

1                                   **STUDENT HOUSING BUILT BY HIGHER**  
2                                   **EDUCATION INSTITUTIONS**

3                                   2005 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Sponsor: Stephen D. Clark**

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7 **LONG TITLE**

8 **General Description:**

9                   This bill modifies county and municipal land use and development provisions to  
10 address student housing built by institutions of higher education.

11 **Highlighted Provisions:**

12                   This bill:

13                   ▶ requires institutions of higher education to comply with county and municipal land  
14 use and development ordinances when building student housing next to residential  
15 property.

16 **Monies Appropriated in this Bill:**

17                   None

18 **Other Special Clauses:**

19                   None

20 **Utah Code Sections Affected:**

21 **AMENDS:**

22                   **10-9-106**, as last amended by Chapter 149, Laws of Utah 1999

23                   **17-27-105**, as last amended by Chapter 149, Laws of Utah 1999

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

26                   Section 1. Section **10-9-106** is amended to read:

27                   **10-9-106. Property owned by other government units -- Effect of land use and**



28 **development ordinances.**

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

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

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

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

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

48 (c) require a district to pay fees not authorized by this section;

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

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

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

58 (3) Subject to Section 53A-20-108, a school district shall coordinate the siting of a new

59 school with the municipality in which the school is to be located, to avoid or mitigate existing  
60 and potential traffic hazards to maximize school safety.

61 (4) Each institution of higher education shall conform to the land use and development  
62 ordinances of a municipality with respect to student housing projects on property located  
63 within the municipality and owned by the institution of higher education if the project borders  
64 or is within 100 feet of privately owned residential property within the municipality.

65 Section 2. Section **17-27-105** is amended to read:

66 **17-27-105. Property owned by other government units -- Effect of land use and**  
67 **development ordinances.**

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

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

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

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

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

86 (c) require a district to pay fees not authorized by this section;

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

90 superintendent;

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

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

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

99 (4) Each institution of higher education shall conform to the land use and development  
100 ordinances of a county with respect to student housing projects on property located within the  
101 unincorporated area of the county and owned by the institution of higher education if the  
102 project borders or is within 100 feet of privately owned residential property within the  
103 unincorporated area of the county.

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**Legislative Review Note**  
**as of 1-6-05 10:50 AM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HB0103**

**Student Housing Built by Higher Education Institutions**

*01-Feb-05*

*10:53 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**