

MODERATE INCOME HOUSING AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Logan Wilde

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Municipal Land Use, Development, and Management Act and the County Land Use, Development, and Management Act relating to moderate income housing.

Highlighted Provisions:

This bill:

- ▶ requires that the general plan of a county or municipality, other than a town, allow and plan for moderate income housing growth;
- ▶ relocates code provisions that prohibit damages in a civil action claiming that a county or municipality is in violation of the requirement to adopt a plan to provide a realistic opportunity to meet the need for additional moderate income housing;
- ▶ limits the circumstances under which a county or municipality may deny a land use application for moderate income housing;
- ▶ repeals provisions requiring a biennial review of the moderate income housing element of a general plan; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **10-9a-401**, as renumbered and amended by Laws of Utah 2005, Chapter 254

31 **10-9a-403**, as last amended by Laws of Utah 2012, Chapter 212

32 **10-9a-404**, as renumbered and amended by Laws of Utah 2005, Chapter 254

33 **10-9a-509**, as last amended by Laws of Utah 2017, Chapters 84, 410, and 428

34 **17-27a-401**, as last amended by Laws of Utah 2016, Chapter 265

35 **17-27a-403**, as last amended by Laws of Utah 2016, Chapter 265

36 **17-27a-404**, as last amended by Laws of Utah 2016, Chapter 265

37 **17-27a-508**, as last amended by Laws of Utah 2017, Chapters 84, 410, and 428

38 **35A-8-804**, as last amended by Laws of Utah 2014, Chapter 371

39 REPEALS:

40 **10-9a-408**, as last amended by Laws of Utah 2012, Chapter 212

41 **17-27a-408**, as last amended by Laws of Utah 2012, Chapter 212



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

44 Section 1. Section **10-9a-401** is amended to read:

45 **10-9a-401. General plan required -- Content.**

46 (1) In order to accomplish the purposes of this chapter, each municipality shall prepare
47 and adopt a comprehensive, long-range general plan for:

- 48 (a) present and future needs of the municipality; and
- 49 (b) growth and development of all or any part of the land within the municipality.

50 (2) The general plan may provide for:

51 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic
52 activities, aesthetics, and recreational, educational, and cultural opportunities;

53 (b) the reduction of the waste of physical, financial, or human resources that result
54 from either excessive congestion or excessive scattering of population;

55 (c) the efficient and economical use, conservation, and production of the supply of:

- 56 (i) food and water; and
- 57 (ii) drainage, sanitary, and other facilities and resources;

58 (d) the use of energy conservation and solar and renewable energy resources;

- 59 (e) the protection of urban development;
- 60 (f) if the municipality is a town, the protection or promotion of moderate income
- 61 housing;
- 62 (g) the protection and promotion of air quality;
- 63 (h) historic preservation;
- 64 (i) identifying future uses of land that are likely to require an expansion or significant
- 65 modification of services or facilities provided by each affected entity; and
- 66 (j) an official map.

67 (3) (a) The general plan of a municipality, other than a town, shall allow and plan for

68 moderate income housing growth.

69 (b) On or before July 1, 2018, a municipality, other than a town, with a general plan

70 that does not comply with Subsection (3)(a) shall amend the general plan to comply with

71 Subsection (3)(a).

72 [~~(3)~~] (4) Subject to Subsection 10-9a-403(2), the municipality may determine the

73 comprehensiveness, extent, and format of the general plan.

74 Section 2. Section 10-9a-403 is amended to read:

75 **10-9a-403. General plan preparation.**

76 (1) (a) The planning commission shall provide notice, as provided in Section

77 10-9a-203, of its intent to make a recommendation to the municipal legislative body for a

78 general plan or a comprehensive general plan amendment when the planning commission

79 initiates the process of preparing its recommendation.

80 (b) The planning commission shall make and recommend to the legislative body a

81 proposed general plan for the area within the municipality.

82 (c) The plan may include areas outside the boundaries of the municipality if, in the

83 planning commission's judgment, those areas are related to the planning of the municipality's

84 territory.

85 (d) Except as otherwise provided by law or with respect to a municipality's power of

86 eminent domain, when the plan of a municipality involves territory outside the boundaries of

87 the municipality, the municipality may not take action affecting that territory without the

88 concurrence of the county or other municipalities affected.

89 (2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts,

90 and descriptive and explanatory matter, shall include the planning commission's
91 recommendations for the following plan elements:

92 (i) a land use element that:

93 (A) designates the long-term goals and the proposed extent, general distribution, and
94 location of land for housing, business, industry, agriculture, recreation, education, public
95 buildings and grounds, open space, and other categories of public and private uses of land as
96 appropriate; and

97 (B) may include a statement of the projections for and standards of population density
98 and building intensity recommended for the various land use categories covered by the plan;

99 (ii) a transportation and traffic circulation element consisting of the general location
100 and extent of existing and proposed freeways, arterial and collector streets, mass transit, and
101 any other modes of transportation that the planning commission considers appropriate, all
102 correlated with the population projections and the proposed land use element of the general
103 plan; and

104 (iii) for ~~[cities, an estimate of the need for the development of additional moderate~~
105 ~~income housing within the city, and]~~ a municipality, other than a town, a plan to provide a
106 realistic opportunity to meet ~~[estimated needs]~~ the need for additional moderate income
107 housing ~~[if long-term projections for land use and development occur].~~

108 (b) In drafting the moderate income housing element, the planning commission:

109 (i) shall consider the Legislature's determination that ~~[cities]~~ municipalities shall
110 facilitate a reasonable opportunity for a variety of housing, including moderate income
111 housing:

112 (A) to meet the needs of people desiring to live there; and

113 (B) to allow persons with moderate incomes to benefit from and fully participate in all
114 aspects of neighborhood and community life; and

115 (ii) for a town, may include, and for other municipalities, shall include, an analysis of
116 why the recommended means, techniques, or combination of means and techniques provide a
117 realistic opportunity for the development of moderate income housing within the planning
118 horizon, which means or techniques may include a recommendation to:

119 (A) rezone for densities necessary to assure the production of moderate income
120 housing;

121 (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the
122 construction of moderate income housing;

123 (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate
124 income housing;

125 (D) consider general fund subsidies to waive construction related fees that are
126 otherwise generally imposed by the city;

127 (E) consider utilization of state or federal funds or tax incentives to promote the
128 construction of moderate income housing;

129 (F) consider utilization of programs offered by the Utah Housing Corporation within
130 that agency's funding capacity; and

131 (G) consider utilization of affordable housing programs administered by the
132 Department of Workforce Services.

133 (c) In drafting the land use element, the planning commission shall:

134 (i) identify and consider each agriculture protection area within the municipality; and

135 (ii) avoid proposing a use of land within an agriculture protection area that is
136 inconsistent with or detrimental to the use of the land for agriculture.

137 (3) The proposed general plan may include:

138 (a) an environmental element that addresses:

139 (i) the protection, conservation, development, and use of natural resources, including
140 the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals,
141 and other natural resources; and

142 (ii) the reclamation of land, flood control, prevention and control of the pollution of
143 streams and other waters, regulation of the use of land on hillsides, stream channels and other
144 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,
145 protection of watersheds and wetlands, and the mapping of known geologic hazards;

146 (b) a public services and facilities element showing general plans for sewage, water,
147 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,
148 police and fire protection, and other public services;

149 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and
150 programs for:

151 (i) historic preservation;

152 (ii) the diminution or elimination of blight; and
153 (iii) redevelopment of land, including housing sites, business and industrial sites, and
154 public building sites;

155 (d) an economic element composed of appropriate studies and forecasts, as well as an
156 economic development plan, which may include review of existing and projected municipal
157 revenue and expenditures, revenue sources, identification of basic and secondary industry,
158 primary and secondary market areas, employment, and retail sales activity;

159 (e) recommendations for implementing all or any portion of the general plan, including
160 the use of land use ordinances, capital improvement plans, community development and
161 promotion, and any other appropriate action;

162 (f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3);
163 and

164 (g) any other element the municipality considers appropriate.

165 Section 3. Section 10-9a-404 is amended to read:

166 **10-9a-404. Public hearing by planning commission on proposed general plan or**
167 **amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection**
168 **by legislative body.**

169 (1) (a) After completing its recommendation for a proposed general plan, or proposal to
170 amend the general plan, the planning commission shall schedule and hold a public hearing on
171 the proposed plan or amendment.

172 (b) The planning commission shall provide notice of the public hearing, as required by
173 Section 10-9a-204.

174 (c) After the public hearing, the planning commission may modify the proposed
175 general plan or amendment.

176 (2) The planning commission shall forward the proposed general plan or amendment to
177 the legislative body.

178 (3) The legislative body may make any revisions to the proposed general plan or
179 amendment that it considers appropriate.

180 (4) (a) The municipal legislative body may adopt or reject the proposed general plan or
181 amendment either as proposed by the planning commission or after making any revision that
182 the municipal legislative body considers appropriate.

183 (b) If the municipal legislative body rejects the proposed general plan or amendment, it
184 may provide suggestions to the planning commission for its consideration.

185 (5) The legislative body shall adopt:

186 (a) a land use element as provided in Subsection 10-9a-403(2)(a)(i);

187 (b) a transportation and traffic circulation element as provided in Subsection
188 10-9a-403(2)(a)(ii); and

189 (c) for ~~[all cities]~~ a municipality, other than a town, after considering the factors
190 included in Subsection 10-9a-403(2)(b)(ii), a plan to provide a realistic opportunity to meet
191 ~~[estimated needs]~~ the need for additional moderate income housing ~~[if long-term projections~~
192 ~~for land use and development occur]~~.

193 (6) In a civil action seeking enforcement or claiming a violation of Subsection (5)(c), a
194 plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

195 Section 4. Section 10-9a-509 is amended to read:

196 **10-9a-509. Applicant's entitlement to land use application approval --**

197 **Municipality's requirements and limitations -- Vesting upon submission of development**
198 **plan and schedule.**

199 (1) (a) (i) An applicant who has filed a complete land use application, including the
200 payment of all application fees, is entitled to substantive land use review of the land use
201 application under the land use regulations in effect on the date that the application is complete
202 and as further provided in this section.

203 (ii) An applicant is entitled to approval of a land use application if the application
204 conforms to the requirements of the municipality's land use regulations in effect when a
205 complete application is submitted and all application fees have been paid, unless:

206 (A) the land use authority, on the record, finds that a compelling, countervailing public
207 interest would be jeopardized by approving the application; or

208 (B) in the manner provided by local ordinance and before the application is submitted,
209 the municipality has formally initiated proceedings to amend the municipality's land use
210 regulations in a manner that would prohibit approval of the application as submitted.

211 (b) The municipality shall process an application without regard to proceedings
212 initiated to amend the municipality's ordinances as provided in Subsection (1)(a)(ii)(B) if:

213 (i) 180 days have passed since the proceedings were initiated; and

214 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
215 application as submitted.

216 (c) An application for a land use approval is considered submitted and complete when
217 the application is provided in a form that complies with the requirements of applicable
218 ordinances and all applicable fees have been paid.

219 (d) The continuing validity of an approval of a land use application is conditioned upon
220 the applicant proceeding after approval to implement the approval with reasonable diligence.

221 (e) A municipality may not impose on an applicant who has submitted a complete
222 application for preliminary subdivision approval a requirement that is not expressed in:

223 (i) this chapter;

224 (ii) a municipal ordinance; or

225 (iii) a municipal specification for public improvements applicable to a subdivision or
226 development that is in effect on the date that the applicant submits an application.

227 (f) A municipality may not impose on a holder of an issued land use permit or a final,
228 unexpired subdivision plat a requirement that is not expressed:

229 (i) in a land use permit;

230 (ii) on the subdivision plat;

231 (iii) in a document on which the land use permit or subdivision plat is based;

232 (iv) in the written record evidencing approval of the land use permit or subdivision
233 plat;

234 (v) in this chapter; or

235 (vi) in a municipal ordinance.

236 (g) A municipality may not withhold issuance of a certificate of occupancy or
237 acceptance of subdivision improvements because of an applicant's failure to comply with a
238 requirement that is not expressed:

239 (i) in the building permit or subdivision plat, documents on which the building permit
240 or subdivision plat is based, or the written record evidencing approval of the land use permit or
241 subdivision plat; or

242 (ii) in this chapter or the municipality's ordinances.

243 (h) A municipality may not deny a land use application for moderate income housing
244 unless:

245 (i) the applicant has not filed a complete land use application, including the payment of
246 all application fees; or

247 (ii) the municipality demonstrates that approval of the land use application is contrary
248 to the health, safety, or welfare of the municipality.

249 (2) A municipality is bound by the terms and standards of applicable land use
250 regulations and shall comply with mandatory provisions of those regulations.

251 (3) A municipality may not, as a condition of land use application approval, require a
252 person filing a land use application to obtain documentation regarding a school district's
253 willingness, capacity, or ability to serve the development proposed in the land use application.

254 (4) Upon a specified public agency's submission of a development plan and schedule as
255 required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the
256 specified public agency vests in the municipality's applicable land use maps, zoning map,
257 hookup fees, impact fees, other applicable development fees, and land use regulations in effect
258 on the date of submission.

259 Section 5. Section 17-27a-401 is amended to read:

260 **17-27a-401. General plan required -- Content -- Resource management plan --**
261 **Provisions related to radioactive waste facility.**

262 (1) To accomplish the purposes of this chapter, each county shall prepare and adopt a
263 comprehensive, long-range general plan:

264 (a) for present and future needs of the county;

265 (b) (i) for growth and development of all or any part of the land within the
266 unincorporated portions of the county; or

267 (ii) if a county has designated a mountainous planning district, for growth and
268 development of all or any part of the land within the mountainous planning district; and

269 (c) as a basis for communicating and coordinating with the federal government on land
270 and resource management issues.

271 (2) To promote health, safety, and welfare, the general plan may provide for:

272 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic
273 activities, aesthetics, and recreational, educational, and cultural opportunities;

274 (b) the reduction of the waste of physical, financial, or human resources that result
275 from either excessive congestion or excessive scattering of population;

- 276 (c) the efficient and economical use, conservation, and production of the supply of:
- 277 (i) food and water; and
- 278 (ii) drainage, sanitary, and other facilities and resources;
- 279 (d) the use of energy conservation and solar and renewable energy resources;
- 280 (e) the protection of urban development;
- 281 [~~(f) the protection or promotion of moderate income housing;~~]
- 282 [~~(g)~~ (f) the protection and promotion of air quality;
- 283 [~~(h)~~ (g) historic preservation;
- 284 [~~(i)~~ (h) identifying future uses of land that are likely to require an expansion or
- 285 significant modification of services or facilities provided by each affected entity; and
- 286 [~~(j)~~ (i) an official map.

287 (3) (a) The general plan shall:

288 (i) allow and plan for moderate income housing growth; and

289 (ii) contain a resource management plan for the public lands, as defined in Section

290 [63L-6-102](#), within the county.

291 (b) On or before July 1, 2018, a county with a general plan that does not comply with

292 Subsection (3)(a)(i) shall amend the general plan to comply with Subsection (3)(a)(i).

293 [~~(b)~~ (c) The resource management plan described in Subsection (3)(a)(ii) shall

294 address:

- 295 (i) mining;
- 296 (ii) land use;
- 297 (iii) livestock and grazing;
- 298 (iv) irrigation;
- 299 (v) agriculture;
- 300 (vi) fire management;
- 301 (vii) noxious weeds;
- 302 (viii) forest management;
- 303 (ix) water rights;
- 304 (x) ditches and canals;
- 305 (xi) water quality and hydrology;
- 306 (xii) flood plains and river terraces;

- 307 (xiii) wetlands;
- 308 (xiv) riparian areas;
- 309 (xv) predator control;
- 310 (xvi) wildlife;
- 311 (xvii) fisheries;
- 312 (xviii) recreation and tourism;
- 313 (xix) energy resources;
- 314 (xx) mineral resources;
- 315 (xxi) cultural, historical, geological, and paleontological resources;
- 316 (xxii) wilderness;
- 317 (xxiii) wild and scenic rivers;
- 318 (xxiv) threatened, endangered, and sensitive species;
- 319 (xxv) land access;
- 320 (xxvi) law enforcement;
- 321 (xxvii) economic considerations; and
- 322 (xxviii) air.

323 ~~(c)~~ (d) For each item listed under Subsection (3)~~(b)~~(c), a county's resource
324 management plan shall:

- 325 (i) establish findings pertaining to the item;
- 326 (ii) establish defined objectives; and
- 327 (iii) outline general policies and guidelines on how the objectives described in
328 Subsection (3)~~(c)~~(d)(ii) are to be accomplished.

329 (4) (a) The general plan shall include specific provisions related to any areas within, or
330 partially within, the exterior boundaries of the county, or contiguous to the boundaries of a
331 county, which are proposed for the siting of a storage facility or transfer facility for the
332 placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as
333 these wastes are defined in Section 19-3-303. The provisions shall address the effects of the
334 proposed site upon the health and general welfare of citizens of the state, and shall provide:

- 335 (i) the information identified in Section 19-3-305;
- 336 (ii) information supported by credible studies that demonstrates that the provisions of
337 Subsection 19-3-307(2) have been satisfied; and

338 (iii) specific measures to mitigate the effects of high-level nuclear waste and greater
339 than class C radioactive waste and guarantee the health and safety of the citizens of the state.

340 (b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance
341 indicating that all proposals for the siting of a storage facility or transfer facility for the
342 placement of high-level nuclear waste or greater than class C radioactive waste wholly or
343 partially within the county are rejected.

344 (c) A county may adopt the ordinance listed in Subsection (4)(b) at any time.

345 (d) The county shall send a certified copy of the ordinance described in Subsection
346 (4)(b) to the executive director of the Department of Environmental Quality by certified mail
347 within 30 days of enactment.

348 (e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall:

349 (i) comply with Subsection (4)(a) as soon as reasonably possible; and

350 (ii) send a certified copy of the repeal to the executive director of the Department of
351 Environmental Quality by certified mail within 30 days after the repeal.

352 (5) The general plan may define the county's local customs, local culture, and the
353 components necessary for the county's economic stability.

354 (6) Subject to Subsection 17-27a-403(2), the county may determine the
355 comprehensiveness, extent, and format of the general plan.

356 (7) If a county has designated a mountainous planning district, the general plan for the
357 mountainous planning district is the controlling plan and takes precedence over a municipality's
358 general plan for property located within the mountainous planning district.

359 (8) Nothing in this part may be construed to limit the authority of the state to manage
360 and protect wildlife under Title 23, Wildlife Resources Code of Utah.

361 Section 6. Section 17-27a-403 is amended to read:

362 **17-27a-403. Plan preparation.**

363 (1) (a) The planning commission shall provide notice, as provided in Section
364 17-27a-203, of its intent to make a recommendation to the county legislative body for a general
365 plan or a comprehensive general plan amendment when the planning commission initiates the
366 process of preparing its recommendation.

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

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

370 (ii) if the planning commission is a planning commission for a mountainous planning
371 district, the mountainous planning district.

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

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

378 (iii) Notwithstanding Subsection (1)(c)(ii), if property is located in a mountainous
379 planning district, the plan for the mountainous planning district controls and precedes a
380 municipal plan, if any, to which the property would be subject.

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

384 (i) a land use element that:

385 (A) designates the long-term goals and the proposed extent, general distribution, and
386 location of land for housing, business, industry, agriculture, recreation, education, public
387 buildings and grounds, open space, and other categories of public and private uses of land as
388 appropriate; and

389 (B) may include a statement of the projections for and standards of population density
390 and building intensity recommended for the various land use categories covered by the plan;

391 (ii) a transportation and traffic circulation element consisting of the general location
392 and extent of existing and proposed freeways, arterial and collector streets, mass transit, and
393 any other modes of transportation that the planning commission considers appropriate, all
394 correlated with the population projections and the proposed land use element of the general
395 plan;

396 (iii) ~~[an estimate of the need]~~ a plan for the development of additional moderate
397 income housing within the unincorporated area of the county or the mountainous planning
398 district, and a plan to provide a realistic opportunity to meet ~~[estimated needs]~~ the need for
399 additional moderate income housing ~~[if long-term projections for land use and development~~

400 occur]; and

401 (iv) before May 1, 2017, a resource management plan detailing the findings, objectives,
402 and policies required by Subsection 17-27a-401(3).

403 (b) In drafting the moderate income housing element, the planning commission:

404 (i) shall consider the Legislature's determination that counties should facilitate a
405 reasonable opportunity for a variety of housing, including moderate income housing:

406 (A) to meet the needs of people desiring to live there; and

407 (B) to allow persons with moderate incomes to benefit from and fully participate in all
408 aspects of neighborhood and community life; and

409 (ii) ~~may~~ shall include an analysis of why the recommended means, techniques, or
410 combination of means and techniques provide a realistic opportunity for the development of
411 moderate income housing within the planning horizon, which means or techniques may include
412 a recommendation to:

413 (A) rezone for densities necessary to assure the production of moderate income
414 housing;

415 (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the
416 construction of moderate income housing;

417 (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate
418 income housing;

419 (D) consider county general fund subsidies to waive construction related fees that are
420 otherwise generally imposed by the county;

421 (E) consider utilization of state or federal funds or tax incentives to promote the
422 construction of moderate income housing;

423 (F) consider utilization of programs offered by the Utah Housing Corporation within
424 that agency's funding capacity; and

425 (G) consider utilization of affordable housing programs administered by the
426 Department of Workforce Services.

427 (c) In drafting the land use element, the planning commission shall:

428 (i) identify and consider each agriculture protection area within the unincorporated area
429 of the county or mountainous planning district; and

430 (ii) avoid proposing a use of land within an agriculture protection area that is

431 inconsistent with or detrimental to the use of the land for agriculture.

432 (3) The proposed general plan may include:

433 (a) an environmental element that addresses:

434 (i) to the extent not covered by the county's resource management plan, the protection,
435 conservation, development, and use of natural resources, including the quality of air, forests,
436 soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources;
437 and

438 (ii) the reclamation of land, flood control, prevention and control of the pollution of
439 streams and other waters, regulation of the use of land on hillsides, stream channels and other
440 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,
441 protection of watersheds and wetlands, and the mapping of known geologic hazards;

442 (b) a public services and facilities element showing general plans for sewage, water,
443 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,
444 police and fire protection, and other public services;

445 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and
446 programs for:

447 (i) historic preservation;

448 (ii) the diminution or elimination of blight; and

449 (iii) redevelopment of land, including housing sites, business and industrial sites, and
450 public building sites;

451 (d) an economic element composed of appropriate studies and forecasts, as well as an
452 economic development plan, which may include review of existing and projected county
453 revenue and expenditures, revenue sources, identification of basic and secondary industry,
454 primary and secondary market areas, employment, and retail sales activity;

455 (e) recommendations for implementing all or any portion of the general plan, including
456 the use of land use ordinances, capital improvement plans, community development and
457 promotion, and any other appropriate action;

458 (f) provisions addressing any of the matters listed in Subsection [17-27a-401\(2\)](#) or
459 [\(3\)\(a\)\(i\)](#); and

460 (g) any other element the county considers appropriate.

461 Section 7. Section **17-27a-404** is amended to read:

462 **17-27a-404. Public hearing by planning commission on proposed general plan or**
463 **amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection**
464 **by legislative body.**

465 (1) (a) After completing its recommendation for a proposed general plan, or proposal to
466 amend the general plan, the planning commission shall schedule and hold a public hearing on
467 the proposed plan or amendment.

468 (b) The planning commission shall provide notice of the public hearing, as required by
469 Section [17-27a-204](#).

470 (c) After the public hearing, the planning commission may modify the proposed
471 general plan or amendment.

472 (2) The planning commission shall forward the proposed general plan or amendment to
473 the legislative body.

474 (3) (a) As provided by local ordinance and by Section [17-27a-204](#), the legislative body
475 shall provide notice of its intent to consider the general plan proposal.

476 (b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative
477 body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan
478 regarding Subsection [17-27a-401](#)(4). The hearing procedure shall comply with this Subsection
479 (3)(b).

480 (ii) The hearing format shall allow adequate time for public comment at the actual
481 public hearing, and shall also allow for public comment in writing to be submitted to the
482 legislative body for not fewer than 90 days after the date of the public hearing.

483 (c) (i) The legislative body shall give notice of the hearing in accordance with this
484 Subsection (3) when the proposed plan provisions required by Subsection [17-27a-401](#)(4) are
485 complete.

486 (ii) Direct notice of the hearing shall be given, in writing, to the governor, members of
487 the state Legislature, executive director of the Department of Environmental Quality, the state
488 planning coordinator, the Resource Development Coordinating Committee, and any other
489 citizens or entities who specifically request notice in writing.

490 (iii) Public notice shall be given by publication:

491 (A) in at least one major Utah newspaper having broad general circulation in the state;

492 (B) in at least one Utah newspaper having a general circulation focused mainly on the

493 county where the proposed high-level nuclear waste or greater than class C radioactive waste
494 site is to be located; and

495 (C) on the Utah Public Notice Website created in Section 63F-1-701.

496 (iv) The notice shall be published to allow reasonable time for interested parties and
497 the state to evaluate the information regarding the provisions of Subsection 17-27a-401(4),
498 including:

499 (A) in a newspaper described in Subsection (3)(c)(iii)(A), no less than 180 days before
500 the date of the hearing to be held under this Subsection (3); and

501 (B) publication described in Subsection (3)(c)(iii)(B) or (C) for 180 days before the
502 date of the hearing to be held under this Subsection (3).

503 (4) (a) After the public hearing required under this section, the legislative body may
504 make any revisions to the proposed general plan that it considers appropriate.

505 (b) The legislative body shall respond in writing and in a substantive manner to all
506 those providing comments as a result of the hearing required by Subsection (3).

507 (5) (a) The county legislative body may adopt or reject the proposed general plan or
508 amendment either as proposed by the planning commission or after making any revision the
509 county legislative body considers appropriate.

510 (b) If the county legislative body rejects the proposed general plan or amendment, it
511 may provide suggestions to the planning commission for its consideration.

512 (6) The legislative body shall adopt:

513 (a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

514 (b) a transportation and traffic circulation element as provided in Subsection
515 17-27a-403(2)(a)(ii);

516 (c) after considering the factors included in Subsection 17-27a-403(2)(b), a plan to
517 provide a realistic opportunity to meet ~~[estimated needs]~~ the need for additional moderate
518 income housing ~~[if long-term projections for land use and development occur]~~; and

519 (d) before August 1, 2017, a resource management plan as provided by Subsection
520 17-27a-403(2)(a)(iv).

521 (7) In a civil action seeking enforcement or claiming a violation of Subsection (6)(c), a
522 plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

523 Section 8. Section 17-27a-508 is amended to read:

524 **17-27a-508. Applicant's entitlement to land use application approval --**
525 **Application relating to land in a high priority transportation corridor -- County's**
526 **requirements and limitations -- Vesting upon submission of development plan and**
527 **schedule.**

528 (1) (a) (i) An applicant who has filed a complete land use application, including the
529 payment of all application fees, is entitled to substantive land use review of the land use
530 application under the land use regulations in effect on the date that the application is complete
531 and as further provided in this section.

532 (ii) An applicant is entitled to approval of a land use application if the application
533 conforms to the requirements of the county's land use regulations in effect when a complete
534 application is submitted and all application fees have been paid, unless:

535 (A) the land use authority, on the record, finds that a compelling, countervailing public
536 interest would be jeopardized by approving the application; or

537 (B) in the manner provided by local ordinance and before the application is submitted,
538 the county has formally initiated proceedings to amend the county's land use regulations in a
539 manner that would prohibit approval of the application as submitted.

540 (b) The county shall process an application without regard to proceedings initiated to
541 amend the county's ordinances as provided in Subsection (1)(a)(ii)(B) if:

542 (i) 180 days have passed since the proceedings were initiated; and

543 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
544 application as submitted.

545 (c) An application for a land use approval is considered submitted and complete when
546 the application is provided in a form that complies with the requirements of applicable
547 ordinances and all applicable fees have been paid.

548 (d) The continuing validity of an approval of a land use application is conditioned upon
549 the applicant proceeding after approval to implement the approval with reasonable diligence.

550 (e) A county may not impose on an applicant who has submitted a complete
551 application for preliminary subdivision approval a requirement that is not expressed:

552 (i) in this chapter;

553 (ii) in a county ordinance; or

554 (iii) in a county specification for public improvements applicable to a subdivision or

555 development that is in effect on the date that the applicant submits an application.

556 (f) A county may not impose on a holder of an issued land use permit or a final,
557 unexpired subdivision plat a requirement that is not expressed:

558 (i) in a land use permit;

559 (ii) on the subdivision plat;

560 (iii) in a document on which the land use permit or subdivision plat is based;

561 (iv) in the written record evidencing approval of the land use permit or subdivision
562 plat;

563 (v) in this chapter; or

564 (vi) in a county ordinance.

565 (g) A county may not withhold issuance of a certificate of occupancy or acceptance of
566 subdivision improvements because of an applicant's failure to comply with a requirement that
567 is not expressed:

568 (i) in the building permit or subdivision plat, documents on which the building permit
569 or subdivision plat is based, or the written record evidencing approval of the building permit or
570 subdivision plat; or

571 (ii) in this chapter or the county's ordinances.

572 (h) A county may not deny a land use application for moderate income housing unless:

573 (i) the applicant has not filed a complete land use application, including the payment of
574 all application fees; or

575 (ii) the county demonstrates that approval of the land use application is contrary to the
576 health, safety, or welfare of the county.

577 (2) A county is bound by the terms and standards of applicable land use regulations and
578 shall comply with mandatory provisions of those regulations.

579 (3) A county may not, as a condition of land use application approval, require a person
580 filing a land use application to obtain documentation regarding a school district's willingness,
581 capacity, or ability to serve the development proposed in the land use application.

582 (4) Upon a specified public agency's submission of a development plan and schedule as
583 required in Subsection 17-27a-305(8) that complies with the requirements of that subsection,
584 the specified public agency vests in the county's applicable land use maps, zoning map, hookup
585 fees, impact fees, other applicable development fees, and land use regulations in effect on the

586 date of submission.

587 Section 9. Section **35A-8-804** is amended to read:

588 **35A-8-804. Technical assistance to political subdivisions for housing plan.**

589 (1) Within appropriations from the Legislature, the division shall establish a program
590 to assist municipalities to [~~meet the requirements of Section 10-9a-408~~] comply with the
591 moderate income housing requirements described in Section 10-9a-403 and counties to [~~meet~~
592 ~~the requirements of Section 17-27a-408~~] comply with the moderate income housing
593 requirements described in Section 17-27a-403.

594 (2) Assistance under this section may include:

595 (a) financial assistance for the cost of developing a plan for low and moderate income
596 housing;

597 (b) information on how to meet present and prospective needs for low and moderate
598 income housing; and

599 (c) technical advice and consultation on how to facilitate the creation of low and
600 moderate income housing.

601 (3) The division shall submit an annual report to the department regarding the scope,
602 amount, and type of assistance provided to municipalities and counties under this section,
603 including the number of low and moderate income housing units constructed or rehabilitated
604 within the state, for inclusion in the department's annual written report described in Section
605 **35A-1-109.**

606 Section 10. **Repealer.**

607 This bill repeals:

608 Section **10-9a-408, Biennial review of moderate income housing element of general**
609 **plan.**

610 Section **17-27a-408, Biennial review of moderate income housing element of**
611 **general plan.**