

## DRAFTING LANGUAGE

### Adopting General Plans Through Ordinance Language:

#### 17-27a-401

##### Definitions:

By Right: Development may proceed under a current zoning ordinance without the need for special permit, variance, zoning amendment, waiver, or other discretionary zoning approvals.

- (1) A municipality shall prepare a comprehensive, long-range general plan for:
  - (a) Present and future needs of the municipality; and
  - (b) Growth and development of all or any part of the land within the municipality.
- (2) If a municipality does not:
  - a. Adopt the general plan by ordinance;
  - b. Show minimum based density; and
  - c. Show compliance with the moderate income housing element (3(a)(i)).

Private parties shall obtain By Right development if an application for residential development contains 10% of the units as affordable to those that qualify at 80% of the Area Median Income.

- d. When adopting a general plan by ordinance, a municipality shall not downzone by lowering the minimum based density.
- (3) (i) The general plan of a specified county, as defined in Section 17-27a-408, shall include a moderate income housing element that meets the requirements of Subsection 17-27a-403(2)(a)(iii).

17-27a-403(2)(a)(iii)

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

- (A) Provides a realistic opportunity to meet the need for additional moderate income housing within the next five years;
- (B) Selects three or more moderate income housing strategies described in Subsection (2)(b)(ii) for implementation;
- (C) Includes an implementation plan as provided in Subsection (2)(e);

### B & C Road Fund Language:

#### 17-27a-408

- (2) (a) Beginning in 2022, on or before October 1 of each calendar year, the legislative body of a specified county shall annually submit a written moderate income housing report to the division.
- (b) The moderate income housing report submitted in 2022 shall include:
- (i) The county's Moderate Income Housing Plan, created at the beginning of the calendar year, which shall include:
    - a. A description of each moderate income housing strategy selected for implementation;
    - b. A detailed description of the steps the county will take towards the selected strategies; and
    - c. Moderate income housing goals for the end of the calendar year.
- (c) The moderate income housing report submitted in each calendar year after 2022 shall include:
- (i) The Moderate Income Housing Plan required under Subsection (2)(b);
  - (ii) A description of each action, whether one-time or ongoing, taken by the specified county during the previous fiscal year to implement the moderate income housing strategies selected by the specified county for implementation, including:
    - a. Data proving what actions were successful and a description explaining why;
    - b. Data proving what actions were unsuccessful and a description explaining why; and
    - c. A detailed plan of next steps incorporating the above data.
      - i. Such data analysis shall be funded by a municipality's surplus of building permit or development fees.
  - (iii) A description of each land use regulation or land use decision made by the specified county during the previous fiscal year to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified county's efforts to implement the moderate income housing strategies;
  - (iv) A description of any barriers encountered by the specified county in the previous fiscal year in implementing the moderate income housing strategies and how the county is or plans to overcome such barriers; and
  - (v) Information regarding the number of internal and external or detached accessory dwelling units located within the specified county for which the specified county:
    - a. Issued a building permit to construct; or
    - b. Issued a business license to rent;
  - (vi) A description of how the market has responded to the selected moderate income housing strategies including the number of entitled moderate income housing units or other relevant data; and
  - (vii) Any recommendation on how the state can support the specified county in implementing the moderate income housing strategies.

- (6) If the division, after reviewing a specified municipality's moderate income housing report, determines that the report does not comply with 17-27a-408, the division shall send a notice of noncompliance to the legislative body of the specified municipality.
- (a) Such notice shall:
- (i) Describe each deficiency in the report and the actions needed to cure each deficiency;
  - (ii) State that the specified municipality has an opportunity to cure the deficiencies within 90 days after the day on which the notice is sent; and
  - (iii) State that a municipality's failure to cure the deficiency within such 90 days will result in ineligibility for funds under Subsection (1)(b).
- (b) A specified municipality that fails to submit a moderate income housing report to the division or fails to cure requested deficiencies in the municipality's report within 90 days after the day the division sent notice of noncompliance, is ineligible for the following funds:
- a. The executive director of the Department of Transportation may not distribute appropriated funds for the specified municipality's Class B and Class C roads as defined by Section 72-3-103 and Section 72-3-104, respectively.
  - b. The executive director of the Department of Transportation may not distribute program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the specified noncompliant municipality.
- (1) In a civil action seeking enforcement or claiming a violation of this section, a plaintiff may not recover damages but shall be awarded injunctive relieve or other equitable relief and attorney's fees.

## GOEO Incentives + Housing:

### [New Code Section]

- (1) In accordance with an economic development's projected job creation, a public entity may make an economic opportunity incentive payment if the incentivized company works with the public entity through a private/public partnership to plan and develop attainable and affordable housing in the municipality in which the development is located.
- (2) An incentivized company and their developer shall be required to mitigate affordable housing for 20 percent of the projected part time and full time employees and attainable housing for 50 percent of projected part time and full time employees generated by the incentivized company. For projects with a commercial component, the minimum affordable and attainable housing requirements shall be determined according to the following formulas:

<u>Type of Use</u>	<u>Part Time Equivalents</u>	<u>Full Time Equivalents</u>

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	<u>(1560 hours) per 1,000 Net Leasable Square Feet</u>	<u>(2080 hours) per 1,000 Net Leasable Square Feet</u>
<u>Commercial Offices</u>	<u>X</u>	<u>X</u>
<u>Industrial/Manufacturing</u>	<u>X</u>	<u>X</u>
<u>Data Center</u>	<u>X</u>	<u>X</u>
<u>Distribution</u>	<u>X</u>	<u>X</u>
<u>Restaurant/Bar</u>	<u>X</u>	<u>X</u>
<u>Education</u>	<u>X</u>	<u>X</u>
<u>Finance/Banking</u>	<u>X</u>	<u>X</u>
<u>Medical Professional</u>	<u>X</u>	<u>X</u>
<u>Other Professional Services</u>	<u>X</u>	<u>X</u>
<u>Personal Services</u>	<u>X</u>	<u>X</u>
<u>Real Estate/Property Management</u>	<u>X</u>	<u>X</u>
<u>Commercial/Retail</u>	<u>X</u>	<u>X</u>
<u>Recreation/Amusements</u>	<u>X</u>	<u>X</u>
<u>Utilities</u>	<u>X</u>	<u>X</u>
<u>Lodging/Hotel</u>	<u>X</u>	<u>X</u>
<u>Condominium Hotel</u>	<u>X</u>	<u>X</u>

<u>Overall/General</u>	<u>X</u>	<u>X</u>

- (3) If a project is non-commercial in nature but provides educational, social, or related community services, the city/municipality may reduce the employee rate by fifty percent (10% affordable and 25% attainable).
- (4) A developer can meet the mitigation requirements by:
  - (i) Constructing new units on their proposed development sites
  - (ii) Constructing new units within city/municipal limits on land not previously deed-restricted for affordability.

### RDA Funds Spent or Encumbered

Index            Utah Code  
 Title 17C      Limited Purpose Local Government Entities - Community Reinvestment Agency Act  
 Chapter 1      Agency Operations  
 Part 4          Project Area Funds

#### **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 have spent or encumbered, with reasonable expectation, the agency's housing allocation 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 a board has determined that a development impediment exists;
  - (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:

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(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);

(ix) relocate mobile home park residents displaced by project area development;

(x) subject to Subsection (7), transfer funds to a community that created the agency;

or

(xi) pay for or make a contribution toward the acquisition, construction, or rehabilitation of housing that:

(A) is located in the same county as the agency;

(B) is owned in whole or in part by, or is dedicated to supporting, a public nonprofit college or university; and

(C) only students of the relevant college or university, including the students' immediate families, occupy.

(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;

(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;

(v) pay for or make a contribution toward the acquisition, construction, or rehabilitation of income targeted housing that is outside of the community if the housing is located along or near a major transit investment corridor that services the community and the related project has been approved by the community in which the housing is or will be located;

or

(vi) pay for or make a contribution toward the expansion of child care facilities within the boundary of the agency, provided that any recipient of funds from the agency's housing allocation reports annually to the agency on how the funds were used.

(2)(a) An agency may combine all or any portion of the agency's housing allocation with all or any portion of one or more additional agency's housing allocations if the agencies execute an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(b) An agency that has entered into an interlocal agreement as described in Subsection (2)(a), meets the requirements of Subsection (1)(a) or (1)(b) if the use of the housing allocation meets the requirements for at least one agency that is a party to the interlocal agreement.

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(3)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.

(4)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 (4)(a) previously issued by the agency.

(5)(a) Except as provided in Subsection (5)(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 (5)(a) does not apply in a year in which tax increment is insufficient.

(6)(a) Except as provided in Subsection (5)(b), if an agency fails to provide a housing allocation in accordance with the project area budget and 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 (6)(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.

(7)For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(x), 17C-1-409(1)(a)(v), and 17C-1-411(1)(d) may not exceed the community's annual local contribution as defined in Subsection 59-12-205(5).