

Lincoln Fillmore proposes the following substitute bill:

**Housing Affordability Amendments**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lincoln Fillmore**

House Sponsor: Stephen L. Whyte

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**LONG TITLE**

**General Description:**

This bill enacts and amends provisions related to housing affordability.

**Highlighted Provisions:**

This bill:

- defines and amends terms;
- enacts provisions of certain land use regulations with regard to certain types of parking spaces;
- provides certain exceptions; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-9a-534**, as last amended by Laws of Utah 2024, Chapter 415

**17-27a-530**, as last amended by Laws of Utah 2024, Chapter 415

**59-2-1101**, as last amended by Laws of Utah 2024, Chapter 254

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

Section 1. Section **10-9a-534** is amended to read:

**10-9a-534 . Regulation of building design elements prohibited -- Regulation of parking spaces prohibited -- Exceptions.**

(1) As used in this section[;] :

(a) "Affordable housing" means housing occupied or reserved for occupancy that is

- 29           priced at 80% of the county median home price.
- 30       (b) [~~"building~~] "Building design element" means:
- 31           [~~(a)~~] (i) exterior color;
- 32           [~~(b)~~] (ii) type or style of exterior cladding material;
- 33           [~~(c)~~] (iii) style, dimensions, or materials of a roof structure, roof pitch, or porch;
- 34           [~~(d)~~] (iv) exterior nonstructural architectural ornamentation;
- 35           [~~(e)~~] (v) location, design, placement, or architectural styling of a window or door;
- 36           [~~(f)~~] (vi) location, design, placement, or architectural styling of a garage door, not
- 37                   including a rear-loading garage door;
- 38           [~~(g)~~] (vii) number or type of rooms;
- 39           [~~(h)~~] (viii) interior layout of a room;
- 40           [~~(i)~~] (ix) minimum square footage over 1,000 square feet, not including a garage;
- 41           [~~(j)~~] (x) rear yard landscaping requirements;
- 42           [~~(k)~~] (xi) minimum building dimensions; or
- 43           [~~(l)~~] (xii) a requirement to install front yard fencing.
- 44       (c) "Owner-occupied" means a housing unit in which the individual who owns the
- 45           housing unit, solely or jointly, lives as the individual's primary residence for no less
- 46           than five years.
- 47       (d) "Specified municipality" means the same as that term is defined in Section 10-9a-408.
- 48       (e) "Unobstructed" means a parking space that has no permanent barriers that would
- 49           unreasonably reduce the size of an available parking space described in Subsection (4).
- 50       (2) Except as provided in Subsection (3), a municipality may not impose a requirement for
- 51           a building design element on a one- or two-family dwelling.
- 52       (3) Subsection (2) does not apply to:
- 53           (a) a dwelling located within an area designated as a historic district in:
- 54                   (i) the National Register of Historic Places;
- 55                   (ii) the state register as defined in Section 9-8a-402; or
- 56                   (iii) a local historic district or area, or a site designated as a local landmark, created
- 57                           by ordinance before January 1, 2021, except as provided under Subsection (3)(b);
- 58           (b) an ordinance enacted as a condition for participation in the National Flood Insurance
- 59                   Program administered by the Federal Emergency Management Agency;
- 60           (c) an ordinance enacted to implement the requirements of the Utah Wildland Urban
- 61                   Interface Code adopted under Section 15A-2-103;
- 62           (d) building design elements agreed to under a development agreement;

- 63 (e) a dwelling located within an area that:
- 64 (i) is zoned primarily for residential use; and
- 65 (ii) was substantially developed before calendar year 1950;
- 66 (f) an ordinance enacted to implement water efficient landscaping in a rear yard;
- 67 (g) an ordinance enacted to regulate type of cladding, in response to findings or evidence
- 68 from the construction industry of:
- 69 (i) defects in the material of existing cladding; or
- 70 (ii) consistent defects in the installation of existing cladding;
- 71 (h) a land use regulation, including a planned unit development or overlay zone, that a
- 72 property owner requests:
- 73 (i) the municipality to apply to the owner's property; and
- 74 (ii) in exchange for an increase in density or other benefit not otherwise available as a
- 75 permitted use in the zoning area or district; or
- 76 (i) an ordinance enacted to mitigate the impacts of an accidental explosion:
- 77 (i) in excess of 20,000 pounds of trinitrotoluene equivalent;
- 78 (ii) that would create overpressure waves greater than .2 pounds per square inch; and
- 79 (iii) that would pose a risk of damage to a window, garage door, or carport of a
- 80 facility located within the vicinity of the regulated area.
- 81 (4) A municipality that is a specified municipality may not:
- 82 (a) require that the dimensions of a single parking space for a one- or two-family
- 83 dwelling or town home be:
- 84 (i) for unobstructed, enclosed, or covered parking:
- 85 (A) more than 10 feet wide; or
- 86 (B) more than 20 feet long; or
- 87 (ii) for uncovered parking:
- 88 (A) more than nine feet wide; or
- 89 (B) more than 20 feet long;
- 90 (b) restrict an unobstructed tandem parking space from satisfying two parking spaces as
- 91 part of a minimum parking space requirement; and
- 92 (c) restrict a two-car garage from satisfying two parking spaces as part of a minimum
- 93 parking space requirement.
- 94 (5) A municipality may not require a garage for a single-family attached or detached
- 95 dwelling that is owner occupied affordable housing.
- 96 (6) If a municipality requires a garage, the municipality shall count each parking space

97 within the garage as part of the municipality's minimum parking space requirement as  
 98 described in Section 10-9a-530.

99 (7) Nothing in this section prohibits a municipality from requiring on-site parking the  
 100 owner-occupied affordable housing.

101 Section 2. Section **17-27a-530** is amended to read:

102 **17-27a-530 . Regulation of building design elements prohibited -- Regulation of**  
 103 **parking spaces prohibited -- Exceptions.**

104 (1) As used in this section[;] :

105 (a) "Affordable housing" means housing occupied or reserved for occupancy that is  
 106 priced at 80% of the county median home price.

107 (b) [~~building~~] "Building design element" means:

108 [~~(a)~~] (i) exterior color;

109 [~~(b)~~] (ii) type or style of exterior cladding material;

110 [~~(c)~~] (iii) style, dimensions, or materials of a roof structure, roof pitch, or porch;

111 [~~(d)~~] (iv) exterior nonstructural architectural ornamentation;

112 [~~(e)~~] (v) location, design, placement, or architectural styling of a window or door;

113 [~~(f)~~] (vi) location, design, placement, or architectural styling of a garage door, not  
 114 including a rear-loading garage door;

115 [~~(g)~~] (vii) number or type of rooms;

116 [~~(h)~~] (viii) interior layout of a room;

117 [~~(i)~~] (ix) minimum square footage over 1,000 square feet, not including a garage;

118 [~~(j)~~] (x) rear yard landscaping requirements;

119 [~~(k)~~] (xi) minimum building dimensions; or

120 [~~(l)~~] (xii) a requirement to install front yard fencing.

121 (c) "Owner-occupied" means a housing unit in which the individual who owns the  
 122 housing unit, solely or jointly, lives as the individual's primary residence for no less  
 123 than five years.

124 (d) "Specified county" means the same as that term is defined in Section 17-27a-408.

125 (e) "Unobstructed" means a parking space that has no permanent barriers that would  
 126 unreasonably reduce the size of an available parking space described in Subsection  
 127 (4).

128 (2) Except as provided in Subsection (3), a county may not impose a requirement for a  
 129 building design element on a one- or two-family dwelling.

130 (3) Subsection (2) does not apply to:

- 131 (a) a dwelling located within an area designated as a historic district in:
- 132 (i) the National Register of Historic Places;
- 133 (ii) the state register as defined in Section 9-8a-402; or
- 134 (iii) a local historic district or area, or a site designated as a local landmark, created
- 135 by ordinance before January 1, 2021, except as provided under Subsection (3)(b);
- 136 (b) an ordinance enacted as a condition for participation in the National Flood Insurance
- 137 Program administered by the Federal Emergency Management Agency;
- 138 (c) an ordinance enacted to implement the requirements of the Utah Wildland Urban
- 139 Interface Code adopted under Section 15A-2-103;
- 140 (d) building design elements agreed to under a development agreement;
- 141 (e) a dwelling located within an area that:
- 142 (i) is zoned primarily for residential use; and
- 143 (ii) was substantially developed before calendar year 1950;
- 144 (f) an ordinance enacted to implement water efficient landscaping in a rear yard;
- 145 (g) an ordinance enacted to regulate type of cladding, in response to findings or evidence
- 146 from the construction industry of:
- 147 (i) defects in the material of existing cladding; or
- 148 (ii) consistent defects in the installation of existing cladding;
- 149 (h) a land use regulation, including a planned unit development or overlay zone, that a
- 150 property owner requests:
- 151 (i) the county to apply to the owner's property; and
- 152 (ii) in exchange for an increase in density or other benefit not otherwise available as a
- 153 permitted use in the zoning area or district; or
- 154 (i) an ordinance enacted to mitigate the impacts of an accidental explosion:
- 155 (i) in excess of 20,000 pounds of trinitrotoluene equivalent;
- 156 (ii) that would create overpressure waves greater than .2 pounds per square inch; and
- 157 (iii) that would pose a risk of damage to a window, garage door, or carport of a
- 158 facility located within the vicinity of the regulated area.
- 159 (4) A county that is a specified county may not:
- 160 (a) require that the dimensions of a single parking space for a one- or two-family
- 161 dwelling or town home be:
- 162 (i) for unobstructed, enclosed, or covered parking:
- 163 (A) more than 10 feet wide; or
- 164 (B) more than 20 feet long; or

- 165           (ii) for uncovered parking:
- 166                (A) more than nine feet wide; or
- 167                (B) more than 20 feet long;
- 168       (b) restrict an unobstructed tandem parking space from satisfying two parking spaces as
- 169           part of a minimum parking space requirement; and
- 170       (c) restrict a two-car garage from satisfying two parking spaces as part of a minimum
- 171           parking space requirement.
- 172 (5) A county may not require a garage for a single-family attached or detached dwelling
- 173       that is owner occupied affordable housing.
- 174 (6) If a county requires a garage, the county shall count each parking space within the
- 175       garage as part of the county's minimum parking space requirement as described in
- 176       Section 17-27a-526.
- 177 (7) Nothing in this section prohibits a county from requiring on-site parking for
- 178       owner-occupied affordable housing.

179       Section 3. Section **59-2-1101** is amended to read:

180       **59-2-1101 . Definitions -- Exemption of certain property -- Proportional**  
181 **payments for certain property -- Exception -- County legislative body authority to adopt**  
182 **rules or ordinances.**

183 (1) As used in this section:

184       (a) "Charitable purposes" means:

- 185           (i) for property used as a nonprofit hospital or a nursing home, the standards outlined
- 186                in *Howell v. County Board of Cache County ex rel. IHC Hospitals, Inc.*, 881 P.2d
- 187                880 (Utah 1994); and
- 188           (ii) for property other than property described in Subsection (1)(a)(i), providing a gift
- 189                to the community.

190       (b) "Compliance period" means a period equal to 15 taxable years beginning with the

191           first taxable year for which the taxpayer claims a tax credit under Section 42, Internal

192           Revenue Code, or Section 59-7-607 or 59-10-1010.

193       (c)(i) "Educational purposes" means purposes carried on by an educational

194           organization that normally:

- 195                (A) maintains a regular faculty and curriculum; and
- 196                (B) has a regularly enrolled body of pupils and students.

197       (ii) "Educational purposes" includes:

- 198                (A) the physical or mental teaching, training, or conditioning of competitive

- 199 athletes by a national governing body of sport recognized by the United States  
200 Olympic Committee that qualifies as being tax exempt under Section  
201 501(c)(3), Internal Revenue Code; and
- 202 (B) an activity in support of or incidental to the teaching, training, or conditioning  
203 described in this Subsection (1)(c)(ii).
- 204 (d) "Exclusive use exemption" means a property tax exemption under Subsection  
205 (3)(a)(iv), for property owned by a nonprofit entity used exclusively for one or more  
206 of the following purposes:
- 207 (i) religious purposes;
- 208 (ii) charitable purposes; or
- 209 (iii) educational purposes.
- 210 (e)(i) "Farm machinery and equipment" means tractors, milking equipment and  
211 storage and cooling facilities, feed handling equipment, irrigation equipment,  
212 harvesters, choppers, grain drills and planters, tillage tools, scales, combines,  
213 spreaders, sprayers, haying equipment, including balers and cubers, and any other  
214 machinery or equipment used primarily for agricultural purposes.
- 215 (ii) "Farm machinery and equipment" does not include vehicles required to be  
216 registered with the Motor Vehicle Division or vehicles or other equipment used  
217 for business purposes other than farming.
- 218 (f) "Gift to the community" means:
- 219 (i) the lessening of a government burden; or
- 220 (ii)(A) the provision of a significant service to others without immediate  
221 expectation of material reward;
- 222 (B) the use of the property is supported to a material degree by donations and gifts  
223 including volunteer service;
- 224 (C) the recipients of the charitable activities provided on the property are not  
225 required to pay for the assistance received, in whole or in part, except that if in  
226 part, to a material degree;
- 227 (D) the beneficiaries of the charitable activities provided on the property are  
228 unrestricted or, if restricted, the restriction bears a reasonable relationship to  
229 the charitable objectives of the nonprofit entity that owns the property; and
- 230 (E) any commercial activities provided on the property are subordinate or  
231 incidental to charitable activities provided on the property.
- 232 (g) "Government exemption" means a property tax exemption provided under

233 Subsection (3)(a)(i), (ii), or (iii).

234 (h)(i) "Nonprofit entity" means an entity:

235 (A) that is organized on a nonprofit basis, that dedicates the entity's property to the  
236 entity's nonprofit purpose, and that makes no dividend or other form of  
237 financial benefit available to a private interest;

238 (B) for which, upon dissolution, the entity's assets are distributable only for

239 exempt purposes under state law or to the government for a public purpose; and

240 (C) for which none of the net earnings or donations made to the entity inure to the

241 benefit of private shareholders or other individuals, as the private inurement

242 standard has been interpreted under Section 501(c)(3), Internal Revenue Code.

243 (ii) "Nonprofit entity" includes an entity:

244 (A) if the entity is treated as a disregarded entity for federal income tax purposes

245 and wholly owned by, and controlled under the direction of, a nonprofit entity;

246 and

247 (B) for which none of the net earnings and profits of the entity inure to the benefit

248 of any person other than a nonprofit entity.

249 (iii) "Nonprofit entity" includes an entity that is not an entity described in Subsection

250 (1)(h)(i) if the entity jointly owns a property that:

251 (A) is used for the purpose of providing permanent supportive housing;

252 (B) has an owner that is an entity described in Subsection (1)(h)(i) or that is a

253 housing authority that operates the permanent supportive housing;

254 (C) has an owner that receives public funding from a federal, state, or local

255 government entity to provide support services and rental subsidies to the

256 permanent supportive housing;

257 (D) is intended to be transferred at or before the end of the compliance period to

258 an entity described in Subsection (1)(h)(i) or a housing authority that will

259 continue to operate the property as permanent supportive housing; and

260 (E) has been certified by the Utah Housing Corporation as meeting the

261 requirements described in Subsections (1)(h)(iii)(A) through (D).

262 (iv) "Nonprofit entity" includes an entity that is not an entity described in Subsection

263 (1)(h)(i) if:

264 (A) the entity is a housing organization as defined in Subsection 35A-8-2401(1)(a);

265 and

266 (B) the entity is owned by an entity described in Subsection (1)(h)(i) or a housing



- 267 authority.
- 268 (i) "Permanent supportive housing" means a housing facility that:
- 269 (i) provides supportive services;
- 270 (ii) makes a 15-year commitment to provide rent subsidies to tenants of the housing
- 271 facility when the housing facility is placed in service;
- 272 (iii) receives an allocation of federal low-income housing tax credits in accordance
- 273 with 26 U.S.C. Sec. 42; and
- 274 (iv) leases each unit to a tenant:
- 275 (A) who, immediately before leasing the housing, was homeless as defined in 24
- 276 C.F.R. 583.5; and
- 277 (B) whose rent is capped at no more than 30% of the tenant's household income.
- 278 (j)(i) "Property of" means property that an entity listed in Subsection (3)(a)(ii) or (iii)
- 279 has a legal right to possess.
- 280 (ii) "Property of" includes a lease of real property if:
- 281 (A) the property is wholly leased to a state or political subdivision entity listed in
- 282 Subsection (3)(a)(ii) or (iii) under a triple net lease; and
- 283 (B) the lease is in effect for the entire calendar year.
- 284 (k) "Supportive service" means a service that is an eligible cost under 24 C.F.R. 578.53.
- 285 (l) "Triple net lease" means a lease agreement under which the lessee is responsible for
- 286 the real estate taxes, building insurance, and maintenance of the property separate
- 287 from and in addition to the rental price.
- 288 (2)(a) Except as provided in Subsection (2)(b), an exemption under this part may be
- 289 allowed only if the claimant is the owner of the property as of January 1 of the year
- 290 the exemption is claimed.
- 291 (b) A claimant shall collect and pay a proportional tax based upon the length of time that
- 292 the property was not owned by the claimant if:
- 293 (i) the claimant is a federal, state, or political subdivision entity described in
- 294 Subsection (3)(a)(i), (ii), or (iii); or
- 295 (ii) pursuant to Subsection (3)(a)(iv):
- 296 (A) the claimant is a nonprofit entity; and
- 297 (B) the property is used exclusively for religious, charitable, or educational
- 298 purposes.
- 299 (3)(a) The following property is exempt from taxation:
- 300 (i) property exempt under the laws of the United States;

- 301 (ii) property of:
- 302 (A) the state;
- 303 (B) school districts; and
- 304 (C) public libraries;
- 305 (iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property
- 306 of:
- 307 (A) counties;
- 308 (B) cities;
- 309 (C) towns;
- 310 (D) special districts;
- 311 (E) special service districts; and
- 312 (F) all other political subdivisions of the state;
- 313 (iv) except as provided in Subsection (6) or (7), property owned by a nonprofit entity
- 314 used exclusively for one or more of the following purposes:
- 315 (A) religious purposes;
- 316 (B) charitable purposes; or
- 317 (C) educational purposes;
- 318 (v) places of burial not held or used for private or corporate benefit;
- 319 (vi) farm machinery and equipment;
- 320 (vii) a high tunnel, as defined in Section 10-9a-525;
- 321 (viii) intangible property; and
- 322 (ix) the ownership interest of an out-of-state public agency, as defined in Section
- 323 11-13-103:
- 324 (A) if that ownership interest is in property providing additional project capacity,
- 325 as defined in Section 11-13-103; and
- 326 (B) on which a fee in lieu of ad valorem property tax is payable under Section
- 327 11-13-302.
- 328 (b) For purposes of a property tax exemption for property of school districts under
- 329 Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter
- 330 Schools, is considered to be a school district.
- 331 (4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a
- 332 government exemption ceases to qualify for the exemption because of a change in the
- 333 ownership of the property:
- 334 (a) the new owner of the property shall pay a proportional tax based upon the period of

- 335 time:
- 336 (i) beginning on the day that the new owner acquired the property; and
- 337 (ii) ending on the last day of the calendar year during which the new owner acquired
- 338 the property; and
- 339 (b) the new owner of the property and the person from whom the new owner acquires
- 340 the property shall notify the county assessor, in writing, of the change in ownership
- 341 of the property within 30 days from the day that the new owner acquires the property.
- 342 (5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):
- 343 (a) is subject to any exclusive use exemption or government exemption that the property
- 344 is entitled to under the new ownership of the property; and
- 345 (b) applies only to property that is acquired after December 31, 2005.
- 346 (6)(a) A property may not receive an exemption under Subsection (3)(a)(iv) if:
- 347 (i) the nonprofit entity that owns the property participates in or intervenes in any
- 348 political campaign on behalf of or in opposition to any candidate for public office,
- 349 including the publishing or distribution of statements; or
- 350 (ii) a substantial part of the activities of the nonprofit entity that owns the property
- 351 consists of carrying on propaganda or otherwise attempting to influence
- 352 legislation, except as provided under Subsection 501(h), Internal Revenue Code.
- 353 (b) Whether a nonprofit entity is engaged in an activity described in Subsection (6)(a)
- 354 shall be determined using the standards described in Section 501, Internal Revenue
- 355 Code.
- 356 (7) A property may not receive an exemption under Subsection (3)(a)(iv) if:
- 357 (a) the property is used for a purpose that is not religious, charitable, or educational; and
- 358 (b) the use for a purpose that is not religious, charitable, or educational is more than de
- 359 minimis.
- 360 (8) A county legislative body may adopt rules or ordinances to:
- 361 (a) effectuate an exemption under this part; and
- 362 (b) designate one or more persons to perform the functions given to the county under
- 363 this part.
- 364 (9) If a person is dissatisfied with an exemption decision made under designated
- 365 decision-making authority as described in Subsection (8)(b), that person may appeal the
- 366 decision to the commission under Section 59-2-1006.

367 **Section 4. Effective Date.**

368 This bill takes effect on May 7, 2025.