

**COUNTY AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kera Birkeland**

Senate Sponsor: \_\_\_\_\_

---

---

**LONG TITLE**

**General Description:**

This bill addresses county powers.

**Highlighted Provisions:**

This bill:

- ▶ modifies provisions related to franchise agreements or conditional use permits under certain circumstances related to mutual water companies;
- ▶ addresses restrictions on length of franchises; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**17-27a-506**, as last amended by Laws of Utah 2021, Chapter 385

**17-50-306**, as renumbered and amended by Laws of Utah 2000, Chapter 133

**17-50-309**, as renumbered and amended by Laws of Utah 2000, Chapter 133

ENACTS:

**17-50-340**, Utah Code Annotated 1953

---

---



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

29 Section 1. Section **17-27a-506** is amended to read:

30 **17-27a-506. Conditional uses.**

31 (1) (a) A county may adopt a land use ordinance that includes conditional uses and  
32 provisions for conditional uses that require compliance with objective standards set forth in an  
33 applicable ordinance.

34 (b) A county may not impose a requirement or standard on a conditional use that  
35 conflicts with a provision of this chapter or other state or federal law.

36 (2) (a) (i) A land use authority shall approve a conditional use if reasonable conditions  
37 are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of  
38 the proposed use in accordance with applicable standards.

39 (ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate  
40 anticipated detrimental effects of the proposed conditional use does not require elimination of  
41 the detrimental effects.

42 (b) If a land use authority proposes reasonable conditions on a proposed conditional  
43 use, the land use authority shall ensure that the conditions are stated on the record and  
44 reasonably relate to mitigating the anticipated detrimental effects of the proposed use.

45 (c) If the reasonably anticipated detrimental effects of a proposed conditional use  
46 cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to  
47 achieve compliance with applicable standards, the land use authority may deny the conditional  
48 use.

49 (3) A land use authority's decision to approve or deny a conditional use is an  
50 administrative land use decision.

51 (4) A legislative body shall classify any use that a land use regulation allows in a  
52 zoning district as either a permitted or conditional use under this chapter.

53 (5) Notwithstanding the other provisions of this section and in accordance with Section  
54 17-50-340, a county may not require a conditional use permit for a mutual water company to  
55 locate, establish, construct, reconstruct, operate, repair, replace, or maintain:

56 (a) a water well;

57 (b) a water diversion facility; or

58 (c) a water distribution system, including a distribution line, pump station, water

59 storage tank, water storage facility, pressure reducing station, electrical or utility line, electrical  
60 meter, or storm drainage line.

61 Section 2. Section 17-50-306 is amended to read:

62 **17-50-306. Granting franchises over public roads -- Limitation -- Water**  
63 **infrastructure.**

64 (1) A county may grant franchises along and over the public roads and highways for all  
65 lawful purposes, upon such terms, conditions, and restrictions as in the judgment of the county  
66 legislative body are necessary and proper, to be exercised in such manner as to present the least  
67 possible obstruction and inconvenience to the traveling public.

68 (2) A franchise under Subsection (1) may not be granted for a period longer than 50  
69 years.

70 (3) If a county grants a franchise for water infrastructure, the county may grant the  
71 franchise for the useful life of the water infrastructure which may be for a period longer than 50  
72 years.

73 Section 3. Section 17-50-309 is amended to read:

74 **17-50-309. Regulation of use of roads.**

75 (1) A county may enact ordinances and make regulations not in conflict with law for  
76 the control, construction, alteration, repair, and use of all public roads and highways in the  
77 county outside of cities and towns.

78 (2) A county may not enact an ordinance or make a regulation that violates Section  
79 17-50-306 or 17-50-340.

80 Section 4. Section 17-50-340 is enacted to read:

81 **17-50-340. Mutual water companies.**

82 (1) As used in this section:

83 (a) "Class C or D road" means a road that is a Class C road as defined in Section  
84 72-3-104, or a class D road as defined in Section 72-3-105.

85 (b) "Mutual water company" means an entity organized for, or engaged in the business  
86 of, selling, distributing, supplying, or delivering water to the entity's stockholders and members  
87 at cost for irrigation purposes or for culinary use.

88 (2) A county may not require:

89 (a) a franchise agreement or license of a mutual water company for a project to

90 construct or operate underground infrastructure in a public rights-of-way of a Class C or D  
91 road; or  
92 (b) a conditional use permit for a project for a mutual water company to construct or  
93 operate:  
94 (i) underground infrastructure; or  
95 (ii) a water storage tank on private property, regardless of whether the water storage  
96 tank is located underground.