

DEVELOPER FEES

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael T. Morley

Senate Sponsor: Wayne L. Niederhauser

LONG TITLE

General Description:

This bill amends provisions related to municipal or county land use authority.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions related to certain fees a municipality or a county may charge;
- ▶ requires a municipality or a county to establish a fee appeal process;
- ▶ enacts provisions related to a provider of culinary or secondary water that commits to provide a water service required by a public land use application;
- ▶ amends provisions related to a municipal or a county appeal authority; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-103, as last amended by Laws of Utah 2010, Chapters 269 and 330

10-9a-305, as last amended by Laws of Utah 2010, Chapters 203 and 330

10-9a-510, as last amended by Laws of Utah 2010, Chapter 203

10-9a-701, as enacted by Laws of Utah 2005, Chapter 254

17-27a-103, as last amended by Laws of Utah 2010, Chapters 269 and 330

30 **17-27a-305**, as last amended by Laws of Utah 2010, Chapters 203 and 330

31 **17-27a-509**, as last amended by Laws of Utah 2010, Chapter 203

32 **17-27a-701**, as enacted by Laws of Utah 2005, Chapter 254

33

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

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

36 **10-9a-103. Definitions.**

37 As used in this chapter:

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

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

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

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

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

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

56 (4) "Charter school" includes:

57 (a) an operating charter school;

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

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

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

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

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

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

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

73 (8) "Development activity" means:

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

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

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

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

83 (b) "Disability" does not include current illegal use of, or addiction to, any federally
84 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
85 802.

86 (10) "Educational facility":

87 (a) means:

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

91 (ii) a structure or facility:

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

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

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

96 (b) does not include land or a structure, including land or a structure for inventory
97 storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or
98 similar use that is:

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

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

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

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

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

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

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

114 Federal Emergency Management Agency.

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

117 (15) "Geologic hazard" means:

118 (a) a surface fault rupture;

119 (b) shallow groundwater;

120 (c) liquefaction;

121 (d) a landslide;

122 (e) a debris flow;

123 (f) unstable soil;

124 (g) a rock fall; or

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

126 (i) to life;

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

128 (iii) of substantial damage to real property.

129 (16) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
130 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other
131 utility system.

132 (17) "Identical plans" means building plans submitted to a municipality that:

133 (a) are clearly marked as "identical plans";

134 (b) are substantially identical to building plans that were previously submitted to and
135 reviewed and approved by the municipality; and

136 (c) describe a building that [is]:

137 [~~a~~] (i) is located on land zoned the same as the land on which the building described
138 in the previously approved plans is located; [~~and~~]

139 [~~b~~] (ii) is subject to the same geological and meteorological conditions and the same
140 law as the building described in the previously approved plans[-];

141 (iii) has a floor plan identical to the building plan previously submitted to and reviewed

142 and approved by the municipality; and

143 (iv) does not require any additional engineering or analysis.

144 (18) "Impact fee" means a payment of money imposed under Title 11, Chapter 36,
145 Impact Fees Act.

146 (19) "Improvement assurance" means a surety bond, letter of credit, cash, or other
147 security:

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

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

150 (i) recording a subdivision plat; or

151 (ii) beginning development activity; and

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

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

155 (ii) issue a permit for development activity.

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

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

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

160 (21) "Internal lot restriction" means a platted note, platted demarcation, or platted
161 designation that:

162 (a) runs with the land; and

163 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
164 the plat; or

165 (ii) designates a development condition that is enclosed within the perimeter of a lot
166 described on the plat.

167 (22) "Land use application" means an application required by a municipality's land use
168 ordinance.

169 (23) "Land use authority" means a person, board, commission, agency, or other body

170 designated by the local legislative body to act upon a land use application.

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

173 (25) "Land use permit" means a permit issued by a land use authority.

174 (26) "Legislative body" means the municipal council.

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

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

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

183 (30) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
184 spent and expenses incurred in:

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

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

188 (31) "Noncomplying structure" means a structure that:

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

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

193 (32) "Nonconforming use" means a use of land that:

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

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

197 (c) because of one or more subsequent land use ordinance changes, does not conform

198 to the regulations that now govern the use of the land.

199 (33) "Official map" means a map drawn by municipal authorities and recorded in a
200 county recorder's office that:

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

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

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

207 (34) "Person" means an individual, corporation, partnership, organization, association,
208 trust, governmental agency, or any other legal entity.

209 (35) "Plan for moderate income housing" means a written document adopted by a city
210 legislative body that includes:

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

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

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

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

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

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

222 (37) "Potential geologic hazard area" means an area that:

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

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

229 (38) "Public agency" means:

230 (a) the federal government;

231 (b) the state;

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

234 (d) a charter school.

235 (39) "Public hearing" means a hearing at which members of the public are provided a
236 reasonable opportunity to comment on the subject of the hearing.

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

239 (41) "Record of survey map" means a map of a survey of land prepared in accordance
240 with Section 17-23-17.

241 (42) "Receiving zone" means an area of a municipality that the municipality's land use
242 authority designates as an area in which an owner of land may receive transferrable
243 development rights.

244 (43) "Residential facility for elderly persons" means a single-family or multiple-family
245 dwelling unit that meets the requirements of Section 10-9a-516, but does not include a health
246 care facility as defined by Section 26-21-2.

247 (44) "Residential facility for persons with a disability" means a residence:

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

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

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

253 (45) "Sanitary sewer authority" means the department, agency, or public entity with

254 responsibility to review and approve the feasibility of sanitary sewer services or onsite
255 wastewater systems.

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

259 (47) "Specified public agency" means:

260 (a) the state;

261 (b) a school district; or

262 (c) a charter school.

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

265 (49) "State" includes any department, division, or agency of the state.

266 (50) "Street" means a public right-of-way, including a highway, avenue, boulevard,
267 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
268 way.

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

273 (b) "Subdivision" includes:

274 (i) the division or development of land whether by deed, metes and bounds description,
275 devise and testacy, map, plat, or other recorded instrument; and

276 (ii) except as provided in Subsection (51)(c), divisions of land for residential and
277 nonresidential uses, including land used or to be used for commercial, agricultural, and
278 industrial purposes.

279 (c) "Subdivision" does not include:

280 (i) a bona fide division or partition of agricultural land for the purpose of joining one of
281 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if

282 neither the resulting combined parcel nor the parcel remaining from the division or partition
283 violates an applicable land use ordinance;

284 (ii) a recorded agreement between owners of adjoining unsubdivided properties
285 adjusting their mutual boundary if:

286 (A) no new lot is created; and

287 (B) the adjustment does not violate applicable land use ordinances;

288 (iii) a recorded document, executed by the owner of record:

289 (A) revising the legal description of more than one contiguous unsubdivided parcel of
290 property into one legal description encompassing all such parcels of property; or

291 (B) joining a subdivided parcel of property to another parcel of property that has not
292 been subdivided, if the joinder does not violate applicable land use ordinances;

293 (iv) a recorded agreement between owners of adjoining subdivided properties adjusting
294 their mutual boundary if:

295 (A) no new dwelling lot or housing unit will result from the adjustment; and

296 (B) the adjustment will not violate any applicable land use ordinance; or

297 (v) a bona fide division or partition of land by deed or other instrument where the land
298 use authority expressly approves in writing the division in anticipation of further land use
299 approvals on the parcel or parcels.

300 (d) The joining of a subdivided parcel of property to another parcel of property that has
301 not been subdivided does not constitute a subdivision under this Subsection (51) as to the
302 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
303 subdivision ordinance.

304 (52) "Transferrable development right" means the entitlement to develop land within a
305 sending zone that would vest according to the municipality's existing land use ordinances on
306 the date that a completed land use application is filed seeking the approval of development
307 activity on the land.

308 (53) "Unincorporated" means the area outside of the incorporated area of a city or
309 town.

310 (54) "Water interest" means any right to the beneficial use of water, including:
311 (a) each of the rights listed in Section 73-1-11; and
312 (b) an ownership interest in the right to the beneficial use of water represented by:
313 (i) a contract; or
314 (ii) a share in a water company, as defined in Section 73-3-3.5.
315 (55) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
316 land use zones, overlays, or districts.

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

318 **10-9a-305. Other entities required to conform to municipality's land use**
319 **ordinances -- Exceptions -- School districts and charter schools -- Submission of**
320 **development plan and schedule.**

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

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

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

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

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

337 (A) platforms;

- 338 (B) passenger terminals or stations;
- 339 (C) park and ride facilities;
- 340 (D) maintenance facilities;
- 341 (E) all related utility lines, roadways, and other facilities serving the public transit
- 342 facility; or
- 343 (F) other auxiliary facilities.
- 344 (b) The exemption from municipal land use ordinances under this Subsection (2) does
- 345 not extend to any property not necessary for the construction or operation of a rail fixed
- 346 guideway public transit facility.
- 347 (c) A municipality located within the boundaries of a county of the first class may not,
- 348 through an agreement under Title 11, Chapter 13, Interlocal Cooperation Act, require a public
- 349 transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act, to obtain
- 350 approval from the municipality prior to constructing a:
- 351 (i) rail fixed guideway public transit facility that extends across two or more counties;
- 352 or
- 353 (ii) structure that serves a rail fixed guideway public transit facility that extends across
- 354 two or more counties, including:
- 355 (A) platforms;
- 356 (B) passenger terminals or stations;
- 357 (C) park and ride facilities;
- 358 (D) maintenance facilities;
- 359 (E) all related utility lines, roadways, and other facilities serving the public transit
- 360 facility; or
- 361 (F) other auxiliary facilities.
- 362 (3) (a) Except as provided in Subsection (4), a school district or charter school is
- 363 subject to a municipality's land use ordinances.
- 364 (b) (i) Notwithstanding Subsection (4), a municipality may:
- 365 (A) subject a charter school to standards within each zone pertaining to setback, height,

366 bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction
367 staging; and

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

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

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

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

378 (4) A municipality may not:

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

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

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

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

393 (e) require a school district or charter school to pay any impact fee for an improvement

394 project unless the impact fee is imposed as provided in Title 11, Chapter 36, Impact Fees Act;

395 (f) impose regulations upon the location of an educational facility except as necessary
396 to avoid unreasonable risks to health or safety; or

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

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

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

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

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

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

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

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

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

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

414 (i) a municipal building inspector;

415 (ii) (A) for a school district, a school district building inspector from that school
416 district; or

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

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

420 (A) not an employee of the contractor;

421 (B) approved by:

- 422 (I) a municipal building inspector; or
- 423 (II) (Aa) for a school district, a school district building inspector from that school
- 424 district; or
- 425 (Bb) for a charter school, a school district building inspector from the school district in
- 426 which the charter school is located; and
- 427 (C) licensed to perform the inspection that the inspector is requested to perform.
- 428 (b) The approval under Subsection (7)(a)(iii)(B) may not be unreasonably withheld.
- 429 (c) If a school district or charter school uses a school district or independent building
- 430 inspector under Subsection (7)(a)(ii) or (iii), the school district or charter school shall submit to
- 431 the state superintendent of public instruction and municipal building official, on a monthly
- 432 basis during construction of the school building, a copy of each inspection certificate regarding
- 433 the school building.
- 434 (8) (a) A charter school shall be considered a permitted use in all zoning districts
- 435 within a municipality.
- 436 (b) Each land use application for any approval required for a charter school, including
- 437 an application for a building permit, shall be processed on a first priority basis.
- 438 (c) Parking requirements for a charter school may not exceed the minimum parking
- 439 requirements for schools or other institutional public uses throughout the municipality.
- 440 (d) If a municipality has designated zones for a sexually oriented business, or a
- 441 business which sells alcohol, a charter school may be prohibited from a location which would
- 442 otherwise defeat the purpose for the zone unless the charter school provides a waiver.
- 443 (e) (i) A school district or a charter school may seek a certificate authorizing permanent
- 444 occupancy of a school building from:
- 445 (A) the state superintendent of public instruction, as provided in Subsection
- 446 53A-20-104(3), if the school district or charter school used an independent building inspector
- 447 for inspection of the school building; or
- 448 (B) a municipal official with authority to issue the certificate, if the school district or
- 449 charter school used a municipal building inspector for inspection of the school building.

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

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

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

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

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

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

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

466 (B) the demand for public facilities listed in Subsections 11-36-102(14)(a), (b), (c), (d),
467 (e), and (g) caused by the development;

468 (C) the amount of any applicable fee [~~listed in Subsection 10-9a-510(5)~~] described in
469 Section 10-9a-510;

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

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

472 (b) The land use authority shall respond to a specified public agency's submission
473 under Subsection (9)(a) with reasonable promptness in order to allow the specified public
474 agency to consider information the municipality provides under Subsection (9)(a)(ii) in the
475 process of preparing the budget for the development.

476 (10) Nothing in this section may be construed to modify or supersede Section
477 10-9a-304.

478 Section 3. Section **10-9a-510** is amended to read:

479 **10-9a-510. Limit on fees -- Requirement to itemize fees -- Appeal of fee --**
480 **Provider of culinary or secondary water.**

481 (1) A municipality may not impose or collect a fee for reviewing or approving the
482 plans for a commercial or residential building that exceeds the lesser of:

- 483 (a) the actual cost of performing the plan review; and
- 484 (b) 65% of the amount the municipality charges for a building permit fee for that
485 building.

486 (2) Subject to Subsection (1), a municipality may impose and collect only a nominal
487 fee for reviewing and approving identical floor plans.

488 (3) A municipality may not impose or collect a hookup fee that exceeds the reasonable
489 cost of installing and inspecting the pipe, line, meter, and appurtenance to connect to the
490 municipal water, sewer, storm water, power, or other utility system.

491 (4) A municipality may not impose or collect:

- 492 (a) a land use application fee that exceeds the reasonable cost of processing the
493 application or issuing the permit; or
- 494 (b) an inspection, regulation, or review fee that exceeds the reasonable cost of
495 performing the inspection, regulation, or review.

496 (5) (a) [Upon the request of] If requested by an applicant who is charged a fee or an
497 owner of residential property upon which a fee is imposed, the municipality shall [itemize each
498 fee that the municipality imposes on the applicant or on the residential property, respectively,
499 showing the basis of each calculation for each fee imposed] provide an itemized fee statement
500 that shows the calculation method for each fee.

501 (b) If an applicant who is charged a fee or an owner of residential property upon which
502 a fee is imposed submits a request for an itemized fee statement no later than 30 days after the
503 day on which the applicant or owner pays the fee, the municipality shall no later than 10 days
504 after the day on which the request is received provide or commit to provide within a specific
505 time:

506 (i) for each fee, any studies, reports, or methods relied upon by the municipality to
507 create the calculation method described in Subsection (5)(a);

508 (ii) an accounting of each fee paid;

509 (iii) how each fee will be distributed; and

510 (iv) information on filing a fee appeal through the process described in Subsection
511 (5)(c).

512 (c) A municipality shall establish a fee appeal process subject to an appeal authority
513 described in Part 7, Appeal Authority and Variances, and district court review in accordance
514 with Part 8, District Court Review, to determine whether a fee reflects only the reasonable
515 estimated cost of:

516 (i) regulation;

517 (ii) processing an application;

518 (iii) issuing a permit; or

519 (iv) delivering the service for which the applicant or owner paid the fee.

520 (6) A municipality may not impose on or collect from a public agency any fee
521 associated with the public agency's development of its land other than:

522 (a) subject to Subsection (4), a fee for a development service that the public agency
523 does not itself provide;

524 (b) subject to Subsection (3), a hookup fee; and

525 (c) an impact fee for a public facility listed in Subsection 11-36-102(14)(a), (b), (c),
526 (d), (e), or (g), subject to any applicable credit under Subsection 11-36-202(2)(b).

527 (7) A provider of culinary or secondary water that commits to provide a water service
528 required by a land use application process is subject to the following as if it were a
529 municipality:

530 (a) Subsections (5) and (6);

531 (b) Section 10-9a-508; and

532 (c) Section 10-9a-509.5.

533 Section 4. Section **10-9a-701** is amended to read:

534 **10-9a-701. Appeal authority required -- Condition precedent to judicial review --**
535 **Appeal authority duties.**

536 (1) Each municipality adopting a land use ordinance shall, by ordinance, establish one
537 or more appeal authorities to hear and decide:

538 (a) requests for variances from the terms of the land use ordinances; [~~and~~]

539 (b) appeals from decisions applying the land use ordinances[-]; and

540 (c) appeals from a fee charged in accordance with Section 10-9a-510.

541 (2) As a condition precedent to judicial review, each adversely affected person shall
542 timely and specifically challenge a land use authority's decision, in accordance with local
543 ordinance.

544 (3) An appeal authority:

545 (a) shall:

546 (i) act in a quasi-judicial manner; and

547 (ii) serve as the final arbiter of issues involving the interpretation or application of land
548 use ordinances; and

549 (b) may not entertain an appeal of a matter in which the appeal authority, or any
550 participating member, had first acted as the land use authority.

551 (4) By ordinance, a municipality may:

552 (a) designate a separate appeal authority to hear requests for variances than the appeal
553 authority it designates to hear appeals;

554 (b) designate one or more separate appeal authorities to hear distinct types of appeals
555 of land use authority decisions;

556 (c) require an adversely affected party to present to an appeal authority every theory of
557 relief that it can raise in district court;

558 (d) not require an adversely affected party to pursue duplicate or successive appeals
559 before the same or separate appeal authorities as a condition of the adversely affected party's
560 duty to exhaust administrative remedies; and

561 (e) provide that specified types of land use decisions may be appealed directly to the

562 district court.

563 (5) If the municipality establishes or, prior to the effective date of this chapter, has
564 established a multiperson board, body, or panel to act as an appeal authority, at a minimum the
565 board, body, or panel shall:

566 (a) notify each of its members of any meeting or hearing of the board, body, or panel;

567 (b) provide each of its members with the same information and access to municipal
568 resources as any other member;

569 (c) convene only if a quorum of its members is present; and

570 (d) act only upon the vote of a majority of its convened members.

571 Section 5. Section **17-27a-103** is amended to read:

572 **17-27a-103. Definitions.**

573 As used in this chapter:

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

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

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

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

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

589 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or

590 residential property if the sign is designed or intended to direct attention to a business, product,
591 or service that is not sold, offered, or existing on the property where the sign is located.

592 (4) "Charter school" includes:

593 (a) an operating charter school;

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

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

598 (5) "Chief executive officer" means the person or body that exercises the executive
599 powers of the county.

600 (6) "Conditional use" means a land use that, because of its unique characteristics or
601 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be
602 compatible in some areas or may be compatible only if certain conditions are required that
603 mitigate or eliminate the detrimental impacts.

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

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

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

608 (8) "Culinary water authority" means the department, agency, or public entity with
609 responsibility to review and approve the feasibility of the culinary water system and sources for
610 the subject property.

611 (9) "Development activity" means:

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

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

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

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

621 (b) "Disability" does not include current illegal use of, or addiction to, any federally
622 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
623 802.

624 (11) "Educational facility":

625 (a) means:

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

629 (ii) a structure or facility:

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

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

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

634 (b) does not include land or a structure, including land or a structure for inventory
635 storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or
636 similar use that is:

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

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

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

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

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

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

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

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

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

656 (17) "Geologic hazard" means:

657 (a) a surface fault rupture;

658 (b) shallow groundwater;

659 (c) liquefaction;

660 (d) a landslide;

661 (e) a debris flow;

662 (f) unstable soil;

663 (g) a rock fall; or

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

665 (i) to life;

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

667 (iii) of substantial damage to real property.

668 (18) "Internal lot restriction" means a platted note, platted demarcation, or platted
669 designation that:

670 (a) runs with the land; and

671 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
672 the plat; or

673 (ii) designates a development condition that is enclosed within the perimeter of a lot

674 described on the plat.

675 (19) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
676 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility
677 system.

678 (20) "Identical plans" means building plans submitted to a county that:

679 (a) are clearly marked as "identical plans";

680 (b) are substantially identical building plans that were previously submitted to and
681 reviewed and approved by the county; and

682 (c) describe a building that [is]:

683 [~~(a)~~] (i) is located on land zoned the same as the land on which the building described
684 in the previously approved plans is located; [~~and~~]

685 [~~(b)~~] (ii) is subject to the same geological and meteorological conditions and the same
686 law as the building described in the previously approved plans[-];

687 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
688 and approved by the county; and

689 (iv) does not require any additional engineering or analysis.

690 (21) "Impact fee" means a payment of money imposed under Title 11, Chapter 36,
691 Impact Fees Act.

692 (22) "Improvement assurance" means a surety bond, letter of credit, cash, or other
693 security:

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

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

696 (i) recording a subdivision plat; or

697 (ii) beginning development activity; and

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

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

701 (ii) issue a permit for development activity.

702 (23) "Improvement assurance warranty" means a promise that the materials and
703 workmanship of improvements:

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

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

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

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

712 (26) "Land use application" means an application required by a county's land use
713 ordinance.

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

716 (28) "Land use ordinance" means a planning, zoning, development, or subdivision
717 ordinance of the county, but does not include the general plan.

718 (29) "Land use permit" means a permit issued by a land use authority.

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

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

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

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

729 (34) "Nominal fee" means a fee that reasonably reimburses a county only for time spent

730 and expenses incurred in:

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

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

734 (35) "Noncomplying structure" means a structure that:

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

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

739 (36) "Nonconforming use" means a use of land that:

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

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

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

745 (37) "Official map" means a map drawn by county authorities and recorded in the
746 county recorder's office that:

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

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

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

753 (38) "Person" means an individual, corporation, partnership, organization, association,
754 trust, governmental agency, or any other legal entity.

755 (39) "Plan for moderate income housing" means a written document adopted by a
756 county legislative body that includes:

757 (a) an estimate of the existing supply of moderate income housing located within the

758 county;

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

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

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

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

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

768 (41) "Potential geologic hazard area" means an area that:

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

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

775 (42) "Public agency" means:

776 (a) the federal government;

777 (b) the state;

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

780 (d) a charter school.

781 (43) "Public hearing" means a hearing at which members of the public are provided a
782 reasonable opportunity to comment on the subject of the hearing.

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

785 (45) "Receiving zone" means an unincorporated area of a county that the county's land

786 use authority designates as an area in which an owner of land may receive transferrable
787 development rights.

788 (46) "Record of survey map" means a map of a survey of land prepared in accordance
789 with Section 17-23-17.

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

793 (48) "Residential facility for persons with a disability" means a residence:

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

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

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

799 (49) "Sanitary sewer authority" means the department, agency, or public entity with
800 responsibility to review and approve the feasibility of sanitary sewer services or onsite
801 wastewater systems.

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

805 (51) "Specified public agency" means:

806 (a) the state;

807 (b) a school district; or

808 (c) a charter school.

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

811 (53) "State" includes any department, division, or agency of the state.

812 (54) "Street" means a public right-of-way, including a highway, avenue, boulevard,
813 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other

814 way.

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

819 (b) "Subdivision" includes:

820 (i) the division or development of land whether by deed, metes and bounds description,
821 devise and testacy, map, plat, or other recorded instrument; and

822 (ii) except as provided in Subsection (55)(c), divisions of land for residential and
823 nonresidential uses, including land used or to be used for commercial, agricultural, and
824 industrial purposes.

825 (c) "Subdivision" does not include:

826 (i) a bona fide division or partition of agricultural land for agricultural purposes;

827 (ii) a recorded agreement between owners of adjoining properties adjusting their
828 mutual boundary if:

829 (A) no new lot is created; and

830 (B) the adjustment does not violate applicable land use ordinances;

831 (iii) a recorded document, executed by the owner of record:

832 (A) revising the legal description of more than one contiguous unsubdivided parcel of
833 property into one legal description encompassing all such parcels of property; or

834 (B) joining a subdivided parcel of property to another parcel of property that has not
835 been subdivided, if the joinder does not violate applicable land use ordinances;

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

838 (A) an electrical transmission line or a substation;

839 (B) a natural gas pipeline or a regulation station; or

840 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
841 utility service regeneration, transformation, retransmission, or amplification facility;

842 (v) a recorded agreement between owners of adjoining subdivided properties adjusting
843 their mutual boundary if:

844 (A) no new dwelling lot or housing unit will result from the adjustment; and

845 (B) the adjustment will not violate any applicable land use ordinance; or

846 (vi) a bona fide division or partition of land by deed or other instrument where the land
847 use authority expressly approves in writing the division in anticipation of further land use
848 approvals on the parcel or parcels.

849 (d) The joining of a subdivided parcel of property to another parcel of property that has
850 not been subdivided does not constitute a subdivision under this Subsection (55) as to the
851 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision
852 ordinance.

853 (56) "Township" means a contiguous, geographically defined portion of the
854 unincorporated area of a county, established under this part or reconstituted or reinstated under
855 Section 17-27a-306, with planning and zoning functions as exercised through the township
856 planning commission, as provided in this chapter, but with no legal or political identity
857 separate from the county and no taxing authority, except that "township" means a former
858 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

859 (57) "Transferrable development right" means the entitlement to develop land within a
860 sending zone that would vest according to the county's existing land use ordinances on the date
861 that a completed land use application is filed seeking the approval of development activity on
862 the land.

863 (58) "Unincorporated" means the area outside of the incorporated area of a
864 municipality.

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

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

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

868 (i) a contract; or

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

870 (60) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
871 land use zones, overlays, or districts.

872 Section 6. Section **17-27a-305** is amended to read:

873 **17-27a-305. Other entities required to conform to county's land use ordinances --**
874 **Exceptions -- School districts and charter schools -- Submission of development plan and**
875 **schedule.**

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

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

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

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

888 or

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

891 (A) platforms;

892 (B) passenger terminals or stations;

893 (C) park and ride facilities;

894 (D) maintenance facilities;

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

897 (F) other auxiliary facilities.

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

901 (c) A county of the first class may not, through an agreement under Title 11, Chapter
902 13, Interlocal Cooperation Act, require a public transit district under Title 17B, Chapter 2a,
903 Part 8, Public Transit District Act, to obtain approval from the county prior to constructing a:

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

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

908 (A) platforms;

909 (B) passenger terminals or stations;

910 (C) park and ride facilities;

911 (D) maintenance facilities;

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

914 (F) other auxiliary facilities.

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

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

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

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

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

925 (iii) Except as provided in Subsection (8)(d), the only basis upon which a county may

926 deny or withhold approval of a charter school's land use application is the charter school's
927 failure to comply with a standard imposed under Subsection (3)(b)(i).

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

931 (4) A county may not:

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

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

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

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

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

948 (f) impose regulations upon the location of an educational facility except as necessary
949 to avoid unreasonable risks to health or safety; or

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

953 (i) is not imposed on a similar land use or structure in the zone in which the land use or

954 structure is approved; or

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

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

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

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

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

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

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

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

967 (i) a county building inspector;

968 (ii) (A) for a school district, a school district building inspector from that school
969 district; or

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

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

973 (A) not an employee of the contractor;

974 (B) approved by:

975 (I) a county building inspector; or

976 (II) (Aa) for a school district, a school district building inspector from that school
977 district; or

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

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

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

982 (c) If a school district or charter school uses a school district or independent building
983 inspector under Subsection (7)(a)(ii) or (iii), the school district or charter school shall submit to
984 the state superintendent of public instruction and county building official, on a monthly basis
985 during construction of the school building, a copy of each inspection certificate regarding the
986 school building.

987 (8) (a) A charter school shall be considered a permitted use in all zoning districts
988 within a county.

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

991 (c) Parking requirements for a charter school may not exceed the minimum parking
992 requirements for schools or other institutional public uses throughout the county.

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

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

998 (A) the state superintendent of public instruction, as provided in Subsection
999 53A-20-104(3), if the school district or charter school used an independent building inspector
1000 for inspection of the school building; or

1001 (B) a county official with authority to issue the certificate, if the school district or
1002 charter school used a county building inspector for inspection of the school building.

1003 (ii) A school district may issue its own certificate authorizing permanent occupancy of
1004 a school building if it used its own building inspector for inspection of the school building,
1005 subject to the notification requirement of Subsection 53A-20-104(3)(a)(ii).

1006 (iii) A charter school may seek a certificate authorizing permanent occupancy of a
1007 school building from a school district official with authority to issue the certificate, if the
1008 charter school used a school district building inspector for inspection of the school building.

1009 (iv) A certificate authorizing permanent occupancy issued by the state superintendent

1010 of public instruction under Subsection 53A-20-104(3) or a school district official with authority
1011 to issue the certificate shall be considered to satisfy any county requirement for an inspection or
1012 a certificate of occupancy.

1013 (9) (a) A specified public agency intending to develop its land shall submit to the land
1014 use authority a development plan and schedule:

1015 (i) as early as practicable in the development process, but no later than the
1016 commencement of construction; and

1017 (ii) with sufficient detail to enable the land use authority to assess:

1018 (A) the specified public agency's compliance with applicable land use ordinances;

1019 (B) the demand for public facilities listed in Subsections 11-36-102(14)(a), (b), (c), (d),
1020 (e), and (g) caused by the development;

1021 (C) the amount of any applicable fee [~~listed in Subsection 17-27a-509(5)~~] described in
1022 Section 17-27a-509;

1023 (D) any credit against an impact fee; and

1024 (E) the potential for waiving an impact fee.

1025 (b) The land use authority shall respond to a specified public agency's submission
1026 under Subsection (9)(a) with reasonable promptness in order to allow the specified public
1027 agency to consider information the municipality provides under Subsection (9)(a)(ii) in the
1028 process of preparing the budget for the development.

1029 (10) Nothing in this section may be construed to modify or supersede Section
1030 17-27a-304.

1031 Section 7. Section **17-27a-509** is amended to read:

1032 **17-27a-509. Limit on fees -- Requirement to itemize fees -- Appeal of fee --**
1033 **Provider of culinary or secondary water.**

1034 (1) A county may not impose or collect a fee for reviewing or approving the plans for a
1035 commercial or residential building that exceeds the lesser of:

1036 (a) the actual cost of performing the plan review; and

1037 (b) 65% of the amount the county charges for a building permit fee for that building.

1038 (2) Subject to Subsection (1), a county may impose and collect only a nominal fee for
1039 reviewing and approving identical floor plans.

1040 (3) A county may not impose or collect a hookup fee that exceeds the reasonable cost
1041 of installing and inspecting the pipe, line, meter, or appurtenance to connect to the county
1042 water, sewer, storm water, power, or other utility system.

1043 (4) A county may not impose or collect:

1044 (a) a land use application fee that exceeds the reasonable cost of processing the
1045 application or issuing the permit; or

1046 (b) an inspection, regulation, or review fee that exceeds the reasonable cost of
1047 performing the inspection, regulation, or review.

1048 (5) ~~(a) [Upon the request of]~~ If requested by an applicant who is charged a fee or an
1049 owner of residential property upon which a fee is imposed, the county shall [itemize each fee
1050 that the county imposes on the applicant or on the residential property, respectively, showing
1051 the basis of each calculation for each fee imposed] provide an itemized fee statement that
1052 shows the calculation method for each fee.

1053 (b) If an applicant who is charged a fee or an owner of residential property upon which
1054 a fee is imposed submits a request for an itemized fee statement no later than 30 days after the
1055 day on which the applicant or owner pays the fee, the county shall no later than 10 days after
1056 the day on which the request is received provide or commit to provide within a specific time:

1057 (i) for each fee, any studies, reports, or methods relied upon by the county to create the
1058 calculation method described in Subsection (5)(a);

1059 (ii) an accounting of each fee paid;

1060 (iii) how each fee will be distributed; and

1061 (iv) information on filing a fee appeal through the process described in Subsection
1062 (5)(c).

1063 (c) A county shall establish a fee appeal process subject to an appeal authority
1064 described in Part 7, Appeal Authority and Variances, and district court review in accordance
1065 with Part 8, District Court Review, to determine whether a fee reflects only the reasonable

1066 estimated cost of:

1067 (i) regulation;

1068 (ii) processing an application;

1069 (iii) issuing a permit; or

1070 (iv) delivering the service for which the applicant or owner paid the fee.

1071 (6) A county may not impose on or collect from a public agency any fee associated
1072 with the public agency's development of its land other than:

1073 (a) subject to Subsection (4), a fee for a development service that the public agency
1074 does not itself provide;

1075 (b) subject to Subsection (3), a hookup fee; and

1076 (c) an impact fee for a public facility listed in Subsection 11-36-102(14)(a), (b), (c),
1077 (d), (e), or (g), subject to any applicable credit under Subsection 11-36-202(2)(b).

1078 (7) A provider of culinary or secondary water that commits to provide a water service
1079 required by a land use application process is subject to the following as if it were a county:

1080 (a) Subsections (5) and (6);

1081 (b) Section 17-27a-507; and

1082 (c) Section 17-27a-509.5.

1083 Section 8. Section **17-27a-701** is amended to read:

1084 **17-27a-701. Appeal authority required -- Condition precedent to judicial review**
1085 **-- Appeal authority duties.**

1086 (1) Each county adopting a land use ordinance shall, by ordinance, establish one or
1087 more appeal authorities to hear and decide:

1088 (a) requests for variances from the terms of the land use ordinances; [~~and~~]

1089 (b) appeals from decisions applying the land use ordinances[-]; and

1090 (c) appeals from a fee charged in accordance with Section 17-27a-509.

1091 (2) As a condition precedent to judicial review, each adversely affected person shall
1092 timely and specifically challenge a land use authority's decision, in accordance with local
1093 ordinance.

- 1094 (3) An appeal authority:
- 1095 (a) shall:
- 1096 (i) act in a quasi-judicial manner; and
- 1097 (ii) serve as the final arbiter of issues involving the interpretation or application of land
- 1098 use ordinances; and
- 1099 (b) may not entertain an appeal of a matter in which the appeal authority, or any
- 1100 participating member, had first acted as the land use authority.
- 1101 (4) By ordinance, a county may:
- 1102 (a) designate a separate appeal authority to hear requests for variances than the appeal
- 1103 authority it designates to hear appeals;
- 1104 (b) designate one or more separate appeal authorities to hear distinct types of appeals
- 1105 of land use authority decisions;
- 1106 (c) require an adversely affected party to present to an appeal authority every theory of
- 1107 relief that it can raise in district court;
- 1108 (d) not require an adversely affected party to pursue duplicate or successive appeals
- 1109 before the same or separate appeal authorities as a condition of the adversely affected party's
- 1110 duty to exhaust administrative remedies; and
- 1111 (e) provide that specified types of land use decisions may be appealed directly to the
- 1112 district court.
- 1113 (5) If the county establishes or, prior to the effective date of this chapter, has
- 1114 established a multiperson board, body, or panel to act as an appeal authority, at a minimum the
- 1115 board, body, or panel shall:
- 1116 (a) notify each of its members of any meeting or hearing of the board, body, or panel;
- 1117 (b) provide each of its members with the same information and access to municipal
- 1118 resources as any other member;
- 1119 (c) convene only if a quorum of its members is present; and
- 1120 (d) act only upon the vote of a majority of its convened members.