

Representative Kera Birkeland proposes the following substitute bill:

COUNTY LAND USE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kera Birkeland

Senate Sponsor: Ronald M. Winterton

Cosponsors: Michael L. Kohler

Brian S. King Steven J. Lund

LONG TITLE

General Description:

This bill modifies provisions relating to county land use and development.

Highlighted Provisions:

This bill:

- ▶ repeals provisions requiring certain counties to implement plans for creating a housing and transit reinvestment zone as a strategy to increase moderate income housing; and
- ▶ makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

17-27a-403, as last amended by Laws of Utah 2022, Chapters 282, 406



25 **63N-3-603**, as last amended by Laws of Utah 2022, Chapters 21, 406 and 433

26 **Utah Code Sections Affected by Coordination Clause:**

27 **63N-3-603**, as last amended by Laws of Utah 2022, Chapters 21, 406, and 433



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

30 Section 1. Section **17-27a-403** is amended to read:

31 **17-27a-403. Plan preparation.**

32 (1) (a) The planning commission shall provide notice, as provided in Section
33 **17-27a-203**, of the planning commission's intent to make a recommendation to the county
34 legislative body for a general plan or a comprehensive general plan amendment when the
35 planning commission initiates the process of preparing the planning commission's
36 recommendation.

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

- 39 (i) the unincorporated area within the county; or
- 40 (ii) if the planning commission is a planning commission for a mountainous planning
41 district, the mountainous planning district.

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

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

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

- 51 (i) a land use element that:
 - 52 (A) designates the long-term goals and the proposed extent, general distribution, and
53 location of land for housing for residents of various income levels, business, industry,
54 agriculture, recreation, education, public buildings and grounds, open space, and other
55 categories of public and private uses of land as appropriate;

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

58 (C) is coordinated to integrate the land use element with the water use and preservation
59 element; and

60 (D) accounts for the effect of land use categories and land uses on water demand;

61 (ii) a transportation and traffic circulation element that:

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

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

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

70 (iii) for a specified county as defined in Section 17-27a-408, a moderate income
71 housing element that:

72 (A) provides a realistic opportunity to meet the need for additional moderate income
73 housing within the next five years;

74 (B) selects three or more moderate income housing strategies described in Subsection
75 (2)(b)(ii) for implementation;

76 (C) includes an implementation plan as provided in Subsection (2)(e);

77 (iv) a resource management plan detailing the findings, objectives, and policies
78 required by Subsection 17-27a-401(3); and

79 (v) a water use and preservation element that addresses:

80 (A) the effect of permitted development or patterns of development on water demand
81 and water infrastructure;

82 (B) methods of reducing water demand and per capita consumption for future
83 development;

84 (C) methods of reducing water demand and per capita consumption for existing
85 development; and

86 (D) opportunities for the county to modify the county's operations to eliminate

87 practices or conditions that waste water.

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

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

91 (A) to meet the needs of people of various income levels living, working, or desiring to
92 live or work in the community; and

93 (B) to allow people with various incomes to benefit from and fully participate in all
94 aspects of neighborhood and community life; and

95 (ii) shall include an analysis of how the county will provide a realistic opportunity for
96 the development of moderate income housing within the planning horizon, including a
97 recommendation to implement three or more of the following moderate income housing
98 strategies:

99 (A) rezone for densities necessary to facilitate the production of moderate income
100 housing;

101 (B) demonstrate investment in the rehabilitation or expansion of infrastructure that
102 facilitates the construction of moderate income housing;

103 (C) demonstrate investment in the rehabilitation of existing uninhabitable housing
104 stock into moderate income housing;

105 (D) identify and utilize county general fund subsidies or other sources of revenue to
106 waive construction related fees that are otherwise generally imposed by the county for the
107 construction or rehabilitation of moderate income housing;

108 (E) create or allow for, and reduce regulations related to, internal or detached accessory
109 dwelling units in residential zones;

110 (F) zone or rezone for higher density or moderate income residential development in
111 commercial or mixed-use zones, commercial centers, or employment centers;

112 (G) amend land use regulations to allow for higher density or new moderate income
113 residential development in commercial or mixed-use zones near major transit investment
114 corridors;

115 (H) amend land use regulations to eliminate or reduce parking requirements for
116 residential development where a resident is less likely to rely on the resident's own vehicle,
117 such as residential development near major transit investment corridors or senior living

- 118 facilities;
- 119 (I) amend land use regulations to allow for single room occupancy developments;
- 120 (J) implement zoning incentives for moderate income units in new developments;
- 121 (K) preserve existing and new moderate income housing and subsidized units by
- 122 utilizing a landlord incentive program, providing for deed restricted units through a grant
- 123 program, or establishing a housing loss mitigation fund;
- 124 (L) reduce, waive, or eliminate impact fees related to moderate income housing;
- 125 (M) demonstrate creation of, or participation in, a community land trust program for
- 126 moderate income housing;
- 127 (N) implement a mortgage assistance program for employees of the county, an
- 128 employer that provides contracted services for the county, or any other public employer that
- 129 operates within the county;
- 130 (O) apply for or partner with an entity that applies for state or federal funds or tax
- 131 incentives to promote the construction of moderate income housing, an entity that applies for
- 132 programs offered by the Utah Housing Corporation within that agency's funding capacity, an
- 133 entity that applies for affordable housing programs administered by the Department of
- 134 Workforce Services, an entity that applies for services provided by a public housing authority
- 135 to preserve and create moderate income housing, or any other entity that applies for programs
- 136 or services that promote the construction or preservation of moderate income housing;
- 137 (P) demonstrate utilization of a moderate income housing set aside from a community
- 138 reinvestment agency, redevelopment agency, or community development and renewal agency
- 139 to create or subsidize moderate income housing;
- 140 (Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3,
- 141 Part 6, Housing and Transit Reinvestment Zone Act;
- 142 (R) eliminate impact fees for any accessory dwelling unit that is not an internal
- 143 accessory dwelling unit as defined in Section [10-9a-530](#);
- 144 (S) create a program to transfer development rights for moderate income housing;
- 145 (T) ratify a joint acquisition agreement with another local political subdivision for the
- 146 purpose of combining resources to acquire property for moderate income housing;
- 147 (U) develop a moderate income housing project for residents who are disabled or 55
- 148 years old or older;

149 (V) create or allow for, and reduce regulations related to, multifamily residential
150 dwellings compatible in scale and form with detached single-family residential dwellings and
151 located in walkable communities within residential or mixed-use zones; and

152 (W) demonstrate implementation of any other program or strategy to address the
153 housing needs of residents of the county who earn less than 80% of the area median income,
154 including the dedication of a local funding source to moderate income housing or the adoption
155 of a land use ordinance that requires 10% or more of new residential development in a
156 residential zone be dedicated to moderate income housing.

157 ~~[(iii) If a specified county, as defined in Section 17-27a-408, has created a small public~~
158 ~~transit district, as defined in Section 17B-2a-802, on or before January 1, 2022, the specified~~
159 ~~county shall include as part of the specified county's recommended strategies under Subsection~~
160 ~~(2)(b)(ii) a recommendation to implement the strategy described in Subsection (2)(b)(ii)(Q).]~~

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

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

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

166 (iii) consider and coordinate with any station area plans adopted by municipalities
167 located within the county under Section 10-9a-403.1.

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

170 (i) (A) consider and coordinate with the regional transportation plan developed by the
171 county's region's metropolitan planning organization, if the relevant areas of the county are
172 within the boundaries of a metropolitan planning organization; or

173 (B) consider and coordinate with the long-range transportation plan developed by the
174 Department of Transportation, if the relevant areas of the county are not within the boundaries
175 of a metropolitan planning organization; and

176 (ii) consider and coordinate with any station area plans adopted by municipalities
177 located within the county under Section 10-9a-403.1.

178 (e) (i) In drafting the implementation plan portion of the moderate income housing
179 element as described in Subsection (2)(a)(iii)(C), the planning commission shall establish a

180 timeline for implementing each of the moderate income housing strategies selected by the
181 county for implementation.

182 (ii) The timeline described in Subsection (2)(e)(i) shall:

183 (A) identify specific measures and benchmarks for implementing each moderate
184 income housing strategy selected by the county; and

185 (B) provide flexibility for the county to make adjustments as needed.

186 (f) In drafting the water use and preservation element, the planning commission:

187 (i) shall consider applicable regional water conservation goals recommended by the
188 Division of Water Resources;

189 (ii) shall include a recommendation for:

190 (A) water conservation policies to be determined by the county; and

191 (B) landscaping options within a public street for current and future development that
192 do not require the use of lawn or turf in a parkstrip;

193 (iii) shall review the county's land use ordinances and include a recommendation for
194 changes to an ordinance that promotes the inefficient use of water;

195 (iv) shall consider principles of sustainable landscaping, including the:

196 (A) reduction or limitation of the use of lawn or turf;

197 (B) promotion of site-specific landscape design that decreases stormwater runoff or
198 runoff of water used for irrigation;

199 (C) preservation and use of healthy trees that have a reasonable water requirement or
200 are resistant to dry soil conditions;

201 (D) elimination or regulation of ponds, pools, and other features that promote
202 unnecessary water evaporation;

203 (E) reduction of yard waste; and

204 (F) use of an irrigation system, including drip irrigation, best adapted to provide the
205 optimal amount of water to the plants being irrigated;

206 (v) may include recommendations for additional water demand reduction strategies,
207 including:

208 (A) creating a water budget associated with a particular type of development;

209 (B) adopting new or modified lot size, configuration, and landscaping standards that
210 will reduce water demand for new single family development;

- 211 (C) providing one or more water reduction incentives for existing landscapes and
- 212 irrigation systems and installation of water fixtures or systems that minimize water demand;
- 213 (D) discouraging incentives for economic development activities that do not adequately
- 214 account for water use or do not include strategies for reducing water demand; and
- 215 (E) adopting water concurrency standards requiring that adequate water supplies and
- 216 facilities are or will be in place for new development; and
- 217 (vi) shall include a recommendation for low water use landscaping standards for a new:
- 218 (A) commercial, industrial, or institutional development;
- 219 (B) common interest community, as defined in Section 57-25-102; or
- 220 (C) multifamily housing project.
- 221 (3) The proposed general plan may include:
- 222 (a) an environmental element that addresses:
- 223 (i) to the extent not covered by the county's resource management plan, the protection,
- 224 conservation, development, and use of natural resources, including the quality of:
- 225 (A) air;
- 226 (B) forests;
- 227 (C) soils;
- 228 (D) rivers;
- 229 (E) groundwater and other waters;
- 230 (F) harbors;
- 231 (G) fisheries;
- 232 (H) wildlife;
- 233 (I) minerals; and
- 234 (J) other natural resources; and
- 235 (ii) (A) the reclamation of land, flood control, prevention and control of the pollution
- 236 of streams and other waters;
- 237 (B) the regulation of the use of land on hillsides, stream channels and other
- 238 environmentally sensitive areas;
- 239 (C) the prevention, control, and correction of the erosion of soils;
- 240 (D) the preservation and enhancement of watersheds and wetlands; and
- 241 (E) the mapping of known geologic hazards;

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

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

247 (i) historic preservation;

248 (ii) the diminution or elimination of a development impediment as defined in Section
249 17C-1-102; and

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

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

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

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

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

262 Section 2. Section 63N-3-603 is amended to read:

263 **63N-3-603. Applicability, requirements, and limitations on a housing and transit**
264 **reinvestment zone.**

265 (1) A housing and transit reinvestment zone proposal created under this part shall
266 promote the following objectives:

267 (a) higher utilization of public transit;

268 (b) increasing availability of housing, including affordable housing;

269 (c) conservation of water resources through efficient land use;

270 (d) improving air quality by reducing fuel consumption and motor vehicle trips;

271 (e) encouraging transformative mixed-use development and investment in

272 transportation and public transit infrastructure in strategic areas;

273 (f) strategic land use and municipal planning in major transit investment corridors as
274 described in Subsection 10-9a-403(2);

275 (g) increasing access to employment and educational opportunities; and

276 (h) increasing access to child care.

277 (2) In order to accomplish the objectives described in Subsection (1), a municipality or
278 public transit county that initiates the process to create a housing and transit reinvestment zone
279 as described in this part shall ensure that the proposal for a housing and transit reinvestment
280 zone includes:

281 (a) except as provided in Subsection (3), at least 10% of the proposed dwelling units
282 within the housing and transit reinvestment zone are affordable housing units;

283 (b) at least 51% of the developable area within the housing and transit reinvestment
284 zone includes residential uses with, except as provided in Subsection (4)(c), an average of 50
285 dwelling units per acre or greater;

286 (c) mixed-use development; and

287 (d) a mix of dwelling units to ensure that a reasonable percentage of the dwelling units
288 has more than one bedroom.

289 (3) A municipality or public transit county that, at the time the housing and transit
290 reinvestment zone proposal is approved by the housing and transit reinvestment zone
291 committee, meets the affordable housing guidelines of the United States Department of
292 Housing and Urban Development at 60% area median income is exempt from the requirement
293 described in Subsection (2)(a).

294 (4) (a) A municipality may only propose a housing and transit reinvestment zone at a
295 commuter rail station, and a public transit county may only propose a housing and transit
296 reinvestment zone at a public transit hub, that:

297 (i) subject to Subsection (5)(a):

298 (A) (I) except as provided in Subsection (4)(a)(i)(A)(II), for a municipality, does not
299 exceed a 1/3 mile radius of a commuter rail station;

300 (II) for a municipality that is a city of the first class with a population greater than
301 150,000 that is within a county of the first class, with an opportunity zone created pursuant to
302 Section 1400Z-1, Internal Revenue Code, does not exceed a 1/2 mile radius of a commuter rail
303 station located within the opportunity zone; or

304 (III) for a public transit county, does not exceed a 1/3 mile radius of a public transit
305 hub; and

306 (B) has a total area of no more than 125 noncontiguous acres;

307 (ii) subject to Section 63N-3-607, proposes the capture of a maximum of 80% of each
308 taxing entity's tax increment above the base year for a term of no more than 25 consecutive
309 years on each parcel within a 45-year period not to exceed the tax increment amount approved
310 in the housing and transit reinvestment zone proposal; and

311 (iii) the commencement of collection of tax increment, for all or a portion of the
312 housing and transit reinvestment zone, will be triggered by providing notice as described in
313 Subsection (6).

314 (b) A municipality or public transit county may only propose a housing and transit
315 reinvestment zone at a light rail station or bus rapid transit station that:

316 (i) subject to Subsection (5):

317 (A) does not exceed:

318 (I) except as provided in Subsection (4)(b)(i)(A)(II) or (III), a 1/4 mile radius of a bus
319 rapid transit station or light rail station;

320 (II) for a municipality that is a city of the first class with a population greater than
321 150,000 that is within a county of the first class, a 1/2 mile radius of a light rail station located
322 in an opportunity zone created pursuant to Section 1400Z-1, Internal Revenue Code; or

323 (III) a 1/2 mile radius of a light rail station located within a master-planned
324 development of 500 acres or more; and

325 (B) has a total area of no more than 100 noncontiguous acres;

326 (ii) subject to Subsection (4)(c) and Section 63N-3-607, proposes the capture of a
327 maximum of 80% of each taxing entity's tax increment above the base year for a term of no
328 more than 15 consecutive years on each parcel within a 30-year period not to exceed the tax
329 increment amount approved in the housing and transit reinvestment zone proposal; and

330 (iii) the commencement of collection of tax increment, for all or a portion of the
331 housing and transit reinvestment zone, will be triggered by providing notice as described in
332 Subsection (6).

333 (c) For a housing and transit reinvestment zone proposed by a public transit county at a
334 public transit hub, or for a housing and transit reinvestment zone proposed by a municipality at

335 a bus rapid transit station, if the proposed housing density within the housing and transit
336 reinvestment zone is between 39 and 49 dwelling units per acre, the maximum capture of each
337 taxing entity's tax increment above the base year is 60%.

338 (d) A municipality that is a city of the first class with a population greater than 150,000
339 in a county of the first class as described in Subsections (4)(a)(i)(A)(II) and (4)(b)(i)(A)(II) may
340 only propose one housing and transit reinvestment zone within an opportunity zone.

341 (5) (a) For a housing and transit reinvestment zone for a commuter rail station, if a
342 parcel is bisected by the relevant radius limitation, the full parcel may be included as part of the
343 housing and transit reinvestment zone area and will not count against the limitations described
344 in Subsection (4)(a)(i).

345 (b) For a housing and transit reinvestment zone for a light rail or bus rapid transit
346 station, if a parcel is bisected by the relevant radius limitation, the full parcel may be included
347 as part of the housing and transit reinvestment zone area and will not count against the
348 limitations described in Subsection (4)(b)(i).

349 (6) The notice of commencement of collection of tax increment required in Subsection
350 (4)(a)(iii) or (4)(b)(iii) shall be sent by mail or electronically to:

- 351 (a) the tax commission;
- 352 (b) the State Board of Education;
- 353 (c) the state auditor;
- 354 (d) the auditor of the county in which the housing and transit reinvestment zone is
355 located;
- 356 (e) each taxing entity affected by the collection of tax increment from the housing and
357 transit reinvestment zone; and
- 358 (f) the Governor's Office of Economic Opportunity.

359 (7) (a) The maximum number of housing and transit reinvestment zones at light rail
360 stations is eight in any given county.

361 (b) The maximum number of housing and transit reinvestment zones at bus rapid
362 transit stations is three in any given county.

363 ~~[(8) (a) This Subsection (8) applies to a specified county, as defined in Section~~
364 ~~17-27a-408, that has created a small public transit district on or before January 1, 2022.]~~

365 ~~[(b) A county described in Subsection (8)(a) shall, in accordance with Section~~

366 ~~63N-3-604, prepare and submit to the Governor's Office of Economic Opportunity a proposal~~
367 ~~to create a housing and transit reinvestment zone on or before December 31, 2022.]~~

368 Section 3. **Coordinating H.B. 233 with S.B. 84 -- Superseding amendments.**

369 If this H.B. 233 and S.B. 84, Housing and Transit Reinvestment Zone Amendments,
370 both pass and become law, it is the intent of the Legislature that the amendments to Subsection
371 63N-3-603(8) in this bill supersede the amendments to Subsection 63N-3-603(8) in S.B. 84
372 when the Office of Legislative Research and General Counsel prepares the Utah Code database
373 for publication.