

## Chapter 21 Lands and Waters for Wildlife Purposes

### **23-21-.5 Definitions.**

As used in this chapter:

- (1) "General plan" means a document that a municipality or county adopts that sets forth general guidelines for proposed future development of the land within the municipality or county and includes what is commonly referred to as a "master plan."
- (2) "Management plan" means a document prepared in accordance with this chapter that describes how one or more tracts of land owned by the Division of Wildlife Resources are to be used.
- (3) "Regional advisory council" means a council created pursuant to Section 23-14-2.6.
- (4) "Wildlife management area" means:
  - (a) a single tract of land owned by the division; or
  - (b) two or more tracts of land owned by the division that are within close proximity of each other and managed as a single unit.

Enacted by Chapter 218, 1998 General Session

### **23-21-1 Acquisition of lands, waters and rights-of-way -- Authority of division.**

The Division of Wildlife Resources shall have the power to acquire lands, waters, and rights-of-way by purchase, lease, agreement, gift, exchange, contribution, or any other lawful means, for authorized activities of the Division of Wildlife Resources as outlined by this code and the rules and regulations of the Wildlife Board.

Enacted by Chapter 46, 1971 General Session

### **23-21-1.5 Acquisition of real property held in private ownership -- Published notice and governor's approval required.**

- (1) The Division of Wildlife Resources may not acquire title to real property held in private ownership without first:
  - (a) publishing a notice of the proposed acquisition:
    - (i) in a newspaper of general circulation in the county in which the property is located; and
    - (ii) as required in Section 45-1-101; and
  - (b) obtaining the approval of the governor.
- (2) The requirements of Subsection (1) apply whether title to real property held in private ownership is acquired through a purchase, donation, or other means.
- (3) In the case of a proposed purchase of private property, the notice may be published after earnest money is paid.
- (4) The published notice shall inform the public regarding:
  - (a) the proposed use of the land;
  - (b) any conditions on the acquisition of the land placed by donors, the federal government, sellers, or others specifying how the land must be used;
  - (c) any changes to existing land uses that are anticipated; and
  - (d) the public comment submission process for comments on the proposed acquisition.
- (5) The governor shall:
  - (a) submit a notification of the proposed acquisition to:
    - (i) the county executive of the county in which the property is located;

- (ii) the legislators of the legislative districts in which the lands are located; and
  - (iii) the School and Institutional Trust Lands Administration; and
  - (b) invite those notified to submit any comments on the proposed acquisition.
- (6) After considering comments on the proposed acquisition, the governor may approve the acquisition in whole or in part or disapprove the acquisition.

Amended by Chapter 388, 2009 General Session

**23-21-2 Payments in lieu of property taxes on property purchased by division.**

Prior to the purchase of any real property held in private ownership, the Division of Wildlife Resources shall first submit the proposition to the county legislative body in a regular open public meeting in the county where the property is located and shall by contractual agreement with the county legislative body, approved by the executive director of the Department of Natural Resources, agree to pay an amount of money in lieu of property taxes to the county. The division shall, by contractual agreement with the county legislative body in which any property previously acquired from private ownership and now owned by the division is located, agree to pay annually an amount of money in lieu of wildlife resource fine money, previously paid to the county. Payments provided for in this section will not exceed what the regularly assessed real property taxes would be if the land had remained in private ownership; and these payments may not include any amount for buildings, installations, fixtures, improvements or personal property located upon the land or for those acquired, constructed or placed by the division after it acquires the land.

Amended by Chapter 297, 2011 General Session

**23-21-2.1 Management plans.**

- (1) The division shall prepare a management plan for each wildlife management area. Upon adoption of a management plan by the division director, the lands shall be managed in accordance with the management plan.
- (2) Each plan shall include:
  - (a) a statement of the proposed or anticipated uses;
  - (b) a description of any management limitations or conditions covering the area;
  - (c) an inventory of the existing conditions;
  - (d) a statement of the desired future condition of the area;
  - (e) a list of strategies that may be implemented to achieve the desired future condition; and
  - (f) a description of any reallocation of forage, water, or other resource appurtenant to the land.

Enacted by Chapter 218, 1998 General Session

**23-21-2.2 Preparation of management plans -- Participation by interested persons and local and tribal governments -- Compatibility with local government plans and existing rights.**

- (1) The division shall invite persons who may have an interest in how the land is managed to participate in the management planning process.
- (2) Those persons may include:
  - (a) persons who use, or may use, the land for:
    - (i) agriculture, mining, or other commercial pursuits;
    - (ii) hunting or fishing;
    - (iii) recreation; or
    - (iv) other uses;

- (b) adjacent or nearby landowners or residents; or
- (c) other interested parties.
- (3) The division shall invite local government officials to participate in the management planning process.
- (4) In preparing a management plan, the division shall seek to make land uses compatible with:
  - (a) local government general plans and zoning and land use ordinances; and
  - (b) existing rights of others within the area.
- (5)
  - (a) If the land is located within or adjacent to tribal lands, the division shall invite tribal government officials to participate in the management planning process.
  - (b) Participation by tribal officials in the development of management plans for lands owned by the division does not waive the tribe's sovereignty.

Enacted by Chapter 218, 1998 General Session

**23-21-2.3 Review and adoption of management plans.**

- (1) The division shall submit the draft management plan to the Resource Development Coordinating Committee created in Section 63J-4-501 and the Habitat Council created by the division for their review and recommendations.
- (2) The division shall submit the draft management plan and any recommendations received from the Resource Development Coordinating Committee and the Habitat Council to:
  - (a) the regional advisory council for the wildlife region in which the lands covered by the management plan are located; and
  - (b) the regional advisory council for any wildlife region that may be affected by the management plan.
- (3) Each regional advisory council reviewing the draft management plan may make recommendations to the division director.
- (4) The division director has authority to adopt the management plan, adopt the plan with amendments, or reject the plan.
- (5) At the request of the division director or any member of the Wildlife Board, the Wildlife Board may review a management plan to determine whether the plan is consistent with board policies.
- (6) The division director may amend a management plan in accordance with recommendations made by the Wildlife Board.

Amended by Chapter 382, 2008 General Session

**23-21-2.4 Procedure to revise a management plan.**

- (1) Any person seeking a revision of a management plan may request the regional advisory council in the region where the land is located to consider the proposal to revise the plan. The regional advisory council shall consider the proposal and advise the division.
- (2) The process specified in Sections 23-21-2.2 and 23-21-2.3 shall be used to revise a management plan.

Enacted by Chapter 218, 1998 General Session

**23-21-2.5 Change in land use where a management plan is not in effect -- Notification to affected persons -- Compatibility with local government plans.**

- (1) If a management plan has not been adopted by the division director for a tract of land owned by the division, the division may not change any existing right to use the land until the division notifies those who may be affected by the change and local government officials.
- (2) When changing any existing right to use the land, the division shall seek to make uses of division-owned land compatible with local government general plans and zoning and land use ordinances.

Enacted by Chapter 218, 1998 General Session

**23-21-4 Right of access to lands for hunting, trapping, or fishing reserved to public -- Exception.**

- (1) Except as provided in Section 65A-2-5, there is reserved to the public the right of access to all lands owned by the state, including those lands lying below the official government meander line or high water line of navigable waters, for the purpose of hunting, trapping, or fishing.
- (2) When any department or agency of the state leases or sells any lands belonging to the state of Utah lying below the official government meander line or the high water line of the navigable waters within the state, the lease, contract of sale, or deed shall contain a provision that:
  - (a) the lands shall be open to the public for the purpose of hunting, trapping, or fishing during the lawful season, except as provided by Section 65A-2-5; and
  - (b) no charge may be made by the lessee, contractee, or grantee to any person who desires to go upon the land for the purpose of hunting, trapping, or fishing.
- (3) Lands referred to in this section shall be regulated or closed to hunting, trapping, or fishing as provided in this title for other lands and waters.

Amended by Chapter 156, 2000 General Session

**23-21-5 State-owned lands authorized for use as wildlife management areas, fishing waters and for other recreational activities.**

The Wildlife Board is authorized to use any and all unsurveyed state-owned lands below the 1855 meander line of the Great Salt Lake within the following townships for the creation, operation, maintenance and management of wildlife management areas, fishing waters and other recreational activities.

Township 2 South, Range 5 West, S.L.B. and M.; Township 2 South, Range 4 West, S.L.B. and M.; Township 1 South, Range 5 West, S.L.B. and M.; Township 1 South, Range 4 West, S.L.B. and M.; Township 1 South, Range 3 West, S.L.B. and M.; Township 1 North, Range 3 West, S.L.B. and M.; Township 1 North, Range 2 West, S.L.B. and M.; Township 2 North, Range 3 West, S.L.B. and M.; Township 2 North, Range 2 West, S.L.B. and M.; Township 2 North, Range 1 West, S.L.B. and M.; Township 3 North, Range 3 West, S.L.B. and M.; Township 3 North, Range 2 West, S.L.B. and M.; Township 3 North, Range 1 West, S.L.B. and M.; Township 4 North, Range 3 West, S.L.B. and M.; Township 4 North, Range 2 West, S.L.B. and M.; Sections 1, 2, 11, 12, 13, 14, 23, and 24, Township 4 North, Range 4 West, S.L.B. and M.; Township 5 North, Range 3 West, S.L.B. and M.; Township 5 North, Range 4 West, S.L.B. and M.; Sections 1, 2, 3, 4, 11, and 12, Township 5 North, Range 5 West, S.L.B. and M.; Township 6 North, Range 5 West, S.L.B. and M.; Township 6 North, Range 4 West, S.L.B. and M.; Township 6 North, Range 3 West, S.L.B. and M.; Township 7 North, Range 5 West, S.L.B. and M.; Township 7 North, Range 4 West, S.L.B. and M.; Township 7 North, Range 3 West, S.L.B. and M.; Township 7 North, Range 2 West, S.L.B. and M.; Township 8 North, Range 5 West, S.L.B. and M.; Township 8 North, Range 4 West, S.L.B. and M.; Township 8 North, Range 3 West, S.L.B. and M.; Township 8 North, Range 2 West, S.L.B. and M.; Township

9 North, Range 5 West, S.L.B. and M.; Township 9 North, Range 4 West, S.L.B. and M.; Township 11 North, Range 11 West, S.L.B. and M.; Township 11 North, Range 10 West, S.L.B. and M.; Township 11 North, Range 9 West, S.L.B. and M.; Township 11 North, Range 8 West, S.L.B. and M.; North 1/2 of Township 10 North, Range 10 West, S.L.B. and M.; North 1/2 of Township 10 North, Range 9 West, S.L.B. and M.; North 1/2 of Township 10 North, Range 8 West, S.L.B. and M.

Amended by Chapter 60, 1975 General Session

**23-21-6 Acquisition of lands by United States for migratory bird refuges.**

- (1) The consent of the state of Utah is given to acquisition by the United States of such areas of land or water in the state, as the United States may deem necessary, by and with the consent of the county legislative body of the county where the land or water are located and after approval of application, subject to the laws of the state of Utah for water rights, for the establishment and maintenance of migratory waterfowl refuges in accordance with and for the purpose of the Act of Congress approved February 18, 1929, entitled "Migratory Bird Conservation Act" as amended and the Act of Congress approved March 16, 1935, entitled "Migratory Bird Hunting Stamp Act," as amended; and the same may be used by the United States as refuge for migratory birds, reserving, however, to the state of Utah jurisdiction, both civil and criminal, of persons upon the areas so acquired except so far as the punishment of offenses against the United States are concerned.
- (2) Nothing in this section shall be construed to impose under the state or any agency of it any obligation to convey to the United States any interest in land or water owned or controlled by the state, except upon appropriate terms and for adequate consideration. The reservation to the state of coal and other minerals in lands sold by it within areas so established and easements retained by the state to prospect for, mine, and remove the same are declared to be subject to rules and regulations prescribed from time to time by the Secretary of the Interior for the occupation, use, operation, protection, and administration of these areas as refuges for migratory birds.

Amended by Chapter 227, 1993 General Session

**23-21-7 Unlawful uses and activities on division lands.**

- (1) Except as authorized by statute, rule, contractual agreement, special use permit, certificate of registration, or public notice, a person may not on division land:
  - (a) remove, extract, use, consume, or destroy any improvement or cultural or historic resource;
  - (b) remove, extract, use, consume, or destroy any sand, gravel, cinder, ornamental rock, or other common mineral resource, or vegetation resource, except a person may collect for noncommercial uses up to 250 pounds per calendar year of common rock or gravel lying on the surface of the ground;
  - (c) allow livestock to graze;
  - (d) remove any plant or portion of a plant for commercial gain purposes;
  - (e) enter, use, or occupy division land that is posted against entry, use, or occupancy;
  - (f) enter, use, or occupy division land as part of a group of more than 25 people, except a group may include up to 50 persons if the group consists of extended family members;
  - (g) enter, use, or occupy division land while engaged in or part of an organized event;
  - (h) use, occupy, destroy, move, or construct any structure, including fences, water control devices, roads, survey and section markers, or signs;

- (i) prohibit, prevent, or obstruct public entry on division lands when public entry is authorized by the division;
  - (j) attempt to manage or control division lands in a manner inconsistent with division management plans, rules, or policies;
  - (k) solicit, promote, negotiate, barter, sell, or trade any product or service on, or obtained from, division lands for commercial gain;
  - (l) park a motor vehicle or trailer or camp for more than 14 consecutive days unless the area is posted for a different duration;
  - (m) light a fire without taking adequate precaution to prevent spreading of the fire or leave a fire unattended;
  - (n) use fireworks, explosives, poisons, herbicides, insecticides, or pesticides;
  - (o) use motorized vehicles of any kind except as authorized by declaration, management plan, or posting; or
  - (p) use division lands for any purpose that violates applicable land use restrictions imposed by statute, rule, or by the division.
- (2) A person or entity which unlawfully uses division lands is liable for damages in the amount of:
- (a) the value of the resource removed, destroyed, or extracted;
  - (b) the amount of damage caused; and
  - (c) whichever is greater of:
    - (i) the value of any losses or expenses caused as a result of interference with authorized activities; or
    - (ii) the consideration which would have been charged by the division for use of the land during the period of trespass.
- (3) This section does not apply to division employees or division volunteers while acting in the lawful performance of their duties.
- (4) Except as otherwise provided by statute, the criminal penalty for a violation of any provision of this section is prescribed in Section 23-13-11.

Enacted by Chapter 347, 2009 General Session