

**MUNICIPAL LAND USE, DEVELOPMENT,
AND MANAGEMENT CHANGES**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sheldon L. Killpack

House Sponsor: Stephen H. Urquhart

LONG TITLE

General Description:

This bill modifies a municipal land use, development, and management provision relating to property owned by other governmental units.

Highlighted Provisions:

This bill:

▶ excludes a permitted or conditional use water or sewer facility from a municipality's land use and other requirements under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:

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

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

Section 1. Section **10-9a-305** is amended to read:

10-9a-305. Other entities required to conform to municipality's land use ordinances -- Exceptions -- School districts and charter schools.



28 (1) (a) ~~Each~~ Except as provided in Subsections (2) through (8), each county,
29 municipality, school district, charter school, special district, and political subdivision of the
30 state shall conform to any applicable land use ordinance of any municipality when installing,
31 constructing, operating, or otherwise using any area, land, or building situated within that
32 municipality.

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

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

39 (b) (i) Notwithstanding Subsection (3), a municipality may subject a charter school to
40 standards within each zone pertaining to setback, height, bulk and massing regulations, off-site
41 parking, curb cut, traffic circulation, and construction staging.

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

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

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

50 (3) A municipality may not:

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

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

- 59 (c) require a district or charter school to pay fees not authorized by this section;
- 60 (d) provide for inspection of school construction or assess a fee or other charges for
- 61 inspection, unless the school district or charter school is unable to provide for inspection by an
- 62 inspector, other than the project architect or contractor, who is qualified under criteria
- 63 established by the state superintendent;
- 64 (e) require a school district or charter school to pay any impact fee for an improvement
- 65 project that is not reasonably related to the impact of the project upon the need that the
- 66 improvement is to address; or
- 67 (f) impose regulations upon the location of a project except as necessary to avoid
- 68 unreasonable risks to health or safety.
- 69 (4) Subject to Section 53A-20-108, a school district or charter school shall coordinate
- 70 the siting of a new school with the municipality in which the school is to be located, to:
- 71 (a) avoid or mitigate existing and potential traffic hazards, including consideration of
- 72 the impacts between the new school and future highways; and
- 73 (b) to maximize school, student, and site safety.
- 74 (5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:
- 75 (a) provide a walk-through of school construction at no cost and at a time convenient to
- 76 the district or charter school; and
- 77 (b) provide recommendations based upon the walk-through.
- 78 (6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:
- 79 (i) a municipal building inspector;
- 80 (ii) a school district building inspector; or
- 81 (iii) an independent, certified building inspector who is:
- 82 (A) not an employee of the contractor;
- 83 (B) approved by a municipal building inspector or a school district building inspector;
- 84 and
- 85 (C) licensed to perform the inspection that the inspector is requested to perform.
- 86 (b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.
- 87 (c) If a school district or charter school uses an independent building inspector under
- 88 Subsection (6)(a)(iii), the school district or charter school shall submit to the state
- 89 superintendent of public instruction, on a monthly basis during construction of the school

90 building, a copy of each inspection certificate regarding the school building.

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

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

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

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

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

102 (A) the state superintendent of public instruction, as provided in Subsection
103 53A-20-104(3), if the school district or charter school used an independent building inspector
104 for inspection of the school building; or

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

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

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

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

117 (8) Notwithstanding Subsection (1), a municipality may not impose a land use
118 ordinance, regulation, condition, or other requirement authorized or permitted under this
119 chapter on a plant, pipeline, pump station, or other facility if the facility:

120 (a) is owned by a special district, local district, or other political subdivision of the

121 state;

122 (b) provides culinary water treatment service or sewage treatment or reclamation
123 service to the general public in two or more municipalities or counties, including the
124 municipality in which the facility is located; and

125 (c) was a permitted or conditional use under the municipality's zoning ordinance on the
126 date that the land for the facility was acquired by the public entity proposing to develop the
127 facility.

128 **Section 2. Effective date.**

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

Legislative Review Note
as of 1-23-07 7:10 PM

Office of Legislative Research and General Counsel

S.B. 172 - Municipal Land Use, Development, and Management Changes

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/31/2007, 2:58:10 PM, Lead Analyst: Wardrop, T.

Office of the Legislative Fiscal Analyst