

HB0256S02 compared with HB0256S01

~~text~~ shows text that was in HB0256S01 but was deleted in HB0256S02.

inserted text shows text that was not in HB0256S01 but was inserted into HB0256S02.

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Representative Jordan D. Teuscher proposes the following substitute bill:

COUNTY LAND USE AND DEVELOPMENT AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jordan D. Teuscher

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to county land use and development.

Highlighted Provisions:

This bill:

- ▶ ~~prohibits~~ provides that a provision in a county ~~of the first class from entering into a~~ development agreement ~~that~~ is unenforceable if the provision requires the ~~incorporation or~~ initiation of annexation ~~of~~ processes as a condition for issuing building permits or otherwise regulating development activities within an unincorporated area of the county ~~;~~

→ ~~moves the county requirements to approve expansion area urban development to Title 17, Counties, and modifies the requirements to:~~

→ ~~allow a municipality located within a first class county to adopt an annexation~~

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~~policy plan for the purpose of receiving county notification of an expansion area urban development;~~

- ~~• modify the definition of "expansion area urban development";~~
 - ~~• limit the requirements to a county of the first class;~~
 - ~~• modify the requirements for county approval if a municipal legislative body objects to expansion area urban development; and~~
- ~~→ makes technical and conforming changes}.~~

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- ~~{ 10-2-401.5, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 15~~
- ~~10-2-402, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 7~~
- ~~10-2-403, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 15~~
- ~~} 17-27a-102, as last amended by Laws of Utah 2019, Chapter 384~~

~~{ENACTS:~~

- ~~17-27a-526, Utah Code Annotated 1953~~

~~}~~

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

Section 1. Section ~~{10-2-401.5}~~ 17-27a-102 is amended to read:

~~{ 10-2-401.5. Annexation policy plan:~~

~~(1) (a) [After December 31, 2002, no] A municipality may not annex an unincorporated area located within a specified county unless the municipality [has adopted] adopts an annexation policy plan [as provided] in accordance with this section:~~

~~(b) A municipality located within a county of the first class may adopt an annexation policy plan in accordance with this section for the purpose of receiving county notification under Section 17-27a-526.~~

~~(2) To adopt an annexation policy plan:~~

~~(a) the planning commission shall:~~

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- ~~—— (i) prepare a proposed annexation policy plan that complies with Subsection (3);~~
- ~~—— (ii) hold a public meeting to allow affected entities to examine the proposed annexation policy plan and to provide input on [it] the proposed annexation policy plan;~~
- ~~—— (iii) provide notice of the public meeting under Subsection (2)(a)(ii) to each affected entity at least 14 days before the meeting;~~
- ~~—— (iv) accept and consider any additional written comments from affected entities until 10 days after the public meeting under Subsection (2)(a)(ii);~~
- ~~—— (v) before holding the public hearing required under Subsection (2)(a)(vi), make any modifications to the proposed annexation policy plan the planning commission considers appropriate, based on input provided at or within 10 days after the public meeting under Subsection (2)(a)(ii);~~
- ~~—— (vi) hold a public hearing on the proposed annexation policy plan;~~
- ~~—— (vii) provide reasonable public notice, including notice to each affected entity, of the public hearing required under Subsection (2)(a)(vi) at least 14 days before the date of the hearing;~~
- ~~—— (viii) make any modifications to the proposed annexation policy plan the planning commission considers appropriate, based on public input provided at the public hearing; and~~
- ~~—— (ix) submit [its] the planning commission's recommended annexation policy plan to the municipal legislative body; and~~
- ~~—— (b) the municipal legislative body shall:~~
 - ~~—— (i) hold a public hearing on the annexation policy plan recommended by the planning commission;~~
 - ~~—— (ii) provide reasonable notice, including notice to each affected entity, of the public hearing at least 14 days before the date of the hearing;~~
 - ~~—— (iii) after the public hearing under Subsection (2)(b)(ii), make any modifications to the recommended annexation policy plan that the legislative body considers appropriate; and~~
 - ~~—— (iv) adopt the recommended annexation policy plan, with or without modifications.~~
- ~~—— (3) Each annexation policy plan shall include:~~
 - ~~—— (a) a map of the expansion area which may include territory located outside the county in which the municipality is located;~~
 - ~~—— (b) a statement of the specific criteria that will guide the municipality's decision~~

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~~whether or not to grant future annexation petitions, addressing matters relevant to those criteria including:~~

- ~~—— (i) the character of the community;~~
- ~~—— (ii) the need for municipal services in developed and undeveloped unincorporated areas;~~
- ~~—— (iii) the municipality's plans for extension of municipal services;~~
- ~~—— (iv) how the services will be financed;~~
- ~~—— (v) an estimate of the tax consequences to residents both currently within the municipal boundaries and in the expansion area; and~~
- ~~—— (vi) the interests of all affected entities;~~
- ~~—— (c) justification for excluding from the expansion area any area containing urban development within 1/2 mile of the municipality's boundary; and~~
- ~~—— (d) a statement addressing any comments made by affected entities at or within 10 days after the public meeting under Subsection (2)(a)(ii).~~
- ~~—— (4) In developing, considering, and adopting an annexation policy plan, the planning commission and municipal legislative body shall:~~
 - ~~—— (a) attempt to avoid gaps between or overlaps with the expansion areas of other municipalities;~~
 - ~~—— (b) consider population growth projections for the municipality and adjoining areas for the next 20 years;~~
 - ~~—— (c) consider current and projected costs of infrastructure, urban services, and public facilities necessary:
 - ~~—— (i) to facilitate full development of the area within the municipality; and~~
 - ~~—— (ii) to expand the infrastructure, services, and facilities into the area being considered for inclusion in the expansion area;~~~~
 - ~~—— (d) consider, in conjunction with the municipality's general plan, the need over the next 20 years for additional land suitable for residential, commercial, and industrial development;~~
 - ~~—— (e) consider the reasons for including agricultural lands, forests, recreational areas, and wildlife management areas in the municipality; and~~
 - ~~—— (f) be guided by the principles set forth in Subsection 10-2-403(6).~~
- ~~—— (5) Within 30 days after adopting an annexation policy plan, the municipal legislative~~

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~~body shall submit a copy of the plan to the legislative body of each county in which any of the municipality's expansion area is located:~~

~~—— (6) Nothing in this chapter may be construed to prohibit or restrict two or more municipalities in specified counties from negotiating and cooperating with respect to defining each municipality's expansion area under an annexation policy plan.~~

~~—— Section 2. Section ~~10-2-402~~ is amended to read:~~

~~—— **10-2-402. Annexation -- Limitations:**~~

~~—— (1) (a) A contiguous, unincorporated area that is contiguous to a municipality may be annexed to the municipality as provided in this part.~~

~~—— (b) Except as provided in Subsection (1)(c), an unincorporated area may not be annexed to a municipality unless:~~

~~—— (i) [it] the unincorporated area is a contiguous area;~~

~~—— (ii) [it] the unincorporated area is contiguous to the municipality;~~

~~—— (iii) annexation will not leave or create an unincorporated island or unincorporated peninsula:~~

~~—— (A) except as provided in Subsection 10-2-418(3); or~~

~~—— (B) unless the county and municipality have [otherwise] agreed; and~~

~~—— (iv) for an area located in a specified county [with respect to an annexation that occurs after December 31, 2002], the area is within the proposed annexing municipality's expansion area:~~

~~—— (c) A municipality may annex an unincorporated area within a specified county that does not meet the requirements of Subsection (1)(b), leaving or creating an unincorporated island or unincorporated peninsula, if:~~

~~—— (i) the area is within the annexing municipality's expansion area;~~

~~—— (ii) the specified county in which the area is located and the annexing municipality agree to the annexation;~~

~~—— (iii) the area is not within the area of another municipality's annexation policy plan, unless the other municipality agrees to the annexation; and~~

~~—— (iv) the annexation is for the purpose of providing municipal services to the area.~~

~~—— (2) Except as provided in Section 10-2-418, a municipality may not annex an unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation.~~

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~~—— (3) (a) An annexation under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of that parcel has signed the annexation petition under Section 10-2-403.~~

~~—— (b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (3)(a) if owned by the same owner.~~

~~—— (4) A municipality may not annex an unincorporated area in a specified county for the sole purpose of acquiring municipal revenue or to retard the capacity of another municipality to annex the same or a related area unless the municipality has the ability and intent to benefit the annexed area by providing municipal services to the annexed area.~~

~~—— [(5) (a) As used in this subsection, "expansion area urban development" means:]~~

~~—— [(i) for a specified county, urban development within a city or town's expansion area; or]~~

~~—— [(ii) for a county of the first class, urban development within a city or town's expansion area that:]~~

~~—— [(A) consists of 50 or more acres;]~~

~~—— [(B) requires the county to change the zoning designation of the land on which the urban development is located; and]~~

~~—— [(C) does not include commercial or industrial development that is located within a mining protection area as defined in Section 17-41-101, regardless of whether the commercial or industrial development is for a mining use as defined in Section 17-41-101.]~~

~~—— [(b) A county legislative body may not approve expansion area urban development unless:]~~

~~—— [(i) the county notifies the city or town of the proposed development; and]~~

~~—— [(ii) (A) the city or town consents in writing to the development;]~~

~~—— [(B) within 90 days after the county's notification of the proposed development, the city or town submits to the county a written objection to the county's approval of the proposed development and the county responds in writing to the city or town's objection; or]~~

~~—— [(C) the city or town fails to respond to the county's notification of the proposed development within 90 days after the day on which the county provides the notice.]~~

~~—— [(6)] (5) (a) An annexation petition may not be filed under this part proposing the annexation of an area located in a county that is not the county in which the proposed annexing~~

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~~municipality is located unless the legislative body of the county in which the area is located has adopted a resolution approving the proposed annexation:~~

~~—— (b) Each county legislative body that declines to adopt a resolution approving a proposed annexation described in Subsection [(6)] (5)(a) shall provide a written explanation of [its] the county legislative body's reasons for declining to approve the proposed annexation:~~

~~—— [(7)] (6) (a) As used in this Subsection [(7)] (6), "airport" means an area that the Federal Aviation Administration has, by a record of decision, approved for the construction or operation of a Class I, II, or III commercial service airport, as designated by the Federal Aviation Administration in 14 C.F.R. Part 139:~~

~~—— (b) A municipality may not annex an unincorporated area within 5,000 feet of the center line of any runway of an airport operated or to be constructed and operated by another municipality unless the legislative body of the other municipality adopts a resolution consenting to the annexation:~~

~~—— (c) A municipality that operates or intends to construct and operate an airport and does not adopt a resolution consenting to the annexation of an area described in Subsection [(7)] (6)(b) may not deny an annexation petition proposing the annexation of that same area to that municipality:~~

~~—— [(8)] (7) (a) As used in this subsection, "project area" means a project area as defined in Section 63H-1-102 that is in a project area plan as defined in Section 63H-1-102 adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act:~~

~~—— (b) A municipality may not annex an unincorporated area located within a project area without the authority's approval:~~

~~—— (c) (i) Except as provided in Subsection [(8)] (7)(c)(ii), the Military Installation Development Authority may petition for annexation of the following areas to a municipality as if [it] the Military Installation Development Authority was the sole private property owner within the area:~~

~~—— (A) an area within a project area;~~

~~—— (B) an area that is contiguous to a project area and within the boundaries of a military installation;~~

~~—— (C) an area owned by the Military Installation Development Authority; and~~

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~~—— (D) an area that is contiguous to an area owned by the Military Installation Development Authority that the Military Installation Development Authority plans to add to an existing project area.~~

~~—— (ii) If any portion of an area annexed under a petition for annexation filed by the Military Installation Development Authority is located in a specified county:~~

~~—— (A) the annexation process shall follow the requirements for a specified county; and~~

~~—— (B) the provisions of Subsection 10-2-402[(6)](5) do not apply.~~

~~—— Section 3. Section 10-2-403 is amended to read:~~

~~—— 10-2-403. Annexation petition -- Requirements -- Notice required before filing.~~

~~—— (1) Except as provided in Section 10-2-418, the process to annex an unincorporated area to a municipality is initiated by a petition as provided in this section.~~

~~—— (2) (a) (i) Before filing a petition under Subsection (1) with respect to the proposed annexation of an area located in a county of the first class, the person or persons intending to file a petition shall:~~

~~—— (A) file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition; and~~

~~—— (B) send a copy of the notice of intent to each affected entity.~~

~~—— (ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the area that is proposed to be annexed.~~

~~—— (b) (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be annexed is located shall:~~

~~—— (A) mail the notice described in Subsection (2)(b)(iii) to:~~

~~—— (I) each owner of real property located within the area proposed to be annexed; and~~

~~—— (II) each owner of real property located within 300 feet of the area proposed to be annexed; and~~

~~—— (B) send to the proposed annexing municipality a copy of the notice and a certificate indicating that the county mailed the notice [has been mailed] as required under Subsection (2)(b)(i)(A):~~

~~—— (ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after [receiving] the day on which the county received from the person or persons [who] that filed the notice of intent:~~

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~~—— (A) a written request to mail the required notice; and~~

~~—— (B) payment of an amount equal to the county's expected actual cost of mailing the notice.~~

~~—— (iii) Each notice required under Subsection (2)(b)(i)(A) shall:~~

~~—— (A) be in writing;~~

~~—— (B) state, in bold and conspicuous terms, substantially the following:~~

~~—— "Attention: Your property may be affected by a proposed annexation.~~

~~—— Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may choose whether to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.~~

~~—— There will be no public election on the proposed annexation because Utah law does not provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.~~

~~—— You may obtain more information on the proposed annexation by contacting (state the name, mailing address, telephone number, and email address of the official or employee of the proposed annexing municipality designated to respond to questions about the proposed annexation), (state the name, mailing address, telephone number, and email address of the county official or employee designated to respond to questions about the proposed annexation); or (state the name, mailing address, telephone number, and email address of the person who filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the notice of intent, one of those persons). Once filed, the annexation petition will be available for inspection and copying at the office of (state the name of the proposed annexing municipality) located at (state the address of the municipal offices of the proposed annexing municipality).";~~

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and

~~—— (C) be accompanied by an accurate map identifying the area proposed for annexation.~~

~~—— (iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.~~

~~—— (c) (i) After receiving the certificate from the county as provided in Subsection (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons [who] that filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.~~

~~—— (ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.~~

~~—— (3) Each petition under Subsection (1) shall:~~

~~—— (a) be filed with the applicable city recorder or town clerk of the proposed annexing municipality;~~

~~—— (b) [contain the signatures of,] if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, contain the signatures of the owners of all the publicly owned real property[, or the owners of private real property that.];~~

~~—— (c) contain the signatures of the owners of private real property that:~~

~~—— (i) is located within the area proposed for annexation;~~

~~—— (ii) (A) subject to Subsection (3)[(b)](c)(ii)(C), covers a majority of the private land area within the area proposed for annexation;~~

~~—— (B) covers 100% of rural real property as that term is defined in Section 17B-2a-1107 within the area proposed for annexation; and~~

~~—— (C) covers 100% of the private land area within the area proposed for annexation, if the area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, or a migratory bird production area created under Title 23, Chapter 28, Migratory Bird Production Area; and~~

~~—— (iii) is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;~~

~~—— [(c)] (d) be accompanied by:~~

~~—— (i) an accurate and recordable map, prepared by a licensed surveyor, of the area~~

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~~proposed for annexation; and~~

~~—— (ii) a copy of the notice sent to affected entities as required under Subsection (2)(a)(i)(B) and a list of the affected entities to which the person or persons intending to file a petition sent the notice [was sent];~~

~~—— [(d)] (c) if the area proposed to be annexed is located in a county of the first class, contain on each signature page a notice in bold and conspicuous terms that states substantially the following:~~

~~—— "Notice:~~

~~—— • There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election:~~

~~—— • If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.";~~

~~—— [(e)] (f) if the petition proposes the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located, be accompanied by a copy of the resolution, required under Subsection 10-2-402[(6)](5), of the legislative body of the county in which the area is located; and~~

~~—— [(f)] (g) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor:~~

~~—— (4) A petition under Subsection (1) may not propose the annexation of all or part of an area that was proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted:~~

~~—— (5) (a) Except as provided in Subsection (5)(b), an annexation petition under Subsection (1) may not propose the annexation of an area that includes some or all of an area proposed to be incorporated in a request for a feasibility study under Section 10-2a-202 if:~~

~~—— (i) the request was filed before the filing of the annexation petition; and~~

~~—— (ii) the request, or a petition under Section 10-2a-208 based on that request, is still pending on the date the annexation petition is filed:~~

~~—— (b) Subsection (5)(a) does not apply to an annexation petition if:~~

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~~—— (i) the annexation petition proposes the annexation of an area included in a notice of intent described in Subsection (5)(c), or~~

~~—— (ii) the annexation petition:~~

~~—— (A) is filed on or after November 15, 2020; and~~

~~—— (B) proposes the annexation of an area located in a county other than the first class.~~

~~—— (c) (i) A person intending to file a petition for annexation of an area located in a county other than a first class county may, on or before August 5, 2020, file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition for annexation:~~

~~—— (ii) The notice of intent described in Subsection (5)(c)(i) shall include an accurate map of the area that is proposed to be annexed.~~

~~—— (6) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:~~

~~—— (a) along the boundaries of existing local districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities;~~

~~—— (b) to eliminate islands and peninsulas of territory that is not receiving municipal-type services;~~

~~—— (c) to facilitate the consolidation of overlapping functions of local government;~~

~~—— (d) to promote the efficient delivery of services; and~~

~~—— (e) to encourage the equitable distribution of community resources and obligations.~~

~~—— (7) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to the clerk of the county in which the area proposed for annexation is located:~~

~~—— (8) A property owner who signs an annexation petition proposing to annex an area located in a county of the first class may withdraw the owner's signature by filing a written withdrawal, signed by the property owner, with the city recorder or town clerk no later than 30 days after the day on which the municipal legislative [body's receipt of] body receives the notice of certification under Subsection 10-2-405(2)(c)(i).~~

~~—— Section 4. Section 17-27a-102 is amended to read:~~

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

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(1) (a) The purposes of this chapter are to:

(i) provide for the health, safety, and welfare;

(ii) promote the prosperity;

(iii) improve the morals, peace, good order, comfort, convenience, and aesthetics of each county and each county's present and future inhabitants and businesses;

(iv) protect the tax base;

(v) secure economy in governmental expenditures;

(vi) foster the state's agricultural and other industries;

(vii) protect both urban and nonurban development;

(viii) protect and ensure access to sunlight for solar energy devices;

(ix) provide fundamental fairness in land use regulation;

(x) facilitate orderly growth and allow growth in a variety of housing types; and

(xi) protect property values.

(b) ~~[Tø]~~ Except as provided in Subsection (4), to accomplish the purposes of this chapter, a county may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that the county considers necessary or appropriate for the use and development of land within the unincorporated area of the county or a designated mountainous planning district, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing:

(i) uses;

(ii) density;

(iii) open spaces;

(iv) structures;

(v) buildings;

(vi) energy-efficiency;

(vii) light and air;

(viii) air quality;

(ix) transportation and public or alternative transportation;

(x) infrastructure;

(xi) street and building orientation and width requirements;

(xii) public facilities;

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(xiii) fundamental fairness in land use regulation; and

(xiv) considerations of surrounding land uses to balance the foregoing purposes with a landowner's private property interests and associated statutory and constitutional protections.

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

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

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

(i) is necessary for the purposes of this chapter;

(ii) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and

(iii) does not interfere with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

~~(4) A county of the first class may not enter into a~~ (a) This Subsection (4) applies to development agreements entered into on or after May 5, 2021.

~~(b) A provision in a county development agreement that is unenforceable if the provision requires an individual or an entity to initiate a process for:~~

~~(a) }, as a condition for issuing building permits or otherwise regulating development activities within an unincorporated area of the county, to incorporate as a municipality in accordance with Title 10, Chapter 2a, Municipal Incorporation; or~~

~~(b) }, initiate a process for a municipality to annex an the unincorporated area of the county in accordance with Title 10, Chapter 2, Part 4, Annexation , unless the municipality consents in writing.~~

~~{Section 5. Section 17-27a-526 is enacted to read:~~

~~17-27a-526. Requirements for county approval of expansion area urban development.~~

~~(1) As used in this section:~~

~~(a) "Expansion area" means the same as that term is defined in Section 10-2-401.~~

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~~(b) "Expansion area urban development" means urban development in a county of the first class that:~~

~~(i) is located within a municipality's expansion area;~~

~~(ii) consists of 50 or more acres;~~

~~(iii) requires the county to change the zoning designation of the land on which the urban development is located; and~~

~~(iv) does not include commercial or industrial development that:~~

~~(A) is located within a mining protection area as defined in Section 17-41-101; and~~

~~(B) is for a mining use, as defined in Section 17-41-101, or any other activity associated with or incidental to mining operations;~~

~~(c) "Urban development" means the same as that term is defined in Section 10-2-401.~~

~~(2) The legislative body of a county of the first class may not approve expansion area urban development unless:~~

~~(a) the county legislative body sends written notification of the expansion area urban development to the municipal legislative body; and~~

~~(b) (i) within 90 days after the day on which the county sends the notification described in Subsection (2)(a), the municipal legislative body consents to the expansion area urban development in writing;~~

~~(ii) (A) within 90 days after the day on which the county legislative body sends the notification described in Subsection (2)(a), the municipal legislative body submits to the county legislative body a written objection to the county legislative body's approval of the expansion area urban development, including the municipal legislative body's reasons for objecting; and~~

~~(B) the county legislative body overrules the municipal legislative body's objection by an affirmative vote of two-thirds of the county legislative body; or~~

~~(iii) the municipal legislative body fails to respond to the notification described in Subsection (2)(a) within 90 days after the day on which the county legislative body sends the written notification;~~

~~(c) Subsection (4)(b) does not affect or impair the enforceability of any other provision in the development agreement.~~