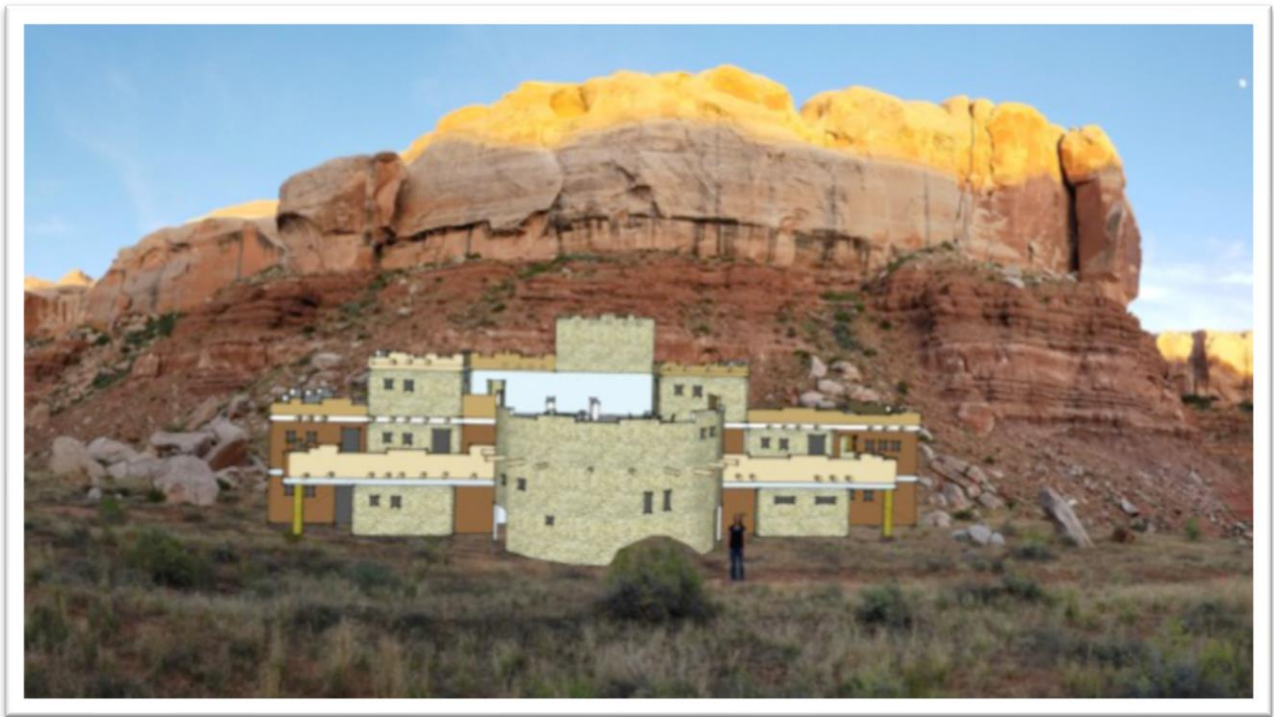


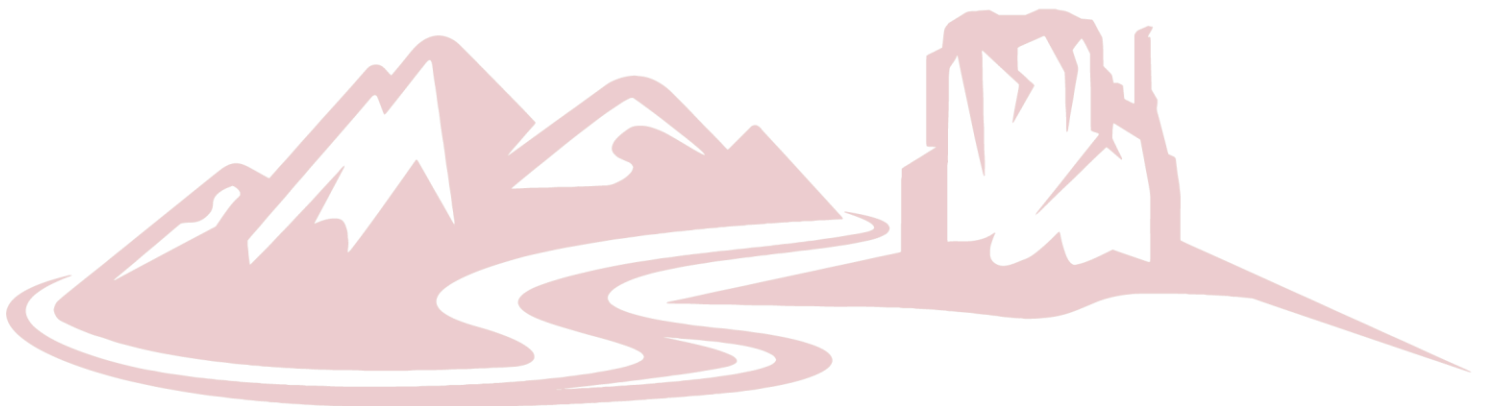
# Bluff Dwellings

Proposed Community Reinvestment Project Area Plan & Budget

Dated: April 3, 2018



Prepared by: EFG Consulting





# Introduction

On December 18, 2017, the San Juan County Commission created the Community Reinvestment Agency of San Juan County ("Agency") for the purpose of advancing economic initiatives within San Juan County ("County") in accordance with the Community Reinvestment Agency Act 17C (the "Act"). The Agency adopted policies on February 20, 2018 further defining the framework under which project areas would be created and tax increment utilized. In accordance with these policies, the Agency approved Resolution 2018-01 on February 20, 2018 (the "Survey Resolution") to initiate the process of adopting a community reinvestment project area to be known as the Bluff Dwellings Project Area ("Project Area") including the drafting of a proposed project area plan ("Plan") and proposed project area budget ("Budget").

## Chapter 1: Project Area Plan

The purpose of this Plan is to provide information regarding the Project Area including current conditions, how future development will be undertaken, how that development will impact the Project Area and surrounding communities, proposed uses of tax increment, and other related matters required in the Act.

### Boundary Description and Map

17C-5-105(1)(a)

The Project Area is located on east of Highway 191 near the address of 2625 South Highway 191 and includes all of Parcel # C40220196601. The legal description of the Project Area is as follows:

Section 19 T40S R22E:  
SE ¼ SW ¼; That  
portion lying East of the  
Highway, (consisting of  
approximately 16.08  
acres).





## Land Characteristics (current and how they will be affected)

17C-5-105(1)(b)

### Existing Land Uses

The Project Area is primarily vacant land zoned for [commercial use].

### Layout of Principal Streets

The Project Area is accessed from Highway 191 which runs along the west boundary of the Project Area. There are no public streets within the Project Area at the present time nor are any anticipated in the future. All access within the Project Area will be private drives.

### Population Densities

The Project Area has no meaningful fulltime permanent population density. The planned development within the Project Area will include 54 nightly rental lodging units which could increase the tourism population by a maximum of 150 persons. The Project Area also includes a high adventure commercial business which will add commercial population (collectively the “Bluff Dwellings Resort”).

### Building Intensities

The current site includes an approximately 1,000 sf commercial building and small storage sheds. At build-out of the proposed development, the Project Area will include a 54-unit hotel and related service buildings.



## Development Guidance Standards

17C-5-105(1)(c)

The Bluff Dwellings Resort and any future development will be in compliance with the current zoning for the area including the County’s general plan guidelines. Any development will be compatible with the unique features of the area to increase the commercial value of the development.





## Project Furthers Purpose of CRA Statute

17C-5-105(1)(d)

The purpose of the Act is to increase the economic vitality of the Agency and County. The Bluff Dwellings Resort will add increased economic activity to the area included the additional of [5-10] jobs. In addition, the tax base will be increased through additional property value as well as sales tax and transient room tax generation.

## Consistency with San Juan County General Plan

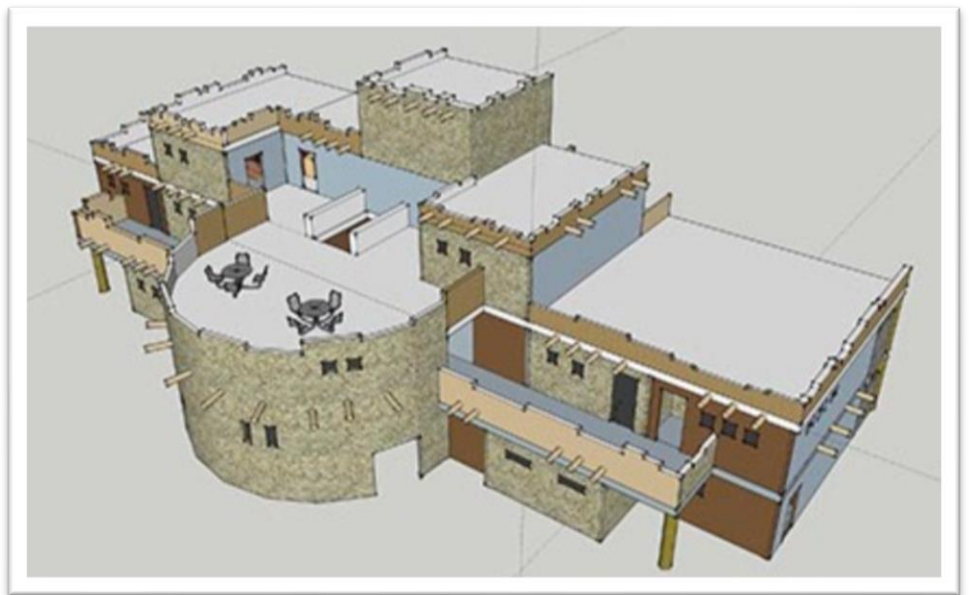
17C-5-105(1)(e)

The Bluff Dwellings Resort complies with the County's current general plan specifically the need to increase tourism and expand the economic base in Bluff.<sup>1</sup> The general plan is being updated within the next year and it is unlikely that any changes to the general plan will impact the Project Area.

## Specific Project Development

17C-5-105(1)(g)

Bluff Dwellings Resort is an upscale lodging property designed to immerse guests in the beautiful natural surroundings while educating them about the Ancestral Puebloan and local Native American Cultures. The resort consists of 15 buildings with 54 rooms including 9 private individual building suites and 3 kachina suites. The front office building is surrounded by a large outdoor pool and patio complex including a beach entry pool, rock and water features, jacuzzi, and a small food and smoothie shack. Guests can enjoy a luxurious massage after their day in the back country at the onsite SPA with rooms for individual or couples. Organizations can schedule and use the conference center for corporate trainings and retreats. The conference center and pool area will also be available for rentals for private weddings and gatherings. The property has been meticulously laid out using the 14 acres to focus guests on being immersed in the outdoors. Hiking trails will extend throughout the property and beyond to adjoining public lands.



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<sup>1</sup> See page 62 of the 2008 San Juan County General Plan



## **Reasons for Bluff Project Area**

17C-5-105(1)(i)

The Agency selected the Project Area to assist the Bluff Dwellings Resort in meeting its goals to open a quality facility within the County. The Project Area is located at the north end of the Bluff area and will have a positive impact on tourism coming from the north.

## **Physical, Social and Economic Conditions in Project Area**

17C-5-105(1)(j)

The Project Area before the development of Bluff Dwellings Resort was primarily vacant land with limited vegetation and agricultural use. The Project Area has been home to a commercial tour company for 8 years which brought some economic value to the area. The development of Bluff Dwellings Resort will have a positive economic impact and a low environmental impact on the Project Area and surrounding area.

## **Financial Assistance to Participant**

17C-5-105(1)(k)

In order to fully develop 54 units within the Project Area, Utah Department of Transportation (“UDOT”) is requiring Bluff Dwellings Resort to build acceleration and deceleration lanes on the access to Highway 191. In addition, Bluff Dwellings Resort has utility costs that need to be covered. The Agency has determined to assist Bluff Dwellings Resort in offsetting these costs. The Agency anticipates providing \$450,000 over a maximum of 20 years to reimburse Bluff Dwellings Resort for these costs.

## **Public Benefits Analysis**

17C-5-105(1)(l)

### Benefits of Financial Assistance

#### **Reasonableness of Costs of Development**

Bluff Dwellings Resort plans to invest approximately \$6m to construct 54 lodging units, a swimming pool, and related service areas. This equates to \$110,000 per key which is within the construction range of other similar hotel products based upon market review. The cost of development is reasonable for this type of development.

#### **Efforts to Maximize Private Investment**

Bluff Dwellings Resort has endeavored to obtain financing to construct this project from more than 14 potential lenders before finding a lender that would provide funding in rural San Juan County. The additional unanticipated capital costs to finalize the project will be financed by Bluff Dwellings Resort and repaid through tax increment.



## Need for Public Investment

With the addition of new costs for a UDOT turn lane, Bluff Dwellings Resort may need to reduce the size of the project which will increase the likelihood of business failure as the economies of size are reduced. Finding financing in rural San Juan County is challenging and public support to move this project forward is reasonable and needed. As seen below, the return to taxing entities in regard to tax base and economic activity is a prudent investment of public dollars.

## Source and Use of Project Area Funds

Bluff Dwellings Resort anticipates investing a little over \$6m to finalize construction. EFG Consulting estimates that assessed value will be approximately 80% of this investment amount based upon similar projects within Utah. With an estimated assessed value of \$4.8m, tax increment (or new taxes from this project) for all taxing entities could be \$65k per year. At 75% participation from each taxing entity, this could produce \$16k for the combined taxing entities, and \$49k to the CRA per year. The CRA will retain 5% each year to administer the Project Area and retain \$15k in year one to recoup the cost of creating the Project Area. The CRA will then reimburse Bluff Dwellings Resort up to a maximum of \$450k for the following project expenses. It is anticipated that the cap will be reached between year 10 and 15.

Sources of Funds – 20 Years			
Total Tax Increment Generation	Participation Rate	Total	NPV
San Juan County	75.0%	288,161	176,017
San Juan County School District	75.0%	679,236	414,897
San Juan County Water Conservancy District	75.0%	53,058	32,409
San Juan County Health Service District	75.0%	95,596	58,393
San Juan County Service Area No. 1	75.0%	128,071	78,230
Total Tax Increment Rate		1,244,123	759,946

Uses of Funds – 20 Years		
Tax Increment to Taxing Entities	Total	NPV
San Juan County	172,826	90,573
San Juan County School District	407,377	213,495
San Juan County Water Conservancy District	31,822	16,677
San Juan County Health Service District	57,334	30,047
San Juan County Service Area No. 1	76,812	40,255
Total Tax Increment to Taxing Entities	746,171	391,047

CRA Uses of Tax Increment		Total	NPV
CRA Administration	5.00%	24,898	18,445
Reimburse Bluff Dwellings for Infrastructure		458,054	336,848
Reimburse County for Creation		15,000	13,605
Total Uses of CRA Funds		497,952	368,898



Bluff Dwelling Reimbursement Expenses	
UDOT Turn Lane	\$ 300,000
Bluff Water Works	75,000
Electrical Utilities	50,000
Other Utility Costs	25,000
Total Request & Cap Amount	\$ 450,000

## Public Benefit

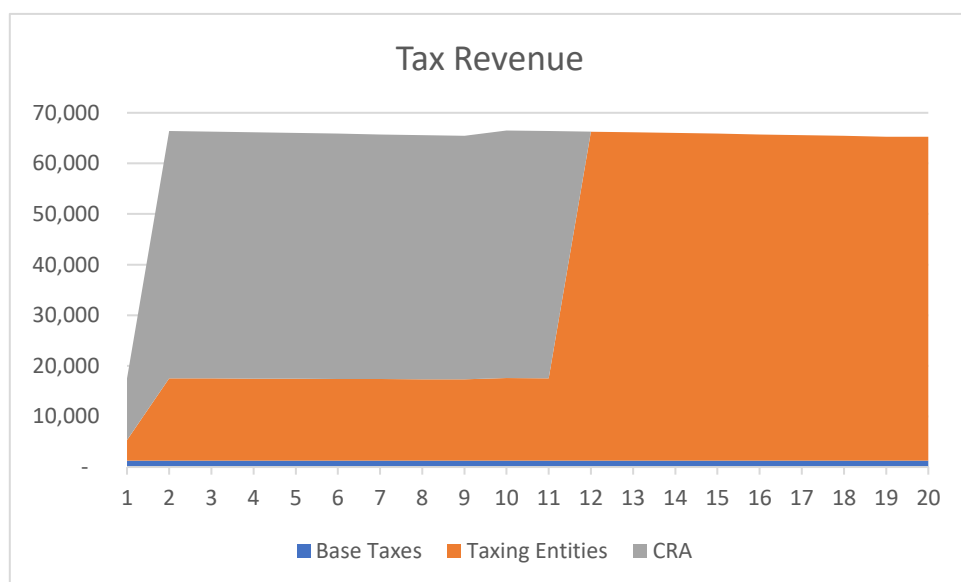
### Community Tax Base

The tax base for the communities will increase in the following areas:

1. Property Tax
2. Sales Tax
3. Transient Room Tax

### *Property Tax*

As described above, the Bluff Dwellings Resort will add approximately \$4.8m to the tax rolls of the various entities which levy a tax in the Project Area. This represents a 0.6% increase in the tax base for the County, School District, Water Conservancy District, and Health District. This represents a 25% increase in the San Juan County Service Area #1 which is a substantial increase. The majority of the new taxes generated from this value over the next 20 years will flow to the taxing entities. Once the \$450,000 cap is reached, the Project Area will expire, and the full tax increment will return to the taxing entities and will be considered New Growth in the certified rate calculation. The following is a summary of the tax revenue from the Project Area. The blue represents the current taxes from the Project Area which will continue to flow to the taxing entities. The grey represents the tax revenue that will flow to the CRA. The orange represents the new tax value to taxing entities.





### *Sales Tax*

The County will realize gains in sales tax from the County Option Sales Tax, the Local Option Sales & Use Tax, and the County Transportation Infrastructure Sales Tax. The County Option and Local Option Sales Taxes are based upon a 50% population and 50% point of sale split. This analysis includes only the point of sales portion for the County Option (50% of 0.25% or 0.125%) and Local Option (50% of 1% or 0.50%).

Bluff Dwellings Resort estimates its gross lodging revenue will begin at \$458k in 2017 with 18 units and 65% occupancy and increase to \$2.37m in 2020 with 54 units and 90% occupancy. Over a 20-year period, Bluff Dwellings Resort is estimated to receive \$54.8m in gross lodging revenues. Based upon these estimates, the County will receive approximately \$480k (\$277 in Net Present Value) over a 20-year period.

Sales Taxes	Point of Sale Rate	Total	NPV*
County Option Sales Tax	0.125%	\$68,545	\$39,575
Local Option Sales Tax	0.50%	\$274,180	\$158,300
County Transportation Sales Tax	0.25%	\$137,090	\$79,150
<b>Total</b>		<b>\$479,814</b>	<b>\$277,025</b>
* Using a discount rate of 5%			

### *Transient Room Tax*

The County will also realize Transient Room Tax revenue based upon the gross lodging sales calculated above. The County levies a 4.25% TRT rate which is estimated to produce \$2.3m over 20 years (\$1.3m NPV).

### **Associated Economic Activity**

The generation of additional nightly rentals will spur additional economic development activity from additional wages paid to workers at Bluff Dwellings Resort and from additional spending from those staying at Bluff Dwellings Resort. It is estimated that Bluff Dwellings Resort could support 3-5 direct and indirect jobs in the community. It is also likely that Bluff or other communities in the County could experience sales equal to those provided above for food and other entertainment from lodgers. Projects of this nature can also have a synergy affect wherein other similar or related businesses can enter the community to take advantage of the additional draw to the area. That is the hope for this project.

### **Necessary and Appropriate**

Based upon the analysis herein, Bluff Dwellings Resort will have a positive impact upon the tax base of the communities in the area. Further, the investment of \$450k of newly created property tax is a sound investment for all taxing entities in the area.

## **Governance – Interlocal Agreement**

17C-5-105(1)(n)

The Project Area will be subject to interlocal agreement between the Agency and each taxing entity that levies a tax in the Project Area. This interlocal agreements will be the authorizing documents that divert tax





increment from the taxing entities to the Agency. The Agency will then enter into a participation agreement with the Bluff Dwellings Resort which will outline the requirements to access these funds from the Agency.



## Chapter 2: Project Area Budget

The purpose of the Budget is to describe and outline the financial resources necessary to enact the Plan in accordance with 17C-5-301. The Project Area is governed by Interlocal Agreements as outlined in the Act (17C-5-202(1)(a)).

### Sources of Funds

17C-5-303(1)

#### Base Taxable Value

17C-5-303(1)(a)

The base taxable value for the Project Area is the 2017 taxable value which is estimated at \$93,019.

#### Tax Increment Projection

17C-5-303(1)(b)

It is estimated that the investment in the Project Area will produce an incremental taxable value of approximately \$4.85m. Annual tax increment is estimated (based upon the 2017 tax rates) at \$65k per year.

#### Collection Period

17C-5-303(1)(c)

The Agency will collect funds from the Project Area for a maximum of 15 years subject to the Maximum Collection Amount.

#### Collection Area

17C-5-303(1)(e)

The collection area is the same as the Project Area.

#### Participation Rates

17C-5-303(1)(f)

The Agency is requesting that all taxing entities participate at 75% for the collection period.

#### Maximum Collection Amounts

17C-5-303(1)(g)

The Agency will cap the total tax increment paid to the Bluff Dwellings Resort at \$450,000.00. The Project Area will stop collecting increment after year 15 or when the cap is reached. Any overcollection in the final year will be reimbursed to taxing entities on a *pro rata* basis.



## Uses of Funds

17C-5-303(3)

The Agency will use the funds collected from the Project Area primarily to reimburse horizontal infrastructure paid by Bluff Dwellings. This will include the following estimated uses.

Bluff Dwelling Reimbursement Expenses	Amounts	Ownership
UDOT Turn Lane	\$ 300,000	UDOT
Bluff Water Works	75,000	Private
Electrical Utilities	50,000	Private
Other Utility Costs	25,000	Private
Total Request & Cap Amount	\$ 450,000	

## Agency's Combined Incremental Value

17C-5-303(4)

The Agency currently has no other project areas and therefore no current value. It is estimated that this Project Area will create \$4.8m in incremental value.

## Administrative Costs

17C-5-303(1)(a)

The Agency will collect a 5% administration fee from the tax increment to pay for costs associated with filing annual notices required by the Act. The Agency will also collect \$15,000.00 to reimburse the County for the creation of the CRA and the Project Area.



## Appendix A – Budget and Financial Calculations

# Community Reinvestment Agency of San Juan County

## Bluff Dwellings Community Reinvestment Project Area

### Budget Summary

Sources of Funds			
Total Tax Increment Generation	Participation Rate	Total	NPV
San Juan County	75.0%	288,161	176,017
San Juan County School District	75.0%	679,236	414,897
San Juan County Water Conservancy District	75.0%	53,058	32,409
San Juan County Health Service District	75.0%	95,596	58,393
San Juan County Service Area No. 1	75.0%	128,071	78,230
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Uses of Funds			
Tax Increment to Taxing Entities		Total	NPV
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Total Uses of CRA Funds		497,952	368,898

Bluff Dwelling Reimbursement Expenses	
UDOT Turn Lane	\$ 300,000
Bluff Water Works	75,000
Electrical Utilities	50,000
Other Utility Costs	25,000
Total Request & Cap Amount	\$ 450,000

Discount Rate	7.50%
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Community Reinvestment Agency of San Juan County

Bluff Dwellings Community Reinvestment Project Area

Budget Projections

	CRA Payment Year	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038
	Collection Year	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037
	Construction Year	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
Tax Increment		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20
Real Property Value		1,200,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000
Personal Property Value		90,000	82,000	72,000	62,000	53,000	44,000	33,000	22,000	12,000	90,000	82,000	72,000	62,000	53,000	44,000	33,000	22,000	12,000	-	-
Centrally Assessed Value		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Value		1,290,000	4,882,000	4,872,000	4,862,000	4,853,000	4,844,000	4,833,000	4,822,000	4,812,000	4,890,000	4,882,000	4,872,000	4,862,000	4,853,000	4,844,000	4,833,000	4,822,000	4,812,000	4,800,000	4,800,000
Base Year Value	93,019	93,019	93,019	93,019	93,019	93,019	93,019	93,019	93,019	93,019	93,019	93,019	93,019	93,019	93,019	93,019	93,019	93,019	93,019	93,019	93,019
Incremental Value		1,196,981	4,788,981	4,778,981	4,768,981	4,759,981	4,750,981	4,739,981	4,728,981	4,718,981	4,796,981	4,788,981	4,778,981	4,768,981	4,759,981	4,750,981	4,739,981	4,728,981	4,718,981	4,706,981	4,706,981

Tax Rate																				
San Juan County (Gross)	0.003521	0.003521	0.003521	0.003521	0.003521	0.003521	0.003521	0.003521	0.003521	0.003521	0.003521	0.003521	0.003521	0.003521	0.003521	0.003521	0.003521	0.003521	0.003521	0.003521
Multicounty Assessing & Collecting	-0.000010	-0.000010	-0.000010	-0.000010	-0.000010	-0.000010	-0.000010	-0.000010	-0.000010	-0.000010	-0.000010	-0.000010	-0.000010	-0.000010	-0.000010	-0.000010	-0.000010	-0.000010	-0.000010	-0.000010
County Assessing & Collecting	-0.000361	-0.000361	-0.000361	-0.000361	-0.000361	-0.000361	-0.000361	-0.000361	-0.000361	-0.000361	-0.000361	-0.000361	-0.000361	-0.000361	-0.000361	-0.000361	-0.000361	-0.000361	-0.000361	-0.000361
San Juan County (Net)	0.003150	0.003150	0.003150	0.003150	0.003150	0.003150	0.003150	0.003150	0.003150	0.003150	0.003150	0.003150	0.003150	0.003150	0.003150	0.003150	0.003150	0.003150	0.003150	0.003150
San Juan County School District	0.007425	0.007425	0.007425	0.007425	0.007425	0.007425	0.007425	0.007425	0.007425	0.007425	0.007425	0.007425	0.007425	0.007425	0.007425	0.007425	0.007425	0.007425	0.007425	0.007425
San Juan County Water Conservancy District	0.000580	0.000580	0.000580	0.000580	0.000580	0.000580	0.000580	0.000580	0.000580	0.000580	0.000580	0.000580	0.000580	0.000580	0.000580	0.000580	0.000580	0.000580	0.000580	0.000580
San Juan County Health Service District	0.001045	0.001045	0.001045	0.001045	0.001045	0.001045	0.001045	0.001045	0.001045	0.001045	0.001045	0.001045	0.001045	0.001045	0.001045	0.001045	0.001045	0.001045	0.001045	0.001045
San Juan County Service Area No. 1	0.001400	0.001400	0.001400	0.001400	0.001400	0.001400	0.001400	0.001400	0.001400	0.001400	0.001400	0.001400	0.001400	0.001400	0.001400	0.001400	0.001400	0.001400	0.001400	0.001400
Total Tax Increment Rate	0.013600	0.013600	0.013600	0.013600	0.013600	0.013600	0.013600	0.013600	0.013600	0.013600	0.013600	0.013600	0.013600	0.013600	0.013600	0.013600	0.013600	0.013600	0.013600	0.013600

Total Tax Increment																				Total	NPV	
San Juan County	-	3,770	15,085	15,054	15,022	14,994	14,966	14,931	14,896	14,865	15,110	15,085	15,054	15,022	14,994	14,966	14,931	14,896	14,865	14,827	288,161	\$176,017
San Juan County School District	-	8,888	35,558	35,484	35,410	35,343	35,276	35,194	35,113	35,038	35,618	35,558	35,484	35,410	35,343	35,276	35,194	35,113	35,038	34,949	679,236	\$414,897
San Juan County Water Conservancy District	-	694	2,778	2,772	2,766	2,761	2,756	2,749	2,743	2,737	2,782	2,778	2,772	2,766	2,761	2,756	2,749	2,743	2,737	2,730	53,058	\$32,409
San Juan County Health Service District	-	1,251	5,004	4,994	4,984	4,974	4,965	4,953	4,942	4,931	5,013	5,004	4,994	4,984	4,974	4,965	4,953	4,942	4,931	4,919	95,596	\$58,393
San Juan County Service Area No. 1	-	1,676	6,705	6,691	6,677	6,664	6,651	6,636	6,621	6,607	6,716	6,705	6,691	6,677	6,664	6,651	6,636	6,621	6,607	6,590	128,071	\$78,230
Total Tax Increment Rate	-	16,279	65,130	64,994	64,858	64,736	64,613	64,464	64,314	64,178	65,239	65,130	64,994	64,858	64,736	64,613	64,464	64,314	64,178	64,015	1,244,123	\$759,946

Participation Rate																				
San Juan County	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	0%	0%	0%	0%	0%	0%	0%	0%
San Juan County School District	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	0%	0%	0%	0%	0%	0%	0%	0%
San Juan County Water Conservancy District	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	0%	0%	0%	0%	0%	0%	0%	0%
San Juan County Health Service District	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	0%	0%	0%	0%	0%	0%	0%	0%
San Juan County Service Area No. 1	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	0%	0%	0%	0%	0%	0%	0%	0%

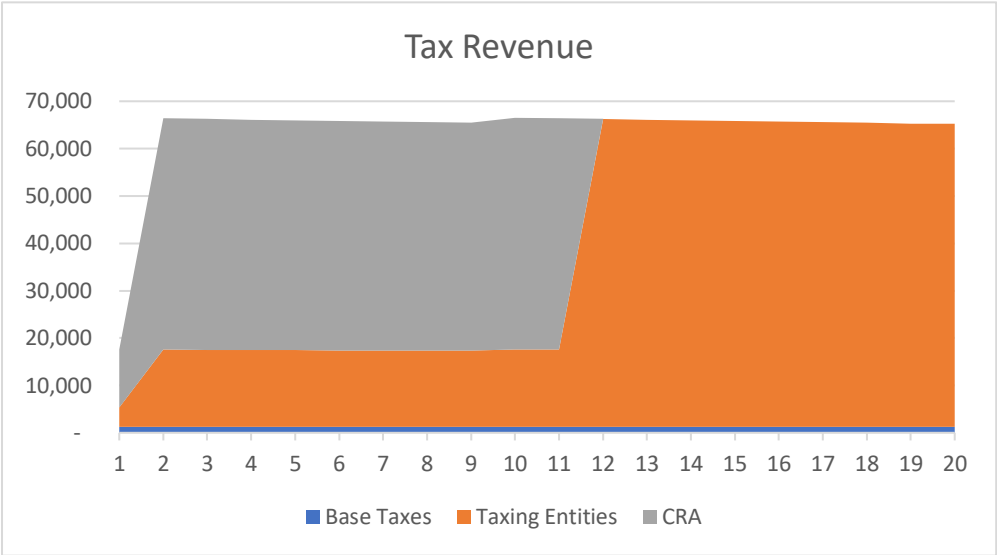
Tax Increment to Taxing Entities		Base Year																			Total	NPV	
San Juan County	293	943	3,771	3,763	3,756	3,748	3,741	3,733	3,724	3,716	3,778	3,771	15,054	15,022	14,994	14,966	14,931	14,896	14,865	14,827	14,827	172,826	\$90,573
San Juan County School District	691	2,222	8,890	8,871	8,852	8,836	8,819	8,799	8,778	8,760	8,904	8,890	35,484	35,410	35,343	35,276	35,194	35,113	35,038	34,949	34,949	407,377	\$213,495
San Juan County Water Conservancy District	54	174	694	693	692	690	689	687	686	684	696	694	2,772	2,766	2,761	2,756	2,749	2,743	2,737	2,730	2,730	31,822	\$16,677
San Juan County Health Service District	97	313	1,251	1,249	1,246	1,244	1,241	1,238	1,235	1,233	1,253	1,251	4,994	4,984	4,974	4,965	4,953	4,942	4,931	4,919	4,919	57,334	\$30,047
San Juan County Service Area No. 1	130	419	1,676	1,673	1,669	1,666	1,663	1,659	1,655	1,652	1,679	1,676	6,691	6,677	6,664	6,651	6,636	6,621	6,607	6,590	6,590	76,812	\$40,255
Total Tax Increment to Taxing Entities	1,265	4,070	16,283	16,249	16,215	16,184	16,153	16,116	16,079	16,045	16,310	16,283	64,994	64,858	64,736	64,613	64,464	64,314	64,178	64,015	64,015	746,171	\$391,047

Tax Increment to CRA																				Total	NPV
San Juan County	-	2,828	11,314	11,290	11,267	11,245	11,224	11,198	11,172	11,149	11,333	11,314	-	-	-	-	-	-	-	115,334	\$85,443
San Juan County School District	-	6,666	26,669	26,613	26,557	26,507	26,457	26,396	26,335	26,279	26,713	26,669	-	-	-	-	-	-	-	271,860	\$201,402
San Juan County Water Conservancy District	-	521	2,083	2,079	2,075	2,071	2,067	2,062	2,057	2,053	2,087	2,083	-	-	-	-	-	-	-	21,236	\$15,732
San Juan County Health Service District	-	938	3,753	3,746	3,738	3,731	3,724	3,715	3,706	3,699	3,760	3,753	-	-	-	-	-	-	-	38,262	\$28,345
San Juan County Service Area No. 1	-	1,257	5,028	5,018	5,007	4,998	4,989	4,977	4,965	4,955	5,037	5,028	-	-	-	-	-	-	-	51,260	\$37,975
Total Tax Increment to CRA	-	12,209	48,848	48,746	48,644	48,552	48,460	48,348	48,236	48,134	48,929	48,848	-	-	-	-	-	-	-	497,952	\$368,898

Uses of Tax Increment																				Total	NPV
CRA Administration	5.00%	610	2,442	2,437	2,432	2,428	2,423	2,417	2,412	2,407	2,446	2,442	-	-	-	-	-	-	-	24,898	\$18,445
Reimburse Bluff Dwellings for Infrastructure		11,599	31,405	46,308	46,211	46,124	46,037	45,930	45,824	45,727	46,483	46,405	-	-	-	-	-	-	-	458,054	\$336,848
Reimburse County for Creation		-	15,000										-	-	-	-	-	-	-	15,000	\$13,605
Total Uses of Funds		12,209	48,848	48,746	48,644	48,552	48,460	48,348	48,236	48,134	48,929	48,848	-	-	-	-	-	-	-	497,952	\$368,898
Cumulative to Bluff Dwellings		11,599	43,004	89,312	135,524	181,648	227,685	273,615	319,439	365,166	411,649	458,054	458,054	458,054	458,054	458,054	458,054	458,054	458,054	458,054	

Bluff Dwelling Reimbursement Expenses	
UDOT Turn Lane	\$ 300,000
Bluff Water Works	75,000
Electrical Utilities	50,000
Other Utility Costs	25,000
Total Request & Cap Amount	\$ 450,000

Discount Rate	5.00%
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Community Reinvestment Agency of San Juan County

Bluff Dwellings Community Reinvestment Project Area

Investment Projections

	Construction Year	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
Added Value by Year		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20
Real Property		1,500,000	4,500,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Personal Property		100,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Centrally Assessed		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total																					

Cumulative																					
Real Property		1,500,000	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000
Personal Property		90,000	82,000	72,000	62,000	53,000	44,000	33,000	22,000	12,000	90,000	82,000	72,000	62,000	53,000	44,000	33,000	22,000	12,000	-	-
Centrally Assessed		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total		1,590,000	6,082,000	6,072,000	6,062,000	6,053,000	6,044,000	6,033,000	6,022,000	6,012,000	6,090,000	6,082,000	6,072,000	6,062,000	6,053,000	6,044,000	6,033,000	6,022,000	6,012,000	6,000,000	6,000,000

Market to Taxable Adjustment																					
Real Property	80%	1,200,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000
Personal Property	100%	90,000	82,000	72,000	62,000	53,000	44,000	33,000	22,000	12,000	90,000	82,000	72,000	62,000	53,000	44,000	33,000	22,000	12,000	-	-
Centrally Assessed	100%	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total		1,290,000	4,882,000	4,872,000	4,862,000	4,853,000	4,844,000	4,833,000	4,822,000	4,812,000	4,890,000	4,882,000	4,872,000	4,862,000	4,853,000	4,844,000	4,833,000	4,822,000	4,812,000	4,800,000	4,800,000

Depreciation Schedule	Hotel	90%	82%	72%	62%	53%	44%	33%	22%	12%	90%	82%	72%	62%	53%	44%	33%	22%	12%		
Class 5 2018 USTC		90,000	82,000	72,000	62,000	53,000	44,000	33,000	22,000	12,000	90,000	82,000	72,000	62,000	53,000	44,000	33,000	22,000	12,000		

Community Reinvestment Agency of San Juan County

Bluff Dwellings Community Reinvestment Project Area

Sales and TRT Taxes

	Construction Year	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036		
Added Value by Year		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20	Total	NPV
Units		18	33	54	54	54	54	54	54	54	54	54	54	54	54	54	54	54	54	54	54		
Occupancy		65%	75%	85%	90%	90%	90%	90%	90%	90%	90%	90%	90%	90%	90%	90%	90%	90%	90%	90%	90%		
Average Nightly Rental Rate (blended)*		\$160.00	\$155.45	\$153.33	\$157.93	\$162.67	\$167.55	\$172.58	\$177.76	\$183.09	\$188.58	\$194.24	\$200.07	\$206.07	\$212.25	\$218.62	\$225.18	\$231.93	\$238.89	\$246.05	\$253.44		
Available Nights		305	305	305	305	305	305	305	305	305	305	305	305	305	305	305	305	305	305	305	305		
Gross Revenue		570,960	1,173,488	2,146,590	2,341,046	2,411,277	2,483,615	2,558,124	2,634,868	2,713,914	2,795,331	2,879,191	2,965,567	3,054,534	3,146,170	3,240,555	3,337,772	3,437,905	3,541,042	3,647,273	3,756,691	54,835,911	\$31,659,976

Sales Taxes																					Total	NPV	
County Option Sales Tax	0.125%	714	1,467	2,683	2,926	3,014	3,105	3,198	3,294	3,392	3,494	3,599	3,707	3,818	3,933	4,051	4,172	4,297	4,426	4,559	4,696	\$68,545	\$39,575
Local Option Sales Tax	0.50%	2,855	5,867	10,733	11,705	12,056	12,418	12,791	13,174	13,570	13,977	14,396	14,828	15,273	15,731	16,203	16,689	17,190	17,705	18,236	18,783	\$274,180	\$158,300
County Transportation Sales Tax	0.25%	1,427	2,934	5,366	5,853	6,028	6,209	6,395	6,587	6,785	6,988	7,198	7,414	7,636	7,865	8,101	8,344	8,595	8,853	9,118	9,392	\$137,090	\$79,150
Total		4,996	10,268	18,783	20,484	21,099	21,732	22,384	23,055	23,747	24,459	25,193	25,949	26,727	27,529	28,355	29,206	30,082	30,984	31,914	32,871	\$479,814	\$277,025

Transient Room Tax																					Total	NPV	
County-Wide Transient Room Tax	4.25%	24,266	49,873	91,230	99,494	102,479	105,554	108,720	111,982	115,341	118,802	122,366	126,037	129,818	133,712	137,724	141,855	146,111	150,494	155,009	159,659	\$2,330,526	\$1,345,549
																						\$0	\$0
Total		24,266	49,873	91,230	99,494	102,479	105,554	108,720	111,982	115,341	118,802	122,366	126,037	129,818	133,712	137,724	141,855	146,111	150,494	155,009	159,659	\$2,330,526	\$1,345,549

\*Rate between \$150 & \$210 depending upon the room

Inflation	3.00%
Discount Rate	5.00%



## Appendix B – CRA Code – April 1, 2018

**Effective 5/10/2016**

**Title 17C. Limited Purpose Local Government  
Entities - Community Reinvestment Agency Act**

**Chapter 1  
Agency Operations**

**Part 1  
General Provisions**

**17C-1-101 Title.**

- (1) This title is known as the "Limited Purpose Local Government Entities - Community Reinvestment Agency Act."
- (2) This chapter is known as "Agency Operations."
- (3) This part is known as "General Provisions."

Amended by Chapter 350, 2016 General Session

**17C-1-102 Definitions.**

As used in this title:

- (1) "Active project area" means a project area that has not been dissolved in accordance with Section 17C-1-702.
- (2) "Adjusted tax increment" means the percentage of tax increment, if less than 100%, that an agency is authorized to receive :
  - (a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax increment under Subsection 17C-1-403(3);
  - (b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding tax increment under Section 17C-1-406;
  - (c) under a project area budget approved by a taxing entity committee; or
  - (d) under an interlocal agreement that authorizes the agency to receive a taxing entity's tax increment.
- (3) "Affordable housing" means housing owned or occupied by a low or moderate income family, as determined by resolution of the agency.
- (4) "Agency" or "community reinvestment agency" means a separate body corporate and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community development and renewal agency under previous law:
  - (a) that is a political subdivision of the state;
  - (b) that is created to undertake or promote project area development as provided in this title; and
  - (c) whose geographic boundaries are coterminous with:
    - (i) for an agency created by a county, the unincorporated area of the county; and
    - (ii) for an agency created by a municipality, the boundaries of the municipality.
- (5) "Agency funds" means money that an agency collects or receives for the purposes of agency operations or implementing a project area plan, including:
  - (a) project area funds;
  - (b) income, proceeds, revenue, or property derived from or held in connection with the agency's undertaking and implementation of project area development; or
  - (c) a contribution, loan, grant, or other financial assistance from any public or private source.



- (6) "Annual income" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as superseded by replacement regulations.
- (7) "Assessment roll" means the same as that term is defined in Section 59-2-102.
- (8) "Base taxable value" means, unless otherwise adjusted in accordance with provisions of this title, a property's taxable value as shown upon the assessment roll last equalized during the base year.
- (9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year during which the assessment roll is last equalized:
  - (a) for a pre-July 1, 1993, urban renewal or economic development project area plan, before the project area plan's effective date;
  - (b) for a post-June 30, 1993, urban renewal or economic development project area plan, or a community reinvestment project area plan that is subject to a taxing entity committee:
    - (i) before the date on which the taxing entity committee approves the project area budget; or
    - (ii) if taxing entity committee approval is not required for the project area budget, before the date on which the community legislative body adopts the project area plan;
  - (c) for a project on an inactive airport site, after the later of:
    - (i) the date on which the inactive airport site is sold for remediation and development; or
    - (ii) the date on which the airport that operated on the inactive airport site ceased operations; or
  - (d) for a community development project area plan or a community reinvestment project area plan that is subject to an interlocal agreement, as described in the interlocal agreement.
- (10) "Basic levy" means the portion of a school district's tax levy constituting the minimum basic levy under Section 59-2-902.
- (11) "Blight" or "blighted" means the condition of an area that meets the requirements described in Subsection 17C-2-303(1) for an urban renewal project area or Section 17C-5-405 for a community reinvestment project area.
- (12) "Blight hearing" means a public hearing regarding whether blight exists within a proposed:
  - (a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section 17C-2-302; or
  - (b) community reinvestment project area under Section 17C-5-405.
- (13) "Blight study" means a study to determine whether blight exists within a survey area as described in Section 17C-2-301 for an urban renewal project area or Section 17C-5-403 for a community reinvestment project area.
- (14) "Board" means the governing body of an agency, as described in Section 17C-1-203.
- (15) "Budget hearing" means the public hearing on a proposed project area budget required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget, Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection 17C-5-302(2)(e) for a community reinvestment project area budget.
- (16) "Closed military base" means land within a former military base that the Defense Base Closure and Realignment Commission has voted to close or realign when that action has been sustained by the president of the United States and Congress.
- (17) "Combined incremental value" means the combined total of all incremental values from all project areas, except project areas that contain some or all of a military installation or inactive industrial site, within the agency's boundaries under project area plans and project area budgets at the time that a project area budget for a new project area is being considered.
- (18) "Community" means a county or municipality.
- (19) "Community development project area plan" means a project area plan adopted under Chapter 4, Part 1, Community Development Project Area Plan.

- (20) "Community legislative body" means the legislative body of the community that created the agency.
- (21) "Community reinvestment project area plan" means a project area plan adopted under Chapter 5, Part 1, Community Reinvestment Project Area Plan.
- (22) "Contest" means to file a written complaint in the district court of the county in which the agency is located.
- (23) "Economic development project area plan" means a project area plan adopted under Chapter 3, Part 1, Economic Development Project Area Plan.
- (24) "Fair share ratio" means the ratio derived by:
  - (a) for a municipality, comparing the percentage of all housing units within the municipality that are publicly subsidized income targeted housing units to the percentage of all housing units within the county in which the municipality is located that are publicly subsidized income targeted housing units; or
  - (b) for the unincorporated part of a county, comparing the percentage of all housing units within the unincorporated county that are publicly subsidized income targeted housing units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units.
- (25) "Family" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended or as superseded by replacement regulations.
- (26) "Greenfield" means land not developed beyond agricultural, range, or forestry use.
- (27) "Hazardous waste" means any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment, under state or federal law or regulation.
- (28) "Housing allocation" means tax increment allocated for housing under Section 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section 17C-1-412.
- (29) "Housing fund" means a fund created by an agency for purposes described in Section 17C-1-411 or 17C-1-412 that is comprised of:
  - (a) project area funds allocated for the purposes described in Section 17C-1-411; or
  - (b) an agency's housing allocation.
- (30)
  - (a) "Inactive airport site" means land that:
    - (i) consists of at least 100 acres;
    - (ii) is occupied by an airport:
      - (A)
        - (I) that is no longer in operation as an airport; or
        - (II)
          - (Aa) that is scheduled to be decommissioned; and
          - (Bb) for which a replacement commercial service airport is under construction; and
      - (B) that is owned or was formerly owned and operated by a public entity; and
    - (iii) requires remediation because:
      - (A) of the presence of hazardous waste or solid waste; or
      - (B) the site lacks sufficient public infrastructure and facilities, including public roads, electric service, water system, and sewer system, needed to support development of the site.
  - (b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land described in Subsection (30)(a).
- (31)

- (a) "Inactive industrial site" means land that:
  - (i) consists of at least 1,000 acres;
  - (ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial facility; and
  - (iii) requires remediation because of the presence of hazardous waste or solid waste.
- (b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land described in Subsection (31)(a).
- (32) "Income targeted housing" means housing that is owned or occupied by a family whose annual income is at or below 80% of the median annual income for a family within the county in which the housing is located.
- (33) "Incremental value" means a figure derived by multiplying the marginal value of the property located within a project area on which tax increment is collected by a number that represents the adjusted tax increment from that project area that is paid to the agency.
- (34) "Loan fund board" means the Olene Walker Housing Loan Fund Board, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.
- (35)
  - (a) " Local government building" means a building owned and operated by a community for the primary purpose of providing one or more primary community functions, including:
    - (i) a fire station;
    - (ii) a police station;
    - (iii) a city hall; or
    - (iv) a court or other judicial building.
  - (b) " Local government building" does not include a building the primary purpose of which is cultural or recreational in nature.
- (36) "Marginal value" means the difference between actual taxable value and base taxable value.
- (37) "Military installation project area" means a project area or a portion of a project area located within a federal military installation ordered closed by the federal Defense Base Realignment and Closure Commission.
- (38) "Municipality" means a city, town, or metro township as defined in Section 10-2a-403.
- (39) "Participant" means one or more persons that enter into a participation agreement with an agency.
- (40) "Participation agreement" means a written agreement between a person and an agency that:
  - (a) includes a description of:
    - (i) the project area development that the person will undertake;
    - (ii) the amount of project area funds the person may receive; and
    - (iii) the terms and conditions under which the person may receive project area funds; and
  - (b) is approved by resolution of the board.
- (41) "Plan hearing" means the public hearing on a proposed project area plan required under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection 17C-3-102(1)(d) for an economic development project area plan, Subsection 17C-4-102(1)(d) for a community development project area plan, or Subsection 17C-5-104(3)(e) for a community reinvestment project area plan.
- (42) "Post-June 30, 1993, project area plan" means a project area plan adopted on or after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the project area plan's adoption.
- (43) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July 1, 1993, whether or not amended subsequent to the project area plan's adoption.
- (44) "Private," with respect to real property, means:

- (a) not owned by a public entity or any other governmental entity; and
  - (b) not dedicated to public use.
- (45) "Project area" means the geographic area described in a project area plan within which the project area development described in the project area plan takes place or is proposed to take place.
- (46) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area prepared in accordance with:
- (a) for an urban renewal project area, Section 17C-2-202;
  - (b) for an economic development project area, Section 17C-3-202;
  - (c) for a community development project area, Section 17C-4-204; or
  - (d) for a community reinvestment project area, Section 17C-5-302.
- (47) "Project area development" means activity within a project area that, as determined by the board, encourages, promotes, or provides development or redevelopment for the purpose of implementing a project area plan, including:
- (a) promoting, creating, or retaining public or private jobs within the state or a community;
  - (b) providing office, manufacturing, warehousing, distribution, parking, or other facilities or improvements;
  - (c) planning, designing, demolishing, clearing, constructing, rehabilitating, or remediating environmental issues;
  - (d) providing residential, commercial, industrial, public, or other structures or spaces, including recreational and other facilities incidental or appurtenant to the structures or spaces;
  - (e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating existing structures;
  - (f) providing open space, including streets or other public grounds or space around buildings;
  - (g) providing public or private buildings, infrastructure, structures, or improvements;
  - (h) relocating a business;
  - (i) improving public or private recreation areas or other public grounds;
  - (j) eliminating blight or the causes of blight;
  - (k) redevelopment as defined under the law in effect before May 1, 2006; or
  - (l) any activity described in Subsections (47)(a) through (k) outside of a project area that the board determines to be a benefit to the project area.
- (48) "Project area funds" means tax increment or sales and use tax revenue that an agency receives under a project area budget adopted by a taxing entity committee or an interlocal agreement.
- (49) "Project area funds collection period" means the period of time that:
- (a) begins the day on which the first payment of project area funds is distributed to an agency under a project area budget adopted by a taxing entity committee or an interlocal agreement; and
  - (b) ends the day on which the last payment of project area funds is distributed to an agency under a project area budget adopted by a taxing entity committee or an interlocal agreement.
- (50) "Project area plan" means an urban renewal project area plan, an economic development project area plan, a community development project area plan, or a community reinvestment project area plan that, after the project area plan's effective date, guides and controls the project area development.
- (51)
- (a) "Property tax" means each levy on an ad valorem basis on tangible or intangible personal or real property.
  - (b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax.

- (52) "Public entity" means:
- (a) the United States, including an agency of the United States;
  - (b) the state, including any of the state's departments or agencies; or
  - (c) a political subdivision of the state, including a county, municipality, school district, local district, special service district, or interlocal cooperation entity.
- (53) "Publicly owned infrastructure and improvements" means water, sewer, storm drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, or other facilities, infrastructure, and improvements benefitting the public and to be publicly owned or publicly maintained or operated.
- (54) "Record property owner" or "record owner of property" means the owner of real property, as shown on the records of the county in which the property is located, to whom the property's tax notice is sent.
- (55) "Sales and use tax revenue" means revenue that is:
- (a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act; and
  - (b) distributed to a taxing entity in accordance with Sections 59-12-204 and 59-12-205.
- (56) "Superfund site":
- (a) means an area included in the National Priorities List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and
  - (b) includes an area formerly included in the National Priorities List, as described in Subsection (56)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.
- (57) "Survey area" means a geographic area designated for study by a survey area resolution to determine whether:
- (a) one or more project areas within the survey area are feasible; or
  - (b) blight exists within the survey area.
- (58) "Survey area resolution" means a resolution adopted by a board that designates a survey area.
- (59) "Taxable value" means:
- (a) the taxable value of all real property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, for the current year;
  - (b) the taxable value of all real and personal property the commission assesses in accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and
  - (c) the year end taxable value of all personal property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.
- (60)
- (a) "Tax increment" means the difference between:
    - (i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a project area designated in the project area plan as the area from which tax increment is to be collected, using the current assessed value of the property; and
    - (ii) the amount of property tax revenue that would be generated from that same area using the base taxable value of the property.
  - (b) "Tax increment" does not include taxes levied and collected under Section 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:
    - (i) the project area plan was adopted before May 4, 1993, whether or not the project area plan was subsequently amended; and



- (ii) the taxes were pledged to support bond indebtedness or other contractual obligations of the agency.
- (61) "Taxing entity" means a public entity that:
  - (a) levies a tax on property located within a project area; or
  - (b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.
- (62) "Taxing entity committee" means a committee representing the interests of taxing entities, created in accordance with Section 17C-1-402.
- (63) "Unincorporated" means not within a municipality.
- (64) "Urban renewal project area plan" means a project area plan adopted under Chapter 2, Part 1, Urban Renewal Project Area Plan.

Amended by Chapter 456, 2017 General Session

**17C-1-102.5 Project area created on or after May 10, 2016.**

Beginning on May 10, 2016, an agency:

- (1) may create a community reinvestment project area under Chapter 5, Community Reinvestment;
- (2) except as provided in Subsection (3), may not create:
  - (a) an urban renewal project area under Chapter 2, Urban Renewal;
  - (b) an economic development project area under Chapter 3, Economic Development; or
  - (c) a community development project area under Chapter 4, Community Development; and
- (3) may create an urban renewal project area, an economic development project area, or a community development project area if:
  - (a) before April 1, 2016, the agency adopts a resolution in accordance with:
    - (i) Section 17C-2-101.5 for an urban renewal project area;
    - (ii) Section 17C-3-101.5 for an economic development project area; or
    - (iii) Section 17C-4-101.5 for a community development project area; and
  - (b) the urban renewal project area, economic development project area, or community development project area is effective before September 1, 2016.

Enacted by Chapter 350, 2016 General Session

**17C-1-103 Limitations on applicability of title -- Amendment of previously adopted project area plan.**

- (1) Except where expressly provided, nothing in this title may be construed to:
  - (a) impose a requirement or obligation on an agency, with respect to a project area plan adopted or an agency action taken, that was not imposed by the law in effect at the time the project area plan was adopted or the action taken;
  - (b) prohibit an agency from taking an action that:
    - (i) was allowed by the law in effect immediately before an applicable amendment to this title;
    - (ii) is permitted or required under the project area plan adopted before the amendment; and
    - (iii) is not explicitly prohibited under this title;
  - (c) revive any right to challenge any action of the agency that had already expired; or
  - (d) require a project area plan to contain a provision that was not required by the law in effect at the time the project area plan was adopted.
- (2)
  - (a) A project area plan adopted before an amendment to this title becomes effective may be amended as provided in this title.

- (b) Unless explicitly prohibited by this title, an amendment under Subsection (2)(a) may include a provision that is allowed under this title but that was not required or allowed by the law in effect before the applicable amendment.

Amended by Chapter 350, 2016 General Session

**17C-1-104 Actions not subject to land use laws.**

- (1) An action taken under this title is not subject to Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act or Title 17, Chapter 27a, County Land Use, Development, and Management Act.
- (2) An ordinance or resolution adopted under this title is not a land use regulation as defined in Sections 10-9a-103 and 17-27a-103.

Amended by Chapter 84, 2017 General Session

## **Part 2**

### **Agency Creation, Powers, and Board**

**17C-1-201.1 Title.**

This part is known as "Agency Creation, Powers, and Board."

Enacted by Chapter 350, 2016 General Session

**17C-1-201.5 Creation of agency -- Name change.**

- (1) A community legislative body may, by ordinance, create a community reinvestment agency.
- (2)
  - (a) The community legislative body shall:
    - (i) after adopting an ordinance under Subsection (1), file with the lieutenant governor a copy of a notice, subject to Subsection (2)(b), of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
    - (ii) upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5, submit to the recorder of the county in which the agency is located:
      - (A) the original notice of an impending boundary action;
      - (B) the original certificate of creation; and
      - (C) a certified copy of the ordinance approving the creation of the community reinvestment agency.
  - (b) The notice required under Subsection (2)(a)(i) shall state that the agency's boundaries are, and shall always be, coterminous with the boundaries of the community that created the agency.
  - (c) Upon the lieutenant governor's issuance of the certificate of creation under Section 67-1a-6.5, the agency is created and incorporated.
  - (d) Until the documents listed in Subsection (2)(a)(ii) are recorded in the office of the recorder of the county in which the agency is located, an agency may not receive or spend agency funds.
- (3)
  - (a) An agency may change the agency's name by:
    - (i) adopting a resolution approving a name change; and

- (ii) filing with the lieutenant governor a copy of a notice of an impending name change, as defined in Section 67-1a-6.7, that meets the requirements of Subsection 67-1a-6.7(3).
- (b)
  - (i) Upon the lieutenant governor's issuance of a certificate of name change under Section 67-1a-6.7, the agency shall file with the recorder of the county in which the agency is located:
    - (A) the original notice of an impending name change;
    - (B) the original certificate of name change; and
    - (C) a certified copy of the resolution approving a name change.
  - (ii) Until the documents listed in Subsection (3)(b)(i) are recorded in the office of the county recorder, the agency may not operate under the new name.

Renumbered and Amended by Chapter 350, 2016 General Session

**17C-1-202 Agency powers.**

- (1) An agency may:
  - (a) sue and be sued;
  - (b) enter into contracts generally;
  - (c) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;
  - (d) sell, convey, grant, gift, or otherwise dispose of any interest in real or personal property;
  - (e) enter into a lease agreement on real or personal property, either as lessee or lessor;
  - (f) provide for project area development as provided in this title;
  - (g) receive and use agency funds as provided in this title;
  - (h) if disposing of or leasing land, retain controls or establish restrictions and covenants running with the land consistent with the project area plan;
  - (i) accept financial or other assistance from any public or private source for the agency's activities, powers, and duties, and expend any funds the agency receives for any purpose described in this title;
  - (j) borrow money or accept financial or other assistance from a public entity or any other source for any of the purposes of this title and comply with any conditions of any loan or assistance;
  - (k) issue bonds to finance the undertaking of any project area development or for any of the agency's other purposes, including:
    - (i) reimbursing an advance made by the agency or by a public entity to the agency;
    - (ii) refunding bonds to pay or retire bonds previously issued by the agency; and
    - (iii) refunding bonds to pay or retire bonds previously issued by the community that created the agency for expenses associated with project area development;
  - (l) pay an impact fee, exaction, or other fee imposed by a community in connection with land development; or
  - (m) transact other business and exercise all other powers described in this title.
- (2) The establishment of controls or restrictions and covenants under Subsection (1)(h) is a public purpose.

Amended by Chapter 350, 2016 General Session

**17C-1-203 Agency board -- Quorum.**

- (1) The governing body of an agency is a board consisting of the current members of the community legislative body.
- (2) A majority of board members constitutes a quorum for the transaction of agency business.

- (3) A board may not adopt a resolution, pass a motion, or take any other official board action without the concurrence of at least a majority of the board members present at a meeting at which a quorum is present.
- (4)
  - (a) The mayor or the mayor's designee of a municipality operating under a council-mayor form of government, as defined in Section 10-3b-102:
    - (i) serves as the executive director of an agency created by the municipality; and
    - (ii) exercises the agency's executive powers.
  - (b) The county executive or the county executive's designee of a county operating under a county executive-council form of government, as described in Section 17-52-504:
    - (i) serves as the executive director of an agency created by the county; and
    - (ii) exercises the agency's executive powers.

Amended by Chapter 350, 2016 General Session

**17C-1-204 Project area development by an adjoining agency -- Requirements.**

- (1)
  - (a) A community that has not created an agency may enter into an interlocal agreement with an agency located in the same or an abutting county that authorizes the agency to exercise all the powers granted to an agency under this title within the community.
  - (b) The agency and the community shall adopt an interlocal agreement described in Subsection (1)(a) by resolution.
- (2) If an agency and a community enter into an interlocal agreement under Subsection (1):
  - (a) the agency may act in all respects as if a project area within the community were within the agency's boundaries;
  - (b) the board has all the rights, powers, and privileges with respect to a project area within the community as if the project area were within the agency's boundaries;
  - (c) the agency may be paid project area funds to the same extent as if a project area within the community were within the agency's boundaries; and
  - (d) the community legislative body shall adopt, by ordinance, each project area plan within the community approved by the agency.
- (3) If an agency's project area abuts another agency's project area, the agencies may coordinate with each other in order to assist and cooperate in the planning, undertaking, construction, or operation of project area development located within each agency's project area.
- (4)
  - (a) As used in this Subsection (4):
    - (i) "County agency" means an agency that is created by a county.
    - (ii) "Industrial property" means private real property:
      - (A) over half of which is located within the boundary of a town, as defined in Section 10-1-104; and
      - (B) comprises some or all of an inactive industrial site.
    - (iii) "Perimeter portion" means the portion of an inactive industrial site that is:
      - (A) part of the inactive industrial site because the site lies within the perimeter described in Section 17C-1-102; and
      - (B) located within the boundary of a city, as defined in Section 10-1-104.
  - (b)

- (i) Subject to Subsection (4)(b)(ii), a county agency may undertake project area development on industrial property if the record property owner of the industrial property submits a written request to the county agency to do so.
- (ii) A county agency may not include a perimeter portion within a project area without the approval of the city in which the perimeter portion is located.
- (c) If a county agency undertakes project area development on industrial property:
  - (i) the county agency may act in all respects as if the project area that includes the industrial property were within the county agency's boundary;
  - (ii) the board of the county agency has each right, power, and privilege with respect to the project area as if the project area were within the county agency's boundary; and
  - (iii) the county agency may be paid project area funds to the same extent as if the project area were within the county agency's boundary.
- (d) A project area plan for a project on industrial property that is approved by the county agency shall be adopted by ordinance of the legislative body of the county in which the project area is located.

Amended by Chapter 350, 2016 General Session

**17C-1-205 Transfer of project area from one community to another.**

- (1) As used in this section:
  - (a) "New agency" means the agency created by the new community.
  - (b) "New community" means the community in which the relocated project area is located after the change in community boundaries takes place.
  - (c) "Original agency" means the agency created by the original community.
  - (d) "Original community" means the community that adopted the project area plan that created the project area that has been relocated.
  - (e) "Relocated" means that a project area under a project area plan adopted by the original community has ceased to be located within that community and has become part of a new community because of a change in community boundaries through:
    - (i) a county or municipal annexation;
    - (ii) the creation of a new county;
    - (iii) a municipal incorporation, consolidation, dissolution, or boundary adjustment; or
    - (iv) any other action resulting in a change in community boundaries.
- (2) A relocated project area shall, for purposes of this title, be considered to remain in the original community until the original agency and the new agency enter into an interlocal agreement, adopted by resolution of the original agency's and the new agency's board, that authorizes the original agency to transfer or assign to the new agency the original agency's real property, rights, indebtedness, obligations, tax increment, or other assets and liabilities resulting from the relocated project area.

Amended by Chapter 350, 2016 General Session

**17C-1-207 Public entities may assist with project area development.**

- (1) In order to assist and cooperate in the planning, undertaking, construction, or operation of project area development within an area in which the public entity is authorized to act, a public entity may:
  - (a)
    - (i) provide or cause to be furnished:



- (A) parks, playgrounds, or other recreational facilities;
- (B) community, educational, water, sewer, or drainage facilities; or
- (C) any other works which the public entity is otherwise empowered to undertake;
- (ii) provide, furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, or other places;
- (iii) in any part of the project area:
  - (A)
    - (I) plan or replan any property within the project area;
    - (II) plat or replat any property within the project area;
    - (III) vacate a plat;
    - (IV) amend a plat; or
    - (V) zone or rezone any property within the project area; and
  - (B) make any legal exceptions from building regulations and ordinances;
- (iv) purchase or legally invest in any of the bonds of an agency and exercise all of the rights of any holder of the bonds;
- (v) enter into an agreement with another public entity concerning action to be taken pursuant to any of the powers granted in this title;
- (vi) do anything necessary to aid or cooperate in the planning or implementation of the project area development;
- (vii) in connection with the project area plan, become obligated to the extent authorized and funds have been made available to make required improvements or construct required structures; and
- (viii) lend, grant, or contribute funds to an agency for project area development or proposed project area development, including assigning revenue or taxes in support of an agency bond or obligation; and
- (b) 15 days after posting public notice:
  - (i) purchase or otherwise acquire property or lease property from the agency; or
  - (ii) sell, grant, convey, or otherwise dispose of the public entity's property or lease the public entity's property to the agency.
- (2) Notwithstanding any law to the contrary, an agreement under Subsection (1)(a)(v) may extend over any period.
- (3) A grant or contribution of funds from a public entity to an agency, or from an agency under a project area plan or project area budget, is not subject to the requirements of Section 10-8-2.

Amended by Chapter 350, 2016 General Session

**17C-1-208 Agency funds.**

- (1) Agency funds shall be accounted for separately from the funds of the community that created the agency.
- (2) An agency may accumulate retained earnings or fund balances, as appropriate, in any fund.

Amended by Chapter 350, 2016 General Session

**17C-1-209 Agency records.**

An agency shall maintain the agency's minutes, resolutions, and other records separate from those of the community that created the agency.

Enacted by Chapter 350, 2016 General Session

### **Part 3 Agency Property**

#### **17C-1-301.1 Title.**

This part is known as "Agency Property."

Enacted by Chapter 350, 2016 General Session

#### **17C-1-301.5 Agency property exempt from taxation -- Exception.**

- (1) Agency property acquired or held for purposes of this title is public property used for essential public and governmental purposes and, subject to Subsection (2), is exempt from taxation by a taxing entity.
- (2) The exemption in Subsection (1) does not apply to property that the agency leases to a lessee unless the lessee is entitled to a tax exemption with respect to the property.

Renumbered and Amended by Chapter 350, 2016 General Session

#### **17C-1-302 Agency property exempt from levy and execution sale -- Judgment against community or agency.**

- (1)
  - (a)
    - (i) All agency property, including funds the agency owns or holds for purposes of this title, is exempt from levy and execution sale, and no execution or judicial process may issue against the property.
    - (ii) A judgment against an agency may not be a charge or lien upon agency property.
  - (b) Subsection (1)(a) does not apply to or limit the right of an obligee to pursue any remedy for the enforcement of any pledge or lien given by an agency on the agency's funds or revenues.
- (2) A judgment against the community that created the agency may not be a charge or lien upon agency property.
- (3) A judgment against an agency may not be a charge or lien upon property of the community that created the agency.

Amended by Chapter 350, 2016 General Session

### **Part 4 Project Area Funds**

#### **17C-1-401.1 Title.**

This part is known as "Project Area Funds."

Enacted by Chapter 350, 2016 General Session

#### **17C-1-401.5 Agency receipt and use of project area funds -- Distribution of project area funds.**

- (1) An agency may receive and use project area funds in accordance with this title.
- (2)
  - (a) A county that collects property tax on property located within a project area shall, in accordance with Section 59-2-1365, distribute to an agency any tax increment that the agency is authorized to receive.
  - (b) Tax increment distributed to an agency in accordance with Subsection (2)(a) is not revenue of the taxing entity.
- (3)
  - (a) The project area funds collection period shall be measured:
    - (i) for a pre-July 1, 1993, project area plan, from the first tax year regarding which the agency accepts tax increment from the project area;
    - (ii) for a post-June 30, 1993, urban renewal or economic development project area plan:
      - (A) with respect to tax increment, from the first tax year for which the agency receives tax increment under the project area budget; or
      - (B) with respect to sales and use tax revenue, as indicated in the interlocal agreement between the agency and the taxing entity that authorizes the agency to receive the taxing entity's sales and use tax revenue;
    - (iii) for a community development project area plan, as indicated in the resolution or interlocal agreement of a taxing entity that authorizes the agency to receive the taxing entity's project area funds;
    - (iv) for a community reinvestment project area plan that is subject to a taxing entity committee:
      - (A) with respect to tax increment, from the first tax year for which the agency receives tax increment under the project area budget; or
      - (B) with respect to sales and use tax revenue, in accordance with the interlocal agreement between the agency and the taxing entity that authorizes the agency to receive the taxing entity's sales and use tax revenue; or
    - (v) for a community reinvestment project area plan that is subject to an interlocal agreement, in accordance with the interlocal agreement between the agency and the taxing entity that authorizes the agency to receive the taxing entity's project area funds.
  - (b) Unless otherwise provided in a project area budget that is approved by a taxing entity committee, or in an interlocal agreement adopted by a taxing entity, tax increment may not be paid to an agency for a tax year before the tax year following:
    - (i) for an urban renewal project area plan, an economic development project area plan, or a community reinvestment project area plan that is subject to a taxing entity committee, the effective date of the project area plan; and
    - (ii) for a community development project area plan or a community reinvestment project area plan that is subject to an interlocal agreement, the effective date of the interlocal agreement that authorizes the agency to receive tax increment.
- (4) With respect to a community development project area plan or a community reinvestment project area plan that is subject to an interlocal agreement:
  - (a) a taxing entity may, through interlocal agreement, authorize an agency to be paid any or all of the taxing entity's project area funds for any period of time; and
  - (b) the interlocal agreement authorizing the agency to be paid project area funds shall specify:
    - (i) the base taxable value of the project area; and
    - (ii) the method of calculating the amount of project area funds to be paid to the agency.
- (5)
  - (a)

- (i) The boundaries of one project area may overlap and include the boundaries of an existing project area.
  - (ii) If a taxing entity committee is required to approve the project area budget of an overlapping project area described in Subsection (5)(a)(i), the agency shall, before the first meeting of the taxing entity committee at which the project area budget will be considered, inform each taxing entity of the location of the overlapping boundaries.
- (b)
- (i) Before an agency may receive tax increment from the newly created overlapping portion of a project area, the agency shall inform the county auditor regarding the respective amount of tax increment that the agency is authorized to receive from the overlapping portion of each of the project areas.
  - (ii) The combined amount of tax increment described in Subsection (5)(b)(i) may not exceed 100% of the tax increment generated from a property located within the overlapping boundaries.
- (c) Nothing in this Subsection (5) gives an agency a right to receive project area funds that the agency is not otherwise authorized to receive under this title.
- (d) The collection of project area funds from an overlapping project area described in Subsection (5)(a) does not affect an agency's use of project area funds within the other overlapping project area.
- (6) With the written consent of a taxing entity, an agency may be paid tax increment, from the taxing entity's property tax revenue only, in a higher percentage or for a longer period of time, or both, than otherwise authorized under this title.
- (7) Subject to Section 17C-1-407, an agency is authorized to receive tax increment as described in:
- (a) for a pre-July 1, 1993, project area plan, Section 17C-1-403;
  - (b) for a post-June 30, 1993, project area plan:
    - (i) Section 17C-1-404 under a project area budget adopted by the agency in accordance with this title;
    - (ii) a project area budget approved by the taxing entity committee and adopted by the agency in accordance with this title; or
    - (iii) Section 17C-1-406;
  - (c) a resolution or interlocal agreement entered into under Section 17C-2-207, 17C-3-206, 17C-4-201, or 17C-4-202;
  - (d) for a community reinvestment project area plan that is subject to a taxing entity committee, a project area budget approved by the taxing entity committee and adopted by the agency in accordance with this title; or
  - (e) for a community reinvestment project area plan that is subject to an interlocal agreement, an interlocal agreement entered into under Section 17C-5-204.

Renumbered and Amended by Chapter 350, 2016 General Session

**17C-1-402 Taxing entity committee.**

- (1) The provisions of this section apply to a taxing entity committee that is created by an agency for:
- (a) a post-June 30, 1993, urban renewal project area plan or economic development project area plan;
  - (b) any other project area plan adopted before May 10, 2016, for which the agency created a taxing entity committee; and

- (c) a community reinvestment project area plan that is subject to a taxing entity committee.
- (2)
  - (a)
    - (i) Each taxing entity committee shall be composed of:
      - (A) two school district representatives appointed in accordance with Subsection (2)(a)(ii);
      - (B)
        - (I) in a county of the second, third, fourth, fifth, or sixth class, two representatives appointed by resolution of the legislative body of the county in which the agency is located; or
        - (II) in a county of the first class, one representative appointed by the county executive and one representative appointed by the legislative body of the county in which the agency is located;
      - (C) if the agency is created by a municipality, two representatives appointed by resolution of the legislative body of the municipality;
      - (D) one representative appointed by the State Board of Education; and
      - (E) one representative selected by majority vote of the legislative bodies or governing boards of all other taxing entities that levy a tax on property within the agency's boundaries, to represent the interests of those taxing entities on the taxing entity committee.
    - (ii)
      - (A) If the agency boundaries include only one school district, that school district shall appoint the two school district representatives under Subsection (2)(a)(i)(A).
      - (B) If the agency boundaries include more than one school district, those school districts shall jointly appoint the two school district representatives under Subsection (2)(a)(i)(A).
  - (b)
    - (i) Each taxing entity committee representative described in Subsection (2)(a) shall be appointed within 30 days after the day on which the agency provides notice of the creation of the taxing entity committee.
    - (ii) If a representative is not appointed within the time required under Subsection (2)(b)(i), the board may appoint an individual to serve on the taxing entity committee in the place of the missing representative until that representative is appointed.
  - (c)
    - (i) A taxing entity committee representative may be appointed for a set term or period of time, as determined by the appointing authority under Subsection (2)(a)(i).
    - (ii) Each taxing entity committee representative shall serve until a successor is appointed and qualified.
  - (d)
    - (i) Upon the appointment of each representative under Subsection (2)(a)(i), whether an initial appointment or an appointment to replace an already serving representative, the appointing authority shall:
      - (A) notify the agency in writing of the name and address of the newly appointed representative; and
      - (B) provide the agency a copy of the resolution making the appointment or, if the appointment is not made by resolution, other evidence of the appointment.
    - (ii) Each appointing authority of a taxing entity committee representative under Subsection (2)(a)(i) shall notify the agency in writing of any change of address of a representative appointed by that appointing authority.
- (3) At a taxing entity committee's first meeting, the taxing entity committee shall adopt an organizing resolution that:
  - (a) designates a chair and a secretary of the taxing entity committee; and

- (b) if the taxing entity committee considers it appropriate, governs the use of electronic meetings under Section 52-4-207.
- (4)
  - (a) A taxing entity committee represents all taxing entities regarding:
    - (i) an urban renewal project area plan;
    - (ii) an economic development project area plan; or
    - (iii) a community reinvestment project area plan that is subject to a taxing entity committee.
  - (b) A taxing entity committee may:
    - (i) cast votes that are binding on all taxing entities;
    - (ii) negotiate with the agency concerning a proposed project area plan;
    - (iii) approve or disapprove:
      - (A) an urban renewal project area budget as described in Section 17C-2-204;
      - (B) an economic development project area budget as described in Section 17C-3-203; or
      - (C) for a community reinvestment project area plan that is subject to a taxing entity committee, a community reinvestment project area budget as described in Section 17C-5-302;
    - (iv) approve or disapprove an amendment to a project area budget as described in Section 17C-2-206, 17C-3-205, or 17C-5-306;
    - (v) approve an exception to the limits on the value and size of a project area imposed under this title;
    - (vi) approve:
      - (A) an exception to the percentage of tax increment to be paid to the agency;
      - (B) except for a project area funds collection period that is approved by an interlocal agreement, each project area funds collection period; and
      - (C) an exception to the requirement for an urban renewal project area budget, an economic development project area budget, or a community reinvestment project area budget to include a maximum cumulative dollar amount of tax increment that the agency may receive;
    - (vii) approve the use of tax increment for publicly owned infrastructure and improvements outside of a project area that the agency and community legislative body determine to be of benefit to the project area, as described in Subsection 17C-1-409(1)(a)(iii)(D);
    - (viii) waive the restrictions described in Subsection 17C-2-202(1);
    - (ix) subject to Subsection (4)(c), designate the base taxable value for a project area budget; and
    - (x) give other taxing entity committee approval or consent required or allowed under this title.
  - (c)
    - (i) Except as provided in Subsection (4)(c)(ii), the base year may not be a year that is earlier than five years before the beginning of a project area funds collection period.
    - (ii) The taxing entity committee may approve a base year that is earlier than the year described in Subsection (4)(c)(i).
- (5) A quorum of a taxing entity committee consists of:
  - (a) if the project area is located within a municipality, five members; or
  - (b) if the project area is not located within a municipality, four members.
- (6) Taxing entity committee approval, consent, or other action requires:
  - (a) the affirmative vote of a majority of all members present at a taxing entity committee meeting:
    - (i) at which a quorum is present; and
    - (ii) considering an action relating to a project area budget for, or approval of a finding of blight within, a project area or proposed project area that contains:

- (A) an inactive industrial site;
  - (B) an inactive airport site; or
  - (C) a closed military base; or
  - (b) for any other action not described in Subsection (6)(a)(ii), the affirmative vote of two-thirds of all members present at a taxing entity committee meeting at which a quorum is present.
- (7)
- (a) An agency may call a meeting of the taxing entity committee by sending written notice to the members of the taxing entity committee at least 10 days before the date of the meeting.
  - (b) Each notice under Subsection (7)(a) shall be accompanied by:
    - (i) the proposed agenda for the taxing entity committee meeting; and
    - (ii) if not previously provided and if the documents exist and are to be considered at the meeting:
      - (A) the project area plan or proposed project area plan;
      - (B) the project area budget or proposed project area budget;
      - (C) the analysis required under Subsection 17C-2-103(2), 17C-3-103(2), or 17C-5-105(2);
      - (D) the blight study;
      - (E) the agency's resolution making a finding of blight under Subsection 17C-2-102(1)(a)(ii)(B) or Subsection 17C-5-402(2)(c)(ii); and
      - (F) other documents to be considered by the taxing entity committee at the meeting.
  - (c)
    - (i) An agency may not schedule a taxing entity committee meeting on a day on which the Legislature is in session.
    - (ii) Notwithstanding Subsection (7)(c)(i), a taxing entity committee may, by unanimous consent, waive the scheduling restriction described in Subsection (7)(c)(i).
- (8)
- (a) A taxing entity committee may not vote on a proposed project area budget or proposed amendment to a project area budget at the first meeting at which the proposed project area budget or amendment is considered unless all members of the taxing entity committee present at the meeting consent.
  - (b) A second taxing entity committee meeting to consider a proposed project area budget or a proposed amendment to a project area budget may not be held within 14 days after the first meeting unless all members of the taxing entity committee present at the first meeting consent.
- (9)
- (a) Except as provided in Subsection (9)(b), each taxing entity committee shall meet at least annually during a project area funds collection period under an urban renewal, an economic development, or a community reinvestment project area budget to review the status of the project area.
  - (b) A taxing entity committee is not required to meet in accordance with Subsection (9)(a) if the agency prepares and distributes on or before November 1 of each year a report as described in Section 17C-1-603.
- (10) Each taxing entity committee shall be governed by Title 52, Chapter 4, Open and Public Meetings Act.
- (11) A taxing entity committee's records shall be:
- (a) considered the records of the agency that created the taxing entity committee; and
  - (b) maintained by the agency in accordance with Section 17C-1-209.
- (12) Each time a school district representative or a representative of the State Board of Education votes as a member of a taxing entity committee to allow an agency to receive tax increment,

to increase the amount of tax increment the agency receives, or to extend a project area funds collection period, that representative shall, within 45 days after the vote, provide to the representative's respective school board an explanation in writing of the representative's vote and the reasons for the vote.

(13)

- (a) The auditor of each county in which an agency is located shall provide a written report to the taxing entity committee stating, with respect to property within each project area:
  - (i) the base taxable value, as adjusted by any adjustments under Section 17C-1-408; and
  - (ii) the assessed value.
- (b) With respect to the information required under Subsection (13)(a), the auditor shall provide:
  - (i) actual amounts for each year from the adoption of the project area plan to the time of the report; and
  - (ii) estimated amounts for each year beginning the year after the time of the report and ending the time that each project area funds collection period ends.
- (c) The auditor of the county in which the agency is located shall provide a report under this Subsection (13):
  - (i) at least annually; and
  - (ii) upon request of the taxing entity committee, before a taxing entity committee meeting at which the committee considers whether to allow the agency to receive tax increment, to increase the amount of tax increment that the agency receives, or to extend a project area funds collection period.

(14) This section does not apply to:

- (a) a community development project area plan; or
- (b) a community reinvestment project area plan that is subject to an interlocal agreement.

(15)

- (a) A taxing entity committee resolution approving a blight finding, approving a project area budget, or approving an amendment to a project area budget:
  - (i) is final; and
  - (ii) is not subject to repeal, amendment, or reconsideration unless the agency first consents by resolution to the proposed repeal, amendment, or reconsideration.
- (b) The provisions of Subsection (15)(a) apply regardless of when the resolution is adopted.

Amended by Chapter 350, 2016 General Session

**17C-1-403 Tax increment under a pre-July 1, 1993, project area plan.**

(1) Notwithstanding any other provision of law, this section applies retroactively to tax increment under all pre-July 1, 1993, project area plans, regardless of when the applicable project area was created or the applicable project area plan was adopted.

(2)

- (a) Beginning with the first tax year after April 1, 1983, for which an agency accepts tax increment, an agency is authorized to receive:
  - (i)
    - (A) for the first through the fifth tax years, 100% of tax increment;
    - (B) for the sixth through the tenth tax years, 80% of tax increment;
    - (C) for the eleventh through the fifteenth tax years, 75% of tax increment;
    - (D) for the sixteenth through the twentieth tax years, 70% of tax increment; and
    - (E) for the twenty-first through the twenty-fifth tax years, 60% of tax increment; or



- (ii) for an agency that has caused a taxing entity committee to be created under Subsection 17C-1-402(1)(a), any percentage of tax increment up to 100% and for any length of time that the taxing entity committee approves.
- (b) Notwithstanding any other provision of this section:
  - (i) an agency is authorized to receive 100% of tax increment from a project area for 32 years after April 1, 1983, to pay principal and interest on agency indebtedness incurred before April 1, 1983, even though the size of the project area from which tax increment is paid to the agency exceeds 100 acres of privately owned property under a project area plan adopted on or before April 1, 1983; and
  - (ii) for up to 32 years after April 1, 1983, an agency debt incurred before April 1, 1983, may be refinanced and paid from 100% of tax increment if the principal amount of the debt is not increased in the refinancing.
- (3)
  - (a) For purposes of this Subsection (3), "additional tax increment" means the difference between 100% of tax increment for a tax year and the amount of tax increment an agency is paid for that tax year under the percentages and time periods specified in Subsection (2)(a).
  - (b) Notwithstanding the tax increment percentages and time periods in Subsection (2)(a), an agency is authorized to receive additional tax increment for a period ending 32 years after the first tax year after April 1, 1983, for which the agency receives tax increment from the project area if:
    - (i)
      - (A) the additional tax increment is used solely to pay all or part of the value of the land for and the cost of the installation and construction of a publicly or privately owned convention center or sports complex or any building, facility, structure, or other improvement related to the convention center or sports complex, including parking and infrastructure improvements;
      - (B) construction of the convention center or sports complex or related building, facility, structure, or other improvement is commenced on or before June 30, 2002;
      - (C) the additional tax increment is pledged to pay all or part of the value of the land for and the cost of the installation and construction of the convention center or sports complex or related building, facility, structure, or other improvement; and
      - (D) the board and the community legislative body have determined by resolution that the convention center or sports complex is:
        - (I) within and a benefit to a project area;
        - (II) not within but still a benefit to a project area; or
        - (III) within a project area in which substantially all of the land is publicly owned and a benefit to the community; or
    - (ii)
      - (A) the additional tax increment is used to pay some or all of the cost of the land for and installation and construction of a recreational facility, as defined in Section 59-12-702, or a cultural facility, including parking and infrastructure improvements related to the recreational or cultural facility, whether or not the facility is located within a project area;
      - (B) construction of the recreational or cultural facility is commenced on or before December 31, 2005; and
      - (C) the additional tax increment is pledged on or before July 1, 2005, to pay all or part of the cost of the land for and the installation and construction of the recreational or cultural facility, including parking and infrastructure improvements related to the recreational or cultural facility.

- (c) Notwithstanding Subsection (3)(b)(ii), a school district may not, without the school district's consent, be paid less tax increment because of application of Subsection (3)(b)(ii) than it would have been paid without that subsection.
- (4) Notwithstanding any other provision of this section, an agency may use tax increment received under Subsection (2) for any of the uses indicated in Subsection (3).

Amended by Chapter 350, 2016 General Session

**17C-1-404 Tax increment under a post-June 30, 1993, project area plan.**

- (1) This section applies to tax increment under a post-June 30, 1993, project area plan adopted before May 1, 2006, only.
- (2) A board may provide in the project area budget for the agency to be paid:
  - (a) if 20% of the project area budget is allocated for housing under Section 17C-2-203:
    - (i) 100% of annual tax increment for 15 years;
    - (ii) 75% of annual tax increment for 24 years; or
    - (iii) if approved by the taxing entity committee, any percentage of tax increment up to 100%, or any specified dollar amount, for any period of time; or
  - (b) if 20% of the project area budget is not allocated for housing under Section 17C-2-203:
    - (i) 100% of annual tax increment for 12 years;
    - (ii) 75% of annual tax increment for 20 years; or
    - (iii) if approved by the taxing entity committee, any percentage of tax increment up to 100%, or any specified dollar amount, for any period of time.

Amended by Chapter 350, 2016 General Session

**17C-1-405 Tax increment under a project area plan adopted on or after May 1, 2006.**

- (1) This section applies to tax increment under a project area plan adopted on or after May 1, 2006, and before May 10, 2016.
- (2) Subject to the approval of the taxing entity committee, a board may provide in the urban renewal or economic development project area budget for the agency to be paid:
  - (a) for an urban renewal project area plan that proposes development of an inactive industrial site or inactive airport site, at least 60% of tax increment for at least 20 years; or
  - (b) for each other project, any percentage of tax increment up to 100% or any specified dollar amount of tax increment for any period of time.
- (3) A resolution or interlocal agreement relating to an agency's use of tax increment for a community development project area plan may provide for the agency to be paid any percentage of tax increment up to 100% or any specified dollar amount of tax increment for any period of time.

Amended by Chapter 350, 2016 General Session

**17C-1-406 Additional tax increment under certain post-June 30, 1993, project area plans.**

- (1) This section applies to a post-June 30, 1993, project area plan adopted before May 1, 2006.
- (2) An agency may, without the approval of the taxing entity committee, elect to be paid 100% of annual tax increment for each year beyond the periods specified in Subsection 17C-1-404(2) to a maximum of 25 years, including the years the agency is paid tax increment under Subsection 17C-1-404(2), if:

- (a) for an agency in a city in which is located all or a portion of an interchange on I-15 or that would directly benefit from an interchange on I-15:
  - (i) the tax increment paid to the agency during the additional years is used to pay some or all of the cost of the installation, construction, or reconstruction of:
    - (A) an interchange on I-15, whether or not the interchange is located within a project area; or
    - (B) frontage and other roads connecting to the interchange, as determined by the Department of Transportation created under Section 72-1-201 and the Transportation Commission created under Section 72-1-301, whether or not the frontage or other road is located within a project area; and
  - (ii) the installation, construction, or reconstruction of the interchange or frontage and other roads has begun on or before June 30, 2002; or
- (b) for an agency in a city of the first or second class:
  - (i) the tax increment paid to the agency during the additional years is used to pay some or all of the cost of the land for and installation and construction of a recreational facility, as defined in Section 59-12-702, or a cultural facility, including parking and infrastructure improvements related to the recreational or cultural facility, whether or not the facility is located within a project area; and
  - (ii) the installation or construction of the recreational or cultural facility has begun on or before June 30, 2002.
- (3) Notwithstanding any other provision of this section, an agency may use tax increment received under Subsection 17C-1-404(2) for any of the uses indicated in this section.
- (4) Notwithstanding Subsection (2), a school district may not, without the school district's consent, receive less tax increment because of application of Subsection (2) than it would have received without that subsection.

Amended by Chapter 350, 2016 General Session

**17C-1-407 Limitations on tax increment.**

- (1)
  - (a) If the development of retail sales of goods is the primary objective of an urban renewal project area, tax increment from the urban renewal project area may not be paid to or used by an agency unless a finding of blight is made under Chapter 2, Part 3, Blight Determination in Urban Renewal Project Areas.
  - (b) Development of retail sales of goods does not disqualify an agency from receiving tax increment.
  - (c) After July 1, 2005, an agency may not receive or use tax increment generated from the value of property within an economic development project area that is attributable to the development of retail sales of goods, unless the tax increment was previously pledged to pay for bonds or other contractual obligations of the agency.
- (2)
  - (a) An agency may not be paid any portion of a taxing entity's taxes resulting from an increase in the taxing entity's tax rate that occurs after the taxing entity committee approves the project area budget unless, at the time the taxing entity committee approves the project area budget, the taxing entity committee approves payment of those increased taxes to the agency.
  - (b) If the taxing entity committee does not approve payment of the increased taxes to the agency under Subsection (2)(a), the county shall distribute to the taxing entity the taxes attributable to the tax rate increase in the same manner as other property taxes.

- (c) Notwithstanding any other provision of this section, if, before tax year 2013, increased taxes are paid to an agency without the approval of the taxing entity committee, and notwithstanding the law at the time that the tax was collected or increased:
  - (i) the State Tax Commission, the county as the collector of the taxes, a taxing entity, or any other person or entity may not recover, directly or indirectly, the increased taxes from the agency by adjustment of a tax rate used to calculate tax increment or otherwise;
  - (ii) the county is not liable to a taxing entity or any other person or entity for the increased taxes that were paid to the agency; and
  - (iii) tax increment, including the increased taxes, shall continue to be paid to the agency subject to the same number of tax years, percentage of tax increment, and cumulative dollar amount of tax increment as approved in the project area budget and previously paid to the agency.
- (3) Except as the taxing entity committee otherwise agrees, an agency may not receive tax increment under an urban renewal or economic development project area budget adopted on or after March 30, 2009:
  - (a) that exceeds the percentage of tax increment or cumulative dollar amount of tax increment specified in the project area budget; or
  - (b) for more tax years than specified in the project area budget.

Amended by Chapter 350, 2016 General Session

**17C-1-408 Base taxable value to be adjusted to reflect other changes.**

- (1)
  - (a)
    - (i) As used in this Subsection (1), "qualifying decrease" means:
      - (A) a decrease of more than 20% from the previous tax year's levy; or
      - (B) a cumulative decrease over a consecutive five-year period of more than 100% from the levy in effect at the beginning of the five-year period.
    - (ii) The year in which a qualifying decrease under Subsection (1)(a)(i)(B) occurs is the fifth year of the five-year period.
  - (b) If there is a qualifying decrease in the minimum basic school levy under Section 59-2-902 that would result in a reduction of the amount of tax increment to be paid to an agency:
    - (i) the base taxable value shall be reduced in the year of the qualifying decrease to the extent necessary, even if below zero, to provide the agency with approximately the same amount of tax increment that would have been paid to the agency each year had the qualifying decrease not occurred; and
    - (ii) the amount of tax increment paid to the agency each year for the payment of bonds and indebtedness may not be less than what would have been paid to the agency if there had been no qualifying decrease.
- (2)
  - (a) The base taxable value to be used in determining tax increment shall be:
    - (i) increased or decreased by the amount of an increase or decrease that results from:
      - (A) a statute enacted by the Legislature or by the people through an initiative;
      - (B) a judicial decision;
      - (C) an order from the State Tax Commission to a county to adjust or factor the county's assessment rate under Subsection 59-2-704(2);
      - (D) a change in exemption provided in Utah Constitution Article XIII, Section 2, or Section 59-2-103; or

- (E) an increase or decrease in the percentage of fair market value, as defined under Section 59-2-102; and
- (ii) reduced for any year to the extent necessary, even if below zero, to provide an agency with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate if:
  - (A) in that year there is a decrease in the county's certified tax rate under Subsection 59-2-924.2(2) or (3)(a);
  - (B) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and
  - (C) the decrease would result in a reduction of the amount of tax increment to be paid to the agency.
- (b) Notwithstanding an increase or decrease under Subsection (2)(a), the amount of tax increment paid to an agency each year for payment of bonds or other indebtedness may not be less than would have been paid to the agency each year if there had been no increase or decrease under Subsection (2)(a).

Amended by Chapter 350, 2016 General Session

**17C-1-409 Allowable uses of agency funds.**

- (1)
  - (a) An agency may use agency funds:
    - (i) for any purpose authorized under this title;
    - (ii) for administrative, overhead, legal, or other operating expenses of the agency, including consultant fees and expenses under Subsection 17C-2-102(1)(b)(ii)(B) or funding for a business resource center;
    - (iii) to pay for, including financing or refinancing, all or part of:
      - (A) project area development in a project area, including environmental remediation activities occurring before or after adoption of the project area plan;
      - (B) housing-related expenditures, projects, or programs as described in Section 17C-1-411 or 17C-1-412;
      - (C) an incentive or other consideration paid to a participant under a participation agreement;
      - (D) subject to Subsections (1)(c) and (4), the value of the land for and the cost of the installation and construction of any publicly owned building, facility, structure, landscaping, or other improvement within the project area from which the project area funds are collected; or
      - (E) the cost of the installation of publicly owned infrastructure and improvements outside the project area from which the project area funds are collected if the board and the community legislative body determine by resolution that the publicly owned infrastructure and improvements benefit the project area; or
    - (iv) in an urban renewal project area that includes some or all of an inactive industrial site and subject to Subsection (1)(e), to reimburse the Department of Transportation created under Section 72-1-201, or a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit District Act, for the cost of:
      - (A) construction of a public road, bridge, or overpass;
      - (B) relocation of a railroad track within the urban renewal project area; or
      - (C) relocation of a railroad facility within the urban renewal project area.
  - (b) The determination of the board and the community legislative body under Subsection (1)(a)(iii)(E) regarding benefit to the project area shall be final and conclusive.

- (c) An agency may not use project area funds received from a taxing entity for the purposes stated in Subsection (1)(a)(iii)(D) under an urban renewal project area plan, an economic development project area plan, or a community reinvestment project area plan without the community legislative body's consent.
- (d)
  - (i) Subject to Subsection (1)(d)(ii), an agency may loan project area funds from a project area fund to another project area fund if:
    - (A) the board approves; and
    - (B) the community legislative body approves.
  - (ii) An agency may not loan project area funds under Subsection (1)(d)(i) unless the projections for agency funds are sufficient to repay the loan amount.
  - (iii) A loan described in Subsection (1)(d) is not subject to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, or Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts.
- (e) Before an agency may pay any tax increment or sales tax revenue under Subsection (1)(a)(iv), the agency shall enter into an interlocal agreement defining the terms of the reimbursement with:
  - (i) the Department of Transportation; or
  - (ii) a public transit district.
- (2)
  - (a) Sales and use tax revenue that an agency receives from a taxing entity is not subject to the prohibition or limitations of Title 11, Chapter 41, Prohibition on Sales and Use Tax Incentive Payments Act.
  - (b) An agency may use sales and use tax revenue that the agency receives under an interlocal agreement under Section 17C-4-201 or 17C-5-204 for the uses authorized in the interlocal agreement.
- (3)
  - (a) An agency may contract with the community that created the agency or another public entity to use agency funds to reimburse the cost of items authorized by this title to be paid by the agency that are paid by the community or other public entity.
  - (b) If land is acquired or the cost of an improvement is paid by another public entity and the land or improvement is leased to the community, an agency may contract with and make reimbursement from agency funds to the community.
- (4) Notwithstanding any other provision of this title, an agency may not use project area funds to construct a local government building unless the taxing entity committee or each taxing entity party to an interlocal agreement with the agency consents.

Amended by Chapter 350, 2016 General Session

**17C-1-410 Agency may make payments to other taxing entities.**

- (1) Subject to Subsection (3), an agency may grant agency funds to a taxing entity to offset some or all of the tax revenue that the taxing entity did not receive because of tax increment paid to the agency.
- (2)
  - (a) Subject to Subsection (3), an agency may use agency funds to pay to a school district an amount of money that the agency determines to be appropriate to alleviate a financial burden or detriment borne by the school district because of the project area development.

- (b) Each agency that agrees to pay money to a school district under Subsection (2)(a) shall provide a copy of the agreement to the State Board of Education.
- (3)
  - (a) If an agency intends to pay agency funds to one or more taxing entities under Subsection (1) or (2) but does not intend to pay funds to all taxing entities in proportionally equal amounts, the agency shall provide written notice to each taxing entity of the agency's intent.
  - (b)
    - (i) A taxing entity that receives notice under Subsection (3)(a) may elect not to have the taxing entity's tax increment collected and used to pay funds to other taxing entities under this section.
    - (ii) Each election under Subsection (3)(b)(i) shall be:
      - (A) in writing; and
      - (B) delivered to the agency within 30 days after the taxing entity's receipt of the notice under Subsection (3)(a).
  - (c) If a taxing entity makes an election under Subsection (3)(b), the portion of the taxing entity's tax increment that would have been used by the agency to pay funds under this section to one or more other taxing entities may not be collected by the agency.

Amended by Chapter 350, 2016 General Session

**17C-1-411 Use of project area funds for housing-related improvements and for relocating mobile home park residents -- Funds to be held in separate accounts.**

- (1) An agency may use project area funds:
  - (a) to pay all or part of the value of the land for and the cost of installation, construction, or rehabilitation of any housing-related building, facility, structure, or other housing improvement, including infrastructure improvements related to housing, located in any project area within the agency's boundaries;
  - (b) outside of a project area for the purpose of:
    - (i) replacing housing units lost by project area development; or
    - (ii) increasing, improving, or preserving the affordable housing supply within the boundary of the agency; or
  - (c) for relocating mobile home park residents displaced by project area development, whether inside or outside a project area.
- (2)
  - (a) Each agency shall create a housing fund and separately account for project area funds allocated under this section.
  - (b) Interest earned by the housing fund described in Subsection (2)(a), and any payments or repayments made to the agency for loans, advances, or grants of any kind from the housing fund, shall accrue to the housing fund.
  - (c) An agency that designates a housing fund under this section shall use the housing fund for the purposes set forth in this section or Section 17C-1-412.
- (3) An agency may lend, grant, or contribute funds from the housing fund to a person, public entity, housing authority, private entity or business, or nonprofit corporation for affordable housing or homeless assistance.

Amended by Chapter 350, 2016 General Session

**17C-1-412 Use of housing allocation -- Separate accounting required -- Issuance of bonds for housing -- Action to compel agency to provide housing allocation.**

- (1)
- (a) An agency shall use the agency's housing allocation, if applicable, to:
    - (i) pay part or all of the cost of land or construction of income targeted housing within the boundary of the agency, if practicable in a mixed income development or area;
    - (ii) pay part or all of the cost of rehabilitation of income targeted housing within the boundary of the agency;
    - (iii) lend, grant, or contribute money to a person, public entity, housing authority, private entity or business, or nonprofit corporation for income targeted housing within the boundary of the agency;
    - (iv) plan or otherwise promote income targeted housing within the boundary of the agency;
    - (v) pay part or all of the cost of land or installation, construction, or rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements, related to housing located in a project area where blight has been found to exist;
    - (vi) replace housing units lost as a result of the project area development;
    - (vii) make payments on or establish a reserve fund for bonds:
      - (A) issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and
      - (B) all or part of the proceeds of which are used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);
    - (viii) if the community's fair share ratio at the time of the first adoption of the project area budget is at least 1.1 to 1.0, make payments on bonds:
      - (A) that were previously issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and
      - (B) all or part of the proceeds of which were used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi); or
    - (ix) relocate mobile home park residents displaced by project area development.
  - (b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or any portion of the agency's housing allocation to:
    - (i) the community for use as described in Subsection (1)(a);
    - (ii) a housing authority that provides income targeted housing within the community for use in providing income targeted housing within the community;
    - (iii) a housing authority established by the county in which the agency is located for providing:
      - (A) income targeted housing within the county;
      - (B) permanent housing, permanent supportive housing, or a transitional facility, as defined in Section 35A-5-302, within the county; or
      - (C) homeless assistance within the county; or
    - (iv) the Olene Walker Housing Loan Fund, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund, for use in providing income targeted housing within the community.
- (2) The agency shall create a housing fund and separately account for the agency's housing allocation, together with all interest earned by the housing allocation and all payments or repayments for loans, advances, or grants from the housing allocation.
- (3) An agency may:
- (a) issue bonds to finance a housing-related project under this section, including the payment of principal and interest upon advances for surveys and plans or preliminary loans; and



- (b) issue refunding bonds for the payment or retirement of bonds under Subsection (3)(a) previously issued by the agency.
- (4)
  - (a) Except as provided in Subsection (4)(b), an agency shall allocate money to the housing fund each year in which the agency receives sufficient tax increment to make a housing allocation required by the project area budget.
  - (b) Subsection (4)(a) does not apply in a year in which tax increment is insufficient.
- (5)
  - (a) Except as provided in Subsection (4)(b), if an agency fails to provide a housing allocation in accordance with the project area budget and, if applicable, the housing plan adopted under Subsection 17C-2-204(2), the loan fund board may bring legal action to compel the agency to provide the housing allocation.
  - (b) In an action under Subsection (5)(a), the court:
    - (i) shall award the loan fund board reasonable attorney fees, unless the court finds that the action was frivolous; and
    - (ii) may not award the agency the agency's attorney fees, unless the court finds that the action was frivolous.

Amended by Chapter 350, 2016 General Session

**17C-1-413 Base taxable value for new tax.**

For purposes of calculating tax increment with respect to a tax that a taxing entity levies for the first time after the effective date of a project area plan, the base taxable value shall be used, subject to any adjustments under Section 17C-1-408.

Amended by Chapter 350, 2016 General Session

**17C-1-414 Project area boundaries that divide a tax parcel -- Deletion of parcel from tax increment calculation.**

- (1) If the boundaries of a project area, as described in the project area plan, include part of a tax parcel and exclude part of the same tax parcel, the agency shall provide the assessor of the county in which the project area is located a metes and bounds description of the part of the tax parcel included within the project area boundaries.
- (2) If an agency fails to comply with the requirement of Subsection (1), the assessor of the county in which the tax parcel is located may exclude that parcel from the project area for purposes of calculating tax increment to be paid to the agency until the agency complies with the requirement of Subsection (1).

Enacted by Chapter 359, 2006 General Session

**17C-1-415 Obligations of agencies that use tax increment to pay for communication infrastructure or facility.**

An agency that uses tax increment on or after March 30, 2009 to pay for communication infrastructure or a communication facility:

- (1) may not make or grant any undue or unreasonable preference or advantage to a provider of communication service with respect to the communication infrastructure or communication facility for which the tax increment is used; and

- (2) shall allow the communication infrastructure and facilities for which tax increment is used to be used by any other provider of communication service on a fair, equitable, and nondiscriminatory basis.

Enacted by Chapter 387, 2009 General Session

## **Part 5 Agency Bonds**

### **17C-1-501.1 Title.**

This part is known as "Agency Bonds."

Enacted by Chapter 350, 2016 General Session

### **17C-1-501.5 Resolution authorizing issuance of agency bonds -- Characteristics of bonds.**

- (1) An agency may not issue a bond under this part unless the board first adopts a resolution authorizing the bond issuance.
- (2)
- (a) As provided in the agency resolution authorizing the issuance of a bond under this part or the trust indenture under which the bond is issued, a bond issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.
  - (b) A bond issued by an agency under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the agency resolution authorizing the bond issuance or the trust indenture under which the bond is issued.

Renumbered and Amended by Chapter 350, 2016 General Session

### **17C-1-502 Sources from which bonds may be made payable -- Agency powers regarding bonds.**

- (1) The principal and interest on a bond issued by an agency may be paid from:
- (a) the income and revenues of the project area development financed with the proceeds of the bond;
  - (b) the income and revenue of certain designated project area development regardless of whether the project area development is financed in whole or in part with the proceeds of the bond;
  - (c) the income, proceeds, revenue, property, or agency funds derived from or held in connection with the agency's undertaking and implementation of project area development;
  - (d) project area funds;
  - (e) agency revenues generally;
  - (f) a contribution, loan, grant, or other financial assistance from a public entity in aid of project area development, including the assignment of revenue or taxes in support of an agency bond; or

- (g) funds derived from any combination of the methods listed in Subsections (1)(a) through (f).
- (2) In connection with the issuance of an agency bond, an agency may:
  - (a) pledge all or any part of the agency's gross or net rents, fees, or revenues to which the agency's right then exists or may thereafter come into existence;
  - (b) encumber by mortgage, deed of trust, or otherwise all or any part of the agency's real or personal property, then owned or thereafter acquired; and
  - (c) make the covenants and take the action that:
    - (i) may be necessary, convenient, or desirable to secure the bond; or
    - (ii) except as otherwise provided in this chapter, will tend to make the bond more marketable, even though such covenants or actions are not specifically enumerated in this chapter.

Amended by Chapter 350, 2016 General Session

**17C-1-503 Signature of officer who leaves office.**

If an agency officer whose signature appears on a bond issued under this part leaves office before delivery of the bond, the signature shall continue to be valid as if the official had remained in office until delivery of the bond.

Renumbered and Amended by Chapter 359, 2006 General Session

**17C-1-504 Contesting the legality of resolution authorizing bonds -- Time limit -- Presumption.**

- (1) Any person may contest the legality of the resolution authorizing issuance of the bond or any provisions for the security and payment of the bond for a period of 30 days after:
  - (a) publication of the resolution authorizing the bond; or
  - (b) publication of a notice of bond containing substantially the items required under Subsection 11-14-316(2).
- (2) After the 30-day period described in Subsection (1), no person may bring a lawsuit or other proceeding contesting the regularity, formality, or legality of the bond for any reason.
- (3) In a lawsuit or other proceeding involving the question of whether a bond issued under this part is valid or enforceable or involving the security for a bond, if a bond recites that the agency issued the bond in connection with project area development:
  - (a) the bond shall be conclusively presumed to have been issued for that purpose; and
  - (b) the project area plan and project area shall be conclusively presumed to have been properly formed, adopted, planned, located, and implemented in accordance with this title.

Amended by Chapter 350, 2016 General Session

**17C-1-505 Authority to purchase agency bonds.**

- (1) Any person, firm, corporation, association, political subdivision of the state, or other entity or public or private officer may purchase a bond issued by an agency under this part with funds owned or controlled by the purchaser.
- (2) Nothing in this section may be construed to relieve a purchaser of an agency bond of any duty to exercise reasonable care in selecting securities.

Amended by Chapter 350, 2016 General Session

**17C-1-506 Those executing bonds not personally liable -- Limitation of obligations under bonds -- Negotiability.**

- (1) A member of a board or other person executing an agency bond is not liable personally on the bond.
- (2)
  - (a) A bond issued by an agency is not a general obligation or liability of the community, the state, or any of the state's political subdivisions and does not constitute a charge against their general credit or taxing powers.
  - (b) A bond issued by an agency is not payable out of any funds or properties other than those of the agency.
  - (c) The community, the state, and the state's political subdivisions may not be liable on a bond issued by an agency.
  - (d) A bond issued by an agency does not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.
- (3) A bond issued by an agency under this part is fully negotiable.

Amended by Chapter 350, 2016 General Session

**17C-1-507 Obligee rights -- Board may confer other rights.**

- (1) In addition to all other rights that are conferred on an obligee of a bond issued by an agency under this part and subject to contractual restrictions binding on the obligee, an obligee may:
  - (a) by mandamus, suit, action, or other proceeding, compel an agency and the agency's board, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the agency with or for the benefit of the obligee, and require the agency to carry out the covenants and agreements of the agency and to fulfill all duties imposed on the agency by this part; and
  - (b) by suit, action, or other proceeding, enjoin any acts or things that may be unlawful or violate the rights of the obligee.
- (2)
  - (a) In a board resolution authorizing the issuance of a bond or in a trust indenture, mortgage, lease, or other contract, a board may confer upon an obligee holding or representing a specified amount in bonds, the rights described in Subsection (2)(b), to accrue upon the happening of an event or default prescribed in the resolution, indenture, mortgage, lease, or other contract, and to be exercised by suit, action, or proceeding in any court of competent jurisdiction.
  - (b)
    - (i) The rights that the board may confer under Subsection (2)(a) are the rights to:
      - (A) cause possession of all or part of the project area development to be surrendered to an obligee;
      - (B) obtain the appointment of a receiver of all or part of an agency's project area development and of the rents and profits from the project area development; and
      - (C) require the agency and the board and employees to account as if the agency and the board and employees were the trustees of an express trust.
    - (ii) If a receiver is appointed through the exercise of a right granted under Subsection (2)(b)(i)(B), the receiver:
      - (A) may enter and take possession of the project area development or any part of the project area development, operate and maintain the project area development, and collect

- and receive all fees, rents, revenues, or other charges arising from the project area development after the receiver's appointment; and
- (B) shall keep money collected as receiver for the agency in a separate account and apply the money pursuant to the agency obligations as the court directs.

Amended by Chapter 350, 2016 General Session

**17C-1-508 Bonds exempt from taxes -- Agency may purchase an agency's own bonds.**

- (1) A bond issued by an agency under this part is issued for an essential public and governmental purpose and is, together with interest on the bond and income from it, exempt from all state taxes except the corporate franchise tax.
- (2) An agency may purchase the agency's own bonds at a price that the board determines.
- (3) Nothing in this section may be construed to limit the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given under this part by an agency on the agency's rents, fees, grants, properties, or revenues.

Amended by Chapter 350, 2016 General Session

**Part 6**  
**Agency Annual Report, Budget, and Audit Requirements**

**17C-1-601.1 Title.**

This part is known as "Agency Annual Report, Budget, and Audit Requirements."

Enacted by Chapter 350, 2016 General Session

**17C-1-601.5 Annual agency budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.**

- (1) Each agency shall prepare an annual budget of the agency's revenues and expenditures for each fiscal year.
- (2) The board shall adopt each agency budget:
- (a) for an agency created by a municipality, before June 22; or
  - (b) for an agency created by a county, before December 15.
- (3) The agency's fiscal year shall be the same as the fiscal year of the community that created the agency.
- (4)
- (a) Before adopting an annual budget, each board shall hold a public hearing on the annual budget.
  - (b) Each agency shall provide notice of the public hearing on the annual budget by:
    - (i)
      - (A) publishing at least one notice in a newspaper of general circulation within the agency boundaries, one week before the public hearing; or
      - (B) if there is no newspaper of general circulation within the agency boundaries, posting a notice of the public hearing in at least three public places within the agency boundaries; and

- (ii) publishing notice on the Utah Public Notice Website created in Section 63F-1-701, at least one week before the public hearing.
- (c) Each agency shall make the annual budget available for public inspection at least three days before the date of the public hearing.
- (5) The state auditor shall prescribe the budget forms and the categories to be contained in each annual budget, including:
  - (a) revenues and expenditures for the budget year;
  - (b) legal fees; and
  - (c) administrative costs, including rent, supplies, and other materials, and salaries of agency personnel.
- (6)
  - (a) Within 90 days after adopting an annual budget, each board shall file a copy of the annual budget with the auditor of the county in which the agency is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity from which the agency receives project area funds.
  - (b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the agency files a copy with the State Tax Commission and the state auditor.

Renumbered and Amended by Chapter 350, 2016 General Session

**17C-1-602 Amending the agency annual budget.**

- (1) A board may by resolution amend an annual budget.
- (2) An amendment to an annual budget that would increase the total expenditures may be made only after a public hearing is held in accordance with Subsection 17C-1-601.5(4).
- (3) An agency may not make expenditures in excess of the total expenditures established in the annual budget as the annual budget is adopted or amended.

Amended by Chapter 350, 2016 General Session

**17C-1-603 Annual report.**

- (1) Beginning in 2016, on or before November 1 of each year, an agency shall:
  - (a) prepare an annual report as described in Subsection (2); and
  - (b) submit the annual report electronically to the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity from which the agency receives project area funds.
- (2) The annual report shall, for each active project area whose project area funds collection period has not expired, contain the following information:
  - (a) an assessment of the change in marginal value, including:
    - (i) the base taxable value;
    - (ii) the prior year's assessed value;
    - (iii) the estimated current assessed value; and
    - (iv) a narrative description of the relative growth in assessed value;
  - (b) the amount of project area funds the agency received, including:
    - (i) a comparison of the actual project area funds received for the previous year to the amount of project area funds forecasted when the project area was created, if available;
    - (ii)

- (A) the agency's historical receipts of project area funds, including the tax year for which the agency first received project area funds from the project area; or
- (B) if the agency has not yet received project area funds from the project area, the year in which the agency expects each project area funds collection period to begin;
- (iii) a list of each taxing entity that levies or imposes a tax within the project area and a description of the benefits that each taxing entity receives from the project area; and
- (iv) the amount paid to other taxing entities under Section 17C-1-410, if applicable;
- (c) a description of current and anticipated project area development, including:
  - (i) a narrative of any significant project area development, including infrastructure development, site development, participation agreements, or vertical construction; and
  - (ii) other details of development within the project area, including total developed acreage and total undeveloped acreage;
- (d) the project area budget , if applicable, or other project area funds analysis, including:
  - (i) each project area funds collection period;
  - (ii) the number of years remaining in each project area funds collection period;
  - (iii) the total amount of project area funds the agency is authorized to receive from the project area cumulatively and from each taxing entity; and
  - (iv) the remaining amount of project area funds the agency is authorized to receive from the project area cumulatively and from each taxing entity;
- (e) the estimated amount of project area funds that the agency is authorized to receive from the project area for the current calendar year;
- (f) the estimated amount of project area funds to be paid to the agency for the next calendar year;
- (g) a map of the project area; and
- (h) any other relevant information the agency elects to provide.
- (3) A report prepared in accordance with this section:
  - (a) is for informational purposes only; and
  - (b) does not alter the amount of project area funds that an agency is authorized to receive from a project area.
- (4) The provisions of this section apply regardless of when the agency or project area is created.

Amended by Chapter 350, 2016 General Session

**17C-1-604 Audit requirements.**

Each agency shall comply with the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Renumbered and Amended by Chapter 359, 2006 General Session

**17C-1-605 Audit report.**

- (1) Each agency required to be audited under Section 17C-1-604 shall, within 180 days after the end of the agency's fiscal year, file a copy of the audit report with the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity from which the agency receives tax increment.
- (2) Each audit report under Subsection (1) shall include:
  - (a) the tax increment collected by the agency for each project area;
  - (b) the amount of tax increment paid to each taxing entity under Section 17C-1-410;

- (c) the outstanding principal amount of bonds issued or other loans incurred to finance the costs associated with the agency's project areas; and
- (d) the actual amount expended for:
  - (i) acquisition of property;
  - (ii) site improvements or site preparation costs;
  - (iii) installation of public utilities or other public improvements; and
  - (iv) administrative costs of the agency.

Amended by Chapter 350, 2016 General Session

**17C-1-606 County auditor report on project areas.**

- (1)
  - (a) On or before March 31 of each year, the auditor of each county in which an agency is located shall prepare a report on the project areas within each agency.
  - (b) The county auditor shall send a copy of each report under Subsection (1)(a) to the agency that is the subject of the report, the State Tax Commission, the State Board of Education, and each taxing entity from which the agency receives tax increment.
- (2) Each report under Subsection (1)(a) shall report:
  - (a) the total assessed property value within each project area for the previous tax year;
  - (b) the base taxable value of each project area for the previous tax year;
  - (c) the tax increment available to be paid to the agency for the previous tax year;
  - (d) the tax increment requested by the agency for the previous tax year; and
  - (e) the tax increment paid to the agency for the previous tax year.
- (3) Within 30 days after a request by an agency, the State Tax Commission, the State Board of Education, or any taxing entity from which the agency receives tax increment, the county auditor or the county assessor shall provide access to:
  - (a) the county auditor's method and calculations used to make adjustments under Section 17C-1-408;
  - (b) the unequalized assessed valuation of an existing or proposed project area, or any parcel or parcels within an existing or proposed project area, if the equalized assessed valuation has not yet been determined for that year;
  - (c) the most recent equalized assessed valuation of an existing or proposed project area or any parcel or parcels within an existing or proposed project area; and
  - (d) the tax rate of each taxing entity adopted as of November 1 for the previous tax year.
- (4) Each report described in Subsection (1)(a) shall include:
  - (a) sufficient detail regarding the calculations performed by a county auditor so that an agency or other interested party could repeat and verify the calculations; and
  - (b) a detailed explanation of any adjustments made to the base taxable value of each project area.

Amended by Chapter 350, 2016 General Session

**17C-1-607 State Tax Commission and county assessor required to account for new growth.**

Upon the expiration of a project area funds collection period, the State Tax Commission and the assessor of each county in which a project area is located shall count as new growth the assessed value of property with respect to which the taxing entity is receiving taxes or increased taxes for the first time.



Amended by Chapter 350, 2016 General Session

## **Part 7**

### **Agency and Project Area Dissolution**

#### **17C-1-701.1 Title.**

This part is known as "Agency and Project Area Dissolution."

Enacted by Chapter 350, 2016 General Session

#### **17C-1-701.5 Agency dissolution -- Restrictions -- Notice -- Recording requirements -- Agency records -- Dissolution expenses.**

- (1)
  - (a) Subject to Subsection (1)(b), the community legislative body may, by ordinance, dissolve an agency.
  - (b) A community legislative body may adopt an ordinance described in Subsection (1)(a) only if the agency has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with a person other than the community.
- (2)
  - (a) The community legislative body shall:
    - (i) within 10 days after adopting an ordinance described in Subsection (1), file with the lieutenant governor a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
    - (ii) upon the lieutenant governor's issuance of a certificate of dissolution under Section 67-1a-6.5, submit to the recorder of the county in which the agency is located:
      - (A) the original notice of an impending boundary action;
      - (B) the original certificate of dissolution; and
      - (C) a certified copy of the ordinance that dissolves the agency.
  - (b) Upon the lieutenant governor's issuance of the certificate of dissolution under Section 67-1a-6.5, the agency is dissolved.
  - (c) Within 10 days after receiving the certificate of dissolution from the lieutenant governor under Section 67-1a-6.5, the community legislative body shall send a copy of the certificate of dissolution and the ordinance adopted under Subsection (1) to the State Board of Education, and each taxing entity.
  - (d) The community legislative body shall publish a notice of dissolution in a newspaper of general circulation in the county in which the dissolved agency is located.
- (3) The books, documents, records, papers, and seal of each dissolved agency shall be deposited for safekeeping and reference with the recorder of the community that dissolved the agency.
- (4) The agency shall pay all expenses of the dissolution.

Renumbered and Amended by Chapter 350, 2016 General Session

#### **17C-1-702 Project area dissolution.**

- (1) Regardless of when a project area funds collection period ends, the project area remains in existence until:

- (a) the agency adopts a resolution dissolving the project area; and
  - (b) the community legislative body adopts an ordinance dissolving the project area.
- (2) The ordinance described in Subsection (1)(b) shall include:
- (a) the name of the project area; and
  - (b) a project area map or boundary description.
- (3) Within 30 days after the day on which the community legislative body adopts an ordinance described in Subsection (1)(b), the community legislative body shall:
- (a) submit a copy of the ordinance to the county recorder of the county in which the dissolved project area is located; and
  - (b) mail or electronically submit a copy of the ordinance to the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies or imposes a tax on property within the dissolved project area.

Enacted by Chapter 350, 2016 General Session

## **Part 8**

### **Hearing and Notice Requirements**

#### **17C-1-801 Title.**

This part is known as "Hearing and Notice Requirements."

Enacted by Chapter 350, 2016 General Session

#### **17C-1-802 Combining hearings.**

A board may combine any combination of a blight hearing, a plan hearing, and a budget hearing.

Renumbered and Amended by Chapter 350, 2016 General Session

#### **17C-1-803 Continuing a hearing.**

Subject to Section 17C-1-804, the board may continue:

- (1) a blight hearing;
- (2) a plan hearing;
- (3) a budget hearing; or
- (4) a combined hearing under Section 17C-1-802.

Renumbered and Amended by Chapter 350, 2016 General Session

#### **17C-1-804 Notice required for continued hearing.**

The board shall give notice of a hearing continued under Section 17C-1-802 by announcing at the hearing:

- (1) the date, time, and place the hearing will be resumed; or
- (2)
  - (a) that the hearing is being continued to a later time; and

- (b) that the board will cause a notice of the continued hearing to be published on the Utah Public Notice Website created in Section 63F-1-701, at least seven days before the day on which the hearing is scheduled to resume.

Renumbered and Amended by Chapter 350, 2016 General Session

**17C-1-805 Agency to provide notice of hearings.**

- (1) Each agency shall provide notice, in accordance with this part, of each:
  - (a) blight hearing;
  - (b) plan hearing; or
  - (c) budget hearing.
- (2) The notice required under Subsection (1) may be combined with the notice required for any of the other hearings if the hearings are combined under Section 17C-1-802.

Renumbered and Amended by Chapter 350, 2016 General Session

**17C-1-806 Requirements for notice provided by agency.**

- (1) The notice required by Section 17C-1-805 shall be given by:
  - (a)
    - (i) publishing one notice, excluding the map referred to in Subsection (3)(b), in a newspaper of general circulation within the county in which the project area or proposed project area is located, at least 14 days before the hearing;
    - (ii) if there is no newspaper of general circulation, posting notice at least 14 days before the day of the hearing in at least three conspicuous places within the county in which the project area or proposed project area is located; or
    - (iii) posting notice, excluding the map described in Subsection (3)(b), at least 14 days before the day on which the hearing is held on:
      - (A) the Utah Public Notice Website described in Section 63F-1-701; and
      - (B) the public website of a community located within the boundaries of the project area; and
  - (b) at least 30 days before the hearing, mailing notice to:
    - (i) each record owner of property located within the project area or proposed project area;
    - (ii) the State Tax Commission;
    - (iii) the assessor and auditor of the county in which the project area or proposed project area is located; and
  - (iv)
    - (A) each member of the taxing entity committee, if applicable; or
    - (B) if a taxing entity committee has not been formed, the State Board of Education and the legislative body or governing board of each taxing entity.
- (2) The mailing of the notice to record property owners required under Subsection (1)(b)(i) shall be conclusively considered to have been properly completed if:
  - (a) the agency mails the notice to the property owners as shown in the records, including an electronic database, of the county recorder's office and at the addresses shown in those records; and
  - (b) the county recorder's office records used by the agency in identifying owners to whom the notice is mailed and their addresses were obtained or accessed from the county recorder's office no earlier than 30 days before the mailing.
- (3) The agency shall include in each notice required under Section 17C-1-805:
  - (a)

- (i) a boundary description of the project area or proposed project area; or
  - (ii)
    - (A) a mailing address or telephone number where a person may request that a copy of the boundary description be sent at no cost to the person by mail, email, or facsimile transmission; and
    - (B) if the agency or community has an Internet website, an Internet address where a person may gain access to an electronic, printable copy of the boundary description and other related information;
  - (b) a map of the boundaries of the project area or proposed project area;
  - (c) an explanation of the purpose of the hearing; and
  - (d) a statement of the date, time, and location of the hearing.
- (4) The agency shall include in each notice under Subsection (1)(b):
- (a) a statement that property tax revenues resulting from an increase in valuation of property within the project area or proposed project area will be paid to the agency for project area development rather than to the taxing entity to which the tax revenues would otherwise have been paid if:
    - (i) the taxing entity committee consents to the project area budget; and
    - (ii) the project area plan provides for the agency to receive tax increment; and
  - (b) an invitation to the recipient of the notice to submit to the agency comments concerning the subject matter of the hearing before the date of the hearing.
- (5) An agency may include in a notice under Subsection (1) any other information the agency considers necessary or advisable, including the public purpose achieved by the project area development and any future tax benefits expected to result from the project area development.

Renumbered and Amended by Chapter 350, 2016 General Session

**17C-1-807 Additional requirements for notice of a blight hearing.**

Each notice under Section 17C-1-806 for a blight hearing shall also include:

- (1) a statement that:
  - (a) a project area is being proposed;
  - (b) the proposed project area may be declared to have blight;
  - (c) the record owner of property within the proposed project area has the right to present evidence at the blight hearing contesting the existence of blight;
  - (d) except for a hearing continued under Section 17C-1-803, the agency will notify the record owner of property referred to in Subsection 17C-1-806(1)(b)(i) of each additional public hearing held by the agency concerning the proposed project area before the adoption of the project area plan; and
  - (e) a person contesting the existence of blight in the proposed project area may appear before the board and show cause why the proposed project area should not be designated as a project area; and
- (2) if the agency anticipates acquiring property in an urban renewal project area or a community reinvestment project area by eminent domain, a clear and plain statement that:
  - (a) the project area plan may require the agency to use eminent domain; and
  - (b) the proposed use of eminent domain will be discussed at the blight hearing.

Renumbered and Amended by Chapter 350, 2016 General Session

**17C-1-808 Additional requirements for notice of a plan hearing.**

Each notice under Section 17C-1-806 of a plan hearing shall also include:

- (1) a statement that any person objecting to the proposed project area plan or contesting the regularity of any of the proceedings to adopt the proposed project area plan may appear before the board at the hearing to show cause why the proposed project area plan should not be adopted; and
- (2) a statement that the proposed project area plan is available for inspection at the agency offices.

Renumbered and Amended by Chapter 350, 2016 General Session

**17C-1-809 Additional requirements for notice of a budget hearing.**

Each notice under Section 17C-1-806 of a budget hearing shall contain:

- (1) the following statement: "The (name of agency) has requested \$\_\_\_\_\_ in property tax revenues that will be generated by development within the (name of project area) to fund a portion of project costs within the (name of project area). These property tax revenues will be used for the following: (list major budget categories and amounts). These property taxes will be taxes levied by the following governmental entities, and, assuming current tax rates, the taxes paid to the agency for this project area from each taxing entity will be as follows: (list each taxing entity levying taxes and the amount of total taxes that would be paid from each taxing entity). All of the property taxes to be paid to the agency for the development in the project area are taxes that will be generated only if the project area is developed.

All concerned citizens are invited to attend the project area budget hearing scheduled for (date, time, and place of hearing). A copy of the (name of project area) project area budget is available at the offices of (name of agency and office address)."; and

- (2) other information that the agency considers appropriate.

Renumbered and Amended by Chapter 350, 2016 General Session

## **Part 9 Eminent Domain**

**17C-1-901 Title.**

This part is known as "Eminent Domain."

Enacted by Chapter 350, 2016 General Session

**17C-1-902 Use of eminent domain -- Conditions.**

- (1) Except as provided in Subsection (2), an agency may not use eminent domain to acquire property.
- (2) Subject to the provisions of this part, an agency may, in accordance with Title 78B, Chapter 6, Part 5, Eminent Domain, use eminent domain to acquire an interest in property:
  - (a) within an urban renewal project area if:
    - (i) the board makes a finding of blight under Chapter 2, Part 3, Blight Determination in Urban Renewal Project Areas; and
    - (ii) the urban renewal project area plan provides for the use of eminent domain;
  - (b) that is owned by an agency board member or officer and located within a project area, if the board member or officer consents;

- (c) within a community reinvestment project area if:
  - (i) the board makes a finding of blight in accordance with Chapter 5, Part 4, Blight Determination in a Community Reinvestment Project Area;
  - (ii)
    - (A) the original community reinvestment project area plan provides for the use of eminent domain; or
    - (B) the community reinvestment project area plan is amended in accordance with Subsection 17C-5-112(4); and
  - (iii) the agency creates a taxing entity committee in accordance with Section 17C-1-402;
- (d) that:
  - (i) is owned by a participant or a property owner that is entitled to receive tax increment or other assistance from the agency;
  - (ii) is within a project area, regardless of when the project area is created, for which the agency made a finding of blight under Section 17C-2-102 or 17C-5-405; and
  - (iii)
    - (A) the participant or property owner described in Subsection (2)(d)(i) fails to develop or improve in accordance with the participation agreement or the project area plan; or
    - (B) for a period of 36 months does not generate the amount of tax increment that the agency projected to receive under the project area budget; or
- (e) if a property owner requests in writing that the agency exercise eminent domain to acquire the property owner's property within a project area.
- (3) An agency shall, in accordance with the provisions of this part, commence the acquisition of property described in Subsections (2)(a) through (c) by eminent domain within five years after the day on which the project area plan is effective.

Amended by Chapter 456, 2017 General Session

**17C-1-903 Prerequisites to the acquisition of property by eminent domain -- Civil action authorized -- Record of good faith negotiations to be retained.**

- (1) Before an agency may initiate an action in district court to acquire property by eminent domain, the agency shall:
  - (a) negotiate in good faith with the affected record property owner;
  - (b) provide to each affected record property owner a written declaration that includes:
    - (i) an explanation of the eminent domain process and the reasons for using it, including:
      - (A) the need for the agency to obtain an independent appraisal that indicates the fair market value of the property and how the fair market value was determined;
      - (B) a statement that the agency may adopt a resolution authorizing the agency to make an offer to the record property owner to purchase the property for the fair market value amount determined by the appraiser and that, if the offer is rejected, the agency has the right to acquire the property through an eminent domain proceeding; and
      - (C) a statement that the agency will prepare an offer that will include the price the agency is offering for the property, an explanation of how the agency determined the price being offered, the legal description of the property, conditions of the offer, and the time at which the offer will expire;
    - (ii) an explanation of the record property owner's relocation rights under Title 57, Chapter 12, Utah Relocation Assistance Act, and how to receive relocation assistance; and
    - (iii) a statement that the owner has the right to receive just compensation and an explanation of how to obtain it; and

- (c) provide to the affected record property owner or the owner's designated representative a notice that is printed in a type size of at least ten-point type that contains:
  - (i) a description of the property to be acquired;
  - (ii) the name of the agency acquiring the property and the agency's contact person and telephone number; and
  - (iii) a copy of Title 57, Chapter 12, Utah Relocation Assistance Act.
- (2) A person may bring a civil action against an agency for a violation of Subsection (1)(b) that results in damage to that person.
- (3) Each agency shall keep a record and evidence of the good faith negotiations required under Subsection (1)(a) and retain the record and evidence as provided in:
  - (a) Title 63G, Chapter 2, Government Records Access and Management Act; or
  - (b) an ordinance or policy that the agency had adopted under Section 63G-2-701.
- (4) A record property owner whose property is being taken by an agency through the exercise of eminent domain may elect to receive for the real property being taken:
  - (a) fair market value; or
  - (b) replacement property under Section 57-12-7.

Renumbered and Amended by Chapter 350, 2016 General Session

**17C-1-904 Acquiring single family owner occupied residential property or commercial property -- Acquiring property already devoted to a public use -- Relocation assistance requirement.**

- (1) As used in this section:
  - (a) "Commercial property" means real property used, in whole or in part, by the owner or possessor of the property for a commercial, industrial, retail, or other business purpose, regardless of the identity of the property owner.
  - (b) "Owner occupied property" means private real property that is:
    - (i) used for a single-family residential or commercial purpose; and
    - (ii) occupied by the owner of the property.
  - (c) "Relevant area" means:
    - (i) except as provided in Subsection (1)(c)(ii), the project area; or
    - (ii)
      - (A) the area included within a phase of a project under a project area plan if the phase and the area included within the phase are described in the project area plan; or
      - (B) the parcel or parcels that are the subject of a community reinvestment project area plan amendment under Subsection 17C-5-112(4).
- (2) An agency may not initiate an action in district court to acquire by eminent domain a residential owner occupied property unless:
  - (a)
    - (i) a written petition requesting the agency to use eminent domain to acquire the property is submitted by the owners of at least 80% of the residential owner occupied property within the relevant area representing at least 70% of the value of residential owner occupied property within the relevant area; or
    - (ii) a written petition of 90% of the owners of real property, including property owned by the agency or a public entity within the project area, is submitted to the agency, requesting the use of eminent domain to acquire the property; and
  - (b) at least two-thirds of all board members vote in favor of using eminent domain to acquire the property.

- (3) An agency may not initiate an action in district court to acquire commercial owner occupied property by eminent domain unless:
  - (a) a written petition requesting the agency to use eminent domain to acquire the property is submitted by the owners of at least 75% of the commercial property within the relevant area representing at least 60% of the value of commercial property within the relevant area; and
  - (b) at least two-thirds of all board members vote in favor of using eminent domain to acquire the property.
- (4) For purposes of this section an owner is considered to have signed a petition if:
  - (a) owners representing a majority ownership interest in the property sign the petition; or
  - (b) if the property is owned by joint tenants or tenants by the entirety, 50% of the number of owners of the property sign the petition.
- (5) An agency may not acquire by eminent domain any real property on which an existing building is to be continued on the building's present site and in the building's present form and use unless:
  - (a) the building requires structural alteration, improvement, modernization, or rehabilitation;
  - (b) the site or lot on which the building is situated requires modification in size, shape, or use; or
  - (c)
    - (i) it is necessary to impose upon the property a standard, restriction, or control of the project area plan; and
    - (ii) the owner fails or refuses to agree to participate in the project area plan.
- (6) An agency may not acquire by eminent domain property that is owned by a public entity.
- (7) An agency that acquires property by eminent domain shall comply with Title 57, Chapter 12, Utah Relocation Assistance Act.

Amended by Chapter 456, 2017 General Session

**17C-1-905 Court award for court costs and attorney fees, relocation expenses, and damage to fixtures or personal property.**

In an eminent domain action under this part, the court may award:

- (1) costs and reasonable attorney fees to the condemnee if the amount of the court or jury award for the property exceeds the amount offered by the agency;
- (2) a reasonable sum, as determined by the court or jury, as compensation for any costs or expenses relating to relocating:
  - (a) an owner who occupied the acquired property;
  - (b) a party conducting a business on the acquired property; or
  - (c) a person displaced from the property, as permitted by Title 57, Chapter 12, Utah Relocation Assistance Act; and
- (3) an amount to compensate for any fixtures or personal property that is:
  - (a) owned by the owner of the acquired property or by a person conducting a business on the acquired property; and
  - (b) damaged as a result of the acquisition or relocation.

Renumbered and Amended by Chapter 350, 2016 General Session

## Chapter 2



## Urban Renewal

### Part 1

#### Urban Renewal Project Area Plan

##### **17C-2-101.1 Title.**

This chapter is known as "Urban Renewal."

Enacted by Chapter 350, 2016 General Session

##### **17C-2-101.2 Applicability of chapter.**

This chapter applies to an urban renewal project area that is effective:

- (1) before May 10, 2016; or
- (2) before September 1, 2016, if an agency adopted a resolution in accordance with Section 17C-2-101.5 before April 1, 2016.

Enacted by Chapter 350, 2016 General Session

##### **17C-2-101.5 Resolution designating survey area -- Request to adopt resolution.**

- (1) A board may begin the process of adopting an urban renewal project area plan by adopting a resolution that:
  - (a) designates an area located within the agency's boundaries as a survey area;
  - (b) contains a statement that the survey area requires study to determine whether:
    - (i) one or more urban renewal project areas within the survey area are feasible; and
    - (ii) blight exists within the survey area; and
  - (c) contains a boundary description or map of the survey area.
- (2)
  - (a) Any person or any group, association, corporation, or other entity may submit a written request to the board to adopt a resolution under Subsection (1).
  - (b) A request under Subsection (2)(a) may include plans showing the project area development proposed for an area within the agency's boundaries.
  - (c) The board may, in the board's sole discretion, grant or deny a request under Subsection (2) (a).

Renumbered and Amended by Chapter 350, 2016 General Session

##### **17C-2-102 Process for adopting urban renewal project area plan -- Prerequisites -- Restrictions.**

- (1)
  - (a) In order to adopt an urban renewal project area plan, after adopting a resolution under Subsection 17C-2-101.5(1) the agency shall:
    - (i) unless a finding of blight is based on a finding made under Subsection 17C-2-303(1)(b) relating to an inactive industrial site or inactive airport site:
      - (A) cause a blight study to be conducted within the survey area as provided in Section 17C-2-301;
      - (B) provide notice of a blight hearing as required under Chapter 1, Part 8, Hearing and Notice Requirements; and

- (C) hold a blight hearing as described in Section 17C-2-302;
- (ii) after the blight hearing has been held or, if no blight hearing is required under Subsection (1)
  - (a)(i), after adopting a resolution under Subsection 17C-2-101.5(1), hold a board meeting at which the board shall:
    - (A) consider:
      - (I) the issue of blight and the evidence and information relating to the existence or nonexistence of blight; and
      - (II) whether adoption of one or more urban renewal project area plans should be pursued; and
    - (B) by resolution:
      - (I) make a finding regarding the existence of blight in the proposed urban renewal project area;
      - (II) select one or more project areas comprising part or all of the survey area; and
      - (III) authorize the preparation of a proposed project area plan for each project area;
  - (iii) prepare a proposed project area plan and conduct any examination, investigation, and negotiation regarding the project area plan that the agency considers appropriate;
  - (iv) make the proposed project area plan available to the public at the agency's offices during normal business hours;
  - (v) provide notice of the plan hearing in accordance with Sections 17C-1-806 and 17C-1-808;
  - (vi) hold a plan hearing on the proposed project area plan and, at the plan hearing:
    - (A) allow public comment on:
      - (I) the proposed project area plan; and
      - (II) whether the proposed project area plan should be revised, approved, or rejected; and
    - (B) receive all written and hear all oral objections to the proposed project area plan;
  - (vii) before holding the plan hearing, provide an opportunity for the State Board of Education and each taxing entity that levies a tax on property within the proposed project area to consult with the agency regarding the proposed project area plan;
  - (viii) if applicable, hold the election required under Subsection 17C-2-105(3);
  - (ix) after holding the plan hearing, at the same meeting or at a subsequent meeting consider:
    - (A) the oral and written objections to the proposed project area plan and evidence and testimony for and against adoption of the proposed project area plan; and
    - (B) whether to revise, approve, or reject the proposed project area plan;
  - (x) approve the proposed project area plan, with or without revisions, as the project area plan by a resolution that complies with Section 17C-2-106; and
  - (xi) submit the project area plan to the community legislative body for adoption.
- (b)
  - (i) If an agency makes a finding under Subsection (1)(a)(ii)(B) that blight exists in the proposed urban renewal project area, the agency may not adopt the project area plan until the taxing entity committee approves the finding of blight.
  - (ii)
    - (A) A taxing entity committee may not disapprove an agency's finding of blight unless the committee demonstrates that the conditions the agency found to exist in the urban renewal project area that support the agency's finding of blight under Section 17C-2-303:
      - (I) do not exist; or
      - (II) do not constitute blight.
    - (B)
      - (I) If the taxing entity committee questions or disputes the existence of some or all of the blight conditions that the agency found to exist in the urban renewal project area or that

those conditions constitute blight, the taxing entity committee may hire a consultant, mutually agreed upon by the taxing entity committee and the agency, with the necessary expertise to assist the taxing entity committee to make a determination as to the existence of the questioned or disputed blight conditions.

(II) The agency shall pay the fees and expenses of each consultant hired under Subsection (1)(b)(ii)(B)(I).

(III) The findings of a consultant under this Subsection (1)(b)(ii)(B) shall be binding on the taxing entity committee and the agency.

(2) An agency may not propose a project area plan under Subsection (1) unless the community in which the proposed project area is located:

(a) has a planning commission; and

(b) has adopted a general plan under:

(i) if the community is a municipality, Title 10, Chapter 9a, Part 4, General Plan; or

(ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.

(3)

(a) Subject to Subsection (3)(b), a board may not approve a project area plan more than one year after adoption of a resolution making a finding of blight under Subsection (1)(a)(ii)(B).

(b) If a project area plan is submitted to an election under Subsection 17C-2-105(3), the time between the plan hearing and the date of the election does not count for purposes of calculating the year period under Subsection (3)(a).

(4)

(a) Except as provided in Subsection (4)(b), a proposed project area plan may not be modified to add real property to the proposed project area unless the board holds a plan hearing to consider the addition and gives notice of the plan hearing as required under Sections 17C-1-806 and 17C-1-808.

(b) The notice and hearing requirements under Subsection (4)(a) do not apply to a proposed project area plan being modified to add real property to the proposed project area if:

(i) the property is contiguous to the property already included in the proposed project area under the proposed project area plan;

(ii) the record owner of the property consents to adding the real property to the proposed project area; and

(iii) the property is located within the survey area.

Amended by Chapter 350, 2016 General Session

### **17C-2-103 Urban renewal project area plan requirements.**

(1) Each urban renewal project area plan and proposed project area plan shall:

(a) describe the boundaries of the project area, subject to Section 17C-1-414, if applicable;

(b) contain a general statement of the land uses, layout of principal streets, population densities, and building intensities of the project area and how they will be affected by the project area development;

(c) state the standards that will guide the project area development;

(d) show how the purposes of this title will be attained by the project area development;

(e) be consistent with the general plan of the community in which the project area is located and show that the project area development will conform to the community's general plan;

(f) describe how the project area development will reduce or eliminate blight in the project area;

(g) describe any specific project or projects that are the object of the proposed project area development;

- (h) identify how a participant will be selected to undertake the project area development and identify each participant currently involved in the project area development;
  - (i) state the reasons for the selection of the project area;
  - (j) describe the physical, social, and economic conditions existing in the project area;
  - (k) describe any tax incentives offered private entities for facilities located in the project area;
  - (l) include the analysis described in Subsection (2);
  - (m) if any of the existing buildings or uses in the project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, state that the agency shall comply with Section 9-8-404 as though the agency were a state agency; and
  - (n) include other information that the agency determines to be necessary or advisable.
- (2) Each analysis under Subsection (1)(l) shall consider:
- (a) the benefit of any financial assistance or other public subsidy proposed to be provided by the agency, including:
    - (i) an evaluation of the reasonableness of the costs of the project area development;
    - (ii) efforts the agency or participant has made or will make to maximize private investment;
    - (iii) the rationale for use of tax increment, including an analysis of whether the proposed project area development might reasonably be expected to occur in the foreseeable future solely through private investment; and
    - (iv) an estimate of the total amount of tax increment that will be expended in undertaking project area development and the project area funds collection period; and
  - (b) the anticipated public benefit to be derived from the project area development, including:
    - (i) the beneficial influences upon the tax base of the community;
    - (ii) the associated business and economic activity likely to be stimulated; and
    - (iii) whether adoption of the project area plan is necessary and appropriate to reduce or eliminate blight.

Amended by Chapter 350, 2016 General Session

**17C-2-104 Existing and historic buildings and uses in an urban renewal project area.**

If any of the existing buildings or uses in an urban renewal project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, the agency shall comply with Section 9-8-404 as though the agency were a state agency.

Amended by Chapter 292, 2006 General Session

Renumbered and Amended by Chapter 359, 2006 General Session

**17C-2-105 Objections to urban renewal project area plan -- Owners' alternative project area plan -- Election if 40% of property owners object.**

- (1) At any time before the plan hearing, any person may file with the agency a written statement of objections to the proposed urban renewal project area plan.
- (2) If the record owners of property of a majority of the private real property included within the proposed urban renewal project area file a written petition before or at the plan hearing, proposing an alternative project area plan, the agency shall consider that proposed plan in conjunction with the project area plan proposed by the agency.
- (3)
  - (a) If the record property owners of at least 40% of the private land area within the most recently proposed urban renewal project area object in writing to the proposed project area plan before or at the plan hearing, or object orally at the plan hearing, and do not withdraw their

objections, an agency may not approve the project area plan until approved by voters within the boundaries of the agency in which the proposed project area is located at an election as provided in Subsection (3)(b).

(b)

- (i) Except as provided in this section, each election required under Subsection (3)(a) shall comply with Title 20A, Election Code.
  - (ii) An election under Subsection (3)(a) may be held on the same day and with the same election officials as an election held by the community in which the proposed project area is located.
  - (iii) If a majority of those voting on the proposed project area plan vote in favor of it, the project area plan shall be considered approved and the agency shall confirm the approval by resolution.
- (4) If the record property owners of 2/3 of the private land area within the proposed project area object in writing to the proposed project area plan before or at the plan hearing and do not withdraw their objections, the project area plan may not be adopted and the agency may not reconsider the project area plan for three years.

Amended by Chapter 350, 2016 General Session

**17C-2-106 Board resolution approving urban renewal project area plan -- Requirements.**

Each board resolution approving a proposed urban renewal project area plan as the project area plan under Subsection 17C-2-102(1)(a)(x) shall contain:

- (1) a boundary description of the boundaries of the project area that is the subject of the project area plan;
- (2) the agency's purposes and intent with respect to the project area;
- (3) the project area plan incorporated by reference;
- (4) a statement that the board previously made a finding of blight within the project area and the date of the board's finding of blight; and
- (5) the board findings and determinations that:
  - (a) there is a need to effectuate a public purpose;
  - (b) there is a public benefit under the analysis described in Subsection 17C-2-103(2);
  - (c) it is economically sound and feasible to adopt and carry out the project area plan;
  - (d) the project area plan conforms to the community's general plan; and
  - (e) carrying out the project area plan will promote the public peace, health, safety, and welfare of the community in which the project area is located.

Amended by Chapter 350, 2016 General Session

**17C-2-107 Urban renewal project area plan to be adopted by community legislative body.**

- (1) An urban renewal project area plan approved by board resolution under Section 17C-2-106 may not take effect until:
  - (a) it has been adopted by ordinance of the legislative body of the community that created the agency; and
  - (b) notice under Section 17C-2-108 is provided.
- (2) Each ordinance under Subsection (1) shall:
  - (a) be adopted by the community legislative body after the board's approval of a resolution under Section 17C-2-106; and

- (b) designate the approved project area plan as the official urban renewal plan of the project area.

Renumbered and Amended by Chapter 359, 2006 General Session

**17C-2-108 Notice of urban renewal project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.**

- (1)
  - (a) Upon the community legislative body's adoption of an urban renewal project area plan, or an amendment to a project area plan under Section 17C-2-110, the community legislative body shall provide notice as provided in Subsection (1)(b) by:
    - (i)
      - (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or
      - (B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and
    - (ii) posting a notice on the Utah Public Notice Website described in Section 63F-1-701.
  - (b) Each notice under Subsection (1)(a) shall:
    - (i) set forth the community legislative body's ordinance adopting the project area plan or a summary of the ordinance; and
    - (ii) include a statement that the project area plan is available for general public inspection and the hours for inspection.
- (2) The project area plan shall become effective on the date of:
  - (a) if notice was published under Subsection (1)(a), publication of the notice; or
  - (b) if notice was posted under Subsection (1)(a), posting of the notice.
- (3)
  - (a) For a period of 30 days after the effective date of the project area plan under Subsection (2), any person may contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.
  - (b) After the 30-day period under Subsection (3)(a) expires, a person may not contest the project area plan or procedure used to adopt the project area plan for any cause.
- (4) Upon adoption of the project area plan by the community legislative body, the agency may carry out the project area plan.
- (5) Each agency shall make the project area plan available to the general public at the agency's office during normal business hours.

Amended by Chapter 350, 2016 General Session

**17C-2-109 Agency required to transmit and record documents after adoption of an urban renewal project area plan.**

Within 30 days after the community legislative body adopts, under Section 17C-2-107, an urban renewal project area plan, the agency shall:

- (1) record with the recorder of the county in which the project area is located a document containing:
  - (a) a description of the land within the project area;
  - (b) a statement that the project area plan for the project area has been adopted; and
  - (c) the date of adoption;

- (2) transmit a copy of the description of the land within the project area and an accurate map or plat indicating the boundaries of the project area to the Automated Geographic Reference Center created under Section 63F-1-506; and
- (3) for a project area plan that provides for the agency to receive tax increment, transmit a copy of the description of the land within the project area, a copy of the community legislative body ordinance adopting the project area plan, and a map or plat indicating the boundaries of the project area to:
  - (a) the auditor, recorder, attorney, surveyor, and assessor of each county in which any part of the project area is located;
  - (b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;
  - (c) the legislative body or governing board of each taxing entity;
  - (d) the State Tax Commission; and
  - (e) the State Board of Education.

Amended by Chapter 350, 2016 General Session

**17C-2-110 Amending an urban renewal project area plan.**

- (1) An urban renewal project area plan may be amended as provided in this section.
- (2) If an agency proposes to amend an urban renewal project area plan to enlarge the project area:
  - (a) subject to Subsection (2)(e), the requirements under this part that apply to adopting a project area plan apply equally to the proposed amendment as if it were a proposed project area plan;
  - (b) for a pre-July 1, 1993 project area plan, the base year for the new area added to the project area shall be determined under Subsection 17C-1-102(9)(a) using the effective date of the amended project area plan;
  - (c) for a post-June 30, 1993 project area plan:
    - (i) the base year for the new area added to the project area shall be determined under Subsection 17C-1-102(9)(b) using the date of the taxing entity committee's consent referred to in Subsection (2)(c)(ii); and
    - (ii) the agency shall obtain the consent of the taxing entity committee before the agency may collect tax increment from the area added to the project area by the amendment;
  - (d) the agency shall make a finding regarding the existence of blight in the area proposed to be added to the project area by following the procedure set forth in Subsections 17C-2-102(1)(a)(i) and (ii); and
  - (e) the agency need not make a finding regarding the existence of blight in the project area as described in the original project area plan, if the agency made a finding of the existence of blight regarding that project area in connection with adoption of the original project area plan.
- (3) If a proposed amendment does not propose to enlarge an urban renewal project area, a board may adopt a resolution approving an amendment to a project area plan after:
  - (a) the agency gives notice, as provided in Section 17C-1-806, of the proposed amendment and of the public hearing required by Subsection (3)(b);
  - (b) the board holds a public hearing on the proposed amendment that meets the requirements of a plan hearing;
  - (c) the agency obtains the taxing entity committee's consent to the amendment, if the amendment proposes:
    - (i) to enlarge the area within the project area from which tax increment is collected;

- (ii) to permit the agency to receive a greater percentage of tax increment or to extend the project area funds collection period, or both, than allowed under the adopted project area plan; or
    - (iii) for an amendment to a project area plan that was adopted before April 1, 1983, to expand the area from which tax increment is collected to exceed 100 acres of private property; and
  - (d) the agency obtains the consent of the legislative body or governing board of each taxing entity affected, if the amendment proposes to permit the agency to receive, from less than all taxing entities, a greater percentage of tax increment or to extend the project area funds collection period, or both, than allowed under the adopted project area plan.
- (4)
- (a) An urban renewal project area plan may be amended without complying with the notice and public hearing requirements of Subsections (2)(a) and (3)(a) and (b) and without obtaining taxing entity committee approval under Subsection (3)(c) if the amendment:
    - (i) makes a minor adjustment in the boundary description of a project area boundary requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or
    - (ii) subject to Subsection (4)(b), removes a parcel from a project area because the agency determines that the parcel is:
      - (A) tax exempt;
      - (B) no longer blighted; or
      - (C) no longer necessary or desirable to the project area.
  - (b) An amendment removing a parcel from a project area under Subsection (4)(a)(ii) may be made without the consent of the record property owner of the parcel being removed.
- (5)
- (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of the community in which the project area that is the subject of the project area plan being amended is located.
  - (b) Upon a community legislative body passing an ordinance adopting an amendment to a project area plan, the agency whose project area plan was amended shall comply with the requirements of Sections 17C-2-108 and 17C-2-109 to the same extent as if the amendment were a project area plan.
- (6)
- (a) Within 30 days after the day on which an amendment to a project area plan becomes effective, a person may contest the amendment to the project area plan or the procedure used to adopt the amendment to the project area plan if the amendment or procedure fails to comply with a provision of this title.
  - (b) After the 30-day period described in Subsection (6)(a) expires, a person may not contest the amendment to the project area plan or procedure used to adopt the amendment to the project area plan for any cause.

Amended by Chapter 181, 2017 General Session

## **Part 2**

### **Urban Renewal Project Area Budget**

**17C-2-201 Project area budget -- Requirements for adopting -- Contesting the budget or procedure -- Time limit.**



- (1)
  - (a) If an agency anticipates funding all or a portion of a post-June 30, 1993 urban renewal project area plan with tax increment, the agency shall, subject to Section 17C-2-202, adopt a project area budget as provided in this part.
  - (b) An urban renewal project area budget adopted on or after March 30, 2009 shall specify:
    - (i) for a project area budget adopted on or after March 30, 2009:
      - (A) the project area funds collection period; and
      - (B) the percentage of tax increment the agency is authorized to receive from the project area under the project area budget; and
    - (ii) for a project area budget adopted on or after March 30, 2013, unless approval is obtained under Subsection 17C-1-402(4)(b)(vi)(C), the maximum cumulative dollar amount of tax increment that the agency may receive from the project area under the project area budget.
- (2) To adopt an urban renewal project area budget, the agency shall:
  - (a) prepare a proposed project area budget;
  - (b) make a copy of the proposed project area budget available to the public at the agency's offices during normal business hours;
  - (c) provide notice of the budget hearing as required by Chapter 1, Part 8, Hearing and Notice Requirements;
  - (d) hold a public hearing on the proposed project area budget and, at that public hearing, allow public comment on:
    - (i) the proposed project area budget; and
    - (ii) whether the proposed project area budget should be revised, adopted, or rejected;
  - (e)
    - (i) if required under Subsection 17C-2-204(1), obtain the approval of the taxing entity committee on the proposed project area budget or a revised version of the proposed project area budget; or
    - (ii) if applicable, comply with the requirements of Subsection 17C-2-204(2);
  - (f) if approval of the taxing entity committee is required under Subsection (2)(e)(i), obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and
  - (g) after the budget hearing, hold a board meeting in the same meeting as the public hearing or in a subsequent meeting to:
    - (i) consider comments made and information presented at the public hearing relating to the proposed project area budget; and
    - (ii) adopt by resolution the proposed project area budget, with any revisions, as the project area budget.
- (3)
  - (a) For a period of 30 days after the agency's adoption of the project area budget under Subsection (2)(g), any person may contest the project area budget or the procedure used to adopt the project area budget if the budget or procedure fails to comply with applicable statutory requirements.
  - (b) After the 30-day period under Subsection (3)(a) expires, a person, may not contest:
    - (i) the project area budget or procedure used by either the taxing entity committee or the agency to approve and adopt the project area budget;
    - (ii) a distribution of tax increment to the agency under the project area budget; or
    - (iii) the agency's use of tax increment under the project area budget.

Amended by Chapter 350, 2016 General Session

**17C-2-202 Combined incremental value -- Restriction against adopting an urban renewal project area budget -- Taxing entity committee may waive restriction.**

- (1) Except as provided in Subsection (2), an agency may not adopt an urban renewal project area budget if, at the time the urban renewal project area budget is being considered, the combined incremental value for the agency exceeds 10% of the total taxable value of property within the agency's boundaries in the year that the urban renewal project area budget is being considered.
- (2)
  - (a) A taxing entity committee may waive the restrictions imposed by Subsection (1).
  - (b) Subsection (1) does not apply to an urban renewal project area budget if the agency's finding of blight in the project area to which the budget relates is based on a finding under Subsection 17C-2-303(1)(b).

Amended by Chapter 364, 2007 General Session

**17C-2-203 Part of tax increment funds in urban renewal project area budget to be used for housing -- Waiver of requirement.**

- (1)
  - (a) Except as provided in Subsections (1)(b) and (c), each urban renewal project area budget adopted on or after May 1, 2000, that provides for more than \$100,000 of annual tax increment to be paid to the agency shall allocate at least 20% of the tax increment for housing as provided in Section 17C-1-412.
  - (b) The 20% requirement of Subsection (1)(a) may be waived in part or whole by the taxing entity committee if the taxing entity committee determines that 20% of tax increment is more than is needed to address the community's need for income targeted housing.
  - (c) An agency is not subject to the 20% requirement described in Subsection (1)(a) if:
    - (i) an inactive industrial site is located within an urban renewal project area; and
    - (ii) the inactive industrial site's remediation costs are estimated to exceed 20% of the project area funds under the urban renewal project area budget.
- (2) An urban renewal project area budget not required under Subsection (1)(a) to allocate tax increment for housing may allocate 20% of tax increment received by the agency over the life of the project area for housing as provided in Section 17C-1-412 if the project area budget is under a project area plan that is adopted on or after July 1, 1998.

Amended by Chapter 350, 2016 General Session

**17C-2-204 Consent of taxing entity committee required for urban renewal project area budget -- Exception.**

- (1)
  - (a) Except as provided in Subsection (1)(b) and subject to Subsection (2), each agency shall obtain the consent of the taxing entity committee for each urban renewal project area budget under a post-June 30, 1993 project area plan before the agency may receive any tax increment from the urban renewal project area.
  - (b) For an urban renewal project area budget adopted from July 1, 1998 through May 1, 2000 that allocates 20% or more of the tax increment for housing as provided in Section 17C-1-412, an agency:

- (i) need not obtain the consent of the taxing entity committee for the project area budget; and
  - (ii) may not receive any tax increment from all or part of the project area until after:
    - (A) the loan fund board has certified the project area budget as complying with the requirements of Section 17C-1-412; and
    - (B) the board has approved and adopted the project area budget by a two-thirds vote.
- (2)
- (a) Before a taxing entity committee may consent to an urban renewal project area budget adopted on or after May 1, 2000 that is required under Subsection 17C-2-203(1)(a) to allocate 20% of tax increment for housing, the agency shall:
    - (i) adopt a housing plan showing the uses for the housing funds; and
    - (ii) provide a copy of the housing plan to the taxing entity committee and the loan fund board.
  - (b) If an agency amends a housing plan prepared under Subsection (2)(a), the agency shall provide a copy of the amendment to the taxing entity committee and the loan fund board.

Amended by Chapter 350, 2016 General Session

**17C-2-205 Filing a copy of the urban renewal project area budget.**

Each agency adopting an urban renewal project area budget shall:

- (1) within 30 days after adopting the project area budget, file a copy of the project area budget with the auditor of the county in which the project area is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity affected by the agency's collection of tax increment under the project area budget; and
- (2) if the project area budget allocates tax increment for housing under Section 17C-1-412, file a copy of the project area budget with the loan fund board.

Renumbered and Amended by Chapter 359, 2006 General Session

**17C-2-206 Amending an urban renewal project area budget.**

- (1) An agency may by resolution amend an urban renewal project area budget as provided in this section.
- (2) To amend an adopted urban renewal project area budget, the agency shall:
  - (a) advertise and hold one public hearing on the proposed amendment as provided in Subsection (3);
  - (b) if approval of the taxing entity committee was required for adoption of the original project area budget, obtain the approval of the taxing entity committee to the same extent that the agency was required to obtain the consent of the taxing entity committee for the project area budget as originally adopted;
  - (c) if approval of the taxing entity committee is required under Subsection (2)(b), obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and
  - (d) adopt a resolution amending the project area budget.
- (3) The public hearing required under Subsection (2)(a) shall be conducted according to the procedures and requirements of Subsections 17C-2-201(2)(c) and (d), except that if the amended project area budget proposes that the agency be paid a greater proportion of tax increment from a project area than was to be paid under the previous project area budget, the notice shall state the percentage paid under the previous project area budget and the percentage proposed under the amended project area budget.

- (4) If the removal of a parcel under Subsection 17C-2-110(4)(a)(ii) reduces the base taxable value of the project area, an agency may amend the project area budget to conform with the new base taxable value without:
  - (a) complying with Subsections (2)(a) and (3); and
  - (b) if applicable, obtaining taxing entity committee approval described in Subsection (2)(b).
- (5) If a proposed amendment is not adopted, the agency shall continue to operate under the previously adopted project area budget without the proposed amendment.
- (6)
  - (a) A person may contest the agency's adoption of a budget amendment within 30 days after the day on which the agency adopts the amendment.
  - (b) A person who fails to contest a budget amendment under Subsection (6)(a):
    - (i) forfeits any claim against an agency's adoption of the amendment; and
    - (ii) may not contest:
      - (A) a distribution of tax increment to the agency under the budget amendment; or
      - (B) an agency's use of a tax increment under the budget amendment.

Amended by Chapter 350, 2016 General Session

**17C-2-207 Extending collection of tax increment in an urban renewal project area budget.**

- (1) An extension approved by a taxing entity or taxing entity committee before May 10, 2011, is not subject to this section.
- (2)
  - (a) An agency's collection of tax increment under an urban renewal project area budget may be extended by:
    - (i) following the project area budget amendment procedures outlined in Section 17C-2-206; or
    - (ii) following the procedures outlined in this section.
  - (b) The base taxable value for an urban renewal project area budget may not be altered as a result of an extension under this section unless otherwise expressly provided for in an interlocal agreement adopted in accordance with Subsection (3)(a).
- (3) To extend under this section the project area funds collection period under a previously approved project area budget, the agency shall:
  - (a) obtain the approval of the taxing entity through an interlocal agreement;
  - (b)
    - (i) hold a public hearing on the proposed extension in accordance with Subsection 17C-2-201(2)(d) in the same manner as required for a proposed project area budget; and
    - (ii) provide notice of the hearing:
      - (A) as required by Chapter 1, Part 8, Hearing and Notice Requirements; and
      - (B) including the proposed project area budget's extension period; and
  - (c) after obtaining the taxing entity's approval in accordance with Subsection (3)(a), at or after the public hearing, adopt a resolution approving the extension.
- (4) After the project area funds collection period expires, an agency may continue to receive project area funds from those taxing entities that agree to an extension through an interlocal agreement in accordance with Subsection (3)(a).
- (5)
  - (a) A person may contest the agency's adoption of an extension within 30 days after the day on which the agency adopts the resolution providing for the extension.
  - (b) A person who fails to contest an extension under Subsection (5)(a):
    - (i) shall forfeit any claim against the agency's adoption of the extension; and

(ii) may not contest:

- (A) a distribution of tax increment to the agency under the budget, as extended; or
- (B) an agency's use of tax increment under the budget, as extended.

Amended by Chapter 350, 2016 General Session

### **Part 3**

#### **Blight Determination in Urban Renewal Project Areas**

##### **17C-2-301 Blight study -- Requirements -- Deadline.**

- (1) Each blight study required under Subsection 17C-2-102(1)(a)(i)(A) shall:
  - (a) undertake a parcel by parcel survey of the survey area;
  - (b) provide data so the board and taxing entity committee may determine:
    - (i) whether the conditions described in Subsection 17C-2-303(1):
      - (A) exist in part or all of the survey area; and
      - (B) qualify an area within the survey area as a project area; and
    - (ii) whether the survey area contains all or part of a superfund site, an inactive industrial site, or inactive airport site;
  - (c) include a written report setting forth:
    - (i) the conclusions reached;
    - (ii) any recommended area within the survey area qualifying as a project area; and
    - (iii) any other information requested by the agency to determine whether an urban renewal project area is feasible; and
  - (d) be completed within one year after the adoption of the survey area resolution.
- (2)
  - (a) If a blight study is not completed within one year after the adoption of the resolution under Subsection 17C-2-101.5(1) designating a survey area, the agency may not approve an urban renewal project area plan based on that blight study unless it first adopts a new resolution under Subsection 17C-2-101.5(1).
  - (b) A new resolution under Subsection (2)(a) shall in all respects be considered to be a resolution under Subsection 17C-2-101.5(1) adopted for the first time, except that any actions taken toward completing a blight study under the resolution that the new resolution replaces shall be considered to have been taken under the new resolution.

Amended by Chapter 125, 2008 General Session

##### **17C-2-302 Blight hearing -- Owners may review evidence of blight.**

- (1) In each hearing required under Subsection 17C-2-102(1)(a)(i)(C), the agency shall:
  - (a) permit all evidence of the existence or nonexistence of blight within the proposed urban renewal project area to be presented; and
  - (b) permit each record owner of property located within the proposed urban renewal project area or the record property owner's representative the opportunity to:
    - (i) examine and cross-examine witnesses providing evidence of the existence or nonexistence of blight; and
    - (ii) present evidence and testimony, including expert testimony, concerning the existence or nonexistence of blight.

- (2) The agency shall allow record owners of property located within a proposed urban renewal project area the opportunity, for at least 30 days before the hearing, to review the evidence of blight compiled by the agency or by the person or firm conducting the blight study for the agency, including any expert report.

Amended by Chapter 364, 2007 General Session

**17C-2-303 Conditions on board determination of blight -- Conditions of blight caused by the participant.**

- (1) A board may not make a finding of blight in a resolution under Subsection 17C-2-102(1)(a)(ii)
  - (B) unless the board finds that:
    - (a)
      - (i) the proposed project area consists predominantly of nongreenfield parcels;
      - (ii) the proposed project area is currently zoned for urban purposes and generally served by utilities;
      - (iii) at least 50% of the parcels within the proposed project area contain nonagricultural or nonaccessory buildings or improvements used or intended for residential, commercial, industrial, or other urban purposes, or any combination of those uses;
      - (iv) the present condition or use of the proposed project area substantially impairs the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic liability or is detrimental to the public health, safety, or welfare, as shown by the existence within the proposed project area of at least four of the following factors:
        - (A) one of the following, although sometimes interspersed with well maintained buildings and infrastructure:
          - (I) substantial physical dilapidation, deterioration, or defective construction of buildings or infrastructure; or
          - (II) significant noncompliance with current building code, safety code, health code, or fire code requirements or local ordinances;
        - (B) unsanitary or unsafe conditions in the proposed project area that threaten the health, safety, or welfare of the community;
        - (C) environmental hazards, as defined in state or federal law, that require remediation as a condition for current or future use and development;
        - (D) excessive vacancy, abandoned buildings, or vacant lots within an area zoned for urban use and served by utilities;
        - (E) abandoned or outdated facilities that pose a threat to public health, safety, or welfare;
        - (F) criminal activity in the project area, higher than that of comparable nonblighted areas in the municipality or county; and
        - (G) defective or unusual conditions of title rendering the title nonmarketable; and
      - (v)
        - (A) at least 50% of the privately-owned parcels within the proposed project area are affected by at least one of the factors, but not necessarily the same factor, listed in Subsection (1)(a)(iv); and
        - (B) the affected parcels comprise at least 66% of the privately-owned acreage of the proposed project area; or
    - (b) the proposed project area includes some or all of a superfund site, inactive industrial site, or inactive airport site.

- (2) No single parcel comprising 10% or more of the acreage of the proposed project area may be counted as satisfying Subsection (1)(a)(iii) or (iv) unless at least 50% of the area of that parcel is occupied by buildings or improvements.
- (3)
  - (a) For purposes of Subsection (1), if a participant involved in the project area development has caused a condition listed in Subsection (1)(a)(iv) within the proposed project area, that condition may not be used in the determination of blight.
  - (b) Subsection (3)(a) does not apply to a condition that was caused by an owner or tenant who becomes a participant.

Amended by Chapter 350, 2016 General Session

**17C-2-304 Challenging a finding of blight -- Time limit -- De novo review.**

- (1) If the board makes a finding of blight under Subsection 17C-2-102(1)(a)(ii)(B) and that finding is approved by resolution adopted by the taxing entity committee, a record owner of property located within the proposed urban renewal project area may challenge the finding by filing an action with the district court for the county in which the property is located.
- (2) Each challenge under Subsection (1) shall be filed within 30 days after the taxing entity committee approves the board's finding of blight.
- (3) In each action under this section, the district court shall review the finding of blight under the standards of review provided in Subsection 10-9a-801(3).

Amended by Chapter 364, 2007 General Session

## **Chapter 3 Economic Development**

### **Part 1 Economic Development Project Area Plan**

**17C-3-101.1 Title.**

This chapter is known as "Economic Development."

Enacted by Chapter 350, 2016 General Session

**17C-3-101.2 Applicability of chapter.**

This chapter applies to an economic development project area that is effective:

- (1) before May 10, 2016; or
- (2) before September 1, 2016, if an agency adopted a resolution in accordance with Section 17C-3-101.5 before April 1, 2016.

Enacted by Chapter 350, 2016 General Session

**17C-3-101.5 Resolution authorizing the preparation of a proposed economic development project area plan -- Request to adopt resolution.**

- (1) A board may begin the process of adopting an economic development project area plan by adopting a resolution that authorizes the preparation of a proposed project area plan.
- (2)
  - (a) Any person or any group, association, corporation, or other entity may submit a written request to the board to adopt a resolution under Subsection (1).
  - (b) A request under Subsection (2)(a) may include plans showing the project area development proposed for an area within the agency's boundaries.
  - (c) The board may, in the board's sole discretion, grant or deny a request under Subsection (2)(a).

Renumbered and Amended by Chapter 350, 2016 General Session

**17C-3-102 Process for adopting an economic development project area plan -- Prerequisites -- Restrictions.**

- (1) In order to adopt an economic development project area plan, after adopting a resolution under Subsection 17C-3-101.5(1) the agency shall:
  - (a) prepare a proposed economic development project area plan and conduct any examination, investigation, and negotiation regarding the project area plan that the agency considers appropriate;
  - (b) make the proposed project area plan available to the public at the agency's offices during normal business hours;
  - (c) provide notice of the plan hearing as provided in Chapter 1, Part 8, Hearing and Notice Requirements;
  - (d) hold a public hearing on the proposed project area plan and, at that public hearing:
    - (i) allow public comment on:
      - (A) the proposed project area plan; and
      - (B) whether the proposed project area plan should be revised, approved, or rejected; and
    - (ii) receive all written and hear all oral objections to the proposed project area plan;
  - (e) before holding the plan hearing, provide an opportunity for the State Board of Education and each taxing entity within the proposed project area to consult with the agency regarding the proposed project area plan;
  - (f) after holding the plan hearing, at the same meeting or at a subsequent meeting consider:
    - (i) the oral and written objections to the proposed project area plan and evidence and testimony for or against adoption of the proposed project area plan; and
    - (ii) whether to revise, approve, or reject the proposed project area plan;
  - (g) approve the proposed project area plan, with or without revisions, as the project area plan by a resolution that complies with Section 17C-3-105; and
  - (h) submit the project area plan to the community legislative body for adoption.
- (2) An agency may not propose a project area plan under Subsection (1) unless the community in which the proposed project area is located:
  - (a) has a planning commission; and
  - (b) has adopted a general plan under:
    - (i) if the community is a municipality, Title 10, Chapter 9a, Part 4, General Plan; or
    - (ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.
- (3) A board may not approve a project area plan more than one year after the date of the plan hearing.
- (4)



- (a) Except as provided in Subsection (4)(b), a proposed project area plan may not be modified to add one or more parcels to the proposed project area unless the board holds a plan hearing to consider the addition and gives notice of the plan hearing as required under Chapter 1, Part 8, Hearing and Notice Requirements.
- (b) The notice and hearing requirements under Subsection (4)(a) do not apply to a proposed project area plan being modified to add one or more parcels to the proposed project area if:
  - (i) the parcel is contiguous to the parcels already included in the proposed project area under the proposed project area plan; and
  - (ii) the record owner of the property consents to adding the parcel to the proposed project area.

Amended by Chapter 350, 2016 General Session

**17C-3-103 Economic development project area plan requirements.**

- (1) Each economic development project area plan and proposed project area plan shall:
  - (a) describe the boundaries of the project area, subject to Section 17C-1-414, if applicable;
  - (b) contain a general statement of the land uses, layout of principal streets, population densities, and building intensities of the project area and how they will be affected by the project area development;
  - (c) state the standards that will guide the project area development;
  - (d) show how the purposes of this title will be attained by the project area development;
  - (e) be consistent with the general plan of the community in which the project area is located and show that the project area development will conform to the community's general plan;
  - (f) describe how the project area development will create additional jobs;
  - (g) describe any specific project or projects that are the object of the proposed project area development;
  - (h) identify how a participant will be selected to undertake the project area development and identify each participant currently involved in the project area development;
  - (i) state the reasons for the selection of the project area;
  - (j) describe the physical, social, and economic conditions existing in the project area;
  - (k) describe any tax incentives offered private entities for facilities located in the project area;
  - (l) include an analysis, as provided in Subsection (2), of whether adoption of the project area plan is beneficial under a benefit analysis;
  - (m) if any of the existing buildings or uses in the project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, state that the agency shall comply with Subsection 9-8-404(1) as though the agency were a state agency; and
  - (n) include other information that the agency determines to be necessary or advisable.
- (2) Each analysis under Subsection (1)(l) shall consider:
  - (a) the benefit of any financial assistance or other public subsidy proposed to be provided by the agency, including:
    - (i) an evaluation of the reasonableness of the costs of project area development;
    - (ii) efforts the agency or participant has made or will make to maximize private investment;
    - (iii) the rationale for use of tax increment, including an analysis of whether the proposed project area development might reasonably be expected to occur in the foreseeable future solely through private investment; and
    - (iv) an estimate of the total amount of tax increment that will be expended in undertaking project area development and the length of time for which it will be expended; and
  - (b) the anticipated public benefit to be derived from the project area development, including:

- (i) the beneficial influences upon the tax base of the community;
- (ii) the associated business and economic activity likely to be stimulated; and
- (iii) the number of jobs or employment anticipated to be generated or preserved.

Amended by Chapter 350, 2016 General Session

**17C-3-104 Existing and historic buildings and uses in an economic development project area.**

If any of the existing buildings or uses in an economic development project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, the agency shall comply with Subsection 9-8-404(1) as though the agency were a state agency.

Enacted by Chapter 359, 2006 General Session

**17C-3-105 Board resolution approving an economic development project area plan -- Requirements.**

Each board resolution approving a proposed economic development project area plan as the project area plan under Subsection 17C-3-102(1)(g) shall contain:

- (1) a boundary description of the boundaries of the project area that is the subject of the project area plan;
- (2) the agency's purposes and intent with respect to the project area;
- (3) the project area plan incorporated by reference; and
- (4) the board findings and determinations that:
  - (a) there is a need to effectuate a public purpose;
  - (b) there is a public benefit under the analysis described in Subsection 17C-3-103(2);
  - (c) it is economically sound and feasible to adopt and carry out the project area plan;
  - (d) the project area plan conforms to the community's general plan; and
  - (e) carrying out the project area plan will promote the public peace, health, safety, and welfare of the community in which the project area is located.

Amended by Chapter 350, 2016 General Session

**17C-3-106 Economic development project area plan to be adopted by community legislative body.**

- (1) An economic development project area plan approved by board resolution under Subsection 17C-3-102(1)(g) may not take effect until it has been adopted by ordinance of the legislative body of the community that created the agency and notice under Section 17C-3-107 is provided.
- (2) Each ordinance under Subsection (1) shall:
  - (a) be adopted by the community legislative body after the board's approval of a resolution under Subsection 17C-3-102(1)(g); and
  - (b) designate the approved project area plan as the official economic development plan of the project area.

Enacted by Chapter 359, 2006 General Session

**17C-3-107 Notice of economic development project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.**

- (1)
  - (a) Upon the community legislative body's adoption of an economic development project area plan, or an amendment to the project area plan under Section 17C-3-109 that requires notice, the legislative body shall provide notice as provided in Subsection (1)(b) by:
    - (i) publishing or causing to be published a notice:
      - (A) in a newspaper of general circulation within the agency's boundaries; or
      - (B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and
    - (ii) on the Utah Public Notice Website described in Section 63F-1-701.
  - (b) Each notice under Subsection (1)(a) shall:
    - (i) set forth the community legislative body's ordinance adopting the project area plan or a summary of the ordinance; and
    - (ii) include a statement that the project area plan is available for public inspection and the hours for inspection.
- (2) The project area plan shall become effective on the date of:
  - (a) if notice was published under Subsection (1)(a), publication of the notice; or
  - (b) if notice was posted under Subsection (1)(a), posting of the notice.
- (3)
  - (a) For a period of 30 days after the effective date of the project area plan under Subsection (2), any person may contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.
  - (b) After the 30-day period under Subsection (3)(a) expires, a person may not contest the project area plan or procedure used to adopt the project area plan for any cause.
- (4) Upon adoption of the economic development project area plan by the community legislative body, the agency may implement the project area plan.
- (5) Each agency shall make the economic development project area plan available to the general public at the agency's office during normal business hours.

Amended by Chapter 350, 2016 General Session

**17C-3-108 Agency required to transmit and record documents after adoption of economic development project area plan.**

Within 30 days after the community legislative body adopts, under Section 17C-3-106, an economic development project area plan, the agency shall:

- (1) record with the recorder of the county in which the economic development project area is located a document containing:
  - (a) a description of the land within the project area;
  - (b) a statement that the project area plan for the project area has been adopted; and
  - (c) the date of adoption;
- (2) transmit a copy of the description of the land within the project area and an accurate map or plat indicating the boundaries of the project area to the Automated Geographic Reference Center created under Section 63F-1-506; and
- (3) for a project area plan that provides for the agency to receive tax increment, transmit a copy of the description of the land within the project area, a copy of the community legislative body ordinance adopting the project area plan, and a map or plat indicating the boundaries of the project area to:
  - (a) the auditor, recorder, attorney, surveyor, and assessor of each county in which any part of the project area is located;

- (b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;
- (c) the legislative body or governing board of each taxing entity;
- (d) the State Tax Commission; and
- (e) the State Board of Education.

Amended by Chapter 350, 2016 General Session

**17C-3-109 Amending an economic development project area plan.**

- (1) An economic development project area plan may be amended as provided in this section.
- (2) If an agency proposes to amend an economic development project area plan to enlarge the project area:
  - (a) the requirements under this part that apply to adopting a project area plan apply equally to the proposed amendment as if it were a proposed project area plan;
  - (b) the base year for the new area added to the project area shall be determined under Subsection 17C-1-102(9) using the date of the taxing entity committee's consent referred to in Subsection (2)(c); and
  - (c) the agency shall obtain the consent of the taxing entity committee before the agency may collect tax increment from the area added to the project area by the amendment.
- (3) If a proposed amendment does not propose to enlarge an economic development project area, a board may adopt a resolution approving an amendment to an economic development project area plan after:
  - (a) the agency gives notice, as provided in Chapter 1, Part 8, Hearing and Notice Requirements, of the proposed amendment and of the public hearing required by Subsection (3)(b);
  - (b) the board holds a public hearing on the proposed amendment that meets the requirements of a plan hearing;
  - (c) the agency obtains the taxing entity committee's consent to the amendment, if the amendment proposes:
    - (i) to enlarge the area within the project area from which tax increment is received; or
    - (ii) to permit the agency to receive a greater percentage of tax increment or to extend the project area funds collection period under the economic development project area plan; and
  - (d) the agency obtains the consent of the legislative body or governing board of each taxing entity affected, if the amendment proposes to permit the agency to receive, from less than all taxing entities, a greater percentage of tax increment or to extend the project area funds collection period, or both, than allowed under the economic development project area plan.
- (4)
  - (a) An economic development project area plan may be amended without complying with the notice and public hearing requirements of Subsections (2)(a) and (3)(a) and (b) and without obtaining taxing entity committee approval under Subsection (3)(c) if the amendment:
    - (i) makes a minor adjustment in the boundary description of a project area boundary requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or
    - (ii) subject to Subsection (4)(b), removes a parcel from a project area because the agency determines that the parcel is:
      - (A) tax exempt; or
      - (B) no longer necessary or desirable to the project area.
  - (b) An amendment removing a parcel from a project area under Subsection (4)(a) may be made without the consent of the record property owner of the parcel being removed.

- (5)
  - (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of the community in which the project area that is the subject of the project area plan being amended is located.
  - (b) Upon a community legislative body passing an ordinance adopting an amendment to a project area plan, the agency whose project area plan was amended shall comply with the requirements of Sections 17C-3-107 and 17C-3-108 to the same extent as if the amendment were a project area plan.
- (6)
  - (a) Within 30 days after the day on which an amendment to a project area plan becomes effective, a person may contest the amendment to the project area plan or the procedure used to adopt the amendment to the project area plan if the amendment or procedure fails to comply with a provision of this title.
  - (b) After the 30-day period described in Subsection (6)(a) expires, a person may not contest the amendment to the project area plan or procedure used to adopt the amendment to the project area plan for any cause.

Amended by Chapter 181, 2017 General Session

## **Part 2**

### **Economic Development Project Area Budget**

#### **17C-3-201 Economic development project area budget -- Requirements for adopting -- Contesting the budget or procedure -- Time limit.**

- (1)
  - (a) If an agency anticipates funding all or a portion of a post-June 30, 1993 economic development project area plan with tax increment, the agency shall, subject to Section 17C-3-202, adopt a project area budget as provided in this part.
  - (b) An economic development project area budget adopted on or after March 30, 2009 shall specify:
    - (i) for a project area budget adopted on or after March 30, 2009:
      - (A) the project area funds collection period; and
      - (B) the percentage of tax increment the agency is authorized to receive from the project area under the project area budget; and
    - (ii) for a project area budget adopted on or after March 30, 2013, unless approval is obtained under Subsection 17C-1-402(4)(b)(vi)(C), the maximum cumulative dollar amount of tax increment that the agency may receive from the project area under the project area budget.
- (2) To adopt an economic development project area budget, the agency shall:
  - (a) prepare a proposed economic development project area budget;
  - (b) make a copy of the proposed project area budget available to the public at the agency's offices during normal business hours;
  - (c) provide notice of the budget hearing as required by Chapter 1, Part 8, Hearing and Notice Requirements;
  - (d) hold a public hearing on the proposed project area budget and, at that public hearing, allow public comment on:
    - (i) the proposed project area budget; and

- (ii) whether the proposed project area budget should be revised, adopted, or rejected;
- (e)
  - (i) if required under Subsection 17C-3-203(1), obtain the approval of the taxing entity committee on the proposed project area budget or a revised version of the proposed project area budget; or
  - (ii) if applicable, comply with the requirements of Subsection 17C-3-203(2);
- (f) if approval of the taxing entity committee is required under Subsection (2)(e)(i), obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and
- (g) after the budget hearing, hold a board meeting in the same meeting as the public hearing or in a subsequent meeting to:
  - (i) consider comments made and information presented at the public hearing relating to the proposed project area budget; and
  - (ii) adopt by resolution the proposed project area budget, with any revisions, as the project area budget.
- (3)
  - (a) For a period of 30 days after the agency's adoption of the project area budget under Subsection (2)(g), any person may contest the project area budget or the procedure used to adopt the project area budget if the budget or procedure fails to comply with applicable statutory requirements.
  - (b) After the 30-day period under Subsection (3)(a) expires, a person may not contest:
    - (i) the project area budget or procedure used by either the taxing entity committee or the agency to approve and adopt the project area budget;
    - (ii) a distribution of tax increment to the agency under the project area budget; or
    - (iii) the agency's use of tax increment under the project area budget.

Amended by Chapter 350, 2016 General Session

**17C-3-202 Part of tax increment funds in an economic development project area budget to be used for housing -- Waiver of requirement.**

- (1) This section applies only to an economic development project area budget adopted on or after May 1, 2000, but before March 30, 2009.
- (2)
  - (a) Except as provided in Subsection (2)(b), each economic development project area budget adopted on or after May 1, 2000 but before March 30, 2009 that provides for more than \$100,000 of annual tax increment to be paid to the agency shall allocate at least 20% of the tax increment for housing as provided in Section 17C-1-412.
  - (b) The 20% requirement of Subsection (2)(a) may be waived:
    - (i) in part or whole by the mutual consent of the loan fund board and the taxing entity committee if they determine that 20% of tax increment is more than is needed to address the community's need for income targeted housing; or
    - (ii) in fifth and sixth class counties, by the taxing entity committee for economic development project area budgets adopted on or after May 1, 2002 but before March 30, 2009, if the economic development project area consists of an area without housing units.
- (3) An economic development project area budget not required under Subsection (2)(a) to allocate tax increment for housing may allocate 20% of tax increment payable to the agency over the life

of the project area for housing as provided in Section 17C-1-412 if the project area budget is under a project area plan that is adopted on or after July 1, 1998.

Amended by Chapter 387, 2009 General Session

**17C-3-203 Consent of taxing entity committee required for economic development project area budget -- Exception.**

- (1)
  - (a) Except as provided in Subsection (1)(b) and subject to Subsection (2), each agency shall obtain the consent of the taxing entity committee for each economic development project area budget under a post-June 30, 1993 economic development project area plan before the agency may collect any tax increment from the project area.
  - (b) For an economic development project area budget adopted from July 1, 1998 through May 1, 2000 that allocates 20% or more of the tax increment for housing as provided in Section 17C-1-412, an agency:
    - (i) need not obtain the consent of the taxing entity committee for the project area budget; and
    - (ii) may not receive any tax increment from all or part of the project area until after:
      - (A) the loan fund board has certified the project area budget as complying with the requirements of Section 17C-1-412; and
      - (B) the board has approved and adopted the project area budget by a two-thirds vote.
- (2)
  - (a) Before a taxing entity committee may consent to an economic development project area budget adopted on or after May 1, 2000 that allocates 20% of tax increment for housing under Subsection 17C-3-202(2)(a) or (3), the agency shall:
    - (i) adopt a housing plan showing the uses for the housing funds; and
    - (ii) provide a copy of the housing plan to the taxing entity committee and the loan fund board.
  - (b) If an agency amends a housing plan prepared under Subsection (2)(a), the agency shall provide a copy of the amendment to the taxing entity committee and the loan fund board.

Amended by Chapter 350, 2016 General Session

**17C-3-204 Filing a copy of the economic development project area budget.**

Each agency adopting an economic development project area budget shall:

- (1) within 30 days after adopting the project area budget, file a copy of the project area budget with the auditor of the county in which the project area is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity affected by the agency's collection of tax increment under the project area budget; and
- (2) if the project area budget allocates tax increment for housing under Section 17C-1-412, file a copy of the project area budget with the loan fund board.

Enacted by Chapter 359, 2006 General Session

**17C-3-205 Amending an economic development project area budget.**

- (1) An agency may by resolution amend an economic development project area budget as provided in this section.
- (2) To amend an adopted economic development project area budget, the agency shall:
  - (a) advertise and hold one public hearing on the proposed amendment as provided in Subsection (3);

- (b) if approval of the taxing entity committee was required for adoption of the original project area budget, obtain the approval of the taxing entity committee to the same extent that the agency was required to obtain the consent of the taxing entity committee for the project area budget as originally adopted;
  - (c) if approval of the taxing entity committee is required under Subsection (2)(b), obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and
  - (d) adopt a resolution amending the project area budget.
- (3) The public hearing required under Subsection (2)(a) shall be conducted according to the procedures and requirements of Section 17C-3-201, except that if the amended project area budget proposes that the agency be paid a greater proportion of tax increment from a project area than was to be paid under the previous project area budget, the notice shall state the percentage paid under the previous project area budget and the percentage proposed under the amended project area budget.
- (4) If the removal of a parcel under Subsection 17C-3-109(4)(a)(ii) reduces the base taxable value of the project area, an agency may amend the project area budget to conform with the new base taxable value without:
- (a) complying with Subsections (2)(a) and (3); and
  - (b) if applicable, obtaining taxing entity committee approval described in Subsection (2)(b).
- (5) If a proposed amendment is not adopted, the agency shall continue to operate under the previously adopted economic development project area budget without the proposed amendment.
- (6)
- (a) A person may contest the agency's adoption of a budget amendment within 30 days after the day on which the agency adopts the amendment.
  - (b) A person who fails to contest a budget amendment under Subsection (6)(a):
    - (i) forfeits any claim against an agency's adoption of the amendment; and
    - (ii) may not contest:
      - (A) a distribution of tax increment to the agency under the budget amendment; or
      - (B) an agency's use of a tax increment under a budget amendment.

Amended by Chapter 350, 2016 General Session

**17C-3-206 Extending collection of tax increment under an economic development project area budget.**

- (1) An amendment or extension approved by a taxing entity or taxing entity committee before May 10, 2011, is not subject to this section.
- (2)
- (a) An agency's collection of tax increment under an adopted economic development project area budget may be extended by:
    - (i) following the project area budget amendment procedures outlined in Section 17C-3-205; or
    - (ii) following the procedures outlined in this section.
  - (b) The base taxable value for an urban renewal project area budget may not be altered as a result of an extension under this section unless otherwise expressly provided for in an interlocal agreement adopted in accordance with Subsection (3)(a).
- (3) To extend under this section the agency's collection of tax increment from a taxing entity under a previously approved project area budget, the agency shall:
- (a) obtain the approval of the taxing entity through an interlocal agreement;



- (b)
  - (i) hold a public hearing on the proposed extension in accordance with Subsection 17C-2-201(2)(d) in the same manner as required for a proposed project area budget; and
  - (ii) provide notice of the hearing:
    - (A) as required by Chapter 1, Part 8, Hearing and Notice Requirements; and
    - (B) including the proposed period of extension of the project area budget; and
  - (c) after obtaining the approval of the taxing entity in accordance with Subsection (3)(a), at or after the public hearing, adopt a resolution approving the extension.
- (4) After the expiration of a project area budget, an agency may continue to receive tax increment from those taxing entities that have agreed to an extension through an interlocal agreement in accordance with Subsection (3)(a).
- (5)
  - (a) A person may contest the agency's adoption of a budget extension within 30 days after the day on which the agency adopts the resolution providing for the extension.
  - (b) A person who fails to contest a budget extension under Subsection (5)(a):
    - (i) shall forfeit any claim against the agency's adoption of the extension; and
    - (ii) may not contest:
      - (A) a distribution of tax increment to the agency under the budget, as extended; or
      - (B) an agency's use of tax increment under the budget, as extended.

Amended by Chapter 350, 2016 General Session

## **Chapter 4 Community Development**

### **Part 1 Community Development Project Area Plan**

#### **17C-4-101.1 Title.**

This chapter is known as "Community Development."

Enacted by Chapter 350, 2016 General Session

#### **17C-4-101.2 Applicability of chapter.**

This chapter applies to a community development project area that is effective:

- (1) before May 10, 2016; or
- (2) before September 1, 2016, if an agency adopted a resolution in accordance with Section 17C-4-101.5 before April 1, 2016.

Enacted by Chapter 350, 2016 General Session

#### **17C-4-101.5 Resolution authorizing the preparation of a community development proposed project area plan -- Request to adopt resolution.**

- (1) A board may begin the process of adopting a community development project area plan by adopting a resolution that authorizes the preparation of a proposed community development project area plan.
- (2)
  - (a) Any person or any group, association, corporation, or other entity may submit a written request to the board to adopt a resolution under Subsection (1).
  - (b) A request under Subsection (2)(a) may include plans showing the project area development proposed for an area within the agency's boundaries.
  - (c) The board may, in the board's sole discretion, grant or deny a request under Subsection (2)(a).

Renumbered and Amended by Chapter 350, 2016 General Session

**17C-4-102 Process for adopting a community development project area plan -- Prerequisites -- Restrictions.**

- (1) In order to adopt a community development project area plan, after adopting a resolution under Subsection 17C-4-101.5(1) the agency shall:
  - (a) prepare a proposed community development project area plan and conduct any examination, investigation, and negotiation regarding the project area plan that the agency considers appropriate;
  - (b) make the proposed project area plan available to the public at the agency's offices during normal business hours;
  - (c) provide notice of the plan hearing as described in Chapter 1, Part 8, Hearing and Notice Requirements;
  - (d) hold a public hearing on the proposed project area plan and, at that public hearing:
    - (i) allow public comment on:
      - (A) the proposed project area plan; and
      - (B) whether the proposed project area plan should be revised, approved, or rejected; and
    - (ii) receive all written and hear all oral objections to the proposed project area plan;
  - (e) after holding the plan hearing, at the same meeting or at one or more subsequent meetings consider:
    - (i) the oral and written objections to the proposed project area plan and evidence and testimony for or against adoption of the proposed project area plan; and
    - (ii) whether to revise, approve, or reject the proposed project area plan;
  - (f) approve the proposed project area plan, with or without revisions, as the project area plan by a resolution that complies with Section 17C-4-104; and
  - (g) submit the project area plan to the community legislative body for adoption.
- (2) An agency may not propose a community development project area plan under Subsection (1) unless the community in which the proposed project area is located:
  - (a) has a planning commission; and
  - (b) has adopted a general plan under:
    - (i) if the community is a municipality, Title 10, Chapter 9a, Part 4, General Plan; or
    - (ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.
- (3)
  - (a) Except as provided in Subsection (3)(b), a proposed project area plan may not be modified to add a parcel to the proposed project area unless the board holds a plan hearing to consider the addition and gives notice of the plan hearing as required under Chapter 1, Part 8, Hearing and Notice Requirements.

- (b) The notice and hearing requirements under Subsection (3)(a) do not apply to a proposed project area plan being modified to add a parcel to the proposed project area if:
  - (i) the parcel is contiguous to one or more parcels already included in the proposed project area under the proposed project area plan; and
  - (ii) the record owner of the property consents to adding the parcel to the proposed project area.

Amended by Chapter 350, 2016 General Session

**17C-4-103 Community development project area plan requirements.**

Each community development project area plan and proposed project area plan shall:

- (1) describe the boundaries of the project area, subject to Section 17C-1-414, if applicable;
- (2) contain a general statement of the land uses, layout of principal streets, population densities, and building intensities of the project area and how they will be affected by the community development;
- (3) state the standards that will guide the project area development;
- (4) show how the purposes of this title will be attained by the project area development;
- (5) be consistent with the general plan of the community in which the project area is located and show that the project area development will conform to the community's general plan;
- (6) describe any specific project or projects that are the object of the proposed project area development;
- (7) identify how a participant will be selected to undertake the project area development and identify each participant currently involved in the project area development;
- (8) state the reasons for the selection of the project area;
- (9) describe the physical, social, and economic conditions existing in the project area;
- (10) describe any tax incentives offered private entities for facilities located in the project area;
- (11) include an analysis or description of the anticipated public benefit to be derived from the project area development, including:
  - (a) the beneficial influences upon the tax base of the community; and
  - (b) the associated business and economic activity likely to be stimulated; and
- (12) include other information that the agency determines to be necessary or advisable.

Amended by Chapter 350, 2016 General Session

**17C-4-104 Board resolution approving a community development project area plan -- Requirements.**

Each board resolution approving a proposed community development project area plan as the project area plan under Subsection 17C-4-102(1)(f) shall contain:

- (1) a boundary description of the boundaries of the project area that is the subject of the project area plan;
- (2) the agency's purposes and intent with respect to the project area;
- (3) the project area plan incorporated by reference; and
- (4) the board findings and determinations that adoption of the community development project area plan will:
  - (a) satisfy a public purpose;
  - (b) provide a public benefit as shown by the analysis described in Subsection 17C-4-103(11);
  - (c) be economically sound and feasible;
  - (d) conform to the community's general plan; and

- (e) promote the public peace, health, safety, and welfare of the community in which the project area is located.

Amended by Chapter 350, 2016 General Session

**17C-4-105 Community development plan to be adopted by community legislative body.**

- (1) A community development project area plan approved by board resolution under Section 17C-4-104 may not take effect until it has been adopted by ordinance of the legislative body of the community that created the agency and notice under Section 17C-4-106 is provided.
- (2) Each ordinance under Subsection (1) shall:
  - (a) be adopted by the community legislative body after the board's approval of a resolution under Section 17C-4-104; and
  - (b) designate the approved project area plan as the official community development plan of the project area.

Enacted by Chapter 359, 2006 General Session

**17C-4-106 Notice of community development project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.**

- (1)
  - (a) Upon the community legislative body's adoption of a community development project area plan, the community legislative body shall provide notice as provided in Subsection (1)(b) by:
    - (i)
      - (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or
      - (B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and
    - (ii) publishing or causing to be published in accordance with Section 45-1-101.
  - (b) Each notice under Subsection (1)(a) shall:
    - (i) set forth the community legislative body's ordinance adopting the community development project area plan or a summary of the ordinance; and
    - (ii) include a statement that the project area plan is available for general public inspection and the hours for inspection.
- (2) The community development project area plan shall become effective on the date of:
  - (a) if notice was published under Subsection (1)(a), publication of the notice; or
  - (b) if notice was posted under Subsection (1)(a), posting of the notice.
- (3)
  - (a) For a period of 30 days after the effective date of the community development project area plan under Subsection (2), any person may contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.
  - (b) After the 30-day period under Subsection (3)(a) expires, a person may not contest the community development project area plan or procedure used to adopt the project area plan for any cause.
- (4) Upon adoption of the community development project area plan by the community legislative body, the agency may carry out the project area plan.
- (5) Each agency shall make the adopted project area plan available to the public at the agency's office during normal business hours.

Amended by Chapter 350, 2016 General Session

**17C-4-107 Agency required to transmit and record documents after adoption of community development project area plan.**

Within 30 days after the community legislative body adopts, under Section 17C-4-105, a community development project area plan, the agency shall:

- (1) record with the recorder of the county in which the project area is located a document containing:
  - (a) a description of the land within the project area;
  - (b) a statement that the project area plan for the project area has been adopted; and
  - (c) the date of adoption;
- (2) transmit a copy of the description of the land within the project area and an accurate map or plat indicating the boundaries of the project area to the Automated Geographic Reference Center created under Section 63F-1-506; and
- (3) for a project area plan that provides for the agency to receive tax increment, transmit a copy of the description of the land within the project area, a copy of the community legislative body ordinance adopting the project area plan, and a map or plat indicating the boundaries of the project area to:
  - (a) the auditor, recorder, attorney, surveyor, and assessor of each county in which any part of the project area is located;
  - (b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;
  - (c) the legislative body or governing board of each taxing entity;
  - (d) the State Tax Commission; and
  - (e) the State Board of Education.

Amended by Chapter 350, 2016 General Session

**17C-4-108 Amending a community development project area plan.**

- (1) Except as provided in Subsection (2) and Section 17C-4-109, the requirements under this part that apply to adopting a community development project area plan apply equally to a proposed amendment of a community development project area plan as though the amendment were a proposed project area plan.
- (2)
  - (a) Notwithstanding Subsection (1), a community development project area plan may be amended without complying with the requirements of Chapter 1, Part 8, Hearing and Notice Requirements, if the proposed amendment:
    - (i) makes a minor adjustment in the boundary description of a project area boundary requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or
    - (ii) subject to Subsection (2)(b), removes a parcel from a project area because the agency determines that the parcel is:
      - (A) tax exempt; or
      - (B) no longer necessary or desirable to the project area.
  - (b) An amendment removing a parcel from a community development project area under Subsection (2)(a)(ii) may be made without the consent of the record property owner of the parcel being removed.

- (3)
  - (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of the community in which the project area that is the subject of the project area plan being amended is located.
  - (b) Upon a community legislative body passing an ordinance adopting an amendment to a community development project area plan, the agency whose project area plan was amended shall comply with the requirements of Sections 17C-4-106 and 17C-4-107 to the same extent as if the amendment were a project area plan.
- (4)
  - (a) Within 30 days after the day on which an amendment to a project area plan becomes effective, a person may contest the amendment to the project area plan or the procedure used to adopt the amendment to the project area plan if the amendment or procedure fails to comply with a provision of this title.
  - (b) After the 30-day period described in Subsection (4)(a) expires, a person may not contest the amendment to the project area plan or procedure used to adopt the amendment to the project area plan for any cause.

Amended by Chapter 350, 2016 General Session

**17C-4-109 Expedited community development project area plan.**

- (1) As used in this section, "tax increment incentive" means the portion of tax increment awarded to an industry or business.
- (2) A community development project area plan may be adopted or amended without complying with the notice and public hearing requirements of this part and Chapter 1, Part 8, Hearing and Notice Requirements, if the following requirements are met:
  - (a) the agency determines by resolution adopted in an open and public meeting the need to create or amend a project area plan on an expedited basis, which resolution shall include a description of why expedited action is needed;
  - (b) a public hearing on the amendment or adoption of the project area plan is held by the agency;
  - (c) notice of the public hearing is published at least 14 days before the public hearing on:
    - (i) the website of the community that created the agency; and
    - (ii) the Utah Public Notice Website created in Section 63F-1-701;
  - (d) written consent to the amendment or adoption of the project area plan is given by all record property owners within the existing or proposed project area;
  - (e) each taxing entity that will be affected by the tax increment incentive enters into or amends an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, and Sections 17C-4-201, 17C-4-203, and 17C-4-204;
  - (f) the primary market for the goods or services that will be created by the industry or business entity that will receive a tax increment incentive from the amendment or adoption of the project area plan is outside of the state;
  - (g) the industry or business entity that will receive a tax increment incentive from the amendment or adoption of the project area plan is not primarily engaged in retail trade; and
  - (h) a tax increment incentive is only provided to an industry or business entity:
    - (i) on a postperformance basis as described in Subsection (3); and
    - (ii) on an annual basis after the tax increment is received by the agency.
- (3) An industry or business entity may only receive a tax increment incentive under this section after entering into an agreement with the agency that sets postperformance targets that shall

be met before the industry or business entity may receive the tax increment incentive, including annual targets for:

- (a) capital investment in the project area;
- (b) the increase in the taxable value of the project area;
- (c) the number of new jobs created in the project area;
- (d) the average wages of the jobs created, which shall be at least 110% of the prevailing wage of the county where the project area is located; and
- (e) the amount of local vendor opportunity generated by the industry or business entity.

Amended by Chapter 350, 2016 General Session

## **Part 2**

### **Funds for Community Development Project from Other Entities**

#### **17C-4-201 Consent of a taxing entity to an agency receiving tax increment or sales tax funds for community development project.**

- (1) An agency may negotiate with a taxing entity for the taxing entity's consent to the agency receiving the taxing entity's project area funds for the purpose of providing money to carry out a proposed or adopted community development project area plan.
- (2) The consent of a taxing entity under Subsection (1) may be expressed in:
  - (a) a resolution adopted by the taxing entity; or
  - (b) an interlocal agreement, under Title 11, Chapter 13, Interlocal Cooperation Act, between the taxing entity and the agency.
- (3) Before an agency may use project area funds received under a resolution or interlocal agreement adopted for the purpose of providing money to implement a proposed or adopted community development project area plan, the agency shall:
  - (a) obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the agency and the taxing entity have each followed all legal requirements relating to the adoption of the resolution or interlocal agreement, respectively; and
  - (b) provide a signed copy of the certification described in Subsection (3)(a) to the appropriate taxing entity.
- (4) A resolution adopted or interlocal agreement entered under Subsection (2) on or after March 30, 2009 shall specify:
  - (a) if the resolution or interlocal agreement provides for the agency to be paid tax increment:
    - (i) the method of calculating the amount of the taxing entity's tax increment from the project area that will be paid to the agency, including the agreed base year and agreed base taxable value;
    - (ii) the project area funds collection period; and
    - (iii) the percentage of the taxing entity's tax increment or maximum cumulative dollar amount of the taxing entity's tax increment that the agency will be paid; and
  - (b) if the resolution or interlocal agreement provides for the agency to be paid a taxing entity's sales and use tax revenue:
    - (i) the method of calculating the amount of the taxing entity's sales and use tax revenue that the agency will be paid;
    - (ii) the project area funds collection period; and

- (iii) the percentage of sales and use tax revenue or the maximum cumulative dollar amount of sales and use tax revenue that the agency will be paid.
- (5)
  - (a) Unless the taxing entity otherwise agrees, an agency may not be paid a taxing entity's tax increment:
    - (i) that exceeds the percentage or maximum cumulative dollar amount of tax increment specified in the resolution or interlocal agreement under Subsection (2); or
    - (ii) for more tax years than specified in the resolution or interlocal agreement under Subsection (2).
  - (b) Unless the taxing entity otherwise agrees, an agency may not be paid a taxing entity's sales and use tax revenue:
    - (i) that exceeds the percentage or maximum cumulative dollar amount of sales and use tax revenue specified in the resolution or interlocal agreement under Subsection (2); or
    - (ii) for more tax years than specified in the resolution or interlocal agreement under Subsection (2).
- (6) A school district may consent to an agency receiving tax increment from the school district's basic levy only to the extent that the school district also consents to the agency receiving tax increment from the school district's local levy.
- (7)
  - (a) A resolution or interlocal agreement under this section may be amended from time to time.
  - (b) Each amendment of a resolution or interlocal agreement shall be subject to and receive the benefits of the provisions of this part to the same extent as if the amendment were an original resolution or interlocal agreement.
- (8) A taxing entity's consent to an agency receiving funds under this section is not subject to the requirements of Section 10-8-2.
- (9)
  - (a) For purposes of this Subsection (9), "successor taxing entity" means any taxing entity that:
    - (i) is created after the date of adoption of a resolution or execution of an interlocal agreement under this section; and
    - (ii) levies a tax on any parcel of property located within the project area that is the subject of the resolution or the interlocal agreement described in Subsection (9)(a)(i).
  - (b) A resolution or interlocal agreement executed by a taxing entity under this section may be enforced by or against any successor taxing entity.

Amended by Chapter 350, 2016 General Session

**17C-4-202 Resolution or interlocal agreement to provide project area funds for the community development project area plan -- Notice -- Effective date of resolution or interlocal agreement -- Time to contest resolution or interlocal agreement -- Availability of resolution or interlocal agreement.**

- (1) The approval and adoption of each resolution or interlocal agreement under Subsection 17C-4-201(2) shall be in an open and public meeting.
- (2)
  - (a) Upon the adoption of a resolution or interlocal agreement under Section 17C-4-201, the agency shall provide notice as provided in Subsection (2)(b) by:
    - (i)
      - (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or



- (B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and
- (ii) publishing or causing to be published a notice on the Utah Public Notice Website created in Section 63F-1-701.
- (b) Each notice under Subsection (2)(a) shall:
  - (i) set forth a summary of the resolution or interlocal agreement; and
  - (ii) include a statement that the resolution or interlocal agreement is available for public inspection and the hours of inspection.
- (3) The resolution or interlocal agreement shall become effective on the date of:
  - (a) if notice was published under Subsection (2)(a)(i)(A) or (2)(a)(ii), publication of the notice; or
  - (b) if notice was posted under Subsection (2)(a)(i)(B), posting of the notice.
- (4)
  - (a) For a period of 30 days after the effective date of the resolution or interlocal agreement under Subsection (3), any person may contest the resolution or interlocal agreement or the procedure used to adopt the resolution or interlocal agreement if the resolution or interlocal agreement or procedure fails to comply with applicable statutory requirements.
  - (b) After the 30-day period under Subsection (4)(a) expires, a person may not contest:
    - (i) the resolution or interlocal agreement;
    - (ii) a distribution of tax increment to the agency under the resolution or interlocal agreement; or
    - (iii) the agency's use of project area funds under the resolution or interlocal agreement.
- (5) Each agency that is to receive project area funds under a resolution or interlocal agreement under Section 17C-4-201 and each taxing entity that approves a resolution or enters into an interlocal agreement under Section 17C-4-201 shall make the resolution or interlocal agreement, as the case may be, available at the taxing entity's offices to the public for inspection and copying during normal business hours.

Amended by Chapter 350, 2016 General Session

**17C-4-203 Requirement to file a copy of the resolution or interlocal agreement -- County payment of tax increment to the agency.**

- (1) Each agency that is to receive funds under a resolution or interlocal agreement under Section 17C-4-201 shall, within 30 days after the effective date of the resolution or interlocal agreement, file a copy of it with:
  - (a) the State Tax Commission, the State Board of Education, and the state auditor; and
  - (b) the auditor of the county in which the project area is located, if the resolution or interlocal agreement provides for the agency to receive tax increment from the taxing entity that adopted the resolution or entered into the interlocal agreement.
- (2) Each county that collects property tax on property within a community development project area shall, in the manner and at the time provided in Section 59-2-1365, pay and distribute to the agency the tax increment that the agency is authorized to receive under a resolution approved or an interlocal agreement adopted under Section 17C-4-201.

Amended by Chapter 350, 2016 General Session

**17C-4-204 Adoption of a budget for a community development project area plan -- Amendment.**

- (1) An agency may prepare and, by resolution adopted at a regular or special meeting of the board, adopt a community development project area budget setting forth:

- (a) the anticipated costs, including administrative costs, of implementing the community development project area plan; and
  - (b) the tax increment, sales and use tax revenue, and other revenue the agency anticipates receiving to fund the project.
- (2) An agency may, by resolution adopted at a regular or special meeting of the board, amend a budget adopted under Subsection (1).
- (3) Each resolution to adopt or amend a budget under this section shall appear as an item on the agenda for the regular or special board meeting at which the resolution is adopted without additional required notice.
- (4) An agency is not required to obtain taxing entity or taxing entity committee approval to adopt or amend a community development project area budget.

Amended by Chapter 350, 2016 General Session

## **Chapter 5 Community Reinvestment**

### **Part 1 Community Reinvestment Project Area Plan**

#### **17C-5-101 Title.**

- (1) This chapter is known as "Community Reinvestment."
- (2) This part is known as "Community Reinvestment Project Area Plan."

Enacted by Chapter 350, 2016 General Session

#### **17C-5-102 Applicability of chapter.**

This chapter applies to a community reinvestment project area created on or after May 10, 2016.

Enacted by Chapter 350, 2016 General Session

#### **17C-5-103 Initiating a community reinvestment project area plan.**

- (1) Subject to Subsection (2), a board shall initiate the process of adopting a community reinvestment project area plan by adopting a survey area resolution that:
- (a) designates a geographic area located within the agency's boundaries as a survey area;
  - (b) contains a description or map of the boundaries of the survey area;
  - (c) contains a statement that the survey area requires study to determine whether project area development is feasible within one or more proposed community reinvestment project areas within the survey area; and
  - (d) authorizes the agency to:
    - (i) prepare a proposed community reinvestment project area plan for each proposed community reinvestment project area; and
    - (ii) conduct any examination, investigation, or negotiation regarding the proposed community reinvestment project area that the agency considers appropriate.

- (2) If an agency anticipates using eminent domain to acquire property within the survey area, the resolution described in Subsection (1) shall include:
  - (a) a statement that the survey area requires study to determine whether blight exists within the survey area; and
  - (b) authorization for the agency to conduct a blight study in accordance with Section 17C-5-403.

Amended by Chapter 456, 2017 General Session

**17C-5-104 Process for adopting a community reinvestment project area plan -- Prerequisites -- Restrictions.**

- (1) An agency may not propose a community reinvestment project area plan unless the community in which the proposed community reinvestment project area plan is located:
  - (a) has a planning commission; and
  - (b) has adopted a general plan under:
    - (i) if the community is a municipality, Title 10, Chapter 9a, Part 4, General Plan; or
    - (ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.
- (2)
  - (a) Before an agency may adopt a proposed community reinvestment project area plan, the agency shall conduct a blight study and make a blight determination in accordance with Part 4, Blight Determination in a Community Reinvestment Project Area, if the agency anticipates using eminent domain to acquire property within the proposed community reinvestment project area.
  - (b) If applicable, an agency may not approve a community reinvestment project area plan more than one year after the agency adopts a resolution making a finding of blight under Section 17C-5-402.
- (3) To adopt a community reinvestment project area plan, an agency shall:
  - (a) prepare a proposed community reinvestment project area plan in accordance with Section 17C-5-105;
  - (b) make the proposed community reinvestment project area plan available to the public at the agency's office during normal business hours for at least 30 days before the plan hearing described in Subsection (3)(e);
  - (c) before holding the plan hearing described in Subsection (3)(e), provide an opportunity for the State Board of Education and each taxing entity that levies or imposes a tax within the proposed community reinvestment project area to consult with the agency regarding the proposed community reinvestment project area plan;
  - (d) provide notice of the plan hearing in accordance with Chapter 1, Part 8, Hearing and Notice Requirements;
  - (e) hold a plan hearing on the proposed community reinvestment project area plan and, at the plan hearing:
    - (i) allow public comment on:
      - (A) the proposed community reinvestment project area plan; and
      - (B) whether the agency should revise, approve, or reject the proposed community reinvestment project area plan; and
    - (ii) receive all written and oral objections to the proposed community reinvestment project area plan; and
  - (f) following the plan hearing described in Subsection (3)(e), or at a subsequent agency meeting:
    - (i) consider:

- (A) the oral and written objections to the proposed community reinvestment project area plan and evidence and testimony for and against adoption of the proposed community reinvestment project area plan; and
  - (B) whether to revise, approve, or reject the proposed community reinvestment project area plan;
  - (ii) adopt a resolution in accordance with Section 17C-5-108 that approves the proposed community reinvestment project area plan, with or without revisions, as the community reinvestment project area plan; and
  - (iii) submit the community reinvestment project area plan to the community legislative body for adoption.
- (4)
- (a) Except as provided in Subsection (4)(b), an agency may not modify a proposed community reinvestment project area plan to add a parcel to the proposed community reinvestment project area unless the agency holds a plan hearing to consider the addition and gives notice of the plan hearing in accordance with Chapter 1, Part 8, Hearing and Notice Requirements.
  - (b) The notice and hearing requirements described in Subsection (4)(a) do not apply to a proposed community reinvestment project area plan being modified to add a parcel to the proposed community reinvestment project area if:
    - (i) the parcel is contiguous to one or more parcels already included in the proposed community reinvestment project area under the proposed community reinvestment project area plan;
    - (ii) the record owner of the parcel consents to adding the parcel to the proposed community reinvestment project area; and
    - (iii) the parcel is located within the survey area.

Amended by Chapter 456, 2017 General Session

**17C-5-105 Community reinvestment project area plan requirements.**

- (1) Each community reinvestment project area plan and proposed community reinvestment project area plan shall:
- (a) subject to Section 17C-1-414, if applicable, include a boundary description and a map of the community reinvestment project area;
  - (b) contain a general statement of the existing land uses, layout of principal streets, population densities, and building intensities of the community reinvestment project area and how each will be affected by the project area development;
  - (c) state the standards that will guide the project area development;
  - (d) show how the project area development will further purposes of this title;
  - (e) be consistent with the general plan of the community in which the community reinvestment project area is located and show that the project area development will conform to the community's general plan;
  - (f) if applicable, describe how project area development will eliminate or reduce blight in the community reinvestment project area;
  - (g) describe any specific project area development that is the object of the community reinvestment project area plan;
  - (h) if applicable, explain how the agency plans to select a participant;
  - (i) state each reason the agency selected the community reinvestment project area;
  - (j) describe the physical, social, and economic conditions that exist in the community reinvestment project area;
  - (k) describe each type of financial assistance that the agency anticipates offering a participant;

- (l) report the results of the public benefit analysis described in Subsection (2);
  - (m) if applicable, state that the agency shall comply with Section 9-8-404 as required under Section 17C-5-106;
  - (n) state whether the community reinvestment project area plan or proposed community reinvestment project area plan is subject to a taxing entity committee or an interlocal agreement; and
  - (o) include other information that the agency determines to be necessary or advisable.
- (2)
- (a) An agency shall conduct an analysis in accordance with Subsection (2)(b) to determine whether the proposed community reinvestment project area plan will provide a public benefit.
  - (b) The analysis described in Subsection (2)(a) shall consider:
    - (i) the benefit of any financial assistance or other public subsidy proposed to be provided by the agency, including:
      - (A) an evaluation of the reasonableness of the costs of the proposed project area development;
      - (B) efforts that have been, or will be made, to maximize private investment;
      - (C) the rationale for use of project area funds, including an analysis of whether the proposed project area development might reasonably be expected to occur in the foreseeable future solely through private investment; and
      - (D) an estimate of the total amount of project area funds that the agency intends to spend on project area development and the length of time over which the project area funds will be spent; and
    - (ii) the anticipated public benefit derived from the proposed project area development, including:
      - (A) the beneficial influences on the community's tax base;
      - (B) the associated business and economic activity the proposed project area development will likely stimulate; and
      - (C) whether adoption of the proposed community reinvestment project area plan is necessary and appropriate to undertake the proposed project area development.

Enacted by Chapter 350, 2016 General Session

**17C-5-106 Existing and historic buildings and uses in a community reinvestment project area.**

An agency shall comply with Section 9-8-404 as though the agency is a state agency if:

- (1) any of the existing buildings or uses in a community reinvestment project area are included in, or eligible for inclusion in, the National Register of Historic Places or the State Register; and
- (2) the agency spends agency funds on the demolition or rehabilitation of existing buildings described in Subsection (1).

Enacted by Chapter 350, 2016 General Session

**17C-5-107 Objections to a community reinvestment project area plan.**

- (1) A person may object to a proposed community reinvestment project area plan:
  - (a) in writing at any time before or during a plan hearing; or
  - (b) orally during a plan hearing.
- (2) An agency may not approve a proposed community reinvestment project area plan if, after receiving public comment at a plan hearing in accordance with Subsection 17C-5-104(3)(e)

- (i), the record property owners of at least 51% of the private land area within the most recently proposed community reinvestment project area object to the proposed community reinvestment project area plan.

Enacted by Chapter 350, 2016 General Session

**17C-5-108 Board resolution approving a community reinvestment project area plan -- Requirements.**

A board resolution approving a proposed community reinvestment area plan as the community reinvestment project area plan under Section 17C-5-104 shall contain:

- (1) a boundary description of the community reinvestment project area that is the subject of the community reinvestment project area plan;
- (2) the agency's purposes and intent with respect to the community reinvestment project area;
- (3) the proposed community reinvestment project area plan incorporated by reference;
- (4) the board findings and determinations that the proposed community reinvestment project area plan:
  - (a) serves a public purpose;
  - (b) produces a public benefit as demonstrated by the analysis described in Subsection 17C-5-105(2);
  - (c) is economically sound and feasible;
  - (d) conforms to the community's general plan; and
  - (e) promotes the public peace, health, safety, and welfare of the community in which the proposed community reinvestment project area is located; and
- (5) if the board made a finding of blight under Section 17C-5-402, a statement that the board made a finding of blight within the proposed community reinvestment project area and the date on which the board made the finding of blight.

Enacted by Chapter 350, 2016 General Session

**17C-5-109 Community reinvestment project area plan to be adopted by community legislative body.**

- (1) A proposed community reinvestment project area plan approved by board resolution under Section 17C-5-104 may not take effect until the community legislative body:
  - (a) by ordinance, adopts the proposed community reinvestment project area plan; and
  - (b) provides notice in accordance with Section 17C-5-110.
- (2) An ordinance described in Subsection (1)(a) shall designate the community reinvestment project area plan as the official plan of the community reinvestment project area.

Enacted by Chapter 350, 2016 General Session

**17C-5-110 Notice of community reinvestment project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.**

- (1)
  - (a) Upon a community legislative body's adoption of a community reinvestment project area plan in accordance with Section 17C-5-109, or an amendment to a community reinvestment project area plan in accordance with Section 17C-5-112, the community legislative body shall provide notice of the adoption or amendment in accordance with Subsection (1)(b) by:
    - (i)

- (A) causing a notice to be published in a newspaper of general circulation within the community; or
- (B) if there is no newspaper of general circulation within the community, causing a notice to be posted in at least three public places within the community; and
- (ii) posting a notice on the Utah Public Notice Website described in Section 63F-1-701.
- (b) A notice described in Subsection (1)(a) shall include:
  - (i) a copy of the community legislative body's ordinance, or a summary of the ordinance, that adopts the community reinvestment project area plan; and
  - (ii) a statement that the community reinvestment project area plan is available for public inspection and the hours for inspection.
- (2) A community reinvestment project area plan is effective on the day on which notice of adoption is published or posted in accordance with Subsection (1)(a).
- (3) A community reinvestment project area is considered created the day on which the community reinvestment project area plan becomes effective as described in Subsection (2).
- (4)
  - (a) Within 30 days after the day on which a community reinvestment project area plan is effective, a person may contest the community reinvestment project area plan or the procedure used to adopt the community reinvestment project area plan if the community reinvestment project area plan or the procedure fails to comply with a provision of this title.
  - (b) After the 30-day period described in Subsection (4)(a) expires, a person may not contest the community reinvestment project area plan or the procedure used to adopt the community reinvestment project area plan.
- (5) Upon adoption of a community reinvestment project area plan by the community legislative body, the agency may implement the community reinvestment project area plan.
- (6) The agency shall make the community reinvestment project area plan available to the public at the agency's office during normal business hours.

Enacted by Chapter 350, 2016 General Session

**17C-5-111 Agency required to transmit and record documentation after adoption of community reinvestment project area plan.**

Within 30 days after the day on which a community legislative body adopts a community reinvestment project area plan under Section 17C-5-109, the agency shall:

- (1) record with the recorder of the county in which the community reinvestment project area is located a document containing:
  - (a) the name of the community reinvestment project area;
  - (b) a boundary description of the community reinvestment project area; and
  - (c)
    - (i) a statement that the community legislative body adopted the community reinvestment project area plan; and
    - (ii) the day on which the community legislative body adopted the community reinvestment project area plan;
- (2) transmit a copy of a description of the land within the community reinvestment project area and an accurate map or plat indicating the boundaries of the community reinvestment project area to the Automated Geographic Reference Center created in Section 63F-1-506; and
- (3) for a community reinvestment project area plan that provides for the agency to receive tax increment, transmit a copy of a description of the land within the community reinvestment project area, a copy of the community legislative body ordinance adopting the community

reinvestment project area plan, and an accurate map or plat indicating the boundaries of the community reinvestment project area to:

- (a) the auditor, recorder, county or district attorney, surveyor, and assessor of each county in which any part of the community reinvestment project area is located;
- (b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;
- (c) the legislative body or governing board of each taxing entity;
- (d) the State Tax Commission; and
- (e) the State Board of Education.

Enacted by Chapter 350, 2016 General Session

**17C-5-112 Amending a community reinvestment project area plan.**

- (1) An agency may amend a community reinvestment project area plan in accordance with this section.
- (2)
  - (a) If an amendment proposes to enlarge a community reinvestment project area's geographic area, the agency shall:
    - (i) comply with this part as though the agency were creating a community reinvestment project area;
    - (ii) if the agency anticipates receiving project area funds from the area proposed to be added to the community reinvestment project area, before the agency may collect project area funds:
      - (A) for a community reinvestment project area plan that is subject to a taxing entity committee, obtain approval to receive tax increment from the taxing entity committee; or
      - (B) for a community reinvestment project area plan that is subject to an interlocal agreement, obtain the approval of the taxing entity that is a party to the interlocal agreement; and
    - (iii) if the agency anticipates acquiring property in the area proposed to be added to the community reinvestment project area by eminent domain, follow the procedures described in Section 17C-5-402.
  - (b) The base year for the area proposed to be added to the community reinvestment project area shall be determined using the date of:
    - (i) the taxing entity committee's consent as described in Subsection (2)(a)(ii)(A); or
    - (ii) the taxing entity's consent as described in Subsection (2)(a)(ii)(B).
- (3) If an amendment does not propose to enlarge a community reinvestment project area's geographic area, the board may adopt a resolution approving the amendment after the agency:
  - (a) if the amendment does not propose to allow the agency to receive a greater amount of project area funds or to extend a project area funds collection period:
    - (i) gives notice in accordance with Section 17C-1-806; and
    - (ii) holds a public hearing on the proposed amendment that meets the requirements described in Section 17C-1-808; or
  - (b) if the amendment proposes to also allow the agency to receive a greater amount of project area funds or to extend a project area funds collection period:
    - (i) complies with Subsection (3)(a)(i) and (ii); and
    - (ii)
      - (A) for a community reinvestment project area plan that is subject to a taxing entity committee, obtains approval from the taxing entity committee; or



(B) for a community reinvestment project area plan that is subject to an interlocal agreement, obtains approval to receive project area funds from the taxing entity that is a party to the interlocal agreement.

- (4)
  - (a) An agency may amend a community reinvestment project area plan for a community reinvestment project area that is subject to an interlocal agreement for the purpose of using eminent domain to acquire one or more parcels within the community reinvestment project area.
  - (b) To amend a community reinvestment project area plan as described in Subsection (4)(a), an agency shall:
    - (i) adopt a survey area resolution that identifies each parcel that the agency intends to study to determine whether blight exists;
    - (ii) in accordance with Part 4, Blight Determination in a Community Reinvestment Project Area, conduct a blight study within the survey area and make a blight determination;
    - (iii) create a taxing entity committee whose sole purpose is to approve any finding of blight in accordance with Subsection 17C-5-402(3); and
    - (iv) obtain approval to amend the community reinvestment project area plan from each taxing entity that is party to an interlocal agreement.
  - (c) Amending a community reinvestment project area plan as described in this Subsection (4) does not affect:
    - (i) the base year of the parcel or parcels that are the subject of an amendment under this Subsection (4); and
    - (ii) any interlocal agreement under which the agency is authorized to receive project area funds from the community reinvestment project area.
- (5) An agency may amend a community reinvestment project area plan without obtaining the consent of a taxing entity or a taxing entity committee and without providing notice or holding a public hearing if the amendment:
  - (a) makes a minor adjustment in the community reinvestment project area boundary that is requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or
  - (b) removes a parcel from a community reinvestment project area because the agency determines that the parcel is:
    - (i) tax exempt;
    - (ii) no longer blighted; or
    - (iii) no longer necessary or desirable to the project area.
- (6)
  - (a) An amendment approved by board resolution under this section may not take effect until the community legislative body adopts an ordinance approving the amendment.
  - (b) Upon the community legislative body adopting an ordinance approving an amendment under Subsection (6)(a), the agency shall comply with the requirements described in Sections 17C-5-110 and 17C-5-111 as if the amendment were a community reinvestment project area plan.
- (7)
  - (a) Within 30 days after the day on which an amendment to a project area plan becomes effective, a person may contest the amendment to the project area plan or the procedure used to adopt the amendment to the project area plan if the amendment or procedure fails to comply with a provision of this title.

- (b) After the 30-day period described in Subsection (7)(a) expires, a person may not contest the amendment to the project area plan or procedure used to adopt the amendment to the project area plan for any cause.

Amended by Chapter 456, 2017 General Session

**17C-5-113 Expedited community reinvestment project area plan.**

- (1) As used in this section:
  - (a) "Qualified business entity" means a business entity that:
    - (i) has a primary market for the qualified business entity's goods or services outside of the state; and
    - (ii) is not primarily engaged in retail sales.
  - (b) "Tax increment incentive" means the portion of an agency's tax increment that is paid to a qualified business entity for the purpose of implementing a community reinvestment project area plan.
- (2) An agency and a qualified business entity may, in accordance with Subsection (3), enter into an agreement that allows the qualified business entity to receive a tax increment incentive.
- (3) An agreement described in Subsection (2) shall set annual postperformance targets for:
  - (a) capital investment within the community reinvestment project area;
  - (b) the number of new jobs created within the community reinvestment project area;
  - (c) the average wage of the jobs described in Subsection (3)(b) that is at least 110% of the prevailing wage of the county within which the community reinvestment project area is located; and
  - (d) the amount of local vendor opportunity generated by the qualified business entity.
- (4) A qualified business entity may only receive a tax increment incentive:
  - (a) if the qualified business entity complies with the agreement described in Subsection (3);
  - (b) on a postperformance basis; and
  - (c) on an annual basis after the agency receives tax increment from a taxing entity.
- (5) An agency may create or amend a community reinvestment project area plan for the purpose of providing a tax increment incentive without complying with the requirements described in Chapter 1, Part 8, Hearing and Notice Requirements, if:
  - (a) the agency:
    - (i) holds a public hearing to consider the need to create or amend a community reinvestment project area plan on an expedited basis;
    - (ii) posts notice at least 14 days before the day on which the public hearing described in Subsection (5)(a)(i) is held on:
      - (A) the community's website; and
      - (B) the Utah Public Notice Website as described in Section 63F-1-701; and
    - (iii) at the hearing described in Subsection (5)(a)(i), adopts a resolution to create or amend the community reinvestment project area plan on an expedited basis;
  - (b) all record property owners within the existing or proposed community reinvestment project area plan give written consent; and
  - (c) each taxing entity affected by the tax increment incentive consents and enters into an interlocal agreement with the agency authorizing the agency to pay a tax increment incentive to the qualified business entity.

Enacted by Chapter 350, 2016 General Session

## **Part 2**

### **Community Reinvestment Project Area Funds**

#### **17C-5-201 Title.**

This part is known as "Community Reinvestment Project Area Funds."

Enacted by Chapter 350, 2016 General Session

#### **17C-5-202 Community reinvestment project area funding options.**

- (1)
  - (a) Except as provided in Subsection (2), for the purpose of receiving project area funds for use within a community reinvestment project area, an agency shall negotiate and enter into an interlocal agreement with a taxing entity in accordance with Section 17C-5-204 to receive all or a portion of the taxing entity's tax increment or sales and use tax revenue in accordance with the interlocal agreement.
  - (b) If a community reinvestment project area is subject to an interlocal agreement under Subsection (1)(a) and the agency subsequently amends the community reinvestment project area plan as described in Subsection 17C-5-112(4), the agency shall continue to receive project area funds under the interlocal agreement.
- (2) If an agency plans to create a community reinvestment project area and adopt a community reinvestment project area plan that provides for the use of eminent domain to acquire property within the community reinvestment project area, the agency shall create a taxing entity committee as described in Section 17C-1-402 and receive tax increment in accordance with Section 17C-5-203.
- (3) An agency shall comply with Chapter 5, Part 3, Community Reinvestment Project Area Budget, regardless of whether an agency enters into an interlocal agreement under Subsection (1) or creates a taxing entity committee under Subsection (2).

Amended by Chapter 456, 2017 General Session

#### **17C-5-203 Community reinvestment project area subject to taxing entity committee -- Tax increment.**

- (1) This section applies to a community reinvestment project area that is subject to a taxing entity committee under Subsection 17C-5-202(2).
- (2) Subject to the taxing entity committee's approval of a community reinvestment project area budget under Section 17C-5-304, and for the purpose of implementing a community reinvestment project area plan, an agency may receive up to 100% of a taxing entity's tax increment, or any specified dollar amount of tax increment, for any period of time.
- (3) Notwithstanding Subsection (2), an agency that adopts a community reinvestment project area plan that is subject to a taxing entity committee may negotiate and enter into an interlocal agreement with a taxing entity and receive all or a portion of the taxing entity's sales and use tax revenue for any period of time.

Amended by Chapter 456, 2017 General Session

**17C-5-204 Community reinvestment project area subject to interlocal agreement -- Consent of a taxing entity to an agency receiving project area funds.**

- (1) As used in this section, "successor taxing entity" means a taxing entity that:
  - (a) is created after the day on which an interlocal agreement is executed to allow an agency to receive a taxing entity's project area funds; and
  - (b) levies or imposes a tax within the community reinvestment project area.
- (2) This section applies to a community reinvestment project area that is subject to an interlocal agreement under Subsection 17C-5-202(1)(a).
- (3) For the purpose of implementing a community reinvestment project area plan, an agency may negotiate with a taxing entity for all or a portion of the taxing entity's project area funds.
- (4) A taxing entity may agree to allow an agency to receive the taxing entity's project area funds by executing an interlocal agreement with the agency in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.
- (5) Before an agency may use project area funds received under an interlocal agreement described in Subsection (4), the agency shall:
  - (a) obtain a written certification, signed by an attorney licensed to practice law in the state, stating that the agency and the taxing entity have each followed all legal requirements relating to the adoption of the interlocal agreement; and
  - (b) provide a signed copy of the certification described in Subsection (5)(a) to the taxing entity.
- (6) An interlocal agreement described in Subsection (4) shall:
  - (a) if the interlocal agreement provides for the agency to receive tax increment, state:
    - (i) the method of calculating the amount of the taxing entity's tax increment from the community reinvestment project area that the agency receives, including the base year and base taxable value;
    - (ii) the project area funds collection period; and
    - (iii) the percentage of the taxing entity's tax increment or the maximum cumulative dollar amount of the taxing entity's tax increment that the agency receives;
  - (b) if the interlocal agreement provides for the agency to receive the taxing entity's sales and use tax revenue, state:
    - (i) the method of calculating the amount of the taxing entity's sales and use tax revenue that the agency receives;
    - (ii) the project area funds collection period; and
    - (iii) the percentage of sales and use tax revenue or the maximum cumulative dollar amount of sales and use tax revenue that the agency receives; and
  - (c) include a copy of the community reinvestment project area budget.
- (7) A school district may consent to allow an agency to receive tax increment from the school district's basic levy only to the extent that the school district also consents to allow the agency to receive tax increment from the school district's local levy.
- (8) The parties may amend an interlocal agreement under this section by mutual consent.
- (9) A taxing entity's consent to allow an agency to receive project area funds under this section is not subject to the requirements of Section 10-8-2.
- (10) An interlocal agreement executed by a taxing entity under this section may be enforced by or against any successor taxing entity.

Enacted by Chapter 350, 2016 General Session

**17C-5-205 Interlocal agreement to provide project area funds for the community reinvestment project area subject to interlocal agreement -- Notice -- Effective date of**

**interlocal agreement -- Time to contest interlocal agreement -- Availability of interlocal agreement.**

- (1) The agency shall approve and adopt an interlocal agreement described in Section 17C-5-204 at an open and public meeting.
- (2)
  - (a) Upon the execution of an interlocal agreement described in Section 17C-5-204, the agency shall provide notice of the execution by:
    - (i)
      - (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or
      - (B) if there is no newspaper of general circulation within the agency's boundaries, causing the notice to be posted in at least three public places within the agency's boundaries; and
    - (ii) publishing or causing the notice to be published on the Utah Public Notice Website created in Section 63F-1-701.
  - (b) A notice described in Subsection (2)(a) shall include:
    - (i) a summary of the interlocal agreement; and
    - (ii) a statement that the interlocal agreement is available for public inspection and the hours for inspection.
- (3) An interlocal agreement described in Section 17C-5-204 is effective the day on which the notice described in Subsection (2) is published or posted in accordance with Subsection (2)(a).
- (4)
  - (a) Within 30 days after the day on which the interlocal agreement is effective, a person may contest the interlocal agreement or the procedure used to adopt the interlocal agreement if the interlocal agreement or procedure fails to comply with a provision of this title.
  - (b) After the 30-day period described in Subsection (4)(a) expires, a person may not contest:
    - (i) the interlocal agreement;
    - (ii) a distribution of tax increment to the agency under the interlocal agreement; or
    - (iii) the agency's use of project area funds under the interlocal agreement.
- (5) A taxing entity that enters into an interlocal agreement under Section 17C-5-204 shall make a copy of the interlocal agreement available to the public at the taxing entity's office for inspection and copying during normal business hours.

Enacted by Chapter 350, 2016 General Session

**17C-5-206 Requirement to file a copy of the interlocal agreement -- County payment of tax increment.**

- (1) An agency that receives project area funds under an interlocal agreement shall, within 30 days after the day on which the interlocal agreement is effective, file a copy of the interlocal agreement with:
  - (a) the State Tax Commission, the State Board of Education, and the state auditor; and
  - (b) the auditor of the county in which the community reinvestment project area is located, if the interlocal agreement authorizes the agency to receive tax increment.
- (2) A county that collects property tax on property within a community reinvestment project area that is subject to an interlocal agreement shall, in accordance with Section 59-2-1365, pay and distribute to the agency the tax increment that the agency is authorized to receive under the interlocal agreement.

Enacted by Chapter 350, 2016 General Session

### **Part 3**

## **Community Reinvestment Project Area Budget**

### **17C-5-301 Title.**

This part is known as "Community Reinvestment Project Area Budget."

Enacted by Chapter 350, 2016 General Session

### **17C-5-302 Procedure for adopting a community reinvestment project area budget -- Contesting the budget -- Time limit.**

- (1) An agency shall adopt a community reinvestment project area budget in accordance with this part.
- (2) To adopt a community reinvestment project area budget, an agency shall:
  - (a) prepare a proposed community reinvestment project area budget in accordance with Section 17C-5-303;
  - (b) obtain the consent of the taxing entity committee or taxing entity in accordance with Section 17C-5-304;
  - (c) make a copy of the proposed community reinvestment project area budget available to the public at the agency's office during normal business hours for at least 30 days before the budget hearing described in Subsection (2)(e);
  - (d) provide notice of the budget hearing in accordance with Chapter 1, Part 8, Hearing and Notice Requirements;
  - (e) hold a budget hearing on the proposed community reinvestment project area budget and, at the budget hearing, allow public comment on:
    - (i) the proposed community reinvestment project area budget; and
    - (ii) whether the agency should revise, adopt, or reject the proposed community reinvestment project area budget; and
  - (f) after the budget hearing described in Subsection (2)(e), or at a subsequent meeting:
    - (i) consider the comments and information from the budget hearing relating to the proposed community reinvestment project area budget; and
    - (ii) reject or adopt by resolution the proposed community reinvestment project area budget, with any revisions, as the community reinvestment project area budget.
- (3)
  - (a) Within 30 days after the day on which the agency adopts a community reinvestment project area budget, a person may contest the community reinvestment project area budget or the procedure used to adopt the community reinvestment project area budget if the community reinvestment project area budget or procedure fails to comply with a provision of this title.
  - (b) After the 30-day period described in Subsection (3)(a) expires, a person may not contest:
    - (i) the community reinvestment project area budget or the procedure used by the taxing entity, the taxing entity committee, or the agency to adopt the community reinvestment project area budget;
    - (ii) a payment to the agency under the community reinvestment project area budget; or
    - (iii) the agency's use of project area funds under the community reinvestment project area budget.

Enacted by Chapter 350, 2016 General Session

**17C-5-303 Community reinvestment project area budget -- Requirements.**

A community reinvestment project area budget shall include:

- (1) if the agency receives tax increment:
  - (a) the base taxable value;
  - (b) the projected amount of tax increment to be generated within the community reinvestment project area;
  - (c) each project area funds collection period;
  - (d) if applicable, the projected amount of tax increment to be paid to other taxing entities in accordance with Section 17C-1-410;
  - (e) if the area from which tax increment is collected is less than the entire community reinvestment project area:
    - (i) a boundary description of the portion or portions of the community reinvestment project area from which the agency receives tax increment; and
    - (ii) for each portion described in Subsection (1)(e)(i), the period of time during which tax increment is collected;
  - (f) the percentage of tax increment the agency is authorized to receive from the community reinvestment project area; and
  - (g) the maximum cumulative dollar amount of tax increment the agency is authorized to receive from the community reinvestment project area;
- (2) if the agency receives sales and use tax revenue:
  - (a) the percentage and total amount of sales and use tax revenue to be paid to the agency; and
  - (b) each project area funds collection period;
- (3) the amount of project area funds the agency will use to implement the community reinvestment project area plan, including the estimated amount of project area funds that will be used for land acquisition, public improvements, infrastructure improvements, or any loans, grants, or other incentives to private or public entities;
- (4) the agency's combined incremental value;
- (5) the amount of project area funds that will be used to cover the cost of administering the community reinvestment project area plan; and
- (6) for property that the agency owns and expects to sell, the expected total cost of the property to the agency and the expected sale price.

Enacted by Chapter 350, 2016 General Session

**17C-5-304 Consent of each taxing entity or taxing entity committee required for community reinvestment project area budget.**

Before an agency may collect any project area funds from a community reinvestment project area, the agency shall obtain consent for each community reinvestment project area budget from:

- (1) for a community reinvestment project area that is subject to an interlocal agreement, each taxing entity that is a party to an interlocal agreement; or
- (2) for a community reinvestment project area that is subject to a taxing entity committee, the taxing entity committee.

Enacted by Chapter 350, 2016 General Session

**17C-5-305 Filing a copy of the community reinvestment project area budget.**

Within 30 days after the day on which an agency adopts a community reinvestment project area budget, the agency shall file a copy of the community reinvestment project area budget with:

- (1) the State Tax Commission;
- (2) the State Board of Education;
- (3) the state auditor;
- (4) the auditor of the county in which the community reinvestment project area is located; and
- (5) each taxing entity affected by the agency's collection of project area funds under the community reinvestment project area budget.

Enacted by Chapter 350, 2016 General Session

**17C-5-306 Amending a community reinvestment project area budget.**

- (1) Before a project area funds collection period ends, an agency may amend a community reinvestment project area budget in accordance with this section.
- (2) To amend a community reinvestment project area budget, an agency shall:
  - (a) provide notice and hold a public hearing on the proposed amendment in accordance with Chapter 1, Part 8, Hearing and Notice Requirements;
  - (b)
    - (i) if the community reinvestment project area budget required approval from a taxing entity committee, obtain the taxing entity committee's approval; or
    - (ii) if the community reinvestment project area budget required an interlocal agreement with a taxing entity, obtain approval from the taxing entity that is a party to the interlocal agreement; and
  - (c) at the public hearing described in Subsection (2)(a) or at a subsequent board meeting, by resolution, adopt the community reinvestment project area budget amendment.
- (3) If an agency proposes a community reinvestment project area budget amendment under which the agency is paid a greater proportion of tax increment from the community reinvestment project area than provided under the community reinvestment project area budget, the notice described in Subsection (2)(a) shall state:
  - (a) the percentage of tax increment paid under the community reinvestment project area budget; and
  - (b) the proposed percentage of tax increment paid under the community reinvestment project area budget amendment.
- (4)
  - (a) If an agency proposes a community reinvestment project area budget amendment that extends a project area funds collection period, before a taxing entity committee or taxing entity may provide the taxing entity committee's or taxing entity's approval described in Subsection (2)(b), the agency shall provide to the taxing entity committee or taxing entity:
    - (i) the reasons why the extension is required;
    - (ii) a description of the project area development for which project area funds received by the agency under the extension will be used;
    - (iii) a statement of whether the project area funds received by the agency under the extension will be used within an active project area or a proposed project area; and
    - (iv) a revised community reinvestment project area budget that includes:
      - (A) the annual and total amounts of project area funds that the agency receives under the extension; and
      - (B) the number of years that are added to each project area funds collection period under the extension.



- (b) With respect to an amendment described in Subsection (4)(a), a taxing entity committee or taxing entity may consent to:
  - (i) allow an agency to use project area funds received under an extension within a different project area from which the project area funds are generated; or
  - (ii) alter the base taxable value in connection with a community reinvestment project area budget extension.
- (5) If an agency proposes a community reinvestment project area budget amendment that reduces the base taxable value of the project area due to the removal of a parcel under Subsection 17C-5-112(5)(b), an agency may amend a project area budget without:
  - (a) complying with Subsection (2)(a); and
  - (b) obtaining taxing entity committee or taxing entity approval described in Subsection (2)(b).
- (6)
  - (a) A person may contest an agency's adoption of a community reinvestment project area budget amendment within 30 days after the day on which the agency adopts the community reinvestment project area budget amendment.
  - (b) After the 30-day period described in Subsection (6)(a), a person may not contest:
    - (i) the agency's adoption of the community reinvestment project area budget amendment;
    - (ii) a payment to the agency under the community reinvestment project area budget amendment; or
    - (iii) the agency's use of project area funds received under the community reinvestment project area budget amendment.

Amended by Chapter 456, 2017 General Session

**17C-5-307 Allocating project area funds for housing.**

- (1)
  - (a) For a community reinvestment project area that is subject to a taxing entity committee, an agency shall allocate at least 20% of the agency's annual tax increment for housing in accordance with Section 17C-1-412 if the community reinvestment project area budget provides for more than \$100,000 of annual tax increment to be distributed to the agency.
  - (b) The taxing entity committee may waive a portion of the allocation described in Subsection (1)(a) if:
    - (i) the taxing entity committee determines that 20% of the agency's annual tax increment is more than is needed to address the community's need for income targeted housing or homeless assistance; and
    - (ii) after the waiver, the agency's housing allocation is equal to at least 10% of the agency's annual tax increment.
- (2) For a community reinvestment project area that is subject to an interlocal agreement, an agency shall allocate at least 10% of the project area funds for housing in accordance with Section 17C-1-412 if the community reinvestment project area budget provides for more than \$100,000 of annual project area funds to be distributed to the agency.

Enacted by Chapter 350, 2016 General Session

**Part 4**  
**Blight Determination in a Community Reinvestment Project Area**

**17C-5-401 Title.**

This part is known as "Blight Determination in a Community Reinvestment Project Area."

Enacted by Chapter 350, 2016 General Session

**17C-5-402 Blight determination in a community reinvestment project area -- Prerequisites -- Restrictions.**

- (1) An agency shall comply with the provisions of this section before the agency may use eminent domain to acquire property under Chapter 1, Part 9, Eminent Domain.
- (2) An agency shall, after adopting a survey area resolution as described in Section 17C-5-103:
  - (a) cause a blight study to be conducted within the survey area in accordance with Section 17C-5-403;
  - (b) provide notice and hold a blight hearing in accordance with Chapter 1, Part 8, Hearing and Notice Requirements; and
  - (c) after the blight hearing, at the same or at a subsequent meeting:
    - (i) consider the issue of blight and the evidence and information relating to the existence or nonexistence of blight; and
    - (ii) by resolution, make a finding regarding whether blight exists in all or part of the survey area.
- (3)
  - (a) If an agency makes a finding of blight under Subsection (2), the agency may not adopt an original community reinvestment project area plan or an amendment to a community reinvestment project area plan under Subsection 17C-5-112(4) until the taxing entity committee approves the finding of blight.
  - (b)
    - (i) A taxing entity committee shall approve an agency's finding of blight unless the taxing entity committee demonstrates that the conditions the agency found to exist in the survey area that support the agency's finding of blight:
      - (A) do not exist; or
      - (B) do not constitute blight under Section 17C-5-405.
    - (ii)
      - (A) If the taxing entity committee questions or disputes the existence of some or all of the blight conditions that the agency found to exist in the survey area, the taxing entity committee may hire a consultant, mutually agreed upon by the taxing entity committee and the agency, with the necessary expertise to assist the taxing entity committee in making a determination as to the existence of the questioned or disputed blight conditions.
      - (B) The agency shall pay the fees and expenses of each consultant hired under Subsection (3)(b)(ii)(A).
      - (C) The findings of a consultant hired under Subsection (3)(b)(ii)(A) are binding on the taxing entity committee and the agency.

Amended by Chapter 456, 2017 General Session

**17C-5-403 Blight study -- Requirements -- Deadline.**

- (1) A blight study shall:
  - (a) undertake a parcel by parcel survey of the survey area;
  - (b) provide data so the board and taxing entity committee may determine:
    - (i) whether the conditions described in Subsection 17C-5-405:

- (A) exist in part or all of the survey area; and
    - (B) meet the qualifications for a finding of blight in all or part of the survey area; and
  - (ii) whether the survey area contains all or part of a superfund site;
  - (c) include a written report that states:
    - (i) the conclusions reached;
    - (ii) any area within the survey area that meets the statutory criteria of blight under Section 17C-5-405; and
    - (iii) any other information requested by the agency to determine whether blight exists within the survey area; and
  - (d) be completed within one year after the day on which the survey area resolution is adopted.
- (2)
- (a) If a blight study is not completed within the time described in Subsection (1)(d), the agency may not approve a community reinvestment project area plan or an amendment to a community reinvestment project area plan under Subsection 17C-5-112(4) based on a blight study unless the agency first adopts a new resolution under Subsection 17C-5-103(1).
  - (b) A new resolution described in Subsection (2)(a) shall in all respects be considered to be a resolution under Subsection 17C-5-103(1) adopted for the first time, except that any actions taken toward completing a blight study under the resolution that the new resolution replaces shall be considered to have been taken under the new resolution.
- (3)
- (a) For the purpose of making a blight determination under Subsection 17C-5-402(2)(c)(ii), a blight study is valid for one year from the day on which the blight study is completed.
  - (b)
    - (i) Except as provided in Subsection (3)(b)(ii), an agency that makes a blight determination under a valid blight study and subsequently adopts a community reinvestment project area plan in accordance with Section 17C-5-104 may amend the community reinvestment project area plan without conducting a new blight study.
    - (ii) An agency shall conduct a supplemental blight study for the area proposed to be added to the community reinvestment project area if the agency proposes an amendment to a community reinvestment project area plan that:
      - (A) increases the community reinvestment project area's geographic boundary and the area proposed to be added was not included in the original blight study; and
      - (B) provides for the use of eminent domain within the area proposed to be added to the community reinvestment project area.

Amended by Chapter 456, 2017 General Session

**17C-5-404 Blight hearing -- Owners may review evidence of blight.**

- (1) In a hearing required under Subsection 17C-5-402(2)(b), an agency shall:
  - (a) permit all evidence of the existence or nonexistence of blight within the survey area to be presented; and
  - (b) permit each record owner of property located within the survey area or the record property owner's representative the opportunity to:
    - (i) examine and cross-examine each witness that provides evidence of the existence or nonexistence of blight; and
    - (ii) present evidence and testimony, including expert testimony, concerning the existence or nonexistence of blight.

- (2) An agency shall allow each record owner of property located within a survey area the opportunity, for at least 30 days before the day on which the hearing takes place, to review the evidence of blight compiled by the agency or by the person or firm conducting the blight study for the agency, including any expert report.

Enacted by Chapter 350, 2016 General Session

**17C-5-405 Conditions on board determination of blight -- Conditions of blight caused by a participant.**

- (1) A board may not make a finding of blight in a resolution under Subsection 17C-5-402(2)(c)(ii) unless the board finds that:
  - (a)
    - (i) the survey area consists predominantly of nongreenfield parcels;
    - (ii) the survey area is currently zoned for urban purposes and generally served by utilities;
    - (iii) at least 50% of the parcels within the survey area contain nonagricultural or nonaccessory buildings or improvements used or intended for residential, commercial, industrial, or other urban purposes;
    - (iv) the present condition or use of the survey area substantially impairs the sound growth of the community, delays the provision of housing accommodations, constitutes an economic liability, or is detrimental to the public health, safety, or welfare, as shown by the existence within the survey area of at least four of the following factors:
      - (A) although sometimes interspersed with well maintained buildings and infrastructure, substantial physical dilapidation, deterioration, or defective construction of buildings or infrastructure, or significant noncompliance with current building code, safety code, health code, or fire code requirements or local ordinances;
      - (B) unsanitary or unsafe conditions in the survey area that threaten the health, safety, or welfare of the community;
      - (C) environmental hazards, as defined in state or federal law, which require remediation as a condition for current or future use and development;
      - (D) excessive vacancy, abandoned buildings, or vacant lots within an area zoned for urban use and served by utilities;
      - (E) abandoned or outdated facilities that pose a threat to public health, safety, or welfare;
      - (F) criminal activity in the survey area, higher than that of comparable nonblighted areas in the municipality or county; and
      - (G) defective or unusual conditions of title rendering the title nonmarketable; and
  - (v)
    - (A) at least 50% of the privately owned parcels within the survey area are affected by at least one of the factors, but not necessarily the same factor, listed in Subsection (1)(a)(iv); and
    - (B) the affected parcels comprise at least 66% of the privately owned acreage within the survey area; or
  - (b) the survey area includes some or all of a superfund site, inactive industrial site, or inactive airport site.
- (2) A single parcel comprising 10% or more of the acreage within the survey area may not be counted as satisfying the requirement described in Subsection (1)(a)(iii) or (iv) unless at least 50% of the area of the parcel is occupied by buildings or improvements.
- (3)
  - (a) Except as provided in Subsection (3)(b), for purposes of Subsection (1), if a participant or proposed participant involved in the project area development has caused a condition

listed in Subsection (1)(a)(iv) within the survey area, that condition may not be used in the determination of blight.

- (b) Subsection (3)(a) does not apply to a condition that was caused by an owner or tenant who later becomes a participant.

Enacted by Chapter 350, 2016 General Session

**17C-5-406 Challenging a finding of blight -- Time limit -- Standards governing court review.**

- (1) If a board makes a finding of blight under Subsection 17C-5-402(2)(c)(ii) and the finding is approved by resolution adopted by the taxing entity committee, a record owner of property located within the survey area may challenge the finding by filing an action in the district court in the county in which the property is located.
- (2) A person shall file an action under Subsection (1) no later than 30 days after the day on which the taxing entity committee approves the board's finding of blight.
- (3) In an action under this section:
  - (a) the agency shall transmit to the district court the record of the agency's proceedings, including any minutes, findings, orders, or transcripts of the agency's proceedings;
  - (b) the district court shall review the finding of blight under the standards of review provided in Subsection 10-9a-801(3); and
  - (c)
    - (i) if there is a record:
      - (A) the district court's review is limited to the record provided by the agency; and
      - (B) the district court may not accept or consider any evidence outside the record of the agency, unless the evidence was offered to the agency and the district court determines that the agency improperly excluded the evidence; or
    - (ii) if there is no record, the district court may call witnesses and take evidence.

Enacted by Chapter 350, 2016 General Session