

Summary of Senate Bill 34 Affordable Housing Modifications (4th Substitute)

Sponsored by Sen. Jake Anderegg / Rep. Val Potter

2019 State Law for Housing. Senate Bill 34 Affordable Housing Modifications

Summary:

This bill requires local communities to plan for housing for residents of all income levels and coordinate that housing with transportation. Every general plan is required to have three components: land use, transportation, and moderate-income housing (MIHP). All cities in the State are required to develop a moderate-income housing (MIHP) plan as part of their general plan. That requirement has existed since the 1990s but SB 34 provides additional direction and detail. Some requirements have been added to all cities. In addition, certain communities are now required to select and implement specific housing strategies from state statute and then annually report on their MIHP plan implementation. They must satisfy these requirements to remain eligible for certain state transportation investments via the Transportation Investment Fund (TIF) and the Transit Transportation Investment Fund (TTIF).

New Revisions to required elements of municipal and county general plans:

1. The Land Use element must now consider location of land for housing for residents of various income levels in addition to the other categories of public and private uses of land.
2. Transportation and Traffic Circulation element:

All cities must:

- “Provide the general location and extent” of active transportation facilities in addition to freeways, arterial and collector streets, public transit, and other modes of transportation.
- Plan residential and commercial development around “major transit investment corridors” to improve connections between housing, employment, education, recreation, and commerce. (“Major transit investment corridor” is now defined as a public transit service that uses or occupies: (a) public transit rail right-of-way; (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or (c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and (i) a public transit district as defined in Section 17B-2a-802, or (ii) an eligible political subdivision as defined in Section 59-12-2219.) Municipalities without a major transit investment corridor must plan for residential and commercial development in areas that maintain and improve these connections.
- Correlate the transportation plan with population and employment projections, and the proposed land use element. This will help municipalities be able to see where their communities may grow and to plan and coordinate infrastructure to do so.

- Consider the regional transportation plan developed by the region's metropolitan planning organization (MPO); if outside an MPO, consider the long-range transportation plan developed by UDOT. This will help municipalities coordinate their plans and needs for the region.

Moderate Income Housing (MIHP) plan element.

Utah Code has long required municipalities and counties to plan for moderate income housing growth.

All Municipalities now shall:

Facilitate a reasonable opportunity for a variety of housing including MIHP and shall now:

- 1) meet the needs of people of various income levels living, working, or desiring to live or work in the community
- 2) "allow people with various incomes to benefit from and participate in all aspects of neighborhood and community life"
- 3) towns may and cities shall analyze how they will provide a realistic opportunity for the development of MIH within 5 years for cities and within the planning horizon for counties.

Municipalities/counties subject to additional requirements:

SB34 requires, by December 1, 2019, the following municipalities and counties to update and adopt the moderate-income housing element of their general plan and to annually report on implementation (first report due on December 1, 2020).

1. all municipalities of the 1st, 2nd, 3rd, and 4th class;
2. cities of the 5th class with a population of 5,000 or more that are located in counties of the 1st, 2nd, and 3rd class;
3. metro townships with a population of 5,000 or more; and
4. all counties must plan and adopt a MIHP element including strategies from the 'menu' (see below) but only counties of the 1st, 2nd, and 3rd class with an unincorporated population of 5,000 or more must annually report on implementation. See Appendix for the 2019 list of entities.

Entities subject to the additional requirements – Implementation of 3 items:

"Cities Shall include a recommendation to implement 3 or more of the following strategies" aka the 'menu' of planning tools.

- (A) rezone for densities necessary to assure the production of MIH
- (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of MIH
- (C) facilitate the rehabilitation of existing uninhabitable housing stock into MIH
- (D) consider general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the city
- (E) create or allow for, and reduce regulations related to, accessory dwelling units in residential zones
- (F) allow for higher density or moderate-income residential development in commercial and mixed-use zones, commercial centers, or employment centers

- (G) encourage higher density or moderate-income residential development near major transit investment corridors
- (H) eliminate or reduce parking requirements for residential development where a resident is less likely to rely on their own vehicle, e.g. residential development near major transit investment corridors or senior living facilities
- (I) allow for single room occupancy developments
- (J) implement zoning incentives for low to moderate income units in new developments
- (K) utilize strategies that preserve subsidized low to moderate income units on a long-term basis
- (L) preserve existing MIH
- (M) reduce impact fees, as defined in Section 11-36a-102, related to low and MIH
- (N) participate in a community land trust program for low or MIH
- (O) implement a mortgage assistance program for employees of the municipality or of an employer that provides contracted services to the municipality
- (P) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of MIH
- (Q) apply for or partner with an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity
- (R) apply for or partner with an entity that applies for affordable housing programs administered by the Department of Workforce Services
- (S) apply for or partner with an entity that applies for programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act [not in county list of recommendations]
- (T) apply for or partner with an entity that applies for services provided by a public housing authority to preserve and create MIH
- (U) apply for or partner with an entity that applies for programs administered by a metropolitan planning organization or other transportation agency that provides technical planning assistance
- (V) utilize a MIH set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency
- (W) any other program or strategy implemented by the municipality to address the housing needs of residents of the municipality who earn less than 80% of the area median income

Entities subject to the additional requirements – Implementation of 4 items:

In addition to the recommendations required above (3 “menu items”, municipalities that have a “fixed guideway public transit station” shall include a 4th recommendation to implement either “G” or “H” [not required for counties].

Entities subject to the additional requirements:

Annual reporting and review of the moderate-income housing plan:

The municipal/county legislative body shall annually review their MIHP and implementation of that plan; prepare and post a report of their findings on their website; and send the report to Dept. of Workforce Services (DWS), AOG, and MPO if applicable.

The report shall include:

1. revised estimate of the need for MIH in the next 5 years;
2. description of progress made to provide MIH by analyzing and publishing data on the # of housing units that are at or below 80%, 50%, and 30% adjusted median family income;
3. description of efforts to utilize a MIH set-aside from community reinvestment agency, redevelopment agency, or community development and renewal agency;
- d) description of the implementation of the MIH recommendations aka 'menu' of planning tools.

The DWS Division of Housing and Community Development shall:

1. assist in the creation of the MIH reports, and
2. evaluate the reports for purposes of determining eligibility for state transportation funds. This gives DWS rulemaking authority to develop the evaluation process.

The Legislature also revised state transportation funding to:

1. Add access to educational facilities and MIH to the prioritization process for new transportation capacity projects administered by the Utah Transportation Commission.
2. Add a requirement to access to certain transportation funding for municipalities. State Transportation Investment Fund (TIF) or Transit Transportation Investment Fund (TTIF) funds may not be used in a municipality or unincorporated county that has failed to adopt a MIHP or has failed to report on implementation of their MIHP as determined by DWS. TIF funds can still be used for a limited-access facility, but not for construction, reconstruction, or renovation of an interchange. TTIF funds can still be used for a multi-community fixed-guideway public transportation project, but not for the construction, reconstruction, or renovation of a station.

Appendix

2019 Entities subject to the additional statutory requirements

MUNICIPALITIES			
County	City/town	Classification	2017 pop. est.
Utah	Alpine	4	10,371
Utah	American Fork	4	29,527
Salt Lake	Bluffdale	4	13,484
Davis	Bountiful	3	44,107
Box Elder	Brigham City	4	19,182
Iron	Cedar City	3	31,806
Utah	Cedar Hills	4	10,334
Davis	Centerville	4	17,657
Davis	Clearfield	3	31,363
Davis	Clinton	4	21,971
Salt Lake	Cottonwood Heights	3	33,996
Salt Lake	Draper	3	47,710
Utah	Eagle Mountain	3	32,204
Iron	Enoch	5	6,756
Davis	Farmington	4	24,066
Weber	Farr West	5	6,996
Davis	Fruit Heights	5	6,215
Tooele	Grantsville	4	11,000
Weber	Harrisville	5	6,535
Wasatch	Heber	4	15,792
Salt Lake	Herriman	3	39,224
Utah	Highland	4	18,957
Salt Lake	Holladay	3	30,709
Weber	Hooper	5	8,668
Washington	Hurricane	4	17,135
Cache	Hyrum	5	8,197
Washington	Ivins	5	8,726
Davis	Kaysville	3	31,776
Davis	Layton	2	76,691
Utah	Lehi	3	62,712
Utah	Lindon	4	10,968
Cache	Logan	3	51,115
Utah	Mapleton	5	9,773

Salt Lake	Midvale	3	33,208
Wasatch	Midway	5	5,093
Salt Lake	Millcreek	3	60,192
Salt Lake	Murray	3	49,295
Cache	Nibley	5	6,917
Cache	North Logan	4	10,646
Weber	North Ogden	4	19,465
Davis	North Salt Lake	4	20,507
Weber	Ogden	2	87,031
Utah	Orem	2	97,839
Summit	Park City	5	8,378
Utah	Payson	4	19,892
Weber	Plain City	5	6,764
Utah	Pleasant Grove	3	38,845
Weber	Pleasant View	5	10,287
Cache	Providence	5	7,411
Utah	Provo	1	117,335
Weber	Riverdale	5	8,758
Salt Lake	Riverton	3	43,344
Weber	Roy	3	38,595
Utah	Salem	5	8,210
Salt Lake	Salt Lake City	1	200,544
Salt Lake	Sandy	2	96,145
Washington	Santa Clara	5	7,418
Utah	Santaquin	4	11,652
Utah	Saratoga Springs	4	29,608
Cache	Smithfield	4	11,374
Salt Lake	South Jordan	2	70,954
Weber	South Ogden	4	17,101
Salt Lake	South Salt Lake	4	24,956
Davis	South Weber	5	7,310
Utah	Spanish Fork	3	39,443
Utah	Springville	3	33,294
Washington	St. George	2	84,405
Davis	Sunset	5	5,286
Davis	Syracuse	4	29,507
Salt Lake	Taylorsville	3	59,992
Tooele	Tooele City	3	34,628
Box Elder	Tremonton	5	8,626
Uintah	Vernal	4	10,291
Utah	Vineyard	5	6,210

Washington	Washington City	4	26,405
Weber	Washington Terrace	5	9,152
Davis	West Bountiful	5	5,650
Weber	West Haven	4	13,532
Salt Lake	West Jordan	1	113,905
Davis	West Point	4	10,603
Salt Lake	West Valley City	1	136,170
Davis	Woods Cross	4	11,362

COUNTIES			
County name	County class	Incorp. pop.	Unincorp. pop.
Box Elder	3	44,171	9,908
Cache	3	117,767	6,671
Davis	2	344,071	3,566
Iron	3	42,739	8,262
Salt Lake	1	1,054,213	81,436
Summit	3	16,145	24,961
Tooele	3	48,616	18,840
Uintah	3	13,379	21,771
Utah	2	595,486	10,939
Wasatch	3	24,178	7,928
Washington	2	158,168	7,494
Weber	2	236,639	15,130

METRO TOWNSHIPS			
County	Metro township	Classification	2017 population
Salt Lake County	Kearns	1	35,834
Salt Lake County	Magna	1	27,773
Salt Lake County	White City	1	5,695

SOURCES

US Census Bureau	https://www.census.gov/quickfacts/fact/table/US/PST045217
Kem C. Gardner Policy Institute	https://gardner.utah.edu/demographics/salt-lake-and-utah-county-subcounty-estimates-2010-2017/
H.B. 259 (2018)	https://le.utah.gov/~2018/bills/static/HB0259.html
S.B. 34 (2019)	https://le.utah.gov/~2019/bills/static/SB0034.html

R990-300. Evaluation Process for Plan for Moderate Income Housing Reports.

R990-300-1. Authority.

This rule is authorized under Utah Code Ann. Section 35A-8-803(3), which directs the Housing and Community Development Division of the Utah Department of Workforce Services (HCD) to make rules describing the evaluation process for moderate income housing reports.

R990-300-2. Purpose.

Pursuant to Utah Code Ann. Section 35A-8-803(1), HCD shall advise political subdivisions of serious housing problems existing within their jurisdiction that require concerted public action for solution; assist political subdivisions in defining housing objectives and in preparing for adoption a plan of action covering a five-year period designed to accomplish housing objectives within their jurisdiction; and, for municipalities or counties required to submit an annual moderate income housing report to the Department as described in Utah Code Ann. Section 10-9a-408 and 17-27a-408, assist in the creation of the reports and evaluate the reports for the purposes of Utah Code Ann. Sections 72-2-124(5) and (6).

R990-300-3. Definitions

(1) "Annual moderate income housing reporting form," means a form for annually reporting progress of the moderate-income housing element of the general plan.

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

(4) "Plan for moderate income housing," means a written document adopted by municipality's legislative body that includes:

(a) An estimate of the existing supply of moderate-income housing located within the municipality or unincorporated area of the county;

(b) an estimate of the need for moderate income housing in the municipality or unincorporated area of the county for the next five years;

(c) a survey of total residential land use;

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

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

R990-300-4. Who is required to report

- (1) Municipalities and counties that are required to submit an annual report are in accordance with UCA 10-9a-408 and UCA 17-27a-401(1).

R990-300-5. Evaluation Process for Plan for Moderate Income Housing.

- (2) On or before December 1, 2019, the following entities identified in Utah Code Ann. Section 10-9a-401, shall amend the general plan to comply with **10-9a-401 or 17-27a-401. General plan required 3(a).** Submitted plans will be reviewed to ensure the following are included in the plan:
- ☐ Updated 5-year estimates of moderate-income housing needs.
 - ☐ The moderate-income housing element and its implementation, based on 3 strategies that address the following:
 1. State the strategic policy goal that your municipality selected for inclusion in the moderate-income housing element of its general plan.
 2. What are the specific outcomes that the goal intends to accomplish?
 3. Please describe what plans the municipality has to monitor its annual progress toward achieving the goal.
 4. Please describe the resources that the municipality must allocate to complete this goal.
 5. [NOTE] For a municipality that has a fixed guideway public transit station, must demonstrate that **one** of the two following items below are included in implementation:
 - a. encourage higher density or moderate-income residential development near major transit investment corridors
 - b. eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities.

- (3) Beginning December 1, 2020 and annually thereafter, the legislative body of each municipality described in Utah Code

Ann. 10-9a-401 and 17-27a-401 shall complete an Annual Moderate Income Housing Reporting Form and submit the completed form to HCD, their Association of Governments or Metropolitan Planning Organization.

(4) HCD will review each reporting form for completeness and compliance with Utah Code Ann. Section 10-9a-403 and 17-27a-403(2) code and 10-9a-408 and 17-27a-408.

(5) After review, HCD will provide the municipality or county a copy of their review.

R990-300-6. Reporting to Department of Transportation

In accordance with 72-2-124 (5) and (6), HCD will communicate compliance with the annual report requirements as described in 10-9a-408 or 17-27a-408 to the Department of Transportation.



ANNUAL MODERATE-INCOME HOUSING REPORTING FORM

Under the Utah Code, Municipal legislative bodies must annually:

- Update 5-year estimates of moderate-income housing needs. [[UCA 10-9a-103\(41\)\(b\)](#)]
- Conduct a review of the moderate-income housing element and its implementation; and
- Report the findings of the annual review to the Housing and Community Development Division (HCDD) of the Utah Department of Workforce Services no later than December 1st; and
- Post the findings report on their municipality's website.

In accordance with [UCA 10-9a-408\(1\)](#) municipalities that must report regularly are:

- Cities of the first, second, third, and fourth class (or have 10,000 or more residents).
- Cities of the fifth class:
 - Having an estimated population greater than or equal to 5,000 residents; **AND**
 - That are located in a county with a population greater than or equal to 31,000 residents.
- Metro Townships:
 - Having an estimated population greater than or equal to 5,000 residents;
 - Having an estimated population less than 5,000 **BUT** is located in a county with a population greater than or equal to 31,000 residents.
- Not a town with fewer than 1,000 residents.

To find out if your municipality must report annually, please visit:

<https://jobs.utah.gov/housing/affordable/moderate/reporting/>

For additional moderate-income housing planning resources:

<https://jobs.utah.gov/housing/affordable/moderate/index.html>

MUNICIPAL GOVERNMENT INFORMATION:

Municipal Government: _____

Reporting Date: _____

MUNICIPAL GOVERNMENT CONTACT INFORMATION:

Mailing Address: _____

P.O. Box: _____

City: _____

, UT Zip Code: _____

Mayor's First and Last Name: _____

Mayor's Email Address: _____

PREPARER CONTACT INFORMATION:

Preparer's First and Last Name: _____
Preparer's Title: _____
Preparer's Email Address: _____
Preparer's Telephone: _____ Extension: _____

When did the municipality last adopt a new 5-year moderate-income housing element? _____

5-year moderate-income housing element web address: _____

[UCA 10-9a-408\(2\)](#) requires municipalities to include Three strategic affordable housing development recommendations in the moderate-income housing element of their general plan from the approved list found in [UCA 10-9a-403\(2\)\(b\)\(iii\)](#), and then report their annual progress on implementing these recommendations.

RECOMMENDATIONS

1. State three strategic recommendations your municipality included in the moderate-income housing element of its general plan below.

2. Please state the municipality's principal goal associated with each strategy

3. What are the specific outcomes that each strategy intends to accomplish?

4. Please describe how the municipality has monitored its annual progress toward achieving each goal

5. In the boxes below, please outline the following objectives associated with the goal stated in item 2.
a. Please identify the key tasks of each stage needed to accomplish the goal stated in item 2.

- b. Please identify the parties that are responsible for completing the key tasks of each stage identified in item 5a.

- c. Please describe the resources that the municipality must allocate to complete the key task of each stage identified in item 5a.

- d. Please state specific deadlines for completing each of the key tasks of each stage identified in item 5a.

- e. Which of the tasks stated in item 5a have been completed so far, and what have been their results?

- f. How is the municipality addressing results described in 5e that deviate from the desired outcomes specified in item 3?

PLEASE SUBMIT DOCUMENTATION FROM THE CURRENT FISCAL YEAR THAT SUPPORTS PROGRESS IN COMPLETING THE MUNICIPALITY'S **FIRST** GOAL.

Municipal legislative bodies are also required to review and submit the following:

UCA 10-9a-408(2)(c)(i):

- A current estimate of the city's rental housing needs for the following income limits:
 - 80% of the county's adjusted median family income
 - 50% of the county's adjusted median family income
 - 30% of the county's adjusted median family income

UCA 10-9a-103(41)(b):

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- Page | 3 ● An updated projection of 5-year affordable housing needs, which includes:
- Projected growth of households (housing demand)
 - Projected housing stock (housing supply)

SUBMISSION GUIDELINES:

1. Moderate-income housing review reports are due on **December 1st** of each year.
2. Emails must include the following items as *separate* attachments:
 - An updated estimate of the municipality's 5-year moderate-income housing needs
 - A findings report of the annual moderate-income housing element review
 - The most current version of the moderate-income housing element of the municipality's general plan
 - Submitted moderate-income housing elements must include their adoption date on a cover page.
 - A link to the annual report on the municipality's website
3. Acceptable electronic document formats include:
 - (a) DOC, DOCX, RTF, OTD, and PDF
4. Emails **MUST** be addressed to: dfields@utah.gov

For additional moderate-income housing planning resources, please visit:
<https://jobs.utah.gov/housing/affordable/moderate/>