

**Representative James A. Ferrin** proposes the following substitute bill:

**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;
- ▶ 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



- 26           **10-9-106**, as last amended by Chapter 149, Laws of Utah 1999
- 27           **10-9-408**, as last amended by Chapter 138, Laws of Utah 2004
- 28           **17-27-103**, as last amended by Chapters 66 and 241, Laws of Utah 2001
- 29           **17-27-105**, as last amended by Chapter 149, Laws of Utah 1999
- 30           **17-27-407**, as last amended by Chapter 138, Laws of Utah 2004
- 31           **53A-20-104**, as last amended by Chapter 149, Laws of Utah 1999
- 32           **53A-20-104.5**, as enacted by Chapter 150, Laws of Utah 1999
- 33           **53A-20-108**, as last amended by Chapter 78, Laws of Utah 1990

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

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

37           **10-9-103. Definitions -- Notice.**

38           (1) As used in this chapter:

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

42           (b) "Charter school" includes:

43           (i) an operating charter school;

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

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

48           ~~(b)~~ (c) "Chief executive officer" means:

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

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

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

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

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

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

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

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

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

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

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

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

71           (i) legally existed before its current zoning designation; and

72           (ii) because of subsequent zoning changes, does not conform with the zoning  
73 regulation's setback, height restrictions, or other regulations that govern the structure.

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

75           (i) legally existed before its current zoning designation;

76           (ii) has been maintained continuously since the time the zoning regulation governing  
77 the land changed; and

78           (iii) because of subsequent zoning changes, does not conform with the zoning  
79 regulations that now govern the land.

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

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

83           ~~[(o)]~~ (p) "Record of survey map" means a map of a survey of land prepared in  
84 accordance with Section 17-23-17.

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

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

90 ~~[(t)]~~ (r) "Special district" means all entities established under the authority of Title  
91 17A, Special Districts, and any other governmental or quasi-governmental entity that is not a  
92 county, municipality, school district, or unit of the state.

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

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

100 (ii) "Subdivision" includes:

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

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

106 (iii) "Subdivision" does not include:

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

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

113 (I) no new lot is created; and

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

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

118 (iv) The joining of a subdivided parcel of property to another parcel of property that

119 has not been subdivided does not constitute a "subdivision" under this Subsection (1)(s) as to  
120 the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's  
121 subdivision ordinance.

122 [ (t) ] (u) "Unincorporated" means the area outside of the incorporated boundaries of  
123 cities and towns.

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

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

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

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

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

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

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

138 **10-9-106. Property owned by other government units -- Effect of land use and**  
139 **development ordinances.**

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

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

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

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

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

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

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

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

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

169 (3) Subject to Section 53A-20-108, a school district or charter school shall coordinate  
170 the siting of a new school with the municipality in which the school is to be located, to avoid or  
171 mitigate existing and potential traffic hazards to maximize school safety.

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

173 **10-9-408. Nonconforming uses and structures.**

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

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

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

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

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

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

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

189 (i) gift;

190 (ii) purchase;

191 (iii) agreement;

192 (iv) exchange; or

193 (v) eminent domain.

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

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

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

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

208 (i) by the billboard applicant in the application; and

209 (ii) regarding the placement or erection of the billboard.

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

212 (a) the municipality determines:  
213 (i) by clear and convincing evidence that the applicant for a permit intentionally made a  
214 false or misleading statement in the applicant's application regarding the placement or erection  
215 of the billboard; or  
216 (ii) by substantial evidence that the billboard:  
217 (A) is structurally unsafe;  
218 (B) is in an unreasonable state of repair; or  
219 (C) has been abandoned for at least 12 months;  
220 (b) the municipality notifies the owner in writing that the owner's billboard meets one  
221 or more of the conditions listed in Subsections (4)(a)(i) and (ii);  
222 (c) the owner fails to remedy the condition or conditions within:  
223 (i) except as provided in Subsection (4)(c)(ii), 90 days following the billboard owner's  
224 receipt of written notice under Subsection (4)(b); or  
225 (ii) if the condition forming the basis of the municipality's intention to remove the  
226 billboard is that it is structurally unsafe, ten business days, or a longer period if necessary  
227 because of a natural disaster, following the billboard owner's receipt of written notice under  
228 Subsection (4)(b); and  
229 (d) following the expiration of the applicable period under Subsection (4)(c) and after  
230 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,  
231 the municipality finds:  
232 (i) by clear and convincing evidence, that the applicant for a permit intentionally made  
233 a false or misleading statement in the application regarding the placement or erection of the  
234 billboard; or  
235 (ii) by substantial evidence that the billboard is structurally unsafe, is in an  
236 unreasonable state of repair, or has been abandoned for at least 12 months.  
237 (5) A municipality may not allow a nonconforming billboard to be rebuilt for a reason  
238 other than:  
239 (a) those specified in Subsections (3) and (4);  
240 (b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and  
241 (c) those specified in the municipality's ordinance requiring or allowing a billboard  
242 owner to relocate and rebuild an existing nonconforming billboard to an area within the

243 municipality where outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5,  
244 Utah Outdoor Advertising Act.

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

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

249 **17-27-103. Definitions -- Notice.**

250 (1) As used in this chapter:

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

254 (b) "Charter school" includes:

255 (i) an operating charter school;

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

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

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

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

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

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

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

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

272 [~~(h)~~] (i) (i) "General plan" means a document that a county adopts that sets forth  
273 general guidelines for proposed future development of the land within the county, as set forth

274 in Sections 17-27-301 and 17-27-302.

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

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

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

282 ~~(k)~~ (l) "Legislative body" means the county legislative body, or for a county that has  
283 adopted an alternative form of government, the body exercising legislative powers.

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

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

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

288 (i) legally existed before its current zoning designation; and

289 (ii) because of subsequent zoning changes, does not conform with the zoning  
290 regulation's setback, height restrictions, or other regulations that govern the structure.

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

292 (i) legally existed before its current zoning designation;

293 (ii) has been maintained continuously since the time the zoning regulation governing  
294 the land changed; and

295 (iii) because of subsequent zoning changes, does not conform with the zoning

296 regulations that now govern the land.

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

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

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

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

304 ~~(t)~~ (u) (i) "Residential facility for elderly persons" means a single-family or

305 multiple-family dwelling unit that meets the requirements of Part 5 and any ordinance adopted  
306 under authority of that part.

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

309 [~~(v)~~] (v) "Special district" means all entities established under the authority of Title  
310 17A, Special Districts, and any other governmental or quasi-governmental entity that is not a  
311 county, municipality, school district, or unit of the state.

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

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

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

321 (iii) "Subdivision" does not include:

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

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

325 (I) no new lot is created; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

356 **17-27-105. Property owned by other government units -- Effect of land use and**  
357 **development ordinances.**

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

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

367 improvement, or use.

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

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

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

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

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

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

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

387 (3) Subject to Section 53A-20-108, a school district or charter school shall coordinate  
388 the siting of a new school with the county in which the school is to be located, to avoid or  
389 mitigate existing and potential traffic hazards to maximize school safety.

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

391 **17-27-407. Nonconforming uses and structures.**

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

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

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

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

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

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

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

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

411 (i) gift;

412 (ii) purchase;

413 (iii) agreement;

414 (iv) exchange; or

415 (v) eminent domain.

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

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

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

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

- 429 (i) by the billboard applicant in the application; and
- 430 (ii) regarding the placement or erection of the billboard.
- 431 (4) Notwithstanding Subsections (2) and (3), a county may remove a billboard without
- 432 providing compensation if:
- 433 (a) the county determines:
- 434 (i) by clear and convincing evidence that the applicant for a permit intentionally made a
- 435 false or misleading statement in the applicant's application regarding the placement or erection
- 436 of the billboard; or
- 437 (ii) by substantial evidence that the billboard:
- 438 (A) is structurally unsafe;
- 439 (B) is in an unreasonable state of repair; or
- 440 (C) has been abandoned for at least 12 months;
- 441 (b) the county notifies the owner in writing that the owner's billboard meets one or
- 442 more of the conditions listed in Subsections (4)(a)(i) and (ii);
- 443 (c) the owner fails to remedy the condition or conditions within:
- 444 (i) except as provided in Subsection (4)(c)(ii), 90 days following the billboard owner's
- 445 receipt of written notice under Subsection (4)(b); or
- 446 (ii) if the condition forming the basis of the county's intention to remove the billboard
- 447 is that it is structurally unsafe, ten business days, or a longer period if necessary because of a
- 448 natural disaster, following the billboard owner's receipt of written notice under Subsection
- 449 (4)(b); and
- 450 (d) following the expiration of the applicable period under Subsection (4)(c) and after
- 451 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
- 452 the county finds:
- 453 (i) by clear and convincing evidence, that the applicant for a permit intentionally made
- 454 a false or misleading statement in the application regarding the placement or erection of the
- 455 billboard; or
- 456 (ii) by substantial evidence that the billboard is structurally unsafe, is in an
- 457 unreasonable state of repair, or has been abandoned for at least 12 months.
- 458 (5) A county may not allow a nonconforming billboard to be rebuilt for a reason other
- 459 than:

- 460 (a) those specified in Subsections (3) and (4);
- 461 (b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and
- 462 (c) those specified in the county's ordinance requiring or allowing a billboard owner to
- 463 relocate and rebuild an existing nonconforming billboard to an area within the county where
- 464 outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5, Utah Outdoor
- 465 Advertising Act.

466 (6) A county may terminate the nonconforming status of school district or charter

467 school property when the property ceases to be used for school district or charter school

468 purposes.

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

470 **53A-20-104. Enforcement of chapter by state superintendent -- Employment of**

471 **personnel -- Certificate of occupancy.**

- 472 (1) The state superintendent of public instruction shall enforce this chapter.
- 473 (2) The superintendent may employ architects or other qualified personnel, or contract
- 474 with the State Building Board, the state fire marshal, or a local governmental entity to:

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

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

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

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

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

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

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

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

491           **53A-20-104.5. School building construction and inspection manual -- Annual**  
492 **construction and inspection conference -- Verification of school construction inspections.**

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

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

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

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

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

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

505           (b) receive training on such matters as:

506           (i) using properly certified building inspectors;

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

509           (iii) the roles and relationships between a school district or charter school and the local  
510 governmental authority, either a county or municipality, as related to the construction and  
511 inspection of school buildings; and

512           (iv) adequate documentation of school building inspections; and

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

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

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

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

520           **53A-20-108. Notification to local government of intent to purchase school site or**  
521 **construction of school building -- Negotiation of fees -- Confidentiality.**

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

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

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

531 (4) Prior to the filing of a formal application by the affected school district or charter  
532 school, a local governmental entity may not disclose information obtained from a school  
533 district or charter school regarding the district's or charter school's consideration of, or intent to,  
534 purchase a school site or construct a school building, without first obtaining the consent of the  
535 district or charter school.

536 Section 10. **Effective date.**

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

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**Fiscal Note**  
**Bill Number HB0036S01**

**Charter School Construction Amendments**

*25-Jan-05*

*7:49 AM*

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**