

**COUNTY LAND USE AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kera Birkeland**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill addresses county land use and development.

**Highlighted Provisions:**

This bill:

- repeals provisions requiring certain counties to submit a proposal to create a housing and transit reinvestment zone as a strategy for increasing moderate income housing; and

- makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**17-27a-403**, as last amended by Laws of Utah 2023, Chapters 88, 238

**17-27a-408**, as last amended by Laws of Utah 2023, Chapters 88, 501 and 529 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 88

**63N-3-603**, as last amended by Laws of Utah 2023, Chapter 357

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



28 Section 1. Section **17-27a-403** is amended to read:

29 **17-27a-403. Plan preparation.**

30 (1) (a) The planning commission shall provide notice, as provided in Section  
31 **17-27a-203**, of the planning commission's intent to make a recommendation to the county  
32 legislative body for a general plan or a comprehensive general plan amendment when the  
33 planning commission initiates the process of preparing the planning commission's  
34 recommendation.

35 (b) The planning commission shall make and recommend to the legislative body a  
36 proposed general plan for:

37 (i) the unincorporated area within the county; or

38 (ii) if the planning commission is a planning commission for a mountainous planning  
39 district, the mountainous planning district.

40 (c) (i) The plan may include planning for incorporated areas if, in the planning  
41 commission's judgment, they are related to the planning of the unincorporated territory or of  
42 the county as a whole.

43 (ii) Elements of the county plan that address incorporated areas are not an official plan  
44 or part of a municipal plan for any municipality, unless the county plan is recommended by the  
45 municipal planning commission and adopted by the governing body of the municipality.

46 (2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts,  
47 and descriptive and explanatory matter, shall include the planning commission's  
48 recommendations for the following plan elements:

49 (i) a land use element that:

50 (A) designates the long-term goals and the proposed extent, general distribution, and  
51 location of land for housing for residents of various income levels, business, industry,  
52 agriculture, recreation, education, public buildings and grounds, open space, and other  
53 categories of public and private uses of land as appropriate;

54 (B) includes a statement of the projections for and standards of population density and  
55 building intensity recommended for the various land use categories covered by the plan;

56 (C) is coordinated to integrate the land use element with the water use and preservation  
57 element; and

58 (D) accounts for the effect of land use categories and land uses on water demand;

- 59 (ii) a transportation and traffic circulation element that:
  - 60 (A) provides the general location and extent of existing and proposed freeways, arterial
  - 61 and collector streets, public transit, active transportation facilities, and other modes of
  - 62 transportation that the planning commission considers appropriate;
  - 63 (B) addresses the county's plan for residential and commercial development around
  - 64 major transit investment corridors to maintain and improve the connections between housing,
  - 65 employment, education, recreation, and commerce; and
  - 66 (C) correlates with the population projections, the employment projections, and the
  - 67 proposed land use element of the general plan;
- 68 (iii) for a specified county as defined in Section 17-27a-408, a moderate income
- 69 housing element that:
  - 70 (A) provides a realistic opportunity to meet the need for additional moderate income
  - 71 housing within the next five years;
  - 72 (B) selects three or more moderate income housing strategies described in Subsection
  - 73 (2)(b)(ii) for implementation; and
  - 74 (C) includes an implementation plan as provided in Subsection [~~(2)(e);~~] (2)(f);
  - 75 (iv) a resource management plan detailing the findings, objectives, and policies
  - 76 required by Subsection 17-27a-401(3); and
  - 77 (v) a water use and preservation element that addresses:
    - 78 (A) the effect of permitted development or patterns of development on water demand
    - 79 and water infrastructure;
    - 80 (B) methods of reducing water demand and per capita consumption for future
    - 81 development;
    - 82 (C) methods of reducing water demand and per capita consumption for existing
    - 83 development; and
    - 84 (D) opportunities for the county to modify the county's operations to eliminate
    - 85 practices or conditions that waste water.
- 86 (b) In drafting the moderate income housing element, the planning commission:
  - 87 (i) shall consider the Legislature's determination that counties should facilitate a
  - 88 reasonable opportunity for a variety of housing, including moderate income housing:
    - 89 (A) to meet the needs of people of various income levels living, working, or desiring to

90 live or work in the community; and

91 (B) to allow people with various incomes to benefit from and fully participate in all  
92 aspects of neighborhood and community life; and

93 (ii) shall include an analysis of how the county will provide a realistic opportunity for  
94 the development of moderate income housing within the planning horizon, including a  
95 recommendation to implement three or more of the following moderate income housing  
96 strategies:

97 (A) rezone for densities necessary to facilitate the production of moderate income  
98 housing;

99 (B) demonstrate investment in the rehabilitation or expansion of infrastructure that  
100 facilitates the construction of moderate income housing;

101 (C) demonstrate investment in the rehabilitation of existing uninhabitable housing  
102 stock into moderate income housing;

103 (D) identify and utilize county general fund subsidies or other sources of revenue to  
104 waive construction related fees that are otherwise generally imposed by the county for the  
105 construction or rehabilitation of moderate income housing;

106 (E) create or allow for, and reduce regulations related to, internal or detached accessory  
107 dwelling units in residential zones;

108 (F) zone or rezone for higher density or moderate income residential development in  
109 commercial or mixed-use zones, commercial centers, or employment centers;

110 (G) amend land use regulations to allow for higher density or new moderate income  
111 residential development in commercial or mixed-use zones near major transit investment  
112 corridors;

113 (H) amend land use regulations to eliminate or reduce parking requirements for  
114 residential development where a resident is less likely to rely on the resident's own vehicle,  
115 such as residential development near major transit investment corridors or senior living  
116 facilities;

117 (I) amend land use regulations to allow for single room occupancy developments;

118 (J) implement zoning incentives for moderate income units in new developments;

119 (K) preserve existing and new moderate income housing and subsidized units by  
120 utilizing a landlord incentive program, providing for deed restricted units through a grant

- 121 program, or establishing a housing loss mitigation fund;
- 122 (L) reduce, waive, or eliminate impact fees related to moderate income housing;
- 123 (M) demonstrate creation of, or participation in, a community land trust program for  
124 moderate income housing;
- 125 (N) implement a mortgage assistance program for employees of the county, an  
126 employer that provides contracted services for the county, or any other public employer that  
127 operates within the county;
- 128 (O) apply for or partner with an entity that applies for state or federal funds or tax  
129 incentives to promote the construction of moderate income housing, an entity that applies for  
130 programs offered by the Utah Housing Corporation within that agency's funding capacity, an  
131 entity that applies for affordable housing programs administered by the Department of  
132 Workforce Services, an entity that applies for services provided by a public housing authority  
133 to preserve and create moderate income housing, or any other entity that applies for programs  
134 or services that promote the construction or preservation of moderate income housing;
- 135 (P) demonstrate utilization of a moderate income housing set aside from a community  
136 reinvestment agency, redevelopment agency, or community development and renewal agency  
137 to create or subsidize moderate income housing;
- 138 (Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3,  
139 Part 6, Housing and Transit Reinvestment Zone Act;
- 140 (R) eliminate impact fees for any accessory dwelling unit that is not an internal  
141 accessory dwelling unit as defined in Section [10-9a-530](#);
- 142 (S) create a program to transfer development rights for moderate income housing;
- 143 (T) ratify a joint acquisition agreement with another local political subdivision for the  
144 purpose of combining resources to acquire property for moderate income housing;
- 145 (U) develop a moderate income housing project for residents who are disabled or 55  
146 years old or older;
- 147 (V) create or allow for, and reduce regulations related to, multifamily residential  
148 dwellings compatible in scale and form with detached single-family residential dwellings and  
149 located in walkable communities within residential or mixed-use zones; and
- 150 (W) demonstrate implementation of any other program or strategy to address the  
151 housing needs of residents of the county who earn less than 80% of the area median income,

152 including the dedication of a local funding source to moderate income housing or the adoption  
153 of a land use ordinance that requires 10% or more of new residential development in a  
154 residential zone be dedicated to moderate income housing.

155 ~~[(iii) If a specified county, as defined in Section 17-27a-408, has created a small public~~  
156 ~~transit district, as defined in Section 17B-2a-802, on or before January 1, 2022, the specified~~  
157 ~~county shall include as part of the specified county's recommended strategies under Subsection~~  
158 ~~(2)(b)(ii) a recommendation to implement the strategy described in Subsection (2)(b)(ii)(Q).]~~

159 ~~[(iv)]~~ (c) The planning commission shall identify each moderate income housing  
160 strategy recommended to the legislative body for implementation by restating the exact  
161 language used to describe the strategy in Subsection (2)(b)(ii).

162 ~~[(e)]~~ (d) In drafting the land use element, the planning commission shall:

163 (i) identify and consider each agriculture protection area within the unincorporated area  
164 of the county or mountainous planning district;

165 (ii) avoid proposing a use of land within an agriculture protection area that is  
166 inconsistent with or detrimental to the use of the land for agriculture; and

167 (iii) consider and coordinate with any station area plans adopted by municipalities  
168 located within the county under Section 10-9a-403.1.

169 ~~[(f)]~~ (e) In drafting the transportation and traffic circulation element, the planning  
170 commission shall:

171 (i) (A) consider and coordinate with the regional transportation plan developed by the  
172 county's region's metropolitan planning organization, if the relevant areas of the county are  
173 within the boundaries of a metropolitan planning organization; or

174 (B) consider and coordinate with the long-range transportation plan developed by the  
175 Department of Transportation, if the relevant areas of the county are not within the boundaries  
176 of a metropolitan planning organization; and

177 (ii) consider and coordinate with any station area plans adopted by municipalities  
178 located within the county under Section 10-9a-403.1.

179 ~~[(g)]~~ (f) (i) In drafting the implementation plan portion of the moderate income housing  
180 element as described in Subsection (2)(a)(iii)(C), the planning commission shall recommend to  
181 the legislative body the establishment of a five-year timeline for implementing each of the  
182 moderate income housing strategies selected by the county for implementation.

- 183 (ii) The timeline described in Subsection [~~(2)(e)(f)~~] (2)(f)(i) shall:
- 184 (A) identify specific measures and benchmarks for implementing each moderate  
185 income housing strategy selected by the county; and
- 186 (B) provide flexibility for the county to make adjustments as needed.
- 187 [~~(f)~~] (g) In drafting the water use and preservation element, the planning commission:
- 188 (i) shall consider applicable regional water conservation goals recommended by the  
189 Division of Water Resources;
- 190 (ii) shall consult with the Division of Water Resources for information and technical  
191 resources regarding regional water conservation goals, including how implementation of the  
192 land use element and water use and preservation element may affect the Great Salt Lake;
- 193 (iii) shall notify the community water systems serving drinking water within the  
194 unincorporated portion of the county and request feedback from the community water systems  
195 about how implementation of the land use element and water use and preservation element may  
196 affect:
- 197 (A) water supply planning, including drinking water source and storage capacity  
198 consistent with Section [19-4-114](#); and
- 199 (B) water distribution planning, including master plans, infrastructure asset  
200 management programs and plans, infrastructure replacement plans, and impact fee facilities  
201 plans;
- 202 (iv) shall consider the potential opportunities and benefits of planning for  
203 regionalization of public water systems;
- 204 (v) shall consult with the Department of Agriculture and Food for information and  
205 technical resources regarding the potential benefits of agriculture conservation easements and  
206 potential implementation of agriculture water optimization projects that would support regional  
207 water conservation goals;
- 208 (vi) shall notify an irrigation or canal company located in the county so that the  
209 irrigation or canal company can be involved in the protection and integrity of the irrigation or  
210 canal company's delivery systems;
- 211 (vii) shall include a recommendation for:
- 212 (A) water conservation policies to be determined by the county; and
- 213 (B) landscaping options within a public street for current and future development that

214 do not require the use of lawn or turf in a parkstrip;

215 (viii) shall review the county's land use ordinances and include a recommendation for  
216 changes to an ordinance that promotes the inefficient use of water;

217 (ix) shall consider principles of sustainable landscaping, including the:

218 (A) reduction or limitation of the use of lawn or turf;

219 (B) promotion of site-specific landscape design that decreases stormwater runoff or  
220 runoff of water used for irrigation;

221 (C) preservation and use of healthy trees that have a reasonable water requirement or  
222 are resistant to dry soil conditions;

223 (D) elimination or regulation of ponds, pools, and other features that promote  
224 unnecessary water evaporation;

225 (E) reduction of yard waste; and

226 (F) use of an irrigation system, including drip irrigation, best adapted to provide the  
227 optimal amount of water to the plants being irrigated;

228 (x) may include recommendations for additional water demand reduction strategies,  
229 including:

230 (A) creating a water budget associated with a particular type of development;

231 (B) adopting new or modified lot size, configuration, and landscaping standards that  
232 will reduce water demand for new single family development;

233 (C) providing one or more water reduction incentives for existing landscapes and  
234 irrigation systems and installation of water fixtures or systems that minimize water demand;

235 (D) discouraging incentives for economic development activities that do not adequately  
236 account for water use or do not include strategies for reducing water demand; and

237 (E) adopting water concurrency standards requiring that adequate water supplies and  
238 facilities are or will be in place for new development; and

239 (xi) shall include a recommendation for low water use landscaping standards for a new:

240 (A) commercial, industrial, or institutional development;

241 (B) common interest community, as defined in Section [57-25-102](#); or

242 (C) multifamily housing project.

243 (3) The proposed general plan may include:

244 (a) an environmental element that addresses:



- 245 (i) to the extent not covered by the county's resource management plan, the protection,  
246 conservation, development, and use of natural resources, including the quality of:
- 247 (A) air;
  - 248 (B) forests;
  - 249 (C) soils;
  - 250 (D) rivers;
  - 251 (E) groundwater and other waters;
  - 252 (F) harbors;
  - 253 (G) fisheries;
  - 254 (H) wildlife;
  - 255 (I) minerals; and
  - 256 (J) other natural resources; and
- 257 (ii) (A) the reclamation of land, flood control, prevention and control of the pollution  
258 of streams and other waters;
- 259 (B) the regulation of the use of land on hillsides, stream channels and other  
260 environmentally sensitive areas;
  - 261 (C) the prevention, control, and correction of the erosion of soils;
  - 262 (D) the preservation and enhancement of watersheds and wetlands; and
  - 263 (E) the mapping of known geologic hazards;
- 264 (b) a public services and facilities element showing general plans for sewage, water,  
265 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,  
266 police and fire protection, and other public services;
- 267 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and  
268 programs for:
- 269 (i) historic preservation;
  - 270 (ii) the diminution or elimination of a development impediment as defined in Section  
271 [17C-1-102](#); and
  - 272 (iii) redevelopment of land, including housing sites, business and industrial sites, and  
273 public building sites;
  - 274 (d) an economic element composed of appropriate studies and forecasts, as well as an  
275 economic development plan, which may include review of existing and projected county

276 revenue and expenditures, revenue sources, identification of basic and secondary industry,  
277 primary and secondary market areas, employment, and retail sales activity;

278 (e) recommendations for implementing all or any portion of the general plan, including  
279 the adoption of land and water use ordinances, capital improvement plans, community  
280 development and promotion, and any other appropriate action;

281 (f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or  
282 (3)(a)(i); and

283 (g) any other element the county considers appropriate.

284 Section 2. Section 17-27a-408 is amended to read:

285 **17-27a-408. Moderate income housing report -- Contents -- Prioritization for**  
286 **funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.**

287 (1) As used in this section:

288 (a) "Division" means the Housing and Community Development Division within the  
289 Department of Workforce Services.

290 (b) "Implementation plan" means the implementation plan adopted as part of the  
291 moderate income housing element of a specified county's general plan as provided in  
292 Subsection 17-27a-403(2)(e).

293 (c) "Initial report" means the one-time moderate income housing report described in  
294 Subsection (2).

295 (d) "Moderate income housing strategy" means a strategy described in Subsection  
296 17-27a-403(2)(b)(ii).

297 (e) "Report" means an initial report or a subsequent report.

298 (f) "Specified county" means a county of the first, second, or third class, which has a  
299 population of more than 5,000 in the county's unincorporated areas.

300 (g) "Subsequent progress report" means the annual moderate income housing report  
301 described in Subsection (3).

302 (2) (a) The legislative body of a specified county shall annually submit an initial report  
303 to the division.

304 (b) (i) This Subsection (2)(b) applies to a county that is not a specified county as of  
305 January 1, 2023.

306 (ii) As of January 1, if a county described in Subsection (2)(b)(i) changes from one

307 class to another or grows in population to qualify as a specified county, the county shall submit  
308 an initial plan to the division on or before August 1 of the first calendar year beginning on  
309 January 1 in which the county qualifies as a specified county.

310 (c) The initial report shall:

311 (i) identify each moderate income housing strategy selected by the specified county for  
312 continued, ongoing, or one-time implementation, using the exact language used to describe the  
313 moderate income housing strategy in Subsection 17-27a-403(2)(b)(ii); and

314 (ii) include an implementation plan.

315 (3) (a) After the division approves a specified county's initial report under this section,  
316 the specified county shall, as an administrative act, annually submit to the division a  
317 subsequent progress report on or before August 1 of each year after the year in which the  
318 specified county is required to submit the initial report.

319 (b) The subsequent progress report shall include:

320 (i) subject to Subsection (3)(c), a description of each action, whether one-time or  
321 ongoing, taken by the specified county during the previous 12-month period to implement the  
322 moderate income housing strategies identified in the initial report for implementation;

323 (ii) a description of each land use regulation or land use decision made by the specified  
324 county during the previous 12-month period to implement the moderate income housing  
325 strategies, including an explanation of how the land use regulation or land use decision  
326 supports the specified county's efforts to implement the moderate income housing strategies;

327 (iii) a description of any barriers encountered by the specified county in the previous  
328 12-month period in implementing the moderate income housing strategies;

329 (iv) information regarding the number of internal and external or detached accessory  
330 dwelling units located within the specified county for which the specified county:

331 (A) issued a building permit to construct; or

332 (B) issued a business license or comparable license or permit to rent;

333 (v) a description of how the market has responded to the selected moderate income  
334 housing strategies, including the number of entitled moderate income housing units or other  
335 relevant data;

336 (vi) any recommendations on how the state can support the specified county in  
337 implementing the moderate income housing strategies.

338 (c) For purposes of describing actions taken by a specified county under Subsection  
339 (3)(b)(i), the specified county may include an ongoing action taken by the specified county  
340 prior to the 12-month reporting period applicable to the subsequent progress report if the  
341 specified county:

342 (i) has already adopted an ordinance, approved a land use application, made an  
343 investment, or approved an agreement or financing that substantially promotes the  
344 implementation of a moderate income housing strategy identified in the initial report; and

345 (ii) demonstrates in the subsequent progress report that the action taken under  
346 Subsection (3)(c)(i) is relevant to making meaningful progress towards the specified county's  
347 implementation plan.

348 (d) A specified county's report shall be in a form:

349 (i) approved by the division; and

350 (ii) made available by the division on or before May 1 of the year in which the report is  
351 required.

352 (4) Within 90 days after the day on which the division receives a specified county's  
353 report, the division shall:

354 (a) post the report on the division's website;

355 (b) send a copy of the report to the Department of Transportation, the Governor's  
356 Office of Planning and Budget, the association of governments in which the specified county is  
357 located, and, if the unincorporated area of the specified county is located within the boundaries  
358 of a metropolitan planning organization, the appropriate metropolitan planning organization;  
359 and

360 (c) subject to Subsection (5), review the report to determine compliance with this  
361 section.

362 (5) (a) An initial report does not comply with this section unless the report:

363 (i) includes the information required under Subsection (2)(c);

364 (ii) ~~[subject to Subsection (5)(c),]~~ demonstrates to the division that the specified county  
365 made plans to implement three or more moderate income housing strategies; and

366 (iii) is in a form approved by the division.

367 (b) A subsequent progress report does not comply with this section unless the report:

368 (i) ~~[subject to Subsection (5)(c),]~~ demonstrates to the division that the specified county

369 made plans to implement three or more moderate income housing strategies;

370 (ii) is in a form approved by the division; and

371 (iii) provides sufficient information for the division to:

372 (A) assess the specified county's progress in implementing the moderate income  
373 housing strategies;

374 (B) monitor compliance with the specified county's implementation plan;

375 (C) identify a clear correlation between the specified county's land use decisions and  
376 efforts to implement the moderate income housing strategies;

377 (D) identify how the market has responded to the specified county's selected moderate  
378 income housing strategies; and

379 (E) identify any barriers encountered by the specified county in implementing the  
380 selected moderate income housing strategies.

381 ~~[(c)(i) This Subsection (5)(c) applies to a specified county that has created a small  
382 public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022.]~~

383 ~~[(ii) In addition to the requirements of Subsections (5)(a) and (b), a report for a  
384 specified county described in Subsection (5)(c)(i) does not comply with this section unless the  
385 report demonstrates to the division that the specified county:]~~

386 ~~[(A) made plans to implement the moderate income housing strategy described in  
387 Subsection 17-27a-403(2)(b)(ii)(Q); and]~~

388 ~~[(B) is in compliance with Subsection 63N-3-603(8).]~~

389 (6) (a) A specified county qualifies for priority consideration under this Subsection (6)  
390 if the specified county's report:

391 (i) complies with this section; and

392 (ii) demonstrates to the division that the specified county made plans to implement five  
393 or more moderate income housing strategies.

394 (b) The Transportation Commission may, in accordance with Subsection  
395 72-1-304(3)(c), give priority consideration to transportation projects located within the  
396 unincorporated areas of a specified county described in Subsection (6)(a) until the Department  
397 of Transportation receives notice from the division under Subsection (6)(e).

398 (c) Upon determining that a specified county qualifies for priority consideration under  
399 this Subsection (6), the division shall send a notice of prioritization to the legislative body of

400 the specified county and the Department of Transportation.

401 (d) The notice described in Subsection (6)(c) shall:

402 (i) name the specified county that qualifies for priority consideration;

403 (ii) describe the funds or projects for which the specified county qualifies to receive  
404 priority consideration; and

405 (iii) state the basis for the division's determination that the specified county qualifies  
406 for priority consideration.

407 (e) The division shall notify the legislative body of a specified county and the  
408 Department of Transportation in writing if the division determines that the specified county no  
409 longer qualifies for priority consideration under this Subsection (6).

410 (7) (a) If the division, after reviewing a specified county's report, determines that the  
411 report does not comply with this section, the division shall send a notice of noncompliance to  
412 the legislative body of the specified county.

413 (b) A specified county that receives a notice of noncompliance may:

414 (i) cure each deficiency in the report within 90 days after the day on which the notice of  
415 noncompliance is sent; or

416 (ii) request an appeal of the division's determination of noncompliance within 10 days  
417 after the day on which the notice of noncompliance is sent.

418 (c) The notice described in Subsection (7)(a) shall:

419 (i) describe each deficiency in the report and the actions needed to cure each  
420 deficiency;

421 (ii) state that the specified county has an opportunity to:

422 (A) submit to the division a corrected report that cures each deficiency in the report  
423 within 90 days after the day on which the notice of noncompliance is sent; or

424 (B) submit to the division a request for an appeal of the division's determination of  
425 noncompliance within 10 days after the day on which the notice of noncompliance is sent; and

426 (iii) state that failure to take action under Subsection (7)(c)(ii) will result in the  
427 specified county's ineligibility for funds and fees owed under Subsection (9).

428 (d) For purposes of curing the deficiencies in a report under this Subsection (7), if the  
429 action needed to cure the deficiency as described by the division requires the specified county  
430 to make a legislative change, the specified county may cure the deficiency by making that

431 legislative change within the 90-day cure period.

432 (e) (i) If a specified county submits to the division a corrected report in accordance  
433 with Subsection (7)(b)(i), and the division determines that the corrected report does not comply  
434 with this section, the division shall send a second notice of noncompliance to the legislative  
435 body of the specified county.

436 (ii) A specified county that receives a second notice of noncompliance may request an  
437 appeal of the division's determination of noncompliance within 10 days after the day on which  
438 the second notice of noncompliance is sent.

439 (iii) The notice described in Subsection (7)(e)(i) shall:

440 (A) state that the specified county has an opportunity to submit to the division a request  
441 for an appeal of the division's determination of noncompliance within 10 days after the day on  
442 which the second notice of noncompliance is sent; and

443 (B) state that failure to take action under Subsection (7)(e)(iii)(A) will result in the  
444 specified county's ineligibility for funds under Subsection (9).

445 (8) (a) A specified county that receives a notice of noncompliance under Subsection  
446 (7)(a) or (7)(e)(i) may request an appeal of the division's determination of noncompliance  
447 within 10 days after the day on which the notice of noncompliance is sent.

448 (b) Within 90 days after the day on which the division receives a request for an appeal,  
449 an appeal board consisting of the following three members shall review and issue a written  
450 decision on the appeal:

451 (i) one individual appointed by the Utah Association of Counties;

452 (ii) one individual appointed by the Utah Homebuilders Association; and

453 (iii) one individual appointed by the presiding member of the association of  
454 governments, established pursuant to an interlocal agreement under Title 11, Chapter 13,  
455 Interlocal Cooperation Act, of which the specified county is a member.

456 (c) The written decision of the appeal board shall either uphold or reverse the division's  
457 determination of noncompliance.

458 (d) The appeal board's written decision on the appeal is final.

459 (9) (a) A specified county is ineligible for funds and owes a fee under this Subsection  
460 (9) if:

461 (i) the specified county fails to submit a report to the division;

462 (ii) after submitting a report to the division, the division determines that the report does  
463 not comply with this section and the specified county fails to:

464 (A) cure each deficiency in the report within 90 days after the day on which the notice  
465 of noncompliance is sent; or

466 (B) request an appeal of the division's determination of noncompliance within 10 days  
467 after the day on which the notice of noncompliance is sent;

468 (iii) after submitting to the division a corrected report to cure the deficiencies in a  
469 previously-submitted report, the division determines that the corrected report does not comply  
470 with this section and the specified county fails to request an appeal of the division's  
471 determination of noncompliance within 10 days after the day on which the second notice of  
472 noncompliance is sent; or

473 (iv) after submitting a request for an appeal under Subsection (8), the appeal board  
474 issues a written decision upholding the division's determination of noncompliance.

475 (b) The following apply to a specified county described in Subsection (9)(a) until the  
476 division provides notice under Subsection (9)(e):

477 (i) the executive director of the Department of Transportation may not program funds  
478 from the Transportation Investment Fund of 2005, including the Transit Transportation  
479 Investment Fund, to projects located within the unincorporated areas of the specified county in  
480 accordance with Subsection [72-2-124\(6\)](#);

481 (ii) beginning with the report submitted in 2024, the specified county shall pay a fee to  
482 the Olene Walker Housing Loan Fund in the amount of \$250 per day that the specified county:

483 (A) fails to submit the report to the division in accordance with this section, beginning  
484 the day after the day on which the report was due; or

485 (B) fails to cure the deficiencies in the report, beginning the day after the day by which  
486 the cure was required to occur as described in the notice of noncompliance under Subsection  
487 (7); and

488 (iii) beginning with the report submitted in 2025, the specified county shall pay a fee to  
489 the Olene Walker Housing Loan Fund in the amount of \$500 per day that the specified county,  
490 for a consecutive year:

491 (A) fails to submit the report to the division in accordance with this section, beginning  
492 the day after the day on which the report was due; or



493 (B) fails to cure the deficiencies in the report, beginning the day after the day by which  
494 the cure was required to occur as described in the notice of noncompliance under Subsection  
495 (7).

496 (c) Upon determining that a specified county is ineligible for funds under this  
497 Subsection (9), and is required to pay a fee under Subsection (9)(b), if applicable, the division  
498 shall send a notice of ineligibility to the legislative body of the specified county, the  
499 Department of Transportation, the State Tax Commission, and the Governor's Office of  
500 Planning and Budget.

501 (d) The notice described in Subsection (9)(c) shall:

502 (i) name the specified county that is ineligible for funds;

503 (ii) describe the funds for which the specified county is ineligible to receive;

504 (iii) describe the fee the specified county is required to pay under Subsection (9)(b), if  
505 applicable;

506 (iv) state the basis for the division's determination that the specified county is ineligible  
507 for funds.

508 (e) The division shall notify the legislative body of a specified county and the  
509 Department of Transportation in writing if the division determines that the provisions of this  
510 Subsection (9) no longer apply to the specified county.

511 (f) The division may not determine that a specified county that is required to pay a fee  
512 under Subsection (9)(b) is in compliance with the reporting requirements of this section until  
513 the specified county pays all outstanding fees required under Subsection (9)(b) to the Olene  
514 Walker Housing Loan Fund, created under Title 35A, Chapter 8, Part 5, Olene Walker Housing  
515 Loan Fund.

516 (10) In a civil action seeking enforcement or claiming a violation of this section or of  
517 Subsection 17-27a-404(5)(c), a plaintiff may not recover damages but may be awarded only  
518 injunctive or other equitable relief.

519 Section 3. Section **63N-3-603** is amended to read:

520 **63N-3-603. Applicability, requirements, and limitations on a housing and transit**  
521 **reinvestment zone.**

522 (1) A housing and transit reinvestment zone proposal created under this part shall  
523 promote the following objectives:

- 524 (a) higher utilization of public transit;
  - 525 (b) increasing availability of housing, including affordable housing, and fulfillment of  
526 moderate income housing plans;
  - 527 (c) improving efficiencies in parking and transportation, including walkability of  
528 communities near public transit facilities;
  - 529 (d) overcoming development impediments and market conditions that render a  
530 development cost prohibitive absent the proposal and incentives;
  - 531 (e) conservation of water resources through efficient land use;
  - 532 (f) improving air quality by reducing fuel consumption and motor vehicle trips;
  - 533 (g) encouraging transformative mixed-use development and investment in  
534 transportation and public transit infrastructure in strategic areas;
  - 535 (h) strategic land use and municipal planning in major transit investment corridors as  
536 described in Subsection [10-9a-403\(2\)](#);
  - 537 (i) increasing access to employment and educational opportunities; and
  - 538 (j) increasing access to child care.
- 539 (2) In order to accomplish the objectives described in Subsection (1), a municipality or  
540 public transit county that initiates the process to create a housing and transit reinvestment zone  
541 as described in this part shall ensure that the proposal for a housing and transit reinvestment  
542 zone includes:
- 543 (a) except as provided in Subsection (3), at least 10% of the proposed dwelling units  
544 within the housing and transit reinvestment zone are affordable housing units;
  - 545 (b) at least 51% of the developable area within the housing and transit reinvestment  
546 zone includes residential uses with, except as provided in Subsection (4)(c), an average of 50  
547 dwelling units per acre or greater;
  - 548 (c) mixed-use development; and
  - 549 (d) a mix of dwelling units to ensure that a reasonable percentage of the dwelling units  
550 has more than one bedroom.
- 551 (3) A municipality or public transit county that, at the time the housing and transit  
552 reinvestment zone proposal is approved by the housing and transit reinvestment zone  
553 committee, meets the affordable housing guidelines of the United States Department of  
554 Housing and Urban Development at 60% area median income is exempt from the requirement

555 described in Subsection (2)(a).

556 (4) (a) A municipality may only propose a housing and transit reinvestment zone at a  
557 commuter rail station, and a public transit county may only propose a housing and transit  
558 reinvestment zone at a public transit hub, that:

559 (i) subject to Subsection (5)(a):

560 (A) (I) except as provided in Subsection (4)(a)(i)(A)(II), for a municipality, does not  
561 exceed a 1/3 mile radius of a commuter rail station;

562 (II) for a municipality that is a city of the first class with a population greater than  
563 150,000 that is within a county of the first class, with an opportunity zone created pursuant to  
564 Section 1400Z-1, Internal Revenue Code, does not exceed a 1/2 mile radius of a commuter rail  
565 station located within the opportunity zone; or

566 (III) for a public transit county, does not exceed a 1/3 mile radius of a public transit  
567 hub; and

568 (B) has a total area of no more than 125 noncontiguous acres;

569 (ii) subject to Section 63N-3-607, proposes the capture of a maximum of 80% of each  
570 taxing entity's tax increment above the base year for a term of no more than 25 consecutive  
571 years on each parcel within a 45-year period not to exceed the tax increment amount approved  
572 in the housing and transit reinvestment zone proposal; and

573 (iii) the commencement of collection of tax increment, for all or a portion of the  
574 housing and transit reinvestment zone, will be triggered by providing notice as described in  
575 Subsection (6).

576 (b) A municipality or public transit county may only propose a housing and transit  
577 reinvestment zone at a light rail station or bus rapid transit station that:

578 (i) subject to Subsection (5):

579 (A) does not exceed:

580 (I) except as provided in Subsection (4)(b)(i)(A)(II) or (III), a 1/4 mile radius of a bus  
581 rapid transit station or light rail station;

582 (II) for a municipality that is a city of the first class with a population greater than  
583 150,000 that is within a county of the first class, a 1/2 mile radius of a light rail station located  
584 in an opportunity zone created pursuant to Section 1400Z-1, Internal Revenue Code; or

585 (III) a 1/2 mile radius of a light rail station located within a master-planned

586 development of 500 acres or more; and

587 (B) has a total area of no more than 100 noncontiguous acres;

588 (ii) subject to Subsection (4)(c) and Section 63N-3-607, proposes the capture of a  
589 maximum of 80% of each taxing entity's tax increment above the base year for a term of no  
590 more than 15 consecutive years on each parcel within a 30-year period not to exceed the tax  
591 increment amount approved in the housing and transit reinvestment zone proposal; and

592 (iii) the commencement of collection of tax increment, for all or a portion of the  
593 housing and transit reinvestment zone, will be triggered by providing notice as described in  
594 Subsection (6).

595 (c) For a housing and transit reinvestment zone proposed by a public transit county at a  
596 public transit hub, or for a housing and transit reinvestment zone proposed by a municipality at  
597 a bus rapid transit station, if the proposed housing density within the housing and transit  
598 reinvestment zone is between 39 and 49 dwelling units per acre, the maximum capture of each  
599 taxing entity's tax increment above the base year is 60%.

600 (d) A municipality that is a city of the first class with a population greater than 150,000  
601 in a county of the first class as described in Subsections (4)(a)(i)(A)(II) and (4)(b)(i)(A)(II) may  
602 only propose one housing and transit reinvestment zone within an opportunity zone.

603 (e) A county of the first class may not propose a housing and transit reinvestment zone  
604 that includes an area that is part of a project area, as that term is defined in Section 17C-1-102,  
605 and created under Title 17C, Chapter 1, Agency Operations, until the project area is dissolved  
606 pursuant to Section 17C-1-702.

607 (5) (a) For a housing and transit reinvestment zone for a commuter rail station, if a  
608 parcel is bisected by the relevant radius limitation, the full parcel may be included as part of the  
609 housing and transit reinvestment zone area and will not count against the limitations described  
610 in Subsection (4)(a)(i).

611 (b) For a housing and transit reinvestment zone for a light rail or bus rapid transit  
612 station, if a parcel is bisected by the relevant radius limitation, the full parcel may be included  
613 as part of the housing and transit reinvestment zone area and will not count against the  
614 limitations described in Subsection (4)(b)(i).

615 (6) The notice of commencement of collection of tax increment required in Subsection  
616 (4)(a)(iii) or (4)(b)(iii) shall be sent by mail or electronically to:

- 617 (a) the tax commission;
- 618 (b) the State Board of Education;
- 619 (c) the state auditor;
- 620 (d) the auditor of the county in which the housing and transit reinvestment zone is
- 621 located;
- 622 (e) each taxing entity affected by the collection of tax increment from the housing and
- 623 transit reinvestment zone; and
- 624 (f) the Governor's Office of Economic Opportunity.
- 625 (7) (a) The maximum number of housing and transit reinvestment zones at light rail
- 626 stations is eight in any given county.
- 627 (b) Within a county of the first class, the maximum number of housing and transit
- 628 reinvestment zones at bus rapid transit stations is three.
- 629 ~~[(8)(a) This Subsection (8) applies to a specified county, as defined in Section~~
- 630 ~~17-27a-408, that has created a small public transit district on or before January 1, 2022.]~~
- 631 ~~[(b)(i) A county described in Subsection (8)(a) shall, in accordance with Section~~
- 632 ~~63N-3-604, prepare and submit to the Governor's Office of Economic Opportunity a proposal~~
- 633 ~~to create a housing and transit reinvestment zone on or before December 31, 2022.]~~
- 634 ~~[(ii) A county described in Subsection (8)(a) that, on December 31, 2022, was~~
- 635 ~~noncompliant under Section 17-27a-408 for failure to demonstrate in the county's moderate~~
- 636 ~~income housing report that the county complied with Subsection (8)(b)(i), may cure the~~
- 637 ~~deficiency in the county's moderate income housing report by submitting satisfactory proof to~~
- 638 ~~the Housing and Community Development Division that, notwithstanding the deadline in~~
- 639 ~~Subsection (8)(b)(i), the county has submitted to the Governor's Office of Economic~~
- 640 ~~Opportunity a proposal to create a housing and transit reinvestment zone.]~~
- 641 ~~[(c)(i) A county described in Subsection (8)(a) may not propose a housing and transit~~
- 642 ~~reinvestment zone if more than 15% of the acreage within the housing and transit reinvestment~~
- 643 ~~zone boundary is owned by the county.]~~
- 644 ~~[(ii) For purposes of determining the percentage of acreage owned by the county as~~
- 645 ~~described in Subsection (8)(c)(i), a county may exclude any acreage owned that is used for~~
- 646 ~~highways, bus rapid transit, light rail, or commuter rail within the boundary of the housing and~~
- 647 ~~transit reinvestment zone.]~~

648           ~~[(d) To accomplish the objectives described in Subsection (1), if a county described in~~  
649 ~~Subsection (8)(a) has failed to comply with Subsection (8)(b)(i) by failing to submit an~~  
650 ~~application before December 31, 2022, an owner of undeveloped property who has submitted a~~  
651 ~~land use application to the county on or before December 31, 2022, and is within a 1/3 mile~~  
652 ~~radius of a public transit hub in a county described in Subsection (8)(a), including parcels that~~  
653 ~~are bisected by the 1/3 mile radius, shall have the right to develop and build a mixed-use~~  
654 ~~development including the following:]~~

655           ~~[(i) excluding the parcels devoted to commercial uses as described in Subsection~~  
656 ~~(8)(d)(ii), at least 39 dwelling units per acre on average over the developable area, with at least~~  
657 ~~10% of the dwelling units as affordable housing units;]~~

658           ~~[(ii) commercial uses including office, retail, educational, and healthcare in support of~~  
659 ~~the mixed-use development constituting up to 1/3 of the total planned gross building square~~  
660 ~~footage of the subject parcels; and]~~

661           ~~[(iii) any other infrastructure element necessary or reasonable to support the mixed-use~~  
662 ~~development, including parking infrastructure, streets, sidewalks, parks, and trails.]~~

663           Section 4. **Effective date.**

664           This bill takes effect on May 1, 2024.