

SENTINEL LANDSCAPE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Val L. Peterson

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill restricts municipalities from annexing certain land near military installations.

Highlighted Provisions:

This bill:

- restricts municipalities from annexing land within 5,000 feet of a military boundary.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-2-402, as last amended by Laws of Utah 2021, Chapter 112

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

Section 1. 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) the unincorporated area is a contiguous area;
(ii) 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, 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.

(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

59 area that:

60 (A) consists of 50 or more acres;

61 (B) requires the county to change the zoning designation of the land on which the
62 urban development is located; and

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

66 (b) A county legislative body may not approve expansion area urban development
67 unless:

68 (i) the county notifies the city or town of the proposed development; and

69 (ii) (A) the city or town consents in writing to the development;

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

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

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

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

83 (c) A municipality that operates or intends to construct and operate an airport and does
84 not adopt a resolution consenting to the annexation of an area described in Subsection (6)(b)
85 may not deny an annexation petition proposing the annexation of that same area to that
86 municipality.

87 (7) (a) As used in this Subsection (7), "project area" means a project area as defined in
88 Section 63H-1-102 that is in a project area plan as defined in Section 63H-1-102 adopted by
89 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 (7)(c)(ii), the Military Installation Development Authority may petition for annexation of the following areas to a municipality as if 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

(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 Section 10-2-402.5 do not apply.

(8) A municipality may not annex an unincorporated area if:

(a) the area is proposed for incorporation in:

(i) a feasibility study conducted under Section 10-2a-205; or

(ii) a supplemental feasibility study conducted under Section 10-2a-206;

(b) the lieutenant governor completes the first public hearing on the proposed incorporation under Subsection 10-2a-207(4); and

(c) the time period for a specified landowner, as defined in Section 10-2a-203, to request that the lieutenant governor exclude the specified landowner's property from the proposed incorporation under Subsection 10-2a-207(5)(a) has expired.

(9) (a) As used in this Subsection (9):

(i) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(ii) "Military land" means the same as that term is defined in Section 63H-1-102, but

does not include:

(A) land or a facility under the jurisdiction of the United States Department of Veterans Affairs; or

(B) land that is otherwise already provided for under Subsection (7) as part of a Military Installation Development Authority project area.

(b) A municipality may not annex an unincorporated area within 5,000 feet of a military land boundary unless the military authority with jurisdiction over the military land approves the annexation.

(c) A military authority's approval may:

(i) limit a municipality's current and future authority to zone the annexed land within 5,000 feet of the military land boundary to only allow for land uses identified by the military authority as being compatible with the current and projected future use of the military land; or

(ii) reduce the zoning limitation to less than 5,000 feet from the military land boundary.

(d) If no conditions are noted in the military authority's approval, then a municipality's zoning authority is unrestricted and may not later be limited by the military authority.

(e) If a municipality has petitioned the military authority for annexation approval and the military authority fails to respond to the municipality within 90 days from the date of the municipality's certified approval request, the municipality may proceed with annexation as if it received unconditional approval from the military authority.

(f) A municipality may petition the military authority to modify any limitation placed on an annexation approval if the military authority's use of the military land has substantially changed.

(g) (i) This subsection does not apply to an annexation approved before May 3, 2023, unless the annexation is not yet incorporated into a municipality's master zoning plan.

(ii) If an annexation approved before May 3, 2023, is not incorporated into a municipality's master zoning before July 31, 2023, a municipality shall consult with the military authority to ensure zoning is compatible with military land use.