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Planning

Utah's Dedication to Affordable Housing

General plans act as a jurisdiction's guiding light over the coming years. These comprehensive, long-range plans evaluate the present and future needs of the jurisdiction while also directing the growth and development of that jurisdiction. These plans cover a wide range of topics from transportation, water, recreation, education, and culture.

Since 1996, the Utah State Legislature has deemed planning and development of moderate income housing a statewide concern with the initial adoption of 10-9-307 of the Utah Code. Most jurisdictions must incorporate a moderate income housing element within their general plan. This moderate income housing element includes an "analysis of how the jurisdiction will provide a realistic opportunity for development of moderate income housing within the next five years."

While all jurisdictions are highly encouraged to include a moderate income housing element in their general plan and to take proactive steps towards creating affordable housing, the Legislature of the State of Utah has set the following criteria for those jurisdictions that must meet the requirement:

COUNTIES

First, second, and third class* counties with at least 5,000 people in the unincorporated portion.

MUNICIPALITIES

Cities**

- First, second, third, or fourth class cities
- Fifth class cities with at least 5,000 people and part of a first, second, or third class county

Metro Townships

- Metro townships with at least 5,000 people

* - First class = 1,000,000 people or more; second class = 175,000-999,999 people; third class = 40,000-174,999 people

** - First class = 100,000 people or more; second class = 65,000-99,999 people; third class = 30,000-64,999 people; fourth class = 10,000-29,999 people; fifth class = 1,000-9,999 people

The Importance of Planning for Moderate Income Housing

With proper planning and regulations, jurisdictions can pave the way for the private market to adequately address the housing needs and demand of Utah residents - today and in the future. Housing is one of the top priorities of people and ensuring there's enough housing that people can afford is very important.

As defined by Utah Code, moderate income housing is "housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located." By planning for moderate income housing, jurisdictions will be able to target and direct housing development that will cover a large segment of their population and help to limit the cost burden their residents experience in owning a home.

Planning for moderate income housing by identifying key strategies and how a jurisdiction will implement them within the general plan is a major first step. For a greater impact and to ensure those strategies and implementations continue to work in the future, it's imperative to analyze and revise this planning regularly. Our communities are forever changing and the direction and planning we take must be adjusted accordingly to ensure we're supporting existing and future residents throughout Utah.

Benefits and Limitations

There are benefits for those jurisdictions that meet or even exceed the moderate income housing requirement. Those jurisdictions that exceed the standard requirements by (selecting and implementing two additional strategies) will receive priority consideration of specific funding for the following year after the annual report submission. On the flip side, jurisdictions that do not submit their annual report or do not meet the standard requirements will be deemed ineligible for those same funding opportunities.

The funding opportunities related to this requirement include:

- Transportation Project Funding from the Transportation Commission (Transportation Investment Fund and Transit Transportation Investment Fund) and
- COVID-19 Local Assistance Matching Grant Technical Assistance Program through the Governor's Office of Planning and Budget.

Housing Element Guidance

There are a number of elements that relate to planning for moderate income housing in Utah. We'v e outlined the primary elements of the state requirement to provide general guidance.

Moderate Income Housing Element in the General Plan

While all jurisdictions are encouraged to plan for moderate income housing, certain jurisdictions are required to include a moderate income housing element within their general plan. The inclusion of this element demonstrates that the jurisdiction desires to create an opportunity for a variety of housing in order "to meet the needs of people of various income levels living, working, or desiring to live or work in the community" while also allowing "people of various incomes to benefit from and fully participate in all aspects of neighborhood and community life."

This housing element should include two pieces: specific strategies which the jurisdiction intends to utilize and an implementation plan to see those strategies through over the next five years.

Strategies

Municipalities and counties must include at least three strategies - municipalities with a " fixed guideway transit station" (train or BRT station) must have at least four strategies. The menu of strategies includes the following:

A. Rezone for densities necessary to facilitate the production of moderate income housing
B. Demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing
C. Demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing
D. Identify and utilize general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county/municipality for the construction or rehabilitation of moderate income housing
E. Create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones
F. Zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones near major transit investment corridors, commercial centers, or employment centers
G. Amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors
H. Amend land use regulations to 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

I. Amend land use regulations to allow for single room occupancy developments
J. Implement zoning incentives for moderate income units in new developments
K. Preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund
L. Reduce, waive, or eliminate impact fees related to moderate income housing
M. Demonstrate creation of, or participation in, a community land trust program for moderate income housing
N. Implement a mortgage assistance program for employees of the county/municipality, an employer that provides contracted services for the county/to the municipality, or any other public employer that operates within the county/municipality
O. Apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for affordable housing programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing
P. Demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing
Q. Create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act
R. Eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530
S. Create a program to transfer development rights for moderate income housing
T. Ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing
U. Develop a moderate income housing project for residents who are disabled or 55 years old or older
V. Develop and adopt a station area plan in accordance with Section 10-9a-403.1
W. Create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones
X. Demonstrate implementation of any other program or strategy to address the housing needs of residents of the county/municipality who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing

Notes:

1. Municipalities with a fixed guideway transit station must include strategy V in their moderate income housing element.
2. Strategy "O" above does not include the phrase "an entity that applies for affordable housing programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperative Act," for counties.
3. Strategy "V" above does not apply to counties.

Implementation

Identifying the key strategies that your jurisdiction is going to utilize is a first step to planning for moderate income housing. The next piece, and some might say the most important piece, is the implementation plan for these strategies.

The jurisdiction should determine an appropriate and realistic implementation plan to bring these strategies to life over the next five years. This implementation plan should be developed in a way that there's flexibility so that the jurisdiction can make adjustments as needed over time. The implementation should also identify specific measures and benchmarks for the strategies. This allows the jurisdiction and general public to understand exactly what needs to happen and creates a method of verifying and determining if the moderate income housing plan is being met.

Adoption

Drafting the strategies and implementation plan need to then be followed by incorporation and adoption of the moderate income housing element within the general plan. Below are a number of resources to assist with this phase.

A basic outline (will be available at the end of May 2022) for the moderate income housing element of the general plan has been drafted. The outline is based on a number of guidelines and best practices recommended by the American Planning Association (APA) and the US Department of Housing and Urban Development (HUD). The writing guide (will be available at the end of May 2022) provides easy to follow tips on preparing a high-quality moderate income housing element.

The moderate income housing element and implementation plan must be formally adopted by resolution and posted on the jurisdiction's website. Prior to the adoption, a public notice and comment along with a public hearing must be held to review the proposed amendment to the general plan.

Analysis

Starting in 2023, jurisdictions that are required to submit an annual report will also need to include an analysis of the progress they've made over the past year. This analysis is self-reported and reviewed by the Housing and Community Development Division. It gives the jurisdiction the ability to truly look at the strategies they've selected, the progress they've made toward implementation, as well as identify any barriers or issues they've run into over the year while trying to enable and encourage moderate income housing.

More details about the annual report and the analysis element can be found on the Reporting (https://docs.google.com/document/d/19m1hOWdGkbOWcHzuQ_uCFHN3ZjloxbnJwTDyCS4I8hM/edit#heading=h.6uc55yyg9xpp) page.

Clearinghouse of Affordable Housing Data

Planning is said to be policymaking with a map. Evidence-based policies are forward-looking and shaped by high-quality, reliable information rather than reflex responses to short-term pressures. They tackle causes not symptoms. Evidence-based policies are designed to: 1) Test the validity of perceived issues in a community; 2) Assess the extent of verified problems; 3) Evaluate the potential efficacy of proposed solutions; and 4) Monitor progress in resolving those problems.

Each year the U.S. Census Bureau conducts an extensive household survey called the American Community Survey (ACS) and posts the results on its website. The American FactFinder (https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml) is a powerful online tool for accessing the tabulated results of the ACS. HUD then compiles the ACS into Comprehensive Housing Affordability Strategy (CHAS) datasets, which are tabulations of housing needs according to household income and program eligibility limits. It then publishes these data on its HUDuser (https://www.huduser.gov/portal/home.html) website. However, these websites are not the most intuitive websites to use. HCD has provided a number of easy to follow tutorials and an Affordable Housing Gap Analysis tool to help guide you on your way to evidence-based planning.

The Role of the Utah Housing and Community Development Division

The Utah Housing and Community Development Division (HCD) plays a critical role assisting the State in the creation of moderate income housing. In addition to developing the regulations related to this topic within the State Code, HCD is here to:

- Train jurisdictions on the annual reporting process,
- Review and publish all submitted annual reports,
- Determine compliance with the regulation as well as priority funding consideration for jurisdictions that exceed the standard requirement,
- Identify jurisdictions that are in noncompliance and therefore ineligible for certain funding, and
- Provide support and answers to jurisdictions throughout the general plan adoption and implementation of the housing element.

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