

Chapter 3 Economic Development

Part 1 Economic Development Project Area Plan

17C-3-101.1 Title.

This chapter is known as "Economic Development."

Enacted by Chapter 350, 2016 General Session

17C-3-101.2 Applicability of chapter.

This chapter applies to an economic development project area that is effective:

- (1) before May 10, 2016; or
- (2) before September 1, 2016, if an agency adopted a resolution in accordance with Section 17C-3-101.5 before April 1, 2016.

Enacted by Chapter 350, 2016 General Session

17C-3-101.5 Resolution authorizing the preparation of a proposed economic development project area plan -- Request to adopt resolution.

- (1) A board may begin the process of adopting an economic development project area plan by adopting a resolution that authorizes the preparation of a proposed project area plan.
- (2)
 - (a) Any person or any group, association, corporation, or other entity may submit a written request to the board to adopt a resolution under Subsection (1).
 - (b) A request under Subsection (2)(a) may include plans showing the project area development proposed for an area within the agency's boundaries.
 - (c) The board may, in the board's sole discretion, grant or deny a request under Subsection (2)(a).

Renumbered and Amended by Chapter 350, 2016 General Session

17C-3-102 Process for adopting an economic development project area plan -- Prerequisites -- Restrictions.

- (1) In order to adopt an economic development project area plan, after adopting a resolution under Subsection 17C-3-101.5(1) the agency shall:
 - (a) prepare a proposed economic development project area plan and conduct any examination, investigation, and negotiation regarding the project area plan that the agency considers appropriate;
 - (b) make the proposed project area plan available to the public at the agency's offices during normal business hours;
 - (c) provide notice of the plan hearing as provided in Chapter 1, Part 8, Hearing and Notice Requirements;
 - (d) hold a public hearing on the proposed project area plan and, at that public hearing:
 - (i) allow public comment on:
 - (A) the proposed project area plan; and

- (B) whether the proposed project area plan should be revised, approved, or rejected; and
 - (ii) receive all written and hear all oral objections to the proposed project area plan;
 - (e) before holding the plan hearing, provide an opportunity for the State Board of Education and each taxing entity within the proposed project area to consult with the agency regarding the proposed project area plan;
 - (f) after holding the plan hearing, at the same meeting or at a subsequent meeting consider:
 - (i) the oral and written objections to the proposed project area plan and evidence and testimony for or against adoption of the proposed project area plan; and
 - (ii) whether to revise, approve, or reject the proposed project area plan;
 - (g) approve the proposed project area plan, with or without revisions, as the project area plan by a resolution that complies with Section 17C-3-105; and
 - (h) submit the project area plan to the community legislative body for adoption.
- (2) An agency may not propose a project area plan under Subsection (1) unless the community in which the proposed project area is located:
- (a) has a planning commission; and
 - (b) has adopted a general plan under:
 - (i) if the community is a municipality, Title 10, Chapter 9a, Part 4, General Plan; or
 - (ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.
- (3) A board may not approve a project area plan more than one year after the date of the plan hearing.
- (4)
- (a) Except as provided in Subsection (4)(b), a proposed project area plan may not be modified to add one or more parcels to the proposed project area unless the board holds a plan hearing to consider the addition and gives notice of the plan hearing as required under Chapter 1, Part 8, Hearing and Notice Requirements.
 - (b) The notice and hearing requirements under Subsection (4)(a) do not apply to a proposed project area plan being modified to add one or more parcels to the proposed project area if:
 - (i) the parcel is contiguous to the parcels already included in the proposed project area under the proposed project area plan; and
 - (ii) the record owner of the property consents to adding the parcel to the proposed project area.

Amended by Chapter 350, 2016 General Session

17C-3-103 Economic development project area plan requirements.

- (1) Each economic development project area plan and proposed project area plan shall:
- (a) describe the boundaries of the project area, subject to Section 17C-1-414, if applicable;
 - (b) contain a general statement of the land uses, layout of principal streets, population densities, and building intensities of the project area and how they will be affected by the project area development;
 - (c) state the standards that will guide the project area development;
 - (d) show how the purposes of this title will be attained by the project area development;
 - (e) be consistent with the general plan of the community in which the project area is located and show that the project area development will conform to the community's general plan;
 - (f) describe how the project area development will create additional jobs;
 - (g) describe any specific project or projects that are the object of the proposed project area development;
 - (h) identify how a participant will be selected to undertake the project area development and identify each participant currently involved in the project area development;

- (i) state the reasons for the selection of the project area;
 - (j) describe the physical, social, and economic conditions existing in the project area;
 - (k) describe any tax incentives offered private entities for facilities located in the project area;
 - (l) include an analysis, as provided in Subsection (2), of whether adoption of the project area plan is beneficial under a benefit analysis;
 - (m) if any of the existing buildings or uses in the project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, state that the agency shall comply with Subsection 9-8-404(1) as though the agency were a state agency; and
 - (n) include other information that the agency determines to be necessary or advisable.
- (2) Each analysis under Subsection (1)(l) shall consider:
- (a) the benefit of any financial assistance or other public subsidy proposed to be provided by the agency, including:
 - (i) an evaluation of the reasonableness of the costs of project area development;
 - (ii) efforts the agency or participant has made or will make to maximize private investment;
 - (iii) the rationale for use of tax increment, including an analysis of whether the proposed project area development might reasonably be expected to occur in the foreseeable future solely through private investment; and
 - (iv) an estimate of the total amount of tax increment that will be expended in undertaking project area development and the length of time for which it will be expended; and
 - (b) the anticipated public benefit to be derived from the project area development, including:
 - (i) the beneficial influences upon the tax base of the community;
 - (ii) the associated business and economic activity likely to be stimulated; and
 - (iii) the number of jobs or employment anticipated to be generated or preserved.

Amended by Chapter 350, 2016 General Session

17C-3-104 Existing and historic buildings and uses in an economic development project area.

If any of the existing buildings or uses in an economic development project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, the agency shall comply with Subsection 9-8-404(1) as though the agency were a state agency.

Enacted by Chapter 359, 2006 General Session

17C-3-105 Board resolution approving an economic development project area plan -- Requirements.

Each board resolution approving a proposed economic development project area plan as the project area plan under Subsection 17C-3-102(1)(g) shall contain:

- (1) a boundary description of the boundaries of the project area that is the subject of the project area plan;
- (2) the agency's purposes and intent with respect to the project area;
- (3) the project area plan incorporated by reference; and
- (4) the board findings and determinations that:
 - (a) there is a need to effectuate a public purpose;
 - (b) there is a public benefit under the analysis described in Subsection 17C-3-103(2);
 - (c) it is economically sound and feasible to adopt and carry out the project area plan;
 - (d) the project area plan conforms to the community's general plan; and

- (e) carrying out the project area plan will promote the public peace, health, safety, and welfare of the community in which the project area is located.

Amended by Chapter 350, 2016 General Session

17C-3-106 Economic development project area plan to be adopted by community legislative body.

- (1) An economic development project area plan approved by board resolution under Subsection 17C-3-102(1)(g) may not take effect until it has been adopted by ordinance of the legislative body of the community that created the agency and notice under Section 17C-3-107 is provided.
- (2) Each ordinance under Subsection (1) shall:
 - (a) be adopted by the community legislative body after the board's approval of a resolution under Subsection 17C-3-102(1)(g); and
 - (b) designate the approved project area plan as the official economic development plan of the project area.

Enacted by Chapter 359, 2006 General Session

17C-3-107 Notice of economic development project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

- (1)
 - (a) Upon the community legislative body's adoption of an economic development project area plan, or an amendment to the project area plan under Section 17C-3-109 that requires notice, the legislative body shall provide notice as provided in Subsection (1)(b) by:
 - (i) publishing or causing to be published a notice:
 - (A) in a newspaper of general circulation within the agency's boundaries; or
 - (B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and
 - (ii) on the Utah Public Notice Website described in Section 63F-1-701.
 - (b) Each notice under Subsection (1)(a) shall:
 - (i) set forth the community legislative body's ordinance adopting the project area plan or a summary of the ordinance; and
 - (ii) include a statement that the project area plan is available for public inspection and the hours for inspection.
- (2) The project area plan shall become effective on the date of:
 - (a) if notice was published under Subsection (1)(a), publication of the notice; or
 - (b) if notice was posted under Subsection (1)(a), posting of the notice.
- (3)
 - (a) For a period of 30 days after the effective date of the project area plan under Subsection (2), any person may contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.
 - (b) After the 30-day period under Subsection (3)(a) expires, a person may not contest the project area plan or procedure used to adopt the project area plan for any cause.
- (4) Upon adoption of the economic development project area plan by the community legislative body, the agency may implement the project area plan.
- (5) Each agency shall make the economic development project area plan available to the general public at the agency's office during normal business hours.

Amended by Chapter 350, 2016 General Session

17C-3-108 Agency required to transmit and record documents after adoption of economic development project area plan.

Within 30 days after the community legislative body adopts, under Section 17C-3-106, an economic development project area plan, the agency shall:

- (1) record with the recorder of the county in which the economic development project area is located a document containing:
 - (a) a description of the land within the project area;
 - (b) a statement that the project area plan for the project area has been adopted; and
 - (c) the date of adoption;
- (2) transmit a copy of the description of the land within the project area and an accurate map or plat indicating the boundaries of the project area to the Automated Geographic Reference Center created under Section 63F-1-506; and
- (3) for a project area plan that provides for the agency to receive tax increment, transmit a copy of the description of the land within the project area, a copy of the community legislative body ordinance adopting the project area plan, and a map or plat indicating the boundaries of the project area to:
 - (a) the auditor, recorder, attorney, surveyor, and assessor of each county in which any part of the project area is located;
 - (b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;
 - (c) the legislative body or governing board of each taxing entity;
 - (d) the State Tax Commission; and
 - (e) the State Board of Education.

Amended by Chapter 350, 2016 General Session

17C-3-109 Amending an economic development project area plan.

- (1) An economic development project area plan may be amended as provided in this section.
- (2) If an agency proposes to amend an economic development project area plan to enlarge the project area:
 - (a) the requirements under this part that apply to adopting a project area plan apply equally to the proposed amendment as if it were a proposed project area plan;
 - (b) the base year for the new area added to the project area shall be determined under Subsection 17C-1-102(9)(a)(ii) using the date of the taxing entity committee's consent referred to in Subsection (2)(c); and
 - (c) the agency shall obtain the consent of the taxing entity committee before the agency may collect tax increment from the area added to the project area by the amendment.
- (3) If a proposed amendment does not propose to enlarge an economic development project area, a board may adopt a resolution approving an amendment to an economic development project area plan after:
 - (a) the agency gives notice, as provided in Chapter 1, Part 8, Hearing and Notice Requirements, of the proposed amendment and of the public hearing required by Subsection (3)(b);
 - (b) the board holds a public hearing on the proposed amendment that meets the requirements of a plan hearing;

- (c) the agency obtains the taxing entity committee's consent to the amendment, if the amendment proposes:
 - (i) to enlarge the area within the project area from which tax increment is received; or
 - (ii) to permit the agency to receive a greater percentage of tax increment or to extend the project area funds collection period under the economic development project area plan; and
 - (d) the agency obtains the consent of the legislative body or governing board of each taxing entity affected, if the amendment proposes to permit the agency to receive, from less than all taxing entities, a greater percentage of tax increment or to extend the project area funds collection period, or both, than allowed under the economic development project area plan.
- (4)
- (a) An economic development project area plan may be amended without complying with the notice and public hearing requirements of Subsections (2)(a) and (3)(a) and (b) and without obtaining taxing entity committee approval under Subsection (3)(c) if the amendment:
 - (i) makes a minor adjustment in the boundary description of a project area boundary requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or
 - (ii) subject to Subsection (4)(b), removes a parcel from a project area because the agency determines that the parcel is:
 - (A) tax exempt; or
 - (B) no longer necessary or desirable to the project area.
 - (b) An amendment removing a parcel from a project area under Subsection (4)(a) may be made without the consent of the record property owner of the parcel being removed.
- (5)
- (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of the community in which the project area that is the subject of the project area plan being amended is located.
 - (b) Upon a community legislative body passing an ordinance adopting an amendment to a project area plan, the agency whose project area plan was amended shall comply with the requirements of Sections 17C-3-107 and 17C-3-108 to the same extent as if the amendment were a project area plan.
- (6)
- (a) Within 30 days after the day on which an amendment to a project area plan becomes effective, a person may contest the amendment to the project area plan or the procedure used to adopt the amendment to the project area plan if the amendment or procedure fails to comply with a provision of this title.
 - (b) After the 30-day period described in Subsection (6)(a) expires, a person may not contest the amendment to the project area plan or procedure used to adopt the amendment to the project area plan for any cause.

Amended by Chapter 350, 2016 General Session

Part 2

Economic Development Project Area Budget

17C-3-201 Economic development project area budget -- Requirements for adopting -- Contesting the budget or procedure -- Time limit.

(1)

- (a) If an agency anticipates funding all or a portion of a post-June 30, 1993 economic development project area plan with tax increment, the agency shall, subject to Section 17C-3-202, adopt a project area budget as provided in this part.
 - (b) An economic development project area budget adopted on or after March 30, 2009 shall specify:
 - (i) for a project area budget adopted on or after March 30, 2009:
 - (A) the project area funds collection period; and
 - (B) the percentage of tax increment the agency is authorized to receive from the project area under the project area budget; and
 - (ii) for a project area budget adopted on or after March 30, 2013, unless approval is obtained under Subsection 17C-1-402(4)(b)(vi)(C), the maximum cumulative dollar amount of tax increment that the agency may receive from the project area under the project area budget.
- (2) To adopt an economic development project area budget, the agency shall:
- (a) prepare a proposed economic development project area budget;
 - (b) make a copy of the proposed project area budget available to the public at the agency's offices during normal business hours;
 - (c) provide notice of the budget hearing as required by Chapter 1, Part 8, Hearing and Notice Requirements;
 - (d) hold a public hearing on the proposed project area budget and, at that public hearing, allow public comment on:
 - (i) the proposed project area budget; and
 - (ii) whether the proposed project area budget should be revised, adopted, or rejected;
 - (e)
 - (i) if required under Subsection 17C-3-203(1), obtain the approval of the taxing entity committee on the proposed project area budget or a revised version of the proposed project area budget; or
 - (ii) if applicable, comply with the requirements of Subsection 17C-3-203(2);
 - (f) if approval of the taxing entity committee is required under Subsection (2)(e)(i), obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and
 - (g) after the budget hearing, hold a board meeting in the same meeting as the public hearing or in a subsequent meeting to:
 - (i) consider comments made and information presented at the public hearing relating to the proposed project area budget; and
 - (ii) adopt by resolution the proposed project area budget, with any revisions, as the project area budget.
- (3)
- (a) For a period of 30 days after the agency's adoption of the project area budget under Subsection (2)(g), any person may contest the project area budget or the procedure used to adopt the project area budget if the budget or procedure fails to comply with applicable statutory requirements.
 - (b) After the 30-day period under Subsection (3)(a) expires, a person may not contest:
 - (i) the project area budget or procedure used by either the taxing entity committee or the agency to approve and adopt the project area budget;
 - (ii) a distribution of tax increment to the agency under the project area budget; or
 - (iii) the agency's use of tax increment under the project area budget.

Amended by Chapter 350, 2016 General Session

17C-3-202 Part of tax increment funds in an economic development project area budget to be used for housing -- Waiver of requirement.

- (1) This section applies only to an economic development project area budget adopted on or after May 1, 2000, but before March 30, 2009.
- (2)
 - (a) Except as provided in Subsection (2)(b), each economic development project area budget adopted on or after May 1, 2000 but before March 30, 2009 that provides for more than \$100,000 of annual tax increment to be paid to the agency shall allocate at least 20% of the tax increment for housing as provided in Section 17C-1-412.
 - (b) The 20% requirement of Subsection (2)(a) may be waived:
 - (i) in part or whole by the mutual consent of the loan fund board and the taxing entity committee if they determine that 20% of tax increment is more than is needed to address the community's need for income targeted housing; or
 - (ii) in fifth and sixth class counties, by the taxing entity committee for economic development project area budgets adopted on or after May 1, 2002 but before March 30, 2009, if the economic development project area consists of an area without housing units.
- (3) An economic development project area budget not required under Subsection (2)(a) to allocate tax increment for housing may allocate 20% of tax increment payable to the agency over the life of the project area for housing as provided in Section 17C-1-412 if the project area budget is under a project area plan that is adopted on or after July 1, 1998.

Amended by Chapter 387, 2009 General Session

17C-3-203 Consent of taxing entity committee required for economic development project area budget -- Exception.

- (1)
 - (a) Except as provided in Subsection (1)(b) and subject to Subsection (2), each agency shall obtain the consent of the taxing entity committee for each economic development project area budget under a post-June 30, 1993 economic development project area plan before the agency may collect any tax increment from the project area.
 - (b) For an economic development project area budget adopted from July 1, 1998 through May 1, 2000 that allocates 20% or more of the tax increment for housing as provided in Section 17C-1-412, an agency:
 - (i) need not obtain the consent of the taxing entity committee for the project area budget; and
 - (ii) may not receive any tax increment from all or part of the project area until after:
 - (A) the loan fund board has certified the project area budget as complying with the requirements of Section 17C-1-412; and
 - (B) the board has approved and adopted the project area budget by a two-thirds vote.
- (2)
 - (a) Before a taxing entity committee may consent to an economic development project area budget adopted on or after May 1, 2000 that allocates 20% of tax increment for housing under Subsection 17C-3-202(2)(a) or (3), the agency shall:
 - (i) adopt a housing plan showing the uses for the housing funds; and
 - (ii) provide a copy of the housing plan to the taxing entity committee and the loan fund board.
 - (b) If an agency amends a housing plan prepared under Subsection (2)(a), the agency shall provide a copy of the amendment to the taxing entity committee and the loan fund board.

Amended by Chapter 350, 2016 General Session

17C-3-204 Filing a copy of the economic development project area budget.

Each agency adopting an economic development project area budget shall:

- (1) within 30 days after adopting the project area budget, file a copy of the project area budget with the auditor of the county in which the project area is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity affected by the agency's collection of tax increment under the project area budget; and
- (2) if the project area budget allocates tax increment for housing under Section 17C-1-412, file a copy of the project area budget with the loan fund board.

Enacted by Chapter 359, 2006 General Session

17C-3-205 Amending an economic development project area budget.

- (1) An agency may by resolution amend an economic development project area budget as provided in this section.
- (2) To amend an adopted economic development project area budget, the agency shall:
 - (a) advertise and hold one public hearing on the proposed amendment as provided in Subsection (3);
 - (b) if approval of the taxing entity committee was required for adoption of the original project area budget, obtain the approval of the taxing entity committee to the same extent that the agency was required to obtain the consent of the taxing entity committee for the project area budget as originally adopted;
 - (c) if approval of the taxing entity committee is required under Subsection (2)(b), obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and
 - (d) adopt a resolution amending the project area budget.
- (3) The public hearing required under Subsection (2)(a) shall be conducted according to the procedures and requirements of Section 17C-3-201, except that if the amended project area budget proposes that the agency be paid a greater proportion of tax increment from a project area than was to be paid under the previous project area budget, the notice shall state the percentage paid under the previous project area budget and the percentage proposed under the amended project area budget.
- (4) If the removal of a parcel under Subsection 17C-3-109(4)(a)(ii) reduces the base taxable value of the project area, an agency may amend the project area budget to conform with the new base taxable value without:
 - (a) complying with Subsections (2)(a) and (3); and
 - (b) if applicable, obtaining taxing entity committee approval described in Subsection (2)(b).
- (5) If a proposed amendment is not adopted, the agency shall continue to operate under the previously adopted economic development project area budget without the proposed amendment.
- (6)
 - (a) A person may contest the agency's adoption of a budget amendment within 30 days after the day on which the agency adopts the amendment.
 - (b) A person who fails to contest a budget amendment under Subsection (6)(a):
 - (i) forfeits any claim against an agency's adoption of the amendment; and
 - (ii) may not contest:

- (A) a distribution of tax increment to the agency under the budget amendment; or
- (B) an agency's use of a tax increment under a budget amendment.

Amended by Chapter 350, 2016 General Session

17C-3-206 Extending collection of tax increment under an economic development project area budget.

- (1) An amendment or extension approved by a taxing entity or taxing entity committee before May 10, 2011, is not subject to this section.
- (2)
 - (a) An agency's collection of tax increment under an adopted economic development project area budget may be extended by:
 - (i) following the project area budget amendment procedures outlined in Section 17C-3-205; or
 - (ii) following the procedures outlined in this section.
 - (b) The base taxable value for an urban renewal project area budget may not be altered as a result of an extension under this section unless otherwise expressly provided for in an interlocal agreement adopted in accordance with Subsection (3)(a).
- (3) To extend under this section the agency's collection of tax increment from a taxing entity under a previously approved project area budget, the agency shall:
 - (a) obtain the approval of the taxing entity through an interlocal agreement;
 - (b)
 - (i) hold a public hearing on the proposed extension in accordance with Subsection 17C-2-201(2)(d) in the same manner as required for a proposed project area budget; and
 - (ii) provide notice of the hearing:
 - (A) as required by Chapter 1, Part 8, Hearing and Notice Requirements; and
 - (B) including the proposed period of extension of the project area budget; and
 - (c) after obtaining the approval of the taxing entity in accordance with Subsection (3)(a), at or after the public hearing, adopt a resolution approving the extension.
- (4) After the expiration of a project area budget, an agency may continue to receive tax increment from those taxing entities that have agreed to an extension through an interlocal agreement in accordance with Subsection (3)(a).
- (5)
 - (a) A person may contest the agency's adoption of a budget extension within 30 days after the day on which the agency adopts the resolution providing for the extension.
 - (b) A person who fails to contest a budget extension under Subsection (5)(a):
 - (i) shall forfeit any claim against the agency's adoption of the extension; and
 - (ii) may not contest:
 - (A) a distribution of tax increment to the agency under the budget, as extended; or
 - (B) an agency's use of tax increment under the budget, as extended.

Amended by Chapter 350, 2016 General Session