

2021 UTAH LEGISLATIVE SESSION

TRANSPORTATION, HOUSING & LAND USE,
NOTICING AND “OTHER” BILLS

SUMMARY AND ACTION

Note: Please see companion summary on our “Top Three” land use bills that are not included here. Thanks to Utah American Planning Association Utah Chapter (UT/APA) and the Wasatch Regional Front Council (WFRC) for this team effort.

Effective Date: May 5, 2021 unless otherwise noted.

Transportation

S.B. 217 Housing and Transit Reinvestment Zone Act (Sen. Wayne Harper, Rep. Steve Handy)

SB217 creates a new development tool: Housing and Transit Reinvestment Zones (HTRZ).

The HTRZ proposal is designed to get "all hands on deck" to help Utah tackle its housing crisis by facilitating mixed-use, multi-family and affordable housing development within a 1/3-mile radius of UTA FrontRunner stations. HTRZ enables a portion of incremental tax revenue growth to be captured over a period of time to support costs of development. This capitalizes on the State's plan to make historic investments in strategic double-tracking of FrontRunner to increase capacity, speed, frequency, and reliability.

Under the bill, a city can propose development and zoning around a FrontRunner station that:

- promotes higher utilization of public transit;
- increases availability of housing, including affordable housing;
- conserves water resources through efficient land use;
- improves air quality by reducing fuel consumption and motor vehicle trips;
- encourages transformative mixed-use development and investment in transportation and public transit infrastructure in strategic areas;
- uses strategic land use and municipal planning in major transit investment corridors; and
- increases access to employment and educational opportunities.

Development proposals that utilize HTRZ would be required to:

- be mixed-use;
- average at least 50 housing units to the acre; and
- have at least 10% affordable housing.

The city proposal would identify the costs and revenues necessary for the public infrastructure associated with the increased development in the HTRZ. The proposal would be subject to an independent financial “gap analysis” conducted through the Governor’s Office of Economic Development (GOED) (now renamed Governor’s Office of Economic Opportunity per [HB348](#)).

The proposal would be submitted to a committee for that specific HTRZ, made up of the relevant public entities, taxing entities, and transportation agencies. If the committee approves the proposal, then a portion of incremental local property tax revenues would be captured as needed to support the development costs.

In an area with an HTRZ, the state would also participate by contributing an amount equal to 15% of the incremental growth in state sales tax collected in the HTRZ into the state’s Transit Transportation Investment Fund (TTIF). Transit projects in HTRZs will be given priority consideration for TTIF funds.

The HTRZ proposal was developed by the Wasatch Front Regional Council (WFRC) in collaboration and consultation with cities, counties, transportation agencies, redevelopment agencies, developers, business associations, school districts, special districts, and others. It is a companion to another development tool created in Utah law in recent years, the [Transportation Reinvestment Zone](#) (TRZ).

Housing

[S.B. 164](#) Utah Housing Affordability Amendments (Sen. Jake Anderegg, Rep. Steve Waldrip)

SB164 presented consensus policy recommendations from the Commission on Housing Affordability, including:

- Authorizes local governments to contribute publicly owned property toward housing projects where 20% or more units are affordable with an accompanying deed restriction of at least 30 years.
- Allows for the creation of a mediation program for landlords and tenants designed to minimize the loss of housing for low-income persons and appropriates \$300,000 accordingly.
- Enables the Olene Walker Housing Loan Fund to award pre-development grants toward new low-income housing units in small cities and rural areas and provides \$500,000 in funding.
- Sets an expectation that the state GIS office ([AGRC](#) - renamed to the “Utah Geospatial Resource Center” by [HB261](#)) will coordinate with MPOs and County Assessors to inventory housing units and their characteristics in Utah’s counties of the first and second class. This up-to-date housing information promises to better support infrastructure planning, economic development efforts, and understanding of market trends. WFRC worked with counties and others to develop this element.

Several programs and changes were adopted in SB 164 to tackle housing affordability issues. Under SB 164 a municipality may grant municipal real property for affordable housing. Affordable housing units under this provision are those households whose income is no more than 50% of the area median income for households where the unit is located and can occupy the unit by paying no more than 31% of the household’s income for gross housing costs. If a municipality grants property to a development

entity for affordable housing, the municipality must ensure that the real property is deed restricted for at least 30 years but is exempt from the requirements in UCA 10-8-2(3).

The executive director of the Department of Workforce Services may award predevelopment grants up to \$50,000 per project to entities located in towns and fifth and sixth class cities. Recipients may use grants for preconstruction services to low-income housing units, including market studies, technical assistance, surveys, environmental and impact studies, and preliminary architecture or engineering services. The bill also authorizes the Housing and Community Development Division to create a mediation program for landlords and tenants to minimize the loss of housing for low-income persons. Towns and fifth or sixth class cities may want to work with local pre-construction entities to encourage use of and target projects for grants.

Finally, the bill directs county assessors and metropolitan planning organizations to work with the State Geographic Information Database to inventory existing housing units and their general characteristics. These efforts are designed to give communities a better understanding of their current housing stock.

Appropriations for Housing and Homelessness:

The Legislature appropriated an unprecedented \$50M towards affordable housing and homelessness, which is expected to be matched by \$730M in private sector funding and loans.

- \$15M for Homeless to Housing to be matched by \$15M from philanthropic, community and local government sources to support direct homeless services and associated homeless service system needs statewide as determined by the new Utah Homeless Council and state homeless coordinator. (SB2 item 235)
- \$10M for gap financing of private activity bond financed multi-family housing, matched by \$200M in private funding. \$25M to match private dollars for the preservation and rehabilitation of affordable housing units for low-income individuals through the Utah Housing Preservation Fund, matched by \$500M in private funding and loans. (SB2 item 212)
- Read this story about the housing investments: [Utah Legislature puts \\$50M into housing, homelessness / Utah's philanthropic community plans to match the investment with \\$730M.](#)

Planning and Land Use

H.B. 368 State Planning Agencies Amendments (Rep. Robert Spendlove, Sen. Ann Millner)

HB368 renames the [Governor's Office of Management and Budget](#) (GOMB) to the Governor's Office of *Planning* and Budget (GOPB).

This change is intended to elevate planning in Utah through improved coordination across the state. Utah has been the fastest growing state in the nation over the past ten years. Stakeholders must work together across jurisdictional boundaries to collaborate, share data, and develop plans. HB 368 is not intended to supplant any activities currently being done by other entities, but rather to build upon and enhance the coordination among those entities. GOPB, through the State Planning Coordinator, is uniquely situated to help facilitate alignment across state agencies, and to help coordinate federal, state, regional, and local government planning efforts towards shared priorities. This is also intended to

better align planning activities with budget analysis and development, with consideration of Utah's long-term needs.

HB368 also creates a repository for planning information and studies within GOPB.

HB 19 County Classification Amendments (Rep. Casey Snider, Sen. Wayne Harper)

This bill changed the population requirements on which county classifications are based.

State law often places different requirements on select counties by classifying counties based on population. This bill increases most of the county population thresholds for classification. First class counties are now a population of 1,000,000 or more. Second class counties are now 175,000, but less than 1,000,000. Third class are 40,000 or more, but less than 175,000. Fourth class counties are 11,000 or more but less than 40,000. Fifth (4,000 or more) and sixth (less than 4,000) class counties did not change. The bill will likely have minimal municipal impact except in limited circumstances. However, it may change requirements or services within a county that has changed classifications, potentially impacting municipalities in that county.

SB 194 Utah Main Street Program (Rep. Steven Lund, Sen. Derrin Owens)

SB 194 facilitates Utah's participation in the National Main Street Center through the Governor's Office of Economic Development (GOED).

The Utah Main Street Program will provide resources for the revitalization of downtown or commercial districts. Municipalities can work with GOED to participate in the program and receive technical assistance.

Resources: [A new Utah Main Street Program](#) / [Project Goals](#)

HB 107 Subdivision Plat Amendments (Rep. Joel Ferry, Sen. Derrin Owens)

HB 107 amends subdivision plat provisions as they relate to a water conveyance facility.

Under this bill, a land owner submitting a subdivision plat to a municipality must include a description of water conveyance facility rights-of-way and easements and any water conveyance facility located in the plat. After the municipality receives the subdivision plat, the municipality must, within 20 days, mail notice to a water conveyance facility owner within 100 feet of the plat. The bill also requires a surveyor making a subdivision plat to consult with the owner of a water conveyance facility.

HB 115 Municipal Boundary Modification (Rep. Steve Waldrip, Sen. Daniel McCay)

This bill addresses cross-county annexations and amends provisions related to notice and exclusions from an incorporation.

A municipality that intends to annex property across a county line should amend its annexation plan to identify the property and review the feasibility study requirements enacted in this legislation for cross-

county annexations. The bill also prohibits a municipality from annexing an area that is identified in an incorporation feasibility study if the lieutenant governor has completed the first incorporation public hearing and the time for a specified land owner to withdraw from incorporation has expired. The bill makes additional changes to incorporation notice and process.

HB 171 Agricultural Land Use Restrictions (Rep. Scott Chew, Sen. David Hinkens)

HB 171 prohibits a municipality from restricting or regulating certain crops.

Under this bill, a municipality may not restrict the type of crop grown in an agricultural zone or an area assessed under the Farmland Assessment Act. A municipality may not regulate an industrial hemp producer licensee if that regulation conflicts with Title 4, Chapter 41, Hemp and Cannabinoid Act, or the Municipal Land Use, Development, and Management Act.

SB 243 Political Subdivisions Amendments (Rep. Francis Gibson, Sen. Jerry Stevenson)

This bill makes changes to the authority of the Utah Inland Port Authority, the Point of the Mountain State Authority, and a Military Installation Development Authority.

A municipality located within the Utah Inland Port Authority, the Point of the Mountain State Authority, or a Military Installation Development Authority should review this bill for amendments changing the use of tax increment for bonding and Open and Public Meetings Act requirements, among other amendments.

Notice & Open and Public Meetings Act

SB201 - Public Notice Amendments (Rep. Joel Ferry, Sen. Karen Mayne)

This bill modifies public notice provisions. Eliminates requirement to publish notice in newspaper for hearings on general plan and land use regulation adoption or amendments.

SB 201 eliminates some requirements to publish public notice in a newspaper and on certain legal notice websites and requires certain notices to be posted on the Utah Public Notice Website. Municipal clerks and others that post notice should review the extensive changes to the municipal code, municipal land use code, and other state code provisions.

Example: Courtesy of SLC Planning Department:

Section changed in the code:

Section changed in the bill: Required zoning ordinance changes

Lines 1676-1677

No changes are required, as city code just refers to this same section of code for newspaper notices for general plan amendments.

Lines 1702-1703

No changes are required, as city code just refers to this same section of code for newspaper notices for adoption or changes to land use regulations.

Lines 5984-5987

Removes newspaper notice for temporary street closures. May not require any changes to city code as this is not addressed in the zoning code.

SB 72 Open and Public Meetings Amendments (Rep. Susan Pulsipher, Sen. Lincoln Fillmore)

This bill prohibits a public body from taking a vote in a closed meeting except a vote to end the closed portion of the meeting.

SB 125 Open and Public Meetings Acts Amendments (Rep. Timothy Hawkes, Sen. David Buxton)

SB 125 amends the Open and Public Meetings Act provisions related to electronic meetings and anchor locations.

This bill requires a public body convening an electronic meeting to provide facilities at an anchor location for the public to attend the meeting unless the chair of the public body determines that providing an anchor location would present a substantial health or safety risk to those present or the location where the public body normally meets is closed for public health or safety reasons. A municipality should review the anchor location and notice requirements.

Bills That Failed

SB 61 Outdoor Advertising Amendments (Sen. Scott Sandall)

SB 61 addressed the conversion of existing static billboards to digital if located in a zone in which a municipality allowed digital on-premise signs (e.g. a digital sign over a store front). The final version of SB 61 would have allowed a municipality to prohibit conversion in exclusively residential zones, but would have required by-right conversion in any other zone where a municipality also allowed digital on-premise signs. (In a zone that was primarily residential, the bill would authorize a limited curfew on a digital billboard.) The by-right conversion to digital was regardless of the size of on-premise digital signs or if there were any permitted digital on-premise signs in the zone.

In recent case law the federal courts have decided that, under the First Amendment, the government may not adopt regulations that distinguish between on-premise and off-premise signs (aka billboards) exclusively based the sign's advertised content: billboards advertise a good or service not offered at the location where the billboard is located while on-premise signs advertise a good or service offered at the same location as the sign. If a municipality has not recently reviewed its sign ordinances, it should carefully examine any regulatory distinctions between on-premise and off-premise signs.

SB 221 Short-term Rental Amendments (Sen. Jake Anderegg)

This bill would have prohibited a municipality from enforcing an ordinance that would not allow owner-occupied short-term rentals and using tax revenue to rent a short-term rental to enforce an ordinance that prohibited a short-term rental.

Short-term rentals and their impact on affordable housing will likely be a discussion point during the 2021 interim and 2022 session. Although some legislators have recognized the housing problem that short-term rentals can create in communities, there is still strong sentiment that short-term rentals are a property rights issue. ULCT will continue to discuss with stakeholders the impacts that short-term rentals have and how to balance the various policy concerns going forward.

Other Bills Passed

HB23 Voter Referendum Amendments

- Clarifies that "land use law" includes rezoning of individual properties (subject to referendum)
- Stipulates that "local law" does not include a "land use decision" (administrative action)

HB63 Impact Fees Amendments

- Clarifies that overhead and study costs can be included in basis for impact fee determination.

HB28 Land Use and Eminent Domain Advisory Board Amendments

- Extends sunset date for Land Use and Eminent Domain Advisory Board to 2026

HB52 Point of the Mountain Development Commission Act Modifications

- Adds entities to coordinate with, issues to consider, and extends repeal date to 2023.

HB151 State Infrastructure Bank Amendments

- Adds publicly owned infrastructure project, defined as sewer and water facilities.

HB256 County Land Use and Development Amendments

- Amends county LUDMA (17-27a)
- Stipulates any development agreement provision requiring development to annex is unenforceable.

HB297 Colorado River Amendments

- Creates Colorado River Authority of Utah to plan for and deal with Utah's share of Colorado River water.

HB433 Amendments Related to Infrastructure Funding

- Funding and bonding for numerous infrastructure projects, including many transportation road, transit, and active transportation project.

SB65 Community Reinvestment Agency Amendments

- Makes numerous changes to CRA rules and procedures.

SB113 Transportation Amendments

- Among numerous provisions, stipulates that funding for public transit must directly increase transit capacity and not for ancillary facilities.

SB130 Regulation of Concentrated Animal Feeding Operations

- Adds new part to County LUDMA – Large Concentrated Animal Feeding Operations.
- Very arcane and detailed.
- Ordinance must be adopted by Feb. 1, 2022.

SB240 County Recreational Area Amendments

- Relates to Mountainous Planning Districts.
- Simplifies greatly, applicable to municipalities.
- Only existing MPD is in Salt Lake County.