

**COUNTY AND MUNICIPAL LAND USE
PROVISIONS REGARDING SCHOOLS**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Larry B. Wiley

Senate Sponsor: Scott D. McCoy

LONG TITLE

General Description:

This bill modifies county and municipal land use provisions relating to schools.

Highlighted Provisions:

This bill:

- ▶ adds additional building inspections to a list of requirements that a county and municipality may not impose on school districts or charter schools;
- ▶ modifies the criteria for an improvement project for which a county and municipality may not require a school district or charter school to pay an impact fee;
- ▶ clarifies that a school district building inspector that a school district or charter school may use is, for the school district, the school district's inspector or, for the charter school, the building inspector from the district in which the charter school is located; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-305, as last amended by Chapter 364, Laws of Utah 2006

17-27a-305, as last amended by Chapter 364, Laws of Utah 2006

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31 *Be it enacted by the Legislature of the state of Utah:*32 Section 1. Section **10-9a-305** is amended to read:33 **10-9a-305. Other entities required to conform to municipality's land use**
34 **ordinances -- Exceptions -- School districts and charter schools.**35 (1) (a) Each county, municipality, school district, charter school, special district, and
36 political subdivision of the state shall conform to any applicable land use ordinance of any
37 municipality when installing, constructing, operating, or otherwise using any area, land, or
38 building situated within that municipality.39 (b) In addition to any other remedies provided by law, when a municipality's land use
40 [~~ordinances~~] ordinance is violated or about to be violated by another political subdivision, that
41 municipality may institute an injunction, mandamus, abatement, or other appropriate action or
42 proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.43 (2) (a) Except as provided in Subsection (3), a school district or charter school is
44 subject to a municipality's land use ordinances.45 (b) (i) Notwithstanding Subsection (3), a municipality may:46 (A) [~~may~~] subject a charter school to standards within each zone pertaining to setback,
47 height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and
48 construction staging[-]; and49 (B) impose regulations upon the location of a project that are necessary to avoid
50 unreasonable risks to health or safety, as provided in Subsection (3)(f).51 (ii) The standards to which a municipality may subject a charter school under
52 Subsection (2)(b)(i) shall be objective standards only and may not be subjective.53 (iii) Except as provided in Subsection (7)(d), the only basis upon which a municipality
54 may deny or withhold approval of a charter school's land use application is the charter school's
55 failure to comply with a standard imposed under Subsection (2)(b)(i).56 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an
57 obligation to comply with a requirement of an applicable building or safety code to which it is

58 otherwise obligated to comply.

59 (3) A municipality may not:

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

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

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

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

74 (e) require a school district or charter school to pay any impact fee for an improvement
75 project [that] unless the impact fee is [not reasonably related to the impact of the project upon
76 the need that the improvement is to address] imposed as provided in Title 11, Chapter 36,
77 Impact Fees Act; or

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

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

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

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

85 (5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:

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

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

89 (6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

90 (i) a municipal building inspector;

91 (ii) (A) for a school district, a school district building inspector from that school
92 district; or

93 (B) for a charter school, a school district building inspector from the school district in
94 which the charter school is located; or

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

96 (A) not an employee of the contractor;

97 (B) approved by:

98 (I) a municipal building inspector; or

99 (II) (Aa) for a school district, a school district building inspector from that school
100 district; or

101 (Bb) for a charter school, a school district building inspector from the school district in
102 which the charter school is located; and

103 (C) licensed to perform the inspection that the inspector is requested to perform.

104 (b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.

105 (c) If a school district or charter school uses ~~an~~ a school district or independent
106 building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall
107 submit to the state superintendent of public instruction and municipal building official, on a
108 monthly basis during construction of the school building, a copy of each inspection certificate
109 regarding the school building.

110 (7) (a) A charter school shall be considered a permitted use in all zoning districts
111 within a municipality.

112 (b) Each land use application for any approval required for a charter school, including
113 an application for a building permit, shall be processed on a first priority basis.

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

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

119 (e) (i) A school district or a charter school may seek a certificate authorizing permanent
120 occupancy of a school building from:

121 (A) the state superintendent of public instruction, as provided in Subsection
122 53A-20-104(3), if the school district or charter school used an independent building inspector
123 for inspection of the school building; or

124 (B) a municipal official with authority to issue the certificate, if the school district or
125 charter school used a municipal building inspector for inspection of the school building.

126 (ii) A school district may issue its own certificate authorizing permanent occupancy of
127 a school building if it used its own building inspector for inspection of the school building,
128 subject to the notification requirement of Subsection 53A-20-104(3)(a)(ii).

129 (iii) A charter school may seek a certificate authorizing permanent occupancy of a
130 school building from a school district official with authority to issue the certificate, if the
131 charter school used a school district building inspector for inspection of the school building.

132 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
133 of public instruction under Subsection 53A-20-104(3) or a school district official with authority
134 to issue the certificate shall be considered to satisfy any municipal requirement for an
135 inspection or a certificate of occupancy.

136 Section 2. Section **17-27a-305** is amended to read:

137 **17-27a-305. Other entities required to conform to county's land use ordinances --**
138 **Exceptions -- School districts and charter schools.**

139 (1) (a) Each county, municipality, school district, charter school, special district, and
140 political subdivision of the state shall conform to any applicable land use ordinance of any
141 county when installing, constructing, operating, or otherwise using any area, land, or building

142 situated within the unincorporated portion of the county.

143 (b) In addition to any other remedies provided by law, when a county's land use
144 ordinance is violated or about to be violated by another political subdivision, that county may
145 institute an injunction, mandamus, abatement, or other appropriate action or proceeding to
146 prevent, enjoin, abate, or remove the improper installation, improvement, or use.

147 (2) (a) Except as provided in Subsection (3), a school district or charter school is
148 subject to a county's land use ordinances.

149 (b) (i) Notwithstanding Subsection (3), a county may:

150 (A) subject a charter school to standards within each zone pertaining to setback, height,
151 bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction
152 staging[-]; and

153 (B) impose regulations upon the location of a project that are necessary to avoid
154 unreasonable risks to health or safety, as provided in Subsection (3)(f).

155 (ii) The standards to which a county may subject a charter school under Subsection
156 (2)(b)(i) shall be objective standards only and may not be subjective.

157 (iii) Except as provided in Subsection (7)(d), the only basis upon which a county may
158 deny or withhold approval of a charter school's land use application is the charter school's
159 failure to comply with a standard imposed under Subsection (2)(b)(i).

160 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an
161 obligation to comply with a requirement of an applicable building or safety code to which it is
162 otherwise obligated to comply.

163 (3) A county may not:

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

168 (b) except as otherwise provided in this section, require a school district or charter
169 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a

170 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school
171 children and not located on or contiguous to school property, unless the roadway or sidewalk is
172 required to connect an otherwise isolated school site to an existing roadway;

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

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

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179 project ~~[that] unless the impact fee is [not reasonably related to the impact of the project upon~~
180 ~~the need that the improvement is to address]~~ imposed as provided in Title 11, Chapter 36,
181 Impact Fees Act; or

182 (f) impose regulations upon the location of a project except as necessary to avoid
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185 the siting of a new school with the county in which the school is to be located, to:

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187 the impacts between the new school and future highways; and

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196 district; or

197 (B) for a charter school, a school district building inspector from the school district in

198 which the charter school is located; or
199 (iii) an independent, certified building inspector who is:
200 (A) not an employee of the contractor;
201 (B) approved by:
202 (I) a county building inspector; or
203 (II) (Aa) for a school district, a school district building inspector from that school
204 district; or
205 (Bb) for a charter school, a school district building inspector from the school district in
206 which the charter school is located; and
207 (C) licensed to perform the inspection that the inspector is requested to perform.
208 (b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.
209 (c) If a school district or charter school uses ~~an~~ a school district or independent
210 building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall
211 submit to the state superintendent of public instruction and county building official, on a
212 monthly basis during construction of the school building, a copy of each inspection certificate
213 regarding the school building.
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215 within a county.
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217 an application for a building permit, shall be processed on a first priority basis.
218 (c) Parking requirements for a charter school may not exceed the minimum parking
219 requirements for schools or other institutional public uses throughout the county.
220 (d) If a county has designated zones for a sexually oriented business, or a business
221 which sells alcohol, a charter school may be prohibited from a location which would otherwise
222 defeat the purpose for the zone unless the charter school provides a waiver.
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224 occupancy of a school building from:
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231 a school building if it used its own building inspector for inspection of the school building,
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235 charter school used a school district building inspector for inspection of the school building.

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