AFFORDABLE HOUSING MODIFICATIONS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: Val K. Potter

LONG TITLE

Committee Note:
The Economic Development and Workforce Services Interim Committee recommended this bill.

General Description:
This bill modifies provisions related to a municipality's and a county's general plan related to moderate income housing.

Highlighted Provisions:
This bill:
  ▶ defines terms;
  ▶ modifies the requirements of certain municipalities and counties related to the moderate income housing plan element of their general plan;
  ▶ modifies the reporting requirements of certain municipalities related to the municipalities' moderate income housing plan element of their general plan;
  ▶ modifies provisions related to the use of Transportation Investment Fund money;
  ▶ modifies provisions related to the Olene Walker Housing Loan Fund Board; and
  ▶ makes technical changes.

Money Appropriated in this Bill:
This bill appropriates in fiscal year 2020:
  ▶ to the Department of Workforce Services -- Olene Walker Housing Loan Fund as a one-time appropriation:
• from the General Fund, $20,000,000; and
• to the Department of Workforce Services -- Olene Walker Housing Loan Fund as an ongoing appropriation:
  • from the General Fund, $4,000,000.

Other Special Clauses:
None

Utah Code Sections Affected:

AMENDS:

- **10-9a-103**, as last amended by Laws of Utah 2018, Chapters 339 and 415
- **10-9a-403**, as last amended by Laws of Utah 2018, Chapter 218
- **10-9a-408**, as last amended by Laws of Utah 2018, Chapters 218 and 364
- **17-27a-103**, as last amended by Laws of Utah 2018, Chapters 339 and 415
- **17-27a-403**, as last amended by Laws of Utah 2018, Chapter 218
- **17-27a-408**, as last amended by Laws of Utah 2018, Chapters 218 and 364
- **35A-8-503**, as renumbered and amended by Laws of Utah 2012, Chapter 212
- **35A-8-505**, as last amended by Laws of Utah 2018, Chapter 251
- **35A-8-803**, as renumbered and amended by Laws of Utah 2012, Chapter 212
- **72-1-304**, as last amended by Laws of Utah 2018, Chapter 424
- **72-2-124**, as last amended by Laws of Utah 2018, Chapter 424

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

Section 1. Section **10-9a-103** is amended to read:

**10-9a-103. Definitions.**

As used in this chapter:

(1) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;
59 (b) the entity has filed with the municipality a copy of the entity's general or long-range
60 plan; or
61 (c) the entity has filed with the municipality a request for notice during the same
62 calendar year and before the municipality provides notice to an affected entity in compliance
63 with a requirement imposed under this chapter.
64 (2) "Appeal authority" means the person, board, commission, agency, or other body
65 designated by ordinance to decide an appeal of a decision of a land use application or a
66 variance.
67 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or
68 residential property if the sign is designed or intended to direct attention to a business, product,
69 or service that is not sold, offered, or existing on the property where the sign is located.
70 (4) (a) "Charter school" means:
71 (i) an operating charter school;
72 (ii) a charter school applicant that has its application approved by a charter school
73 authorizer in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or
74 (iii) an entity that is working on behalf of a charter school or approved charter
75 applicant to develop or construct a charter school building.
76 (b) "Charter school" does not include a therapeutic school.
77 (5) "Conditional use" means a land use that, because of its unique characteristics or
78 potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be
79 compatible in some areas or may be compatible only if certain conditions are required that
80 mitigate or eliminate the detrimental impacts.
81 (6) "Constitutional taking" means a governmental action that results in a taking of
82 private property so that compensation to the owner of the property is required by the:
83 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
84 (b) Utah Constitution Article I, Section 22.
85 (7) "Culinary water authority" means the department, agency, or public entity with
86 responsibility to review and approve the feasibility of the culinary water system and sources for
87 the subject property.
88 (8) "Development activity" means:
89 (a) any construction or expansion of a building, structure, or use that creates additional
demand and need for public facilities;
(b) any change in use of a building or structure that creates additional demand and need for public facilities; or
(c) any change in the use of land that creates additional demand and need for public facilities.

(9) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.
(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(10) "Educational facility":
(a) means:
(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;
(ii) a structure or facility:
(A) located on the same property as a building described in Subsection (10)(a)(i); and
(B) used in support of the use of that building; and
(iii) a building to provide office and related space to a school district's administrative personnel; and
(b) does not include:
(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:
(A) not located on the same property as a building described in Subsection (10)(a)(i); and
(B) used in support of the purposes of a building described in Subsection (10)(a)(i); or
(ii) a therapeutic school.

(11) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.
"Flood plain" means land that:
(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or
(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

"General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

"Geologic hazard" means:
(a) a surface fault rupture;
(b) shallow groundwater;
(c) liquefaction;
(d) a landslide;
(e) a debris flow;
(f) unstable soil;
(g) a rock fall; or
(h) any other geologic condition that presents a risk:
(i) to life;
(ii) of substantial loss of real property; or
(iii) of substantial damage to real property.

"Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:
(a) recommend land use regulations to preserve local historic districts or areas; and
(b) administer local historic preservation land use regulations within a local historic district or area.

"Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

"Identical plans" means building plans submitted to a municipality that:
(a) are clearly marked as "identical plans";
(b) are substantially identical to building plans that were previously submitted to and
reviewed and approved by the municipality; and
(c) describe a building that:
(i) is located on land zoned the same as the land on which the building described in the
previously approved plans is located;
(ii) is subject to the same geological and meteorological conditions and the same law
as the building described in the previously approved plans;
(iii) has a floor plan identical to the building plan previously submitted to and reviewed
and approved by the municipality; and
(iv) does not require any additional engineering or analysis.

(18) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
Impact Fees Act.

(19) "Improvement completion assurance" means a surety bond, letter of credit,
financial institution bond, cash, assignment of rights, lien, or other equivalent security required
by a municipality to guaranty the proper completion of landscaping or an infrastructure
improvement required as a condition precedent to:

(a) recording a subdivision plat; or
(b) development of a commercial, industrial, mixed use, or multifamily project.

(20) "Improvement warranty" means an applicant's unconditional warranty that the
applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality's written standards for design, materials, and
workmanship; and
(b) will not fail in any material respect, as a result of poor workmanship or materials,
within the improvement warranty period.

(21) "Improvement warranty period" means a period:

(a) no later than one year after a municipality's acceptance of required landscaping; or
(b) no later than one year after a municipality's acceptance of required infrastructure,
unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the
public health, safety, and welfare; and
(ii) has substantial evidence, on record:
(A) of prior poor performance by the applicant; or
(B) that the area upon which the infrastructure will be constructed contains suspect soil
and the municipality has not otherwise required the applicant to mitigate the suspect soil.
(22) "Infrastructure improvement" means permanent infrastructure that an applicant
must install:
(a) pursuant to published installation and inspection specifications for public
improvements; and
(b) as a condition of:
(i) recording a subdivision plat; or
(ii) development of a commercial, industrial, mixed use, condominium, or multifamily
project.
(23) "Internal lot restriction" means a platted note, platted demarcation, or platted
designation that:
(a) runs with the land; and
(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
the plat; or
(ii) designates a development condition that is enclosed within the perimeter of a lot
described on the plat.
(24) "Land use applicant" means a property owner, or the property owner's designee,
who submits a land use application regarding the property owner's land.
(25) "Land use application":
(a) means an application that is:
(i) required by a municipality; and
(ii) submitted by a land use applicant to obtain a land use decision; and
(b) does not mean an application to enact, amend, or repeal a land use regulation.
(26) "Land use authority" means:
(a) a person, board, commission, agency, or body, including the local legislative body,
designated by the local legislative body to act upon a land use application; or
(b) if the local legislative body has not designated a person, board, commission,
agency, or body, the local legislative body.
(27) "Land use decision" means an administrative decision of a land use authority or
appeal authority regarding:

(a) a land use permit;
(b) a land use application; or
(c) the enforcement of a land use regulation, land use permit, or development agreement.

(28) "Land use permit" means a permit issued by a land use authority.

(29) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;
(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and
(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or
(ii) a temporary revision to an engineering specification that does not materially:
(A) increase a land use applicant's cost of development compared to the existing specification; or
(B) impact a land use applicant's use of land.

(30) "Legislative body" means the municipal council.

(31) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(32) "Local historic district or area" means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and
(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

(33) "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

(34) "Major transit investment corridor" means public transit service that uses or
occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit;

or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

[(34)] (35) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

[(35)] (36) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

[(36)] (37) "Noncomplying structure" means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

[(37)] (38) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

[(38)] (39) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

"Parcel boundary adjustment" means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(a) no additional parcel is created; and

(b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.

"Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

"Plan for moderate income housing" means a written document adopted by a city legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the city;

(b) an estimate of the need for moderate income housing in the city for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the city's program to encourage an adequate supply of moderate income housing.

"Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

"Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.
"Public agency" means:
(a) the federal government;
(b) the state;
(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or
(d) a charter school.

"Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

"Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

"Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

"Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

"Residential facility for persons with a disability" means a residence:
(a) in which more than one person with a disability resides; and
(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or
(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

"Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:
(a) parliamentary order and procedure;
(b) ethical behavior; and
(c) civil discourse.

"Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

"Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable
"Specified public agency" means:
(a) the state;
(b) a school district; or
(c) a charter school.

"Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

"State" includes any department, division, or agency of the state.

"Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

"Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:
(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and
(ii) except as provided in Subsection (c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.
(c) "Subdivision" does not include:
(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;
(ii) a recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:
(A) no new lot is created; and
(B) the adjustment does not violate applicable land use ordinances;
(iii) a recorded document, executed by the owner of record:
(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; or

(vi) a parcel boundary adjustment.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection [(57)] (58) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

[(58)] (59) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

[(59)] (60) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:
400  (i) room and board; and
401  (ii) an academic education integrated with:
402    (A) specialized structure and supervision; or
403    (B) services or treatment related to a disability, an emotional development, a
404    behavioral development, a familial development, or a social development.
405
406  [60] (61) "Transferable development right" means a right to develop and use land that
407  originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
408  land use rights from a designated sending zone to a designated receiving zone.
409  [61] (62) "Unincorporated" means the area outside of the incorporated area of a city
410  or town.
411  [62] (63) "Water interest" means any right to the beneficial use of water, including:
412    (a) each of the rights listed in Section 73-1-11; and
413    (b) an ownership interest in the right to the beneficial use of water represented by:
414      (i) a contract; or
415      (ii) a share in a water company, as defined in Section 73-3-3.5.
416  [63] (64) "Zoning map" means a map, adopted as part of a land use ordinance, that
417  depicts land use zones, overlays, or districts.
418
419  Section 2. Section 10-9a-403 is amended to read:
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421  **10-9a-403. General plan preparation.**
422
423  (1) (a) The planning commission shall provide notice, as provided in Section
424  10-9a-203, of its intent to make a recommendation to the municipal legislative body for a
425  general plan or a comprehensive general plan amendment when the planning commission
426  initiates the process of preparing its recommendation.
427  (b) The planning commission shall make and recommend to the legislative body a
428  proposed general plan for the area within the municipality.
429  (c) The plan may include areas outside the boundaries of the municipality if, in the
430  planning commission's judgment, those areas are related to the planning of the municipality's
431  territory.
432  (d) Except as otherwise provided by law or with respect to a municipality's power of
433  eminent domain, when the plan of a municipality involves territory outside the boundaries of
434  the municipality, the municipality may not take action affecting that territory without the
(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 for residents of various income levels, 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; and

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) addresses the municipality's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce; and

(C) correlates with the population projections and the proposed land use element of the general plan; and

(iii) for a municipality described in Subsection 10-9a-401(3)(b), a plan that provides a realistic opportunity to meet the need for additional moderate income housing.

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

(i) shall consider the Legislature's determination that 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 of various income levels living or working in the community; and
(B) to allow [persons with moderate] people with various 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] how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years[, which means or techniques may include a recommendation to:]; (iii) for a town, may include, and for other municipalities, shall include, a recommendation to do two or more of the following: (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) create or allow for, and reduce regulations related to, accessory dwelling units in residential zones; (F) allow for housing in commercial and mixed-use zones; (G) encourage higher density or moderate income residential development near major transit investment corridors; (H) eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities; (I) allow for single room occupancy developments; (J) preserve existing moderate income housing; [(E)] (K) consider utilization of state or federal funds or tax incentives to promote the construction of moderate income housing; [(F)] (L) consider utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity;
consider utilization of affordable housing programs administered by the Department of Workforce Services; and

consider utilization of programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act[.]; and

(O) consider utilization of services provided by a public housing authority to preserve and create moderate income housing.

(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.

(d) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) consider the regional transportation plan developed by its region's metropolitan planning organization, if the municipality is within the boundaries of a metropolitan planning organization; or

(ii) consider the long-range transportation plan developed by the Utah Department of Transportation, if the municipality is not within the boundaries of a metropolitan planning organization.

(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 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-408 is amended to read:

10-9a-408. Reporting requirements and civil action regarding moderate income housing element of general plan.

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

(a) review the moderate income housing plan element of the municipality's general plan and implementation of that element of the general plan;

(b) prepare a report on the findings of the review described in Subsection (1)(a); and

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

(2) The report described in Subsection (1) shall include a description of:

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

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

(c) progress made within the municipality to provide moderate income housing,
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] municipality to coordinate moderate income housing
    plans and 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[;] and
(h) a description of how the municipality has implemented any of the recommendations
    related to moderate income housing described in Subsection 10-9a-403(2)(b)(iii).
(3) The legislative body of each [city] municipality described in Subsection (1) 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] municipality 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 17-27a-103 is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) "Affected entity" means a county, municipality, local district, special service
    district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owners association, public utility, or the Utah Department of Transportation, if:

- the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;
- the entity has filed with the county a copy of the entity's general or long-range plan; or
- the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(2) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(3) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(4) (a) "Charter school" means:
- an operating charter school;
- a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or
- an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.
- "Charter school" does not include a therapeutic school.

(5) "Chief executive officer" means the person or body that exercises the executive powers of the county.

(6) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(7) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:
(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
(b) Utah Constitution, Article I, Section 22.
(8) "Culinary water authority" means the department, agency, or public entity with
responsibility to review and approve the feasibility of the culinary water system and sources for
the subject property.
(9) "Development activity" means:
(a) any construction or expansion of a building, structure, or use that creates additional
demand and need for public facilities;
(b) any change in use of a building or structure that creates additional demand and need
for public facilities; or
(c) any change in the use of land that creates additional demand and need for public
facilities.
(10) (a) "Disability" means a physical or mental impairment that substantially limits
one or more of a person's major life activities, including a person having a record of such an
impairment or being regarded as having such an impairment.
(b) "Disability" does not include current illegal use of, or addiction to, any federally
controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
802.
(11) "Educational facility":
(a) means:
(i) a school district's building at which pupils assemble to receive instruction in a
program for any combination of grades from preschool through grade 12, including
kindergarten and a program for children with disabilities;
(ii) a structure or facility:
(A) located on the same property as a building described in Subsection (11)(a)(i); and
(B) used in support of the use of that building; and
(iii) a building to provide office and related space to a school district's administrative
personnel; and
(b) does not include:
(i) land or a structure, including land or a structure for inventory storage, equipment
storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:
(A) not located on the same property as a building described in Subsection (11)(a)(i);

and

(B) used in support of the purposes of a building described in Subsection (11)(a)(i); or

(ii) a therapeutic school.

(12) "Fire authority" means the department, agency, or public entity with responsibility
to review and approve the feasibility of fire protection and suppression services for the subject
property.

(13) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency

Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency

but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because
the land has characteristics that are similar to those of a 100-year flood plain designated by the
Federal Emergency Management Agency.

(14) "Gas corporation" has the same meaning as defined in Section 54-2-1.

(15) "General plan" means a document that a county adopts that sets forth general
guidelines for proposed future development of:

(a) the unincorporated land within the county; or

(b) for a mountainous planning district, the land within the mountainous planning
district.

(16) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or
(iii) of substantial damage to real property.

(17) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

(18) "Identical plans" means building plans submitted to a county that:
(a) are clearly marked as "identical plans";
(b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and
(c) describe a building that:
(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and
(iv) does not require any additional engineering or analysis.

(19) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(20) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:
(a) recording a subdivision plat; or
(b) development of a commercial, industrial, mixed use, or multifamily project.

(21) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:
(a) complies with the county's written standards for design, materials, and workmanship; and
(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(22) "Improvement warranty period" means a period:
(a) no later than one year after a county's acceptance of required landscaping; or
(b) no later than one year after a county's acceptance of required infrastructure, unless
the county:
(i) determines for good cause that a one-year period would be inadequate to protect the
public health, safety, and welfare; and
(ii) has substantial evidence, on record:
(A) of prior poor performance by the applicant; or
(B) that the area upon which the infrastructure will be constructed contains suspect soil
and the county has not otherwise required the applicant to mitigate the suspect soil.
(23) "Infrastructure improvement" means permanent infrastructure that an applicant
must install:
(a) pursuant to published installation and inspection specifications for public
improvements; and
(b) as a condition of:
(i) recording a subdivision plat; or
(ii) development of a commercial, industrial, mixed use, condominium, or multifamily
project.
(24) "Internal lot restriction" means a platted note, platted demarcation, or platted
designation that:
(a) runs with the land; and
(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
the plat; or
(ii) designates a development condition that is enclosed within the perimeter of a lot
described on the plat.
(25) "Interstate pipeline company" means a person or entity engaged in natural gas
transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under
the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
(26) "Intrastate pipeline company" means a person or entity engaged in natural gas
transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
(27) "Land use applicant" means a property owner, or the property owner's designee,
who submits a land use application regarding the property owner's land.

(28) "Land use application":
(a) means an application that is:
(i) required by a county; and
(ii) submitted by a land use applicant to obtain a land use decision; and
(b) does not mean an application to enact, amend, or repeal a land use regulation.

(29) "Land use authority" means:
(a) a person, board, commission, agency, or body, including the local legislative body,
designated by the local legislative body to act upon a land use application; or
(b) if the local legislative body has not designated a person, board, commission,
agency, or body, the local legislative body.

(30) "Land use decision" means an administrative decision of a land use authority or
appeal authority regarding:
(a) a land use permit;
(b) a land use application; or
(c) the enforcement of a land use regulation, land use permit, or development
agreement.

(31) "Land use permit" means a permit issued by a land use authority.

(32) "Land use regulation":
(a) means a legislative decision enacted by ordinance, law, code, map, resolution,
specification, fee, or rule that governs the use or development of land;
(b) includes the adoption or amendment of a zoning map or the text of the zoning code;
and
(c) does not include:
(i) a land use decision of the legislative body acting as the land use authority, even if
the decision is expressed in a resolution or ordinance; or
(ii) a temporary revision to an engineering specification that does not materially:
(A) increase a land use applicant's cost of development compared to the existing
specification; or
(B) impact a land use applicant's use of land.

(33) "Legislative body" means the county legislative body, or for a county that has
adopted an alternative form of government, the body exercising legislative powers.

(34) "Local district" means any entity under Title 17B, Limited Purpose Local Government Entitles - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(35) "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

(36) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit;

or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

(37) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

(38) "Mountainous planning district" means an area:

(a) designated by a county legislative body in accordance with Section 17-27a-901; and

(b) that is not otherwise exempt under Section 10-9a-304.

(39) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(40) "Noncomplying structure" means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern
the use of land.

[(40)] (41) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

[(41)] (42) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county's general plan.

[(42)] (43) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(a) no additional parcel is created; and

(b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.

[(43)] (44) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

[(44)] (45) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and
(e) a description of the county's program to encourage an adequate supply of moderate income housing.

"Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

"Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

"Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

"Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

"Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

"Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

"Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

"Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.
"Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

"Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

"Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

"Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

"Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

"Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

"Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

"State" includes any department, division, or agency of the state.

"Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

"Subdivision" means any land that is divided, resubdivided or proposed
to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
purpose, whether immediate or future, for offer, sale, lease, or development either on the
installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land whether by deed, metes and bounds description,
devise and testacy, map, plat, or other recorded instrument; and

(ii) except as provided in Subsection [(62)] (63)(c), divisions of land for residential and
nonresidential uses, including land used or to be used for commercial, agricultural, and
industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) a recorded agreement between owners of adjoining properties adjusting their
mutual boundary if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous unsubdivided parcel of
property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not
been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a bona fide division or partition of land in a county other than a first class county
for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
utility service regeneration, transformation, retransmission, or amplification facility;

(v) a recorded agreement between owners of adjoining subdivided properties adjusting
their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division or partition of land by deed or other instrument where the land
use authority expressly approves in writing the division in anticipation of further land use
approvals on the parcel or parcels; or

(vii) a parcel boundary adjustment.

(d) The joining of a subdivided parcel of property to another parcel of property that has
not been subdivided does not constitute a subdivision under this Subsection [(62)] (63) as to
the unsubdivided parcel of property or subject the unsubdivided parcel to the county's
subdivision ordinance.

[(63)] (64) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a
3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
commonly associated with dissolution and collapse features.

[(64)] (65) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a
behavioral development, a familial development, or a social development.

[(65)] (66) "Transferable development right" means a right to develop and use land that
originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
land use rights from a designated sending zone to a designated receiving zone.

[(66)] (67) "Unincorporated" means the area outside of the incorporated area of a
[(67)] (68) "Water interest" means any right to the beneficial use of water, including:
(a) each of the rights listed in Section 73-1-11; and
(b) an ownership interest in the right to the beneficial use of water represented by:
(i) a contract; or
(ii) a share in a water company, as defined in Section 73-3-3.5.
[(68)] (69) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 5. Section 17-27a-403 is amended to read:


(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.
(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 for residents of various income levels, 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:] that:
   (A) provides the general location and extent of existing and proposed freeways, arterial
   and collector streets, public transit, active transportation facilities, and other modes of
   transportation that the planning commission considers appropriate;
   (B) addresses the county's plan for residential and commercial development around
   major transit investment corridors to maintain and improve the connections between housing,
   employment, education, recreation, and commerce; and
   (C) correlates with the population projections and the proposed land use element of the
   general plan;
(iii) a plan for the development of additional moderate income housing within the
   unincorporated area of the county or the mountainous planning district, and a plan to provide a
   realistic opportunity to meet the need for additional moderate income housing; 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] of various income levels living
   or working in the community; and
   (B) to allow [persons with moderate] people with various incomes to benefit from and
fully participate in all aspects of neighborhood and community life; and

(ii) shall include an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the planning horizon, which may include a recommendation to do two or more of the following:

(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) create or allow for, and reduce regulations related to, accessory dwelling units in residential zones;

(F) allow for housing in commercial and mixed-use zones;

(G) encourage higher density or moderate income residential development near major transit investment corridors;

(H) eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) allow for single room occupancy developments;

(J) preserve existing moderate income housing;

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

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

(N) consider utilization of affordable housing programs administered by the Department of Workforce Services; and

(O) consider utilization of services provided by a public housing authority to preserve
and create moderate income housing.

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

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

(d) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) consider the regional transportation plan developed by its region's metropolitan planning organization, if the relevant areas of the county are within the boundaries of a metropolitan planning organization; or

(ii) consider the long-range transportation plan developed by the Utah Department of Transportation, if the relevant areas of the county are not within the boundaries of a metropolitan planning organization.

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

Section 6. Section 17-27a-408 is amended to read:

17-27a-408. Civil action regarding moderate income housing element of general plan.

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 7. Section 35A-8-503 is amended to read:

35A-8-503. Housing loan fund board -- Duties -- Expenses.

(1) There is created the Olene Walker Housing Loan Fund Board.
(2) The board is composed of 11 voting members.
(a) The governor shall appoint the following members to four-year terms:
(i) two members from local governments;
(ii) two members from the mortgage lending community;
(iii) one member from real estate sales interests;
(iv) one member from home builders interests;
(v) one member from rental housing interests;
(vi) one member from housing advocacy interests;
(vii) one member of the manufactured housing interest; [and]
(viii) one member with expertise in transit-oriented developments; and
(ix) one member who represents rural interests.

[(viii) two members of the general public.]

(b) The director or the director's designee serves as the secretary of the board.

(c) The members of the board shall annually elect a chair from among the voting membership of the board.

(3) (a) Notwithstanding the requirements of Subsection (2), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(b) When a vacancy occurs in the membership for any reason, the replacement is appointed for the unexpired term.

(4) (a) The board shall:

(i) meet regularly, at least [quarterly] six times per year, on dates fixed by the board;

(ii) keep minutes of its meetings; and

(iii) comply with the procedures and requirements of Title 52, Chapter 4, Open and Public Meetings Act.

(b) Seven members of the board constitute a quorum, and the governor, the chair, or a majority of the board may call a meeting of the board.

(5) The board shall:

(a) review the housing needs in the state;

(b) determine the relevant operational aspects of any grant, loan, or revenue collection program established under the authority of this chapter;

(c) determine the means to implement the policies and goals of this chapter;

(d) select specific projects to receive grant or loan money; and

(e) determine how fund money shall be allocated and distributed.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
1144 Section 8. Section 35A-8-505 is amended to read:
1145
35A-8-505. Activities authorized to receive fund money -- Powers of the executive
director.
1146 At the direction of the board, the executive director may:
1147 (1) provide fund money to any of the following activities:
1148 (a) the acquisition, rehabilitation, or new construction of low-income housing units;
1149 (b) matching funds for social services projects directly related to providing housing for
special-need renters in assisted projects;
1150 (c) the development and construction of accessible housing designed for low-income
persons;
1151 (d) the construction or improvement of a shelter or transitional housing facility that
provides services intended to prevent or minimize homelessness among members of a specific
homeless subpopulation;
1152 (e) the purchase of an existing facility to provide temporary or transitional housing for
the homeless in an area that does not require rezoning before providing such temporary or
transitional housing; [and]
1153 (f) the purchase of land that will be used as the site of low-income housing units; and
1154 [(f)] (g) other activities that will assist in minimizing homelessness or improving the
availability or quality of housing in the state for low-income persons;
1155 (2) do any act necessary or convenient to the exercise of the powers granted by this part
or reasonably implied from those granted powers, including:
1156 (a) making or executing contracts and other instruments necessary or convenient for
the performance of the executive director and board's duties and the exercise of the executive
director and board's powers and functions under this part, including contracts or agreements for
the servicing and originating of mortgage loans;
1157 (b) procuring insurance against a loss in connection with property or other assets held
by the fund, including mortgage loans, in amounts and from insurers it considers desirable;
1158 (c) entering into agreements with a department, agency, or instrumentality of the
United States or this state and with mortgagors and mortgage lenders for the purpose of
planning and regulating and providing for the financing and refinancing, purchase,
construction, reconstruction, rehabilitation, leasing, management, maintenance, operation, sale,
or other disposition of residential housing undertaken with the assistance of the department under this part;

d) proceeding with a foreclosure action, to own, lease, clear, reconstruct, rehabilitate, repair, maintain, manage, operate, assign, encumber, sell, or otherwise dispose of real or personal property obtained by the fund due to the default on a mortgage loan held by the fund in preparation for disposition of the property, taking assignments of leases and rentals, proceeding with foreclosure actions, and taking other actions necessary or incidental to the performance of its duties; and
e) selling, at a public or private sale, with public bidding, a mortgage or other obligation held by the fund.

Section 9. Section 35A-8-803 is amended to read:

35A-8-803. Division -- Functions.

(1) In addition to any other functions the governor or Legislature may assign:

(a) the division shall:

(i) provide a clearinghouse of information for federal, state, and local housing assistance programs;

(ii) establish, in cooperation with political subdivisions, model plans and management methods to encourage or provide for the development of affordable housing that may be adopted by political subdivisions by reference;

(iii) undertake, in cooperation with political subdivisions, a realistic assessment of problems relating to housing needs, such as:

(A) inadequate supply of dwellings;

(B) substandard dwellings; and

(C) inability of medium and low income families to obtain adequate housing;

(iv) provide the information obtained under Subsection (1)(a)(iii) to:

(A) political subdivisions;

(B) real estate developers;

(C) builders;

(D) lending institutions;

(E) affordable housing advocates; and

(F) others having use for the information;
advise political subdivisions of serious housing problems existing within their jurisdiction that require concerted public action for solution; and

(vi) assist political subdivisions in defining housing objectives and in preparing for adoption a plan of action covering a five-year period designed to accomplish housing objectives within their jurisdiction; and

(vii) for municipalities required to submit an annual moderate income housing report to the department as described in Section 10-9a-408, assist in the creation and evaluation of the reports; and

(b) within legislative appropriations, the division may accept for and on behalf of, and bind the state to, any federal housing or homeless program in which the state is invited, permitted, or authorized to participate in the distribution, disbursement, or administration of any funds or service advanced, offered, or contributed in whole or in part by the federal government.

(2) The administration of any federal housing program in which the state is invited, permitted, or authorized to participate in distribution, disbursement, or administration of funds or services, except those administered by the Utah Housing Corporation, is governed by Sections 35A-8-501 through 35A-8-508.

Section 10. Section 72-1-304 is amended to read:

72-1-304. Written project prioritization process for new transportation capacity projects -- Rulemaking.

(1) (a) The Transportation Commission, in consultation with the department and the metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written prioritization process for the prioritization of new transportation capacity projects that are or will be part of the state highway system under Chapter 4, Part 1, State Highways, or public transit projects that add capacity to the public transit systems within the state.

(b) (i) A local government or district may nominate a project for prioritization in accordance with the process established by the commission in rule.

(ii) If a local government or district nominates a project for prioritization by the commission, the local government or district shall provide data and evidence to show that:

(A) the project will advance the purposes and goals described in Section 72-1-211;

(B) for a public transit project, the local government or district has an ongoing funding
source for operations and maintenance of the proposed development; and

(C) the local government or district will provide 40% of the funds for the project as required by Subsection 72-2-124(7)(e).

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) a description of how the strategic initiatives of the department adopted under Section 72-1-211 are advanced by the written prioritization process;

(b) a definition of the type of projects to which the written prioritization process applies;

(c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;

(d) specification of the data that is necessary to apply the weighted ranking criteria; and

(e) any other provisions the commission considers appropriate, which may include consideration of:

(i) regional and statewide economic development impacts, including improved local access to:

(A) employment;

(B) educational facilities;

(C) recreation;

(D) commerce; and

(E) residential areas, including moderate income housing as demonstrated in the local government's or district's general plan pursuant to Section 17-27a-403 or Section 17-27a-403;

(ii) the extent to which local land use plans relevant to a project support and accomplish the strategic initiatives adopted under Section 72-1-211; and

(iii) any matching funds provided by a political subdivision or public transit district in addition to the 40% required by Subsection 72-2-124(7)(e).

(3) In developing the written prioritization process, the commission:

(a) shall seek and consider public comment by holding public meetings at locations throughout the state; and

(b) may not consider local matching dollars as provided under Section 72-2-123 unless
the state provides an equal opportunity to raise local matching dollars for state highway
improvements within each county.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
Transportation Commission, in consultation with the department, shall make rules establishing
the written prioritization process under Subsection (1).

(5) The commission shall submit the proposed rules under this section to a committee
or task force designated by the Legislative Management Committee for review prior to taking
final action on the proposed rules or any proposed amendment to the rules described in
Subsection (4).

Section 11. Section 72-2-124 is amended to read:


(1) There is created a capital projects fund entitled the Transportation Investment Fund
of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction,
reconstruction, or renovation of state and federal highways;
(b) appropriations made to the fund by the Legislature;
(c) registration fees designated under Section 41-1a-1201;
(d) the sales and use tax revenues deposited into the fund in accordance with Section
59-12-103; and
(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use
fund money [only] to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and
federal highways prioritized by the Transportation Commission through the prioritization
process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway
projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401
minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(f);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on $30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118; and

(vii) for fiscal year 2015-16 only, to transfer $25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Except as provided in Subsection (5)(b), the executive director may not use fund money, including from the Transit Transportation Investment Fund, within the boundaries of a municipality that is required to adopt a moderate income housing plan element as part of the municipality's general plan as described in Subsection 10-9a-401(3) but has failed to adopt a moderate income housing plan element as part of the municipality's general plan.

(b) Within the boundaries of a municipality that is required under Subsection 10-9a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the municipality's general plan as described in Section 10-9a-403, the executive director:

(i) may use fund money in accordance with Subsection (4)(a) for a limited-access facility; and

(ii) may not use fund money for the construction, reconstruction, or renovation to an interchange on a limited-access facility.

[(5)] (6) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the
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department needs to provide funding for the projects identified in Subsections 63B-18-401(2), 
1331 (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.
1332 
(b) The Executive Appropriations Committee of the Legislature shall review and 
1333 comment on the amount of bond proceeds needed to fund the projects.
1334 
(7) The Division of Finance shall, from money deposited into the fund, transfer 
1335 the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized 
1336 by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service 
1337 or sinking fund.
1338 
(8) (a) There is created in the Transportation Investment Fund of 2005 the Transit 
1339 Transportation Investment Fund.
1340 
(b) The fund shall be funded by:
1341 
(i) contributions deposited into the fund in accordance with Section 59-12-103;
1342 
(ii) appropriations into the account by the Legislature;
1343 
(iii) private contributions; and
1344 
(iv) donations or grants from public or private entities.
1345 
(c) (i) The fund shall earn interest.
1346 
(ii) All interest earned on fund money shall be deposited into the fund.
1347 
(d) Subject to Subsection (8)(e), the Legislature may appropriate money from the 
1348 fund for public transit capital development of new capacity projects to be used as prioritized by 
1349 the commission.
1350 
(e) (i) The Legislature may only appropriate money from the fund for a public transit 
1351 capital development project if the public transit district or political subdivision provides funds 
1352 of equal to or greater than 40% of the funds needed for the project.
1353 
(ii) A public transit district or political subdivision may use money derived from a loan 
1354 granted pursuant to Title 72, Chapter 2, Part 2, Transportation Infrastructure Loan Fund, to 
1355 provide all or part of the 40% requirement described in Subsection (8)(e)(i) if:
1356 
(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, 
1357 Transportation Infrastructure Loan Fund; and 
1358 
(B) the proposed capital project has been prioritized by the commission pursuant to 
1359 Section 72-1-303.
1360 
Section 12. Appropriation.
The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**ITEM 1**

To Department of Workforce Services -- Olene Walker Housing Loan Fund

- From General Fund, One-time $20,000,000
- From General Fund $4,000,000

Schedule of Programs:

- Olene Walker Housing Loan Fund $24,000,000