

LOCAL GOVERNMENT BUILDING REGULATION

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to local government building regulation.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows a building permit applicant to opt out of certain local building inspection or plan review requirements in specified circumstances; and
- ▶ prohibits a municipality or county from regulating certain building design elements.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 10-5-132**, as last amended by Laws of Utah 2019, Chapter 20
- 10-6-160**, as last amended by Laws of Utah 2018, Chapter 236
- 17-36-55**, as last amended by Laws of Utah 2019, Chapter 20

ENACTS:

- 10-9a-529**, Utah Code Annotated 1953
- 17-27a-527**, Utah Code Annotated 1953



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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-5-132** is amended to read:

10-5-132. Fees collected for construction approval -- Approval of plans.

(1) As used in this section:

(a) "Construction project" means the same as that term is defined in Section [38-1a-102](#).

(b) "Licensed building inspector" means an individual who is licensed by the Division of Occupational and Professional Licensing under Title 58, Chapter 56, Building Inspector and Factory Built Housing Licensing Act.

~~(b)~~ (c) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) a dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

~~(c)~~ (d) "Planning review" means a review to verify that a town has approved the following elements of a construction project:

(i) zoning;

(ii) lot sizes;

(iii) setbacks;

(iv) easements;

(v) curb and gutter elevations;

(vi) grades and slopes;

(vii) utilities;

(viii) street names;

(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban

59 Interface Code adopted under Section 15A-2-103; and

60 (x) subdivision.

61 ~~[(d)]~~ (e) (i) "Plan review" means all of the reviews and approvals of a plan that a town
62 requires to obtain a building permit from the town with a scope that may not exceed a review to
63 verify:

64 (A) that the construction project complies with the provisions of the State Construction
65 Code under Title 15A, State Construction and Fire Codes Act;

66 (B) that the construction project complies with the energy code adopted under Section
67 15A-2-103;

68 (C) that the construction project received a planning review;

69 (D) that the applicant paid any required fees;

70 (E) that the applicant obtained final approvals from any other required reviewing
71 agencies;

72 (F) that the construction project complies with federal, state, and local storm water
73 protection laws;

74 (G) that the construction project received a structural review;

75 (H) the total square footage for each building level of finished, garage, and unfinished
76 space; and

77 (I) that the plans include a printed statement indicating that the actual construction will
78 comply with applicable local ordinances and the state construction codes.

79 (ii) "Plan review" does not mean a review of a document:

80 (A) required to be re-submitted for additional modifications or substantive changes
81 identified by the plan review;

82 (B) submitted as part of a deferred submittal when requested by the applicant and
83 approved by the building official; or

84 (C) that, due to the document's technical nature or on the request of the applicant, is
85 reviewed by a third party.

86 ~~[(e)]~~ (f) "State Construction Code" means the same as that term is defined in Section
87 15A-1-102.

88 ~~[(f)]~~ (g) "State Fire Code" means the same as that term is defined in Section
89 15A-1-102.

90 ~~[(g)]~~ (h) "Structural review" means:
91 (i) a review that verifies that a construction project complies with the following:
92 (A) footing size and bar placement;
93 (B) foundation thickness and bar placement;
94 (C) beam and header sizes;
95 (D) nailing patterns;
96 (E) bearing points;
97 (F) structural member size and span; and
98 (G) sheathing; or
99 (ii) if the review exceeds the scope of the review described in Subsection (1)~~[(e)]~~(h)(i),
100 a review that a licensed engineer conducts.

101 ~~[(h)]~~ (i) "Technical nature" means a characteristic that places an item outside the
102 training and expertise of an individual who regularly performs plan reviews.

103 (2) (a) If a town collects a fee for the inspection of a construction project, the town
104 shall ensure that the construction project receives a prompt inspection.

105 (b) If a town cannot provide a building inspection within a reasonable time, the town
106 shall promptly engage an independent inspector with fees collected from the applicant.

107 (c) If an inspector identifies one or more violations of the State Construction Code or
108 State Fire Code during an inspection, on the day on which the inspection occurs, the inspector
109 shall give the permit holder written notification of each violation that:

110 (i) is delivered in hardcopy or by electronic means; and
111 (ii) upon request by the permit holder, includes a reference to each applicable provision
112 of the State Construction Code or State Fire Code.

113 (3) (a) A town shall complete a plan review of a construction project for a one to two
114 family dwelling or townhome by no later than 14 business days after the day on which the plan
115 is submitted to the town.

116 (b) A town shall complete a plan review of a construction project for a residential
117 structure built under the International Building Code, not including a lodging establishment, by
118 no later than 21 business days after the day on which the plan is submitted to the town.

119 (c) (i) Subject to Subsection (3)(c)(ii), if a town does not complete a plan review before
120 the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the

121 town complete the plan review.

122 (ii) If an applicant makes a request under Subsection (3)(c)(i), the town shall perform
123 the plan review no later than:

124 (A) for a plan review described in Subsection (3)(a), 14 days from the day on which the
125 applicant makes the request; or

126 (B) for a plan review described in Subsection (3)(b), 21 days from the day on which the
127 applicant makes the request.

128 (d) An applicant may:

129 (i) waive the plan review time requirements described in this Subsection (3); or

130 (ii) with the town's consent, establish an alternative plan review time requirement.

131 (4) (a) A town may not enforce a requirement to have a plan review if:

132 (i) (A) the town does not complete the plan review within the time period described in
133 Subsection (3)(a) or (b); and

134 ~~[(ii)]~~ (B) a licensed architect or structural engineer, or both when required by law,
135 stamps the plan[-]; or

136 (ii) the applicant opts out of the plan review requirement in accordance with

137 Subsection (5)(b).

138 (b) A town may attach to a reviewed plan a list that includes:

139 (i) items with which the town is concerned and may enforce during construction; and

140 (ii) building code violations found in the plan.

141 (c) A town may not require an applicant to redraft a plan if the town requests minor
142 changes to the plan that the list described in Subsection (4)(b) identifies.

143 (5) Notwithstanding any other provision of law, an applicant may:

144 (a) opt out of an inspection requirement under this section if:

145 (i) a licensed architect or structural engineer stamps the plan;

146 (ii) a licensed contractor completes the construction project;

147 (iii) a licensed building inspector or structural engineer completes an inspection of the
148 construction project on behalf of the applicant; and

149 (iv) the applicant provides to the town written notice of:

150 (A) the name and address of the individuals described in Subsections (5)(a)(i) through

151 (iii); and

- 152 (B) the results of the inspection described in Subsection (5)(a)(iii); or
- 153 (b) opt out of a plan review requirement under this section if:
- 154 (i) the applicant engages a licensed architect or structural engineer, or both when
- 155 required by law, to review the plan; and
- 156 (ii) the licensed architect or structural engineer stamps the plan.

157 Section 2. Section **10-6-160** is amended to read:

158 **10-6-160. Fees collected for construction approval -- Approval of plans.**

159 (1) As used in this section:

160 (a) "Construction project" means the same as that term is defined in Section [38-1a-102](#).

161 (b) "Licensed building inspector" means an individual who is licensed by the Division
162 of Occupational and Professional Licensing under Title 58, Chapter 56, Building Inspector and
163 Factory Built Housing Licensing Act.

164 ~~[(b)]~~ (c) "Lodging establishment" means a place providing temporary sleeping
165 accommodations to the public, including any of the following:

- 166 (i) a bed and breakfast establishment;
- 167 (ii) a boarding house;
- 168 (iii) a dormitory;
- 169 (iv) a hotel;
- 170 (v) an inn;
- 171 (vi) a lodging house;
- 172 (vii) a motel;
- 173 (viii) a resort; or
- 174 (ix) a rooming house.

175 ~~[(c)]~~ (d) "Planning review" means a review to verify that a city has approved the
176 following elements of a construction project:

- 177 (i) zoning;
- 178 (ii) lot sizes;
- 179 (iii) setbacks;
- 180 (iv) easements;
- 181 (v) curb and gutter elevations;
- 182 (vi) grades and slopes;

- 183 (vii) utilities;
- 184 (viii) street names;
- 185 (ix) defensible space provisions and elevations, if required by the Utah Wildland Urban
- 186 Interface Code adopted under Section 15A-2-103; and
- 187 (x) subdivision.

188 ~~(d)~~ (e) (i) " Plan review" means all of the reviews and approvals of a plan that a city
189 requires to obtain a building permit from the city with a scope that may not exceed a review to
190 verify:

191 (A) that the construction project complies with the provisions of the State Construction
192 Code under Title 15A, State Construction and Fire Codes Act;

193 (B) that the construction project complies with the energy code adopted under Section
194 15A-2-103;

195 (C) that the construction project received a planning review;

196 (D) that the applicant paid any required fees;

197 (E) that the applicant obtained final approvals from any other required reviewing
198 agencies;

199 (F) that the construction project complies with federal, state, and local storm water
200 protection laws;

201 (G) that the construction project received a structural review; and

202 (H) the total square footage for each building level of finished, garage, and unfinished
203 space.

204 (ii) "Plan review" does not mean a review of a document:

205 (A) required to be re-submitted for additional modifications or substantive changes
206 identified by the plan review;

207 (B) submitted as part of a deferred submittal when requested by the applicant and
208 approved by the building official; or

209 (C) that, due to the document's technical nature or on the request of the applicant, is
210 reviewed by a third party.

211 ~~(e)~~ (f) "Structural review" means:

212 (i) a review that verifies that a construction project complies with the following:

213 (A) footing size and bar placement;

- 214 (B) foundation thickness and bar placement;
- 215 (C) beam and header sizes;
- 216 (D) nailing patterns;
- 217 (E) bearing points;
- 218 (F) structural member size and span; and
- 219 (G) sheathing; or
- 220 (ii) if the review exceeds the scope of the review described in Subsection (1)~~(f)~~(f)(i),
- 221 a review that a licensed engineer conducts.

222 ~~(f)~~ (g) "Technical nature" means a characteristic that places an item outside the
223 training and expertise of an individual who regularly performs plan reviews.

224 (2) (a) If a city collects a fee for the inspection of a construction project, the city shall
225 ensure that the construction project receives a prompt inspection.

226 (b) If a city cannot provide a building inspection within three business days, the city
227 shall promptly engage an independent inspector with fees collected from the applicant.

228 (3) (a) A city shall complete a plan review of a construction project for a one to two
229 family dwelling or townhome by no later than 14 business days after the day on which the plan
230 is submitted to the city.

231 (b) A city shall complete a plan review of a construction project for a residential
232 structure built under the International Building Code, not including a lodging establishment, by
233 no later than 21 business days after the day on which the plan is submitted to the city.

234 (c) (i) Subject to Subsection (3)(c)(ii), if a city does not complete a plan review before
235 the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the
236 city complete the plan review.

237 (ii) If an applicant makes a request under Subsection (3)(c)(i), the city shall perform the
238 plan review no later than:

239 (A) for a plan review described in Subsection (3)(a), 14 days from the day on which the
240 applicant makes the request; or

241 (B) for a plan review described in Subsection (3)(b), 21 days from the day on which the
242 applicant makes the request.

243 (d) An applicant may:

244 (i) waive the plan review time requirements described in this Subsection (3); or

245 (ii) with the city's consent, establish an alternative plan review time requirement.
246 (4) (a) A city may not enforce a requirement to have a plan review if:
247 (i) (A) the city does not complete the plan review within the time period described in
248 Subsection (3)(a) or (b); and
249 ~~[(ii)]~~ (B) a licensed architect or structural engineer, or both when required by law,
250 stamps the plan[-]; or
251 (ii) the applicant opts out of the plan review requirement in accordance with
252 Subsection (6)(b).
253 (b) A city may attach to a reviewed plan a list that includes:
254 (i) items with which the city is concerned and may enforce during construction; and
255 (ii) building code violations found in the plan.
256 (c) A city may not require an applicant to redraft a plan if the city requests minor
257 changes to the plan that the list described in Subsection (4)(b) identifies.
258 (5) An applicant shall ensure that each construction project plan submitted for a plan
259 review under this section has a statement indicating that actual construction will comply with
260 applicable local ordinances and building codes.
261 (6) Notwithstanding any other provision of law, an applicant may:
262 (a) opt out of an inspection requirement under this section if:
263 (i) a licensed architect or structural engineer stamps the plan;
264 (ii) a licensed contractor completes the construction project;
265 (iii) a licensed building inspector or structural engineer completes an inspection of the
266 construction project on behalf of the applicant; and
267 (iv) the applicant provides to the city written notice of:
268 (A) the name and address of the individuals described in Subsections (6)(a)(i) through
269 (iii); and
270 (B) the results of the inspection described in Subsection (6)(a)(iii); or
271 (b) opt out of a plan review requirement under this section if:
272 (i) the applicant engages a licensed architect or structural engineer, or both when
273 required by law, to review the plan; and
274 (ii) the licensed architect or structural engineer stamps the plan.
275 Section 3. Section **10-9a-529** is enacted to read:

276 **10-9a-529. Regulation of residential building design elements prohibited --**

277 **Exceptions.**

278 (1) (a) As used in this section, "residential building design element" means for a
279 single-family residential building:

280 (i) exterior building color;

281 (ii) type or style of exterior cladding material;

282 (iii) style or materials of a roof structure, roof pitch, or porch;

283 (iv) exterior nonstructural architectural ornamentation;

284 (v) location, design, placement or architectural styling of a window or door, including a
285 garage door;

286 (vi) the number or type of rooms;

287 (vii) the interior layout of a room; or

288 (viii) the minimum square footage of a structure.

289 (b) "Residential building design element" does not include for a single-family
290 residential building:

291 (i) the height, bulk, orientation, or location of a structure on a lot; or

292 (ii) buffering or screening used to:

293 (A) minimize visual impacts;

294 (B) mitigate the impacts of light or noise; or

295 (C) protect the privacy of neighbors.

296 (2) A municipal legislative body may not adopt an ordinance regulating a residential
297 building design element.

298 (3) This section does not apply to:

299 (a) an ordinance regulating a structure located in an area designated as a local historic
300 district;

301 (b) an ordinance regulating a structure located in an area designated as a historic
302 district on the National Register of Historic Places;

303 (c) an ordinance regulating a structure designated as a local, state, or national historic
304 landmark;

305 (d) a regulation created by a valid private covenant or other contractual agreement
306 among property owners relating to a residential building design element, including a building

307 agreement between a property owner and a municipality;

308 (e) an ordinance regulating a residential building design element directly and
309 substantially related to the requirements of an applicable state or federal building or safety
310 regulation;

311 (f) an ordinance regulating a residential building design element for a manufactured
312 home as defined in Section 15A-1-302;

313 (g) an ordinance enacted as a condition for participation in the National Flood
314 Insurance Program administered by the Federal Emergency Management Agency; or

315 (h) an ordinance regulating a residential building design element if the ordinance
316 directly relates to an established immediate public health or safety hazard.

317 Section 4. Section 17-27a-527 is enacted to read:

318 **17-27a-527. Regulation of residential building design elements prohibited --**

319 **Exceptions.**

320 (1) As used in this section:

321 (a) "Local historic district" means a geographically definable area that:

322 (i) contains any combination of buildings, structures, sites, objects, landscape features,
323 archeological sites, or works of art that contribute to the historic preservation goals of a
324 legislative body; and

325 (ii) is subject to land use regulations to preserve the historic significance of the local
326 historic district.

327 (b) (i) "Residential building design element" means for a single-family residential
328 building:

329 (A) exterior building color;

330 (B) type or style of exterior cladding material;

331 (C) style or materials of a roof structure, roof pitch, or porch;

332 (D) exterior nonstructural architectural ornamentation;

333 (E) location, design, placement or architectural styling of a window or door, including
334 a garage door;

335 (F) the number or type of rooms;

336 (G) the interior layout of a room; or

337 (H) the minimum square footage of a structure.

- 338 (ii) "Residential building design element" does not include for a single-family
339 residential building:
- 340 (A) the height, bulk, orientation, or location of a structure on a lot; or
341 (B) buffering or screening used to minimize visual impacts, mitigate the impacts of
342 light or noise, or protect the privacy of neighbors.
- 343 (2) A county legislative body may not adopt an ordinance regulating a residential
344 building design element.
- 345 (3) This section does not apply to:
- 346 (a) an ordinance regulating a structure located in an area designated as a local historic
347 district;
- 348 (b) an ordinance regulating a structure located in an area designated as a historic
349 district on the National Register of Historic Places;
- 350 (c) an ordinance regulating a structure designated as a local, state, or national historic
351 landmark;
- 352 (d) a regulation created by a valid private covenant or other contractual agreement
353 among property owners relating to a residential building design element, including a building
354 agreement between a property owner and a county;
- 355 (e) an ordinance regulating a residential building design element directly and
356 substantially related to the requirements of an applicable state or federal building or safety
357 regulation;
- 358 (f) an ordinance regulating a residential building design element for a manufactured
359 home as defined in Section [15A-1-302](#);
- 360 (g) an ordinance enacted as a condition for participation in the National Flood
361 Insurance Program administered by the Federal Emergency Management Agency; or
- 362 (h) an ordinance regulating a residential building design element if the ordinance
363 directly relates to an established immediate public health or safety hazard.

364 Section 5. Section **17-36-55** is amended to read:

365 **17-36-55. Fees collected for construction approval -- Approval of plans.**

366 (1) As used in this section:

367 (a) "Construction project" means the same as that term is defined in Section [38-1a-102](#).

368 (b) "Licensed building inspector" means an individual who is licensed by the Division

369 of Occupational and Professional Licensing under Title 58, Chapter 56, Building Inspector and
370 Factory Built Housing Licensing Act.

371 ~~[(b)]~~ (c) "Lodging establishment" means a place providing temporary sleeping
372 accommodations to the public, including any of the following:

- 373 (i) a bed and breakfast establishment;
- 374 (ii) a boarding house;
- 375 (iii) dormitory;
- 376 (iv) a hotel;
- 377 (v) an inn;
- 378 (vi) a lodging house;
- 379 (vii) a motel;
- 380 (viii) a resort; or
- 381 (ix) a rooming house.

382 ~~[(c)]~~ (d) "Planning review" means a review to verify that a county has approved the
383 following elements of a construction project:

- 384 (i) zoning;
- 385 (ii) lot sizes;
- 386 (iii) setbacks;
- 387 (iv) easements;
- 388 (v) curb and gutter elevations;
- 389 (vi) grades and slopes;
- 390 (vii) utilities;
- 391 (viii) street names;
- 392 (ix) defensible space provisions and elevations, if required by the Utah Wildland Urban
393 Interface Code adopted under Section [15A-2-103](#); and
- 394 (x) subdivision.

395 ~~[(d)]~~ (e) (i) "Plan review" means all of the reviews and approvals of a plan that a
396 county requires to obtain a building permit from the county with a scope that may not exceed a
397 review to verify:

- 398 (A) that the construction project complies with the provisions of the State Construction
399 Code under Title 15A, State Construction and Fire Codes Act;

400 (B) that the construction project complies with the energy code adopted under Section
401 15A-2-103;

402 (C) that the construction project received a planning review;

403 (D) that the applicant paid any required fees;

404 (E) that the applicant obtained final approvals from any other required reviewing
405 agencies;

406 (F) that the construction project complies with federal, state, and local storm water
407 protection laws;

408 (G) that the construction project received a structural review; and

409 (H) the total square footage for each building level of finished, garage, and unfinished
410 space.

411 (ii) "Plan review" does not mean a review of a document:

412 (A) required to be re-submitted for additional modifications or substantive changes
413 identified by the plan review;

414 (B) submitted as part of a deferred submittal when requested by the applicant and
415 approved by the building official; or

416 (C) that, due to the document's technical nature or on the request of the applicant, is
417 reviewed by a third party.

418 ~~(e)~~ (f) "State Construction Code" means the same as that term is defined in Section
419 15A-1-102.

420 ~~(f)~~ (g) "State Fire Code" means the same as that term is defined in Section
421 15A-1-102.

422 ~~(g)~~ (h) "Structural review" means:

423 (i) a review that verifies that a construction project complies with the following:

424 (A) footing size and bar placement;

425 (B) foundation thickness and bar placement;

426 (C) beam and header sizes;

427 (D) nailing patterns;

428 (E) bearing points;

429 (F) structural member size and span; and

430 (G) sheathing; or

431 (ii) if the review exceeds the scope of the review described in Subsection (1)~~(g)~~(h)(i),
432 a review that a licensed engineer conducts.

433 ~~(h)~~ (i) "Technical nature" means a characteristic that places an item outside the
434 training and expertise of an individual who regularly performs plan reviews.

435 (2) (a) If a county collects a fee for the inspection of a construction project, the county
436 shall ensure that the construction project receives a prompt inspection.

437 (b) If a county cannot provide a building inspection within three business days, the
438 county shall promptly engage an independent inspector with fees collected from the applicant.

439 (c) If an inspector identifies one or more violations of the State Construction Code or
440 State Fire Code during an inspection, on the day on which the inspection occurs, the inspector
441 shall give the permit holder written notification of each violation that:

442 (i) is delivered in hardcopy or by electronic means; and

443 (ii) upon request by the permit holder, includes a reference to each applicable provision
444 of the State Construction Code or State Fire Code.

445 (3) (a) A county shall complete a plan review of a construction project for a one to two
446 family dwelling or townhome by no later than 14 business days after the day on which the plan
447 is submitted to the county.

448 (b) A county shall complete a plan review of a construction project for a residential
449 structure built under the International Building Code, not including a lodging establishment, by
450 no later than 21 business days after the day on which the plan is submitted to the county.

451 (c) (i) Subject to Subsection (3)(c)(ii), if a county does not complete a plan review
452 before the time period described in Subsection (3)(a) or (b) expires, an applicant may request
453 that the county complete the plan review.

454 (ii) If an applicant makes a request under Subsection (3)(c)(i), the county shall perform
455 the plan review no later than:

456 (A) for a plan review described in Subsection (3)(a), 14 days from the day on which the
457 applicant makes the request; or

458 (B) for a plan review described in Subsection (3)(b), 21 days from the day on which the
459 applicant makes the request.

460 (d) An applicant may:

461 (i) waive the plan review time requirements described in this Subsection (3); or

462 (ii) with the county's consent, establish an alternative plan review time requirement.

463 (4) (a) A county may not enforce a requirement to have a plan review if:

464 (i) (A) the county does not complete the plan review within the time period described
465 in Subsection (3)(a) or (b); and

466 [~~(ii)~~] (B) a licensed architect or structural engineer, or both when required by law,
467 stamps the plan[-]; or

468 (ii) the applicant opts out of the plan review requirement in accordance with
469 Subsection (6)(b).

470 (b) A county may attach to a reviewed plan a list that includes:

471 (i) items with which the county is concerned and may enforce during construction; and

472 (ii) building code violations found in the plan.

473 (c) A county may not require an applicant to redraft a plan if the county requests minor
474 changes to the plan that the list described in Subsection (4)(b) identifies.

475 (5) An applicant shall ensure that each construction project plan submitted for a plan
476 review under this section has a statement indicating that actual construction will comply with
477 applicable local ordinances and building codes.

478 (6) Notwithstanding any other provision of law, an applicant may:

479 (a) opt out of an inspection requirement under this section if:

480 (i) a licensed architect or structural engineer stamps the plan;

481 (ii) a licensed contractor completes the construction project;

482 (iii) a licensed building inspector or structural engineer completes an inspection of the
483 construction project on behalf of the applicant; and

484 (iv) the applicant provides to the county written notice of:

485 (A) the name and address of the individuals described in Subsections (6)(a)(i) through
486 (iii); and

487 (B) the results of the inspection described in Subsection (6)(a)(iii); or

488 (b) opt out of a plan review requirement under this section if:

489 (i) the applicant engages a licensed architect or structural engineer, or both when
490 required by law, to review the plan; and

491 (ii) the licensed architect or structural engineer stamps the plan.