

Part 4 General Plan

17-27a-401 General plan required -- Content -- Resource management plan -- Provisions related to radioactive waste facility.

- (1) To accomplish the purposes of this chapter, each county shall prepare and adopt a comprehensive, long-range general plan:
 - (a) for present and future needs of the county;
 - (b)
 - (i) for growth and development of all or any part of the land within the unincorporated portions of the county; or
 - (ii) if a county has designated a mountainous planning district, for growth and development of all or any part of the land within the mountainous planning district; and
 - (c) as a basis for communicating and coordinating with the federal government on land and resource management issues.
- (2) To promote health, safety, and welfare, the general plan may provide for:
 - (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;
 - (b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;
 - (c) the efficient and economical use, conservation, and production of the supply of:
 - (i) food and water; and
 - (ii) drainage, sanitary, and other facilities and resources;
 - (d) the use of energy conservation and solar and renewable energy resources;
 - (e) the protection of urban development;
 - (f) the protection or promotion of moderate income housing;
 - (g) the protection and promotion of air quality;
 - (h) historic preservation;
 - (i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and
 - (j) an official map.
- (3)
 - (a) The general plan shall contain a resource management plan for the public lands, as defined in Section 63L-6-102, within the county .
 - (b) The resource management plan shall address:
 - (i) mining;
 - (ii) land use;
 - (iii) livestock and grazing;
 - (iv) irrigation;
 - (v) agriculture;
 - (vi) fire management;
 - (vii) noxious weeds;
 - (viii) forest management;
 - (ix) water rights;
 - (x) ditches and canals;
 - (xi) water quality and hydrology;
 - (xii) flood plains and river terraces;

- (xiii) wetlands;
 - (xiv) riparian areas;
 - (xv) predator control;
 - (xvi) wildlife;
 - (xvii) fisheries;
 - (xviii) recreation and tourism;
 - (xix) energy resources;
 - (xx) mineral resources;
 - (xxi) cultural, historical, geological, and paleontological resources;
 - (xxii) wilderness;
 - (xxiii) wild and scenic rivers;
 - (xxiv) threatened, endangered, and sensitive species;
 - (xxv) land access;
 - (xxvi) law enforcement;
 - (xxvii) economic considerations; and
 - (xxviii) air.
- (c) For each item listed under Subsection (3)(b), a county's resource management plan shall:
- (i) establish findings pertaining to the item;
 - (ii) establish defined objectives; and
 - (iii) outline general policies and guidelines on how the objectives described in Subsection (3)(c) (ii) are to be accomplished.
- (4)
- (a) The general plan shall include specific provisions related to any areas within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303. The provisions shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:
- (i) the information identified in Section 19-3-305;
 - (ii) information supported by credible studies that demonstrates that the provisions of Subsection 19-3-307(2) have been satisfied; and
 - (iii) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state.
- (b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance indicating that all proposals for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the county are rejected.
- (c) A county may adopt the ordinance listed in Subsection (4)(b) at any time.
- (d) The county shall send a certified copy of the ordinance described in Subsection (4)(b) to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment.
- (e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall:
- (i) comply with Subsection (4)(a) as soon as reasonably possible; and
 - (ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal.
- (5) The general plan may define the county's local customs, local culture, and the components necessary for the county's economic stability.

- (6) Subject to Subsection 17-27a-403(2), the county may determine the comprehensiveness, extent, and format of the general plan.
- (7) If a county has designated a mountainous planning district, the general plan for the mountainous planning district is the controlling plan and takes precedence over a municipality's general plan for property located within the mountainous planning district.
- (8) Nothing in this part may be construed to limit the authority of the state to manage and protect wildlife under Title 23, Wildlife Resources Code of Utah.

Amended by Chapter 265, 2016 General Session

17-27a-402 Information and technical assistance from the state.

- (1) A county may request that the state, including any agency, department, division, institution, or official of the state, provide the county with information that would assist the county in creating the county's general plan.
- (2) The state or an agency, department, division, institution, or official of the state from which a county has requested information under Subsection (1) shall provide the county with:
 - (a) the information requested by the county, unless providing the information is prohibited by Title 63G, Chapter 2, Government Records Access and Management Act; and
 - (b) any other technical assistance or advice the county needs with regards to the county's general plan, without any additional cost to the county.

Repealed and Re-enacted by Chapter 310, 2015 General Session

17-27a-403 Plan preparation.

- (1)
 - (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of its intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.
 - (b) The planning commission shall make and recommend to the legislative body a proposed general plan for:
 - (i) the unincorporated area within the county; or
 - (ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.
 - (c)
 - (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.
 - (ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless it is recommended by the municipal planning commission and adopted by the governing body of the municipality.
 - (iii) Notwithstanding Subsection (1)(c)(ii), if property is located in a mountainous planning district, the plan for the mountainous planning district controls and precedes a municipal plan, if any, to which the property would be subject.
- (2)
 - (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

- (i) a land use element that:
 - (A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and
 - (B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;
 - (ii) a transportation and traffic circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that the planning commission considers appropriate, all correlated with the population projections and the proposed land use element of the general plan;
 - (iii) an estimate of the need for the development of additional moderate income housing within the unincorporated area of the county or the mountainous planning district, and a plan to provide a realistic opportunity to meet estimated needs for additional moderate income housing if long-term projections for land use and development occur; and
 - (iv) before May 1, 2017, a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3).
- (b) In drafting the moderate income housing element, the planning commission:
- (i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:
 - (A) to meet the needs of people desiring to live there; and
 - (B) to allow persons with moderate incomes to benefit from and fully participate in all aspects of neighborhood and community life; and
 - (ii) may include an analysis of why the recommended means, techniques, or combination of means and techniques provide a realistic opportunity for the development of moderate income housing within the planning horizon, which means or techniques may include a recommendation to:
 - (A) rezone for densities necessary to assure the production of moderate income housing;
 - (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;
 - (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate income housing;
 - (D) consider county general fund subsidies to waive construction related fees that are otherwise generally imposed by the county;
 - (E) consider utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;
 - (F) consider utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and
 - (G) consider utilization of affordable housing programs administered by the Department of Workforce Services.
- (c) In drafting the land use element, the planning commission shall:
- (i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district; and
 - (ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.
- (3) The proposed general plan may include:
- (a) an environmental element that addresses:

- (i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and
- (ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;
- (b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;
- (c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:
 - (i) historic preservation;
 - (ii) the diminution or elimination of blight; and
 - (iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;
- (d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;
- (e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;
- (f) provisions addressing any of the matters listed in Subsection 17-27a-401(2); and
- (g) any other element the county considers appropriate.

Amended by Chapter 265, 2016 General Session

17-27a-404 Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

- (1)
 - (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.
 - (b) The planning commission shall provide notice of the public hearing, as required by Section 17-27a-204.
 - (c) After the public hearing, the planning commission may modify the proposed general plan or amendment.
- (2) The planning commission shall forward the proposed general plan or amendment to the legislative body.
- (3)
 - (a) As provided by local ordinance and by Section 17-27a-204, the legislative body shall provide notice of its intent to consider the general plan proposal.
 - (b)

- (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan regarding Subsection 17-27a-401(4). The hearing procedure shall comply with this Subsection (3)(b).
 - (ii) The hearing format shall allow adequate time for public comment at the actual public hearing, and shall also allow for public comment in writing to be submitted to the legislative body for not fewer than 90 days after the date of the public hearing.
- (c)
- (i) The legislative body shall give notice of the hearing in accordance with this Subsection (3) when the proposed plan provisions required by Subsection 17-27a-401(4) are complete.
 - (ii) Direct notice of the hearing shall be given, in writing, to the governor, members of the state Legislature, executive director of the Department of Environmental Quality, the state planning coordinator, the Resource Development Coordinating Committee, and any other citizens or entities who specifically request notice in writing.
 - (iii) Public notice shall be given by publication:
 - (A) in at least one major Utah newspaper having broad general circulation in the state;
 - (B) in at least one Utah newspaper having a general circulation focused mainly on the county where the proposed high-level nuclear waste or greater than class C radioactive waste site is to be located; and
 - (C) on the Utah Public Notice Website created in Section 63F-1-701.
 - (iv) The notice shall be published to allow reasonable time for interested parties and the state to evaluate the information regarding the provisions of Subsection 17-27a-401(4), including:
 - (A) in a newspaper described in Subsection (3)(c)(iii)(A), no less than 180 days before the date of the hearing to be held under this Subsection (3); and
 - (B) publication described in Subsection (3)(c)(iii)(B) or (C) for 180 days before the date of the hearing to be held under this Subsection (3).
- (4)
- (a) After the public hearing required under this section, the legislative body may make any revisions to the proposed general plan that it considers appropriate.
 - (b) The legislative body shall respond in writing and in a substantive manner to all those providing comments as a result of the hearing required by Subsection (3).
- (5)
- (a) The county legislative body may adopt or reject the proposed general plan or amendment either as proposed by the planning commission or after making any revision the county legislative body considers appropriate.
 - (b) If the county legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for its consideration.
- (6) The legislative body shall adopt:
- (a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);
 - (b) a transportation and traffic circulation element as provided in Subsection 17-27a-403(2)(a)(ii);
 - (c) after considering the factors included in Subsection 17-27a-403(2)(b), a plan to provide a realistic opportunity to meet estimated needs for additional moderate income housing if long-term projections for land use and development occur; and
 - (d) before August 1, 2017, a resource management plan as provided by Subsection 17-27a-403(2)(a)(iv).

Amended by Chapter 265, 2016 General Session

17-27a-405 Effect of general plan -- Coordination with federal government.

- (1) Except for the mandatory provisions in Subsection 17-27a-401(4)(b) and Section 17-27a-406, and except as provided in Subsection (3), the general plan is an advisory guide for land use decisions, the impact of which shall be determined by ordinance.
- (2) The legislative body may adopt an ordinance mandating compliance with the general plan, and shall adopt an ordinance requiring compliance with all provisions of Subsection 17-27a-401(4)(b).
- (3)
 - (a) As used in this Subsection (3), "coordinate with" means an action taken by the federal government on a given matter, pursuant to a federal law, rule, policy, or regulation, to:
 - (i) work with a county on the matter to achieve a consistent outcome;
 - (ii) make resource management plans in conjunction with a county on the matter;
 - (iii) make resource management plans consistent with a county's plans on the matter;
 - (iv) integrate a county's plans on the matter into the federal government's plans; or
 - (v) follow a county's plans when contemplating any action on the matter.
 - (b) If the federal government is required to coordinate with a county or a local government on a matter, the county's general plan is the principle document through which the coordination shall take place.
 - (c) The federal government is not considered to have coordinated with a county or a local government on a matter unless the federal government has:
 - (i) kept the county apprised of the federal government's proposed plans, amendments, policy changes, and management actions with regard to the matter;
 - (ii) worked with the county in developing and implementing plans, policies, and management actions on the matter;
 - (iii) treated the county as an equal partner in negotiations related to the matter;
 - (iv) listened to and understood the county's position on the matter to determine whether a conflict exists between the federal government's proposed plan, policy, rule, or action and the county's general plan;
 - (v) worked with the county in an amicable manner to reconcile any differences or disagreements, to the greatest extent possible under federal law, between the federal government and the county with regards to plans, policies, rules, or proposed management actions that relate to the matter;
 - (vi) engaged in a good-faith effort to reconcile any conflicts discovered under Subsection (3)(c)(iv) to achieve, to the greatest extent possible under federal law, consistency between the federal government's proposed plan, policy, rule, or action and the county's general plan; and
 - (vii) given full consideration to a county's general plan to the extent that the general plan addresses the matter.

Amended by Chapter 310, 2015 General Session

17-27a-406 Public uses to conform to general plan.

After the legislative body has adopted a general plan, no street, park, or other public way, ground, place, or space, no publicly owned building or structure, and no public utility, whether publicly or privately owned, may be constructed or authorized until and unless it conforms to the current general plan.

Renumbered and Amended by Chapter 254, 2005 General Session

17-27a-407 Effect of official maps.

- (1) Counties may adopt an official map.
- (2)
 - (a) An official map does not:
 - (i) require a landowner to dedicate and construct a street as a condition of development approval, except under circumstances provided in Subsection (2)(b)(iii); or
 - (ii) require a county to immediately acquire property it has designated for eventual use as a public street.
 - (b) This section does not prohibit a county from:
 - (i) recommending that an applicant consider and accommodate the location of the proposed streets in the planning of a development proposal in a manner that is consistent with Section 17-27a-507;
 - (ii) acquiring the property through purchase, gift, voluntary dedication, or eminent domain; or
 - (iii) requiring the dedication and improvement of a street if the street is found necessary by the county because of a proposed development and if the dedication and improvement is consistent with Section 17-27a-507.

Renumbered and Amended by Chapter 254, 2005 General Session

17-27a-408 Biennial review of moderate income housing element of general plan.

- (1) The legislative body of each county with a population over 25,000 shall biennially:
 - (a) review the moderate income housing plan element of its general plan and its implementation; and
 - (b) prepare a report setting forth the findings of the review.
- (2) Each report under Subsection (1) shall include a description of:
 - (a) efforts made by the county to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;
 - (b) actions taken by the county to encourage preservation of existing moderate income housing and development of new moderate income housing;
 - (c) progress made within the county to provide moderate income housing, as measured by permits issued for new units of moderate income housing; and
 - (d) efforts made by the county to coordinate moderate income housing plans and actions with neighboring counties and municipalities.
- (3) The legislative body of each county with a population over 25,000 shall send a copy of the report under Subsection (1) to the Department of Workforce Services and the association of governments in which the county is located.
- (4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404(6)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Amended by Chapter 212, 2012 General Session

17-27a-409 State to indemnify county regarding refusal to site nuclear waste -- Terms and conditions.

If a county is challenged in a court of law regarding its decision to deny siting of a storage or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste or its refusal to provide municipal-type services regarding the operation of the storage or transfer facility, the state shall indemnify, defend, and hold the county harmless from any claims

or damages, including court costs and attorney fees that are assessed as a result of the county's action, if:

- (1) the county has complied with the provisions of Subsection 17-27a-401(4)(b) by adopting an ordinance rejecting all proposals for the siting of a storage or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the boundaries of the county;
- (2) the county has complied with Subsection 17-34-1(3) regarding refusal to provide municipal-type services; and
- (3) the court challenge against the county addresses the county's actions in compliance with Subsection 17-27a-401(4)(b) or 17-34-1(3).

Amended by Chapter 310, 2015 General Session