

## Chapter 4 Community Development

### Part 1 Community Development Project Area Plan

#### **17C-4-101.1 Title.**

This chapter is known as "Community Development."

Enacted by Chapter 350, 2016 General Session

#### **17C-4-101.2 Applicability of chapter.**

This chapter applies to a community 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-4-101.5 before April 1, 2016.

Enacted by Chapter 350, 2016 General Session

#### **17C-4-101.5 Resolution authorizing the preparation of a community development proposed project area plan -- Request to adopt resolution.**

- (1) A board may begin the process of adopting a community development project area plan by adopting a resolution that authorizes the preparation of a proposed community development 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-4-102 Process for adopting a community development project area plan -- Prerequisites -- Restrictions.**

- (1) In order to adopt a community development project area plan, after adopting a resolution under Subsection 17C-4-101.5(1) the agency shall:
  - (a) prepare a proposed community 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 described 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) after holding the plan hearing, at the same meeting or at one or more subsequent meetings 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;
- (f) approve the proposed project area plan, with or without revisions, as the project area plan by a resolution that complies with Section 17C-4-104; and
- (g) submit the project area plan to the community legislative body for adoption.
- (2) An agency may not propose a community development 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) Except as provided in Subsection (3)(b), a proposed project area plan may not be modified to add a parcel 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 (3)(a) do not apply to a proposed project area plan being modified to add a parcel to the proposed project area if:
    - (i) the parcel is contiguous to one or more 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-4-103 Community development project area plan requirements.**

Each community development project area plan and proposed project area plan shall:

- (1) describe the boundaries of the project area, subject to Section 17C-1-414, if applicable;
- (2) 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 community development;
- (3) state the standards that will guide the project area development;
- (4) show how the purposes of this title will be attained by the project area development;
- (5) 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;
- (6) describe any specific project or projects that are the object of the proposed project area development;
- (7) identify how a participant will be selected to undertake the project area development and identify each participant currently involved in the project area development;
- (8) state the reasons for the selection of the project area;
- (9) describe the physical, social, and economic conditions existing in the project area;
- (10) describe any tax incentives offered private entities for facilities located in the project area;

- (11) include an analysis or description of the anticipated public benefit to be derived from the project area development, including:
  - (a) the beneficial influences upon the tax base of the community; and
  - (b) the associated business and economic activity likely to be stimulated; and
- (12) include other information that the agency determines to be necessary or advisable.

Amended by Chapter 350, 2016 General Session

**17C-4-104 Board resolution approving a community development project area plan -- Requirements.**

Each board resolution approving a proposed community development project area plan as the project area plan under Subsection 17C-4-102(1)(f) 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 adoption of the community development project area plan will:
  - (a) satisfy a public purpose;
  - (b) provide a public benefit as shown by the analysis described in Subsection 17C-4-103(11);
  - (c) be economically sound and feasible;
  - (d) conform to the community's general plan; and
  - (e) 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-4-105 Community development plan to be adopted by community legislative body.**

- (1) A community development project area plan approved by board resolution under Section 17C-4-104 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-4-106 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 Section 17C-4-104; and
  - (b) designate the approved project area plan as the official community development plan of the project area.

Enacted by Chapter 359, 2006 General Session

**17C-4-106 Notice of community 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 a community development project area plan, the community legislative body shall provide notice as provided in Subsection (1)(b) by:
    - (i)
      - (A) publishing or causing to be published a notice 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) publishing or causing to be published in accordance with Section 45-1-101.
- (b) Each notice under Subsection (1)(a) shall:
  - (i) set forth the community legislative body's ordinance adopting the community development project area plan or a summary of the ordinance; and
  - (ii) include a statement that the project area plan is available for general public inspection and the hours for inspection.
- (2) The community development 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 community development 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 community development project area plan or procedure used to adopt the project area plan for any cause.
- (4) Upon adoption of the community development project area plan by the community legislative body, the agency may carry out the project area plan.
- (5) Each agency shall make the adopted project area plan available to the public at the agency's office during normal business hours.

Amended by Chapter 350, 2016 General Session

**17C-4-107 Agency required to transmit and record documents after adoption of community development project area plan.**

Within 30 days after the community legislative body adopts, under Section 17C-4-105, a community development project area plan, the agency shall:

- (1) record with the recorder of the county in which the 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-4-108 Amending a community development project area plan.**

- (1) Except as provided in Subsection (2) and Section 17C-4-109, the requirements under this part that apply to adopting a community development project area plan apply equally to a proposed amendment of a community development project area plan as though the amendment were a proposed project area plan.
- (2)
  - (a) Notwithstanding Subsection (1), a community development project area plan may be amended without complying with the requirements of Chapter 1, Part 8, Hearing and Notice Requirements, if the proposed 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 (2)(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 community development project area under Subsection (2)(a)(ii) may be made without the consent of the record property owner of the parcel being removed.
- (3)
  - (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 community development project area plan, the agency whose project area plan was amended shall comply with the requirements of Sections 17C-4-106 and 17C-4-107 to the same extent as if the amendment were a project area plan.
- (4)
  - (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 (4)(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

**17C-4-109 Expedited community development project area plan.**

- (1) As used in this section, "tax increment incentive" means the portion of tax increment awarded to an industry or business.
- (2) A community development project area plan may be adopted or amended without complying with the notice and public hearing requirements of this part and Chapter 1, Part 8, Hearing and Notice Requirements, if the following requirements are met:

- (a) the agency determines by resolution adopted in an open and public meeting the need to create or amend a project area plan on an expedited basis, which resolution shall include a description of why expedited action is needed;
  - (b) a public hearing on the amendment or adoption of the project area plan is held by the agency;
  - (c) notice of the public hearing is published at least 14 days before the public hearing on:
    - (i) the website of the community that created the agency; and
    - (ii) the Utah Public Notice Website created in Section 63F-1-701;
  - (d) written consent to the amendment or adoption of the project area plan is given by all record property owners within the existing or proposed project area;
  - (e) each taxing entity that will be affected by the tax increment incentive enters into or amends an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, and Sections 17C-4-201, 17C-4-203, and 17C-4-204;
  - (f) the primary market for the goods or services that will be created by the industry or business entity that will receive a tax increment incentive from the amendment or adoption of the project area plan is outside of the state;
  - (g) the industry or business entity that will receive a tax increment incentive from the amendment or adoption of the project area plan is not primarily engaged in retail trade; and
  - (h) a tax increment incentive is only provided to an industry or business entity:
    - (i) on a postperformance basis as described in Subsection (3); and
    - (ii) on an annual basis after the tax increment is received by the agency.
- (3) An industry or business entity may only receive a tax increment incentive under this section after entering into an agreement with the agency that sets postperformance targets that shall be met before the industry or business entity may receive the tax increment incentive, including annual targets for:
- (a) capital investment in the project area;
  - (b) the increase in the taxable value of the project area;
  - (c) the number of new jobs created in the project area;
  - (d) the average wages of the jobs created, which shall be at least 110% of the prevailing wage of the county where the project area is located; and
  - (e) the amount of local vendor opportunity generated by the industry or business entity.

Amended by Chapter 350, 2016 General Session

## **Part 2**

### **Funds for Community Development Project from Other Entities**

#### **17C-4-201 Consent of a taxing entity to an agency receiving tax increment or sales tax funds for community development project.**

- (1) An agency may negotiate with a taxing entity for the taxing entity's consent to the agency receiving the taxing entity's project area funds for the purpose of providing money to carry out a proposed or adopted community development project area plan.
- (2) The consent of a taxing entity under Subsection (1) may be expressed in:
  - (a) a resolution adopted by the taxing entity; or
  - (b) an interlocal agreement, under Title 11, Chapter 13, Interlocal Cooperation Act, between the taxing entity and the agency.

- (3) Before an agency may use project area funds received under a resolution or interlocal agreement adopted for the purpose of providing money to implement a proposed or adopted community development project area plan, the agency shall:
  - (a) obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the agency and the taxing entity have each followed all legal requirements relating to the adoption of the resolution or interlocal agreement, respectively; and
  - (b) provide a signed copy of the certification described in Subsection (3)(a) to the appropriate taxing entity.
- (4) A resolution adopted or interlocal agreement entered under Subsection (2) on or after March 30, 2009 shall specify:
  - (a) if the resolution or interlocal agreement provides for the agency to be paid tax increment:
    - (i) the method of calculating the amount of the taxing entity's tax increment from the project area that will be paid to the agency, including the agreed base year and agreed base taxable value;
    - (ii) the project area funds collection period; and
    - (iii) the percentage of the taxing entity's tax increment or maximum cumulative dollar amount of the taxing entity's tax increment that the agency will be paid; and
  - (b) if the resolution or interlocal agreement provides for the agency to be paid a taxing entity's sales and use tax revenue:
    - (i) the method of calculating the amount of the taxing entity's sales and use tax revenue that the agency will be paid;
    - (ii) the project area funds collection period; and
    - (iii) the percentage of sales and use tax revenue or the maximum cumulative dollar amount of sales and use tax revenue that the agency will be paid.
- (5)
  - (a) Unless the taxing entity otherwise agrees, an agency may not be paid a taxing entity's tax increment:
    - (i) that exceeds the percentage or maximum cumulative dollar amount of tax increment specified in the resolution or interlocal agreement under Subsection (2); or
    - (ii) for more tax years than specified in the resolution or interlocal agreement under Subsection (2).
  - (b) Unless the taxing entity otherwise agrees, an agency may not be paid a taxing entity's sales and use tax revenue:
    - (i) that exceeds the percentage or maximum cumulative dollar amount of sales and use tax revenue specified in the resolution or interlocal agreement under Subsection (2); or
    - (ii) for more tax years than specified in the resolution or interlocal agreement under Subsection (2).
- (6) A school district may consent to an agency receiving tax increment from the school district's basic levy only to the extent that the school district also consents to the agency receiving tax increment from the school district's local levy.
- (7)
  - (a) A resolution or interlocal agreement under this section may be amended from time to time.
  - (b) Each amendment of a resolution or interlocal agreement shall be subject to and receive the benefits of the provisions of this part to the same extent as if the amendment were an original resolution or interlocal agreement.
- (8) A taxing entity's consent to an agency receiving funds under this section is not subject to the requirements of Section 10-8-2.
- (9)

- (a) For purposes of this Subsection (9), "successor taxing entity" means any taxing entity that:
  - (i) is created after the date of adoption of a resolution or execution of an interlocal agreement under this section; and
  - (ii) levies a tax on any parcel of property located within the project area that is the subject of the resolution or the interlocal agreement described in Subsection (9)(a)(i).
- (b) A resolution or interlocal agreement executed by a taxing entity under this section may be enforced by or against any successor taxing entity.

Amended by Chapter 350, 2016 General Session

**17C-4-202 Resolution or interlocal agreement to provide project area funds for the community development project area plan -- Notice -- Effective date of resolution or interlocal agreement -- Time to contest resolution or interlocal agreement -- Availability of resolution or interlocal agreement.**

- (1) The approval and adoption of each resolution or interlocal agreement under Subsection 17C-4-201(2) shall be in an open and public meeting.
- (2)
  - (a) Upon the adoption of a resolution or interlocal agreement under Section 17C-4-201, the agency shall provide notice as provided in Subsection (2)(b) by:
    - (i)
      - (A) publishing or causing to be published a notice 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) publishing or causing to be published a notice on the Utah Public Notice Website created in Section 63F-1-701.
  - (b) Each notice under Subsection (2)(a) shall:
    - (i) set forth a summary of the resolution or interlocal agreement; and
    - (ii) include a statement that the resolution or interlocal agreement is available for public inspection and the hours of inspection.
- (3) The resolution or interlocal agreement shall become effective on the date of:
  - (a) if notice was published under Subsection (2)(a)(i)(A) or (2)(a)(ii), publication of the notice; or
  - (b) if notice was posted under Subsection (2)(a)(i)(B), posting of the notice.
- (4)
  - (a) For a period of 30 days after the effective date of the resolution or interlocal agreement under Subsection (3), any person may contest the resolution or interlocal agreement or the procedure used to adopt the resolution or interlocal agreement if the resolution or interlocal agreement or procedure fails to comply with applicable statutory requirements.
  - (b) After the 30-day period under Subsection (4)(a) expires, a person may not contest:
    - (i) the resolution or interlocal agreement;
    - (ii) a distribution of tax increment to the agency under the resolution or interlocal agreement; or
    - (iii) the agency's use of project area funds under the resolution or interlocal agreement.
- (5) Each agency that is to receive project area funds under a resolution or interlocal agreement under Section 17C-4-201 and each taxing entity that approves a resolution or enters into an interlocal agreement under Section 17C-4-201 shall make the resolution or interlocal agreement, as the case may be, available at the taxing entity's offices to the public for inspection and copying during normal business hours.

Amended by Chapter 350, 2016 General Session

**17C-4-203 Requirement to file a copy of the resolution or interlocal agreement -- County payment of tax increment to the agency.**

- (1) Each agency that is to receive funds under a resolution or interlocal agreement under Section 17C-4-201 shall, within 30 days after the effective date of the resolution or interlocal agreement, file a copy of it with:
  - (a) the State Tax Commission, the State Board of Education, and the state auditor; and
  - (b) the auditor of the county in which the project area is located, if the resolution or interlocal agreement provides for the agency to receive tax increment from the taxing entity that adopted the resolution or entered into the interlocal agreement.
- (2) Each county that collects property tax on property within a community development project area shall, in the manner and at the time provided in Section 59-2-1365, pay and distribute to the agency the tax increment that the agency is authorized to receive under a resolution approved or an interlocal agreement adopted under Section 17C-4-201.

Amended by Chapter 350, 2016 General Session

**17C-4-204 Adoption of a budget for a community development project area plan -- Amendment.**

- (1) An agency may prepare and, by resolution adopted at a regular or special meeting of the board, adopt a community development project area budget setting forth:
  - (a) the anticipated costs, including administrative costs, of implementing the community development project area plan; and
  - (b) the tax increment, sales and use tax revenue, and other revenue the agency anticipates receiving to fund the project.
- (2) An agency may, by resolution adopted at a regular or special meeting of the board, amend a budget adopted under Subsection (1).
- (3) Each resolution to adopt or amend a budget under this section shall appear as an item on the agenda for the regular or special board meeting at which the resolution is adopted without additional required notice.
- (4) An agency is not required to obtain taxing entity or taxing entity committee approval to adopt or amend a community development project area budget.

Amended by Chapter 350, 2016 General Session