

HB0195S01 compared with HB0195

~~text~~ shows text that was in HB0195 but was deleted in HB0195S01.

inserted text shows text that was not in HB0195 but was inserted into HB0195S01.

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Representative Doug Owens proposes the following substitute bill:

LAND USE PLANNING AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Doug Owens

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to local government land use plans and regulations.

Highlighted Provisions:

This bill:

- ▶ requires municipalities and counties to consider development impacts on wildlife in the process of considering and adopting general plans and land use regulations~~;~~ and
- ▶ requires the Department of Natural Resources to provide information relevant to a municipality or county's consideration of the development impacts on wildlife.

Money Appropriated in this Bill:

None

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Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-401, as last amended by Laws of Utah 2023, Chapter 88

10-9a-501, as last amended by Laws of Utah 2023, Chapter 65

17-27a-401, as last amended by Laws of Utah 2023, Chapters 34, 88

17-27a-501, as last amended by Laws of Utah 2023, Chapter 65

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

Section 1. Section **10-9a-401** is amended to read:

10-9a-401. General plan required -- Content.

(1) To accomplish the purposes of this chapter, a municipality shall prepare and adopt a comprehensive, long-range general plan for:

- (a) present and future needs of the municipality; and
- (b) growth and development of all or any part of the land within the municipality.

(2) 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) if the municipality is a town, 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

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modification of services or facilities provided by an affected entity; and

(j) an official map.

(3) (a) The general plan of a specified municipality, as defined in Section 10-9a-408, shall include a moderate income housing element that meets the requirements of Subsection 10-9a-403(2)(a)(iii).

(b) (i) This Subsection (3)(b) applies to a municipality that is not a specified municipality as of January 1, 2023.

(ii) As of January 1, if a municipality described in Subsection (3)(b)(i) changes from one class to another or grows in population to qualify as a specified municipality as defined in Section 10-9a-408, the municipality shall amend the municipality's general plan to comply with Subsection (3)(a) on or before August 1 of the first calendar year beginning on January 1 in which the municipality qualifies as a specified municipality.

(4) (a) Subject to Subsection 10-9a-403(2), the municipality may determine the comprehensiveness, extent, and format of the general plan.

(b) In preparing and adopting a general plan, the municipality shall, to the extent the municipality determines advisable, consider:

(i) the impacts of development on wildlife, including the impacts on wildlife movement and wildlife habitat; and

(ii) how the impacts described in Subsection (4)(b)(i) may be mitigated.

(c) Upon request from a municipality, the Department of Natural Resources shall provide the municipality information relevant to the municipality's consideration under Subsection (4)(b).

(5) Except for a city of the fifth class or a town, on or before December 31, 2025, a municipality that has a general plan that does not include a water use and preservation element that complies with Section 10-9a-403 shall amend the municipality's general plan to comply with Section 10-9a-403.

Section 2. Section **10-9a-501** is amended to read:

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

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

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

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

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

(b) In considering and adopting a land use regulation, a legislative body shall, to the extent the legislative body determines advisable, consider:

(i) the impacts of development on wildlife, including the impacts on wildlife movement and wildlife habitat; and

(ii) how the impacts described in Subsection (3)(b)(i) may be mitigated.

(c) Upon request from a legislative body, the Department of Natural Resources shall provide the legislative body information relevant to the legislative body's consideration under Subsection (3)(b).

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

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

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

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

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

(a) zoned agricultural; or

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

(6) A municipal land use regulation pertaining to an airport or an airport influence area, as that term is defined in Section 72-10-401, is subject to Title 72, Chapter 10, Part 4, Airport Zoning Act.

Section 3. Section **17-27a-401** is amended to read:

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

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(1) To accomplish the purposes of this chapter, a 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 and promotion of air quality;

(g) historic preservation;

(h) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by an affected entity; and

(i) an official map.

(3) (a) (i) The general plan of a specified county, as defined in Section 17-27a-408, shall include a moderate income housing element that meets the requirements of Subsection 17-27a-403(2)(a)(iii).

(ii) (A) This Subsection (3)(a)(ii) applies to a county that does not qualify as a specified county as of January 1, 2023.

(B) As of January 1, if a county described in Subsection (3)(a)(ii)(A) changes from one class to another or grows in population to qualify as a specified county as defined in Section

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17-27a-408, the county shall amend the county's general plan to comply with Subsection (3)(a)(i) on or before August 1 of the first calendar year beginning on January 1 in which the county qualifies as a specified county.

(iii) A county described in Subsection (3)(a)(ii)(B) shall send a copy of the county's amended general plan to the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member.

(b) The general plan shall contain a resource management plan for the public lands, as defined in Section 63L-6-102, within the county.

(c) The resource management plan described in Subsection (3)(b) 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;

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- (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.

(d) For each item listed under Subsection (3)(c), 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)(d)(ii) are to be accomplished.

(4) (a) (i) The general plan shall include specific provisions related to an area 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.

(ii) The provisions described in Subsection (4)(a)(i) shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:

- (A) the information identified in Section 19-3-305;
- (B) information supported by credible studies that demonstrates that Subsection 19-3-307(2) has been satisfied; and

(C) 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

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(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) (a) Subject to Subsection 17-27a-403(2), the county may determine the comprehensiveness, extent, and format of the general plan.

(b) In preparing and adopting a general plan, the county shall, to the extent the county determines advisable, consider:

(i) the impacts of development on wildlife, including the impacts on wildlife movement and wildlife habitat; and

(ii) how the impacts described in Subsection (6)(b)(i) may be mitigated.

(c) Upon request from a county, the Department of Natural Resources shall provide the county information relevant to the county's consideration under Subsection (6)(b).

(7) If a county has designated a mountainous planning district, the general plan for the mountainous planning district is the controlling plan.

(8) Nothing in this part may be construed to limit the authority of the state to manage and protect wildlife under Title 23A, Wildlife Resources Act.

(9) On or before December 31, 2025, a county that has a general plan that does not include a water use and preservation element that complies with Section 17-27a-403 shall amend the county's general plan to comply with Section 17-27a-403.

Section 4. Section **17-27a-501** is amended to read:

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

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

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

(b) A legislative body may, by ordinance or resolution, enact a land use regulation that

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imposes a fee.

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

(b) In considering and adopting a land use regulation, a legislative body shall, to the extent the legislative body determines advisable, consider:

(i) the impacts of development on wildlife, including the impacts on wildlife movement and wildlife habitat; and

(ii) how the impacts described in Subsection (3)(b)(i) may be mitigated.

(c) Upon request from a legislative body, the Department of Natural Resources shall provide the legislative body information relevant to the legislative body's consideration under Subsection (3)(b).

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

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

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

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

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

(a) zoned agricultural; or

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

(6) A county land use regulation pertaining to an airport or an airport influence area, as that term is defined in Section 72-10-401, is subject to Title 72, Chapter 10, Part 4, Airport Zoning Act.

Section 5. **Effective date.**

This bill takes effect on May 1, 2024.