

OIL AND GAS AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Logan Wilde

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies oil and gas provisions.

Highlighted Provisions:

This bill:

▶ addresses powers of a political subdivision relating to regulation of activity that is incident to an oil and gas activity; and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-102, as last amended by Laws of Utah 2018, Chapter 460

17-27a-102, as last amended by Laws of Utah 2018, Chapter 460

40-6-2.5, as enacted by Laws of Utah 2018, Chapter 460

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

Section 1. Section **10-9a-102** is amended to read:

10-9a-102. Purposes -- General land use authority.



28 (1) The purposes of this chapter are to provide for the health, safety, and welfare, and
29 promote the prosperity, improve the morals, peace and good order, comfort, convenience, and
30 aesthetics of each municipality and its present and future inhabitants and businesses, to protect
31 the tax base, to secure economy in governmental expenditures, to foster the state's agricultural
32 and other industries, to protect both urban and nonurban development, to protect and ensure
33 access to sunlight for solar energy devices, to provide fundamental fairness in land use
34 regulation, and to protect property values.

35 (2) To accomplish the purposes of this chapter, municipalities may enact all
36 ordinances, resolutions, and rules and may enter into other forms of land use controls and
37 development agreements that they consider necessary or appropriate for the use and
38 development of land within the municipality, including ordinances, resolutions, rules,
39 restrictive covenants, easements, and development agreements governing uses, density, open
40 spaces, structures, buildings, energy efficiency, light and air, air quality, transportation and
41 public or alternative transportation, infrastructure, street and building orientation and width
42 requirements, public facilities, fundamental fairness in land use regulation, considerations of
43 surrounding land uses and the balance of the foregoing purposes with a landowner's private
44 property interests, height and location of vegetation, trees, and landscaping, unless expressly
45 prohibited by law.

46 (3) (a) Any ordinance, resolution, or rule enacted by a municipality pursuant to its
47 authority under this chapter shall comply with the state's exclusive jurisdiction to regulate oil
48 and gas activity, as described in Section 40-6-2.5.

49 (b) A municipality may enact an ordinance, resolution, or rule that regulates [surface]
50 activity incident to an oil and gas activity if the municipality demonstrates that the regulation:

- 51 (i) is necessary for the purposes of this chapter;
 - 52 (ii) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and
 - 53 (iii) does not interfere with the state's exclusive jurisdiction to regulate oil and gas
- 54 activity, as described in Section 40-6-2.5.

55 Section 2. Section 17-27a-102 is amended to read:

56 **17-27a-102. Purposes -- General land use authority.**

57 (1) (a) The purposes of this chapter are to provide for the health, safety, and welfare,
58 and promote the prosperity, improve the morals, peace and good order, comfort, convenience,

59 and aesthetics of each county and its present and future inhabitants and businesses, to protect
60 the tax base, to secure economy in governmental expenditures, to foster the state's agricultural
61 and other industries, to protect both urban and nonurban development, to protect and ensure
62 access to sunlight for solar energy devices, to provide fundamental fairness in land use
63 regulation, and to protect property values.

64 (b) To accomplish the purposes of this chapter, counties may enact all ordinances,
65 resolutions, and rules and may enter into other forms of land use controls and development
66 agreements that they consider necessary or appropriate for the use and development of land
67 within the unincorporated area of the county or a designated mountainous planning district,
68 including ordinances, resolutions, rules, restrictive covenants, easements, and development
69 agreements governing uses, density, open spaces, structures, buildings, energy-efficiency, light
70 and air, air quality, transportation and public or alternative transportation, infrastructure, street
71 and building orientation and width requirements, public facilities, fundamental fairness in land
72 use regulation, considerations of surrounding land uses and the balance of the foregoing
73 purposes with a landowner's private property interests, height and location of vegetation, trees,
74 and landscaping, unless expressly prohibited by law.

75 (2) Each county shall comply with the mandatory provisions of this part before any
76 agreement or contract to provide goods, services, or municipal-type services to any storage
77 facility or transfer facility for high-level nuclear waste, or greater than class C radioactive
78 waste, may be executed or implemented.

79 (3) (a) Any ordinance, resolution, or rule enacted by a county pursuant to its authority
80 under this chapter shall comply with the state's exclusive jurisdiction to regulate oil and gas
81 activity, as described in Section 40-6-2.5.

82 (b) A county may enact an ordinance, resolution, or rule that regulates [surface] activity
83 incident to an oil and gas activity if the county demonstrates that the regulation:

- 84 (i) is necessary for the purposes of this chapter;
85 (ii) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and
86 (iii) does not interfere with the state's exclusive [jurisdiction] jurisdiction to regulate
87 oil and gas activity, as described in Section 40-6-2.5.

88 Section 3. Section 40-6-2.5 is amended to read:

89 **40-6-2.5. Preemption.**

90 (1) (a) As used in this section, "oil and gas activity" means activity associated with the
91 exploration, development, production, processing, and transportation of oil and gas as set forth
92 in [Title 40,] Chapter 6, Board and Division of Oil, Gas, and Mining, including:

- 93 (i) drilling;
- 94 (ii) hydraulic fracture stimulation;
- 95 (iii) completion, maintenance, reworking, recompletion, disposal, plugging, and
96 abandonment of wells;
- 97 (iv) construction activities;
- 98 (v) secondary and tertiary recovery techniques;
- 99 (vi) remediation activities; and
- 100 (vii) any other activity identified by the Board of Oil, Gas, and Mining.

101 (b) Oil and gas activity does not include [~~any~~] an activity or authority directly
102 authorized or granted to a political subdivision by the state.

103 (2) Subject to relevant federal law, regulation of oil and gas activity is of statewide
104 concern and the state regulation of oil and gas activity occupies the whole field of potential
105 regulation.

106 (3) The legislative body of a political subdivision may enact, amend, or enforce a local
107 ordinance, resolution, or rule consistent with its general land use authority that:

- 108 (a) regulates [~~only surface~~] activity that is incident to an oil and gas activity;
- 109 (b) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and
- 110 (c) is not otherwise preempted by state or federal law.