

## HB0374S01 compared with HB0374

~~{deleted text}~~ shows text that was in HB0374 but was deleted in HB0374S01.

inserted text shows text that was not in HB0374 but was inserted into HB0374S01.

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Representative Paul Ray proposes the following substitute bill:

### LOCAL GOVERNMENT BUILDING REGULATION

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Paul Ray**

Senate Sponsor: \_\_\_\_\_

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#### 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;~~ 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:

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None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

~~{10-5-132}~~ 10-9a-403, as last amended by Laws of Utah 2019, ~~{Chapter 20}~~ Chapters 327 and 376

~~{10-6-160}~~ 17-27a-403, as last amended by Laws of Utah ~~{2018}~~ 2019, ~~{Chapter 236}~~ Chapters 327 and 376

~~{17-36-55}~~ 631-2-210, as last amended by Laws of Utah 2019, ~~{Chapter 20}~~ Chapters 136, 165, 255, and 510

ENACTS:

~~{10-9a-529}~~ 10-6-160.1, 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}~~ 10-6-160.1 is ~~{amended}~~ enacted to read:

~~{10-5-132}~~ 10-6-160. ~~{Fees collected for construction approval -- Approval of plans}~~ 1. Report.

(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;~~

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~~—— (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 Interface Code adopted under Section 15A-2-103; and~~

~~—— (x) subdivision;~~

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

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

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

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

~~—— (D) that the applicant paid any required fees;~~

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

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

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

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

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

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

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

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

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

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

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

~~[(g)] (h) "Structural review" means:~~

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

~~(A) footing size and bar placement;~~

~~(B) foundation thickness and bar placement;~~

~~(C) beam and header sizes;~~

~~(D) nailing patterns;~~

~~(E) bearing points;~~

~~(F) structural member size and span; and~~

~~(G) sheathing; or~~

~~(ii) if the review exceeds the scope of the review described in Subsection (1)[(e)](h)(i), a review that a licensed engineer conducts:~~

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

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

~~(b) If a town cannot provide 10-6-160.~~

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

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

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

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

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

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

(2) for any municipality that required a building inspection {within a reasonable time, the town shall promptly engage an independent inspector with fees collected from the applicant.

~~\_\_\_\_\_ (c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during~~ during the preceding 12-month period:

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

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

(iii) reasons for any delay in completing an inspection~~{, on the day on which the inspection occurs, the inspector shall give the permit holder written notification of each violation that:~~

~~\_\_\_\_\_ (i) is delivered in hardcopy or by electronic means; and~~

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

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

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

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

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- ~~—— (ii) If an applicant makes a request under Subsection (3)(c)(i), the town shall perform the plan review no later than:~~
- ~~—— (A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or~~
- ~~—— (B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.~~
- ~~—— (d) An applicant may:~~
- ~~—— (i) waive the plan review time requirements described in this Subsection (3); or~~
- ~~—— (ii) with the town's consent, establish an alternative plan review time requirement.~~
- ~~—— (4) (a) A town may not enforce a requirement to have a plan review if:~~
- ~~—— (i) (A) the town does not complete the plan review within the time period described in Subsection (3)(a) or (b); and~~
- ~~—— [(ii)] (B) a licensed architect or structural engineer, or both when required by law, stamps the plan[.]; or~~
- ~~—— (ii) the applicant opts out of the plan review requirement in accordance with Subsection (5)(b).~~
- ~~—— (b) A town may attach to a reviewed plan a list that includes:~~
- ~~—— (i) items with which the town is concerned and may enforce during construction; and~~
- ~~—— (ii) building code violations found in the plan.~~
- ~~—— (c) A town may not require an applicant to redraft a plan if the town requests minor changes to the plan that the list described in Subsection (4)(b) identifies.~~
- ~~—— (5) Notwithstanding any other provision of law, an applicant may:~~
- ~~—— (a) opt out of an inspection requirement under this section if:~~
- ~~—— (i) a licensed architect or structural engineer stamps the plan;~~
- ~~—— (ii) a licensed contractor completes the construction project;~~
- ~~—— (iii) a licensed}; and~~
- ~~—— (iv) the number of inspections completed by a municipal building inspector as compared to an independent building inspector{ or structural engineer completes an inspection of the construction project on behalf of the applicant; and~~
- ~~—— (iv) the applicant provides to the town written notice of:~~
- ~~—— (A) the name and address of the individuals described in Subsections (5)(a)(i) through~~

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~~(iii); and~~

~~—— (B) the results of the inspection described in Subsection (5)(a)(iii); or~~

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

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

~~—— (ii) the licensed architect or structural engineer stamps the plan}.~~

Section 2. Section ~~{10-6-160}~~; **10-9a-403** is amended to read:

~~{10-6-160. 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 city has approved the following elements of a construction project:~~

~~—— (i) zoning;~~

~~—— (ii) lot sizes;~~

~~—— (iii) setbacks;~~

~~—— (iv) easements;~~

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- ~~—— (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 Interface Code adopted under Section 15A-2-103; and~~
- ~~—— (x) subdivision.~~
- ~~—— [(d)] (e) (i) "Plan review" means all of the reviews and approvals of a plan that a city requires to obtain a building permit from the city with a scope that may not exceed a review to verify:~~
  - ~~—— (A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;~~
  - ~~—— (B) that the construction project complies with the energy code adopted under Section 15A-2-103;~~
  - ~~—— (C) that the construction project received a planning review;~~
  - ~~—— (D) that the applicant paid any required fees;~~
  - ~~—— (E) that the applicant obtained final approvals from any other required reviewing agencies;~~
  - ~~—— (F) that the construction project complies with federal, state, and local storm water protection laws;~~
  - ~~—— (G) that the construction project received a structural review; and~~
  - ~~—— (H) the total square footage for each building level of finished, garage, and unfinished space.~~
- ~~—— (ii) "Plan review" does not mean a review of a document:~~
  - ~~—— (A) required to be re-submitted for additional modifications or substantive changes identified by the plan review;~~
  - ~~—— (B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or~~
  - ~~—— (C) that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party.~~
- ~~—— [(e)] (f) "Structural review" means:~~



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

~~—— (A) footing size and bar placement;~~

~~—— (B) foundation thickness and bar placement;~~

~~—— (C) beam and header sizes;~~

~~—— (D) nailing patterns;~~

~~—— (E) bearing points;~~

~~—— (F) structural member size and span; and~~

~~—— (G) sheathing; or~~

~~—— (ii) if the review exceeds the scope of the review described in Subsection~~

~~(1)(e)(f)(i), a review that a licensed engineer conducts:~~

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

~~—— (2) (a) If a city collects a fee for the inspection of a construction project, the city shall ensure that the construction project receives a prompt inspection:~~

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

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

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

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

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

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

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

~~— (d) An applicant may:~~

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

~~— (ii) with the city's consent, establish an alternative plan review time requirement.~~

~~— (4) (a) A city may not enforce a requirement to have a plan review if:~~

~~— (i) (A) the city does not complete the plan review within the time period described in Subsection (3)(a) or (b); and~~

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

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

~~— (b) A city may attach to a reviewed plan a list that includes:~~

~~— (i) items with which the city is concerned and may enforce during construction; and~~

~~— (ii) building code violations found in the plan.~~

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

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

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

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

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

~~— (ii) a licensed contractor completes the construction project;~~

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

~~— (iv) the applicant provides to the city written notice of:~~

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

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

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

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

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

~~}10-9a-403. General plan preparation.~~

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

(i) exterior building color;

(ii) type or style of exterior cladding material;

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

(iv) exterior nonstructural architectural ornamentation;

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

(vi) the number or type of rooms;

(vii) the interior layout of a room; or

(viii) the minimum square footage of a structure.

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

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

(ii) buffering or screening used to:

(A) minimize visual impacts;

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

(C) protect the privacy of neighbors.

[(+)] (2) (a) The planning commission shall provide notice, as provided in Section 10-9a-203, of its intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.

(c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's

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territory.

(d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.

~~(2)~~ (3) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

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

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

(ii) a transportation and traffic circulation element that:

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

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

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

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

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

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

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

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

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

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

(iii) for a town, may include, and for other municipalities, shall include, a recommendation to implement three or more of the following strategies:

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

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

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

(D) consider general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the city;

(E) create or allow for, and reduce regulations related to, accessory dwelling units in residential zones;

(F) allow for higher density or moderate income residential development in commercial and mixed-use zones, commercial centers, or employment centers;

(G) encourage higher density or moderate income residential development near major transit investment corridors;

(H) 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) allow for single room occupancy developments;

(J) implement zoning incentives for low to moderate income units in new

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developments;

(K) utilize strategies that preserve subsidized low to moderate income units on a long-term basis;

(L) preserve existing moderate income housing;

(M) reduce impact fees, as defined in Section 11-36a-102, related to low and moderate income housing;

(N) participate in a community land trust program for low or moderate income housing;

(O) implement a mortgage assistance program for employees of the municipality or of an employer that provides contracted services to the municipality;

(P) 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;

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

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

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

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

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

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

~~(W);~~ and

(W) reduce residential building design elements; and

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

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

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

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

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

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

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

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

(3) The proposed general plan may include:

(a) an environmental element that addresses:

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

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

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

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

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section

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17C-1-102; and

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

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

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

(f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3);  
and

(g) any other element the municipality considers appropriate.

Section 3. Section ~~{10-9a-529 is enacted to read:~~

~~10-9a-529. Regulation of residential building design elements prohibited ==~~

~~Exceptions:~~

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

~~(i) exterior building color;~~

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

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

~~(iv) exterior nonstructural architectural ornamentation;~~

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

~~(vi) the number or type of rooms;~~

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

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

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

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

~~(ii) buffering or screening used to:~~



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- ~~—— (A) minimize visual impacts;~~
- ~~—— (B) mitigate the impacts of light or noise; or~~
- ~~—— (C) protect the privacy of neighbors.~~
- ~~—— (2) A municipal legislative body may not adopt an ordinance regulating a residential building design element.~~
- ~~—— (3) This section does not apply to:~~
  - ~~—— (a) an ordinance regulating a structure located in an area designated as a local historic district;~~
  - ~~—— (b) an ordinance regulating a structure located in an area designated as a historic district on the National Register of Historic Places;~~
  - ~~—— (c) an ordinance regulating a structure designated as a local, state, or national historic landmark;~~
  - ~~—— (d) a regulation created by a valid private covenant or other contractual agreement among property owners relating to a residential building design element, including a building agreement between a property owner and a municipality;~~
  - ~~—— (e) an ordinance regulating a residential building design element directly and substantially related to the requirements of an applicable state or federal building or safety regulation;~~
  - ~~—— (f) an ordinance regulating a residential building design element for a manufactured home as defined in Section 15A-1-302;~~
  - ~~—— (g) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency; or~~
  - ~~—— (h) an ordinance regulating a residential building design element if the ordinance directly relates to an established immediate public health or safety hazard.~~

‡ 17-27a-403 is amended to read:

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

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

(b) The planning commission shall make and recommend to the legislative body a

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proposed general plan for:

(i) the unincorporated area within the county; or

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

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

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

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

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

(i) a land use element that:

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

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

(ii) a transportation and traffic circulation element that:

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

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

(C) correlates with the population projections, the employment projections, and the

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proposed land use element of the general plan;

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

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

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

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

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

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

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

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

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

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

(D) consider county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county;

(E) create or allow for, and reduce regulations related to, accessory dwelling units in residential zones;

(F) allow for higher density or moderate income residential development in commercial and mixed-use zones, commercial centers, or employment centers;

(G) encourage higher density or moderate income residential development near major transit investment corridors;

(H) eliminate or reduce parking requirements for residential development where a

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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) allow for single room occupancy developments;

(J) implement zoning incentives for low to moderate income units in new developments;

(K) utilize strategies that preserve subsidized low to moderate income units on a long-term basis;

(L) preserve existing moderate income housing;

(M) reduce impact fees, as defined in Section 11-36a-102, related to low and moderate income housing;

(N) participate in a community land trust program for low or moderate income housing;

(O) implement a mortgage assistance program for employees of the county or of an employer that provides contracted services for the county;

(P) 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;

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

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

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

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

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

~~(V);~~ and

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

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

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income.

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

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

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

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

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

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

(3) The proposed general plan may include:

(a) an environmental element that addresses:

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

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

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

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

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section

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17C-1-102; and

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

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

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

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or (3)(a)(i); and

(g) any other element the county considers appropriate.

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

~~17-27a-527. Regulation of residential building design elements prohibited--  
Exceptions:~~

~~(1) As used in this section:~~

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

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

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

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

~~(A) exterior building color;~~

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

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

~~(D) exterior nonstructural architectural ornamentation;~~

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

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- ~~—— (F) the number or type of rooms;~~
- ~~—— (G) the interior layout of a room; or~~
- ~~—— (H) the minimum square footage of a structure;~~
- ~~—— (ii) "Residential building design element" does not include for a single-family residential building:~~
  - ~~—— (A) the height, bulk, orientation, or location of a structure on a lot; or~~
  - ~~—— (B) buffering or screening used to minimize visual impacts, mitigate the impacts of light or noise, or protect the privacy of neighbors.~~
- ~~—— (2) A county legislative body may not adopt an ordinance regulating a residential building design element.~~
- ~~—— (3) This section does not apply to:~~
  - ~~—— (a) an ordinance regulating a structure located in an area designated as a local historic district;~~
  - ~~—— (b) an ordinance regulating a structure located in an area designated as a historic district on the National Register of Historic Places;~~
  - ~~—— (c) an ordinance regulating a structure designated as a local, state, or national historic landmark;~~
  - ~~—— (d) a regulation created by a valid private covenant or other contractual agreement among property owners relating to a residential building design element, including a building agreement between a property owner and a county;~~
  - ~~—— (e) an ordinance regulating a residential building design element directly and substantially related to the requirements of an applicable state or federal building or safety regulation;~~
  - ~~—— (f) an ordinance regulating a residential building design element for a manufactured home as defined in Section 15A-1-302;~~
  - ~~—— (g) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency; or~~
  - ~~—— (h) an ordinance regulating a residential building design element if the ordinance directly relates to an established immediate public health or safety hazard.~~
- ~~—— Section 5. Section 17-36-55 is amended to read:~~
- ~~—— 17-36-55. Fees collected for construction approval -- Approval of plans.~~

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~~—— (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) 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 county 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 Interface Code adopted under Section 15A-2-103; and~~

~~—— (x) subdivision.~~

~~—— [(d)] (e) (i) "Plan review" means all of the reviews and approvals of a plan that a~~



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~~county requires to obtain a building permit from the county with a scope that may not exceed a review to verify:~~

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

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

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

~~—— (D) that the applicant paid any required fees;~~

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

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

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

~~—— (H) the total square footage for each building level of finished, garage, and unfinished space:~~

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

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

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

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

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

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

~~—— [(g)] (h) "Structural review" means:~~

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

~~—— (A) footing size and bar placement;~~

~~—— (B) foundation thickness and bar placement;~~

~~—— (C) beam and header sizes;~~

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~~—— (D) nailing patterns;~~

~~—— (E) bearing points;~~

~~—— (F) structural member size and span; and~~

~~—— (G) sheathing; or~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~—— (d) An applicant may:~~

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

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

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

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

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

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

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

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

~~—— (ii) building code violations found in the plan.~~

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

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

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

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

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

~~—— (ii) a licensed contractor completes the construction project;~~

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

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

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

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

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

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

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

~~§63I-2-210 is amended to read:~~

### 63I-2-210. Repeal dates -- Title 10.

(1) Section 10-6-160.1 is repealed January 1, 2021.

[(+)] (2) Subsection 10-9a-304(2), regarding municipal authority over property located within a mountainous planning district, is repealed June 1, 2021.

[(2)] (3) When repealing Subsection 10-9a-304(2), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.