

30 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
31 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,
32 specified public utility, a property owner, a property owners association, or the Utah
33 Department of Transportation, if:

34 (a) the entity's services or facilities are likely to require expansion or significant
35 modification because of an intended use of land;

36 (b) the entity has filed with the municipality a copy of the entity's general or
37 long-range plan; or

38 (c) the entity has filed with the municipality a request for notice during the same
39 calendar year and before the municipality provides notice to an affected entity in compliance
40 with a requirement imposed under this chapter.

41 (2) "Appeal authority" means the person, board, commission, agency, or other body
42 designated by ordinance to decide an appeal of a decision of a land use application or a
43 variance.

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

48 (4) "Charter school" includes:

49 (a) an operating charter school;

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

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

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

58 (6) "Constitutional taking" means a governmental action that results in a taking of
59 private property so that compensation to the owner of the property is required by the:

60 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

61 (b) Utah Constitution Article I, Section 22.

62 (7) "Culinary water authority" means the department, agency, or public entity with
63 responsibility to review and approve the feasibility of the culinary water system and sources
64 for the subject property.

65 (8) "Development activity" means:

66 (a) any construction or expansion of a building, structure, or use that creates additional
67 demand and need for public facilities;

68 (b) any change in use of a building or structure that creates additional demand and
69 need for public facilities; or

70 (c) any change in the use of land that creates additional demand and need for public
71 facilities.

72 (9) (a) "Disability" means a physical or mental impairment that substantially limits
73 one or more of a person's major life activities, including a person having a record of such an
74 impairment or being regarded as having such an impairment.

75 (b) "Disability" does not include current illegal use of, or addiction to, any federally
76 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
77 802.

78 (10) "Educational facility":

79 (a) means:

80 (i) a school district's building at which pupils assemble to receive instruction in a
81 program for any combination of grades from preschool through grade 12, including
82 kindergarten and a program for children with disabilities;

83 (ii) a structure or facility:

84 (A) located on the same property as a building described in Subsection (10)(a)(i); and

85 (B) used in support of the use of that building; and

86 (iii) a building to provide office and related space to a school district's administrative
87 personnel; and

88 (b) does not include land or a structure, including land or a structure for inventory
89 storage, equipment storage, food processing or preparing, vehicle storage or maintenance, [~~or~~
90 ~~other use in support of providing instruction to pupils,]~~ or similar use that is:

91 (i) not located on the same property as a building described in Subsection (10)(a)(i);
92 and

93 (ii) used in support of the purposes of a building described in Subsection (10)(a)(i).

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

97 (12) "Fire authority" means the department, agency, or public entity with
98 responsibility to review and approve the feasibility of fire protection and suppression services
99 for the subject property.

100 (13) "Flood plain" means land that:

101 (a) is within the 100-year flood plain designated by the Federal Emergency
102 Management Agency; or

103 (b) has not been studied or designated by the Federal Emergency Management Agency
104 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event
105 because the land has characteristics that are similar to those of a 100-year flood plain
106 designated by the Federal Emergency Management Agency.

107 (14) "General plan" means a document that a municipality adopts that sets forth
108 general guidelines for proposed future development of the land within the municipality.

109 (15) "Geologic hazard" means:

110 (a) a surface fault rupture;

111 (b) shallow groundwater;

112 (c) liquefaction;

113 (d) a landslide;

- 114 (e) a debris flow;
- 115 (f) unstable soil;
- 116 (g) a rock fall; or
- 117 (h) any other geologic condition that presents a risk:
- 118 (i) to life;
- 119 (ii) of substantial loss of real property; or
- 120 (iii) of substantial damage to real property.
- 121 (16) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 122 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other
- 123 utility system.
- 124 (17) "Identical plans" means building plans submitted to a municipality that are
- 125 substantially identical to building plans that were previously submitted to and reviewed and
- 126 approved by the municipality and describe a building that is:
- 127 (a) located on land zoned the same as the land on which the building described in the
- 128 previously approved plans is located; and
- 129 (b) subject to the same geological and meteorological conditions and the same law as
- 130 the building described in the previously approved plans.
- 131 (18) "Impact fee" means a payment of money imposed under Title 11, Chapter 36,
- 132 Impact Fees Act.
- 133 (19) "Improvement assurance" means a surety bond, letter of credit, cash, or other
- 134 security:
- 135 (a) to guaranty the proper completion of an improvement;
- 136 (b) that is required as a condition precedent to:
- 137 (i) recording a subdivision plat; or
- 138 (ii) beginning development activity; and
- 139 (c) that is offered to a land use authority to induce the land use authority, before actual
- 140 construction of required improvements, to:
- 141 (i) consent to the recording of a subdivision plat; or

142 (ii) issue a permit for development activity.

143 (20) "Improvement assurance warranty" means a promise that the materials and
144 workmanship of improvements:

145 (a) comport with standards that the municipality has officially adopted; and

146 (b) will not fail in any material respect within a warranty period.

147 (21) "Land use application" means an application required by a municipality's land
148 use ordinance.

149 (22) "Land use authority" means a person, board, commission, agency, or other body
150 designated by the local legislative body to act upon a land use application.

151 (23) "Land use ordinance" means a planning, zoning, development, or subdivision
152 ordinance of the municipality, but does not include the general plan.

153 (24) "Land use permit" means a permit issued by a land use authority.

154 (25) "Legislative body" means the municipal council.

155 (26) "Local district" means an entity under Title 17B, Limited Purpose Local
156 Government Entities - Local Districts, and any other governmental or quasi-governmental
157 entity that is not a county, municipality, school district, or the state.

158 (27) "Lot line adjustment" means the relocation of the property boundary line in a
159 subdivision between two adjoining lots with the consent of the owners of record.

160 (28) "Moderate income housing" means housing occupied or reserved for occupancy
161 by households with a gross household income equal to or less than 80% of the median gross
162 income for households of the same size in the county in which the city is located.

163 (29) "Nominal fee" means a fee that reasonably reimburses a municipality only for
164 time spent and expenses incurred in:

165 (a) verifying that building plans are identical plans; and

166 (b) reviewing and approving those minor aspects of identical plans that differ from the
167 previously reviewed and approved building plans.

168 (30) "Noncomplying structure" means a structure that:

169 (a) legally existed before its current land use designation; and

170 (b) because of one or more subsequent land use ordinance changes, does not conform
171 to the setback, height restrictions, or other regulations, excluding those regulations, which
172 govern the use of land.

173 (31) "Nonconforming use" means a use of land that:

174 (a) legally existed before its current land use designation;

175 (b) has been maintained continuously since the time the land use ordinance governing
176 the land changed; and

177 (c) because of one or more subsequent land use ordinance changes, does not conform
178 to the regulations that now govern the use of the land.

179 (32) "Official map" means a map drawn by municipal authorities and recorded in a
180 county recorder's office that:

181 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
182 highways and other transportation facilities;

183 (b) provides a basis for restricting development in designated rights-of-way or between
184 designated setbacks to allow the government authorities time to purchase or otherwise reserve
185 the land; and

186 (c) has been adopted as an element of the municipality's general plan.

187 (33) "Person" means an individual, corporation, partnership, organization, association,
188 trust, governmental agency, or any other legal entity.

189 (34) "Plan for moderate income housing" means a written document adopted by a city
190 legislative body that includes:

191 (a) an estimate of the existing supply of moderate income housing located within the
192 city;

193 (b) an estimate of the need for moderate income housing in the city for the next five
194 years as revised biennially;

195 (c) a survey of total residential land use;

196 (d) an evaluation of how existing land uses and zones affect opportunities for
197 moderate income housing; and

198 (e) a description of the city's program to encourage an adequate supply of moderate
199 income housing.

200 (35) "Plat" means a map or other graphical representation of lands being laid out and
201 prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

202 (36) "Potential geologic hazard area" means an area that:

203 (a) is designated by a Utah Geological Survey map, county geologist map, or other
204 relevant map or report as needing further study to determine the area's potential for geologic
205 hazard; or

206 (b) has not been studied by the Utah Geological Survey or a county geologist but
207 presents the potential of geologic hazard because the area has characteristics similar to those
208 of a designated geologic hazard area.

209 (37) "Public agency" means:

210 (a) the federal government;

211 (b) the state;

212 (c) a county, municipality, school district, local district, special service district, or
213 other political subdivision of the state; or

214 (d) a charter school.

215 (38) "Public hearing" means a hearing at which members of the public are provided a
216 reasonable opportunity to comment on the subject of the hearing.

217 (39) "Public meeting" means a meeting that is required to be open to the public under
218 Title 52, Chapter 4, Open and Public Meetings Act.

219 (40) "Record of survey map" means a map of a survey of land prepared in accordance
220 with Section 17-23-17.

221 (41) "Receiving zone" means an area of a municipality that the municipality's land use
222 authority designates as an area in which an owner of land may receive transferrable
223 development rights.

224 (42) "Residential facility for elderly persons" means a single-family or multiple-family
225 dwelling unit that meets the requirements of Section 10-9a-516, but does not include a health

226 care facility as defined by Section 26-21-2.

227 (43) "Residential facility for persons with a disability" means a residence:

228 (a) in which more than one person with a disability resides; and

229 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
230 Chapter 2, Licensure of Programs and Facilities; or

231 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
232 Health Care Facility Licensing and Inspection Act.

233 (44) "Sanitary sewer authority" means the department, agency, or public entity with
234 responsibility to review and approve the feasibility of sanitary sewer services or onsite
235 wastewater systems.

236 (45) "Sending zone" means an area of a municipality that the municipality's land use
237 authority designates as an area from which an owner of land may transfer transferrable
238 development rights to an owner of land in a receiving zone.

239 (46) "Specified public agency" means:

240 (a) the state;

241 (b) a school district; or

242 (c) a charter school.

243 (47) "Specified public utility" means an electrical corporation, gas corporation, or
244 telephone corporation, as those terms are defined in Section 54-2-1.

245 (48) "State" includes any department, division, or agency of the state.

246 (49) "Street" means a public right-of-way, including a highway, avenue, boulevard,
247 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
248 way.

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

253 (b) "Subdivision" includes:

- 254 (i) the division or development of land whether by deed, metes and bounds
255 description, devise and testacy, map, plat, or other recorded instrument; and
- 256 (ii) except as provided in Subsection (50)(c), divisions of land for residential and
257 nonresidential uses, including land used or to be used for commercial, agricultural, and
258 industrial purposes.
- 259 (c) "Subdivision" does not include:
- 260 (i) a bona fide division or partition of agricultural land for the purpose of joining one
261 of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if
262 neither the resulting combined parcel nor the parcel remaining from the division or partition
263 violates an applicable land use ordinance;
- 264 (ii) a recorded agreement between owners of adjoining unsubdivided properties
265 adjusting their mutual boundary if:
- 266 (A) no new lot is created; and
267 (B) the adjustment does not violate applicable land use ordinances;
- 268 (iii) a recorded document, executed by the owner of record:
- 269 (A) revising the legal description of more than one contiguous unsubdivided parcel of
270 property into one legal description encompassing all such parcels of property; or
271 (B) joining a subdivided parcel of property to another parcel of property that has not
272 been subdivided, if the joinder does not violate applicable land use ordinances; or
- 273 (iv) a recorded agreement between owners of adjoining subdivided properties
274 adjusting their mutual boundary if:
- 275 (A) no new dwelling lot or housing unit will result from the adjustment; and
276 (B) the adjustment will not violate any applicable land use ordinance.
- 277 (d) The joining of a subdivided parcel of property to another parcel of property that
278 has not been subdivided does not constitute a subdivision under this Subsection (50) as to the
279 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
280 subdivision ordinance.
- 281 (51) "Transferrable development right" means the entitlement to develop land within a

282 sending zone that would vest according to the municipality's existing land use ordinances on
283 the date that a completed land use application is filed seeking the approval of development
284 activity on the land.

285 (52) "Unincorporated" means the area outside of the incorporated area of a city or
286 town.

287 (53) "Water interest" means any right to the beneficial use of water, including:

288 (a) each of the rights listed in Section 73-1-11; and

289 (b) an ownership interest in the right to the beneficial use of water represented by:

290 (i) a contract; or

291 (ii) a share in a water company, as defined in Section 73-3-3.5.

292 (54) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
293 land use zones, overlays, or districts.

294 Section 2. Section **10-9a-305** is amended to read:

295 **10-9a-305. Other entities required to conform to municipality's land use**
296 **ordinances -- Exceptions -- School districts and charter schools -- Submission of**
297 **development plan and schedule.**

298 (1) (a) Each county, municipality, school district, charter school, local district, special
299 service district, and political subdivision of the state shall conform to any applicable land use
300 ordinance of any municipality when installing, constructing, operating, or otherwise using any
301 area, land, or building situated within that municipality.

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

306 (2) (a) Notwithstanding Subsection (1), a public transit district under Title 17B,
307 Chapter 2a, Part 8, Public Transit District Act, is not required to conform to any applicable
308 land use ordinance of a municipality located within the boundaries of a county of the first
309 class when constructing a:

310 (i) rail fixed guideway public transit facility that extends across two or more counties;

311 or

312 (ii) structure that serves a rail fixed guideway public transit facility that extends across

313 two or more counties, including:

314 (A) platforms;

315 (B) passenger terminals or stations;

316 (C) park and ride facilities;

317 (D) maintenance facilities;

318 (E) all related utility lines, roadways, and other facilities serving the public transit

319 facility; or

320 (F) other auxiliary facilities.

321 (b) The exemption from municipal land use ordinances under this Subsection (2) does

322 not extend to any property not necessary for the construction or operation of a rail fixed

323 guideway public transit facility.

324 (c) A municipality located within the boundaries of a county of the first class may not,

325 through an agreement under Title 11, Chapter 3, Interlocal Cooperation Act, require a public

326 transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act, to obtain

327 approval from the municipality prior to constructing a:

328 (i) rail fixed guideway public transit facility that extends across two or more counties;

329 or

330 (ii) structure that serves a rail fixed guideway public transit facility that extends across

331 two or more counties, including:

332 (A) platforms;

333 (B) passenger terminals or stations;

334 (C) park and ride facilities;

335 (D) maintenance facilities;

336 (E) all related utility lines, roadways, and other facilities serving the public transit

337 facility; or

338 (F) other auxiliary facilities.

339 (3) (a) Except as provided in Subsection (4), a school district or charter school is
340 subject to a municipality's land use ordinances.

341 (b) (i) Notwithstanding Subsection (4), a municipality may:

342 (A) subject a charter school to standards within each zone pertaining to setback,
343 height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and
344 construction staging; and

345 (B) impose regulations upon the location of a project that are necessary to avoid
346 unreasonable risks to health or safety, as provided in Subsection (4)(f).

347 (ii) The standards to which a municipality may subject a charter school under
348 Subsection (3)(b)(i) shall be objective standards only and may not be subjective.

349 (iii) Except as provided in Subsection (8)(d), the only basis upon which a municipality
350 may deny or withhold approval of a charter school's land use application is the charter school's
351 failure to comply with a standard imposed under Subsection (3)(b)(i).

352 (iv) Nothing in Subsection (3)(b)(iii) may be construed to relieve a charter school of
353 an obligation to comply with a requirement of an applicable building or safety code to which it
354 is otherwise obligated to comply.

355 (4) A municipality may not:

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

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

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

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

370 (e) require a school district or charter school to pay any impact fee for an improvement
371 project unless the impact fee is imposed as provided in Title 11, Chapter 36, Impact Fees Act;
372 [~~or~~]

373 (f) impose regulations upon the location of an educational facility except as necessary
374 to avoid unreasonable risks to health or safety~~[-];~~ or

375 (g) for a land use or a structure owned or operated by a school district or charter
376 school that is not an educational facility but is used in support of providing instruction to
377 pupils, impose a regulation that:

378 (i) is not imposed on a similar land use or structure in the zone in which the land use
379 or structure is approved; or

380 (ii) uses the tax exempt status of the school district or charter school as criteria for
381 prohibiting or regulating the land use or location of the structure.

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

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

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

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

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

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

391 (7) (a) Notwithstanding Subsection (4)(d), a school district or charter school shall use:

392 (i) a municipal building inspector;

393 (ii) (A) for a school district, a school district building inspector from that school

394 district; or

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

396 which the charter school is located; or

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

398 (A) not an employee of the contractor;

399 (B) approved by:

400 (I) a municipal building inspector; or

401 (II) (Aa) for a school district, a school district building inspector from that school

402 district; or

403 (Bb) for a charter school, a school district building inspector from the school district

404 in which the charter school is located; and

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

406 (b) The approval under Subsection (7)(a)(iii)(B) may not be unreasonably withheld.

407 (c) If a school district or charter school uses a school district or independent building

408 inspector under Subsection (7)(a)(ii) or (iii), the school district or charter school shall submit

409 to the state superintendent of public instruction and municipal building official, on a monthly

410 basis during construction of the school building, a copy of each inspection certificate

411 regarding the school building.

412 (8) (a) A charter school shall be considered a permitted use in all zoning districts

413 within a municipality.

414 (b) Each land use application for any approval required for a charter school, including

415 an application for a building permit, shall be processed on a first priority basis.

416 (c) Parking requirements for a charter school may not exceed the minimum parking

417 requirements for schools or other institutional public uses throughout the municipality.

418 (d) If a municipality has designated zones for a sexually oriented business, or a

419 business which sells alcohol, a charter school may be prohibited from a location which would

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

421 (e) (i) A school district or a charter school may seek a certificate authorizing

422 permanent occupancy of a school building from:

423 (A) the state superintendent of public instruction, as provided in Subsection
424 53A-20-104(3), if the school district or charter school used an independent building inspector
425 for inspection of the school building; or

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

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

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

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

438 (9) (a) A specified public agency intending to develop its land shall submit to the land
439 use authority a development plan and schedule:

440 (i) as early as practicable in the development process, but no later than the
441 commencement of construction; and

442 (ii) with sufficient detail to enable the land use authority to assess:

443 (A) the specified public agency's compliance with applicable land use ordinances;

444 (B) the demand for public facilities listed in Subsections 11-36-102(13)(a), (b), (c),
445 (d), (e), and (g) caused by the development;

446 (C) the amount of any applicable fee listed in Subsection 10-9a-510(5);

447 (D) any credit against an impact fee; and

448 (E) the potential for waiving an impact fee.

449 (b) The land use authority shall respond to a specified public agency's submission

450 under Subsection (9)(a) with reasonable promptness in order to allow the specified public
451 agency to consider information the municipality provides under Subsection (9)(a)(ii) in the
452 process of preparing the budget for the development.

453 (10) Nothing in this section may be construed to modify or supersede Section
454 10-9a-304.

455 Section 3. Section **17-27a-103** is amended to read:

456 **17-27a-103. Definitions.**

457 As used in this chapter:

458 (1) "Affected entity" means a county, municipality, local district, special service
459 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
460 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,
461 specified property owner, property owners association, public utility, or the Utah Department
462 of Transportation, if:

463 (a) the entity's services or facilities are likely to require expansion or significant
464 modification because of an intended use of land;

465 (b) the entity has filed with the county a copy of the entity's general or long-range
466 plan; or

467 (c) the entity has filed with the county a request for notice during the same calendar
468 year and before the county provides notice to an affected entity in compliance with a
469 requirement imposed under this chapter.

470 (2) "Appeal authority" means the person, board, commission, agency, or other body
471 designated by ordinance to decide an appeal of a decision of a land use application or a
472 variance.

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

477 (4) "Charter school" includes:

- 478 (a) an operating charter school;
- 479 (b) a charter school applicant that has its application approved by a chartering entity
480 in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and
- 481 (c) an entity who is working on behalf of a charter school or approved charter
482 applicant to develop or construct a charter school building.
- 483 (5) "Chief executive officer" means the person or body that exercises the executive
484 powers of the county.
- 485 (6) "Conditional use" means a land use that, because of its unique characteristics or
486 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be
487 compatible in some areas or may be compatible only if certain conditions are required that
488 mitigate or eliminate the detrimental impacts.
- 489 (7) "Constitutional taking" means a governmental action that results in a taking of
490 private property so that compensation to the owner of the property is required by the:
- 491 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
492 (b) Utah Constitution Article I, Section 22.
- 493 (8) "Culinary water authority" means the department, agency, or public entity with
494 responsibility to review and approve the feasibility of the culinary water system and sources
495 for the subject property.
- 496 (9) "Development activity" means:
- 497 (a) any construction or expansion of a building, structure, or use that creates additional
498 demand and need for public facilities;
- 499 (b) any change in use of a building or structure that creates additional demand and
500 need for public facilities; or
- 501 (c) any change in the use of land that creates additional demand and need for public
502 facilities.
- 503 (10) (a) "Disability" means a physical or mental impairment that substantially limits
504 one or more of a person's major life activities, including a person having a record of such an
505 impairment or being regarded as having such an impairment.

506 (b) "Disability" does not include current illegal use of, or addiction to, any federally
507 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
508 802.

509 (11) "Educational facility":

510 (a) means:

511 (i) a school district's building at which pupils assemble to receive instruction in a
512 program for any combination of grades from preschool through grade 12, including
513 kindergarten and a program for children with disabilities;

514 (ii) a structure or facility:

515 (A) located on the same property as a building described in Subsection (11)(a)(i); and

516 (B) used in support of the use of that building; and

517 (iii) a building to provide office and related space to a school district's administrative
518 personnel; and

519 (b) does not include land or a structure, including land or a structure for inventory
520 storage, equipment storage, food processing or preparing, vehicle storage or maintenance, [~~or~~
521 ~~other use in support of providing instruction to pupils,~~] or similar use that is:

522 (i) not located on the same property as a building described in Subsection (11)(a)(i);
523 and

524 (ii) used in support of the purposes of a building described in Subsection (11)(a)(i).

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

528 (13) "Fire authority" means the department, agency, or public entity with
529 responsibility to review and approve the feasibility of fire protection and suppression services
530 for the subject property.

531 (14) "Flood plain" means land that:

532 (a) is within the 100-year flood plain designated by the Federal Emergency
533 Management Agency; or

534 (b) has not been studied or designated by the Federal Emergency Management Agency
535 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event
536 because the land has characteristics that are similar to those of a 100-year flood plain
537 designated by the Federal Emergency Management Agency.

538 (15) "Gas corporation" has the same meaning as defined in Section 54-2-1.

539 (16) "General plan" means a document that a county adopts that sets forth general
540 guidelines for proposed future development of the unincorporated land within the county.

541 (17) "Geologic hazard" means:

542 (a) a surface fault rupture;

543 (b) shallow groundwater;

544 (c) liquefaction;

545 (d) a landslide;

546 (e) a debris flow;

547 (f) unstable soil;

548 (g) a rock fall; or

549 (h) any other geologic condition that presents a risk:

550 (i) to life;

551 (ii) of substantial loss of real property; or

552 (iii) of substantial damage to real property.

553 (18) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
554 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility
555 system.

556 (19) "Identical plans" means building plans submitted to a county that are
557 substantially identical building plans that were previously submitted to and reviewed and
558 approved by the county and describe a building that is:

559 (a) located on land zoned the same as the land on which the building described in the
560 previously approved plans is located; and

561 (b) subject to the same geological and meteorological conditions and the same law as

562 the building described in the previously approved plans.

563 (20) "Impact fee" means a payment of money imposed under Title 11, Chapter 36,
564 Impact Fees Act.

565 (21) "Improvement assurance" means a surety bond, letter of credit, cash, or other
566 security:

567 (a) to guaranty the proper completion of an improvement;

568 (b) that is required as a condition precedent to:

569 (i) recording a subdivision plat; or

570 (ii) beginning development activity; and

571 (c) that is offered to a land use authority to induce the land use authority, before actual
572 construction of required improvements, to:

573 (i) consent to the recording of a subdivision plat; or

574 (ii) issue a permit for development activity.

575 (22) "Improvement assurance warranty" means a promise that the materials and
576 workmanship of improvements:

577 (a) comport with standards that the county has officially adopted; and

578 (b) will not fail in any material respect within a warranty period.

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

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

585 (25) "Land use application" means an application required by a county's land use
586 ordinance.

587 (26) "Land use authority" means a person, board, commission, agency, or other body
588 designated by the local legislative body to act upon a land use application.

589 (27) "Land use ordinance" means a planning, zoning, development, or subdivision

590 ordinance of the county, but does not include the general plan.

591 (28) "Land use permit" means a permit issued by a land use authority.

592 (29) "Legislative body" means the county legislative body, or for a county that has
593 adopted an alternative form of government, the body exercising legislative powers.

594 (30) "Local district" means any entity under Title 17B, Limited Purpose Local
595 Government Entities - Local Districts, and any other governmental or quasi-governmental
596 entity that is not a county, municipality, school district, or the state.

597 (31) "Lot line adjustment" means the relocation of the property boundary line in a
598 subdivision between two adjoining lots with the consent of the owners of record.

599 (32) "Moderate income housing" means housing occupied or reserved for occupancy
600 by households with a gross household income equal to or less than 80% of the median gross
601 income for households of the same size in the county in which the housing is located.

602 (33) "Nominal fee" means a fee that reasonably reimburses a county only for time
603 spent and expenses incurred in:

604 (a) verifying that building plans are identical plans; and

605 (b) reviewing and approving those minor aspects of identical plans that differ from the
606 previously reviewed and approved building plans.

607 (34) "Noncomplying structure" means a structure that:

608 (a) legally existed before its current land use designation; and

609 (b) because of one or more subsequent land use ordinance changes, does not conform
610 to the setback, height restrictions, or other regulations, excluding those regulations that govern
611 the use of land.

612 (35) "Nonconforming use" means a use of land that:

613 (a) legally existed before its current land use designation;

614 (b) has been maintained continuously since the time the land use ordinance regulation
615 governing the land changed; and

616 (c) because of one or more subsequent land use ordinance changes, does not conform
617 to the regulations that now govern the use of the land.

618 (36) "Official map" means a map drawn by county authorities and recorded in the
619 county recorder's office that:

620 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
621 highways and other transportation facilities;

622 (b) provides a basis for restricting development in designated rights-of-way or between
623 designated setbacks to allow the government authorities time to purchase or otherwise reserve
624 the land; and

625 (c) has been adopted as an element of the county's general plan.

626 (37) "Person" means an individual, corporation, partnership, organization, association,
627 trust, governmental agency, or any other legal entity.

628 (38) "Plan for moderate income housing" means a written document adopted by a
629 county legislative body that includes:

630 (a) an estimate of the existing supply of moderate income housing located within the
631 county;

632 (b) an estimate of the need for moderate income housing in the county for the next five
633 years as revised biennially;

634 (c) a survey of total residential land use;

635 (d) an evaluation of how existing land uses and zones affect opportunities for
636 moderate income housing; and

637 (e) a description of the county's program to encourage an adequate supply of moderate
638 income housing.

639 (39) "Plat" means a map or other graphical representation of lands being laid out and
640 prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

641 (40) "Potential geologic hazard area" means an area that:

642 (a) is designated by a Utah Geological Survey map, county geologist map, or other
643 relevant map or report as needing further study to determine the area's potential for geologic
644 hazard; or

645 (b) has not been studied by the Utah Geological Survey or a county geologist but

646 presents the potential of geologic hazard because the area has characteristics similar to those
647 of a designated geologic hazard area.

648 (41) "Public agency" means:

649 (a) the federal government;

650 (b) the state;

651 (c) a county, municipality, school district, local district, special service district, or
652 other political subdivision of the state; or

653 (d) a charter school.

654 (42) "Public hearing" means a hearing at which members of the public are provided a
655 reasonable opportunity to comment on the subject of the hearing.

656 (43) "Public meeting" means a meeting that is required to be open to the public under
657 Title 52, Chapter 4, Open and Public Meetings Act.

658 (44) "Receiving zone" means an unincorporated area of a county that the county's land
659 use authority designates as an area in which an owner of land may receive transferrable
660 development rights.

661 (45) "Record of survey map" means a map of a survey of land prepared in accordance
662 with Section 17-23-17.

663 (46) "Residential facility for elderly persons" means a single-family or multiple-family
664 dwelling unit that meets the requirements of Section 17-27a-515, but does not include a health
665 care facility as defined by Section 26-21-2.

666 (47) "Residential facility for persons with a disability" means a residence:

667 (a) in which more than one person with a disability resides; and

668 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
669 Chapter 2, Licensure of Programs and Facilities; or

670 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
671 Health Care Facility Licensing and Inspection Act.

672 (48) "Sanitary sewer authority" means the department, agency, or public entity with
673 responsibility to review and approve the feasibility of sanitary sewer services or onsite

674 wastewater systems.

675 (49) "Sending zone" means an unincorporated area of a county that the county's land
676 use authority designates as an area from which an owner of land may transfer transferrable
677 development rights to an owner of land in a receiving zone.

678 (50) "Specified public agency" means:

- 679 (a) the state;
- 680 (b) a school district; or
- 681 (c) a charter school.

682 (51) "Specified public utility" means an electrical corporation, gas corporation, or
683 telephone corporation, as those terms are defined in Section 54-2-1.

684 (52) "State" includes any department, division, or agency of the state.

685 (53) "Street" means a public right-of-way, including a highway, avenue, boulevard,
686 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
687 way.

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

692 (b) "Subdivision" includes:

- 693 (i) the division or development of land whether by deed, metes and bounds
694 description, devise and testacy, map, plat, or other recorded instrument; and
- 695 (ii) except as provided in Subsection (54)(c), divisions of land for residential and
696 nonresidential uses, including land used or to be used for commercial, agricultural, and
697 industrial purposes.

698 (c) "Subdivision" does not include:

- 699 (i) a bona fide division or partition of agricultural land for agricultural purposes;
- 700 (ii) a recorded agreement between owners of adjoining properties adjusting their
701 mutual boundary if:

- 702 (A) no new lot is created; and
- 703 (B) the adjustment does not violate applicable land use ordinances;
- 704 (iii) a recorded document, executed by the owner of record:
- 705 (A) revising the legal description of more than one contiguous unsubdivided parcel of
- 706 property into one legal description encompassing all such parcels of property; or
- 707 (B) joining a subdivided parcel of property to another parcel of property that has not
- 708 been subdivided, if the joinder does not violate applicable land use ordinances;
- 709 (iv) a bona fide division or partition of land in a county other than a first class county
- 710 for the purpose of siting, on one or more of the resulting separate parcels:
- 711 (A) an unmanned facility appurtenant to a pipeline owned or operated by a gas
- 712 corporation, interstate pipeline company, or intrastate pipeline company; or
- 713 (B) an unmanned telecommunications, microwave, fiber optic, electrical, or other
- 714 utility service regeneration, transformation, retransmission, or amplification facility; or
- 715 (v) a recorded agreement between owners of adjoining subdivided properties adjusting
- 716 their mutual boundary if:
- 717 (A) no new dwelling lot or housing unit will result from the adjustment; and
- 718 (B) the adjustment will not violate any applicable land use ordinance.
- 719 (d) The joining of a subdivided parcel of property to another parcel of property that
- 720 has not been subdivided does not constitute a subdivision under this Subsection (54) as to the
- 721 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision
- 722 ordinance.
- 723 (55) "Township" means a contiguous, geographically defined portion of the
- 724 unincorporated area of a county, established under this part or reconstituted or reinstated under
- 725 Section 17-27a-306, with planning and zoning functions as exercised through the township
- 726 planning commission, as provided in this chapter, but with no legal or political identity
- 727 separate from the county and no taxing authority, except that "township" means a former
- 728 township under Laws of Utah 1996, Chapter 308, where the context so indicates.
- 729 (56) "Transferrable development right" means the entitlement to develop land within a

730 sending zone that would vest according to the county's existing land use ordinances on the
731 date that a completed land use application is filed seeking the approval of development
732 activity on the land.

733 (57) "Unincorporated" means the area outside of the incorporated area of a
734 municipality.

735 (58) "Water interest" means any right to the beneficial use of water, including:

736 (a) each of the rights listed in Section 73-1-11; and

737 (b) an ownership interest in the right to the beneficial use of water represented by:

738 (i) a contract; or

739 (ii) a share in a water company, as defined in Section 73-3-3.5.

740 (59) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
741 land use zones, overlays, or districts.

742 Section 4. Section **17-27a-305** is amended to read:

743 **17-27a-305. Other entities required to conform to county's land use ordinances**
744 **-- Exceptions -- School districts and charter schools -- Submission of development plan**
745 **and schedule.**

746 (1) (a) Each county, municipality, school district, charter school, local district, special
747 service district, and political subdivision of the state shall conform to any applicable land use
748 ordinance of any county when installing, constructing, operating, or otherwise using any area,
749 land, or building situated within the unincorporated portion of the county.

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

754 (2) (a) Notwithstanding Subsection (1), a public transit district under Title 17B,
755 Chapter 2a, Part 8, Public Transit District Act, is not required to conform to any applicable
756 land use ordinance of a county of the first class when constructing a:

757 (i) rail fixed guideway public transit facility that extends across two or more counties;

758 or

759 (ii) structure that serves a rail fixed guideway public transit facility that extends across
760 two or more counties, including:

761 (A) platforms;

762 (B) passenger terminals or stations;

763 (C) park and ride facilities;

764 (D) maintenance facilities;

765 (E) all related utility lines, roadways, and other facilities serving the public transit
766 facility; or

767 (F) other auxiliary facilities.

768 (b) The exemption from county land use ordinances under this Subsection (2) does not
769 extend to any property not necessary for the construction or operation of a rail fixed guideway
770 public transit facility.

771 (c) A county of the first class may not, through an agreement under Title 11, Chapter
772 13, Interlocal Cooperation Act, require a public transit district under Title 17B, Chapter 2a,
773 Part 8, Public Transit District Act, to obtain approval from the county prior to constructing a:

774 (i) rail fixed guideway public transit facility that extends across two or more counties;

775 or

776 (ii) structure that serves a rail fixed guideway public transit facility that extends across
777 two or more counties, including:

778 (A) platforms;

779 (B) passenger terminals or stations;

780 (C) park and ride facilities;

781 (D) maintenance facilities;

782 (E) all related utility lines, roadways, and other facilities serving the public transit
783 facility; or

784 (F) other auxiliary facilities.

785 (3) (a) Except as provided in Subsection (4), a school district or charter school is

786 subject to a county's land use ordinances.

787 (b) (i) Notwithstanding Subsection (4), a county may:

788 (A) subject a charter school to standards within each zone pertaining to setback,
789 height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and
790 construction staging; and

791 (B) impose regulations upon the location of a project that are necessary to avoid
792 unreasonable risks to health or safety, as provided in Subsection (4)(f).

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

795 (iii) Except as provided in Subsection (8)(d), the only basis upon which a county may
796 deny or withhold approval of a charter school's land use application is the charter school's
797 failure to comply with a standard imposed under Subsection (3)(b)(i).

798 (iv) Nothing in Subsection (3)(b)(iii) may be construed to relieve a charter school of
799 an obligation to comply with a requirement of an applicable building or safety code to which it
800 is otherwise obligated to comply.

801 (4) A county may not:

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

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

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

812 (d) provide for inspection of school construction or assess a fee or other charges for
813 inspection, unless the school district or charter school is unable to provide for inspection by an

814 inspector, other than the project architect or contractor, who is qualified under criteria
815 established by the state superintendent;

816 (e) require a school district or charter school to pay any impact fee for an improvement
817 project unless the impact fee is imposed as provided in Title 11, Chapter 36, Impact Fees Act;
818 [~~or~~]

819 (f) impose regulations upon the location of an educational facility except as necessary
820 to avoid unreasonable risks to health or safety[-]; or

821 (g) for a land use or a structure owned or operated by a school district or charter
822 school that is not an educational facility but is used in support of providing instruction to
823 pupils, impose a regulation that:

824 (i) is not imposed on a similar land use or structure in the zone in which the land use
825 or structure is approved; or

826 (ii) uses the tax exempt status of the school district or charter school as criteria for
827 prohibiting or regulating the land use or location of the structure.

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

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

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

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

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

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

837 (7) (a) Notwithstanding Subsection (4)(d), a school district or charter school shall use:

838 (i) a county building inspector;

839 (ii) (A) for a school district, a school district building inspector from that school
840 district; or

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

842 which the charter school is located; or

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

844 (A) not an employee of the contractor;

845 (B) approved by:

846 (I) a county building inspector; or

847 (II) (Aa) for a school district, a school district building inspector from that school

848 district; or

849 (Bb) for a charter school, a school district building inspector from the school district

850 in which the charter school is located; and

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

852 (b) The approval under Subsection (7)(a)(iii)(B) may not be unreasonably withheld.

853 (c) If a school district or charter school uses a school district or independent building

854 inspector under Subsection (7)(a)(ii) or (iii), the school district or charter school shall submit

855 to the state superintendent of public instruction and county building official, on a monthly

856 basis during construction of the school building, a copy of each inspection certificate

857 regarding the school building.

858 (8) (a) A charter school shall be considered a permitted use in all zoning districts

859 within a county.

860 (b) Each land use application for any approval required for a charter school, including

861 an application for a building permit, shall be processed on a first priority basis.

862 (c) Parking requirements for a charter school may not exceed the minimum parking

863 requirements for schools or other institutional public uses throughout the county.

864 (d) If a county has designated zones for a sexually oriented business, or a business

865 which sells alcohol, a charter school may be prohibited from a location which would otherwise

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

867 (e) (i) A school district or a charter school may seek a certificate authorizing

868 permanent occupancy of a school building from:

869 (A) the state superintendent of public instruction, as provided in Subsection

870 53A-20-104(3), if the school district or charter school used an independent building inspector
871 for inspection of the school building; or

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

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

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

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

884 (9) (a) A specified public agency intending to develop its land shall submit to the land
885 use authority a development plan and schedule:

886 (i) as early as practicable in the development process, but no later than the
887 commencement of construction; and

888 (ii) with sufficient detail to enable the land use authority to assess:

889 (A) the specified public agency's compliance with applicable land use ordinances;

890 (B) the demand for public facilities listed in Subsections 11-36-102(13)(a), (b), (c),
891 (d), (e), and (g) caused by the development;

892 (C) the amount of any applicable fee listed in Subsection 17-27a-509(5);

893 (D) any credit against an impact fee; and

894 (E) the potential for waiving an impact fee.

895 (b) The land use authority shall respond to a specified public agency's submission
896 under Subsection (9)(a) with reasonable promptness in order to allow the specified public
897 agency to consider information the municipality provides under Subsection (9)(a)(ii) in the

898 process of preparing the budget for the development.

899 (10) Nothing in this section may be construed to modify or supersede Section

900 17-27a-304.