

Representative Paul Ray proposes the following substitute bill:

LOCAL GOVERNMENT BUILDING REGULATION

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill amends provisions relating to local government building regulation.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ invites the Utah League of Cities and Towns to submit a report to the Business and Labor Interim Committee; and
- ▶ allows a local planning commission to recommend the reduction of certain building design elements in a proposed general plan.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-403, as last amended by Laws of Utah 2019, Chapters 327 and 376

17-27a-403, as last amended by Laws of Utah 2019, Chapters 327 and 376

63I-2-210, as last amended by Laws of Utah 2019, Chapters 136, 165, 255, and 510



26 ENACTS:

27 10-6-160.1, Utah Code Annotated 1953



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

30 Section 1. Section **10-6-160.1** is enacted to read:

31 **10-6-160.1. Report.**

32 (1) As used in this section: "plan review" means the same as that term is defined in
33 Section 10-6-160.

34 (2) The Business and Labor Interim Committee shall invite the Utah League of Cities
35 and Towns to submit a written report before the October 2020 interim meeting that describes:

36 (a) for any municipality that required a plan review during the preceding 12-month
37 period:

38 (i) the average length of time needed to complete a plan review;

39 (ii) the longest length of time needed to complete a plan review;

40 (iii) whether the municipality allowed nonsubstantive changes to a plan without
41 requiring the plan to be re-submitted for review; and

42 (iv) reasons for any delay in completing a plan review; and

43 (2) for any municipality that required a building inspection during the preceding
44 12-month period:

45 (i) the average length of time needed to complete an inspection;

46 (ii) the longest length of time needed to complete an inspection;

47 (iii) reasons for any delay in completing an inspection; and

48 (iv) the number of inspections completed by a municipal building inspector as
49 compared to an independent building inspector.

50 Section 2. Section **10-9a-403** is amended to read:

51 **10-9a-403. General plan preparation.**

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

54 (i) exterior building color;

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

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

- 57 (iv) exterior nonstructural architectural ornamentation;
- 58 (v) location, design, placement or architectural styling of a window or door, including a
- 59 garage door;
- 60 (vi) the number or type of rooms;
- 61 (vii) the interior layout of a room; or
- 62 (viii) the minimum square footage of a structure.
- 63 (b) "Residential building design element" does not include for a single-family
- 64 residential building:
 - 65 (i) the height, bulk, orientation, or location of a structure on a lot; or
 - 66 (ii) buffering or screening used to:
 - 67 (A) minimize visual impacts;
 - 68 (B) mitigate the impacts of light or noise; or
 - 69 (C) protect the privacy of neighbors.
- 70 ~~[(1)]~~ (2) (a) The planning commission shall provide notice, as provided in Section
- 71 [10-9a-203](#), of its intent to make a recommendation to the municipal legislative body for a
- 72 general plan or a comprehensive general plan amendment when the planning commission
- 73 initiates the process of preparing its recommendation.
- 74 (b) The planning commission shall make and recommend to the legislative body a
- 75 proposed general plan for the area within the municipality.
- 76 (c) The plan may include areas outside the boundaries of the municipality if, in the
- 77 planning commission's judgment, those areas are related to the planning of the municipality's
- 78 territory.
- 79 (d) Except as otherwise provided by law or with respect to a municipality's power of
- 80 eminent domain, when the plan of a municipality involves territory outside the boundaries of
- 81 the municipality, the municipality may not take action affecting that territory without the
- 82 concurrence of the county or other municipalities affected.
- 83 ~~[(2)]~~ (3) (a) At a minimum, the proposed general plan, with the accompanying maps,
- 84 charts, and descriptive and explanatory matter, shall include the planning commission's
- 85 recommendations for the following plan elements:
 - 86 (i) a land use element that:
 - 87 (A) designates the long-term goals and the proposed extent, general distribution, and

88 location of land for housing for residents of various income levels, business, industry,
89 agriculture, recreation, education, public buildings and grounds, open space, and other
90 categories of public and private uses of land as appropriate; and

91 (B) may include a statement of the projections for and standards of population density
92 and building intensity recommended for the various land use categories covered by the plan;

93 (ii) a transportation and traffic circulation element that:

94 (A) provides the general location and extent of existing and proposed freeways, arterial
95 and collector streets, public transit, active transportation facilities, and other modes of
96 transportation that the planning commission considers appropriate;

97 (B) for a municipality that has access to a major transit investment corridor, addresses
98 the municipality's plan for residential and commercial development around major transit
99 investment corridors to maintain and improve the connections between housing, employment,
100 education, recreation, and commerce;

101 (C) for a municipality that does not have access to a major transit investment corridor,
102 addresses the municipality's plan for residential and commercial development in areas that will
103 maintain and improve the connections between housing, transportation, employment,
104 education, recreation, and commerce; and

105 (D) correlates with the population projections, the employment projections, and the
106 proposed land use element of the general plan; and

107 (iii) for a municipality described in Subsection 10-9a-401(3)(b), a plan that provides a
108 realistic opportunity to meet the need for additional moderate income housing.

109 (b) In drafting the moderate income housing element, the planning commission:

110 (i) shall consider the Legislature's determination that municipalities shall facilitate a
111 reasonable opportunity for a variety of housing, including moderate income housing:

112 (A) to meet the needs of people of various income levels living, working, or desiring to
113 live or work in the community; and

114 (B) to allow people with various incomes to benefit from and fully participate in all
115 aspects of neighborhood and community life;

116 (ii) for a town, may include, and for other municipalities, shall include, an analysis of
117 how the municipality will provide a realistic opportunity for the development of moderate
118 income housing within the next five years;

- 119 (iii) for a town, may include, and for other municipalities, shall include, a
120 recommendation to implement three or more of the following strategies:
- 121 (A) rezone for densities necessary to assure the production of moderate income
122 housing;
 - 123 (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the
124 construction of moderate income housing;
 - 125 (C) facilitate the rehabilitation of existing uninhabitable housing stock into moderate
126 income housing;
 - 127 (D) consider general fund subsidies or other sources of revenue to waive construction
128 related fees that are otherwise generally imposed by the city;
 - 129 (E) create or allow for, and reduce regulations related to, accessory dwelling units in
130 residential zones;
 - 131 (F) allow for higher density or moderate income residential development in
132 commercial and mixed-use zones, commercial centers, or employment centers;
 - 133 (G) encourage higher density or moderate income residential development near major
134 transit investment corridors;
 - 135 (H) eliminate or reduce parking requirements for residential development where a
136 resident is less likely to rely on the resident's own vehicle, such as residential development near
137 major transit investment corridors or senior living facilities;
 - 138 (I) allow for single room occupancy developments;
 - 139 (J) implement zoning incentives for low to moderate income units in new
140 developments;
 - 141 (K) utilize strategies that preserve subsidized low to moderate income units on a
142 long-term basis;
 - 143 (L) preserve existing moderate income housing;
 - 144 (M) reduce impact fees, as defined in Section [11-36a-102](#), related to low and moderate
145 income housing;
 - 146 (N) participate in a community land trust program for low or moderate income
147 housing;
 - 148 (O) implement a mortgage assistance program for employees of the municipality or of
149 an employer that provides contracted services to the municipality;

150 (P) apply for or partner with an entity that applies for state or federal funds or tax
151 incentives to promote the construction of moderate income housing;

152 (Q) apply for or partner with an entity that applies for programs offered by the Utah
153 Housing Corporation within that agency's funding capacity;

154 (R) apply for or partner with an entity that applies for affordable housing programs
155 administered by the Department of Workforce Services;

156 (S) apply for or partner with an entity that applies for programs administered by an
157 association of governments established by an interlocal agreement under Title 11, Chapter 13,
158 Interlocal Cooperation Act;

159 (T) apply for or partner with an entity that applies for services provided by a public
160 housing authority to preserve and create moderate income housing;

161 (U) apply for or partner with an entity that applies for programs administered by a
162 metropolitan planning organization or other transportation agency that provides technical
163 planning assistance;

164 (V) utilize a moderate income housing set aside from a community reinvestment
165 agency, redevelopment agency, or community development and renewal agency; [~~and~~]

166 (W) reduce residential building design elements; and

167 [~~(W)~~] (X) any other program or strategy implemented by the municipality to address
168 the housing needs of residents of the municipality who earn less than 80% of the area median
169 income; and

170 (iv) in addition to the recommendations required under Subsection [~~(2)~~] (3)(b)(iii), for
171 a municipality that has a fixed guideway public transit station, shall include a recommendation
172 to implement the strategies described in Subsection [~~(2)~~] (3)(b)(iii)(G) or (H).

173 (c) In drafting the land use element, the planning commission shall:

174 (i) identify and consider each agriculture protection area within the municipality; and

175 (ii) avoid proposing a use of land within an agriculture protection area that is
176 inconsistent with or detrimental to the use of the land for agriculture.

177 (d) In drafting the transportation and traffic circulation element, the planning
178 commission shall:

179 (i) consider the regional transportation plan developed by its region's metropolitan
180 planning organization, if the municipality is within the boundaries of a metropolitan planning

181 organization; or

182 (ii) consider the long-range transportation plan developed by the Department of
183 Transportation, if the municipality is not within the boundaries of a metropolitan planning
184 organization.

185 (3) The proposed general plan may include:

186 (a) an environmental element that addresses:

187 (i) the protection, conservation, development, and use of natural resources, including
188 the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals,
189 and other natural resources; and

190 (ii) the reclamation of land, flood control, prevention and control of the pollution of
191 streams and other waters, regulation of the use of land on hillsides, stream channels and other
192 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,
193 protection of watersheds and wetlands, and the mapping of known geologic hazards;

194 (b) a public services and facilities element showing general plans for sewage, water,
195 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,
196 police and fire protection, and other public services;

197 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and
198 programs for:

199 (i) historic preservation;

200 (ii) the diminution or elimination of a development impediment as defined in Section
201 [17C-1-102](#); and

202 (iii) redevelopment of land, including housing sites, business and industrial sites, and
203 public building sites;

204 (d) an economic element composed of appropriate studies and forecasts, as well as an
205 economic development plan, which may include review of existing and projected municipal
206 revenue and expenditures, revenue sources, identification of basic and secondary industry,
207 primary and secondary market areas, employment, and retail sales activity;

208 (e) recommendations for implementing all or any portion of the general plan, including
209 the use of land use ordinances, capital improvement plans, community development and
210 promotion, and any other appropriate action;

211 (f) provisions addressing any of the matters listed in Subsection [10-9a-401\(2\)](#) or (3);

212 and

213 (g) any other element the municipality considers appropriate.

214 Section 3. Section 17-27a-403 is amended to read:

215 **17-27a-403. Plan preparation.**

216 (1) (a) The planning commission shall provide notice, as provided in Section
217 17-27a-203, of its intent to make a recommendation to the county legislative body for a general
218 plan or a comprehensive general plan amendment when the planning commission initiates the
219 process of preparing its recommendation.

220 (b) The planning commission shall make and recommend to the legislative body a
221 proposed general plan for:

222 (i) the unincorporated area within the county; or

223 (ii) if the planning commission is a planning commission for a mountainous planning
224 district, the mountainous planning district.

225 (c) (i) The plan may include planning for incorporated areas if, in the planning
226 commission's judgment, they are related to the planning of the unincorporated territory or of
227 the county as a whole.

228 (ii) Elements of the county plan that address incorporated areas are not an official plan
229 or part of a municipal plan for any municipality, unless it is recommended by the municipal
230 planning commission and adopted by the governing body of the municipality.

231 (iii) Notwithstanding Subsection (1)(c)(ii), if property is located in a mountainous
232 planning district, the plan for the mountainous planning district controls and precedes a
233 municipal plan, if any, to which the property would be subject.

234 (2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts,
235 and descriptive and explanatory matter, shall include the planning commission's
236 recommendations for the following plan elements:

237 (i) a land use element that:

238 (A) designates the long-term goals and the proposed extent, general distribution, and
239 location of land for housing for residents of various income levels, business, industry,
240 agriculture, recreation, education, public buildings and grounds, open space, and other
241 categories of public and private uses of land as appropriate; and

242 (B) may include a statement of the projections for and standards of population density

243 and building intensity recommended for the various land use categories covered by the plan;

244 (ii) a transportation and traffic circulation element that:

245 (A) provides the general location and extent of existing and proposed freeways, arterial
246 and collector streets, public transit, active transportation facilities, and other modes of
247 transportation that the planning commission considers appropriate;

248 (B) addresses the county's plan for residential and commercial development around
249 major transit investment corridors to maintain and improve the connections between housing,
250 employment, education, recreation, and commerce; and

251 (C) correlates with the population projections, the employment projections, and the
252 proposed land use element of the general plan;

253 (iii) a plan for the development of additional moderate income housing within the
254 unincorporated area of the county or the mountainous planning district, and a plan to provide a
255 realistic opportunity to meet the need for additional moderate income housing; and

256 (iv) before May 1, 2017, a resource management plan detailing the findings, objectives,
257 and policies required by Subsection [17-27a-401\(3\)](#).

258 (b) In drafting the moderate income housing element, the planning commission:

259 (i) shall consider the Legislature's determination that counties should facilitate a
260 reasonable opportunity for a variety of housing, including moderate income housing:

261 (A) to meet the needs of people of various income levels living, working, or desiring to
262 live or work in the community; and

263 (B) to allow people with various incomes to benefit from and fully participate in all
264 aspects of neighborhood and community life; and

265 (ii) shall include an analysis of how the county will provide a realistic opportunity for
266 the development of moderate income housing within the planning horizon, which may include
267 a recommendation to implement three or more of the following strategies:

268 (A) rezone for densities necessary to assure the production of moderate income
269 housing;

270 (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the
271 construction of moderate income housing;

272 (C) facilitate the rehabilitation of existing uninhabitable housing stock into moderate
273 income housing;

- 274 (D) consider county general fund subsidies or other sources of revenue to waive
275 construction related fees that are otherwise generally imposed by the county;
- 276 (E) create or allow for, and reduce regulations related to, accessory dwelling units in
277 residential zones;
- 278 (F) allow for higher density or moderate income residential development in
279 commercial and mixed-use zones, commercial centers, or employment centers;
- 280 (G) encourage higher density or moderate income residential development near major
281 transit investment corridors;
- 282 (H) eliminate or reduce parking requirements for residential development where a
283 resident is less likely to rely on the resident's own vehicle, such as residential development near
284 major transit investment corridors or senior living facilities;
- 285 (I) allow for single room occupancy developments;
- 286 (J) implement zoning incentives for low to moderate income units in new
287 developments;
- 288 (K) utilize strategies that preserve subsidized low to moderate income units on a
289 long-term basis;
- 290 (L) preserve existing moderate income housing;
- 291 (M) reduce impact fees, as defined in Section [11-36a-102](#), related to low and moderate
292 income housing;
- 293 (N) participate in a community land trust program for low or moderate income
294 housing;
- 295 (O) implement a mortgage assistance program for employees of the county or of an
296 employer that provides contracted services for the county;
- 297 (P) apply for or partner with an entity that applies for state or federal funds or tax
298 incentives to promote the construction of moderate income housing;
- 299 (Q) apply for or partner with an entity that applies for programs offered by the Utah
300 Housing Corporation within that agency's funding capacity;
- 301 (R) apply for or partner with an entity that applies for affordable housing programs
302 administered by the Department of Workforce Services;
- 303 (S) apply for or partner with an entity that applies for services provided by a public
304 housing authority to preserve and create moderate income housing;

305 (T) apply for or partner with an entity that applies for programs administered by a
306 metropolitan planning organization or other transportation agency that provides technical
307 planning assistance;

308 (U) utilize a moderate income housing set aside from a community reinvestment
309 agency, redevelopment agency, or community development and renewal agency; [~~and~~]

310 (V) reduce residential building design elements as defined in Section 10-9a-403; and

311 [~~(V)~~] (W) consider any other program or strategy implemented by the county to address
312 the housing needs of residents of the county who earn less than 80% of the area median
313 income.

314 (c) In drafting the land use element, the planning commission shall:

315 (i) identify and consider each agriculture protection area within the unincorporated area
316 of the county or mountainous planning district; and

317 (ii) avoid proposing a use of land within an agriculture protection area that is
318 inconsistent with or detrimental to the use of the land for agriculture.

319 (d) In drafting the transportation and traffic circulation element, the planning
320 commission shall:

321 (i) consider the regional transportation plan developed by its region's metropolitan
322 planning organization, if the relevant areas of the county are within the boundaries of a
323 metropolitan planning organization; or

324 (ii) consider the long-range transportation plan developed by the Department of
325 Transportation, if the relevant areas of the county are not within the boundaries of a
326 metropolitan planning organization.

327 (3) The proposed general plan may include:

328 (a) an environmental element that addresses:

329 (i) to the extent not covered by the county's resource management plan, the protection,
330 conservation, development, and use of natural resources, including the quality of air, forests,
331 soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources;
332 and

333 (ii) the reclamation of land, flood control, prevention and control of the pollution of
334 streams and other waters, regulation of the use of land on hillsides, stream channels and other
335 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,

- 336 protection of watersheds and wetlands, and the mapping of known geologic hazards;
- 337 (b) a public services and facilities element showing general plans for sewage, water,
- 338 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,
- 339 police and fire protection, and other public services;
- 340 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and
- 341 programs for:
- 342 (i) historic preservation;
- 343 (ii) the diminution or elimination of a development impediment as defined in Section
- 344 [17C-1-102](#); and
- 345 (iii) redevelopment of land, including housing sites, business and industrial sites, and
- 346 public building sites;
- 347 (d) an economic element composed of appropriate studies and forecasts, as well as an
- 348 economic development plan, which may include review of existing and projected county
- 349 revenue and expenditures, revenue sources, identification of basic and secondary industry,
- 350 primary and secondary market areas, employment, and retail sales activity;
- 351 (e) recommendations for implementing all or any portion of the general plan, including
- 352 the use of land use ordinances, capital improvement plans, community development and
- 353 promotion, and any other appropriate action;
- 354 (f) provisions addressing any of the matters listed in Subsection [17-27a-401\(2\)](#) or
- 355 [\(3\)\(a\)\(i\)](#); and
- 356 (g) any other element the county considers appropriate.

357 Section 4. Section **63I-2-210** is amended to read:

358 **63I-2-210. Repeal dates -- Title 10.**

359 (1) Section [10-6-160.1](#) is repealed January 1, 2021.

360 ~~[(+)]~~ (2) Subsection [10-9a-304\(2\)](#), regarding municipal authority over property located

361 within a mountainous planning district, is repealed June 1, 2021.

362 ~~[(2)]~~ (3) When repealing Subsection [10-9a-304\(2\)](#), the Office of Legislative Research

363 and General Counsel shall, in addition to the office's authority under Subsection [36-12-12\(3\)](#),

364 make necessary changes to subsection numbering and cross references.