

Senator David G. Buxton proposes the following substitute bill:

BUILDING REGULATION AMENDMENTS

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 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;
- ▶ allows a local planning commission to recommend the reduction of certain building design elements in a proposed general plan; and
- ▶ amends Nitrogen Oxide emission limits for natural gas-fired water heaters.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

15A-6-102, as last amended by Laws of Utah 2017, Chapter 236



26 [17-27a-403](#), as last amended by Laws of Utah 2019, Chapters 327 and 376

27 [63I-2-210](#), as last amended by Laws of Utah 2019, Chapters 136, 165, 255, and 510

28 ENACTS:

29 [10-6-160.1](#), Utah Code Annotated 1953



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

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

33 **10-6-160.1. Report.**

34 (1) As used in this section, "plan review" means the same as that term is defined in
35 Section [10-6-160](#).

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

38 (a) for any municipality that required a plan review between April 1, 2020, and October
39 1, 2020:

40 (i) the average number of business days from the day on which the plan review is
41 requested to the day on which the plan review is completed;

42 (ii) the longest number of business days from the day on which the plan review is
43 requested to the day on which the plan review is completed;

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

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

47 (b) for any municipality that required a building inspection between April 1, 2020, and
48 October 1, 2020:

49 (i) the average number of business days from the day on which the inspection is
50 requested to the day on which the inspection is completed;

51 (ii) the longest number of business days from the day on which the inspection is
52 requested to the day on which the inspection is completed;

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

54 (iv) the number of hours that an independent building inspector was used.

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

56 **10-9a-403. General plan preparation.**

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

88 ~~[(2)]~~ (3) (a) At a minimum, the proposed general plan, with the accompanying maps,
89 charts, and descriptive and explanatory matter, shall include the planning commission's
90 recommendations for the following plan elements:

91 (i) a land use element that:

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

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

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

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

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

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

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

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

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

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

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

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

- 150 income housing;
- 151 (N) participate in a community land trust program for low or moderate income
- 152 housing;
- 153 (O) implement a mortgage assistance program for employees of the municipality or of
- 154 an employer that provides contracted services to the municipality;
- 155 (P) apply for or partner with an entity that applies for state or federal funds or tax
- 156 incentives to promote the construction of moderate income housing;
- 157 (Q) apply for or partner with an entity that applies for programs offered by the Utah
- 158 Housing Corporation within that agency's funding capacity;
- 159 (R) apply for or partner with an entity that applies for affordable housing programs
- 160 administered by the Department of Workforce Services;
- 161 (S) apply for or partner with an entity that applies for programs administered by an
- 162 association of governments established by an interlocal agreement under Title 11, Chapter 13,
- 163 Interlocal Cooperation Act;
- 164 (T) apply for or partner with an entity that applies for services provided by a public
- 165 housing authority to preserve and create moderate income housing;
- 166 (U) apply for or partner with an entity that applies for programs administered by a
- 167 metropolitan planning organization or other transportation agency that provides technical
- 168 planning assistance;
- 169 (V) utilize a moderate income housing set aside from a community reinvestment
- 170 agency, redevelopment agency, or community development and renewal agency; [~~and~~]
- 171 (W) reduce residential building design elements; and
- 172 [~~(W)~~] (X) any other program or strategy implemented by the municipality to address
- 173 the housing needs of residents of the municipality who earn less than 80% of the area median
- 174 income; and
- 175 (iv) in addition to the recommendations required under Subsection [~~(2)~~] (3)(b)(iii), for
- 176 a municipality that has a fixed guideway public transit station, shall include a recommendation
- 177 to implement the strategies described in Subsection [~~(2)~~] (3)(b)(iii)(G) or (H).
- 178 (c) In drafting the land use element, the planning commission shall:
- 179 (i) identify and consider each agriculture protection area within the municipality; and
- 180 (ii) avoid proposing a use of land within an agriculture protection area that is

181 inconsistent with or detrimental to the use of the land for agriculture.

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

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

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

190 (3) The proposed general plan may include:

191 (a) an environmental element that addresses:

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

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

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

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

204 (i) historic preservation;

205 (ii) the diminution or elimination of a development impediment as defined in Section
206 [17C-1-102](#); and

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

209 (d) an economic element composed of appropriate studies and forecasts, as well as an
210 economic development plan, which may include review of existing and projected municipal
211 revenue and expenditures, revenue sources, identification of basic and secondary industry,

212 primary and secondary market areas, employment, and retail sales activity;

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

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

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

219 Section 3. Section 15A-6-102 is amended to read:

220 **15A-6-102. Nitrogen Oxide emission limits for natural gas-fired water heaters.**

221 (1) As used in this section:

222 (a) "BTU" means British Thermal Unit.

223 (b) (i) "Heat input" means the heat of combustion released by fuel burned in a water
224 heater based on the heating value of the fuel.

225 (ii) "Heat input" does not include the enthalpy of a water heater's incoming combustion
226 air.

227 (c) "Heat output" means the enthalpy of a water heater's working fluid output.

228 (d) "Natural gas-fired water heater" means a device that heats water:

229 (i) using natural gas combustion;

230 (ii) for use external to the device at a pressure that is less than or equal to 160 pounds
231 per square inch gage; and

232 (iii) to a thermostatically controlled temperature less than or equal to:

233 (A) 210 degrees Fahrenheit; or

234 (B) 99 degrees Celsius.

235 (e) "ppm" means parts of Nitrogen Oxide per million parts of water heater air output.

236 (f) "Recreational vehicle" means the same as that term is defined in Section 13-14-102.

237 (2) On and after July 1, 2018, a person may not sell or install a natural gas-fired water
238 heater with an emission rate greater than the following limits:

239 (a) except as provided in Subsection (6), for a water heater that has a heat input of less
240 than or equal to 75,000 BTU per hour that is not installed in a mobile home, a limit of:

241 (i) 10 nanograms per Joule of heat output; or

242 (ii) 15 ppm, corrected to 3% oxygen;

243 (b) for a water heater that has a heat input of greater than 75,000 BTU per hour and less
244 than 2,000,000 BTU per hour that is not installed in a mobile home, a limit of:

245 (i) 14 nanograms per Joule of heat output; or

246 (ii) 20 ppm, corrected to 3% oxygen;

247 (c) for a water heater installed in a mobile home, a limit of:

248 (i) 40 nanograms per Joule of heat output; or

249 (ii) 55 ppm, corrected to 3% oxygen;

250 (d) for a pool or spa water heater with a heat input that is less than or equal to 400,000
251 BTU per hour, a limit of:

252 (i) 40 nanograms per Joule of heat output; or

253 (ii) 55 ppm, corrected to 3% oxygen; and

254 (e) for a pool or spa water heater with a heat input of greater than 400,000 BTU per
255 hour and less than 2,000,000 BTU per hour, a limit of:

256 (i) 14 nanograms per Joule of heat output; or

257 (ii) 20 ppm, corrected to 3% oxygen.

258 (3) A water heater manufacturer shall use California South Coast Air Quality
259 Management District Method 100.1 to calculate the emissions rate of a water heater subject to
260 this section.

261 (4) A water heater manufacturer shall display on a water heater subject to this section,
262 as a permanent label, the model number and the Nitrogen Oxide emission rate of the water
263 heater.

264 (5) The requirements of this section do not apply to:

265 (a) a water heater using a fuel other than natural gas;

266 (b) a water heater used in a recreational vehicle;

267 (c) a water heater manufactured in the state for sale and shipment outside of the state;

268 or

269 (d) a water heater manufactured before July 1, 2018.

270 (6) A person may sell or install a natural gas-fired water heater with an emission rate
271 greater than the limits established in Subsection (2)(a) if:

272 (a) the water heater is replacing a water heater of equal BTUs per hour;

273 (b) there is not available for purchase in the United States a water heater that:

- 274 (i) has an input of equal BTUs per hour as the water heater being replaced; and
- 275 (ii) meets the limits established in Subsection (2)(a); and
- 276 (c) the purpose of the water heater is to heat water and provide space heating.

277 Section 4. Section **17-27a-403** is amended to read:

278 **17-27a-403. Plan preparation.**

279 (1) (a) The planning commission shall provide notice, as provided in Section
280 [17-27a-203](#), of its intent to make a recommendation to the county legislative body for a general
281 plan or a comprehensive general plan amendment when the planning commission initiates the
282 process of preparing its recommendation.

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

- 285 (i) the unincorporated area within the county; or
- 286 (ii) if the planning commission is a planning commission for a mountainous planning
287 district, the mountainous planning district.

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

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

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

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

- 300 (i) a land use element that:
 - 301 (A) designates the long-term goals and the proposed extent, general distribution, and
302 location of land for housing for residents of various income levels, business, industry,
303 agriculture, recreation, education, public buildings and grounds, open space, and other
304 categories of public and private uses of land as appropriate; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

336 income housing;

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

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

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

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

345 (H) eliminate or reduce parking requirements for residential development where a
346 resident is less likely to rely on the resident's own vehicle, such as residential development near
347 major transit investment corridors or senior living facilities;

348 (I) allow for single room occupancy developments;

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

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

353 (L) preserve existing moderate income housing;

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

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

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

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

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

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

366 (S) apply for or partner with an entity that applies for services provided by a public

367 housing authority to preserve and create moderate income housing;

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

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

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

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

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

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

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

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

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

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

390 (3) The proposed general plan may include:

391 (a) an environmental element that addresses:

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

396 (ii) the reclamation of land, flood control, prevention and control of the pollution of
397 streams and other waters, regulation of the use of land on hillsides, stream channels and other

398 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,
399 protection of watersheds and wetlands, and the mapping of known geologic hazards;

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

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

405 (i) historic preservation;

406 (ii) the diminution or elimination of a development impediment as defined in Section
407 [17C-1-102](#); and

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

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

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

417 (f) provisions addressing any of the matters listed in Subsection [17-27a-401\(2\)](#) or
418 [\(3\)\(a\)\(i\)](#); and

419 (g) any other element the county considers appropriate.

420 Section 5. Section **63I-2-210** is amended to read:

421 **63I-2-210. Repeal dates -- Title 10.**

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

423 ~~[(1)]~~ (2) Subsection [10-9a-304\(2\)](#), regarding municipal authority over property located
424 within a mountainous planning district, is repealed June 1, 2021.

425 ~~[(2)]~~ (3) When repealing Subsection [10-9a-304\(2\)](#), the Office of Legislative Research
426 and General Counsel shall, in addition to the office's authority under Subsection [36-12-12\(3\)](#),
427 make necessary changes to subsection numbering and cross references.

428 Section 6. **Effective date.**

429 (1) Except as provided in Subsection (2), this bill takes effect on May 12, 2020.

430 (2) The actions affecting Section [15A-6-102](#) take effect on July 1, 2020.