



Housing and Transit Reinvestment Zones

WHITE PAPER

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White Paper – Housing and Transit Reinvestment Zone Act
Utah State Senate Bills 217 (2021), 140 (2022) and 84 (2023)

Chief Sponsor – Wayne Harper – Utah State Senate

House Sponsor SB 217 and SB 140 – Stephen G. Handy – Utah House of Representatives

House Sponsor SB 84 – Casey Snider – Utah House of Representatives

Utah Code 63N-3-6

Key Objectives

Given the current housing affordability crisis along the Wasatch Front, with rapidly rising home prices and rent rates, HTRZs enable an “all-hands-on-deck” approach to help mitigate the housing affordability crisis and to better utilize transit infrastructure and investment.

The following central **objectives** of Housing and Transit Reinvestment Zones are referenced in Utah Code 63N-3-603(1):

- Promote greater utilization of public transit
- Increase availability of housing, including affordable housing and fulfillment of moderate-income housing plans¹
- Improve efficiencies in parking and transportation, including walkability near public transit
- Overcome development impediments and market conditions that render a development cost prohibitive absent the proposal and incentives
- Conserve water resources through efficient land use
- Improve air quality by reducing fuel consumption and motor vehicle trips
- Encourage transformative mixed-use development and investment in transportation and public transit infrastructure in strategic areas
- Strategic land use and municipal planning in major transit investment corridors
- Increase access to employment, educational opportunities and child care

A summary of **key provisions** is as follows:

- Allows HTRZs within 1/3 mile of commuter rail stations with no more than 125 acres, and allowance for ½ mile at some sites
- Allows HTRZs around light rail and bus rapid transit facilities within ¼ mile and no more than 100 acres.
- Limits the number of light rail HTRZ zones in any county to eight, and no more than three for BRT in a county of the first class

¹ Affordable housing, as defined by 11-38-102 of Utah state code, is noted as “housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80 percent of the median gross income of the applicable municipal or county statistical area for households of the same size.” If, however, a municipality meets the affordable housing guidelines of the United States Department of Housing and Urban Development (HUD) at 60 percent area median income, it is exempt from the requirement of ten percent affordable housing described in 63N-3-603.

- Requires equal participation by all local taxing entities
- Defines the term and increment capture of each housing and transit reinvestment zone
- Details the membership of the housing and transit reinvestment zone committee
- Provides density requirements for HTRZs which entail at least 50 dwelling units per acre over at least 51 percent of the developable ground at commuter rail and light rail stations; requirements for BRT stations are 39-49 dwelling units per acre over at least 51 percent of the developable ground.
- Requires that at least 10% of the residential units are affordable at 80% of AMI
- Requires relevant zoning changes be made before the housing and transit reinvestment zone may be approved by the committee
- Requires that an independent gap analysis be conducted to evaluate the minimum amount of public financing to cover development costs and excludes direct subsidies to developers
- Requires that a reasonable percentage of dwelling units contain more than one bedroom (to accommodate families)

Applicability and Requirements for an HTRZ

A municipality or public transit county that initiates the process to create a housing and transit reinvestment zone shall ensure that the proposal for an HTRZ includes the following requirements based on three potential station scenarios:

- HTRZ creation surrounding commuter rail
- HTRZ creation surrounding light rail
- HTRZ creation surrounding BRT

The following table summarizes and compares requirements based on type of station and density of housing development:

TABLE 1: HTRZ REQUIREMENTS AND SPECIFICATIONS

	Commuter Rail	Light Rail, BRT	BRT
% affordable housing required on developable acres	10%*	10%*	10%*
Residential % of developable land	51%	51%	51%
# DUs per acre	>=50	>=50	39-49
Mixed-use development required	Yes	Yes	Yes
Reasonable % of DUs >1 bdrm required	Yes	Yes	Yes
Radius from station	<=1/3 mile**	<=1/4 mile**and***	<=1/4 mile
Maximum acres (noncontiguous)	125	100	100
Property tax Increment capture	80%, 25 yrs max per parcel, 45-yr period	80%, 15 yrs max per parcel, 30-yr period	60%, 15 yrs max per parcel, 30-yr period
Sales tax increment capture	15% to TTIF	15% to TTIF	15% to TTIF

Commuter Rail	Light Rail, BRT	BRT
*No affordable housing requirement if municipality or public transit county meets HUD requirements of < 60% AMI		
**For a city of the 1 st class with a population >150,000, in a county of the 1 st class, with commuter or light rail station located in an opportunity zone, radius can extend to ½ mile		
***Radius extends to ½-mile in a master-planned development of >500 acres		
Note: Other than an inactive industrial site (site-specific to Utah County), an HTRZ may not overlap any portion of an already-existing project area until that project area is dissolved		

A discussion of the major requirements for municipalities and public transit hubs follows:

Commuter Rail

Requirements:

- At least 10 percent of all housing units are affordable²
- Average density of 50 units per acre or greater over at least 51 percent of the developable ground
- Mixed use development
- Mix of dwelling units to ensure that a reasonable percentage of the dwelling units has more than one bedroom
- Generally must be located within 1/3-mile of station³
- Has a maximum of 125 noncontiguous acres within the radius

Tax Impacts:

- 80% of tax increment revenues for a maximum of 25 consecutive years per parcel, with a maximum time period of 45 years for the entire HTRZ
- 15% of incremental state sales tax in the HTRZ is transferred to the Transit Transportation Investment Fund (TTIF) by the State Tax Commission

Light Rail and BRT

Requirements:

- At least 10 percent of all housing units are affordable⁴
- Average density of 50 units per acre or greater over at least 51 percent of the developable ground
- Mixed use development
- Mix of dwelling units to ensure that a reasonable percentage of the dwelling units has more than one bedroom
- Generally must be located within 1/4-mile of station (can extend to 1/2 mile radius if the light rail station is located in a master-planned community of >500 acres)
- Has a maximum of 100 noncontiguous acres within the radius

² This requirement is waived if, at the time of the creation of the HTRZ, the municipality or public transit hub meets HUD's guidelines at 60% of AMI (area median income)

³ For a municipality that is a city of the first class with a population greater than 150,000 that is within a county of the first class, with an opportunity zone, does not exceed a ½-mile radius of a commuter rail station located within the opportunity zone

⁴ This requirement is waived if, at the time of the creation of the HTRZ, the municipality or public transit hub meets HUD's guidelines at 60% of AMI (area median income)

Tax Impacts:

- 80% of tax increment revenues for a maximum of 15 consecutive years per parcel, with a maximum time period of 30 years for the entire HTRZ
- 15% of incremental STATE sales tax in the HTRZ is transferred to the Transit Transportation Investment Fund (TTIF) by the State Tax Commission

BRT*Requirements:*

- At least 10 percent of all housing units are affordable⁵
- Average density between 39-49 dwelling units per acre over at least 51 percent of the developable ground
- Mixed use development
- Mix of dwelling units to ensure that a reasonable percentage of the dwelling units has more than one bedroom
- Must be located within 1/4-mile of station
- Has a maximum of 100 noncontiguous acres within the radius

Tax Impacts:

- 60% of tax increment revenues for a maximum of 15 consecutive years per parcel, with a maximum time period of 30 years for the entire HTRZ
- 15% of incremental state sales tax in the HTRZ is transferred to the Transit Transportation Investment Fund (TTIF) by the State Tax Commission

Exceptions

Exceptions to the above general requirements are as follows:

- A municipality or public transit county that, at the time the housing and transit reinvestment zone proposal is approved by the housing and transit reinvestment zone committee, meets the affordable housing guidelines⁶ of the United States Department of Housing and Urban Development at 60% area median income is exempt from the requirement of 10 percent affordable housing within the HTRZ
- For a municipality that is a city of the first class with a population greater than 150,000 that is within a county of the first class, with an opportunity zone, the radius of the HTRZ may extend to up to ½-mile radius from the commuter rail station located within the opportunity zone or ½-mile radius from a light rail station located within a master-planned development of 500 acres or more
- If a parcel is bisected by the ¼-mile, 1/3-mile or ½-mile radius, the full parcel may be included as part of the HTRZ and the portion outside the boundary will not count against the acreage limitation

⁵ This requirement is waived if, at the time of the creation of the HTRZ, the municipality or public transit hub meets HUD's guidelines at 60% of AMI (area median income)

⁶ <https://www.huduser.gov/portal/datasets/il.html>

Process and Creation of HTRZs

A municipality or public transit hub that desires to create an HTRZ must prepare a detailed and extensive proposal that includes the following elements.

Proposal Plan Requirements

- Demonstrates that the proposed HTRZ meets objectives described within the bill (outlined on the initial page of this white paper)
- Explains how the municipality or public transit county will achieve the requirement that at least 10 percent of the housing units are affordable
- Defines the specific transportation infrastructure needs, if any, and proposed improvements
- Includes the following maps of the proposed HTRZ:
 - Boundary and radius from a public transit hub
 - Housing density
 - Existing zoning and proposed zoning changes
- Identifies any development impediments that prevent the development from being a market-rate investment and proposed strategies for addressing each one
- Describes the proposed development plan, including plans for
 - At least 10 percent affordable housing
 - Ensuring that at least 51 percent of the developable area includes housing, with densities of at least 50 units per acre for commuter rail stations and 39 units per acre for light rail stations
 - Mixed-use development
 - Mix of dwelling units to ensure a reasonable percentage of the dwelling units have more than one bedroom
- Establishes a base year and collection period to calculate the tax increment generated within the HTRZ
- Establishes a sales and use tax base year to calculate the sales and use tax increment generated within the HTRZ
- Describes the projected maximum revenues generated and the amount of tax increment captured from each taxing entity and proposed expenditures of revenue derived from the HTRZ
- An analysis of other applicable or eligible incentives, grants or sources of revenue that can be used to reduce the finance gap

- Evaluates possible benefits to active and public transportation availability and impacts on air quality
- Proposes a finance schedule to align expected revenue with financing costs and payments
- Provides a pro-forma for the planning development including the differential between surface parked multi-family development and enhanced development that satisfies all HTRZ requirements
- Evaluate possible impacts of a proposed housing and transit reinvestment zone on parking within the city and HTRZ

Approval Process

The Proposal then must be submitted to the Governor's Office of Economic Opportunity (GOEO) which must provide notice to all affected entities within 14 days of receipt of a HTRZ application.

After receiving notice from GOEO, the State Tax Commission shall provide a letter to GOEO evaluating the feasibility of administering the tax implications of the proposal.

Upon receipt of an application, GOEO then contracts with an independent entity to conduct a gap analysis which shall include:

- A description of the planned development
- A market analysis relative to other comparable project developments included in or adjacent to the municipality or public transit county absent the proposed HTRZ
- An evaluation of the proposal to and a determination of the adequacy and efficiency of the proposal
- An evaluation of the proposed increment capture needed to cover the enhanced development costs associated with the HTRZ proposal and enable the proposed development to occur
- An opinion, based on the market analysis and other findings, to the appropriate amount of potential public financing reasonably determined to be necessary to achieve the objectives outlined in 63N-3-603

Once the results of the analysis are received by GOEO, the petitioning city of the HTRZ has the option to amend the proposal and to resubmit. The petitioning entity has the responsibility to pay for the independent analysis, coordinated by GOEO, at a cost up to \$20,000.

HTRZ Committee

The HTRZ Committee shall consist of the following members:

- One representative from GOEO (serves as chair of the committee), designated by the Executive Director of GOEO
- One representative from each municipality that is a party to the proposed HTRZ, designated by the chief executive officer of each party
- A member of the state Transportation Commission
- A member of the Board of Trustees of a large public transit district

- One individual from the Office of the State Treasurer, designated by the State Treasurer
- One member designated by the president of the Senate
- One member designated by the speaker of the House of Representatives
- One member designated by the chief executive officer of each county affected by the HTRZ
- One representative designated by the school superintendent from the school district affected by the HTRZ
- One representative representing the largest participating local taxing entity after the municipality, county and school district

Once GOEO has received the results of the required proposal and gap analysis, each of the required committee entities shall be notified regarding the formation of the HTRZ committee. The chair of the committee convenes a public meeting, subject to the Open and Public Meetings Act, to consider the proposal for creation of an HTRZ. At the public meeting, the petitioning city shall present the HTRZ proposal. At that time, the HTRZ committee shall evaluate and verify whether the planned objectives of the statute have been met. The committee may request changes to the proposal or vote to approve or deny the proposal.

If the committee determines a vote of approval, the HTRZ is established per the terms of the proposal. At that point, the affected local taxing entities are required to participate according to the terms of the HTRZ proposal. Within 30 days of approval of the HTRZ, the municipality is to record with the County Recorder a document containing a description of the land within the HTRZ, a statement that the HTRZ has been approved, and the date of adoption. The description of the land with the HTRZ and an accurate map or plat indicating the boundaries of the HTRZ is to be transmitted to the Utah Geospatial Resource Center (UGRC). Furthermore, the approved proposal and description of the land shall be sent to the auditor, recorder, attorney, surveyor, and assessor of the county in which the HTRZ is located. Similar documentation is required to be sent to the taxing entities, the Tax Commission, and the State Board of Education.

The commencement of collection of tax increment within an HTRZ area (either within all or a portion of the area) is triggered by providing notice (by mail or electronically) to the State Tax Commission, the State Board of Education, the State Auditor, the auditor of the county in which the HTRZ is located, each taxing entity affected by the collection of the tax increment, and GOEO.

Restrictions to the Number of HTRZs Created

The number of HTRZs that may be created are restricted as follows:

- Maximum number of HTRZs at light rail stations is eight in any given county
- Maximum number of HTRZs at BRTs is three in a county of the first class, with no restrictions in all other counties
- No restrictions on the number of HTRZs surrounding commuter rail

Given these limitations, regional planning is of the utmost importance in order to ensure a comprehensive, coordinated plan that maximizes the potential from station sites.

Comparison of HTRZ to Community Reinvestment Areas (CRA)

The HTRZ bill has notable similarities and differences to existing tax increment financing tools, particularly Community Reinvestment Areas (CRA). Differences between the two tools are highlighted below:

TABLE 2: COMPARISON OF CRAS AND HTRZS

	CRA	HTRZ
Geographic Limitations	Limited to municipal boundaries	Limited to 100-125 acres and ¼, 1/3, or ½ miles of transit stations
Funding Mechanism	Tax Increment Financing	Tax Increment Financing
Taxing Entity Participation	Not required	Required up to 80 percent for 25 years within a 45-year period for commuter rail; 60%-80% for 15 years within a 30-year period for light rail and BRT
State of Utah Participation	No	Participation through sales tax increment of 15 percent into the Transit and Transportation Investment Fund
Governing Body	Municipal Redevelopment Agency	Municipal Redevelopment Agency
Committee Formation Required	No	Yes – representatives from multiple agencies
State Approval Required	No (state does not approve boundaries or expenditures but does require documentation filing)	Yes – Governor’s Office of Economic Opportunity to review required proposals
Area of Expenditure	Within defined boundaries or for improvements that benefit the area	Within defined boundaries or for improvements that benefit the area
Zoning and Use Requirements	No requirements	At least 51 percent of land in an HTRZ to be used for multi-family at an average density of 50 units an acre
Affordable Housing Requirements	No requirements for direct development; ten percent affordable set-aside for CRAs generating more than \$100,000 in increment annually	Requirement of ten percent of residential units to be made affordable to those making less than 80 percent of area median income unless the municipality or transit county meet the HUD affordable housing guidelines at 60% AMI
Can be used with other tools	Yes	Qualified

Use of Property Tax Increment Generated in an HTRZ

Similar to other tax increment financing tools (Community Reinvestment Areas), tax increment distributed to a municipality in accordance with the HTRZ is not considered to be revenue of the taxing entity or municipality. Tax increment paid to a municipality are HTRZ funds that shall be administered by an agency created by the municipality where the HTRZ is located. Before an agency may receive funds, the municipality and the agency shall enter into an interlocal agreement with terms that are consistent with the approval of the HTRZ committee and meet the objectives of the HTRZ statute.

Statute specifically notes that a municipality shall use housing and transit reinvestment zone funds within, or *for the direct benefit of*, the housing and transit reinvestment zone. If funds will be used outside of the HTRZ, there must be a finding within the approved proposal that the use of the HTRZ funds outside of the area will *directly benefit* the dedicated zone.

Funds may be used for the HTRZ to accomplish the objectives of statute, including for the following uses:

- Income targeted housing costs
- Structured parking within the HTRZ
- Enhanced development costs
- Horizontal construction costs
- Vertical construction costs
- Land purchase costs within the housing and transit reinvestment zone
- Costs of the municipality to create and administer the HTRZ, which may not exceed one percent of the total HTRZ funds, plus the costs to complete the gap analysis previously described

In addition, HTRZ funds may be paid to a participant if the agency and participant enter into a participation agreement which requires the participant to utilize the HTRZ funds as allowed under the uses outlined directly above.

The HTRZ funds may be used to pay all of the costs of bonds issued by the municipality in accordance with Title 17C, Chapter 1, Part 5, including the cost to issue and repay the bonds including interest. Municipalities may also create one or more public infrastructure districts within the HTRZ under Title 17B, Chapter 2a, Part 12, and may pledge and utilize the HTRZ funds to guarantee the payment of public infrastructure bonds issued by a public infrastructure district.

Use of Sales Tax Increment Generated in an HTRZ

Upon consultation with the State Tax Commission, an HTRZ proposal is to create a state sales and use tax boundary (following the same criteria as previously outlined ($\frac{1}{4}$, $\frac{1}{3}$ or $\frac{1}{2}$ mile radius from public transit stations with a maximum of 100 - 125 acres), and is to establish a state sales and use tax base year and collection period to calculate and transfer state sales and use tax increment within the HTRZ. The boundary is intended to follow as closely as possible the boundary of the HTRZ and is based on state sales and use tax collection boundaries.

Beginning one year after the boundary is established, the Tax Commission shall, at least annually, transfer an amount equal to 15 percent of the state sales and use tax increment within the approved boundary, into the Transit Transportation Investment Fund (TTIF). The TTIF is an account held by the Utah Department of Transportation to fund approved transit capital projects.

Applicability to an Existing Community Reinvestment Area

For an HTRZ that overlaps an existing Community Reinvestment Area (CRA) and is an inactive industrial site, the following provisions are included in 63N-3-603:

- If the CRA captures less than 80 percent of the tax increment from a taxing entity, or, if a taxing entity is not participating in a CRA, the HTRZ may capture the difference between:
 - 80 percent; and
 - The percent of tax increment captured pursuant to the CRA
- If the CRA expires before the HTRZ, the housing and transit reinvestment zone may capture the tax increment allocated the CRA for any remaining portion of the term of the HTRZ

The statute also prohibits a county of the first class from proposing an HTRZ that includes a CRA project area, until the CRA is dissolved