment" in a subdivision means the relocation of the property boundary line between two adjoining lots with the consent of the owners of record.

~~[(j)]~~ (k) "Municipality" means a city or town.

~~[(k)]~~ (l) "Nonconforming structure" means a structure that:

- (i) legally existed before its current zoning designation; and
- (ii) because of subsequent zoning changes, does not conform with the zoning regulation's setback, height restrictions, or other regulations that govern the structure.

~~[(l)]~~ (m) "Nonconforming use" means a use of land that:

- (i) legally existed before its current zoning designation;
- (ii) has been maintained continuously since the time the zoning regulation governing the land changed; and
- (iii) because of subsequent zoning changes, does not conform with the zoning regulations that now govern the land.

~~[(m)]~~ (n) "Official map" has the same meaning as provided in Section 72-5-401.

~~[(n)]~~ (o) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 10-9-804.

~~[(o)]~~ (p) "Record of survey map" means a map of a survey of land prepared in accordance

with Section 17-23-17.

~~[(p)]~~ (q) (i) "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that meets the requirements of Part 5 and any ordinance adopted under authority of that part.

(ii) "Residential facility for elderly persons" does not include a health care facility as defined by Section 26-21-2.

~~[(r)]~~ (r) "Special district" means all entities established under the authority of Title 17A, Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or unit of the state.

~~[(s)]~~ (s) "Street" means public rights-of-way, including highways, avenues, boulevards, parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements, and other ways.

~~[(t)]~~ (t) (i) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(ii) "Subdivision" includes:

(A) the division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument; and

(B) except as provided in Subsection (1)~~[(s)]~~ (t)(iii), divisions of land for all residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(iii) "Subdivision" does not include:

(A) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable zoning ordinance;

(B) a recorded agreement between owners of adjoining properties adjusting their mutual

boundary if:

- (I) no new lot is created; and
- (II) the adjustment does not result in a violation of applicable zoning ordinances; or
- (C) a recorded document, executed by the owner of record, revising the legal description

of more than one contiguous parcel of property into one legal description encompassing all such parcels of property.

(iv) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a "subdivision" under this Subsection (1)~~(s)~~ (t) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

~~(t)~~ (u) "Unincorporated" means the area outside of the incorporated boundaries of cities and towns.

(2) (a) A municipality meets the requirements of reasonable notice required by this chapter if it:

(i) posts notice of the hearing or meeting in at least three public places within the jurisdiction and publishes notice of the hearing or meeting in a newspaper of general circulation in the jurisdiction, if one is available; or

(ii) gives actual notice of the hearing or meeting.

(b) A municipal legislative body may enact an ordinance establishing stricter notice requirements than those required by this Subsection (2).

(c) (i) Proof that one of the two forms of notice authorized by this Subsection (2) was given is prima facie evidence that notice was properly given.

(ii) If notice given under authority of this section is not challenged as provided in Section 10-9-1001 within 30 days from the date of the meeting for which the notice was given, the notice is considered adequate and proper.

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

**10-9-106. Property owned by other government units -- Effect of land use and development ordinances.**

(1) (a) Each county, municipality, school district, charter school, special district, and political subdivision of Utah shall conform to the land use and development ordinances of any municipality when installing, constructing, operating, or otherwise using any area, land, or building situated within that municipality only in a manner or for a purpose that conforms to that municipality's ordinances.

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

(2) A school district or charter school is subject to a municipality's land use regulations under this chapter, except that a municipality may not:

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

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

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

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

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

(f) impose regulations upon the location of a project except as necessary to avoid

unreasonable risks to health or safety.

(3) Subject to Section 53A-20-108, a school district or charter school shall coordinate the siting of a new school with the municipality in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) to maximize school, student, and site safety.

(4) Notwithstanding Subsection (2)(d), a municipality may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(5) (a) Notwithstanding Subsection (2)(d), a school district or charter school shall use:

(i) a municipal building inspector;

(ii) a school district building inspector; or

(iii) an independent, certified building inspector who is:

(A) not an employee of the contractor; and

(B) approved and supervised by a municipal building inspector or a school district building inspector.

(b) The approval under Subsection (5)(a)(iii)(B) may not be unreasonably withheld.

(6) (a) A charter school shall be:

(i) considered a permitted use and shall be processed on a first priority basis in all zoning districts within a municipality; and

(ii) subject only to objective standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging requirements.

(b) Parking requirements for a charter school may not exceed the minimum parking requirements for schools or other institutional public uses throughout the municipality.

(c) If a municipality has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school may be prohibited from a location which would otherwise

defeat the purpose for the zone unless the charter school provides a waiver.

Section 3. Section **10-9-408** is amended to read:

**10-9-408. Nonconforming uses and structures.**

(1) (a) Except as provided in this section, a nonconforming use or structure may be continued.

(b) A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.

(c) For purposes of this Subsection (1), the addition of a solar energy device to a building is not a structural alteration.

(2) The legislative body may provide in any zoning ordinance or amendment for:

(a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the zoning ordinance;

(b) the termination of all nonconforming uses, except billboards, by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and

(c) the termination of a billboard that is a nonconforming use by acquiring the billboard and associated property rights through:

- (i) gift;
- (ii) purchase;
- (iii) agreement;
- (iv) exchange; or
- (v) eminent domain.

(3) (a) A municipality is considered to have initiated the acquisition of a billboard structure by eminent domain under Subsection (2)(c)(v) if the municipality prevents a billboard owner from:

(i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged by casualty, an act of God, or vandalism; or

(ii) except as provided in Subsection (3)(b), relocating or rebuilding a billboard structure, or taking other measures, to correct a mistake in the placement or erection of a billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit.

(b) A municipality's denial of a billboard owner's request to relocate or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the placement or erection of a billboard does not constitute the initiation of acquisition by eminent domain under Subsection (3)(a) if the mistake in placement or erection of the billboard is determined by clear and convincing evidence to have resulted from an intentionally false or misleading statement:

- (i) by the billboard applicant in the application; and
- (ii) regarding the placement or erection of the billboard.

(4) Notwithstanding Subsections (2) and (3), a municipality may remove a billboard without providing compensation if:

(a) the municipality determines:

(i) by clear and convincing evidence that the applicant for a permit intentionally made a false or misleading statement in the applicant's application regarding the placement or erection of the billboard; or

(ii) by substantial evidence that the billboard:

- (A) is structurally unsafe;
- (B) is in an unreasonable state of repair; or
- (C) has been abandoned for at least 12 months;

(b) the municipality notifies the owner in writing that the owner's billboard meets one or more of the conditions listed in Subsections (4)(a)(i) and (ii);

(c) the owner fails to remedy the condition or conditions within:

(i) except as provided in Subsection (4)(c)(ii), 90 days following the billboard owner's receipt of written notice under Subsection (4)(b); or

(ii) if the condition forming the basis of the municipality's intention to remove the billboard is that it is structurally unsafe, ten business days, or a longer period if necessary because

of a natural disaster, following the billboard owner's receipt of written notice under Subsection (4)(b); and

(d) following the expiration of the applicable period under Subsection (4)(c) and after providing the owner with reasonable notice of proceedings and an opportunity for a hearing, the municipality finds:

(i) by clear and convincing evidence, that the applicant for a permit intentionally made a false or misleading statement in the application regarding the placement or erection of the billboard; or

(ii) by substantial evidence that the billboard is structurally unsafe, is in an unreasonable state of repair, or has been abandoned for at least 12 months.

(5) A municipality may not allow a nonconforming billboard to be rebuilt for a reason other than:

(a) those specified in Subsections (3) and (4);

(b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and

(c) those specified in the municipality's ordinance requiring or allowing a billboard owner to relocate and rebuild an existing nonconforming billboard to an area within the municipality where outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.

(6) A municipality may terminate the nonconforming status of school district or charter school property when the property ceases to be used for school district or charter school purposes.

Section 4. Section **17-27-103** is amended to read:

**17-27-103. Definitions -- Notice.**

(1) As used in this chapter:

(a) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(b) "Charter school" includes:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a chartering entity in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

(iii) an entity who is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

~~(b)~~ (c) "Chief executive officer" means the person or body that exercises the executive powers of the county.

~~(e)~~ (d) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

~~(d)~~ (e) "Constitutional taking" has the meaning as defined in Section 63-34-13.

~~(e)~~ (f) "County" means the unincorporated area of the county.

~~(f)~~ (g) "Elderly person" means a person who is 60 years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

~~(g)~~ (h) "Gas corporation" has the same meaning as defined in Section 54-2-1.

~~(h)~~ (i) (i) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of the land within the county, as set forth in Sections 17-27-301 and 17-27-302.

(ii) "General plan" includes what is also commonly referred to as a "master plan."

~~(i)~~ (j) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

~~(j)~~ (k) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

~~(k)~~ (l) "Legislative body" means the county legislative body, or for a county that has

adopted an alternative form of government, the body exercising legislative powers.

~~[(f)]~~ (m) "Lot line adjustment" means the relocation of the property boundary line between two adjoining lots with the consent of the owners of record.

~~[(m)]~~ (n) "Municipality" means a city or town.

~~[(n)]~~ (o) "Nonconforming structure" means a structure that:

- (i) legally existed before its current zoning designation; and
- (ii) because of subsequent zoning changes, does not conform with the zoning regulation's setback, height restrictions, or other regulations that govern the structure.

~~[(o)]~~ (p) "Nonconforming use" means a use of land that:

- (i) legally existed before its current zoning designation;
- (ii) has been maintained continuously since the time the zoning regulation governing the land changed; and
- (iii) because of subsequent zoning changes, does not conform with the zoning regulations that now govern the land.

~~[(p)]~~ (q) "Official map" has the same meaning as provided in Section 72-5-401.

~~[(q)]~~ (r) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

~~[(r)]~~ (s) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 17-27-804.

~~[(s)]~~ (t) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

~~[(t)]~~ (u) (i) "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that meets the requirements of Part 5 and any ordinance adopted under authority of that part.

(ii) "Residential facility for elderly persons" does not include a health care facility as defined by Section 26-21-2.

~~[(u)]~~ (v) "Special district" means all entities established under the authority of Title 17A, Special Districts, and any other governmental or quasi-governmental entity that is not a county,

municipality, school district, or unit of the state.

~~(w)~~ (w) "Street" means public rights-of-way, including highways, avenues, boulevards, parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements, and other ways.

~~(w)~~ (x) (i) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(ii) "Subdivision" includes the division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument.

(iii) "Subdivision" does not include:

(A) a bona fide division or partition of agricultural land for agricultural purposes;

(B) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(I) no new lot is created; and

(II) the adjustment does not result in a violation of applicable zoning ordinances;

(C) a recorded document, executed by the owner of record, revising the legal description of more than one contiguous parcel of property into one legal description encompassing all such parcels of property; or

(D) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(I) an unmanned facility appurtenant to a pipeline owned or operated by a gas corporation, interstate pipeline company, or intrastate pipeline company; or

(II) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility.

(iv) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a "subdivision" under this Subsection (1)~~(w)~~ (x) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's

subdivision ordinance.

~~[(x)]~~ (y) "Unincorporated" means the area outside of the incorporated boundaries of cities and towns.

(2) (a) A county meets the requirements of reasonable notice required by this chapter if it:

(i) posts notice of the hearing or meeting in at least three public places within the jurisdiction and publishes notice of the hearing or meeting in a newspaper of general circulation in the jurisdiction, if one is available; or

(ii) gives actual notice of the hearing or meeting.

(b) A county legislative body may enact an ordinance establishing stricter notice requirements than those required by this Subsection (2).

(c) (i) Proof that one of the two forms of notice authorized by this Subsection (2) was given is prima facie evidence that notice was properly given.

(ii) If notice given under authority of this section is not challenged as provided in Section 17-27-1001 within 30 days from the date of the meeting for which the notice was given, the notice is considered adequate and proper.

Section 5. Section **17-27-105** is amended to read:

**17-27-105. Property owned by other government units -- Effect of land use and development ordinances.**

(1) (a) Each county, municipality, school district, charter school, special district, and political subdivision of Utah shall conform to the land use and development ordinances of any county when installing, constructing, operating, or otherwise using any area, land, or building situated within that county only in a manner or for a purpose that conforms to that county's ordinances.

(b) In addition to any other remedies provided by law, when a county's land use and development ordinances are being violated or about to be violated by another political subdivision, that county may institute injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement,

or use.

(2) A school district or charter school is subject to a county's land use regulations under this chapter, except that a county may not:

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

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

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

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

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

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

(3) Subject to Section 53A-20-108, a school district or charter school shall coordinate the siting of a new school with the county in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) to maximize school, student, and site safety.

(4) Notwithstanding Subsection (2)(d), a county may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(5) (a) Notwithstanding Subsection (2)(d), a school district or charter school shall use:

(i) a county building inspector;

(ii) a school district building inspector; or

(iii) an independent, certified building inspector who is:

(A) not an employee of the contractor; and

(B) approved and supervised by a county building inspector or a school district building inspector.

(b) The approval under Subsection (5)(a)(iii)(B) may not be unreasonably withheld.

(6) (a) A charter school shall be:

(i) considered a permitted use and shall be processed on a first priority basis in all zoning districts within a county; and

(ii) subject only to objective standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging requirements.

(b) Parking requirements for a charter school may not exceed the minimum parking requirements for schools or other institutional public uses throughout the county.

(c) If a county has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school provides a waiver.

Section 6. Section **17-27-407** is amended to read:

**17-27-407. Nonconforming uses and structures.**

(1) (a) Except as provided in this section, a nonconforming use or structure may be continued.

(b) A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.

(c) For purposes of this Subsection (1), the addition of a solar energy device to a building is not a structural alteration.

(d) If any county acquires title to any property because of tax delinquency and the property is not redeemed as provided by law, the future use of the property shall conform with the existing provisions of the county ordinances equally applicable to other like properties within the district in which the property acquired by the county is located.

(2) The legislative body may provide in any zoning ordinance or amendment for:

(a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the zoning ordinance;

(b) the termination of all nonconforming uses, except billboards by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and

(c) the termination of a billboard that is a nonconforming use by acquiring the billboard and associated property rights through:

(i) gift;

(ii) purchase;

(iii) agreement;

(iv) exchange; or

(v) eminent domain.

(3) (a) A county is considered to have initiated the acquisition of a billboard structure by eminent domain under Subsection (2)(c)(v) if the county prevents a billboard owner from:

(i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged by casualty, an act of God, or vandalism; or

(ii) except as provided in Subsection (3)(b), relocating or rebuilding a billboard structure, or taking other measures, to correct a mistake in the placement or erection of a billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit.

(b) A county's denial of a billboard owner's request to relocate or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the placement or erection of a

billboard does not constitute the initiation of acquisition by eminent domain under Subsection (3)(a) if the mistake in placement or erection of the billboard is determined by clear and convincing evidence to have resulted from an intentionally false or misleading statement:

- (i) by the billboard applicant in the application; and
- (ii) regarding the placement or erection of the billboard.

(4) Notwithstanding Subsections (2) and (3), a county may remove a billboard without providing compensation if:

(a) the county determines:

(i) by clear and convincing evidence that the applicant for a permit intentionally made a false or misleading statement in the applicant's application regarding the placement or erection of the billboard; or

(ii) by substantial evidence that the billboard:

- (A) is structurally unsafe;
- (B) is in an unreasonable state of repair; or
- (C) has been abandoned for at least 12 months;

(b) the county notifies the owner in writing that the owner's billboard meets one or more of the conditions listed in Subsections (4)(a)(i) and (ii);

(c) the owner fails to remedy the condition or conditions within:

(i) except as provided in Subsection (4)(c)(ii), 90 days following the billboard owner's receipt of written notice under Subsection (4)(b); or

(ii) if the condition forming the basis of the county's intention to remove the billboard is that it is structurally unsafe, ten business days, or a longer period if necessary because of a natural disaster, following the billboard owner's receipt of written notice under Subsection (4)(b); and

(d) following the expiration of the applicable period under Subsection (4)(c) and after providing the owner with reasonable notice of proceedings and an opportunity for a hearing, the county finds:

(i) by clear and convincing evidence, that the applicant for a permit intentionally made a

false or misleading statement in the application regarding the placement or erection of the billboard; or

(ii) by substantial evidence that the billboard is structurally unsafe, is in an unreasonable state of repair, or has been abandoned for at least 12 months.

(5) A county may not allow a nonconforming billboard to be rebuilt for a reason other than:

(a) those specified in Subsections (3) and (4);

(b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and

(c) those specified in the county's ordinance requiring or allowing a billboard owner to relocate and rebuild an existing nonconforming billboard to an area within the county where outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.

(6) A county may terminate the nonconforming status of school district or charter school property when the property ceases to be used for school district or charter school purposes.

Section 7. Section **53A-20-104** is amended to read:

**53A-20-104. Enforcement of chapter by state superintendent -- Employment of personnel -- Certificate of occupancy.**

(1) The state superintendent of public instruction shall enforce this chapter.

(2) The superintendent may employ architects or other qualified personnel, or contract with the State Building Board, the state fire marshal, or a local governmental entity to:

(a) examine the plans and specifications of any school building or alteration submitted under this chapter;

(b) verify the inspection of any school building during or following construction; and

(c) perform other functions necessary to ensure compliance with this chapter.

(3) (a) A local school board or charter school shall file certificates of occupancy with the local governmental entity's building official and the State Office of Education for the purpose of advising those entities that the school district or charter school has complied with the inspection provisions of this chapter.

(b) For purposes of this Subsection (3):

(i) "local governmental entity" means either a municipality, for a school building located within a municipality, or a county, for a school building located within an unincorporated area in the county; and

(ii) "certificate of occupancy" means standard inspection forms developed by the state superintendent in consultation with local school boards and charter schools to verify that inspections by qualified inspectors have occurred.

Section 8. Section **53A-20-104.5** is amended to read:

**53A-20-104.5. School building construction and inspection manual -- Annual construction and inspection conference -- Verification of school construction inspections.**

(1) (a) The State Board of Education, through the state superintendent of public instruction, shall develop and distribute to each school district a school building construction and inspection resource manual.

(b) The manual shall be provided to a charter school upon request of the charter school.

(2) (a) The manual shall include current legal requirements and information on school building construction and inspections.

(b) The state superintendent shall review and update the manual at least once every three years.

(3) The board shall provide for an annual school construction conference to allow a representative from each school district and charter school to:

(a) receive current information on the design, construction, and inspection of school buildings;

(b) receive training on such matters as:

(i) using properly certified building inspectors;

(ii) filing construction inspection summary reports and the final inspection certification with the local governmental authority's building official;

(iii) the roles and relationships between a school district or charter school and the local governmental authority, either a county or municipality, as related to the construction and

inspection of school buildings; and

(iv) adequate documentation of school building inspections; and

(c) provide input on any changes that may be needed to improve the existing school building inspection program.

(4) ~~(a)~~ The board shall develop a process to verify that inspections by qualified inspectors occur in each school district or charter school.

~~[(b) The board shall make a report on its implementation of the process to the Education Interim Committee prior to the 2000 Legislative General Session.]~~

Section 9. Section **53A-20-108** is amended to read:

**53A-20-108. Notification to local government of intent to purchase school site or construction of school building -- Negotiation of fees -- Confidentiality.**

(1) (a) A school district or charter school shall notify the affected local governmental entity without delay prior to the purchase of a school site or construction of a school building of its intent to purchase or construct.

(b) Representatives of the local governmental entity and the school district or charter school shall meet as soon as possible after delivery of the notice under Subsection (1)(a) to:

(i) discuss concerns that each may have, including potential community impacts and site safety;

(ii) assess the availability of infrastructure for the site; and

(iii) discuss any fees that might be charged by the local governmental entity in connection with a building project.

(2) Representatives of the local governmental entity and the school district or charter school shall meet as soon as possible after the purchase of a school site to discuss concerns that each may have, including potential community impacts, and to negotiate any fees that might be charged by the local governmental entity in connection with a building project.

(3) A local governmental entity may not increase a previously agreed-upon fee after the district or charter school has signed contracts to begin construction.

(4) Prior to the filing of a formal application by the affected school district or charter

school, a local governmental entity may not disclose information obtained from a school district or charter school regarding the district's or charter school's consideration of, or intent to, purchase a school site or construct a school building, without first obtaining the consent of the district or charter school.

Section 10. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.