

Effective 5/1/2024

17-27a-305 Other entities required to conform to county's land use ordinances -- Exceptions -- School districts, charter schools, home-based microschoools, and micro-education entities -- Submission of development plan and schedule.

- (1)
 - (a) Each county, municipality, school district, charter school, special district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any county when installing, constructing, operating, or otherwise using any area, land, or building situated within a mountainous planning district or the unincorporated portion of the county, as applicable.
 - (b) In addition to any other remedies provided by law, when a county's land use ordinance is violated or about to be violated by another political subdivision, that county may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.
- (2)
 - (a) Except as provided in Subsection (3), a school district or charter school is subject to a county's land use ordinances.
 - (b)
 - (i) Notwithstanding Subsection (3), a county may:
 - (A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and
 - (B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).
 - (ii) The standards to which a county may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.
 - (iii) Except as provided in Subsection (7)(d), the only basis upon which a county may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).
 - (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.
- (3) A county may not:
 - (a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, county building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;
 - (b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;
 - (c) require a district or charter school to pay fees not authorized by this section;
 - (d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

- (e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;
 - (f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or
 - (g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:
 - (i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or
 - (ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.
- (4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the siting of a new school with the county in which the school is to be located, to:
- (a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and
 - (b) maximize school, student, and site safety.
- (5) Notwithstanding Subsection (3)(d), a county may, at its discretion:
- (a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and
 - (b) provide recommendations based upon the walk-through.
- (6)
- (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:
 - (i) a county building inspector;
 - (ii)
 - (A) for a school district, a school district building inspector from that school district; or
 - (B) for a charter school, a school district building inspector from the school district in which the charter school is located; or
 - (iii) an independent, certified building inspector who is not an employee of the contractor, licensed to perform the inspection that the inspector is requested to perform, and approved by a county building inspector or:
 - (A) for a school district, a school district building inspector from that school district; or
 - (B) for a charter school, a school district building inspector from the school district in which the charter school is located.
 - (b) The approval under Subsection (6)(a)(iii) may not be unreasonably withheld.
 - (c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and county building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.
- (7)
- (a) A charter school, home-based microschool, or micro-education entity shall be considered a permitted use in all zoning districts within a county.
 - (b) Each land use application for any approval required for a charter school, home-based microschool, or micro-education entity, including an application for a building permit, shall be processed on a first priority basis.
 - (c) Parking requirements for a charter school or micro-education entity may not exceed the minimum parking requirements for schools or other institutional public uses throughout the county.

- (d) If a county has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school or micro-education entity may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school or micro-education entity provides a waiver.
- (e)
 - (i) A school district , charter school, or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from:
 - (A) the state superintendent of public instruction, as provided in Subsection 53E-3-706(3), if the school district, charter school, or micro-education entity used an independent building inspector for inspection of the school building; or
 - (B) a county official with authority to issue the certificate, if the school district, charter school, or micro-education entity used a county building inspector for inspection of the school building.
 - (ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).
 - (iii) A charter school or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school or micro-education entity used a school district building inspector for inspection of the school building.
 - (iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any county requirement for an inspection or a certificate of occupancy.
- (f)
 - (i) A micro-education entity may operate a facility that meets Group E Occupancy requirements as defined by the International Building Code, as incorporated by Subsection 15A-2-103(1)(a).
 - (ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i):
 - (A) may have up to 100 students in the facility; and
 - (B) shall have enough space for at least 20 net square feet per student;
 - (g) A micro-education entity may operate a facility that is subject to and complies with the same occupancy requirements as a Class B Occupancy as defined by the International Building Code, as incorporated by Subsection 15A-2-103(1)(a), if:
 - (i) the facility has a code compliant fire alarm system and carbon monoxide detection system;
 - (ii)
 - (A) each classroom in the facility has an exit directly to the outside at the level of exit discharge; or
 - (B) the structure has a code compliant fire sprinkler system;
 - (iii) the facility has an automatic fire sprinkler system in fire areas of the facility that are greater than 12,000 square feet; and
 - (iv) the facility has enough space for at least 20 net square feet per student.
- (h)
 - (i) A home-based microschoool is not subject to additional occupancy requirements beyond occupancy requirements that apply to a primary dwelling, except that the home-based microschoool shall have enough space for at least 35 square feet per student.
 - (ii) If a floor that is below grade in a home-based microschoool is used for home-based microschoool purposes, the below grade floor of the home-based microschoool shall have

at least one emergency escape or rescue window that complies with the requirements for emergency escape and rescue windows as defined by the International Residential Code, as incorporated in Section 15A-1-210.

- (8)
- (a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:
 - (i) as early as practicable in the development process, but no later than the commencement of construction; and
 - (ii) with sufficient detail to enable the land use authority to assess:
 - (A) the specified public agency's compliance with applicable land use ordinances;
 - (B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c), (d), (e), and (g) caused by the development;
 - (C) the amount of any applicable fee described in Section 17-27a-509;
 - (D) any credit against an impact fee; and
 - (E) the potential for waiving an impact fee.
 - (b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.
- (9) Nothing in this section may be construed to:
- (a) modify or supersede Section 17-27a-304; or
 - (b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or any other provision of federal law.
- (10) Nothing in Subsection (7) prevents a political subdivision from:
- (a) requiring a home-based microschool or micro-education entity to comply with local zoning and land use regulations that do not conflict with this section, including:
 - (i) parking;
 - (ii) traffic; and
 - (iii) hours of operation;
 - (b) requiring a home-based microschool or micro-education entity to obtain a business license;
 - (c) enacting county ordinances and regulations consistent with this section;
 - (d) subjecting a micro-education entity to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and
 - (e) imposing regulations on the location of a project that are necessary to avoid risks to health or safety.
- (11) Notwithstanding any other provision of law, the proximity restrictions that apply to community locations do not apply to a micro-education entity.

Amended by Chapter 464, 2024 General Session