

## **HB462 Housing Affordability Amendments** **(Rep. Waldrip / Sen. Anderegg)**

The bill is a collaborative effort among numerous stakeholders, including the Commission on Housing Affordability, the Utah League of Cities and Towns, Wasatch Front Regional Council and Mountainland Association of Governments, Property Rights Coalition, Division of Housing and Community Development, the Utah Transit Authority, and various other public and private sector organizations, to help Utah to address its significant challenges on housing availability and affordability.

This summary breaks down bill changes into the following sections:

1. Moderate Income Housing Plan Changes (update to SB34 from 2019)
2. Station Area Plan Requirements
3. Changes to Internal Accessory Dwelling Units
4. Changes to Point of the Mountain
5. Changes to the Olene Walker Board
6. Other Changes and Appropriations

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### **Moderate Income Housing Planning Changes (update to SB34 from 2019) (lines 571-819, 1053-1262; 1893-2409 (counties)):**

Although all municipalities, metro townships, and counties are encouraged by law to plan for moderate income housing plan (MIHP); Senate Bill 34 (2019) created specific criteria that certain cities had to adopt in a plan and penalties for non-compliance. HB 462 makes changes to these criteria.

#### **Highlights of MIHP Changes:**

- Modifies and expands the menu items and requires that municipalities review their moderate income housing plans and update items with implementation elements by October 1, 2022. The December reporting period no longer applies.
- Reporting forms will change and the reporting period will be tied to the municipal fiscal year with subsequent reports due by October 1.
- Implementation elements must include a timeline that has specific benchmarks for each chosen strategy, but provides flexibility for the municipality to make adjustments.
- Increases the number of menu strategies from which municipalities may select, including creating an HTRZ, creating a station area plan, creating a program for transfer of development rights, eliminating certain ADU impact fees, promoting “missing middle” housing, etc..
- Menu items remain at 3 for cities without fixed guideway transit and 5 for those with fixed guideway transit (one of which is required to be the adoption of Station Area Plan). If a city selects 5 (or 6 for fixed rail cities), then those cities would qualify for enhanced prioritization of state TIF/TTIF and ARPA local match program funds.

- The Department of Workforce Services shall be responsible for creating a moderate income housing database and be responsible for providing housing data to municipalities, metro townships and counties. DWS is hiring a new staffer to manage the database and will work with ULCT on building a new form for reporting and other specifics.

### **Report components**

SB 34 (2019) required applicable municipalities, metro townships, and counties to submit an annual report to the Department of Workforce Services annually on December 1. HB 462 updates the reporting process. Instead of requiring reports on December 1 of each year, reports will be due on October 1st of each year. The reporting period will be tied to a city's fiscal year. The initial year (2022) submittal must include a description of each adopted MIHP strategy selected by the municipality and a specific implementation timeline for each strategy.

Subsequent reports must include for each fiscal year period:

- MIHP strategies and implementation plans;
- A description of each action, one time or ongoing, taken by the municipality during the previous fiscal year (or past years if applicable) to implement the MIHP strategies.
- A description of each land use regulation or decision made by the municipality during the previous fiscal year (or past years if applicable) to support their MIHP strategies.
- A description of any barriers encountered by the municipality during the previous fiscal year (or past years if applicable) in implementing MIHP strategies.
- A description of how the private sector and market have responded to the selected MIHP strategies, including the number of entitled residential units and other relevant data.
- Information regarding the number of accessory dwelling units located within the municipality issued a business license or construction permit.
- Recommendations on how the state can support the municipality in implementing MIHP strategies.

This updated data collection and report should help cities complete the narrative on land use planning and housing policy.

### **Report review**

HB 462 requires DWS to approve the reporting form each year and make the form available on or before July 1 of each year the report is required. Reporting jurisdictions are then required to submit their reports to DWS on or before October 1 of that same year. HB 462 removes the requirement for reporting entities to submit their reports to their AOG or MPO. Within 90 days of DWS receiving a report, the division must post the report on their website; send a copy to UDOT, GOPB, the jurisdiction's AOG and (if applicable) MPO; and review the report to determine compliance with the updated list of menu items. HB 462 states that a jurisdiction's report complies with the requirement if the report:

- Includes the stated information required in the report
- demonstrates to DWS that the municipality made plans to implement MIHP strategies
- includes a reasonable timeline for the selected strategies.
- meets the requirement of incorporating one of the transit sub-menu items if the city has a fixed guideway public transit station.

- Is completed in the form provided by DWS.
- Provides sufficient information for the division to:
  - Assess the municipality’s progress in implementing strategies,
  - Monitor the municipality’s compliance with their implantation timeline,
  - Identify a clear correlation between the municipality’s land use decisions and their efforts in implementing selected strategies, and
  - Identify if and how the market has responded to the municipality’s MIHP strategies.

**Prioritization and penalties**

If DWS reviews the report and determines the municipality complies with the minimum requirements (5 strategies for cities with fixed guideway transit, 3 for cities without fixed guideway transit) and the municipality has adopted two additional menu item strategies, the municipality may receive priority consideration for funding from the Transportation Investment Fund (TIF), Transit Transportation Investment Fund (TTIF), and the COVID-19 local assistance matching grant program. If the municipality only complies with the minimum number of strategies (5 or 3), their requests for TIF projects, TTIF projects, and local matching grant funding will not be prioritized, but they are still eligible to be funded.

If DWS determines the municipality’s MIHP fails to comply with the requirements, they must send a notice to the municipality, UDOT, and GOPB. The notice shall include that municipality is ineligible to receive funds, which funds they are ineligible to receive, the fiscal year that the municipality is ineligible for, and the basis for DWS’ determination. The SB 34 provision that UDOT may not program TIF or TTIF funds on projects within municipalities that fail to comply with reporting requirements still applies. HB 462 adds ineligibility for the COVID-19 Local Assistance Matching Grant Program as a consequence for noncompliance.

HB 462 does provide municipalities with an opportunity to correct reporting deficiencies and come into compliance. In the notice given to the municipality, DWS must provide a description of each deficiency in the report and the actions needed to cure each deficiency. The legislative body of the municipality will be given 90 days from the day the notice is sent to cure the identified deficiencies, or they will lose eligibility for TIF/TTIF funding.

(TIF/TTIF provisions are at lines 3583-3844)

**Station Area Planning Requirements (lines 820-1052):**

*Objective:* Advance shared goals by maximizing development potential in appropriate areas through a collaborative city-led planning approach, allowing cities to determine how best to meet shared objectives without mandating a specific approach or zoning.

## Overview

- If a city has a fixed-guideway public transit station (rail or brt), it is required to develop a Station Area Plan (SAP) for that station and update its general plan and zoning to implement the Station Area Plan.
- Station area plans are intended to promote shared objectives such as housing availability and affordability, access to opportunities, sustainable environmental conditions, and transportation choices and connections. Plans are reviewed by the relevant Metropolitan Planning Organization (MPO), and are incorporated into the MIHP review architecture.
- Adopting a Station Area Plan is one of the actions a municipality may take to qualify for enhanced prioritization for state transportation and local match program funding. Funding from the state Industrial Assistance Account through the Governor's Office of Economic Opportunity (GOEO) will be provided to Metropolitan Planning Organizations to provide technical assistance to assist cities in developing their plans.
- Zoning changes within the Station Area will have increased referendum thresholds.

## Plan Objectives (lines 949 - 981)

Station Area Plans shall promote the following objectives:

1. Increasing the **availability and affordability of housing**, including moderate income housing. The municipality may consider actions including:
  - a. Aligning SAP with MIHP element of general plan
  - b. Providing for densities necessary to facilitate the development of moderate income housing
  - c. Providing for affordable costs of living in connection with housing, transportation and parking
2. Promoting **sustainable environmental conditions**. The municipality may consider actions including:
  - a. Conserving water resources through efficient land use
  - b. Improving air quality by reducing fuel consumption and motor vehicle trips
  - c. Establishing parks, open space, and recreational opportunities
3. Enhancing **access to opportunities**. The municipality may consider actions including:
  - a. Maintaining and improving the connections between housing, employment, education, recreation, and commerce
  - b. Encouraging mixed-use development
  - c. Enabling employment and educational opportunities in proximity to the transit station
  - d. Encouraging and promoting enhanced broadband connectivity
4. Increasing **transportation choices and connections**. The municipality may consider actions including:
  - a. Supporting investment in infrastructure for all modes of transportation
  - b. Increasing utilization of public transit
  - c. Encouraging safe streets through the designation of pedestrian walkways and bike lanes
  - d. Encouraging manageable and reliable traffic conditions
  - e. Aligning the SAP with the MPO-adopted regional transportation plan.

## Plan Requirements

1. Cities with “fixed guideway public transit” are required to plan ½ mile radius around a rail (FrontRunner, Trax, Streetcar) station, and ¼ mile radius around a bus rapid transit (which uses a separate right-of-way) station, and adopt any appropriate land use regulations to implement the station area plan. (864-868, 851-859)
  - a. SAPs may also be developed for multiple stations through an integrated process. If a station area covers more than one municipality each shall develop a SAP for their area, or coordinate together to develop a shared SAP. (933-941)
  - b. The radius is calculated from the center of the public transit station platform.
2. Station area plans shall include the following components (993-1023):
  - a. A **Station Area Vision** that is consistent with the station area plan objectives (described above), and which includes:
    - i. Constraints and opportunities for the development of land given existing conditions
    - ii. The city’s objectives, and description for the future transportation systems, land uses, public and open spaces, and the use and development of land in the station area.
  - b. A **Station Area Map** that depicts the areas within the municipality and station area subject to the plan, and where actions are needed to implement the plan (*i.e.*, the actual implementation plan may be for selected portions of the area, and vision and plan can be greater than ½ or ¼ mile radius).
  - c. An **Implementation Plan** that identifies and describes actions over the next five years the city intends to take, and action needed by others, needed to implement the station area plan, including:
    - i. modifying land use regulations;
    - ii. making infrastructure and public space improvements;
    - iii. modifying deeds or other relevant legal documents;
    - iv. securing funding or developing funding strategies;
    - v. applying applicable design standards for development; or
    - vi. providing environmental remediation.
  - d. A **statement of how the Station Area Plan promotes the plan objectives** (see above).
3. Development of a SAP must include public outreach and community engagements, and involve relevant stakeholders, including impacted landowners, other impacted communities, MPOs, UDOT, UTA, residents and business owners. (1029-1037)
4. The requirements to develop a station area plan and appropriate zoning can also be satisfied if the municipality adopts a resolution demonstrating that (869-887, 1024-1028):
  - a. Fulfilling some or all of the SAP objectives or required components are **impracticable**, due to conditions including existing development, entitlements, land ownership, land uses that make opportunities for new development and long-term redevelopment infeasible, environmental limitations, market readiness, development impediment conditions, or other similar conditions.
  - b. The city has already satisfied the Station Area Plan requirements – in whole or in part – based on **prior actions** taken before June 1, 2022, such as prior public and stakeholder engagement processes, market assessments, visioning, planning, implementation activities, capital programs, or adopted land use regulations or other actions.

5. The bill updates station area plan references in UTA's code. (2497-2686)

### **City Development and Approval Timeline, and MPO certification**

1. Municipalities are required to adopt a station area plan for existing public transit stations and adopt any appropriate land use regulations no later than December 31, 2025. (864-868; 888-903)
  - a. Cities with more than four existing stations shall complete the plan requirements for four stations by Dec. 2025, and complete no less than two plans each year thereafter.
  - b. A city with a new station (that is not yet under construction by May 2022) must adopt a station area plan before the station opens for service.
2. A “**qualifying land use application**” received by a city can trigger a one-year timeline for completion of a station area plan. (904-918)
  - a. A qualifying land use application (836-850) is one that:
    - i. involves land located within a rail-based station area;
    - ii. involves land located within a station area for which the municipality has not yet satisfied the requirements of station area plans;
    - iii. proposes the development of an area greater than five contiguous acres;
    - iv. would require the municipality to amend the municipality's general plan or change a zoning designation for the land use application to be approved;
    - v. would require a higher density than the density currently allowed by the municipality;
    - vi. proposes the construction of new residential units, at least 10% of which are dedicated to moderate income housing; and
    - vii. the applicant requests the initiation of a station area plan development process.
  - b. If a municipality receives a qualifying land use application *on or before* July 1, 2022, the municipality must satisfy the SAP requirements by July 1, 2023.
  - c. If a municipality receives a qualifying land use application *after* July 1, 2022, the municipality must satisfy the SAP requirements no later than 12 months after the first day of the month after the land use application is submitted.
  - d. If multiple qualifying land use applications are received, municipalities are not required to satisfy SAP requirements for more than two station areas in a 12-month period.
3. The required time period for completion of a station area plan and appropriate zoning may be extended once for a 12-month period if the municipality demonstrates to the applicable MPO that conditions exist that make doing so **infeasible** despite the good faith efforts of the municipality, and the MPO certifies such extension. (925-932)
4. A station area plan is to be adopted and submitted to the Metropolitan Planning Organization (WFRC or MAG) and UTA. The MPO, in consultation with UTA, shall review whether the plan satisfies the statutory conditions and if it does, shall certify such compliance. (1038-1052)
  - a. The MPO may certify a SAP based on *prior actions* taken by the municipality or the *impracticability* of completing elements of the SAP due to impediments.
  - b. Following adoption of the plan, and certification by the MPO, the municipality shall submit evidence of the plan adoption to DWS as part of the MIHP reporting requirements.

- c. The MPO is not responsible for reviewing the zoning changes made by the city to implement the SAP. Steps taken by the city to implement the SAP, including zoning changes, would be incorporated into the regular annual MIHP reporting process.
5. The municipal general plan land use and transportation elements must consider and coordinate with the municipality's station area plans and the regional transportation plan developed by the MPO (781 - 790).

#### **Technical Assistance (942-948)**

1. Municipalities required to develop and adopt a station area plan may request technical assistance from their relevant MPO. (This technical assistance may include consultant or staff time, model ordinances, analyses, etc.)
2. Funding will be provided to the MPOs from GOEO through the Industrial Assistance Account to provide this technical assistance (lines 3503 - 3520). Technical assistance from MPOs funded through the Industrial Assistance Fund shall give priority consideration to station area plans developed pursuant to the receipt of a qualifying land use application.

#### **Station Area Developments Will Be Propelled**

1. Within a station area where a municipality has complied with the station area plan requirements, a  $\frac{2}{3}$  approval by the legislative body of a land use law would make the legislative action non-referable (consistent with state law about legislative acts that are non-referable) (lines 2842-2884).
2. The signature thresholds are increased for a referendum for zoning to adopt a station area plan, or for zoning changes within a station area, after the city adopts the SAP or the resolution demonstrating that the SAP requirements are satisfied (lines 2688-2841).
  - a. *Note: By adopting a Station Area Plan and updated General Plan and Zoning, it reduces the likelihood that a subsequent specific development proposal will be subject to referendum.*
3. If a residential development application that would require the municipality to change a zoning designation for the land use application to be approved is within an area for which the SAP requirements have not yet been satisfied, the city will process the completed application for the residential development within the SAP on a first priority basis. (lines 919-924)

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#### **Changes to Internal Accessory Dwelling Units (IADU) (1353 - 1409)**

Prohibits local governments from charging impact fees to IADUs constructed within an existing dwelling.

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### **Changes to Point of the Mountain** (lines 1410 - 1446):

HB 462 requires the Point of the Mountain State Land Authority to incorporate housing affordability into their strategic planning, and report to the Unified Economic Opportunity Commission.

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### **Changes to The Olene Walker Board** (lines 2885 - 2956)

HB 462 modifies the Olene Walker housing board to specify:

- One of the two members from local governments shall be a local elected official residing in a county of the first or second class. The other local government member shall be a locally elected official residing in a county of the third, fourth, fifth, or sixth class.
- One of the two members from the mortgage lending community shall have expertise in single family mortgage lending than the other shall have expertise in multifamily mortgage lending.
- One of the two members from home builder interests shall have expertise in single family residential development and one member shall have expertise in multifamily residential development.
- One of the two members from housing advocacy interests shall reside in a county of the first or second class; and one member shall reside in a county of the third, fourth, fifth, or sixth class.

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### **Other Changes & Appropriations:**

#### **Rural Housing Fund Changes**

HB 462 makes several changes to the rural predevelopment grant program created in SB 164 (2021). The bill makes technical changes and caps the grant amount that a single project may receive at \$50,000. HB 462 also creates a rural housing fund with legislative appropriations, private contributions, donations or grants from public and private entities and money returned to the department from 35A-8-512(3)(b). Funds can be used to make loans for projects that:

1. Are located within a county of the third, fourth, fifth, or sixth class or a municipality within a county of the second class with a population  $\leq 10,000$ .
2. Include moderate income housing units for households whose income is no more than 80% AMI for households of the same size in the county or municipality where the project is located

#### **Housing affordability data and methodology** (lines 3229 - 3277, 3366 - 3403)

The DWS Division of Housing and Community Development is required to establish and maintain a database of moderate income housing units located within the state.

It is also required, by December 1, 2022, to develop and submit to the Subgroup on Housing Affordability (SHA, formerly known as CHA) a methodology for determining whether a municipality or county is taking sufficient measures to promote moderate income housing in accordance with municipal moderate income housing plans.

**Granting Real Property for Affordable Housing** (lines 3459 - 3503)

HB 462 expands the 'Grant of Real Property for Affordable Housing' provision created in SB 164 last year to clarify that government entities may grant real property to an entity that for the development of one or more affordable housing units, when  $\geq 20\%$  of the housing units meet the definition of moderate income housing units (housing affordable to households earning  $< 80\%$  of county area median income).

**Public transit hub** (lines 2134-2137, 3578-3582)

HB462 requires a county that has created a transit district by January 1, 2022 (i.e., Summit County), and which has a bus hub in unincorporated areas serving more than four routes (i.e., Kimball Junction) to create a Housing and Transit Reinvestment Zone (HTRZ) at that hub by December 31, 2022.

**Appropriations** (lines 3845 - 3900)

- \$500,000 to the Dept. of Workforce Services for the development of a statewide database for moderate income housing units.
- \$750,000 to the Dept. of Workforce Services to provide assistance to landlords under the DWS Section 8 landlord incentive program for two years of funding (\$375,000 each year).
- \$132,000 to the Dept. Workforce Services to hire one additional FTEs.
- \$250,000 to the Dept. Workforce Services to appropriate to a non-profit entity for the purpose of education on regional land use training workshops for local officials and policymakers on housing issues.
- \$250,000 to the Dept. Workforce Services to appropriate to a nonprofit entity that engages in efforts to increase housing affordability.

**HB462 has an effective date of June 1, 2022**