

HB0259S01 compared with HB0259

~~{deleted text}~~ shows text that was in HB0259 but was deleted in HB0259S01.

Inserted text shows text that was not in HB0259 but was inserted into HB0259S01.

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Representative Logan Wilde proposes the following substitute bill:

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~~

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~~application for moderate income housing;~~ modifies requirements relating to a general plan;

- ▶ repeals provisions requiring a county to conduct a biennial review of the moderate income housing element of a general plan;
- ▶ modifies biennial review and reporting requirements of a municipality in relation to 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

Utah Code Sections Affected:

AMENDS:

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

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

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

~~{10-9a-509}~~ **10-9a-408**, as last amended by Laws of Utah ~~{2017}~~ 2012, ~~{Chapters 84, 410, and 428}~~ Chapter 212

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

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

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

~~{17-27a-508}~~ **17-27a-408**, as last amended by Laws of Utah ~~{2017}~~ 2012, ~~{Chapters 84, 410, and 428}~~ Chapter 212

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

~~{REPEALS:~~

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

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

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

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

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

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

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

(2) The general plan may provide for:

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

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

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

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

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

(e) the protection of urban development;

(f) if the municipality is a town, the protection or promotion of moderate income housing;

(g) the protection and promotion of air quality;

(h) historic preservation;

(i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and

(j) an official map.

(3) (a) The general plan of a municipality, other than a town, shall allow and plan for moderate income housing growth.

(b) On or before July 1, ~~{2018}~~2019, ~~{a municipality, other than a town, with}~~each of the following that have a general plan that does not comply with Subsection (3)(a) shall amend the general plan to comply with Subsection (3)(a)~~{.}~~:

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

(ii) a city of the fifth class, if the city is located within a county of the first, second, or third class;

(iii) a metro township with a population of 10,000 or more; and

(iv) a metro township with a population of less than 10,000, if the metro township is

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located within a county of the first, second, or third class.

~~[(3)]~~ (4) Subject to Subsection 10-9a-403(2), the municipality may determine the comprehensiveness, extent, and format of the general plan.

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

10-9a-403. General plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 10-9a-203, of its intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.

(c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.

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

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

(i) a land use element that:

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

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

(ii) a transportation and traffic circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that the planning commission considers appropriate, all

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correlated with the population projections and the proposed land use element of the general plan; and

(iii) ~~[for {} cities, an estimate of the need for the development of additional moderate income housing within the city, and {} a municipality, other than a town,} a plan to provide]~~ for a municipality described in Subsection 10-9a-401(3)(b), a plan that provides a realistic opportunity to meet ~~[estimated needs]~~ the need for additional moderate income housing ~~[if long-term projections for land use and development occur]~~.

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

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

(A) to meet the needs of people desiring to live ~~[there]~~ in the community; and

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

(ii) ~~for a town, may include, and for other municipalities, shall include,~~ an analysis of why the recommended means, techniques, or combination of means and techniques provide a realistic opportunity for the development of moderate income housing within ~~[the planning horizon]~~ the next five years, which means or techniques may include a recommendation to:

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

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

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

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

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

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

(G) consider utilization of affordable housing programs administered by the

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Department of Workforce Services~~[-]; and~~

(H) consider utilization of programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

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

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

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

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

(3) The proposed general plan may include:

(a) an environmental element that addresses:

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

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

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

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

(i) historic preservation;

(ii) the diminution or elimination of blight; and

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

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

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and

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promotion, and any other appropriate action;

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

and

(g) any other element the municipality considers appropriate.

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

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

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

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

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

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

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

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

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

(5) The legislative body shall adopt:

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

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

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

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for land use and development occur]};

~~_____ (6) In a civil action seeking enforcement or claiming a violation of Subsection (5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.} within the next five years.~~

Section 4. Section 10-9a-408 is amended to read:

10-9a-408. ~~{Biennial review of}~~Civil action regarding moderate income housing element of general plan.

(1) The legislative body of ~~[each city]~~ [a municipality described in Subsection 10-9a-401(3)(b)] shall biennially:

(a) review the moderate income housing plan element of ~~[its]~~ [the municipality's] general plan and ~~[its]~~ implementation~~}; and~~ [of that element of the general plan];

(b) prepare a report ~~[setting forth]~~ [on] the findings of the review~~};~~

~~_____ (2) }[-] described in Subsection (1)(a); and~~

~~(c) post the report described in Subsection (1)(b) on the municipality's website.~~

~~(2) [Each report under]~~ [The report described in] Subsection (1) shall include a description of:

(a) efforts made by the ~~[city]~~ [municipality] to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;

(b) actions taken by the ~~[city]~~ [municipality] to encourage preservation of existing moderate income housing and development of new moderate income housing;

(c) progress made within the ~~[city]~~ [municipality] to provide moderate income housing, ~~[as measured by permits issued for new units of moderate income housing; and]~~

~~_____ (d) }]~~ [demonstrated by analyzing and publishing data on:

(i) the number of housing units in the municipality that are at or below:

(A) 80% of the adjusted median income for the municipality;

(B) 50% of the adjusted median income for the municipality; and

(C) 30% of the adjusted median income for the municipality;

(ii) the number of housing units in the municipality that are subsidized by the municipality, the state, or the federal government; and

(iii) the number of housing units in the municipality that are deed-restricted;

(d) all efforts made by the city to coordinate moderate income housing plans and

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actions with neighboring municipalities ~~{ }~~ ~~[:]~~ or associations of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act;

(e) all efforts made by the municipality to utilize a moderate income housing set-aside from a redevelopment agency, a community development agency, or an economic development agency;

(f) money expended by the municipality to pay or waive construction-related fees required by the municipality; and

(g) programs of the Utah Housing Corporation that were utilized by the municipality.

(3) The legislative body of each city shall send a copy of the report under Subsection (1) to the Department of Workforce Services and the association of governments in which the city is located.

(4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

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

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

~~Municipality's requirements and limitations-- Vesting upon submission of development plan and schedule:~~

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

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

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

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

~~(b) The municipality shall process an application without regard to proceedings~~

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~~initiated to amend the municipality's ordinances as provided in Subsection (1)(a)(ii)(B) if:~~

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

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

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

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

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

~~—— (i) this chapter;~~

~~—— (ii) a municipal ordinance; or~~

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

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

~~—— (i) in a land use permit;~~

~~—— (ii) on the subdivision plat;~~

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

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

~~—— (v) in this chapter; or~~

~~—— (vi) in a municipal ordinance.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

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

(e) the protection of urban development;

~~[(f) the protection or promotion of moderate income housing;]~~

~~[(g)]~~ (f) the protection and promotion of air quality;

~~[(h)]~~ (g) historic preservation;

~~[(i)]~~ (h) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and

~~[(j)]~~ (i) an official map.

(3) (a) The general plan shall:

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

(ii) contain a resource management plan for the public lands, as defined in Section 63L-6-102, within the county.

(b) On or before July 1, ~~2018~~2019, a county with a general plan that does not comply with Subsection (3)(a)(i) shall amend the general plan to comply with Subsection (3)(a)(i).

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

(i) mining;

(ii) land use;

(iii) livestock and grazing;

(iv) irrigation;

(v) agriculture;

(vi) fire management;

(vii) noxious weeds;

(viii) forest management;

(ix) water rights;

(x) ditches and canals;

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- (xi) water quality and hydrology;
- (xii) flood plains and river terraces;
- (xiii) wetlands;
- (xiv) riparian areas;
- (xv) predator control;
- (xvi) wildlife;
- (xvii) fisheries;
- (xviii) recreation and tourism;
- (xix) energy resources;
- (xx) mineral resources;
- (xxi) cultural, historical, geological, and paleontological resources;
- (xxii) wilderness;
- (xxiii) wild and scenic rivers;
- (xxiv) threatened, endangered, and sensitive species;
- (xxv) land access;
- (xxvi) law enforcement;
- (xxvii) economic considerations; and
- (xxviii) air.

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

- (i) establish findings pertaining to the item;
- (ii) establish defined objectives; and
- (iii) outline general policies and guidelines on how the objectives described in

Subsection (3)~~(c)~~(d)(ii) are to be accomplished.

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

- (i) the information identified in Section 19-3-305;

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(ii) information supported by credible studies that demonstrates that the provisions of Subsection 19-3-307(2) have been satisfied; and

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

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

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

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

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

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

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

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

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

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

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

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

17-27a-403. Plan preparation.

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

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

(i) the unincorporated area within the county; or

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

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

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

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

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

(i) a land use element that:

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

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

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

(iii) [~~an estimate of the need~~] a plan for the development of additional moderate income housing within the unincorporated area of the county or the mountainous planning

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district, and a plan to provide a realistic opportunity to meet ~~[estimated needs]~~ the need for additional moderate income housing ~~[if long-term projections for land use and development occur]~~; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) identify and consider each agriculture protection area within the unincorporated area

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of the county or mountainous planning district; and

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

(3) The proposed general plan may include:

(a) an environmental element that addresses:

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

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

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

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

(i) historic preservation;

(ii) the diminution or elimination of blight; and

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

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

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

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or (3)(a)(i); and

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(g) any other element the county considers appropriate.

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

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

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

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

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

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

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

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

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

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

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

(iii) Public notice shall be given by publication:

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

(B) in at least one Utah newspaper having a general circulation focused mainly on the county where the proposed high-level nuclear waste or greater than class C radioactive waste site is to be located; and

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

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

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

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

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

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

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

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

(6) The legislative body shall adopt:

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

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

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

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

~~{ (7) In a civil action seeking enforcement or claiming a violation of Subsection (6)(c), a~~

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~~plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.~~

~~17-27a-408. Biennial review of moderate income housing element of general plan:~~

~~(1) The legislative body of each county with a population over 25,000 shall biennially:~~

~~(a) review the moderate income housing plan element of its general plan and its implementation; and~~

~~(b) prepare a report setting forth the findings of the review.~~

~~(2) Each report under Subsection (1) shall include a description of:~~

~~(a) efforts made by the county to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;~~

~~(b) actions taken by the county to encourage preservation of existing moderate income housing and development of new moderate income housing;~~

~~(c) progress made within the county to provide moderate income housing, as measured by permits issued for new units of moderate income housing; and~~

~~(d) efforts made by the county to coordinate moderate income housing plans and actions with neighboring counties and municipalities.~~

~~(3) The legislative body of each county with a population over 25,000 shall send a copy of the report under Subsection (1) to the Department of Workforce Services and the association of governments in which the county is located.~~

~~(4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404(6)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.~~

‡ Section 8. Section ~~{17-27a-508}~~; 17-27a-408 is amended to read:

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

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

~~(ii) An applicant is entitled to approval of a land use application if the application~~

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~~conforms to the requirements of the county's land use regulations in effect when a complete application is submitted and all application fees have been paid, unless:~~

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

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

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

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

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

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

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

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

~~—— (i) in this chapter;~~

~~—— (ii) in a county ordinance; or~~

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

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

~~—— (i) in a land use permit;~~

~~—— (ii) on the subdivision plat;~~

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

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

~~—— (v) in this chapter; or~~

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~~—— (vi) in a county ordinance.~~

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

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

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

~~—— (h) A county may not deny a land use application for}~~ **17-27a-408. Civil action regarding moderate income housing {unless:**

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

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

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

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

~~—— (4) Upon a specified public agency's submission of a development plan and schedule as required in}~~ **element of general plan.**

~~[(1) The legislative body of each county with a population over 25,000 shall biennially:]~~

~~[(a) review the moderate income housing plan element of its general plan and its implementation; and]~~

~~[(b) prepare a report setting forth the findings of the review:]~~

~~[(2) Each report under Subsection (1) shall include a description of:]~~

~~[(a) efforts made by the county to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing:]~~

~~[(b) actions taken by the county to encourage preservation of existing moderate income~~

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~~housing and development of new moderate income housing;]~~

~~[(c) progress made within the county to provide moderate income housing, as measured by permits issued for new units of moderate income housing; and]~~

~~[(d) efforts made by the county to coordinate moderate income housing plans and actions with neighboring counties and municipalities;]~~

~~[(3) The legislative body of each county with a population over 25,000 shall send a copy of the report under Subsection (1) to the Department of Workforce Services and the association of governments in which the county is located;]~~

~~[(4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection {17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.~~

~~‡17-27a-404(6)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.~~

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

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

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

(2) Assistance under this section may include:

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

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

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

(3) The division shall submit an annual report to the department regarding the scope, amount, and type of assistance provided to municipalities and counties under this section,

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including the number of low and moderate income housing units constructed or rehabilitated within the state, for inclusion in the department's annual written report described in Section 35A-1-109.

~~{ Section 10. Repealer.~~

~~— This bill repeals:~~

~~— Section 10-9a-408, Biennial review of moderate income housing element of general plan.~~

~~— Section 17-27a-408, Biennial review of moderate income housing element of general plan.~~

~~Legislative Review Note~~

~~Office of Legislative Research and General Counsel~~