

1 **AGRICULTURAL LAND USE REGULATION**

2 2021 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Scott H. Chew**

5 Senate Sponsor: David P. Hinkins

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to land use regulation by local entities.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ prohibits a municipality or county from restricting the type of crop that may be
- 13 grown in certain areas;
- 14 ▶ prohibits regulation by a municipality or county of an industrial hemp producer
- 15 licensee in conflict with specified statutes and jurisprudence; and
- 16 ▶ makes technical changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 **AMENDS:**

23 **10-9a-501**, as last amended by Laws of Utah 2019, Chapter 384

24 **10-9a-528**, as enacted by Laws of Utah 2019, First Special Session, Chapter 5

25 **17-27a-501**, as last amended by Laws of Utah 2019, Chapter 384

26 **17-27a-525**, as enacted by Laws of Utah 2019, First Special Session, Chapter 5

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

29 Section 1. Section **10-9a-501** is amended to read:

30 **10-9a-501. Enactment of land use regulation, land use decision, or development**
31 **agreement.**

32 (1) Only a legislative body, as the body authorized to weigh policy considerations, may
33 enact a land use regulation.

34 (2) (a) Except as provided in Subsection (2)(b), a legislative body may enact a land use
35 regulation only by ordinance.

36 (b) A legislative body may, by ordinance or resolution, enact a land use regulation that
37 imposes a fee.

38 (3) A legislative body shall ensure that a land use regulation is consistent with the
39 purposes set forth in this chapter.

40 (4) (a) A legislative body shall adopt a land use regulation to:

41 (i) create or amend a zoning district under Subsection 10-9a-503(1)(a); and

42 (ii) designate general uses allowed in each zoning district.

43 (b) A land use authority may establish or modify other restrictions or requirements
44 other than those described in Subsection (4)(a), including the configuration or modification of
45 uses or density, through a land use decision that applies criteria or policy elements that a land
46 use regulation establishes or describes.

47 (5) A municipality may not adopt a land use regulation, development agreement, or
48 land use decision that restricts the type of crop that may be grown in an area that is:

49 (a) zoned agricultural; or

50 (b) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

51 Section 2. Section 10-9a-528 is amended to read:

52 **10-9a-528. Cannabis production establishments, medical cannabis pharmacies,**
53 **and industrial hemp producer licensee.**

54 (1) As used in this section:

55 (a) "Cannabis production establishment" means the same as that term is defined in
56 Section 4-41a-102.

57 (b) "Industrial hemp producer licensee" means the same as the term "licensee" is

58 defined in Section 4-41-102.

59 ~~[(b)]~~ (c) "Medical cannabis pharmacy" means the same as that term is defined in
60 Section 26-61a-102.

61 (2) (a) (i) A municipality may not regulate a cannabis production establishment in
62 conflict with:

63 (A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable
64 jurisprudence; and

65 (B) this chapter.

66 (ii) A municipality may not regulate a medical cannabis pharmacy in conflict with:

67 (A) Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable jurisprudence;
68 and

69 (B) this chapter.

70 (iii) A municipality may not regulate an industrial hemp producer licensee in conflict
71 with:

72 (A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and

73 (B) this chapter.

74 (b) The Department of Agriculture and Food has plenary authority to license programs
75 or entities that operate a cannabis production establishment.

76 (c) The Department of Health has plenary authority to license programs or entities that
77 operate a medical cannabis pharmacy.

78 (3) (a) Within the time period described in Subsection (3)(b), a municipality shall
79 prepare and adopt a land use regulation, development agreement, or land use decision in
80 accordance with this title and:

81 (i) regarding a cannabis production establishment, Section 4-41a-406; or

82 (ii) regarding a medical cannabis pharmacy, Section 26-61a-507.

83 (b) A municipality shall take the action described in Subsection (3)(a):

84 (i) before January 1, 2021, within 45 days after the day on which the municipality
85 receives a petition for the action; and

86 (ii) after January 1, 2021, in accordance with Subsection 10-9a-509.5(2).

87 Section 3. Section 17-27a-501 is amended to read:

88 **17-27a-501. Enactment of land use regulation.**

89 (1) Only a legislative body, as the body authorized to weigh policy considerations, may
90 enact a land use regulation.

91 (2) (a) Except as provided in Subsection (2)(b), a legislative body may enact a land use
92 regulation only by ordinance.

93 (b) A legislative body may, by ordinance or resolution, enact a land use regulation that
94 imposes a fee.

95 (3) A land use regulation shall be consistent with the purposes set forth in this chapter.

96 (4) (a) A legislative body shall adopt a land use regulation to:

97 (i) create or amend a zoning district under Subsection 17-27a-503(1)(a); and

98 (ii) designate general uses allowed in each zoning district.

99 (b) A land use authority may establish or modify other restrictions or requirements
100 other than those described in Subsection (4)(a), including the configuration or modification of
101 uses or density, through a land use decision that applies criteria or policy elements that a land
102 use regulation establishes or describes.

103 (5) A county may not adopt a land use regulation, development agreement, or land use
104 decision that restricts the type of crop that may be grown in an area that is:

105 (a) zoned agricultural; or

106 (b) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

107 Section 4. Section 17-27a-525 is amended to read:

108 **17-27a-525. Cannabis production establishments and medical cannabis**
109 **pharmacies.**

110 (1) As used in this section:

111 (a) "Cannabis production establishment" means the same as that term is defined in
112 Section 4-41a-102.

113 (b) "Industrial hemp producer licensee" means the same as the term "licensee" is

114 defined in Section 4-41-102.

115 ~~[(b)]~~ (c) "Medical cannabis pharmacy" means the same as that term is defined in
116 Section 26-61a-102.

117 (2) (a) (i) A county may not regulate a cannabis production establishment in conflict
118 with:

119 (A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable
120 jurisprudence; and

121 (B) this chapter.

122 (ii) A county may not regulate a medical cannabis pharmacy in conflict with:

123 (A) Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable jurisprudence;
124 and

125 (B) this chapter.

126 (iii) A county may not regulate an industrial hemp producer licensee in conflict with:

127 (A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and

128 (B) this chapter.

129 (b) The Department of Agriculture and Food has plenary authority to license programs
130 or entities that operate a cannabis production establishment.

131 (c) The Department of Health has plenary authority to license programs or entities that
132 operate a medical cannabis pharmacy.

133 (3) (a) Within the time period described in Subsection (3)(b), a county shall prepare
134 and adopt a land use regulation, development agreement, or land use decision in accordance
135 with this title and:

136 (i) regarding a cannabis production establishment, Section 4-41a-406; or

137 (ii) regarding a medical cannabis pharmacy, Section 26-61a-507.

138 (b) A county shall take the action described in Subsection (3)(a):

139 (i) before January 1, 2021, within 45 days after the day on which the county receives a
140 petition for the action; and

141 (ii) after January 1, 2021, in accordance with Subsection ~~[10-9a-509.5(2)]~~

142 [17-27a-509.5\(2\)](#).