

LAND USE REVISIONS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: Scott K. Jenkins

LONG TITLE

General Description:

This bill amends municipal and county land use provisions.

Highlighted Provisions:

This bill:

- ▶ defines "therapeutic school";
- ▶ prohibits a municipality or a county from enforcing or enacting an ordinance in a way that fails to comply with state or federal law; 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

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

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

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



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

29 **10-9a-103. Definitions.**

30 As used in this chapter:

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

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

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

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

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

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

49 (4) ~~(a)~~ "Charter school" ~~[includes]~~ means:

50 ~~(a)~~ (i) an operating charter school;

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

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

55 (b) "Charter school" does not include a therapeutic school.

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

59 mitigate or eliminate the detrimental impacts.

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

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

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

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

67 (8) "Development activity" means:

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

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

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

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

77 (b) "Disability" does not include current illegal use of, or addiction to, any federally
78 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
79 802.

80 (10) "Educational facility":

81 (a) means:

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

85 (ii) a structure or facility:

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

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

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

90 (b) does not include:

91 (i) land or a structure, including land or a structure for inventory storage, equipment
92 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

93 ~~[(i)]~~ (A) not located on the same property as a building described in Subsection

94 (10)(a)(i); and

95 ~~[(ii)]~~ (B) used in support of the purposes of a building described in Subsection

96 (10)(a)(i)~~[-]; or~~

97 (ii) a therapeutic school.

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

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

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

105 (a) is within the 100-year flood plain designated by the Federal Emergency

106 Management Agency; or

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

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

113 (15) "Geologic hazard" means:

114 (a) a surface fault rupture;

115 (b) shallow groundwater;

116 (c) liquefaction;

117 (d) a landslide;

118 (e) a debris flow;

119 (f) unstable soil;

120 (g) a rock fall; or

- 121 (h) any other geologic condition that presents a risk:
- 122 (i) to life;
- 123 (ii) of substantial loss of real property; or
- 124 (iii) of substantial damage to real property.
- 125 (16) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 126 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other
- 127 utility system.
- 128 (17) "Identical plans" means building plans submitted to a municipality that are
- 129 substantially identical to building plans that were previously submitted to and reviewed and
- 130 approved by the municipality and describe a building that is:
- 131 (a) located on land zoned the same as the land on which the building described in the
- 132 previously approved plans is located; and
- 133 (b) subject to the same geological and meteorological conditions and the same law as
- 134 the building described in the previously approved plans.
- 135 (18) "Impact fee" means a payment of money imposed under Title 11, Chapter 36,
- 136 Impact Fees Act.
- 137 (19) "Improvement assurance" means a surety bond, letter of credit, cash, or other
- 138 security:
- 139 (a) to guaranty the proper completion of an improvement;
- 140 (b) that is required as a condition precedent to:
- 141 (i) recording a subdivision plat; or
- 142 (ii) beginning development activity; and
- 143 (c) that is offered to a land use authority to induce the land use authority, before actual
- 144 construction of required improvements, to:
- 145 (i) consent to the recording of a subdivision plat; or
- 146 (ii) issue a permit for development activity.
- 147 (20) "Improvement assurance warranty" means a promise that the materials and
- 148 workmanship of improvements:
- 149 (a) comport with standards that the municipality has officially adopted; and
- 150 (b) will not fail in any material respect within a warranty period.
- 151 (21) "Internal lot restriction" means a platted note, platted demarcation, or platted

152 designation that:

153 (a) runs with the land; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

181 (b) because of one or more subsequent land use ordinance changes, does not conform
182 to the setback, height restrictions, or other regulations, excluding those regulations, which

183 govern the use of land.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

220 (38) "Public agency" means:

221 (a) the federal government;

222 (b) the state;

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

225 (d) a charter school.

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

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

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

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

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

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

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

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

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

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

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

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

250 (47) "Specified public agency" means:

251 (a) the state;

252 (b) a school district; or

253 (c) a charter school.

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

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

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

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

264 (b) "Subdivision" includes:

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

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

270 (c) "Subdivision" does not include:

271 (i) a bona fide division or partition of agricultural land for the purpose of joining one of
272 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if
273 neither the resulting combined parcel nor the parcel remaining from the division or partition
274 violates an applicable land use ordinance;

275 (ii) a recorded agreement between owners of adjoining unsubdivided properties

276 adjusting their mutual boundary if:

277 (A) no new lot is created; and

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

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

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

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

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

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

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

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

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

295 (52) "Therapeutic school" means a residential group living facility:

296 (a) for four or more individuals who are not related to:

297 (i) the owner of the facility; or

298 (ii) the primary service provider of the facility;

299 (b) that serves students who have a history of failing to function:

300 (i) at home;

301 (ii) in a public school; or

302 (iii) in a nonresidential private school; and

303 (c) that offers:

304 (i) room and board; and

305 (ii) an academic education integrated with:

306 (A) specialized structure and supervision; or

307 (B) services or treatment related to a disability, an emotional development, a
308 behavioral development, a familial development, or a social development.

309 [~~52~~] (53) "Transferrable development right" means the entitlement to develop land
310 within a sending zone that would vest according to the municipality's existing land use
311 ordinances on the date that a completed land use application is filed seeking the approval of
312 development activity on the land.

313 [~~53~~] (54) "Unincorporated" means the area outside of the incorporated area of a city
314 or town.

315 [~~54~~] (55) "Water interest" means any right to the beneficial use of water, including:

- 316 (a) each of the rights listed in Section 73-1-11; and
- 317 (b) an ownership interest in the right to the beneficial use of water represented by:
 - 318 (i) a contract; or
 - 319 (ii) a share in a water company, as defined in Section 73-3-3.5.

320 [~~55~~] (56) "Zoning map" means a map, adopted as part of a land use ordinance, that
321 depicts land use zones, overlays, or districts.

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

323 **10-9a-305. Other entities required to conform to municipality's land use**
324 **ordinances -- Exceptions -- School districts and charter schools -- Submission of**
325 **development plan and schedule.**

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

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

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

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

339 or

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

341 two or more counties, including:

342 (A) platforms;

343 (B) passenger terminals or stations;

344 (C) park and ride facilities;

345 (D) maintenance facilities;

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

347 facility; or

348 (F) other auxiliary facilities.

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

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

351 guideway public transit facility.

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

353 through an agreement under Title 11, Chapter 13, Interlocal Cooperation Act, require a public

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

355 approval from the municipality prior to constructing a:

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

357 or

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

359 two or more counties, including:

360 (A) platforms;

361 (B) passenger terminals or stations;

362 (C) park and ride facilities;

363 (D) maintenance facilities;

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

365 facility; or

366 (F) other auxiliary facilities.

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

368 subject to a municipality's land use ordinances.

369 (b) (i) Notwithstanding Subsection (4), a municipality may:
370 (A) subject a charter school to standards within each zone pertaining to setback, height,
371 bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction
372 staging; and
373 (B) impose regulations upon the location of a project that are necessary to avoid
374 unreasonable risks to health or safety, as provided in Subsection (4)(f).
375 (ii) The standards to which a municipality may subject a charter school under
376 Subsection (3)(b)(i) shall be objective standards only and may not be subjective.
377 (iii) Except as provided in Subsection (8)(d), the only basis upon which a municipality
378 may deny or withhold approval of a charter school's land use application is the charter school's
379 failure to comply with a standard imposed under Subsection (3)(b)(i).
380 (iv) Nothing in Subsection (3)(b)(iii) may be construed to relieve a charter school of an
381 obligation to comply with a requirement of an applicable building or safety code to which it is
382 otherwise obligated to comply.
383 (4) A municipality may not:
384 (a) impose requirements for landscaping, fencing, aesthetic considerations,
385 construction methods or materials, additional building inspections, municipal building codes,
386 building use for educational purposes, or the placement or use of temporary classroom facilities
387 on school property;
388 (b) except as otherwise provided in this section, require a school district or charter
389 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a
390 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school
391 children and not located on or contiguous to school property, unless the roadway or sidewalk is
392 required to connect an otherwise isolated school site to an existing roadway;
393 (c) require a district or charter school to pay fees not authorized by this section;
394 (d) provide for inspection of school construction or assess a fee or other charges for
395 inspection, unless the school district or charter school is unable to provide for inspection by an
396 inspector, other than the project architect or contractor, who is qualified under criteria
397 established by the state superintendent;
398 (e) require a school district or charter school to pay any impact fee for an improvement
399 project unless the impact fee is imposed as provided in Title 11, Chapter 36, Impact Fees Act;

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

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

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

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

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

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

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

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

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

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

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

419 (i) a municipal building inspector;

420 (ii) (A) for a school district, a school district building inspector from that school
421 district; or

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

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

425 (A) not an employee of the contractor;

426 (B) approved by:

427 (I) a municipal building inspector; or

428 (II) (Aa) for a school district, a school district building inspector from that school
429 district; or

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

431 which the charter school is located; and

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

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

434 (c) If a school district or charter school uses a school district or independent building
435 inspector under Subsection (7)(a)(ii) or (iii), the school district or charter school shall submit to
436 the state superintendent of public instruction and municipal building official, on a monthly
437 basis during construction of the school building, a copy of each inspection certificate regarding
438 the school building.

439 (8) (a) A charter school shall be considered a permitted use in all zoning districts
440 within a municipality.

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

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

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

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

450 (A) the state superintendent of public instruction, as provided in Subsection
451 53A-20-104(3), if the school district or charter school used an independent building inspector
452 for inspection of the school building; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

480 (10) Nothing in this section may be construed to:

481 (a) modify or supersede Section 10-9a-304[-]; or

482 (b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance,
483 that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing
484 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of
485 1990, 42 U.S.C. 12102, or any other provision of federal law.

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

487 **17-27a-103. Definitions.**

488 As used in this chapter:

489 (1) "Affected entity" means a county, municipality, local district, special service
490 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
491 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
492 property owner, property owners association, public utility, or the Utah Department of

493 Transportation, if:

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

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

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

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

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

507 (4) (a) "Charter school" [~~includes~~] means:

508 [~~(a)~~] (i) an operating charter school;

509 [~~(b)~~] (ii) a charter school applicant that has its application approved by a chartering
510 entity in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; [~~and~~] or

511 [~~(c)~~] (iii) an entity who is working on behalf of a charter school or approved charter
512 applicant to develop or construct a charter school building.

513 (b) "Charter school" does not include a therapeutic school.

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

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

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

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

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

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

527 (9) "Development activity" means:

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

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

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

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

537 (b) "Disability" does not include current illegal use of, or addiction to, any federally
538 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
539 802.

540 (11) "Educational facility":

541 (a) means:

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

545 (ii) a structure or facility:

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

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

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

550 (b) does not include:

551 (i) land or a structure, including land or a structure for inventory storage, equipment
552 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

553 [~~(i)~~] (A) not located on the same property as a building described in Subsection

554 (11)(a)(i); and

555 [(†)] (B) used in support of the purposes of a building described in Subsection
556 (11)(a)(i)[-]; or

557 (ii) a therapeutic school.

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

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

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

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

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

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

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

574 (17) "Geologic hazard" means:

575 (a) a surface fault rupture;

576 (b) shallow groundwater;

577 (c) liquefaction;

578 (d) a landslide;

579 (e) a debris flow;

580 (f) unstable soil;

581 (g) a rock fall; or

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

583 (i) to life;

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

585 (iii) of substantial damage to real property.

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

588 (a) runs with the land; and

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

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

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

596 (20) "Identical plans" means building plans submitted to a county that are substantially
597 identical building plans that were previously submitted to and reviewed and approved by the
598 county and describe a building that is:

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

601 (b) subject to the same geological and meteorological conditions and the same law as
602 the building described in the previously approved plans.

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

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

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

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

609 (i) recording a subdivision plat; or

610 (ii) beginning development activity; and

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

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

614 (ii) issue a permit for development activity.

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

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

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

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

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

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

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

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

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

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

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

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

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

642 (34) "Nominal fee" means a fee that reasonably reimburses a county only for time spent
643 and expenses incurred in:

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

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

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

648 (a) legally existed before its current land use designation; and
649 (b) because of one or more subsequent land use ordinance changes, does not conform
650 to the setback, height restrictions, or other regulations, excluding those regulations that govern
651 the use of land.

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

653 (a) legally existed before its current land use designation;
654 (b) has been maintained continuously since the time the land use ordinance regulation
655 governing the land changed; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

688 (42) "Public agency" means:

689 (a) the federal government;

690 (b) the state;

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

693 (d) a charter school.

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

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

698 (45) "Receiving zone" means an unincorporated area of a county that the county's land
699 use authority designates as an area in which an owner of land may receive transferrable
700 development rights.

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

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

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

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

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

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

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

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

718 (51) "Specified public agency" means:

719 (a) the state;

720 (b) a school district; or

721 (c) a charter school.

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

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

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

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

732 (b) "Subdivision" includes:

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

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

738 (c) "Subdivision" does not include:

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

740 (ii) a recorded agreement between owners of adjoining properties adjusting their

741 mutual boundary if:

742 (A) no new lot is created; and

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

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

745 (A) revising the legal description of more than one contiguous unsubdivided parcel of

746 property into one legal description encompassing all such parcels of property; or

747 (B) joining a subdivided parcel of property to another parcel of property that has not

748 been subdivided, if the joinder does not violate applicable land use ordinances;

749 (iv) a bona fide division or partition of land in a county other than a first class county

750 for the purpose of siting, on one or more of the resulting separate parcels:

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

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

753 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other

754 utility service regeneration, transformation, retransmission, or amplification facility;

755 (v) a recorded agreement between owners of adjoining subdivided properties adjusting

756 their mutual boundary if:

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

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

759 (vi) a bona fide division or partition of land by deed or other instrument where the land

760 use authority expressly approves in writing the division in anticipation of further land use

761 approvals on the parcel or parcels.

762 (d) The joining of a subdivided parcel of property to another parcel of property that has

763 not been subdivided does not constitute a subdivision under this Subsection (55) as to the

764 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision

765 ordinance.

766 (56) "Therapeutic school" means a residential group living facility:

767 (a) for four or more individuals who are not related to:

768 (i) the owner of the facility; or

769 (ii) the primary service provider of the facility;

770 (b) that serves students who have a history of failing to function:

771 (i) at home;

- 772 (ii) in a public school; or
- 773 (iii) in a nonresidential private school; and
- 774 (c) that offers:
- 775 (i) room and board; and
- 776 (ii) an academic education integrated with:
- 777 (A) specialized structure and supervision; or
- 778 (B) services or treatment related to a disability, an emotional development, a
- 779 behavioral development, a familial development, or asocial development.

780 [~~56~~] (57) "Township" means a contiguous, geographically defined portion of the
 781 unincorporated area of a county, established under this part or reconstituted or reinstated under
 782 Section 17-27a-306, with planning and zoning functions as exercised through the township
 783 planning commission, as provided in this chapter, but with no legal or political identity
 784 separate from the county and no taxing authority, except that "township" means a former
 785 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

786 [~~57~~] (58) "Transferrable development right" means the entitlement to develop land
 787 within a sending zone that would vest according to the county's existing land use ordinances on
 788 the date that a completed land use application is filed seeking the approval of development
 789 activity on the land.

790 [~~58~~] (59) "Unincorporated" means the area outside of the incorporated area of a
 791 municipality.

792 [~~59~~] (60) "Water interest" means any right to the beneficial use of water, including:
 793 (a) each of the rights listed in Section 73-1-11; and
 794 (b) an ownership interest in the right to the beneficial use of water represented by:
 795 (i) a contract; or
 796 (ii) a share in a water company, as defined in Section 73-3-3.5.

797 [~~60~~] (61) "Zoning map" means a map, adopted as part of a land use ordinance, that
 798 depicts land use zones, overlays, or districts.

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

800 **17-27a-305. Other entities required to conform to county's land use ordinances --**
 801 **Exceptions -- School districts and charter schools -- Submission of development plan and**
 802 **schedule.**

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

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

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

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

815 or

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

818 (A) platforms;

819 (B) passenger terminals or stations;

820 (C) park and ride facilities;

821 (D) maintenance facilities;

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

823 facility; or

824 (F) other auxiliary facilities.

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

828 (c) A county of the first class may not, through an agreement under Title 11, Chapter
829 13, Interlocal Cooperation Act, require a public transit district under Title 17B, Chapter 2a,
830 Part 8, Public Transit District Act, to obtain approval from the county prior to constructing a:

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

832 or

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

834 two or more counties, including:

835 (A) platforms;

836 (B) passenger terminals or stations;

837 (C) park and ride facilities;

838 (D) maintenance facilities;

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

841 (F) other auxiliary facilities.

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

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

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

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

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

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

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

858 (4) A county may not:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

894 (i) a county building inspector;

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

896 district; or
897 (B) for a charter school, a school district building inspector from the school district in
898 which the charter school is located; or
899 (iii) an independent, certified building inspector who is:
900 (A) not an employee of the contractor;
901 (B) approved by:
902 (I) a county building inspector; or
903 (II) (Aa) for a school district, a school district building inspector from that school
904 district; or
905 (Bb) for a charter school, a school district building inspector from the school district in
906 which the charter school is located; and
907 (C) licensed to perform the inspection that the inspector is requested to perform.
908 (b) The approval under Subsection (7)(a)(iii)(B) may not be unreasonably withheld.
909 (c) If a school district or charter school uses a school district or independent building
910 inspector under Subsection (7)(a)(ii) or (iii), the school district or charter school shall submit to
911 the state superintendent of public instruction and county building official, on a monthly basis
912 during construction of the school building, a copy of each inspection certificate regarding the
913 school building.
914 (8) (a) A charter school shall be considered a permitted use in all zoning districts
915 within a county.
916 (b) Each land use application for any approval required for a charter school, including
917 an application for a building permit, shall be processed on a first priority basis.
918 (c) Parking requirements for a charter school may not exceed the minimum parking
919 requirements for schools or other institutional public uses throughout the county.
920 (d) If a county has designated zones for a sexually oriented business, or a business
921 which sells alcohol, a charter school may be prohibited from a location which would otherwise
922 defeat the purpose for the zone unless the charter school provides a waiver.
923 (e) (i) A school district or a charter school may seek a certificate authorizing permanent
924 occupancy of a school building from:
925 (A) the state superintendent of public instruction, as provided in Subsection
926 53A-20-104(3), if the school district or charter school used an independent building inspector

927 for inspection of the school building; or

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

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

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

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

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

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

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

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

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

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

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

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

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

955 (10) Nothing in this section may be construed to:

956 (a) modify or supersede Section 17-27a-304[-]; or

957 (b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that

958 fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing
959 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of
960 1990, 42 U.S.C. 12102, or any other provision of federal law.

Legislative Review Note
as of 2-7-11 1:48 PM

Office of Legislative Research and General Counsel