

**Effective 5/1/2024**

**Part 16**  
**First Home Investment Zone Act**

**63N-3-1601 Definitions.**

- (1) "Affordable housing" means:
  - (a) for homes that are not owner occupied, housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the applicable municipal statistical area for households of the same size; or
  - (b) for homes that are owner occupied, housing that is priced at 80% of the county median home price.
- (2) "Agency" means the same as that term is defined in Section 17C-1-102.
- (3) "Base taxable value" means the same as that term is defined in Section 63N-3-602.
- (4) "Base year" means the same as that term is defined in Section 63N-3-602.
- (5) "Developable area" means the same as that term is defined in Section 63N-3-602.
- (6) " Dwelling unit" means the same as that term is defined in Section 63N-3-602.
- (7) "Extraterritorial home" means a dwelling unit that is included as part of the first home investment zone proposal that:
  - (a) is located within the municipality proposing the first home investment zone but outside the boundary of the first home investment zone;
  - (b) is part of a development with a density of at least six units per acre;
  - (c) is not located within an existing housing and transit reinvestment zone or an area that could be included in a housing and transit reinvestment zone;
  - (d) has not been issued a building permit by the municipality as of the date of the approval of the first home investment zone; and
  - (e) is required to be owner occupied for no less than 25 years.
- (8) "First home investment zone" means a first home investment zone created in accordance with this part.
- (9) "Home" means a dwelling unit.
- (10) "Housing and transit reinvestment zone" means the same as that term is defined in Section 63N-3-602.
- (11) "Housing and transit reinvestment zone committee" means the housing and transit reinvestment zone committee described in Section 63N-3-605.
- (12) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.
- (13) "Mixed use development" means the same as that term is defined in Section 63N-3-603.
- (14) "Moderate income housing plan" means the same as that term is defined in Section 11-41-102.
- (15) "Municipality" means the same as that term is defined in Section 10-1-104.
- (16) "Owner occupied" means private real property that is:
  - (a) used for a single-family residential purpose; and
  - (b) required to be occupied by the owner of the real property for no less than 25 years.
- (17) "Project area" means the same as that term is defined in Section 17C-1-102.
- (18)
  - (a) "Project improvements" means site improvements and facilities that are:
    - (i) planned and designed to provide service for development resulting from a development activity;

- (ii) necessary for the use and convenience of the occupants or users of development resulting from a development activity; and
- (iii) not identified or reimbursed as a system improvement.
- (b) "Project improvements" does not mean system improvements.
- (19) "State Tax Commission" means the State Tax Commission created in Section 59-1-201.
- (20)
  - (a) "System improvements" means existing and future public facilities that are designed to provide services to service areas within the community at large.
  - (b) "System improvements" does not mean project improvements.
- (21)
  - (a) "Tax increment" means the difference between:
    - (i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a first home investment zone designated in the first home investment zone proposal as the area from which tax increment is to be collected, using the current assessed value and each taxing entity's current certified tax rate as defined in Section 59-2-924; and
    - (ii) the amount of property tax revenue that would be generated from that same area using the base taxable value and each taxing entity's current certified tax rate as defined in Section 59-2-924.
  - (b) "Tax increment" does not include property tax revenue from:
    - (i) a multicounty assessing and collecting levy described in Subsection 59-2-1602(2); or
    - (ii) a county additional property tax described in Subsection 59-2-1602(4).
- (22) "Taxing entity" means the same as that term is defined in Section 17C-1-102.
- (23) "Unencumbered annual community reinvestment agency revenue" means tax increment revenue received by the agency for purposes identified in Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, that:
  - (a) have not been designated or restricted for future qualified uses as approved by the agency board related to a specific project area; and
  - (b) do not have a date certain by which the tax increment revenues will be used.

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**63N-3-1602 Applicability, requirements, and limitations on a first home investment zone.**

- (1) A first home investment zone created pursuant to this part shall promote the following objectives:
  - (a) encouraging efficient development and opportunities for home ownership by providing a variety of housing options, including affordable housing and for sale, owner-occupied housing;
  - (b) improving availability of housing options;
  - (c) overcoming development impediments and market conditions that render a development cost prohibitive absent the proposal and incentives;
  - (d) conserving water resources through efficient land use;
  - (e) improving air quality by reducing fuel consumption and motor vehicle trips;
  - (f) encouraging transformative mixed-use development;
  - (g) strategic land use and municipal planning in major transit investment corridors as described in Subsection 10-9a-403(2);
  - (h) increasing access to employment and educational opportunities;
  - (i) increasing access to child care; and
  - (j) improving efficiencies in parking and transportation, including walkability of communities, street and path interconnectivity within the proposed development and connections to

surrounding communities, and access to roadways, public transportation, and active transportation.

- (2) In order to accomplish the objectives described in Subsection (1), a municipality or county that initiates the process to create a first home investment zone as described in this part shall ensure that the proposal for a first home investment zone includes:
  - (a) subject to Subsection (3), a minimum of 30 housing units per acre in at least 51% of the developable area within the first home investment zone;
  - (b) a mixed use development;
  - (c) a requirement that at least 25% of homes within the first home investment zone remain owner occupied for at least 25 years from the date of original purchase;
  - (d) for homes inside the first home investment zone, a requirement that at least 12% of the owner occupied homes and 12% of the homes that are not owner occupied are affordable housing; and
  - (e) a requirement that at least 20% of the extraterritorial homes are affordable housing.
- (3)
  - (a) Subject to Subsection (3)(b), to satisfy the requirements described in Subsection (2)(a), a first home investment zone may include an extraterritorial home to count toward the required density of the first home investment zone by:
    - (i)
      - (A) taking the total number of extraterritorial homes related to the first home investment zone; and
      - (B) adding the total number under Subsection (3)(a)(i)(A) to the number of homes within the first home investment zone; and
    - (ii) dividing the total described in Subsection (3)(a)(i) by the total number of developable acres with the first home investment zone.
  - (b) Extraterritorial homes may account for no more than half of the total homes to calculate density within a first home investment zone.
- (4)
  - (a) If a municipality proposes a first home investment zone, the proposal shall comply with the limitations described in this Subsection (4).
  - (b) A first home investment zone may not be less than 10 acres and no more than 100 acres in size.
  - (c)
    - (i) Except as provided in Subsection (4)(c)(ii), a first home investment zone is required to be one contiguous area.
    - (ii) While considering a first home investment zone proposal as described in Section 63N-3-1605, the housing and transit reinvestment zone committee may consider and approve a first home investment zone that is not one contiguous area if:
      - (A) the municipality provides evidence in the proposal showing that the deviation from the contiguity requirement will enhance the ability of the first home investment zone to achieve the objectives described in Subsection (1); and
      - (B) the housing and transit reinvestment zone committee determines that the deviation is reasonable and circumstances justify deviation from the contiguity requirement.
    - (iii) The first home investment zone area contiguity is not affected by roads or other rights-of-way.
  - (d)
    - (i) A first home investment zone proposal may propose the capture of a maximum of 60% of each taxing entity's tax increment above the base year for a term of no more than 25

- consecutive years within a 45-year period not to exceed the tax increment amount approved in the first home investment zone proposal.
- (ii) A first home investment zone proposal may not propose or include triggering more than three tax increment collection periods during the applicable 25-year period.
  - (iii) Subject to Subsection (4)(d)(iv), a municipality shall ensure that the required affordable housing units are included proportionally in each phase of the first home investment zone development.
  - (iv) A municipality may allow a first home investment zone to be phased and developed in a manner to provide more of the required affordable housing units in early phases of development.
- (e) If a municipality proposes a first home investment zone, commencement of the collection of tax increment, for all or a portion of the first home investment zone, is triggered by providing notice as described in Subsection (5).
- (f) A municipality may restrict homes within a first home investment zone and related extraterritorial homes from being used as a short-term rental.
- (g) A municipality shall ensure that affordable housing within a first home investment zone and related extraterritorial homes that are reserved as affordable housing are spread throughout the overall development.
- (h) A municipality shall ensure that at least 80% of extraterritorial homes included in a first home investment zone proposal are single-family detached homes.
- (i) A municipality shall include in a first home investment zone proposal:
- (i) an affordable housing plan, which may include deed restrictions, to ensure the affordable housing required in the proposal will continue to meet the definition of affordable housing at least throughout the entire term of the first home investment zone; and
  - (ii) an owner occupancy plan, which may include deed restrictions, to ensure the owner occupancy requirements in the proposal will continue to meet the definition of owner occupancy at least throughout the entire term of the first home investment zone.
- (j) A municipality shall include in the first home investment zone proposal evidence to demonstrate how the first home investment zone proposal complies with the municipality's moderate income housing plan and general plan.
- (5) Notice of commencement of collection of tax increment shall be sent by mail or electronically to the following entities no later than January 1 of the year for which the tax increment collection is proposed to commence:
- (a) the State Tax Commission;
  - (b) the State Board of Education;
  - (c) the state auditor;
  - (d) the auditor of the county in which the first home investment zone is located;
  - (e) each taxing entity affected by the collection of tax increment from the first home investment zone;
  - (f) the assessor of the county in which the first home investment zone is located; and
  - (g) the Governor's Office of Economic Opportunity.
- (6) A first home investment zone proposal may not include a proposal to capture sales and use tax increment.
- (7) A municipality may not propose a first home investment zone in a county of the first class if the limitation described in Subsection 63N-3-603(7)(c) has been reached.
- (8) A municipality may not propose a first home investment zone in a location that is eligible for a housing and transit reinvestment zone.

- (9) A municipality may not propose a first home investment zone if the municipality's community reinvestment agency, based on the most recent annual comprehensive financial report, retains cash and cash equivalent assets of more than 20% of ongoing and unencumbered annual community reinvestment agency revenue.

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**63N-3-1603 Process for a proposal of a first home investment zone.**

- (1) Subject to approval of the housing and transit reinvestment zone committee as described in Section 63N-3-1604, in order to create a first home investment zone, a municipality that has general land use authority over the first home investment zone area, shall:
- (a) prepare a proposal for the first home investment zone that:
    - (i) demonstrates that the proposed first home investment zone will meet the objectives described in Subsection 63N-3-1502(1);
    - (ii) explains how the municipality will achieve the requirements of Subsection 63N-3-1502(2);
    - (iii) defines the specific infrastructure needs, if any, and proposed improvements;
    - (iv) demonstrates how the first home investment zone will ensure:
      - (A) sufficient pedestrian access to schools and other areas of community; and
      - (B) inclusion of child care facilities and access;
    - (v) defines the boundaries of the first home investment zone;
    - (vi) includes maps of the proposed first home investment zone to illustrate:
      - (A) proposed housing density within the first home investment zone;
      - (B) extraterritorial homes relevant to the first home investment zone, including density of the development of extraterritorial homes; and
      - (C) existing zoning and proposed zoning changes related to the first home investment zone;
    - (vii) identifies any development impediments that prevent the development from being a market-rate investment and proposed strategies for addressing each one;
    - (viii) describes the proposed development plan, including the requirements described in Subsections 63N-3-1502(2) and (4);
    - (ix) establishes the collection period or periods to calculate the tax increment;
    - (x) describes projected maximum revenues generated and the amount of tax increment capture from each taxing entity and proposed expenditures of revenue derived from the first home investment zone;
    - (xi) includes an analysis of other applicable or eligible incentives, grants, or sources of revenue that can be used to reduce the finance gap;
    - (xii) proposes a finance schedule to align expected revenue with required financing costs and payments;
    - (xiii) evaluates possible benefits to active transportation, public transportation availability and utilization, street connectivity, and air quality; and
    - (xiv) provides a pro forma for the planned development that:
      - (A) satisfies the requirements described in Subsections 63N-3-1502(2) and (4); and
      - (B) includes data showing the cost difference between what type of development could feasibly be developed absent the first home investment zone tax increment and the type of development that is proposed to be developed with the first home investment zone tax increment;
  - (b) submit the proposal to the relevant school district to discuss the requirements of the proposal and whether the proposal provides the benefits and achieves the objectives described in this part; and

- (c) submit the first home investment zone proposal to the Governor's Office of Economic Opportunity.
- (2) As part of the proposal described in Subsection (1), a municipality shall:
- (a) study and evaluate possible impacts of a proposed first home investment zone on parking and efficient use of land within the municipality and first home investment zone; and
  - (b) include in the first home investment zone proposal the findings of the study described in Subsection (2)(a) and proposed strategies to efficiently address parking impacts.
- (3)
- (a) After receiving the proposal as described in Subsection (1)(c), the Governor's Office of Economic Opportunity shall:
    - (i) within 14 days after the date on which the Governor's Office of Economic Opportunity receives the proposal described in Subsection (1)(c), provide notice of the proposal to all affected taxing entities, including the State Tax Commission, cities, counties, school districts, metropolitan planning organizations, and the county assessor and county auditor of the county in which the first home investment zone is located; and
    - (ii) at the expense of the proposing municipality as described in Subsection (5), contract with an independent entity to:
      - (A) perform the gap analysis described in Subsection (3)(b); and
      - (B) perform an analysis of the pro-forma described in Subsection (1)(a)(xiv)(B) and the feasibility of the proposed development absent the tax increment.
  - (b) The gap and pro-forma analysis required in Subsection (3)(a)(ii) shall include:
    - (i) a description of the planned development;
    - (ii) a market analysis relative to other comparable project developments included in or adjacent to the municipality absent the proposed first home investment zone;
    - (iii) an evaluation of the proposal and a determination of the adequacy and efficiency of the proposal;
    - (iv) an evaluation of the proposed tax increment capture needed to cover the system improvements and project improvements associated with the first home investment zone proposal and enable the proposed development to occur, and for the benefit of affordable housing projects; and
    - (v) based on the market analysis and other findings, an opinion relative to the appropriate amount of potential public financing reasonably determined to be necessary to achieve the objectives described in Subsection 63N-3-1502(1).
  - (c) After receiving notice from the Governor's Office of Economic Opportunity of a proposed first home investment zone as described in Subsection (3)(a)(i), the municipality, in consultation with the county assessor and the State Tax Commission, shall:
    - (i) evaluate the feasibility of administering the tax implications of the proposal; and
    - (ii) provide a letter to the Governor's Office of Economic Opportunity describing any challenges in the administration of the proposal, or indicating that the county assessor can feasibly administer the proposal.
- (4) After receiving the results from the analysis described in Subsection (3)(b), the municipality proposing the first home investment zone may:
- (a) amend the first home investment zone proposal based on the findings of the analysis described in Subsection (3)(b) and request that the Governor's Office of Economic Opportunity submit the amended first home investment zone proposal to the housing and transit reinvestment zone committee; or
  - (b) request that the Governor's Office of Economic Opportunity submit the original first home investment zone proposal to the housing and transit reinvestment zone committee.

- (5)
  - (a) The Governor's Office of Economic Opportunity may accept, as a dedicated credit, up to \$20,000 from a municipality for the costs of the gap analysis described in Subsection (3)(b).
  - (b) The Governor's Office of Economic Opportunity may expend funds received from a municipality as dedicated credits to pay for the costs associated with the gap analysis described in Subsection (3)(b).

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**63N-3-1604 Consideration of proposals by housing and transit reinvestment zone committee.**

- (1) A first home investment zone proposed under this part is subject to approval by the housing and transit reinvestment zone committee.
- (2) After the Governor's Office of Economic Opportunity receives the results of the analysis described in Section 63N-3-1603, and after the Governor's Office of Economic Opportunity has received a request from the submitting municipality to submit the first home investment zone proposal to the housing and transit reinvestment zone committee, the Governor's Office of Economic Opportunity shall notify each of the relevant entities of the formation of the housing and transit reinvestment zone committee as described in Section 63N-3-605.
- (3)
  - (a) The chair of the housing and transit reinvestment zone committee shall convene a public meeting to consider the proposed first home investment zone in the same manner as described in Section 63N-3-605.
  - (b) A meeting of the housing and transit reinvestment zone committee is subject to Title 52, Chapter 4, Open and Public Meetings Act.
- (4)
  - (a) The proposing municipality shall present the first home investment zone proposal to the housing and transit reinvestment zone committee in a public meeting.
  - (b) The housing and transit reinvestment zone committee shall:
    - (i) evaluate and verify whether the objectives and elements of a first home investment zone described in Subsections 63N-3-1502(1), (2), and (4) have been met; and
    - (ii) evaluate the proposed first home investment zone relative to the analysis described in Subsection 63N-3-1603(2).
- (5)
  - (a) Subject to Subsection (5)(b), the housing and transit reinvestment zone committee may:
    - (i) request changes to the first home investment zone proposal based on the analysis, characteristics, and criteria described in Section 63N-3-1603; or
    - (ii) vote to approve or deny the proposal.
  - (b) Before the housing and transit reinvestment zone committee may approve the first home investment zone proposal, the municipality proposing the first home investment zone shall ensure that the area of the proposed first home investment zone is zoned in such a manner to accommodate the requirements of a first home investment zone described in this section and the proposed development.
- (6) If a first home investment zone is approved by the committee:
  - (a) the proposed first home investment zone is established according to the terms of the first home investment zone proposal;
  - (b) affected local taxing entities are required to participate according to the terms of the first home investment zone proposal; and

- (c) each affected taxing entity is required to participate at the same rate.
- (7) A first home investment zone proposal may be amended by following the same procedure as approving a first home investment zone proposal.

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**63N-3-1605 Notice requirements.**

- (1) In approving a first home investment zone proposal, the housing and transit reinvestment zone committee shall follow the hearing and notice requirements for proposing a first home investment zone as described in this section.
- (2) Within 30 days after the housing and transit reinvestment zone committee approves a proposed first home investment zone, the municipality shall:
  - (a) record with the recorder of the county in which the first home investment zone is located a document containing:
    - (i) a description of the land within the first home investment zone;
    - (ii) a statement that the proposed first home investment zone has been approved; and
    - (iii) the date of adoption;
  - (b) transmit a copy of the description of the land within the first home investment zone and an accurate map or plat indicating the boundaries of the first home investment zone to the Utah Geospatial Resource Center created under Section 63A-16-505; and
  - (c) transmit a copy of the approved first home investment zone proposal, map, and description of the land within the first home investment zone, to:
    - (i) the auditor, recorder, attorney, surveyor, and assessor of the county in which any part of the first home investment zone is located;
    - (ii) 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;
    - (iii) the legislative body or governing board of each taxing entity;
    - (iv) the State Tax Commission; and
    - (v) the State Board of Education.

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**63N-3-1606 Payment, use, and administration of tax increment from a first home investment zone.**

- (1) A municipality may receive and use tax increment and first home investment zone funds in accordance with this part.
- (2)
  - (a) A county that collects property tax on property located within a first home investment zone shall, in accordance with Section 59-2-1365, distribute to the municipality any tax increment the municipality is authorized to receive up to the maximum approved by the housing and transit reinvestment zone committee.
  - (b)
    - (i) Except as provided in Subsection (2)(b)(ii), tax increment paid to the municipality are first home investment zone funds and shall be administered by the municipality within which the first home investment zone is located.

- (ii) A municipality may contract with an agency, county, or a housing authority to administer tax increment and the first home investment zone, ensure compliance with first home investment zone requirements, and administer deed restrictions.
- (iii) Before an agency may receive first home investment zone funds from the municipality, the municipality and the agency shall enter into an interlocal agreement with terms that:
  - (A) are consistent with the approval of the housing and transit reinvestment zone committee; and
  - (B) meet the requirements of Section 63N-3-1502.
- (3)
  - (a) A municipality and the agency shall use first home investment zone funds for the benefit of the first home investment zone and related extraterritorial housing.
  - (b) If any first home investment zone funds will be used outside of the first home investment zone there must be a finding in the approved proposal for a first home investment zone that the use of the first home investment zone funds outside of the first home investment zone will directly benefit the first home investment zone or related extraterritorial homes.
- (4) In accordance with Subsection 63N-3-1502(4)(e), a municipality shall use the first home investment zone funds to achieve the purposes described in Subsections 63N-3-1502(1) and (2), by paying all or part of the costs associated with the first home investment zone and extraterritorial homes, including:
  - (a) project improvements;
  - (b) system improvements; and
  - (c) the costs of the municipality to create and administer the first home investment zone, which may not exceed 2% of the total first home investment zone funds, plus the costs to complete the gap analysis described in Subsection 63N-3-1603(2).
- (5) First home investment zone funds may be paid to a participant, if the agency and participant enter into a participation agreement which requires the participant to utilize the first home investment zone funds as allowed in this section.
- (6) First home investment zone funds may be used to pay all of the costs of bonds issued by the municipality in accordance with Title 17C, Chapter 1, Part 5, Agency Bonds, including the cost to issue and repay the bonds including interest.
- (7) A municipality may create one or more public infrastructure districts within the city under Title 17D, Chapter 4, Public Infrastructure District Act, and pledge and utilize the first home investment zone funds to guarantee the payment of public infrastructure bonds issued by a public infrastructure district.

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**63N-3-1607 Applicability to an existing first home investment zone or community reinvestment project.**

If a parcel within a first home investment zone is included as an area that is part of a project area, as that term is defined in Section 17C-1-102, and created under Title 17C, Chapter 1, Agency Operations, that parcel may not be triggered for collection unless the project area funds collection period, as that term is defined in Section 17C-1-102, has expired.

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**63N-3-1608 Tax increment protections.**

- (1) Upon petition by a participating taxing entity or on the initiative of the housing and transit reinvestment zone committee creating a first home investment zone, a first home investment zone may suspend or terminate the collection of tax increment in a first home investment zone if the housing and transit reinvestment zone committee determines, by clear and convincing evidence, presented in a public meeting of the housing and transit reinvestment zone committee, that:
  - (a) a substantial portion of the tax increment collected in the first home investment zone has not or will not be used for the purposes provided in Section 63N-3-1606; and
  - (b)
    - (i) the first home investment zone has no indebtedness; or
    - (ii) the first home investment zone has no binding financial obligations.
- (2) A first home investment zone may not collect tax increment in excess of the tax increment projections or limitations set forth in the first home investment zone proposal.
- (3) The agency administering the tax increment collected in a first home investment zone under Subsection 63N-3-1606(2), shall have standing in a court with proper jurisdiction to enforce provisions of the first home investment zone proposal, participation agreements, and other agreements for the use of the tax increment collected.
- (4) The agency administering tax increment from a first home investment zone under Subsection 63N-3-1606(2) shall follow the reporting requirements described in Section 17C-1-603 and the audit requirements described in Sections 17C-1-604 and 17C-1-605.
- (5) For each first home investment zone collecting tax increment within a county, the county auditor shall follow the reporting requirement found in Section 17C-1-606.

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**63N-3-1609 Boundary adjustments.**

If the relevant county assessor or county auditor adjusts parcel boundaries relevant to a first home investment zone, the municipality administering the tax increment collected in the first home investment zone may make corresponding adjustments to the boundary of the first home investment zone.

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