

**Housing Affordability Modifications**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lincoln Fillmore**

House Sponsor:

**LONG TITLE****General Description:**

This bill amends provisions related to affordable housing.

**Highlighted Provisions:**

This bill:

- defines terms;
- enacts provisions related to residential overlay for the development of certain types of dwellings on certain sized lots;
- directs the Utah Housing Corporation to make rules regarding procedures, qualifications, and requirements for private financial institutions that offer certain mortgage loans to first-time homebuyers;
- provides that first-time home buyers may use certain mortgage loans for specified purposes; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

**10-9a-103**, as last amended by Laws of Utah 2024, Chapter 464

**10-9a-403**, as last amended by Laws of Utah 2024, Chapters 431, 537

**10-9a-408**, as last amended by Laws of Utah 2024, Chapters 413, 438

**10-9a-535**, as enacted by Laws of Utah 2022, Chapter 355

**17-27a-103**, as last amended by Laws of Utah 2024, Chapter 464

**17-27a-403**, as last amended by Laws of Utah 2024, Chapters 381, 431

**17-27a-408**, as last amended by Laws of Utah 2024, Chapters 381, 413

**17-27a-531**, as enacted by Laws of Utah 2022, Chapter 355

31 **51-12-101**, as enacted by Laws of Utah 2024, Chapter 510  
 32 **63H-8-501**, as last amended by Laws of Utah 2024, Chapter 431  
 33 **63H-8-502**, as last amended by Laws of Utah 2024, Chapter 431

34 ENACTS:

35 **10-9a-403.2**, Utah Code Annotated 1953  
 36 **10-9a-403.3**, Utah Code Annotated 1953  
 37 **10-9a-408.1**, Utah Code Annotated 1953  
 38 **17-27a-403.1**, Utah Code Annotated 1953  
 39 **17-27a-403.2**, Utah Code Annotated 1953  
 40 **17-27a-408.1**, Utah Code Annotated 1953

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

43 Section 1. Section **10-9a-103** is amended to read:

44 **10-9a-103 . Definitions.**

45 As used in this chapter:

- 46 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or  
 47 detached from a primary single-family dwelling and contained on one lot.
- 48 (2) "Adversely affected party" means a person other than a land use applicant who:  
 49 (a) owns real property adjoining the property that is the subject of a land use application  
 50 or land use decision; or  
 51 (b) will suffer a damage different in kind than, or an injury distinct from, that of the  
 52 general community as a result of the land use decision.
- 53 (3) "Affected entity" means a county, municipality, special district, special service district  
 54 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal  
 55 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,  
 56 specified public utility, property owner, property owners association, or the Department  
 57 of Transportation, if:  
 58 (a) the entity's services or facilities are likely to require expansion or significant  
 59 modification because of an intended use of land;  
 60 (b) the entity has filed with the municipality a copy of the entity's general or long-range  
 61 plan; or  
 62 (c) the entity has filed with the municipality a request for notice during the same  
 63 calendar year and before the municipality provides notice to an affected entity in  
 64 compliance with a requirement imposed under this chapter.

- 65 (4) "Affected owner" means the owner of real property that is:
- 66 (a) a single project;
- 67 (b) the subject of a land use approval that sponsors of a referendum timely challenged in
- 68 accordance with [~~Subsection 20A-7-601(6)~~] Section 20A-7-601; and
- 69 (c) determined to be legally referable under Section 20A-7-602.8.
- 70 (5) "Appeal authority" means the person, board, commission, agency, or other body
- 71 designated by ordinance to decide an appeal of a decision of a land use application or a
- 72 variance.
- 73 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or
- 74 residential property if the sign is designed or intended to direct attention to a business,
- 75 product, or service that is not sold, offered, or existing on the property where the sign is
- 76 located.
- 77 (7)(a) "Charter school" means:
- 78 (i) an operating charter school;
- 79 (ii) a charter school applicant that a charter school authorizer approves in accordance
- 80 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or
- 81 (iii) an entity that is working on behalf of a charter school or approved charter
- 82 applicant to develop or construct a charter school building.
- 83 (b) "Charter school" does not include a therapeutic school.
- 84 (8) "Conditional use" means a land use that, because of the unique characteristics or
- 85 potential impact of the land use on the municipality, surrounding neighbors, or adjacent
- 86 land uses, may not be compatible in some areas or may be compatible only if certain
- 87 conditions are required that mitigate or eliminate the detrimental impacts.
- 88 (9) "Constitutional taking" means a governmental action that results in a taking of private
- 89 property so that compensation to the owner of the property is required by the:
- 90 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
- 91 (b) Utah Constitution Article I, Section 22.
- 92 (10) "Culinary water authority" means the department, agency, or public entity with
- 93 responsibility to review and approve the feasibility of the culinary water system and
- 94 sources for the subject property.
- 95 (11) "Development activity" means:
- 96 (a) any construction or expansion of a building, structure, or use that creates additional
- 97 demand and need for public facilities;
- 98 (b) any change in use of a building or structure that creates additional demand and need

- 99 for public facilities; or
- 100 (c) any change in the use of land that creates additional demand and need for public  
101 facilities.
- 102 (12)(a) "Development agreement" means a written agreement or amendment to a written  
103 agreement between a municipality and one or more parties that regulates or controls  
104 the use or development of a specific area of land.
- 105 (b) "Development agreement" does not include an improvement completion assurance.
- 106 (13)(a) "Disability" means a physical or mental impairment that substantially limits one  
107 or more of a person's major life activities, including a person having a record of such  
108 an impairment or being regarded as having such an impairment.
- 109 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
110 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21  
111 U.S.C. 802.
- 112 (14) "Educational facility":
- 113 (a) means:
- 114 (i) a school district's building at which pupils assemble to receive instruction in a  
115 program for any combination of grades from preschool through grade 12,  
116 including kindergarten and a program for children with disabilities;
- 117 (ii) a structure or facility:
- 118 (A) located on the same property as a building described in Subsection (14)(a)(i);  
119 and
- 120 (B) used in support of the use of that building; and
- 121 (iii) a building to provide office and related space to a school district's administrative  
122 personnel; and
- 123 (b) does not include:
- 124 (i) land or a structure, including land or a structure for inventory storage, equipment  
125 storage, food processing or preparing, vehicle storage or maintenance, or similar  
126 use that is:
- 127 (A) not located on the same property as a building described in Subsection  
128 (14)(a)(i); and
- 129 (B) used in support of the purposes of a building described in Subsection  
130 (14)(a)(i); or
- 131 (ii) a therapeutic school.
- 132 (15) "Fire authority" means the department, agency, or public entity with responsibility to

- 133 review and approve the feasibility of fire protection and suppression services for the  
134 subject property.
- 135 (16) "Flood plain" means land that:
- 136 (a) is within the 100-year flood plain designated by the Federal Emergency Management  
137 Agency; or
- 138 (b) has not been studied or designated by the Federal Emergency Management Agency  
139 but presents a likelihood of experiencing chronic flooding or a catastrophic flood  
140 event because the land has characteristics that are similar to those of a 100-year flood  
141 plain designated by the Federal Emergency Management Agency.
- 142 (17) "General plan" means a document that a municipality adopts by ordinance that sets  
143 forth general guidelines for proposed future development of the land within the  
144 municipality.
- 145 (18) "Geologic hazard" means:
- 146 (a) a surface fault rupture;  
147 (b) shallow groundwater;  
148 (c) liquefaction;  
149 (d) a landslide;  
150 (e) a debris flow;  
151 (f) unstable soil;  
152 (g) a rock fall; or  
153 (h) any other geologic condition that presents a risk:  
154 (i) to life;  
155 (ii) of substantial loss of real property; or  
156 (iii) of substantial damage to real property.
- 157 (19) "Historic preservation authority" means a person, board, commission, or other body  
158 designated by a legislative body to:
- 159 (a) recommend land use regulations to preserve local historic districts or areas; and  
160 (b) administer local historic preservation land use regulations within a local historic  
161 district or area.
- 162 (20) "Home-based microschool" means the same as that term is defined in Section  
163 53G-6-201.
- 164 (21) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter,  
165 or appurtenance that connects to a municipal water, sewer, storm water, power, or other  
166 utility system.

- 167 (22) "Identical plans" means building plans submitted to a municipality that:
- 168 (a) are clearly marked as "identical plans";
- 169 (b) are substantially identical to building plans that were previously submitted to and
- 170 reviewed and approved by the municipality; and
- 171 (c) describe a building that:
- 172 (i) is located on land zoned the same as the land on which the building described in
- 173 the previously approved plans is located;
- 174 (ii) is subject to the same geological and meteorological conditions and the same law
- 175 as the building described in the previously approved plans;
- 176 (iii) has a floor plan identical to the building plan previously submitted to and
- 177 reviewed and approved by the municipality; and
- 178 (iv) does not require any additional engineering or analysis.
- 179 (23) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact
- 180 Fees Act.
- 181 (24) "Improvement completion assurance" means a surety bond, letter of credit, financial
- 182 institution bond, cash, assignment of rights, lien, or other equivalent security required by
- 183 a municipality to guaranty the proper completion of landscaping or an infrastructure
- 184 improvement required as a condition precedent to:
- 185 (a) recording a subdivision plat; or
- 186 (b) development of a commercial, industrial, mixed use, or multifamily project.
- 187 (25) "Improvement warranty" means an applicant's unconditional warranty that the
- 188 applicant's installed and accepted landscaping or infrastructure improvement:
- 189 (a) complies with the municipality's written standards for design, materials, and
- 190 workmanship; and
- 191 (b) will not fail in any material respect, as a result of poor workmanship or materials,
- 192 within the improvement warranty period.
- 193 (26) "Improvement warranty period" means a period:
- 194 (a) no later than one year after a municipality's acceptance of required landscaping; or
- 195 (b) no later than one year after a municipality's acceptance of required infrastructure,
- 196 unless the municipality:
- 197 (i) determines for good cause that a one-year period would be inadequate to protect
- 198 the public health, safety, and welfare; and
- 199 (ii) has substantial evidence, on record:
- 200 (A) of prior poor performance by the applicant; or

- 201 (B) that the area upon which the infrastructure will be constructed contains  
202 suspect soil and the municipality has not otherwise required the applicant to  
203 mitigate the suspect soil.
- 204 (27) "Infrastructure improvement" means permanent infrastructure that is essential for the  
205 public health and safety or that:
- 206 (a) is required for human occupation; and  
207 (b) an applicant must install:
- 208 (i) in accordance with published installation and inspection specifications for public  
209 improvements; and  
210 (ii) whether the improvement is public or private, as a condition of:
- 211 (A) recording a subdivision plat;  
212 (B) obtaining a building permit; or  
213 (C) development of a commercial, industrial, mixed use, condominium, or  
214 multifamily project.
- 215 (28) "Internal lot restriction" means a platted note, platted demarcation, or platted  
216 designation that:
- 217 (a) runs with the land; and  
218 (b)(i) creates a restriction that is enclosed within the perimeter of a lot described on  
219 the plat; or  
220 (ii) designates a development condition that is enclosed within the perimeter of a lot  
221 described on the plat.
- 222 (29) "Land use applicant" means a property owner, or the property owner's designee, who  
223 submits a land use application regarding the property owner's land.
- 224 (30) "Land use application":
- 225 (a) means an application that is:  
226 (i) required by a municipality; and  
227 (ii) submitted by a land use applicant to obtain a land use decision; and  
228 (b) does not mean an application to enact, amend, or repeal a land use regulation.
- 229 (31) "Land use authority" means:
- 230 (a) a person, board, commission, agency, or body, including the local legislative body,  
231 designated by the local legislative body to act upon a land use application; or  
232 (b) if the local legislative body has not designated a person, board, commission, agency,  
233 or body, the local legislative body.
- 234 (32) "Land use decision" means an administrative decision of a land use authority or appeal

- 235 authority regarding:
- 236 (a) a land use permit; or
- 237 (b) a land use application.
- 238 (33) "Land use permit" means a permit issued by a land use authority.
- 239 (34) "Land use regulation":
- 240 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,
- 241 specification, fee, or rule that governs the use or development of land;
- 242 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
- 243 and
- 244 (c) does not include:
- 245 (i) a land use decision of the legislative body acting as the land use authority, even if
- 246 the decision is expressed in a resolution or ordinance; or
- 247 (ii) a temporary revision to an engineering specification that does not materially:
- 248 (A) increase a land use applicant's cost of development compared to the existing
- 249 specification; or
- 250 (B) impact a land use applicant's use of land.
- 251 (35) "Legislative body" means the municipal council.
- 252 (36) "Local historic district or area" means a geographically definable area that:
- 253 (a) contains any combination of buildings, structures, sites, objects, landscape features,
- 254 archeological sites, or works of art that contribute to the historic preservation goals of
- 255 a legislative body; and
- 256 (b) is subject to land use regulations to preserve the historic significance of the local
- 257 historic district or area.
- 258 (37) "Lot" means a tract of land, regardless of any label, that is created by and shown on a
- 259 subdivision plat that has been recorded in the office of the county recorder.
- 260 (38)(a) "Lot line adjustment" means a relocation of a lot line boundary between
- 261 adjoining lots or between a lot and adjoining parcels in accordance with Section
- 262 10-9a-608:
- 263 (i) whether or not the lots are located in the same subdivision; and
- 264 (ii) with the consent of the owners of record.
- 265 (b) "Lot line adjustment" does not mean a new boundary line that:
- 266 (i) creates an additional lot; or
- 267 (ii) constitutes a subdivision or a subdivision amendment.
- 268 (c) "Lot line adjustment" does not include a boundary line adjustment made by the



- 269 Department of Transportation.
- 270 (39) "Major transit investment corridor" means public transit service that uses or occupies:
- 271 (a) public transit rail right-of-way;
- 272 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or
- 273 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a
- 274 municipality or county and:
- 275 (i) a public transit district as defined in Section 17B-2a-802; or
- 276 (ii) an eligible political subdivision as defined in Section 59-12-2219.
- 277 (40) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.
- 278 (41) "Moderate income housing" means housing occupied or reserved for occupancy by
- 279 households with a gross household income equal to or less than 80% of the median gross
- 280 income for households of the same size in the county in which the city is located.
- 281 (42) "Municipal utility easement" means an easement that:
- 282 (a) is created or depicted on a plat recorded in a county recorder's office and is described
- 283 as a municipal utility easement granted for public use;
- 284 (b) is not a protected utility easement or a public utility easement as defined in Section
- 285 54-3-27;
- 286 (c) the municipality or the municipality's affiliated governmental entity uses and
- 287 occupies to provide a utility service, including sanitary sewer, culinary water,
- 288 electrical, storm water, or communications or data lines;
- 289 (d) is used or occupied with the consent of the municipality in accordance with an
- 290 authorized franchise or other agreement;
- 291 (e)(i) is used or occupied by a specified public utility in accordance with an
- 292 authorized franchise or other agreement; and
- 293 (ii) is located in a utility easement granted for public use; or
- 294 (f) is described in Section 10-9a-529 and is used by a specified public utility.
- 295 (43) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
- 296 spent and expenses incurred in:
- 297 (a) verifying that building plans are identical plans; and
- 298 (b) reviewing and approving those minor aspects of identical plans that differ from the
- 299 previously reviewed and approved building plans.
- 300 (44) "Noncomplying structure" means a structure that:
- 301 (a) legally existed before the structure's current land use designation; and
- 302 (b) because of one or more subsequent land use ordinance changes, does not conform to

- 303 the setback, height restrictions, or other regulations, excluding those regulations,  
304 which govern the use of land.
- 305 (45) "Nonconforming use" means a use of land that:
- 306 (a) legally existed before [its] the land's current land use designation;
- 307 (b) has been maintained continuously since the time the land use ordinance governing  
308 the land changed; and
- 309 (c) because of one or more subsequent land use ordinance changes, does not conform to  
310 the regulations that now govern the use of the land.
- 311 (46) "Official map" means a map drawn by municipal authorities and recorded in a county  
312 recorder's office that:
- 313 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for  
314 highways and other transportation facilities;
- 315 (b) provides a basis for restricting development in designated rights-of-way or between  
316 designated setbacks to allow the government authorities time to purchase or  
317 otherwise reserve the land; and
- 318 (c) has been adopted as an element of the municipality's general plan.
- 319 (47) "Parcel" means any real property that is not a lot.
- 320 (48)(a) "Parcel boundary adjustment" means a recorded agreement between owners of  
321 adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line  
322 agreement in accordance with Section 10-9a-524, if no additional parcel is created  
323 and:
- 324 (i) none of the property identified in the agreement is a lot; or  
325 (ii) the adjustment is to the boundaries of a single person's parcels.
- 326 (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line  
327 that:
- 328 (i) creates an additional parcel; or  
329 (ii) constitutes a subdivision.
- 330 (c) "Parcel boundary adjustment" does not include a boundary line adjustment made by  
331 the Department of Transportation.
- 332 (49) "Person" means an individual, corporation, partnership, organization, association, trust,  
333 governmental agency, or any other legal entity.
- 334 (50) "Plan for moderate income housing" means a written document adopted by a  
335 municipality's legislative body that includes:
- 336 (a) an estimate of the existing supply of moderate income housing located within the

- 337 municipality;
- 338 (b) an estimate of the need for moderate income housing in the municipality for the next  
339 five years;
- 340 (c) a survey of total residential land use;
- 341 (d) an evaluation of how existing land uses and zones affect opportunities for moderate  
342 income housing; and
- 343 (e) a description of the municipality's program to encourage an adequate supply of  
344 moderate income housing.
- 345 (51) "Plat" means an instrument subdividing property into lots as depicted on a map or  
346 other graphical representation of lands that a licensed professional land surveyor makes  
347 and prepares in accordance with Section 10-9a-603 or 57-8-13.
- 348 (52) "Potential geologic hazard area" means an area that:
- 349 (a) is designated by a Utah Geological Survey map, county geologist map, or other  
350 relevant map or report as needing further study to determine the area's potential for  
351 geologic hazard; or
- 352 (b) has not been studied by the Utah Geological Survey or a county geologist but  
353 presents the potential of geologic hazard because the area has characteristics similar  
354 to those of a designated geologic hazard area.
- 355 (53) "Public agency" means:
- 356 (a) the federal government;
- 357 (b) the state;
- 358 (c) a county, municipality, school district, special district, special service district, or  
359 other political subdivision of the state; or
- 360 (d) a charter school.
- 361 (54) "Public hearing" means a hearing at which members of the public are provided a  
362 reasonable opportunity to comment on the subject of the hearing.
- 363 (55) "Public meeting" means a meeting that is required to be open to the public under Title  
364 52, Chapter 4, Open and Public Meetings Act.
- 365 (56) "Public street" means a public right-of-way, including a public highway, public  
366 avenue, public boulevard, public parkway, public road, public lane, public alley, public  
367 viaduct, public subway, public tunnel, public bridge, public byway, other public  
368 transportation easement, or other public way.
- 369 (57) "Receiving zone" means an area of a municipality that the municipality designates, by  
370 ordinance, as an area in which an owner of land may receive a transferable development

- 371 right.
- 372 (58) "Record of survey map" means a map of a survey of land prepared in accordance with  
373 Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.
- 374 (59) "Residential facility for persons with a disability" means a residence:
- 375 (a) in which more than one person with a disability resides; and
- 376 (b) which is licensed or certified by the Department of Health and Human Services  
377 under:
- 378 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or
- 379 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.
- 380 (60) "Residential roadway" means a public local residential road that:
- 381 (a) will serve primarily to provide access to adjacent primarily residential areas and  
382 property;
- 383 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;
- 384 (c) is not identified as a supplementary to a collector or other higher system classified  
385 street in an approved municipal street or transportation master plan;
- 386 (d) has a posted speed limit of 25 miles per hour or less;
- 387 (e) does not have higher traffic volumes resulting from connecting previously separated  
388 areas of the municipal road network;
- 389 (f) cannot have a primary access, but can have a secondary access, and does not abut lots  
390 intended for high volume traffic or community centers, including schools, recreation  
391 centers, sports complexes, or libraries; and
- 392 (g) primarily serves traffic within a neighborhood or limited residential area and is not  
393 necessarily continuous through several residential areas.
- 394 (61) "Rules of order and procedure" means a set of rules that govern and prescribe in a  
395 public meeting:
- 396 (a) parliamentary order and procedure;
- 397 (b) ethical behavior; and
- 398 (c) civil discourse.
- 399 (62) "Sanitary sewer authority" means the department, agency, or public entity with  
400 responsibility to review and approve the feasibility of sanitary sewer services or onsite  
401 wastewater systems.
- 402 (63) "Sending zone" means an area of a municipality that the municipality designates, by  
403 ordinance, as an area from which an owner of land may transfer a transferable  
404 development right.

- 405 (64) "Special district" means an entity under Title 17B, Limited Purpose Local Government  
406 Entities - Special Districts, and any other governmental or quasi-governmental entity  
407 that is not a county, municipality, school district, or the state.
- 408 (65) "Specified public agency" means:  
409 (a) the state;  
410 (b) a school district; or  
411 (c) a charter school.
- 412 (66) "Specified public utility" means an electrical corporation, gas corporation, or telephone  
413 corporation, as those terms are defined in Section 54-2-1.
- 414 (67) "State" includes any department, division, or agency of the state.
- 415 (68)(a) "Subdivision" means any land that is divided, resubdivided, or proposed to be  
416 divided into two or more lots or other division of land for the purpose, whether  
417 immediate or future, for offer, sale, lease, or development either on the installment  
418 plan or upon any and all other plans, terms, and conditions.
- 419 (b) "Subdivision" includes:  
420 (i) the division or development of land, whether by deed, metes and bounds  
421 description, devise and testacy, map, plat, or other recorded instrument, regardless  
422 of whether the division includes all or a portion of a parcel or lot; and  
423 (ii) except as provided in Subsection (68)(c), divisions of land for residential and  
424 nonresidential uses, including land used or to be used for commercial, agricultural,  
425 and industrial purposes.
- 426 (c) "Subdivision" does not include:  
427 (i) a bona fide division or partition of agricultural land for the purpose of joining one  
428 of the resulting separate parcels to a contiguous parcel of unsubdivided  
429 agricultural land, if neither the resulting combined parcel nor the parcel remaining  
430 from the division or partition violates an applicable land use ordinance;  
431 (ii) a boundary line agreement recorded with the county recorder's office between  
432 owners of adjoining parcels adjusting the mutual boundary in accordance with  
433 Section 10-9a-524 if no new parcel is created;  
434 (iii) a recorded document, executed by the owner of record:  
435 (A) revising the legal descriptions of multiple parcels into one legal description  
436 encompassing all such parcels; or  
437 (B) joining a lot to a parcel;  
438 (iv) a boundary line agreement between owners of adjoining subdivided properties

439 adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and  
440 10-9a-608 if:

441 (A) no new dwelling lot or housing unit will result from the adjustment; and

442 (B) the adjustment will not violate any applicable land use ordinance;

443 (v) a bona fide division of land by deed or other instrument if the deed or other  
444 instrument states in writing that the division:

445 (A) is in anticipation of future land use approvals on the parcel or parcels;

446 (B) does not confer any land use approvals; and

447 (C) has not been approved by the land use authority;

448 (vi) a parcel boundary adjustment;

449 (vii) a lot line adjustment;

450 (viii) a road, street, or highway dedication plat;

451 (ix) a deed or easement for a road, street, or highway purpose; or

452 (x) any other division of land authorized by law.

453 (69)(a) "Subdivision amendment" means an amendment to a recorded subdivision in  
454 accordance with Section 10-9a-608 that:

455 (i) vacates all or a portion of the subdivision;

456 (ii) alters the outside boundary of the subdivision;

457 (iii) changes the number of lots within the subdivision;

458 (iv) alters a public right-of-way, a public easement, or public infrastructure within the  
459 subdivision; or

460 (v) alters a common area or other common amenity within the subdivision.

461 (b) "Subdivision amendment" does not include a lot line adjustment, between a single lot  
462 and an adjoining lot or parcel, that alters the outside boundary of the subdivision.

463 (70) "Substantial evidence" means evidence that:

464 (a) is beyond a scintilla; and

465 (b) a reasonable mind would accept as adequate to support a conclusion.

466 (71) "Suspect soil" means soil that has:

467 (a) a high susceptibility for volumetric change, typically clay rich, having more than a  
468 3% swell potential;

469 (b) bedrock units with high shrink or swell susceptibility; or

470 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum  
471 commonly associated with dissolution and collapse features.

472 (72) "Therapeutic school" means a residential group living facility:

- 473 (a) for four or more individuals who are not related to:  
 474 (i) the owner of the facility; or  
 475 (ii) the primary service provider of the facility;
- 476 (b) that serves students who have a history of failing to function:  
 477 (i) at home;  
 478 (ii) in a public school; or  
 479 (iii) in a nonresidential private school; and
- 480 (c) that offers:  
 481 (i) room and board; and  
 482 (ii) an academic education integrated with:  
 483 (A) specialized structure and supervision; or  
 484 (B) services or treatment related to a disability, an emotional development, a  
 485 behavioral development, a familial development, or a social development.
- 486 (73) "Transferable development right" means a right to develop and use land that originates  
 487 by an ordinance that authorizes a land owner in a designated sending zone to transfer  
 488 land use rights from a designated sending zone to a designated receiving zone.
- 489 (74) "Unincorporated" means the area outside of the incorporated area of a city or town.
- 490 (75) "Water interest" means any right to the beneficial use of water, including:  
 491 (a) each of the rights listed in Section 73-1-11; and  
 492 (b) an ownership interest in the right to the beneficial use of water represented by:  
 493 (i) a contract; or  
 494 (ii) a share in a water company, as defined in Section 73-3-3.5.
- 495 (76) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land  
 496 use zones, overlays, or districts.
- 497 Section 2. Section **10-9a-403** is amended to read:  
 498 **10-9a-403 . General plan preparation.**
- 499 (1)(a) The planning commission shall provide notice, as provided in Section 10-9a-203,  
 500 of the planning commission's intent to make a recommendation to the municipal  
 501 legislative body for a general plan or a comprehensive general plan amendment when  
 502 the planning commission initiates the process of preparing the planning commission's  
 503 recommendation.
- 504 (b) The planning commission shall make and recommend to the legislative body a  
 505 proposed general plan for the area within the municipality.
- 506 (c) The plan may include areas outside the boundaries of the municipality if, in the

507 planning commission's judgment, those areas are related to the planning of the  
508 municipality's territory.

509 (d) Except as otherwise provided by law or with respect to a municipality's power of  
510 eminent domain, when the plan of a municipality involves territory outside the  
511 boundaries of the municipality, the municipality may not take action affecting that  
512 territory without the concurrence of the county or other municipalities affected.

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

516 (i) a land use element that:

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

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

525 (C) except for a city of the fifth class or a town, is coordinated to integrate the  
526 land use element with the water use and preservation element; and

527 (D) except for a city of the fifth class or a town, accounts for the effect of land use  
528 categories and land uses on water demand;

529 (ii) a transportation and traffic circulation element that:

530 (A) provides the general location and extent of existing and proposed freeways,  
531 arterial and collector streets, public transit, active transportation facilities, and  
532 other modes of transportation that the planning commission considers  
533 appropriate;

534 (B) for a municipality that has access to a major transit investment corridor,  
535 addresses the municipality's plan for residential and commercial development  
536 around major transit investment corridors to maintain and improve the  
537 connections between housing, employment, education, recreation, and  
538 commerce;

539 (C) for a municipality that does not have access to a major transit investment  
540 corridor, addresses the municipality's plan for residential and commercial



- 541 development in areas that will maintain and improve the connections between  
542 housing, transportation, employment, education, recreation, and commerce; and  
543 (D) correlates with the population projections, the employment projections, and  
544 the proposed land use element of the general plan;
- 545 (iii) a moderate income housing element that:
- 546 (A) provides a realistic opportunity to meet the need for additional moderate  
547 income housing within the municipality during the next five years;
- 548 (B) for a town, may include a recommendation to implement three or more of the  
549 moderate income housing strategies described in Subsection (2)(b)(iii);
- 550 (C) for a specified municipality, as defined in Section 10-9a-408, that does not  
551 have a fixed guideway public transit station, shall include a recommendation to  
552 implement three or more of the moderate income housing strategies described  
553 in Subsection (2)(b)(iii);
- 554 (D) for a specified municipality, as defined in Section 10-9a-408, that has a fixed  
555 guideway public transit station, shall include a recommendation to implement  
556 five or more of the moderate income housing strategies described in Subsection  
557 (2)(b)(iii), of which one shall be the moderate income housing strategy  
558 described in Subsection (2)(b)(iii)(W), and one shall be a moderate income  
559 housing strategy described in Subsection (2)(b)(iii)(G), (H), or (Q); and
- 560 (E) for a specified municipality, as defined in Section 10-9a-408, shall include an  
561 implementation plan as provided in Subsection (2)(c); and
- 562 (iv) except for a city of the fifth class or a town, a water use and preservation element  
563 that addresses:
- 564 (A) the effect of permitted development or patterns of development on water  
565 demand and water infrastructure;
- 566 (B) methods of reducing water demand and per capita consumption for future  
567 development;
- 568 (C) methods of reducing water demand and per capita consumption for existing  
569 development; and
- 570 (D) opportunities for the municipality to modify the municipality's operations to  
571 eliminate practices or conditions that waste water.
- 572 (b) In drafting the moderate income housing element, the planning commission:
- 573 (i) shall consider the Legislature's determination that municipalities shall facilitate a  
574 reasonable opportunity for a variety of housing, including moderate income

- 575 housing:
- 576 (A) to meet the needs of people of various income levels living, working, or
- 577 desiring to live or work in the community; and
- 578 (B) to allow people with various incomes to benefit from and fully participate in
- 579 all aspects of neighborhood and community life;
- 580 (ii) for a town, may include, and for a specified municipality as defined in Section
- 581 10-9a-408, shall include, an analysis of how the municipality will provide a
- 582 realistic opportunity for the development of moderate income housing within the
- 583 next five years;
- 584 (iii) for a town, may include, and for a specified municipality as defined in Section
- 585 10-9a-408, shall include a recommendation to implement the required number of
- 586 any of the following moderate income housing strategies as specified in
- 587 Subsection (2)(a)(iii):
- 588 (A) rezone for densities necessary to facilitate the production of moderate income
- 589 housing, including by implementing a density overlay as described in Section
- 590 10-9a-403.2;
- 591 (B) demonstrate investment in the rehabilitation or expansion of infrastructure that
- 592 facilitates the construction of moderate income housing;
- 593 (C) demonstrate investment in the rehabilitation of existing uninhabitable housing
- 594 stock into moderate income housing;
- 595 (D) identify and utilize general fund subsidies or other sources of revenue to
- 596 waive construction related fees that are otherwise generally imposed by the
- 597 municipality for the construction or rehabilitation of moderate income housing;
- 598 (E) create or allow for, and reduce regulations related to, internal or detached
- 599 accessory dwelling units in residential zones;
- 600 (F) zone or rezone for higher density or moderate income residential development
- 601 in commercial or mixed-use zones near major transit investment corridors,
- 602 commercial centers, or employment centers;
- 603 (G) amend land use regulations to allow for higher density or new moderate
- 604 income residential development in commercial or mixed-use zones near major
- 605 transit investment corridors;
- 606 (H) amend land use regulations to eliminate or reduce parking requirements for
- 607 residential development where a resident is less likely to rely on the resident's
- 608 own vehicle, such as residential development near major transit investment

- 609 corridors or senior living facilities;
- 610 (I) amend land use regulations to allow for single room occupancy developments;
- 611 (J) implement zoning incentives for moderate income units in new developments;
- 612 (K) preserve existing and new moderate income housing and subsidized units by
- 613 utilizing a landlord incentive program, providing for deed restricted units
- 614 through a grant program, or, notwithstanding Section 10-9a-535, establishing a
- 615 housing loss mitigation fund;
- 616 (L) reduce, waive, or eliminate impact fees related to moderate income housing;
- 617 (M) demonstrate creation of, or participation in, a community land trust program
- 618 for moderate income housing;
- 619 (N) implement a mortgage assistance program for employees of the municipality,
- 620 an employer that provides contracted services to the municipality, or any other
- 621 public employer that operates within the municipality;
- 622 (O) apply for or partner with an entity that applies for state or federal funds or tax
- 623 incentives to promote the construction of moderate income housing, an entity
- 624 that applies for programs offered by the Utah Housing Corporation within that
- 625 agency's funding capacity, an entity that applies for affordable housing
- 626 programs administered by the Department of Workforce Services, an entity
- 627 that applies for affordable housing programs administered by an association of
- 628 governments established by an interlocal agreement under Title 11, Chapter 13,
- 629 Interlocal Cooperation Act, an entity that applies for services provided by a
- 630 public housing authority to preserve and create moderate income housing, or
- 631 any other entity that applies for programs or services that promote the
- 632 construction or preservation of moderate income housing;
- 633 (P) demonstrate utilization of a moderate income housing set aside from a
- 634 community reinvestment agency, redevelopment agency, or community
- 635 development and renewal agency to create or subsidize moderate income
- 636 housing;
- 637 (Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter
- 638 3, Part 6, Housing and Transit Reinvestment Zone Act;
- 639 (R) create a home ownership promotion zone pursuant to Part 10, Home
- 640 Ownership Promotion Zone for Municipalities;
- 641 (S) eliminate impact fees for any accessory dwelling unit that is not an internal
- 642 accessory dwelling unit as defined in Section 10-9a-530;

- 643 (T) create a program to transfer development rights for moderate income housing;  
644 (U) ratify a joint acquisition agreement with another local political subdivision for  
645 the purpose of combining resources to acquire property for moderate income  
646 housing;
- 647 (V) develop a moderate income housing project for residents who are disabled or  
648 55 years old or older;
- 649 (W) develop and adopt a station area plan in accordance with Section 10-9a-403.1;
- 650 (X) create or allow for, and reduce regulations related to, multifamily residential  
651 dwellings compatible in scale and form with detached single-family residential  
652 dwellings and located in walkable communities within residential or mixed-use  
653 zones;
- 654 (Y) create a first home investment zone in accordance with Title 63N, Chapter 3,  
655 Part 16, First Home Investment Zone Act; and
- 656 (Z) demonstrate implementation of any other program or strategy to address the  
657 housing needs of residents of the municipality who earn less than 80% of the  
658 area median income, including the dedication of a local funding source to  
659 moderate income housing or the adoption of a land use ordinance that requires  
660 10% or more of new residential development in a residential zone be dedicated  
661 to moderate income housing; and
- 662 (iv) shall identify each moderate income housing strategy recommended to the  
663 legislative body for implementation by restating the exact language used to  
664 describe the strategy in Subsection (2)(b)(iii).
- 665 (c)(i) In drafting the implementation plan portion of the moderate income housing  
666 element as described in Subsection (2)(a)(iii)(C), the planning commission shall  
667 recommend to the legislative body the establishment of a five-year timeline for  
668 implementing each of the moderate income housing strategies selected by the  
669 municipality for implementation.
- 670 (ii) The timeline described in Subsection (2)(c)(i) shall:
- 671 (A) identify specific measures and benchmarks for implementing each moderate  
672 income housing strategy selected by the municipality, whether one-time or  
673 ongoing; and
- 674 (B) provide flexibility for the municipality to make adjustments as needed.
- 675 (d) In drafting the land use element, the planning commission shall:
- 676 (i) identify and consider each agriculture protection area within the municipality;

- 677 (ii) avoid proposing a use of land within an agriculture protection area that is  
678 inconsistent with or detrimental to the use of the land for agriculture; and  
679 (iii) consider and coordinate with any station area plans adopted by the municipality  
680 if required under Section 10-9a-403.1.
- 681 (e) In drafting the transportation and traffic circulation element, the planning  
682 commission shall:
- 683 (i)(A) consider and coordinate with the regional transportation plan developed by  
684 the municipality's region's metropolitan planning organization, if the  
685 municipality is within the boundaries of a metropolitan planning organization;  
686 or  
687 (B) consider and coordinate with the long-range transportation plan developed by  
688 the Department of Transportation, if the municipality is not within the  
689 boundaries of a metropolitan planning organization; and  
690 (ii) consider and coordinate with any station area plans adopted by the municipality if  
691 required under Section 10-9a-403.1.
- 692 (f) In drafting the water use and preservation element, the planning commission:
- 693 (i) shall consider:
- 694 (A) applicable regional water conservation goals recommended by the Division of  
695 Water Resources; and  
696 (B) if Section 73-10-32 requires the municipality to adopt a water conservation  
697 plan pursuant to Section 73-10-32, the municipality's water conservation plan;
- 698 (ii) shall include a recommendation for:
- 699 (A) water conservation policies to be determined by the municipality; and  
700 (B) landscaping options within a public street for current and future development  
701 that do not require the use of lawn or turf in a parkstrip;
- 702 (iii) shall review the municipality's land use ordinances and include a  
703 recommendation for changes to an ordinance that promotes the inefficient use of  
704 water;
- 705 (iv) shall consider principles of sustainable landscaping, including the:
- 706 (A) reduction or limitation of the use of lawn or turf;  
707 (B) promotion of site-specific landscape design that decreases stormwater runoff  
708 or runoff of water used for irrigation;  
709 (C) preservation and use of healthy trees that have a reasonable water requirement  
710 or are resistant to dry soil conditions;

- 711 (D) elimination or regulation of ponds, pools, and other features that promote  
712 unnecessary water evaporation;
- 713 (E) reduction of yard waste; and
- 714 (F) use of an irrigation system, including drip irrigation, best adapted to provide  
715 the optimal amount of water to the plants being irrigated;
- 716 (v) shall consult with the public water system or systems serving the municipality  
717 with drinking water regarding how implementation of the land use element and  
718 water use and preservation element may affect:
- 719 (A) water supply planning, including drinking water source and storage capacity  
720 consistent with Section 19-4-114; and
- 721 (B) water distribution planning, including master plans, infrastructure asset  
722 management programs and plans, infrastructure replacement plans, and impact  
723 fee facilities plans;
- 724 (vi) shall consult with the Division of Water Resources for information and technical  
725 resources regarding regional water conservation goals, including how  
726 implementation of the land use element and the water use and preservation  
727 element may affect the Great Salt Lake;
- 728 (vii) may include recommendations for additional water demand reduction strategies,  
729 including:
- 730 (A) creating a water budget associated with a particular type of development;
- 731 (B) adopting new or modified lot size, configuration, and landscaping standards  
732 that will reduce water demand for new single family development;
- 733 (C) providing one or more water reduction incentives for existing development  
734 such as modification of existing landscapes and irrigation systems and  
735 installation of water fixtures or systems that minimize water demand;
- 736 (D) discouraging incentives for economic development activities that do not  
737 adequately account for water use or do not include strategies for reducing  
738 water demand; and
- 739 (E) adopting water concurrency standards requiring that adequate water supplies  
740 and facilities are or will be in place for new development; and
- 741 (viii) for a town, may include, and for another municipality, shall include, a  
742 recommendation for low water use landscaping standards for a new:
- 743 (A) commercial, industrial, or institutional development;
- 744 (B) common interest community, as defined in Section 57-25-102; or

- 745 (C) multifamily housing project.
- 746 (3) The proposed general plan may include:
- 747 (a) an environmental element that addresses:
- 748 (i) the protection, conservation, development, and use of natural resources, including
- 749 the quality of:
- 750 (A) air;
- 751 (B) forests;
- 752 (C) soils;
- 753 (D) rivers;
- 754 (E) groundwater and other waters;
- 755 (F) harbors;
- 756 (G) fisheries;
- 757 (H) wildlife;
- 758 (I) minerals; and
- 759 (J) other natural resources; and
- 760 (ii)(A) the reclamation of land, flood control, prevention and control of the
- 761 pollution of streams and other waters;
- 762 (B) the regulation of the use of land on hillsides, stream channels and other
- 763 environmentally sensitive areas;
- 764 (C) the prevention, control, and correction of the erosion of soils;
- 765 (D) the preservation and enhancement of watersheds and wetlands; and
- 766 (E) the mapping of known geologic hazards;
- 767 (b) a public services and facilities element showing general plans for sewage, water,
- 768 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for
- 769 them, police and fire protection, and other public services;
- 770 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and
- 771 programs for:
- 772 (i) historic preservation;
- 773 (ii) the diminution or elimination of a development impediment as defined in Section
- 774 17C-1-102; and
- 775 (iii) redevelopment of land, including housing sites, business and industrial sites, and
- 776 public building sites;
- 777 (d) an economic element composed of appropriate studies and forecasts, as well as an
- 778 economic development plan, which may include review of existing and projected

- 779 municipal revenue and expenditures, revenue sources, identification of basic and  
 780 secondary industry, primary and secondary market areas, employment, and retail  
 781 sales activity;
- 782 (e) recommendations for implementing all or any portion of the general plan, including  
 783 the adoption of land and water use ordinances, capital improvement plans,  
 784 community development and promotion, and any other appropriate action;
- 785 (f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3); and  
 786 (g) any other element the municipality considers appropriate.

787 Section 3. Section **10-9a-403.2** is enacted to read:

788 **10-9a-403.2 . Residential density overlay.**

- 789 (1)(a) "Density overlay" means zoning regulations applied by a municipality to a  
 790 housing-eligible zone that allows:
- 791 (i) the development of:
- 792 (A) singlefamily dwellings on small lots;  
 793 (B) diverse housing options; or  
 794 (C) a combination of single-family dwellings on small lots and diverse housing  
 795 options; and
- 796 (ii)(A) a minimum of eight housing units per acre, if the housing units are served  
 797 by sewer lines; or  
 798 (B) the maximum per-acre density permissible for health and safety, as  
 799 determined by the local building code authority and local health department, if  
 800 the housing units are served by septic tank.
- 801 (b) "Diverse housing options" means one or more of the following types of residential  
 802 units:
- 803 (i) two-family dwellings;  
 804 (ii) three- and four-family dwellings of up to two levels;  
 805 (iii) town homes; or  
 806 (iv) live-work units, as described by the International Building Code, in which one or  
 807 more residential housing units are available above a commercial property.
- 808 (c) "Housing eligible zone" means an area of a municipality zoned in a way that allows  
 809 for the development of a residential unit, including residential zones and mixed-use  
 810 zones.
- 811 (d) "Owner-occupier" means an individual who owns, solely or jointly, a housing unit in  
 812 which the individual lives as the individual's primary residence.



- 813 (e) "Small lot" means a residential lot that is 5,400 square feet or smaller.
- 814 (2) A municipality may implement a density overlay allowing for increased development  
 815 within housing-eligible zones of the municipality.
- 816 (3) If a legislative body adopts a density overlay in a housing-eligible zone, the  
 817 municipality may adopt additional requirements to ensure:
- 818 (a) that some or all of the residential units offered for sale in the area subject to the  
 819 density overlay be deed-restricted for up to five years to ensure owner-occupancy; or
- 820 (b) that some or all of the residential units in the area subject to the density overlay be:
- 821 (i) offered for sale to an owner-occupier at a purchase price affordable to a household  
 822 with a gross income of no more than 120% of area median income for the county  
 823 in which the residential unit is offered for sale; or
- 824 (ii) offered for rent at a rental price affordable to a household with a gross income of  
 825 no more than 80% of area median income for the county in which the residential  
 826 unit is offered for rent.
- 827 (4) Notwithstanding Section 10-9a-534, a municipality that adopts a density overlay as  
 828 described in this section may also adopt a building design element to promote the  
 829 development of diverse housing options within the density overlay.

830 Section 4. Section **10-9a-403.3** is enacted to read:

831 **10-9a-403.3 . Residential density bonus.**

- 832 (1) As used in this section:
- 833 (a) "Density bonus-eligible area" means a place in a municipality:
- 834 (i) zoned for a minimum of six housing units per acre; or
- 835 (ii) subject to a development agreement that provides at least 6 units to the acre.
- 836 (b) "Owner-occupier" means the same as that term is defined in Section 10-9a-403.2.
- 837 (2)(a) In a density bonus-eligible area, a municipality may approve an applicant's request  
 838 for an additional 0.5 housing units per acre in exchange for one or more of the  
 839 following:
- 840 (i) requiring at least one housing unit per acre being offered for sale to an  
 841 owner-occupier at a price point 80% or less of the median county home price for  
 842 housing of that type;
- 843 (ii) requiring at least one housing unit per acre being deed-restricted to  
 844 owner-occupancy for at least five years;
- 845 (iii) requiring at least one housing unit per acre to be deed-restricted for occupancy  
 846 by at least one individual employed within the geographic region of the

847 municipality or a five mile radius of the boundary of the municipality; or  
848 (iv) requiring at least two housing units per acre to be no larger than 1,600 square  
849 feet.

850 (b) Notwithstanding Section 10-9a-534, in a density bonus-eligible area, a municipality  
851 may implement a building design element if the building design element is designed  
852 to promote density greater than six housing units per acre.

853 Section 5. Section **10-9a-408** is amended to read:

854 **10-9a-408 . Moderate income housing report -- Contents -- Prioritization for**  
855 **funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.**

856 (1) As used in this section:

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

859 (b) "Implementation plan" means the implementation plan adopted as part of the  
860 moderate income housing element of a specified municipality's general plan as  
861 provided in Subsection 10-9a-403(2)(c).

862 (c) "Initial report" or "initial moderate income housing report" means the one-time report  
863 described in Subsection (2).

864 (d) "Moderate income housing strategy" means a strategy described in Subsection  
865 10-9a-403(2)(b)(iii).

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

867 (f) "Specified municipality" means:

868 (i) a city of the first, second, third, or fourth class; or

869 (ii) a city of the fifth class with a population of 5,000 or more, if the city is located  
870 within a county of the first, second, or third class.

871 (g) "Subsequent progress report" means the annual report described in Subsection (3).

872 (2)(a) The legislative body of a specified municipality shall submit an initial report to  
873 the division.

874 (b)(i) This Subsection (2)(b) applies to a municipality that is not a specified  
875 municipality as of January 1, 2023.

876 (ii) As of January 1, if a municipality described in Subsection (2)(b)(i) changes from  
877 one class to another or grows in population to qualify as a specified municipality,  
878 the municipality shall submit an initial plan to the division on or before August 1  
879 of the first calendar year beginning on January 1 in which the municipality  
880 qualifies as a specified municipality.

- 881 (c) The initial report shall:
- 882 (i) identify each moderate income housing strategy selected by the specified
- 883 municipality for continued, ongoing, or one-time implementation, restating the
- 884 exact language used to describe the moderate income housing strategy in
- 885 Subsection 10-9a-403(2)(b)(iii); and
- 886 (ii) include an implementation plan.
- 887 (3)(a) After the division approves a specified municipality's initial report under this
- 888 section, the specified municipality shall, as an administrative act, annually submit to
- 889 the division a subsequent progress report on or before August 1 of each year after the
- 890 year in which the specified municipality is required to submit the initial report.
- 891 (b) The subsequent progress report shall include:
- 892 (i) subject to Subsection (3)(c), a description of each action, whether one-time or
- 893 ongoing, taken by the specified municipality during the previous 12-month period
- 894 to implement the moderate income housing strategies identified in the initial
- 895 report for implementation;
- 896 (ii) a description of each land use regulation or land use decision made by the
- 897 specified municipality during the previous 12-month period to implement the
- 898 moderate income housing strategies, including an explanation of how the land use
- 899 regulation or land use decision supports the specified municipality's efforts to
- 900 implement the moderate income housing strategies;
- 901 (iii) a description of any barriers encountered by the specified municipality in the
- 902 previous 12-month period in implementing the moderate income housing
- 903 strategies;
- 904 (iv) information regarding the number of internal and external or detached accessory
- 905 dwelling units located within the specified municipality for which the specified
- 906 municipality:
- 907 (A) issued a building permit to construct; or
- 908 (B) issued a business license or comparable license or permit to rent;
- 909 (v) the number of residential dwelling units that have been entitled that have not
- 910 received a building permit as of the submission date of the progress report;
- 911 (vi) shapefiles, or website links if shapefiles are not available, to current maps and
- 912 tables related to zoning;
- 913 (vii) a description of how the market has responded to the selected moderate income
- 914 housing strategies, including the number of entitled moderate income housing

- 915 units or other relevant data; [~~and~~]  
916 (viii) beginning January 1, 2027, the information described in Section 10-9a-408.1;  
917 and  
918 [~~(viii)~~] (ix) any recommendations on how the state can support the specified  
919 municipality in implementing the moderate income housing strategies.
- 920 (c) For purposes of describing actions taken by a specified municipality under  
921 Subsection (3)(b)(i), the specified municipality may include an ongoing action taken  
922 by the specified municipality prior to the 12-month reporting period applicable to the  
923 subsequent progress report if the specified municipality:
- 924 (i) has already adopted an ordinance, approved a land use application, made an  
925 investment, or approved an agreement or financing that substantially promotes the  
926 implementation of a moderate income housing strategy identified in the initial  
927 report; and
- 928 (ii) demonstrates in the subsequent progress report that the action taken under  
929 Subsection (3)(c)(i) is relevant to making meaningful progress towards the  
930 specified municipality's implementation plan.
- 931 (d) A specified municipality's report shall be in a form:
- 932 (i) approved by the division; and
- 933 (ii) made available by the division on or before May 1 of the year in which the report  
934 is required.
- 935 (4) Within 90 days after the day on which the division receives a specified municipality's  
936 report, the division shall:
- 937 (a) post the report on the division's website;
- 938 (b) send a copy of the report to the Department of Transportation, the Governor's Office  
939 of Planning and Budget, the association of governments in which the specified  
940 municipality is located, and, if the specified municipality is located within the  
941 boundaries of a metropolitan planning organization, the appropriate metropolitan  
942 planning organization; and
- 943 (c) subject to Subsection (5), review the report to determine compliance with this section.
- 944 (5)(a) An initial report does not comply with this section unless the report:
- 945 (i) includes the information required under Subsection (2)(c);
- 946 (ii) demonstrates to the division that the specified municipality made plans to  
947 implement:
- 948 (A) three or more moderate income housing strategies if the specified

- 949 municipality does not have a fixed guideway public transit station; or
- 950 (B) subject to Subsection 10-9a-403(2)(b)(iv), five or more moderate income
- 951 housing strategies if the specified municipality has a fixed guideway public
- 952 transit station; and
- 953 (iii) is in a form approved by the division.
- 954 (b) A subsequent progress report does not comply with this section unless the report:
- 955 (i) demonstrates to the division that the specified municipality made plans to
- 956 implement:
- 957 (A) three or more moderate income housing strategies if the specified
- 958 municipality does not have a fixed guideway public transit station; or
- 959 (B) subject to the requirements of Subsection 10-9a-403(2)(a)(iii)(D), five or more
- 960 moderate income housing strategies if the specified municipality has a fixed
- 961 guideway public transit station;
- 962 (ii) is in a form approved by the division; and
- 963 (iii) provides sufficient information for the division to:
- 964 (A) assess the specified municipality's progress in implementing the moderate
- 965 income housing strategies;
- 966 (B) monitor compliance with the specified municipality's implementation plan;
- 967 (C) identify a clear correlation between the specified municipality's land use
- 968 regulations and land use decisions and the specified municipality's efforts to
- 969 implement the moderate income housing strategies;
- 970 (D) identify how the market has responded to the specified municipality's selected
- 971 moderate income housing strategies; and
- 972 (E) identify any barriers encountered by the specified municipality in
- 973 implementing the selected moderate income housing strategies.
- 974 (6)(a) A specified municipality qualifies for priority consideration under this Subsection
- 975 (6) if the specified municipality's report:
- 976 (i) complies with this section; and
- 977 (ii) demonstrates to the division that the specified municipality made plans to
- 978 implement:
- 979 (A) five or more moderate income housing strategies if the specified municipality
- 980 does not have a fixed guideway public transit station; or
- 981 (B) six or more moderate income housing strategies if the specified municipality
- 982 has a fixed guideway public transit station.

- 983 (b) The Transportation Commission may, in accordance with Subsection 72-1-304(3)(c),  
984 give priority consideration to transportation projects located within the boundaries of  
985 a specified municipality described in Subsection (6)(a) until the Department of  
986 Transportation receives notice from the division under Subsection (6)(e).
- 987 (c) Upon determining that a specified municipality qualifies for priority consideration  
988 under this Subsection (6), the division shall send a notice of prioritization to the  
989 legislative body of the specified municipality and the Department of Transportation.
- 990 (d) The notice described in Subsection (6)(c) shall:
- 991 (i) name the specified municipality that qualifies for priority consideration;  
992 (ii) describe the funds or projects for which the specified municipality qualifies to  
993 receive priority consideration; and  
994 (iii) state the basis for the division's determination that the specified municipality  
995 qualifies for priority consideration.
- 996 (e) The division shall notify the legislative body of a specified municipality and the  
997 Department of Transportation in writing if the division determines that the specified  
998 municipality no longer qualifies for priority consideration under this Subsection (6).
- 999 (7)(a) If the division, after reviewing a specified municipality's report, determines that  
1000 the report does not comply with this section, the division shall send a notice of  
1001 noncompliance to the legislative body of the specified municipality.
- 1002 (b) A specified municipality that receives a notice of noncompliance may:
- 1003 (i) cure each deficiency in the report within 90 days after the day on which the notice  
1004 of noncompliance is sent; or  
1005 (ii) request an appeal of the division's determination of noncompliance within 10  
1006 days after the day on which the notice of noncompliance is sent.
- 1007 (c) The notice described in Subsection (7)(a) shall:
- 1008 (i) describe each deficiency in the report and the actions needed to cure each  
1009 deficiency;  
1010 (ii) state that the specified municipality has an opportunity to:  
1011 (A) submit to the division a corrected report that cures each deficiency in the  
1012 report within 90 days after the day on which the notice of compliance is sent; or  
1013 (B) submit to the division a request for an appeal of the division's determination of  
1014 noncompliance within 10 days after the day on which the notice of  
1015 noncompliance is sent; and  
1016 (iii) state that failure to take action under Subsection (7)(c)(ii) will result in the

- 1017 specified municipality's ineligibility for funds under Subsection (9).
- 1018 (d) For purposes of curing the deficiencies in a report under this Subsection (7), if the  
1019 action needed to cure the deficiency as described by the division requires the  
1020 specified municipality to make a legislative change, the specified municipality may  
1021 cure the deficiency by making that legislative change within the 90-day cure period.
- 1022 (e)(i) If a specified municipality submits to the division a corrected report in  
1023 accordance with Subsection (7)(b)(i) and the division determines that the  
1024 corrected report does not comply with this section, the division shall send a  
1025 second notice of noncompliance to the legislative body of the specified  
1026 municipality within 30 days after the day on which the corrected report is  
1027 submitted.
- 1028 (ii) A specified municipality that receives a second notice of noncompliance may  
1029 submit to the division a request for an appeal of the division's determination of  
1030 noncompliance within 10 days after the day on which the second notice of  
1031 noncompliance is sent.
- 1032 (iii) The notice described in Subsection (7)(e)(i) shall:
- 1033 (A) state that the specified municipality has an opportunity to submit to the  
1034 division a request for an appeal of the division's determination of  
1035 noncompliance within 10 days after the day on which the second notice of  
1036 noncompliance is sent; and
- 1037 (B) state that failure to take action under Subsection (7)(e)(iii)(A) will result in the  
1038 specified municipality's ineligibility for funds under Subsection (9).
- 1039 (8)(a) A specified municipality that receives a notice of noncompliance under  
1040 Subsection (7)(a) or (7)(e)(i) may request an appeal of the division's determination of  
1041 noncompliance within 10 days after the day on which the notice of noncompliance is  
1042 sent.
- 1043 (b) Within 90 days after the day on which the division receives a request for an appeal,  
1044 an appeal board consisting of the following three members shall review and issue a  
1045 written decision on the appeal:
- 1046 (i) one individual appointed by the Utah League of Cities and Towns;  
1047 (ii) one individual appointed by the Utah Homebuilders Association; and  
1048 (iii) one individual appointed by the presiding member of the association of  
1049 governments, established pursuant to an interlocal agreement under Title 11,  
1050 Chapter 13, Interlocal Cooperation Act, of which the specified municipality is a

- 1051 member.
- 1052 (c) The written decision of the appeal board shall either uphold or reverse the division's  
1053 determination of noncompliance.
- 1054 (d) The appeal board's written decision on the appeal is final.
- 1055 (9)(a) A specified municipality is ineligible for funds under this Subsection (9) if:
- 1056 (i) the specified municipality fails to submit a report to the division;
- 1057 (ii) after submitting a report to the division, the division determines that the report  
1058 does not comply with this section and the specified municipality fails to:
- 1059 (A) cure each deficiency in the report within 90 days after the day on which the  
1060 notice of noncompliance is sent; or
- 1061 (B) request an appeal of the division's determination of noncompliance within 10  
1062 days after the day on which the notice of noncompliance is sent;
- 1063 (iii) after submitting to the division a corrected report to cure the deficiencies in a  
1064 previously submitted report, the division determines that the corrected report does  
1065 not comply with this section and the specified municipality fails to request an  
1066 appeal of the division's determination of noncompliance within 10 days after the  
1067 day on which the second notice of noncompliance is sent; or
- 1068 (iv) after submitting a request for an appeal under Subsection (8), the appeal board  
1069 issues a written decision upholding the division's determination of noncompliance.
- 1070 (b) The following apply to a specified municipality described in Subsection (9)(a) until  
1071 the division provides notice under Subsection (9)(e):
- 1072 (i) the executive director of the Department of Transportation may not program funds  
1073 from the Transportation Investment Fund of 2005, including the Transit  
1074 Transportation Investment Fund, to projects located within the boundaries of the  
1075 specified municipality in accordance with Subsection 72-2-124(5);
- 1076 (ii) beginning with a report submitted in 2024, the specified municipality shall pay a  
1077 fee to the Olene Walker Housing Loan Fund in the amount of \$250 per day that  
1078 the specified municipality:
- 1079 (A) fails to submit the report to the division in accordance with this section,  
1080 beginning the day after the day on which the report was due; or
- 1081 (B) fails to cure the deficiencies in the report, beginning the day after the day by  
1082 which the cure was required to occur as described in the notice of  
1083 noncompliance under Subsection (7); and
- 1084 (iii) beginning with the report submitted in 2025, the specified municipality shall pay



1085 a fee to the Olene Walker Housing Loan Fund in the amount of \$500 per day that  
1086 the specified municipality, in a consecutive year:

1087 (A) fails to submit the report to the division in accordance with this section,  
1088 beginning the day after the day on which the report was due; or

1089 (B) fails to cure the deficiencies in the report, beginning the day after the day by  
1090 which the cure was required to occur as described in the notice of  
1091 noncompliance under Subsection (7).

1092 (c) Upon determining that a specified municipality is ineligible for funds under this  
1093 Subsection (9), and is required to pay a fee under Subsection (9)(b), if applicable, the  
1094 division shall send a notice of ineligibility to the legislative body of the specified  
1095 municipality, the Department of Transportation, the State Tax Commission, and the  
1096 Governor's Office of Planning and Budget.

1097 (d) The notice described in Subsection (9)(c) shall:

1098 (i) name the specified municipality that is ineligible for funds;

1099 (ii) describe the funds for which the specified municipality is ineligible to receive;

1100 (iii) describe the fee the specified municipality is required to pay under Subsection  
1101 (9)(b), if applicable; and

1102 (iv) state the basis for the division's determination that the specified municipality is  
1103 ineligible for funds.

1104 (e) The division shall notify the legislative body of a specified municipality and the  
1105 Department of Transportation in writing if the division determines that the provisions  
1106 of this Subsection (9) no longer apply to the specified municipality.

1107 (f) The division may not determine that a specified municipality that is required to pay a  
1108 fee under Subsection (9)(b) is in compliance with the reporting requirements of this  
1109 section until the specified municipality pays all outstanding fees required under  
1110 Subsection (9)(b) to the Olene Walker Housing Loan Fund, created under Title 35A,  
1111 Chapter 8, Part 5, Olene Walker Housing Loan Fund.

1112 (10) In a civil action seeking enforcement or claiming a violation of this section or of  
1113 Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded  
1114 only injunctive or other equitable relief.

1115 Section 6. Section **10-9a-408.1** is enacted to read:

1116 **10-9a-408.1 . Affordable housing density.**

1117 (1) As used in this section:

1118 (a) "Affordable housing density" means, on average, at least:

- 1119           (i) eight residential units per acre; and
- 1120           (ii)(A) four residential units per acre that are offered for sale to an owner-occupier
- 1121                 at a moderate income housing price point; or
- 1122           (B) six residential units per acre that are offered for rent at a moderate income
- 1123                 housing price point.
- 1124       (b) "Moderate income housing price point" means:
- 1125           (i) for a residential unit that is offered for sale to an owner-occupier, a price
- 1126                 affordable to a household with a gross income of no more than 120% of area
- 1127                 median income for the county in which the residential unit is offered for sale; and
- 1128           (ii) for a residential unit that is offered for rent, a rental price affordable to a
- 1129                 household with a gross income of no more than 80% of area median income for
- 1130                 the county in which the residential unit is offered for rent.
- 1131       (2) Beginning January 1, 2027, a specified municipality shall include the following
- 1132           information in the specified municipality's moderate income housing report:
- 1133           (a) whether the specified municipality has implemented a density overlay, as described
- 1134                 in Section 10-9a-403.2;
- 1135           (b) the amount of undeveloped land within the specified municipality that could achieve
- 1136                 affordable housing density, including:
- 1137                 (i) information on housing units that are entitled or approved but not yet developed
- 1138                         on the undeveloped land within the specified municipality, if applicable; and
- 1139                 (ii) the barriers, if any, to achieving affordable housing density on the undeveloped
- 1140                         land within the specified municipality;
- 1141           (c) the percentage of area zoned residential within the specified municipality that has
- 1142                 achieved affordable housing density;
- 1143           (d) a five-year projection for the percentage of area zoned residential within the
- 1144                 specified municipality that will achieve affordable housing density; and
- 1145           (e) data to support the conclusions described in Subsections (2)(c) and (d).
- 1146       Section 7. Section **10-9a-535** is amended to read:
- 1147       **10-9a-535 . Moderate income housing.**
- 1148       (1) A municipality may only require the development of a certain number of moderate
- 1149           income housing units as a condition of approval of a land use application if:
- 1150           (a) the municipality and the applicant enter into a written agreement regarding the
- 1151                 number of moderate income housing units; [or]
- 1152           (b) the municipality provides incentives for an applicant who agrees to include moderate

- 1153 income housing units in a development[-] ; or
- 1154 (c) the applicant seeks to develop in a zone subject to density overlay, as described in
- 1155 Section 10-9a-403.2.
- 1156 (2)(a) If an applicant does not agree to participate in the development of moderate
- 1157 income housing units under Subsection (1)(a) or (b), a municipality may not take into
- 1158 consideration the applicant's decision in the municipality's determination of whether
- 1159 to approve or deny a land use application.
- 1160 (b) If an applicant does not agree to participate in the development of moderate income
- 1161 housing units under Subsection (1)(c), a municipality may take into consideration the
- 1162 applicant's decision in the municipality's determination of whether to approve or deny
- 1163 a land use application.
- 1164 (3) Notwithstanding Subsections (1) and (2), a municipality that imposes a resort
- 1165 community sales and use tax as described in Section 59-12-401, may require the
- 1166 development of a certain number of moderate income housing units as a condition of
- 1167 approval of a land use application if the requirement is in accordance with an ordinance
- 1168 enacted by the municipality before January 1, 2022.
- 1169 Section 8. Section **17-27a-103** is amended to read:
- 1170 **17-27a-103 . Definitions.**
- 1171 As used in this chapter:
- 1172 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or
- 1173 detached from a primary single-family dwelling and contained on one lot.
- 1174 (2) "Adversely affected party" means a person other than a land use applicant who:
- 1175 (a) owns real property adjoining the property that is the subject of a land use application
- 1176 or land use decision; or
- 1177 (b) will suffer a damage different in kind than, or an injury distinct from, that of the
- 1178 general community as a result of the land use decision.
- 1179 (3) "Affected entity" means a county, municipality, special district, special service district
- 1180 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
- 1181 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,
- 1182 specified property owner, property owner's association, public utility, or the Department
- 1183 of Transportation, if:
- 1184 (a) the entity's services or facilities are likely to require expansion or significant
- 1185 modification because of an intended use of land;
- 1186 (b) the entity has filed with the county a copy of the entity's general or long-range plan;

- 1187 or
- 1188 (c) the entity has filed with the county a request for notice during the same calendar year
- 1189 and before the county provides notice to an affected entity in compliance with a
- 1190 requirement imposed under this chapter.
- 1191 (4) "Affected owner" means the owner of real property that is:
- 1192 (a) a single project;
- 1193 (b) the subject of a land use approval that sponsors of a referendum timely challenged in
- 1194 accordance with Subsection 20A-7-601(6); and
- 1195 (c) determined to be legally referable under Section 20A-7-602.8.
- 1196 (5) "Appeal authority" means the person, board, commission, agency, or other body
- 1197 designated by ordinance to decide an appeal of a decision of a land use application or a
- 1198 variance.
- 1199 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or
- 1200 residential property if the sign is designed or intended to direct attention to a business,
- 1201 product, or service that is not sold, offered, or existing on the property where the sign is
- 1202 located.
- 1203 (7)(a) "Charter school" means:
- 1204 (i) an operating charter school;
- 1205 (ii) a charter school applicant that a charter school authorizer approves in accordance
- 1206 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or
- 1207 (iii) an entity that is working on behalf of a charter school or approved charter
- 1208 applicant to develop or construct a charter school building.
- 1209 (b) "Charter school" does not include a therapeutic school.
- 1210 (8) "Chief executive officer" means the person or body that exercises the executive powers
- 1211 of the county.
- 1212 (9) "Conditional use" means a land use that, because of the unique characteristics or
- 1213 potential impact of the land use on the county, surrounding neighbors, or adjacent land
- 1214 uses, may not be compatible in some areas or may be compatible only if certain
- 1215 conditions are required that mitigate or eliminate the detrimental impacts.
- 1216 (10) "Constitutional taking" means a governmental action that results in a taking of private
- 1217 property so that compensation to the owner of the property is required by the:
- 1218 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
- 1219 (b) Utah Constitution, Article I, Section 22.
- 1220 (11) "County utility easement" means an easement that:

- 1221 (a) a plat recorded in a county recorder's office described as a county utility easement or  
1222 otherwise as a utility easement;
- 1223 (b) is not a protected utility easement or a public utility easement as defined in Section  
1224 54-3-27;
- 1225 (c) the county or the county's affiliated governmental entity owns or creates; and
- 1226 (d)(i) either:
- 1227 (A) no person uses or occupies; or
- 1228 (B) the county or the county's affiliated governmental entity uses and occupies to  
1229 provide a utility service, including sanitary sewer, culinary water, electrical,  
1230 storm water, or communications or data lines; or
- 1231 (ii) a person uses or occupies with or without an authorized franchise or other  
1232 agreement with the county.
- 1233 (12) "Culinary water authority" means the department, agency, or public entity with  
1234 responsibility to review and approve the feasibility of the culinary water system and  
1235 sources for the subject property.
- 1236 (13) "Development activity" means:
- 1237 (a) any construction or expansion of a building, structure, or use that creates additional  
1238 demand and need for public facilities;
- 1239 (b) any change in use of a building or structure that creates additional demand and need  
1240 for public facilities; or
- 1241 (c) any change in the use of land that creates additional demand and need for public  
1242 facilities.
- 1243 (14)(a) "Development agreement" means a written agreement or amendment to a written  
1244 agreement between a county and one or more parties that regulates or controls the use  
1245 or development of a specific area of land.
- 1246 (b) "Development agreement" does not include an improvement completion assurance.
- 1247 (15)(a) "Disability" means a physical or mental impairment that substantially limits one  
1248 or more of a person's major life activities, including a person having a record of such  
1249 an impairment or being regarded as having such an impairment.
- 1250 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
1251 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21  
1252 U.S.C. Sec. 802.
- 1253 (16) "Educational facility":
- 1254 (a) means:

- 1255 (i) a school district's building at which pupils assemble to receive instruction in a  
1256 program for any combination of grades from preschool through grade 12,  
1257 including kindergarten and a program for children with disabilities;
- 1258 (ii) a structure or facility:  
1259 (A) located on the same property as a building described in Subsection (16)(a)(i);  
1260 and  
1261 (B) used in support of the use of that building; and
- 1262 (iii) a building to provide office and related space to a school district's administrative  
1263 personnel; and
- 1264 (b) does not include:  
1265 (i) land or a structure, including land or a structure for inventory storage, equipment  
1266 storage, food processing or preparing, vehicle storage or maintenance, or similar  
1267 use that is:  
1268 (A) not located on the same property as a building described in Subsection  
1269 (16)(a)(i); and  
1270 (B) used in support of the purposes of a building described in Subsection  
1271 (16)(a)(i); or  
1272 (ii) a therapeutic school.
- 1273 (17) "Fire authority" means the department, agency, or public entity with responsibility to  
1274 review and approve the feasibility of fire protection and suppression services for the  
1275 subject property.
- 1276 (18) "Flood plain" means land that:  
1277 (a) is within the 100-year flood plain designated by the Federal Emergency Management  
1278 Agency; or  
1279 (b) has not been studied or designated by the Federal Emergency Management Agency  
1280 but presents a likelihood of experiencing chronic flooding or a catastrophic flood  
1281 event because the land has characteristics that are similar to those of a 100-year flood  
1282 plain designated by the Federal Emergency Management Agency.
- 1283 (19) "Gas corporation" has the same meaning as defined in Section 54-2-1.
- 1284 (20) "General plan" means a document that a county adopts by ordinance that sets forth  
1285 general guidelines for proposed future development of:  
1286 (a) the unincorporated land within the county; or  
1287 (b) for a mountainous planning district, the land within the mountainous planning  
1288 district.

- 1289 (21) "Geologic hazard" means:
- 1290 (a) a surface fault rupture;
- 1291 (b) shallow groundwater;
- 1292 (c) liquefaction;
- 1293 (d) a landslide;
- 1294 (e) a debris flow;
- 1295 (f) unstable soil;
- 1296 (g) a rock fall; or
- 1297 (h) any other geologic condition that presents a risk:
- 1298 (i) to life;
- 1299 (ii) of substantial loss of real property; or
- 1300 (iii) of substantial damage to real property.
- 1301 (22) "Home-based microschool" means the same as that term is defined in Section
- 1302 53G-6-201.
- 1303 (23) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter,
- 1304 or appurtenance to connect to a county water, sewer, storm water, power, or other utility
- 1305 system.
- 1306 (24) "Identical plans" means building plans submitted to a county that:
- 1307 (a) are clearly marked as "identical plans";
- 1308 (b) are substantially identical building plans that were previously submitted to and
- 1309 reviewed and approved by the county; and
- 1310 (c) describe a building that:
- 1311 (i) is located on land zoned the same as the land on which the building described in
- 1312 the previously approved plans is located;
- 1313 (ii) is subject to the same geological and meteorological conditions and the same law
- 1314 as the building described in the previously approved plans;
- 1315 (iii) has a floor plan identical to the building plan previously submitted to and
- 1316 reviewed and approved by the county; and
- 1317 (iv) does not require any additional engineering or analysis.
- 1318 (25) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact
- 1319 Fees Act.
- 1320 (26) "Improvement completion assurance" means a surety bond, letter of credit, financial
- 1321 institution bond, cash, assignment of rights, lien, or other equivalent security required by
- 1322 a county to guaranty the proper completion of landscaping or an infrastructure

- 1323 improvement required as a condition precedent to:
- 1324 (a) recording a subdivision plat; or
- 1325 (b) development of a commercial, industrial, mixed use, or multifamily project.
- 1326 (27) "Improvement warranty" means an applicant's unconditional warranty that the
- 1327 applicant's installed and accepted landscaping or infrastructure improvement:
- 1328 (a) complies with the county's written standards for design, materials, and workmanship;
- 1329 and
- 1330 (b) will not fail in any material respect, as a result of poor workmanship or materials,
- 1331 within the improvement warranty period.
- 1332 (28) "Improvement warranty period" means a period:
- 1333 (a) no later than one year after a county's acceptance of required landscaping; or
- 1334 (b) no later than one year after a county's acceptance of required infrastructure, unless
- 1335 the county:
- 1336 (i) determines for good cause that a one-year period would be inadequate to protect
- 1337 the public health, safety, and welfare; and
- 1338 (ii) has substantial evidence, on record:
- 1339 (A) of prior poor performance by the applicant; or
- 1340 (B) that the area upon which the infrastructure will be constructed contains
- 1341 suspect soil and the county has not otherwise required the applicant to mitigate
- 1342 the suspect soil.
- 1343 (29) "Infrastructure improvement" means permanent infrastructure that is essential for the
- 1344 public health and safety or that:
- 1345 (a) is required for human consumption; and
- 1346 (b) an applicant must install:
- 1347 (i) in accordance with published installation and inspection specifications for public
- 1348 improvements; and
- 1349 (ii) as a condition of:
- 1350 (A) recording a subdivision plat;
- 1351 (B) obtaining a building permit; or
- 1352 (C) developing a commercial, industrial, mixed use, condominium, or multifamily
- 1353 project.
- 1354 (30) "Internal lot restriction" means a platted note, platted demarcation, or platted
- 1355 designation that:
- 1356 (a) runs with the land; and



- 1357 (b)(i) creates a restriction that is enclosed within the perimeter of a lot described on  
1358 the plat; or
- 1359 (ii) designates a development condition that is enclosed within the perimeter of a lot  
1360 described on the plat.
- 1361 (31) "Interstate pipeline company" means a person or entity engaged in natural gas  
1362 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission  
1363 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- 1364 (32) "Intrastate pipeline company" means a person or entity engaged in natural gas  
1365 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory  
1366 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- 1367 (33) "Land use applicant" means a property owner, or the property owner's designee, who  
1368 submits a land use application regarding the property owner's land.
- 1369 (34) "Land use application":
- 1370 (a) means an application that is:
- 1371 (i) required by a county; and
- 1372 (ii) submitted by a land use applicant to obtain a land use decision; and
- 1373 (b) does not mean an application to enact, amend, or repeal a land use regulation.
- 1374 (35) "Land use authority" means:
- 1375 (a) a person, board, commission, agency, or body, including the local legislative body,  
1376 designated by the local legislative body to act upon a land use application; or
- 1377 (b) if the local legislative body has not designated a person, board, commission, agency,  
1378 or body, the local legislative body.
- 1379 (36) "Land use decision" means an administrative decision of a land use authority or appeal  
1380 authority regarding:
- 1381 (a) a land use permit;
- 1382 (b) a land use application; or
- 1383 (c) the enforcement of a land use regulation, land use permit, or development agreement.
- 1384 (37) "Land use permit" means a permit issued by a land use authority.
- 1385 (38) "Land use regulation":
- 1386 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,  
1387 specification, fee, or rule that governs the use or development of land;
- 1388 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;  
1389 and
- 1390 (c) does not include:

- 1391 (i) a land use decision of the legislative body acting as the land use authority, even if  
1392 the decision is expressed in a resolution or ordinance; or
- 1393 (ii) a temporary revision to an engineering specification that does not materially:  
1394 (A) increase a land use applicant's cost of development compared to the existing  
1395 specification; or  
1396 (B) impact a land use applicant's use of land.
- 1397 (39) "Legislative body" means the county legislative body, or for a county that has adopted  
1398 an alternative form of government, the body exercising legislative powers.
- 1399 (40) "Lot" means a tract of land, regardless of any label, that is created by and shown on a  
1400 subdivision plat that has been recorded in the office of the county recorder.
- 1401 (41)(a) "Lot line adjustment" means a relocation of a lot line boundary between  
1402 adjoining lots or between a lot and adjoining parcels in accordance with Section  
1403 17-27a-608:
- 1404 (i) whether or not the lots are located in the same subdivision; and  
1405 (ii) with the consent of the owners of record.
- 1406 (b) "Lot line adjustment" does not mean a new boundary line that:  
1407 (i) creates an additional lot; or  
1408 (ii) constitutes a subdivision or a subdivision amendment.
- 1409 (c) "Lot line adjustment" does not include a boundary line adjustment made by the  
1410 Department of Transportation.
- 1411 (42) "Major transit investment corridor" means public transit service that uses or occupies:  
1412 (a) public transit rail right-of-way;  
1413 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or  
1414 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a  
1415 municipality or county and:  
1416 (i) a public transit district as defined in Section 17B-2a-802; or  
1417 (ii) an eligible political subdivision as defined in Section 59-12-2219.
- 1418 (43) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.
- 1419 (44) "Moderate income housing" means housing occupied or reserved for occupancy by  
1420 households with a gross household income equal to or less than 80% of the median gross  
1421 income for households of the same size in the county in which the housing is located.
- 1422 (45) "Mountainous planning district" means an area designated by a county legislative body  
1423 in accordance with Section 17-27a-901.
- 1424 (46) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and

- 1425 expenses incurred in:
- 1426 (a) verifying that building plans are identical plans; and
- 1427 (b) reviewing and approving those minor aspects of identical plans that differ from the
- 1428 previously reviewed and approved building plans.
- 1429 (47) "Noncomplying structure" means a structure that:
- 1430 (a) legally existed before the structure's current land use designation; and
- 1431 (b) because of one or more subsequent land use ordinance changes, does not conform to
- 1432 the setback, height restrictions, or other regulations, excluding those regulations that
- 1433 govern the use of land.
- 1434 (48) "Nonconforming use" means a use of land that:
- 1435 (a) legally existed before the current land use designation;
- 1436 (b) has been maintained continuously since the time the land use ordinance regulation
- 1437 governing the land changed; and
- 1438 (c) because of one or more subsequent land use ordinance changes, does not conform to
- 1439 the regulations that now govern the use of the land.
- 1440 (49) "Official map" means a map drawn by county authorities and recorded in the county
- 1441 recorder's office that:
- 1442 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
- 1443 highways and other transportation facilities;
- 1444 (b) provides a basis for restricting development in designated rights-of-way or between
- 1445 designated setbacks to allow the government authorities time to purchase or
- 1446 otherwise reserve the land; and
- 1447 (c) has been adopted as an element of the county's general plan.
- 1448 (50) "Parcel" means any real property that is not a lot.
- 1449 (51)(a) "Parcel boundary adjustment" means a recorded agreement between owners of
- 1450 adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line
- 1451 agreement in accordance with Section 17-27a-523, if no additional parcel is created
- 1452 and:
- 1453 (i) none of the property identified in the agreement is a lot; or
- 1454 (ii) the adjustment is to the boundaries of a single person's parcels.
- 1455 (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line
- 1456 that:
- 1457 (i) creates an additional parcel; or
- 1458 (ii) constitutes a subdivision.

- 1459 (c) "Parcel boundary adjustment" does not include a boundary line adjustment made by  
1460 the Department of Transportation.
- 1461 (52) "Person" means an individual, corporation, partnership, organization, association, trust,  
1462 governmental agency, or any other legal entity.
- 1463 (53) "Plan for moderate income housing" means a written document adopted by a county  
1464 legislative body that includes:
- 1465 (a) an estimate of the existing supply of moderate income housing located within the  
1466 county;
- 1467 (b) an estimate of the need for moderate income housing in the county for the next five  
1468 years;
- 1469 (c) a survey of total residential land use;
- 1470 (d) an evaluation of how existing land uses and zones affect opportunities for moderate  
1471 income housing; and
- 1472 (e) a description of the county's program to encourage an adequate supply of moderate  
1473 income housing.
- 1474 (54) "Planning advisory area" means a contiguous, geographically defined portion of the  
1475 unincorporated area of a county established under this part with planning and zoning  
1476 functions as exercised through the planning advisory area planning commission, as  
1477 provided in this chapter, but with no legal or political identity separate from the county  
1478 and no taxing authority.
- 1479 (55) "Plat" means an instrument subdividing property into lots as depicted on a map or  
1480 other graphical representation of lands that a licensed professional land surveyor makes  
1481 and prepares in accordance with Section 17-27a-603 or 57-8-13.
- 1482 (56) "Potential geologic hazard area" means an area that:
- 1483 (a) is designated by a Utah Geological Survey map, county geologist map, or other  
1484 relevant map or report as needing further study to determine the area's potential for  
1485 geologic hazard; or
- 1486 (b) has not been studied by the Utah Geological Survey or a county geologist but  
1487 presents the potential of geologic hazard because the area has characteristics similar  
1488 to those of a designated geologic hazard area.
- 1489 (57) "Public agency" means:
- 1490 (a) the federal government;
- 1491 (b) the state;
- 1492 (c) a county, municipality, school district, special district, special service district, or

- 1493 other political subdivision of the state; or  
1494 (d) a charter school.
- 1495 (58) "Public hearing" means a hearing at which members of the public are provided a  
1496 reasonable opportunity to comment on the subject of the hearing.
- 1497 (59) "Public meeting" means a meeting that is required to be open to the public under Title  
1498 52, Chapter 4, Open and Public Meetings Act.
- 1499 (60) "Public street" means a public right-of-way, including a public highway, public  
1500 avenue, public boulevard, public parkway, public road, public lane, public alley, public  
1501 viaduct, public subway, public tunnel, public bridge, public byway, other public  
1502 transportation easement, or other public way.
- 1503 (61) "Receiving zone" means an unincorporated area of a county that the county designates,  
1504 by ordinance, as an area in which an owner of land may receive a transferable  
1505 development right.
- 1506 (62) "Record of survey map" means a map of a survey of land prepared in accordance with  
1507 Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.
- 1508 (63) "Residential facility for persons with a disability" means a residence:  
1509 (a) in which more than one person with a disability resides; and  
1510 (b) which is licensed or certified by the Department of Health and Human Services  
1511 under:  
1512 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or  
1513 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.
- 1514 (64) "Residential roadway" means a public local residential road that:  
1515 (a) will serve primarily to provide access to adjacent primarily residential areas and  
1516 property;  
1517 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;  
1518 (c) is not identified as a supplementary to a collector or other higher system classified  
1519 street in an approved municipal street or transportation master plan;  
1520 (d) has a posted speed limit of 25 miles per hour or less;  
1521 (e) does not have higher traffic volumes resulting from connecting previously separated  
1522 areas of the municipal road network;  
1523 (f) cannot have a primary access, but can have a secondary access, and does not abut lots  
1524 intended for high volume traffic or community centers, including schools, recreation  
1525 centers, sports complexes, or libraries; and  
1526 (g) primarily serves traffic within a neighborhood or limited residential area and is not

- 1527 necessarily continuous through several residential areas.
- 1528 (65) "Rules of order and procedure" means a set of rules that govern and prescribe in a  
1529 public meeting:
- 1530 (a) parliamentary order and procedure;
- 1531 (b) ethical behavior; and
- 1532 (c) civil discourse.
- 1533 (66) "Sanitary sewer authority" means the department, agency, or public entity with  
1534 responsibility to review and approve the feasibility of sanitary sewer services or onsite  
1535 wastewater systems.
- 1536 (67) "Sending zone" means an unincorporated area of a county that the county designates,  
1537 by ordinance, as an area from which an owner of land may transfer a transferable  
1538 development right.
- 1539 (68) "Site plan" means a document or map that may be required by a county during a  
1540 preliminary review preceding the issuance of a building permit to demonstrate that an  
1541 owner's or developer's proposed development activity meets a land use requirement.
- 1542 (69)(a) "Special district" means an entity under Title 17B, Limited Purpose Local  
1543 Government Entities - Special Districts.
- 1544 (b) "Special district" includes a governmental or quasi-governmental entity that is not a  
1545 county, municipality, school district, or the state.
- 1546 (70) "Specified public agency" means:
- 1547 (a) the state;
- 1548 (b) a school district; or
- 1549 (c) a charter school.
- 1550 (71) "Specified public utility" means an electrical corporation, gas corporation, or telephone  
1551 corporation, as those terms are defined in Section 54-2-1.
- 1552 (72) "State" includes any department, division, or agency of the state.
- 1553 (73)(a) "Subdivision" means any land that is divided, resubdivided, or proposed to be  
1554 divided into two or more lots or other division of land for the purpose, whether  
1555 immediate or future, for offer, sale, lease, or development either on the installment  
1556 plan or upon any and all other plans, terms, and conditions.
- 1557 (b) "Subdivision" includes:
- 1558 (i) the division or development of land, whether by deed, metes and bounds  
1559 description, devise and testacy, map, plat, or other recorded instrument, regardless  
1560 of whether the division includes all or a portion of a parcel or lot; and

- 1561 (ii) except as provided in Subsection (73)(c), divisions of land for residential and  
1562 nonresidential uses, including land used or to be used for commercial, agricultural,  
1563 and industrial purposes.
- 1564 (c) "Subdivision" does not include:
- 1565 (i) a bona fide division or partition of agricultural land for agricultural purposes;
- 1566 (ii) a boundary line agreement recorded with the county recorder's office between  
1567 owners of adjoining parcels adjusting the mutual boundary in accordance with  
1568 Section 17-27a-523 if no new lot is created;
- 1569 (iii) a recorded document, executed by the owner of record:
- 1570 (A) revising the legal descriptions of multiple parcels into one legal description  
1571 encompassing all such parcels; or
- 1572 (B) joining a lot to a parcel;
- 1573 (iv) a bona fide division or partition of land in a county other than a first class county  
1574 for the purpose of siting, on one or more of the resulting separate parcels:
- 1575 (A) an electrical transmission line or a substation;
- 1576 (B) a natural gas pipeline or a regulation station; or
- 1577 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other  
1578 utility service regeneration, transformation, retransmission, or amplification  
1579 facility;
- 1580 (v) a boundary line agreement between owners of adjoining subdivided properties  
1581 adjusting the mutual lot line boundary in accordance with Sections 17-27a-523  
1582 and 17-27a-608 if:
- 1583 (A) no new dwelling lot or housing unit will result from the adjustment; and  
1584 (B) the adjustment will not violate any applicable land use ordinance;
- 1585 (vi) a bona fide division of land by deed or other instrument if the deed or other  
1586 instrument states in writing that the division:
- 1587 (A) is in anticipation of future land use approvals on the parcel or parcels;  
1588 (B) does not confer any land use approvals; and  
1589 (C) has not been approved by the land use authority;
- 1590 (vii) a parcel boundary adjustment;
- 1591 (viii) a lot line adjustment;
- 1592 (ix) a road, street, or highway dedication plat;
- 1593 (x) a deed or easement for a road, street, or highway purpose; or  
1594 (xi) any other division of land authorized by law.

- 1595 (74)(a) "Subdivision amendment" means an amendment to a recorded subdivision in  
1596 accordance with Section 17-27a-608 that:
- 1597 (i) vacates all or a portion of the subdivision;
  - 1598 (ii) alters the outside boundary of the subdivision;
  - 1599 (iii) changes the number of lots within the subdivision;
  - 1600 (iv) alters a public right-of-way, a public easement, or public infrastructure within the  
1601 subdivision; or
  - 1602 (v) alters a common area or other common amenity within the subdivision.
- 1603 (b) "Subdivision amendment" does not include a lot line adjustment, between a single lot  
1604 and an adjoining lot or parcel, that alters the outside boundary of the subdivision.
- 1605 (75) "Substantial evidence" means evidence that:
- 1606 (a) is beyond a scintilla; and
  - 1607 (b) a reasonable mind would accept as adequate to support a conclusion.
- 1608 (76) "Suspect soil" means soil that has:
- 1609 (a) a high susceptibility for volumetric change, typically clay rich, having more than a  
1610 3% swell potential;
  - 1611 (b) bedrock units with high shrink or swell susceptibility; or
  - 1612 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum  
1613 commonly associated with dissolution and collapse features.
- 1614 (77) "Therapeutic school" means a residential group living facility:
- 1615 (a) for four or more individuals who are not related to:
    - 1616 (i) the owner of the facility; or
    - 1617 (ii) the primary service provider of the facility;
  - 1618 (b) that serves students who have a history of failing to function:
    - 1619 (i) at home;
    - 1620 (ii) in a public school; or
    - 1621 (iii) in a nonresidential private school; and
  - 1622 (c) that offers:
    - 1623 (i) room and board; and
    - 1624 (ii) an academic education integrated with:
      - 1625 (A) specialized structure and supervision; or
      - 1626 (B) services or treatment related to a disability, an emotional development, a  
1627 behavioral development, a familial development, or a social development.
- 1628 (78) "Transferable development right" means a right to develop and use land that originates



1629 by an ordinance that authorizes a land owner in a designated sending zone to transfer  
1630 land use rights from a designated sending zone to a designated receiving zone.

1631 (79) "Unincorporated" means the area outside of the incorporated area of a municipality.

1632 (80) "Water interest" means any right to the beneficial use of water, including:

1633 (a) each of the rights listed in Section 73-1-11; and

1634 (b) an ownership interest in the right to the beneficial use of water represented by:

1635 (i) a contract; or

1636 (ii) a share in a water company, as defined in Section 73-3-3.5.

1637 (81) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land  
1638 use zones, overlays, or districts.

1639 Section 9. Section **17-27a-403** is amended to read:

1640 **17-27a-403 . Plan preparation.**

1641 (1)(a) The planning commission shall provide notice, as provided in Section 17-27a-203,  
1642 of the planning commission's intent to make a recommendation to the county  
1643 legislative body for a general plan or a comprehensive general plan amendment when  
1644 the planning commission initiates the process of preparing the planning commission's  
1645 recommendation.

1646 (b) The planning commission shall make and recommend to the legislative body a  
1647 proposed general plan for:

1648 (i) the unincorporated area within the county; or

1649 (ii) if the planning commission is a planning commission for a mountainous planning  
1650 district, the mountainous planning district.

1651 (c)(i) The plan may include planning for incorporated areas if, in the planning  
1652 commission's judgment, they are related to the planning of the unincorporated  
1653 territory or of the county as a whole.

1654 (ii) Elements of the county plan that address incorporated areas are not an official  
1655 plan or part of a municipal plan for any municipality, unless the county plan is  
1656 recommended by the municipal planning commission and adopted by the  
1657 governing body of the municipality.

1658 (2)(a) At a minimum, the proposed general plan, with the accompanying maps, charts,  
1659 and descriptive and explanatory matter, shall include the planning commission's  
1660 recommendations for the following plan elements:

1661 (i) a land use element that:

1662 (A) designates the long-term goals and the proposed extent, general distribution,

- 1663 and location of land for housing for residents of various income levels,  
1664 business, industry, agriculture, recreation, education, public buildings and  
1665 grounds, open space, and other categories of public and private uses of land as  
1666 appropriate;
- 1667 (B) includes a statement of the projections for and standards of population density  
1668 and building intensity recommended for the various land use categories  
1669 covered by the plan;
- 1670 (C) is coordinated to integrate the land use element with the water use and  
1671 preservation element; and
- 1672 (D) accounts for the effect of land use categories and land uses on water demand;
- 1673 (ii) a transportation and traffic circulation element that:
- 1674 (A) provides the general location and extent of existing and proposed freeways,  
1675 arterial and collector streets, public transit, active transportation facilities, and  
1676 other modes of transportation that the planning commission considers  
1677 appropriate;
- 1678 (B) addresses the county's plan for residential and commercial development  
1679 around major transit investment corridors to maintain and improve the  
1680 connections between housing, employment, education, recreation, and  
1681 commerce; and
- 1682 (C) correlates with the population projections, the employment projections, and  
1683 the proposed land use element of the general plan;
- 1684 (iii) for a specified county as defined in Section 17-27a-408, a moderate income  
1685 housing element that:
- 1686 (A) provides a realistic opportunity to meet the need for additional moderate  
1687 income housing within the next five years;
- 1688 (B) selects three or more moderate income housing strategies described in  
1689 Subsection (2)(b)(ii) for implementation; and
- 1690 (C) includes an implementation plan as provided in Subsection (2)(e);
- 1691 (iv) a resource management plan detailing the findings, objectives, and policies  
1692 required by Subsection 17-27a-401(3); and
- 1693 (v) a water use and preservation element that addresses:
- 1694 (A) the effect of permitted development or patterns of development on water  
1695 demand and water infrastructure;
- 1696 (B) methods of reducing water demand and per capita consumption for future

- 1697 development;
- 1698 (C) methods of reducing water demand and per capita consumption for existing  
1699 development; and
- 1700 (D) opportunities for the county to modify the county's operations to eliminate  
1701 practices or conditions that waste water.
- 1702 (b) In drafting the moderate income housing element, the planning commission:
- 1703 (i) shall consider the Legislature's determination that counties should facilitate a  
1704 reasonable opportunity for a variety of housing, including moderate income  
1705 housing:
- 1706 (A) to meet the needs of people of various income levels living, working, or  
1707 desiring to live or work in the community; and
- 1708 (B) to allow people with various incomes to benefit from and fully participate in  
1709 all aspects of neighborhood and community life; and
- 1710 (ii) shall include an analysis of how the county will provide a realistic opportunity for  
1711 the development of moderate income housing within the planning horizon,  
1712 including a recommendation to implement three or more of the following  
1713 moderate income housing strategies:
- 1714 (A) rezone for densities necessary to facilitate the production of moderate income  
1715 housing, including by implementing a density overlay as described in Section  
1716 17-27a-403.1;
- 1717 (B) demonstrate investment in the rehabilitation or expansion of infrastructure that  
1718 facilitates the construction of moderate income housing;
- 1719 (C) demonstrate investment in the rehabilitation of existing uninhabitable housing  
1720 stock into moderate income housing;
- 1721 (D) identify and utilize county general fund subsidies or other sources of revenue  
1722 to waive construction related fees that are otherwise generally imposed by the  
1723 county for the construction or rehabilitation of moderate income housing;
- 1724 (E) create or allow for, and reduce regulations related to, internal or detached  
1725 accessory dwelling units in residential zones;
- 1726 (F) zone or rezone for higher density or moderate income residential development  
1727 in commercial or mixed-use zones, commercial centers, or employment centers;
- 1728 (G) amend land use regulations to allow for higher density or new moderate  
1729 income residential development in commercial or mixed-use zones near major  
1730 transit investment corridors;

- 1731 (H) amend land use regulations to eliminate or reduce parking requirements for  
1732 residential development where a resident is less likely to rely on the resident's  
1733 own vehicle, such as residential development near major transit investment  
1734 corridors or senior living facilities;
- 1735 (I) amend land use regulations to allow for single room occupancy developments;
- 1736 (J) implement zoning incentives for moderate income units in new developments;
- 1737 (K) preserve existing and new moderate income housing and subsidized units by  
1738 utilizing a landlord incentive program, providing for deed restricted units  
1739 through a grant program, or establishing a housing loss mitigation fund;
- 1740 (L) reduce, waive, or eliminate impact fees related to moderate income housing;
- 1741 (M) demonstrate creation of, or participation in, a community land trust program  
1742 for moderate income housing;
- 1743 (N) implement a mortgage assistance program for employees of the county, an  
1744 employer that provides contracted services for the county, or any other public  
1745 employer that operates within the county;
- 1746 (O) apply for or partner with an entity that applies for state or federal funds or tax  
1747 incentives to promote the construction of moderate income housing, an entity  
1748 that applies for programs offered by the Utah Housing Corporation within that  
1749 agency's funding capacity, an entity that applies for affordable housing  
1750 programs administered by the Department of Workforce Services, an entity  
1751 that applies for services provided by a public housing authority to preserve and  
1752 create moderate income housing, or any other entity that applies for programs  
1753 or services that promote the construction or preservation of moderate income  
1754 housing;
- 1755 (P) demonstrate utilization of a moderate income housing set aside from a  
1756 community reinvestment agency, redevelopment agency, or community  
1757 development and renewal agency to create or subsidize moderate income  
1758 housing;
- 1759 (Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter  
1760 3, Part 6, Housing and Transit Reinvestment Zone Act;
- 1761 (R) create a home ownership promotion zone pursuant to Part 12, Home  
1762 Ownership Promotion Zone for Counties;
- 1763 (S) eliminate impact fees for any accessory dwelling unit that is not an internal  
1764 accessory dwelling unit as defined in Section 10-9a-530;

- 1765 (T) create a program to transfer development rights for moderate income housing;  
 1766 (U) ratify a joint acquisition agreement with another local political subdivision for  
 1767 the purpose of combining resources to acquire property for moderate income  
 1768 housing;
- 1769 (V) develop a moderate income housing project for residents who are disabled or  
 1770 55 years old or older;
- 1771 (W) create or allow for, and reduce regulations related to, multifamily residential  
 1772 dwellings compatible in scale and form with detached single-family residential  
 1773 dwellings and located in walkable communities within residential or mixed-use  
 1774 zones; and
- 1775 (X) demonstrate implementation of any other program or strategy to address the  
 1776 housing needs of residents of the county who earn less than 80% of the area  
 1777 median income, including the dedication of a local funding source to moderate  
 1778 income housing or the adoption of a land use ordinance that requires 10% or  
 1779 more of new residential development in a residential zone be dedicated to  
 1780 moderate income housing.
- 1781 (c) If a specified county, as defined in Section 17-27a-408, has created a small public  
 1782 transit district, as defined in Section 17B-2a-802, on or before January 1, 2022, the  
 1783 specified county shall include as part of the specified county's recommended  
 1784 strategies under Subsection (2)(b)(ii) a recommendation to implement the strategy  
 1785 described in Subsection (2)(b)(ii)(Q).
- 1786 (d) The planning commission shall identify each moderate income housing strategy  
 1787 recommended to the legislative body for implementation by restating the exact  
 1788 language used to describe the strategy in Subsection (2)(b)(ii).
- 1789 (e) In drafting the land use element, the planning commission shall:
- 1790 (i) identify and consider each agriculture protection area within the unincorporated  
 1791 area of the county or mountainous planning district;
- 1792 (ii) avoid proposing a use of land within an agriculture protection area that is  
 1793 inconsistent with or detrimental to the use of the land for agriculture; and
- 1794 (iii) consider and coordinate with any station area plans adopted by municipalities  
 1795 located within the county under Section 10-9a-403.1.
- 1796 (f) In drafting the transportation and traffic circulation element, the planning  
 1797 commission shall:
- 1798 (i)(A) consider and coordinate with the regional transportation plan developed by

- 1799 the county's region's metropolitan planning organization, if the relevant areas  
1800 of the county are within the boundaries of a metropolitan planning  
1801 organization; or
- 1802 (B) consider and coordinate with the long-range transportation plan developed by  
1803 the Department of Transportation, if the relevant areas of the county are not  
1804 within the boundaries of a metropolitan planning organization; and
- 1805 (ii) consider and coordinate with any station area plans adopted by municipalities  
1806 located within the county under Section 10-9a-403.1.
- 1807 (g)(i) In drafting the implementation plan portion of the moderate income housing  
1808 element as described in Subsection (2)(a)(iii)(C), the planning commission shall  
1809 recommend to the legislative body the establishment of a five-year timeline for  
1810 implementing each of the moderate income housing strategies selected by the  
1811 county for implementation.
- 1812 (ii) The timeline described in Subsection (2)(g)(i) shall:
- 1813 (A) identify specific measures and benchmarks for implementing each moderate  
1814 income housing strategy selected by the county; and
- 1815 (B) provide flexibility for the county to make adjustments as needed.
- 1816 (h) In drafting the water use and preservation element, the planning commission:
- 1817 (i) shall consider applicable regional water conservation goals recommended by the  
1818 Division of Water Resources;
- 1819 (ii) shall consult with the Division of Water Resources for information and technical  
1820 resources regarding regional water conservation goals, including how  
1821 implementation of the land use element and water use and preservation element  
1822 may affect the Great Salt Lake;
- 1823 (iii) shall notify the community water systems serving drinking water within the  
1824 unincorporated portion of the county and request feedback from the community  
1825 water systems about how implementation of the land use element and water use  
1826 and preservation element may affect:
- 1827 (A) water supply planning, including drinking water source and storage capacity  
1828 consistent with Section 19-4-114; and
- 1829 (B) water distribution planning, including master plans, infrastructure asset  
1830 management programs and plans, infrastructure replacement plans, and impact  
1831 fee facilities plans;
- 1832 (iv) shall consider the potential opportunities and benefits of planning for

- 1833 regionalization of public water systems;
- 1834 (v) shall consult with the Department of Agriculture and Food for information and  
1835 technical resources regarding the potential benefits of agriculture conservation  
1836 easements and potential implementation of agriculture water optimization projects  
1837 that would support regional water conservation goals;
- 1838 (vi) shall notify an irrigation or canal company located in the county so that the  
1839 irrigation or canal company can be involved in the protection and integrity of the  
1840 irrigation or canal company's delivery systems;
- 1841 (vii) shall include a recommendation for:
- 1842 (A) water conservation policies to be determined by the county; and  
1843 (B) landscaping options within a public street for current and future development  
1844 that do not require the use of lawn or turf in a parkstrip;
- 1845 (viii) shall review the county's land use ordinances and include a recommendation for  
1846 changes to an ordinance that promotes the inefficient use of water;
- 1847 (ix) shall consider principles of sustainable landscaping, including the:
- 1848 (A) reduction or limitation of the use of lawn or turf;  
1849 (B) promotion of site-specific landscape design that decreases stormwater runoff  
1850 or runoff of water used for irrigation;  
1851 (C) preservation and use of healthy trees that have a reasonable water requirement  
1852 or are resistant to dry soil conditions;  
1853 (D) elimination or regulation of ponds, pools, and other features that promote  
1854 unnecessary water evaporation;  
1855 (E) reduction of yard waste; and  
1856 (F) use of an irrigation system, including drip irrigation, best adapted to provide  
1857 the optimal amount of water to the plants being irrigated;
- 1858 (x) may include recommendations for additional water demand reduction strategies,  
1859 including:
- 1860 (A) creating a water budget associated with a particular type of development;  
1861 (B) adopting new or modified lot size, configuration, and landscaping standards  
1862 that will reduce water demand for new single family development;  
1863 (C) providing one or more water reduction incentives for existing landscapes and  
1864 irrigation systems and installation of water fixtures or systems that minimize  
1865 water demand;  
1866 (D) discouraging incentives for economic development activities that do not

- 1867 adequately account for water use or do not include strategies for reducing  
1868 water demand; and
- 1869 (E) adopting water concurrency standards requiring that adequate water supplies  
1870 and facilities are or will be in place for new development; and
- 1871 (xi) shall include a recommendation for low water use landscaping standards for a  
1872 new:
- 1873 (A) commercial, industrial, or institutional development;  
1874 (B) common interest community, as defined in Section 57-25-102; or  
1875 (C) multifamily housing project.
- 1876 (3) The proposed general plan may include:
- 1877 (a) an environmental element that addresses:
- 1878 (i) to the extent not covered by the county's resource management plan, the  
1879 protection, conservation, development, and use of natural resources, including the  
1880 quality of:
- 1881 (A) air;  
1882 (B) forests;  
1883 (C) soils;  
1884 (D) rivers;  
1885 (E) groundwater and other waters;  
1886 (F) harbors;  
1887 (G) fisheries;  
1888 (H) wildlife;  
1889 (I) minerals; and  
1890 (J) other natural resources; and
- 1891 (ii)(A) the reclamation of land, flood control, prevention and control of the  
1892 pollution of streams and other waters;  
1893 (B) the regulation of the use of land on hillsides, stream channels and other  
1894 environmentally sensitive areas;  
1895 (C) the prevention, control, and correction of the erosion of soils;  
1896 (D) the preservation and enhancement of watersheds and wetlands; and  
1897 (E) the mapping of known geologic hazards;
- 1898 (b) a public services and facilities element showing general plans for sewage, water,  
1899 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for  
1900 them, police and fire protection, and other public services;



- 1901 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and  
 1902 programs for:
- 1903 (i) historic preservation;
- 1904 (ii) the diminution or elimination of a development impediment as defined in Section  
 1905 17C-1-102; and
- 1906 (iii) redevelopment of land, including housing sites, business and industrial sites, and  
 1907 public building sites;
- 1908 (d) an economic element composed of appropriate studies and forecasts, as well as an  
 1909 economic development plan, which may include review of existing and projected  
 1910 county revenue and expenditures, revenue sources, identification of basic and  
 1911 secondary industry, primary and secondary market areas, employment, and retail  
 1912 sales activity;
- 1913 (e) recommendations for implementing all or any portion of the general plan, including  
 1914 the adoption of land and water use ordinances, capital improvement plans,  
 1915 community development and promotion, and any other appropriate action;
- 1916 (f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or  
 1917 (3)(a)(i); and
- 1918 (g) any other element the county considers appropriate.

1919 Section 10. Section **17-27a-403.1** is enacted to read:

1920 **17-27a-403.1 . Residential density overlay.**

1921 (1) As used in this section:

1922 (a) "Density overlay" means zoning regulations applied by a county to a housing-eligible  
 1923 zone that allows:

1924 (i) the development of:

1925 (A) single-family dwellings on small lots;

1926 (B) diverse housing options; or

1927 (C) a combination of single-family dwellings on small lots and diverse housing  
 1928 options; and

1929 (ii)(A) a minimum of eight housing units per acre if the housing units are served  
 1930 by sewer lines; or

1931 (B) the maximum per-acre density permissible for health and safety, as

1932 determined by the local building authority and local health department, if the  
 1933 housing units are served by septic tank.

1934 (b) "Diverse housing options" means one or more of the following types of residential

- 1935           units:
- 1936           (i) two-family dwellings;
- 1937           (ii) three- and four-family dwellings of up to two levels;
- 1938           (iii) town homes; or
- 1939           (iv) live-work units, as described by the International Building Code, in which one or
- 1940           more residential housing units are available above a commercial property.
- 1941           (c) "Housing-eligible zone" means an unincorporated area of a county zoned in a way
- 1942           that allows for the development of a residential unit, including residential zones and
- 1943           mixed-use zones.
- 1944           (d) "Owner-occupier" means an individual who owns, solely or jointly, a housing unit in
- 1945           which the individual lives as the individual's primary residence.
- 1946           (e) "Small lot" means a residential lot that is 5,400 square feet or smaller.
- 1947           (2) A county may implement a density overlay allowing for increased development within
- 1948           unincorporated housing-eligible zones of the county.
- 1949           (3) If a legislative body adopts a density overlay in a housing-eligible zone at the time the
- 1950           legislative body adopts the density overlay, the county may adopt additional
- 1951           requirements to ensure:
- 1952           (a) that some or all of the residential units offered for sale in the area subject to the
- 1953           density overlay be deed-restricted for up to five years to ensure owner-occupancy; or
- 1954           (b) that some or all of the residential units in the density overlay be:
- 1955           (i) offered for sale to an owner-occupier at a purchase price affordable to a household
- 1956           with a gross income of no more than 120% of area median income for the county
- 1957           in which the residential unit is offered for sale; or
- 1958           (ii) offered for rent at a rental price affordable to a household with a gross income of
- 1959           no more than 80% of area median income for the county in which the residential
- 1960           unit is offered for rent.
- 1961           (4) Notwithstanding Section 17-27a-530, a county that adopts a density overlay as
- 1962           described in this section may also adopt a building design element to promote the
- 1963           development of diverse housing options within the density overlay.
- 1964           Section 11. Section **17-27a-403.2** is enacted to read:
- 1965           **17-27a-403.2 . Residential density bonus.**
- 1966           (1) As used in this section:
- 1967           (a) "Density bonus-eligible area" means an unincorporated area in a county:
- 1968           (i) zoned for a minimum of six housing units per acre; or

- 1969 (ii) subject to a development agreement that provides at least six units to the acre.
- 1970 (b) "Owner-occupier" means the same as that term is defined in Section 17-27a-403.1.
- 1971 (2)(a) In a density bonus-eligible area, a county may approve an applicant's request for
- 1972 an additional 0.5 housing units per acre in exchange for one or more of the following:
- 1973 (i) requiring at least one housing unit per acre being offered for sale to an
- 1974 owner-occupier at a price point 80% or less of the median county home price for
- 1975 housing of that type;
- 1976 (ii) requiring at least one housing unit per acre being deed-restricted to
- 1977 owner-occupancy for at least five years;
- 1978 (iii) requiring at least one housing unit per acre to be deed-restricted for occupancy
- 1979 by at least one individual employed within the geographic region of the
- 1980 municipality or a five mile radius of the boundary of the county; or
- 1981 (iv) requiring at least two housing units per acre to be no larger than 1,600 square feet.
- 1982 (b) Notwithstanding Section 17-27a-530, in a density bonus-eligible area, a county may
- 1983 implement a building design element if the building design element is designed to
- 1984 promote density greater than six housing units per acre.

1985 Section 12. Section **17-27a-408** is amended to read:

1986 **17-27a-408 . Moderate income housing report -- Contents -- Prioritization for**

1987 **funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.**

- 1988 (1) As used in this section:
- 1989 (a) "Division" means the Housing and Community Development Division within the
- 1990 Department of Workforce Services.
- 1991 (b) "Implementation plan" means the implementation plan adopted as part of the
- 1992 moderate income housing element of a specified county's general plan as provided in
- 1993 Subsection 17-27a-403(2)(g).
- 1994 (c) "Initial report" means the one-time moderate income housing report described in
- 1995 Subsection (2).
- 1996 (d) "Moderate income housing strategy" means a strategy described in Subsection
- 1997 17-27a-403(2)(b)(ii).
- 1998 (e) "Report" means an initial report or a subsequent report.
- 1999 (f) "Specified county" means a county of the first, second, or third class, which has a
- 2000 population of more than 5,000 in the county's unincorporated areas.
- 2001 (g) "Subsequent progress report" means the annual moderate income housing report
- 2002 described in Subsection (3).

- 2003 (2)(a) The legislative body of a specified county shall annually submit an initial report to  
2004 the division.
- 2005 (b)(i) This Subsection (2)(b) applies to a county that is not a specified county as of  
2006 January 1, 2023.
- 2007 (ii) As of January 1, if a county described in Subsection (2)(b)(i) changes from one  
2008 class to another or grows in population to qualify as a specified county, the county  
2009 shall submit an initial plan to the division on or before August 1 of the first  
2010 calendar year beginning on January 1 in which the county qualifies as a specified  
2011 county.
- 2012 (c) The initial report shall:
- 2013 (i) identify each moderate income housing strategy selected by the specified county  
2014 for continued, ongoing, or one-time implementation, using the exact language  
2015 used to describe the moderate income housing strategy in Subsection 17-27a-403  
2016 (2)(b)(ii); and
- 2017 (ii) include an implementation plan.
- 2018 (3)(a) After the division approves a specified county's initial report under this section,  
2019 the specified county shall, as an administrative act, annually submit to the division a  
2020 subsequent progress report on or before August 1 of each year after the year in which  
2021 the specified county is required to submit the initial report.
- 2022 (b) The subsequent progress report shall include:
- 2023 (i) subject to Subsection (3)(c), a description of each action, whether one-time or  
2024 ongoing, taken by the specified county during the previous 12-month period to  
2025 implement the moderate income housing strategies identified in the initial report  
2026 for implementation;
- 2027 (ii) a description of each land use regulation or land use decision made by the  
2028 specified county during the previous 12-month period to implement the moderate  
2029 income housing strategies, including an explanation of how the land use  
2030 regulation or land use decision supports the specified county's efforts to  
2031 implement the moderate income housing strategies;
- 2032 (iii) a description of any barriers encountered by the specified county in the previous  
2033 12-month period in implementing the moderate income housing strategies;
- 2034 (iv) the number of residential dwelling units that have been entitled that have not  
2035 received a building permit as of the submission date of the progress report;
- 2036 (v) shapefiles, or website links if shapefiles are not available, to current maps and

- 2037 tables related to zoning;
- 2038 (vi) information regarding the number of internal and external or detached accessory  
 2039 dwelling units located within the specified county for which the specified county:  
 2040 (A) issued a building permit to construct; or  
 2041 (B) issued a business license or comparable license or permit to rent;
- 2042 (vii) a description of how the market has responded to the selected moderate income  
 2043 housing strategies, including the number of entitled moderate income housing  
 2044 units or other relevant data; [~~and~~]
- 2045 (viii) beginning January 1, 2027, the information described in Section 17-27a-408.1;  
 2046 and
- 2047 [~~(viii)~~] (ix) any recommendations on how the state can support the specified county in  
 2048 implementing the moderate income housing strategies.
- 2049 (c) For purposes of describing actions taken by a specified county under Subsection  
 2050 (3)(b)(i), the specified county may include an ongoing action taken by the specified  
 2051 county prior to the 12-month reporting period applicable to the subsequent progress  
 2052 report if the specified county:
- 2053 (i) has already adopted an ordinance, approved a land use application, made an  
 2054 investment, or approved an agreement or financing that substantially promotes the  
 2055 implementation of a moderate income housing strategy identified in the initial  
 2056 report; and
- 2057 (ii) demonstrates in the subsequent progress report that the action taken under  
 2058 Subsection (3)(c)(i) is relevant to making meaningful progress towards the  
 2059 specified county's implementation plan.
- 2060 (d) A specified county's report shall be in a form:
- 2061 (i) approved by the division; and
- 2062 (ii) made available by the division on or before May 1 of the year in which the report  
 2063 is required.
- 2064 (4) Within 90 days after the day on which the division receives a specified county's report,  
 2065 the division shall:
- 2066 (a) post the report on the division's website;
- 2067 (b) send a copy of the report to the Department of Transportation, the Governor's Office  
 2068 of Planning and Budget, the association of governments in which the specified  
 2069 county is located, and, if the unincorporated area of the specified county is located  
 2070 within the boundaries of a metropolitan planning organization, the appropriate

- 2071 metropolitan planning organization; and
- 2072 (c) subject to Subsection (5), review the report to determine compliance with this section.
- 2073 (5)(a) An initial report does not comply with this section unless the report:
- 2074 (i) includes the information required under Subsection (2)(c);
- 2075 (ii) subject to Subsection (5)(c), demonstrates to the division that the specified county
- 2076 made plans to implement three or more moderate income housing strategies; and
- 2077 (iii) is in a form approved by the division.
- 2078 (b) A subsequent progress report does not comply with this section unless the report:
- 2079 (i) subject to Subsection (5)(c), demonstrates to the division that the specified county
- 2080 made plans to implement three or more moderate income housing strategies;
- 2081 (ii) is in a form approved by the division; and
- 2082 (iii) provides sufficient information for the division to:
- 2083 (A) assess the specified county's progress in implementing the moderate income
- 2084 housing strategies;
- 2085 (B) monitor compliance with the specified county's implementation plan;
- 2086 (C) identify a clear correlation between the specified county's land use decisions
- 2087 and efforts to implement the moderate income housing strategies;
- 2088 (D) identify how the market has responded to the specified county's selected
- 2089 moderate income housing strategies; and
- 2090 (E) identify any barriers encountered by the specified county in implementing the
- 2091 selected moderate income housing strategies.
- 2092 (c)(i) This Subsection (5)(c) applies to a specified county that has created a small
- 2093 public transit district, as defined in Section 17B-2a-802, on or before January 1,
- 2094 2022.
- 2095 (ii) In addition to the requirements of Subsections (5)(a) and (b), a report for a
- 2096 specified county described in Subsection (5)(c)(i) does not comply with this
- 2097 section unless the report demonstrates to the division that the specified county:
- 2098 (A) made plans to implement the moderate income housing strategy described in
- 2099 Subsection 17-27a-403(2)(b)(ii)(Q); and
- 2100 (B) is in compliance with Subsection 63N-3-603(8).
- 2101 (6)(a) A specified county qualifies for priority consideration under this Subsection (6) if
- 2102 the specified county's report:
- 2103 (i) complies with this section; and
- 2104 (ii) demonstrates to the division that the specified county made plans to implement

- 2105 five or more moderate income housing strategies.
- 2106 (b) The Transportation Commission may, in accordance with Subsection 72-1-304(3)(c),  
 2107 give priority consideration to transportation projects located within the  
 2108 unincorporated areas of a specified county described in Subsection (6)(a) until the  
 2109 Department of Transportation receives notice from the division under Subsection  
 2110 (6)(e).
- 2111 (c) Upon determining that a specified county qualifies for priority consideration under  
 2112 this Subsection (6), the division shall send a notice of prioritization to the legislative  
 2113 body of the specified county and the Department of Transportation.
- 2114 (d) The notice described in Subsection (6)(c) shall:
- 2115 (i) name the specified county that qualifies for priority consideration;  
 2116 (ii) describe the funds or projects for which the specified county qualifies to receive  
 2117 priority consideration; and  
 2118 (iii) state the basis for the division's determination that the specified county qualifies  
 2119 for priority consideration.
- 2120 (e) The division shall notify the legislative body of a specified county and the  
 2121 Department of Transportation in writing if the division determines that the specified  
 2122 county no longer qualifies for priority consideration under this Subsection (6).
- 2123 (7)(a) If the division, after reviewing a specified county's report, determines that the  
 2124 report does not comply with this section, the division shall send a notice of  
 2125 noncompliance to the legislative body of the specified county.
- 2126 (b) A specified county that receives a notice of noncompliance may:
- 2127 (i) cure each deficiency in the report within 90 days after the day on which the notice  
 2128 of noncompliance is sent; or  
 2129 (ii) request an appeal of the division's determination of noncompliance within 10  
 2130 days after the day on which the notice of noncompliance is sent.
- 2131 (c) The notice described in Subsection (7)(a) shall:
- 2132 (i) describe each deficiency in the report and the actions needed to cure each  
 2133 deficiency;  
 2134 (ii) state that the specified county has an opportunity to:
- 2135 (A) submit to the division a corrected report that cures each deficiency in the  
 2136 report within 90 days after the day on which the notice of noncompliance is  
 2137 sent; or  
 2138 (B) submit to the division a request for an appeal of the division's determination of

- 2139 noncompliance within 10 days after the day on which the notice of  
2140 noncompliance is sent; and
- 2141 (iii) state that failure to take action under Subsection (7)(c)(ii) will result in the  
2142 specified county's ineligibility for funds and fees owed under Subsection (9).
- 2143 (d) For purposes of curing the deficiencies in a report under this Subsection (7), if the  
2144 action needed to cure the deficiency as described by the division requires the  
2145 specified county to make a legislative change, the specified county may cure the  
2146 deficiency by making that legislative change within the 90-day cure period.
- 2147 (e)(i) If a specified county submits to the division a corrected report in accordance  
2148 with Subsection (7)(b)(i), and the division determines that the corrected report  
2149 does not comply with this section, the division shall send a second notice of  
2150 noncompliance to the legislative body of the specified county.
- 2151 (ii) A specified county that receives a second notice of noncompliance may request  
2152 an appeal of the division's determination of noncompliance within 10 days after  
2153 the day on which the second notice of noncompliance is sent.
- 2154 (iii) The notice described in Subsection (7)(e)(i) shall:
- 2155 (A) state that the specified county has an opportunity to submit to the division a  
2156 request for an appeal of the division's determination of noncompliance within  
2157 10 days after the day on which the second notice of noncompliance is sent; and
- 2158 (B) state that failure to take action under Subsection (7)(e)(iii)(A) will result in the  
2159 specified county's ineligibility for funds under Subsection (9).
- 2160 (8)(a) A specified county that receives a notice of noncompliance under Subsection  
2161 (7)(a) or (7)(e)(i) may request an appeal of the division's determination of  
2162 noncompliance within 10 days after the day on which the notice of noncompliance is  
2163 sent.
- 2164 (b) Within 90 days after the day on which the division receives a request for an appeal,  
2165 an appeal board consisting of the following three members shall review and issue a  
2166 written decision on the appeal:
- 2167 (i) one individual appointed by the Utah Association of Counties;
- 2168 (ii) one individual appointed by the Utah Homebuilders Association; and
- 2169 (iii) one individual appointed by the presiding member of the association of  
2170 governments, established pursuant to an interlocal agreement under Title 11,  
2171 Chapter 13, Interlocal Cooperation Act, of which the specified county is a member.
- 2172 (c) The written decision of the appeal board shall either uphold or reverse the division's



- 2173 determination of noncompliance.
- 2174 (d) The appeal board's written decision on the appeal is final.
- 2175 (9)(a) A specified county is ineligible for funds and owes a fee under this Subsection (9)
- 2176 if:
- 2177 (i) the specified county fails to submit a report to the division;
- 2178 (ii) after submitting a report to the division, the division determines that the report
- 2179 does not comply with this section and the specified county fails to:
- 2180 (A) cure each deficiency in the report within 90 days after the day on which the
- 2181 notice of noncompliance is sent; or
- 2182 (B) request an appeal of the division's determination of noncompliance within 10
- 2183 days after the day on which the notice of noncompliance is sent;
- 2184 (iii) after submitting to the division a corrected report to cure the deficiencies in a
- 2185 previously submitted report, the division determines that the corrected report does
- 2186 not comply with this section and the specified county fails to request an appeal of
- 2187 the division's determination of noncompliance within 10 days after the day on
- 2188 which the second notice of noncompliance is sent; or
- 2189 (iv) after submitting a request for an appeal under Subsection (8), the appeal board
- 2190 issues a written decision upholding the division's determination of noncompliance.
- 2191 (b) The following apply to a specified county described in Subsection (9)(a) until the
- 2192 division provides notice under Subsection (9)(e):
- 2193 (i) the executive director of the Department of Transportation may not program funds
- 2194 from the Transportation Investment Fund of 2005, including the Transit
- 2195 Transportation Investment Fund, to projects located within the unincorporated
- 2196 areas of the specified county in accordance with Subsection 72-2-124(6);
- 2197 (ii) beginning with the report submitted in 2024, the specified county shall pay a fee
- 2198 to the Olene Walker Housing Loan Fund in the amount of \$250 per day that the
- 2199 specified county:
- 2200 (A) fails to submit the report to the division in accordance with this section,
- 2201 beginning the day after the day on which the report was due; or
- 2202 (B) fails to cure the deficiencies in the report, beginning the day after the day by
- 2203 which the cure was required to occur as described in the notice of
- 2204 noncompliance under Subsection (7); and
- 2205 (iii) beginning with the report submitted in 2025, the specified county shall pay a fee
- 2206 to the Olene Walker Housing Loan Fund in the amount of \$500 per day that the

- 2207 specified county, for a consecutive year:
- 2208 (A) fails to submit the report to the division in accordance with this section,
- 2209 beginning the day after the day on which the report was due; or
- 2210 (B) fails to cure the deficiencies in the report, beginning the day after the day by
- 2211 which the cure was required to occur as described in the notice of
- 2212 noncompliance under Subsection (7).
- 2213 (c) Upon determining that a specified county is ineligible for funds under this
- 2214 Subsection (9), and is required to pay a fee under Subsection (9)(b), if applicable, the
- 2215 division shall send a notice of ineligibility to the legislative body of the specified
- 2216 county, the Department of Transportation, the State Tax Commission, and the
- 2217 Governor's Office of Planning and Budget.
- 2218 (d) The notice described in Subsection (9)(c) shall:
- 2219 (i) name the specified county that is ineligible for funds;
- 2220 (ii) describe the funds for which the specified county is ineligible to receive;
- 2221 (iii) describe the fee the specified county is required to pay under Subsection (9)(b),
- 2222 if applicable; and
- 2223 (iv) state the basis for the division's determination that the specified county is
- 2224 ineligible for funds.
- 2225 (e) The division shall notify the legislative body of a specified county and the
- 2226 Department of Transportation in writing if the division determines that the provisions
- 2227 of this Subsection (9) no longer apply to the specified county.
- 2228 (f) The division may not determine that a specified county that is required to pay a fee
- 2229 under Subsection (9)(b) is in compliance with the reporting requirements of this
- 2230 section until the specified county pays all outstanding fees required under Subsection
- 2231 (9)(b) to the Olene Walker Housing Loan Fund, created under Title 35A, Chapter 8,
- 2232 Part 5, Olene Walker Housing Loan Fund.
- 2233 (10) In a civil action seeking enforcement or claiming a violation of this section or of
- 2234 Subsection 17-27a-404(5)(c), a plaintiff may not recover damages but may be awarded
- 2235 only injunctive or other equitable relief.
- 2236 Section 13. Section **17-27a-408.1** is enacted to read:
- 2237 **17-27a-408.1 . Affordable housing density.**
- 2238 (1) As used in this section:
- 2239 (a) "Affordable housing density" means the same as that term is defined in Section
- 2240 10-9a-408.1.

- 2241 (b) "Moderate income housing price point" means the same as that term is defined in  
 2242 Section 10-9a-408.1.
- 2243 (2) Beginning January 1, 2027, a specified county shall include the following information  
 2244 in the specified county's moderate income housing report:
- 2245 (a) whether the specified county has implemented a density overlay, as described in  
 2246 Section 17-27a-403.1;
- 2247 (b) the amount of undeveloped land within the specified county that could achieve  
 2248 affordable housing density, including:
- 2249 (i) information on housing units that are entitled or approved but not yet developed  
 2250 on the undeveloped land within the specified county, if applicable; and
- 2251 (ii) the barriers, if any, to achieving affordable housing density on the undeveloped  
 2252 land within the specified county;
- 2253 (c) the percentage of area zoned residential within the specified county that has achieved  
 2254 affordable housing density;
- 2255 (d) a five-year projection for the percentage of area zoned residential within the  
 2256 specified county that will achieve affordable housing density; and
- 2257 (e) data to support the conclusions described in Subsections (2)(c) and (d).
- 2258 Section 14. Section **17-27a-531** is amended to read:
- 2259 **17-27a-531 . Moderate income housing.**
- 2260 (1) A county may only require the development of a certain number of moderate income  
 2261 housing units as a condition of approval of a land use application if:
- 2262 (a) the county and the applicant enter into a written agreement regarding the number of  
 2263 moderate income housing units; ~~or~~
- 2264 (b) the county provides incentives for an applicant who agrees to include moderate  
 2265 income housing units in a development[-] ; or
- 2266 (c) the applicant seeks to develop in an unincorporated zone subject to a density overlay,  
 2267 as described in Section 17-27a-403.1.
- 2268 (2)(a) If an applicant does not agree to participate in the development of moderate  
 2269 income housing units under Subsection (1)(a) or (b), a county may not take into  
 2270 consideration the applicant's decision in the county's determination of whether to  
 2271 approve or deny a land use application.
- 2272 (b) If an applicant does not agree to participate in the development of moderate income  
 2273 housing units under Subsection (1)(c), a county may take into consideration the  
 2274 applicant's decision in the county's determination of whether to approve or deny a

2275 land use application.

2276 (3) Notwithstanding Subsections (1) and (2), a county of the third class, which has a ski  
2277 resort located within the unincorporated area of the county, may require the  
2278 development of a certain number of moderate income housing units as a condition of  
2279 approval of a land use application if the requirement is in accordance with an ordinance  
2280 enacted by the county before January 1, 2022.

2281 Section 15. Section **51-12-101** is amended to read:

2282 **51-12-101 . Definitions.**

2283 As used in this chapter:

2284 (1) "Attainable home" means a residence that costs the purchaser no more than the amount  
2285 a qualifying residential unit may be purchased in accordance with [~~Subsection~~  
2286 ~~63H-8-501(6)(e)~~] Section 63H-8-501 at the time the state treasurer deposits with a  
2287 qualified depository.

2288 (2) "Fund" means the Transportation Infrastructure General Fund Support Subfund created  
2289 in Section 72-2-134.

2290 (3) "Political subdivision" means:

2291 (a) the municipality in which the attainable home is located; or

2292 (b) the county, if the attainable home is located in an unincorporated portion of the  
2293 county.

2294 (4) "Qualified depository" means the same as that term is defined in Section 51-7-3.

2295 (5)(a) "Qualified project" means a new construction housing development project in the  
2296 state for which the developer:

2297 (i) commits to:

2298 (A) offering for sale no fewer than 60% of the total units within the project as  
2299 attainable homes;

2300 (B) including in the deed of sale for an attainable home a restriction, in favor of  
2301 the political subdivision, that the attainable home be owner occupied for no  
2302 fewer than five years; and

2303 (C) having a plan to provide information to potential buyers of attainable homes  
2304 about the First-Time Homebuyer Assistance Program created in Section  
2305 63H-8-502; and

2306 (ii) executes a valid agreement with the political subdivision to develop housing  
2307 meeting the requirements of Subsections (5)(a)(i)(A) and (B).

2308 (b) "Qualified project" includes infrastructure within the housing development project.

2309 Section 16. Section **63H-8-501** is amended to read:

2310 **63H-8-501 . Definitions.**

2311 As used in this part:

2312 (1) "Existing construction" means a residential unit that:

2313 (a) has been completed for over one year and was previously occupied; or

2314 (b) has been completed for less than one year and was previously occupied.

2315 [(4)] (2)(a) "First-time homebuyer" means an individual who satisfies:

2316 (i) the three-year requirement described in Section 143(d) of the Internal Revenue  
2317 Code of 1986, as amended, and any corresponding federal regulations; and

2318 (ii) requirements made by the corporation by rule, as described in Section 63H-8-502.

2319 (b) "First-time homebuyer" includes a single parent, as defined by the corporation by  
2320 rule made as described in Section 63H-8-502, who would meet the three-year

2321 requirement described in Subsection [(4)(a)(i)] (2)(a)(i) but for a present ownership  
2322 interest in a principal residence in which the single parent:

2323 (i) had a present ownership interest with the single parent's former spouse during the  
2324 three-year period;

2325 (ii) resided while married during the three-year period; and

2326 (iii) no longer:

2327 (A) has a present ownership interest; or

2328 (B) resides.

2329 [(2)] (3) "Home equity amount" means the difference between:

2330 (a)(i) in the case of a sale, the sales price for which the qualifying residential unit is  
2331 sold by the recipient in a bona fide sale to a third party with no right to repurchase

2332 less an amount up to 1% of the sales price used for seller-paid closing costs; or

2333 (ii) in the case of a refinance, the current appraised value of the qualifying residential  
2334 unit; and

2335 (b) the total payoff amount of any qualifying mortgage loan that was used to finance the  
2336 purchase of the qualifying residential unit.

2337 [(3)] (4) "Program" means the First-Time Homebuyer Assistance Program created in  
2338 Section 63H-8-502.

2339 [(4)] (5) "Program funds" means money appropriated for the program.

2340 [(5)] (6) "Qualifying mortgage loan" means a mortgage loan that:

2341 (a) is purchased and serviced by the corporation; [~~and~~] or

2342 (b) [~~is subject to a document that is recorded in the office of the county recorder of the~~]

- 2343 county in which the residential unit is located.] is originated, purchased, or serviced  
2344 by a private financial institution or sold to a government-sponsored enterprise, if:  
2345 (i) the loan conforms to the borrower's income, property eligibility, and credit  
2346 standards;  
2347 (ii) the loan is secured by a recorded deed of trust or other instrument securing a  
2348 mortgage loan and constituting a lien on real property in the county in which the  
2349 home is located; and  
2350 (iii) the loan is an amortizing first mortgage loan.
- 2351 ~~[(6)]~~ (7) "Qualifying residential unit" means a residential unit that:  
2352 (a) is located in the state;  
2353 (b)(i) is new construction or newly constructed but not yet inhabited; or  
2354 (ii) is existing construction;  
2355 (c) is financed by a qualifying mortgage loan;  
2356 (d) is owner-occupied within 60 days of purchase, or in the case of a two-unit dwelling,  
2357 at least one unit is owner-occupied within 60 days of purchase; and  
2358 (e) is purchased for an amount that does not exceed:  
2359 (i) \$450,000; or  
2360 (ii) if applicable, the maximum purchase price established by the corporation under [  
2361 Subsection 63H-8-502(6)] Section 63H-8-502.
- 2362 ~~[(7)]~~ (8) "Recipient" means a first-time homebuyer who receives program funds.
- 2363 ~~[(8)]~~ (9)(a) "Residential unit" means a house, condominium, townhome, or similar  
2364 residential structure that serves as a one-unit dwelling or forms part of a two-unit  
2365 dwelling.  
2366 (b) "Residential unit" includes a manufactured home or modular home that is attached to  
2367 a permanent foundation.
- 2368 (10)(a) "Subordinate shared appreciation mortgage loan" means a mortgage loan for  
2369 which a borrower gives the borrower's mortgage lender a share of the appreciation  
2370 interest in the residential unit in exchange for a lower interest rate on the qualified  
2371 mortgage loan upon the sale of the qualified residential unit.  
2372 (b) "Subordinate shared appreciation mortgage loan" includes a mortgage loan that:  
2373 (i) has flexible repayment terms in accordance with applicable state and federal laws;  
2374 (ii) is non-interest bearing and has no set monthly payment obligation;  
2375 (iii) does not have a combined loan-to-value that exceeds 100%;  
2376 (iv) does not impose a prepayment fee or penalty; and

- 2377           (v) is subordinate to a first mortgage loan.
- 2378           Section 17. Section **63H-8-502** is amended to read:
- 2379           **63H-8-502 . First-Time Homebuyer Assistance Program.**
- 2380       (1) There is created the First-Time Homebuyer Assistance Program administered by the  
2381           corporation.
- 2382       (2) Subject to appropriations from the Legislature, the corporation shall distribute program  
2383           funds to:
- 2384           (a) first-time homebuyers to provide support for the purchase of qualifying residential  
2385               units; and
- 2386           (b) reimburse the corporation for a distribution of funds under Subsection (2)(a) that  
2387               took place on or after July 1, 2023.
- 2388       (3) The maximum amount of program funds that a first-time homebuyer may receive under  
2389           the program is \$20,000.
- 2390       (4)(a) A recipient may use program funds to pay for:
- 2391               (i) the down payment on a qualifying residential unit;
- 2392               (ii) closing costs associated with the purchase of a qualifying residential unit;
- 2393               (iii) a permanent reduction in the advertised par interest rate on a qualifying mortgage  
2394                   loan that is used to finance a qualifying residential unit; or
- 2395               (iv) any combination of Subsections (4)(a)(i), (ii), and (iii).
- 2396       (b) The corporation shall direct the disbursement of program funds for a purpose  
2397           authorized in Subsection (4)(a).
- 2398       (c) A recipient may not receive a payout or distribution of program funds upon closing.
- 2399       (5) The builder or developer of a qualifying residential unit may not increase the price of  
2400           the qualifying residential unit on the basis of program funds being used towards the  
2401           purchase of that qualifying residential unit.
- 2402       (6)(a) In accordance with rules made by the corporation under Subsection (9), the  
2403           corporation may adjust the maximum purchase price of a qualifying residential unit  
2404           for which a first-time homebuyer qualifies to receive program funds in order to  
2405           reflect current market conditions.
- 2406       (b) In connection with an adjustment made under Subsection (6)(a), the corporation may  
2407           establish one or more maximum purchase prices corresponding by residential unit  
2408           type, geographic location, or any other factor the corporation considers relevant.
- 2409       (c) The corporation may adjust a maximum purchase price under this Subsection (6) no  
2410           more frequently than once each calendar year.

- 2411 (7)(a) Except as provided in Subsection (7)(b), if the recipient sells the qualifying  
 2412 residential unit or refinances the qualifying mortgage loan that was used to finance  
 2413 the purchase of the qualifying residential unit before the end of the original term of  
 2414 the qualifying mortgage loan, the recipient shall repay to the corporation an amount  
 2415 equal to the lesser of:
- 2416 (i) the amount of program funds the recipient received; or
  - 2417 (ii) 50% of the recipient's home equity amount.
- 2418 (b) Subsection (7)(a) does not apply to a qualifying mortgage loan that is refinanced  
 2419 with a new qualifying mortgage loan if any subordinate qualifying mortgage loan, or  
 2420 loan from program funds used on the purchase of the qualifying residential unit, is  
 2421 resubordinated only to the new qualifying mortgage loan.
- 2422 (8) Any funds repaid to the corporation under Subsection (7) shall be used for program  
 2423 distributions.
- 2424 (9) The corporation shall make rules~~[governing the application form, process, and criteria~~  
 2425 ~~the corporation will use to distribute program funds to first-time homebuyers]~~, in  
 2426 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. that:
- 2427 (a) govern the application form, process, and criteria the corporation will use to  
 2428 distribute program funds to a first-time homebuyer; and
  - 2429 (b) govern the procedures, qualifications, and program requirements to evaluate and  
 2430 approve a participating private financial institution that offers qualifying mortgage  
 2431 loans and subordinate shared appreciation mortgage loans for a first-time home  
 2432 buyer, including ensuring that:
    - 2433 (i) the borrower's repayment obligation does not exceed the amount borrowed plus a  
 2434 pro rata share of the qualifying property's home price appreciation; and
    - 2435 (ii) the amount borrowed does not exceed the loan-to-value ratio based upon the  
 2436 appraised value of the qualifying residential unit at origination.
- 2437 (10)(a) A recipient may use the funds received from a subordinate shared appreciation  
 2438 mortgage loan for the same purposes described in Subsection (4).
- 2439 (b) A subordinate shared appreciation loan may not exceed, including costs and fees,  
 2440 \$150,000.
- 2441 ~~[(10)]~~ (11) The corporation may use up to 5% of program funds for administration.
- 2442 ~~[(11)]~~ (12) The corporation shall report annually to the Social Services Appropriations  
 2443 Subcommittee on disbursements from the program and any adjustments made to the  
 2444 maximum purchase price or maximum purchase prices of a qualifying residential unit



2445 under Subsection (6).

2446 Section 18. **Effective Date.**

2447 This bill takes effect on May 7, 2025.