

**LAND USE REVISIONS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gage Froerer**

Senate Sponsor: Scott K. Jenkins

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**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

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

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

**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 ~~(ii)~~ (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 a social 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.