

## HB0098S02 compared with HB0098S01

~~text~~ shows text that was in HB0098S01 but was deleted in HB0098S02.

text shows text that was not in HB0098S01 but was inserted into HB0098S02.

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Representative Paul Ray proposes the following substitute bill:

### LOCAL GOVERNMENT BUILDING REGULATION

#### AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Paul Ray**

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

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#### LONG TITLE

##### General Description:

This bill amends provisions related to local government building regulation.

##### Highlighted Provisions:

This bill:

- ▶ allows a building permit applicant to engage an independent third-party building inspector to conduct inspections in certain circumstances;
- ▶ allows an independent third-party building inspector to issue a certificate of occupancy to a building permit applicant in certain circumstances;
- ▶ modifies requirements for a building permit application;
- ▶ exempts a construction project involving repairs to a building damaged by a natural

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disaster from certain State Construction Code and building permit requirements;

- ▶ prohibits a municipality or county from regulating certain building design elements;
- and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**10-5-132**, as last amended by Laws of Utah 2020, Chapters 354 and 441

**10-6-160**, as last amended by Laws of Utah 2020, Chapter 441

**10-9a-403**, as last amended by Laws of Utah 2020, Chapter 136

**15A-1-104**, as enacted by Laws of Utah 2014, Chapter 197

**15A-1-202**, as last amended by Laws of Utah 2020, Chapter 441

**15A-1-204**, as last amended by Laws of Utah 2020, Chapters 111 and 441

**15A-3-102**, as last amended by Laws of Utah 2019, Chapter 20

**15A-5-104**, as enacted by Laws of Utah 2020, Chapter 111

**17-27a-403**, as last amended by Laws of Utah 2020, Chapter 136

**17-36-55**, as last amended by Laws of Utah 2020, Chapter 441

**38-1a-102**, as last amended by Laws of Utah 2019, Chapter 250

**58-56-2**, as enacted by Laws of Utah 1989, Chapter 269

**78B-2-225**, as last amended by Laws of Utah 2020, Chapter 97

ENACTS:

**10-9a-530**, Utah Code Annotated 1953

**17-27a-527**, Utah Code Annotated 1953

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

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

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

(1) As used in this section:

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(a) "Business day" means the same as that term is defined in Section 54-8c-1.

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

(c) "Licensed building inspector" means an individual who is:

(i) licensed by the Division of Occupational and Professional Licensing under Title 58, Chapter 56, Building Inspector and Factory Built Housing Licensing Act; and

(ii) covered by liability insurance when providing private services as a licensed building inspector, in an amount established in rules made by the Division of Occupational and Professional Licensing in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(b)]~~ (d) "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)]~~ (e) "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;

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(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)~~ (f) (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;

(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 a construction project other than a construction project for a one to two family dwelling or townhome if additional modifications or substantive changes are 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)~~ (g) "State Construction Code" means the same as that term is defined in Section 15A-1-102.

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

~~(g)~~ (i) "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)~~(g)~~(i)(i), a review that a licensed engineer conducts.

~~(h)~~ (j) "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 a building inspection within three business days after the day on which the town receives the request for the inspection~~;~~:

(i) the town ~~shall~~ may promptly engage an independent inspector with fees collected from the applicant~~;~~; or

(ii) the applicant may engage an independent third-party licensed building inspector to complete each required inspection on the applicant's behalf in accordance with Subsection (2)(d), if the construction project is for a one to two family dwelling or townhome.

(c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, the inspector shall give the permit holder written notification that:

(i) identifies each violation;

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

(iii) is delivered:

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(A) in hardcopy or by electronic means; and

(B) the day on which the inspection occurs.

(d) (i) An applicant who engages an independent third-party licensed building inspector to complete each required inspection on the applicant's behalf under Subsection (2)(b)(ii) shall promptly notify the town in writing of the name and address of the licensed building inspector at the time the applicant engages the licensed building inspector.

(ii) The licensed building inspector described in Subsection (2)(d)(i) shall:

(A) complete each required inspection of the construction project on the applicant's behalf;

(B) provide written notification to the town after completing the final required inspection; and

(C) issue the applicant a certificate of occupancy for the construction project.

(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~~] applicant submits a complete building permit application 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~~] applicant submits a complete building permit application 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.

(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.

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(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]~~

(b) the applicant makes a request under Subsection (3)(c)(i);

(c) the town does not complete the plan review within the time period described in Subsection (3)(c)(ii); and

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

~~[(b)]~~ (5) (a) 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)]~~ (b) 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)]~~ (5)(a) 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.]~~

(c) A town may require a single resubmittal of plans for a one or two family dwelling or townhome if the resubmission is required to address deficiencies identified by a ~~{third party}~~ third-party review of a geotechnical report or geological report.

(6) If a town charges a fee for a building permit, the town may not refuse payment of the fee at the time the applicant submits a building permit application under Subsection (3).

(7) A town may not limit the number of building permit applications submitted under Subsection (3).

(8) For purposes of Subsection (3), a building permit application is complete if the application contains:

(a) the name, address, and contact information of:

(i) the applicant; and

(ii) the construction manager/general contractor, as defined in Section 63G-6a-103, for the construction project;

(b) a site plan for the construction project that:

(i) is drawn to scale;

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- (ii) includes a north arrow and legend; and
- (iii) provides specifications for the following:
  - (A) lot size and dimensions;
  - (B) setbacks and overhangs for setbacks;
  - (C) easements;
  - (D) property lines;
  - (E) topographical details, if the slope of the lot is greater than 10%;
  - (F) retaining walls;
  - (G) hard surface areas;
  - (H) curb and gutter elevations as indicated in the subdivision documents;
  - (I) utilities, including water meter and sewer lateral location;
  - (J) street names;
  - (K) driveway locations;
  - (L) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and
- (M) the location of the nearest hydrant;
- (c) construction plans and drawings, including:
  - (i) elevations, only if the construction project is new construction;
  - (ii) floor plans for each level, including the location and size of doors and windows;
  - (iii) foundation, structural, and framing detail; and
  - (iv) electrical, mechanical, and plumbing design;
  - (d) documentation of energy code compliance;
  - (e) structural calculations, except for trusses;
  - (f) a geotechnical report, including a slope stability evaluation and retaining wall design, if:
    - (i) the slope of the lot is greater than 15%; and
    - (ii) required by the town; and
    - (g) a statement indicating that actual construction will comply with applicable local ordinances and building codes.

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

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



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(1) As used in this section:

(a) "Business day" means the same as that term is defined in Section 54-8c-1.

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

(c) "Licensed building inspector" means an individual who is:

(i) licensed by the Division of Occupational and Professional Licensing under Title 58, Chapter 56, Building Inspector and Factory Built Housing Licensing Act; and

(ii) covered by liability insurance when providing private services as a licensed building inspector, in an amount established in rules made by the Division of Occupational and Professional Licensing in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~(b)~~ (d) "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)~~ (e) "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;

(v) curb and gutter elevations;

(vi) grades and slopes;

(vii) utilities;

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(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)~~ (f) (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;

(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 a construction project other than a construction project for a one to two family dwelling or townhome if additional modifications or substantive changes are 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)~~ (g) "State Construction Code" means the same as that term is defined in Section

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15A-1-102.

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

~~(g)~~ (i) "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)~~(g)~~(i)(i), a review that a licensed engineer conducts.

~~(h)~~ (j) "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 after the day on which the city receives the request for the inspection~~;~~ ~~(f)~~:

(i) the city ~~shall~~ may promptly engage an independent inspector with fees collected from the applicant~~;~~ or

(ii) the applicant may engage an independent third-party licensed building inspector to complete each required inspection on the applicant's behalf in accordance with Subsection (2)(d), if the construction project is for a one to two family dwelling or townhome.

(c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, the inspector shall give the permit holder written notification that:

- (i) identifies each violation;
- (ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code; and

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(iii) is delivered:

(A) in hardcopy or by electronic means; and

(B) the day on which the inspection occurs.

(d) (i) An applicant who engages an independent third-party licensed building inspector to complete each required inspection on the applicant's behalf under Subsection (2)(b)(ii) shall promptly notify the city in writing of the name and address of the licensed building inspector at the time the applicant engages the licensed building inspector.

(ii) The licensed building inspector described in Subsection (2)(d)(i) shall:

(A) complete each required inspection of the construction project on the applicant's behalf;

(B) provide written notification to the city after completing the final required inspection; and

(C) issue the applicant a certificate of occupancy for the construction project.

(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~~] applicant submits a complete building permit application 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~~] applicant submits a complete building permit application 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

(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

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(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:

~~[(+)]~~ (a) the city does not complete the plan review within the time period described in Subsection (3)(a) or (b); ~~[and]~~

(b) the applicant makes a request under Subsection (3)(c)(i);

(c) the city does not complete the plan review within the time period described in Subsection (3)(c)(ii); and

~~[(+)]~~ (d) a licensed architect or structural engineer, or both when required by law, stamps the plan.

~~[(b)]~~ (5) (a) 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)]~~ (b) 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)]~~ (5)(a) 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.]~~

(c) A city may require a single resubmittal of plans for a one or two family dwelling or townhome if the resubmission is required to address deficiencies identified by a ~~third~~ party ~~third-party~~ review of a geotechnical report or geological report.

(6) If a city charges a fee for a building permit, the city may not refuse payment of the fee at the time the applicant submits a building permit application under Subsection (3).

(7) A city may not limit the number of building permit applications submitted under Subsection (3).

(8) For purposes of Subsection (3), a building permit application is complete if the application contains:

(a) the name, address, and contact information of:

(i) the applicant; and

(ii) the construction manager/general contractor, as defined in Section 63G-6a-103, for the construction project;

(b) a site plan for the construction project that:

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- (i) is drawn to scale;
- (ii) includes a north arrow and legend; and
- (iii) provides specifications for the following:
  - (A) lot size and dimensions;
  - (B) setbacks and overhangs for setbacks;
  - (C) easements;
  - (D) property lines;
  - (E) topographical details, if the slope of the lot is greater than 10%;
  - (F) retaining walls;
  - (G) hard surface areas;
  - (H) curb and gutter elevations as indicated in the subdivision documents;
  - (I) utilities, including water meter and sewer lateral location;
  - (J) street names;
  - (K) driveway locations;
  - (L) defensible space provisions and elevations, if required by the Utah Wildland Urban

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

- (M) the location of the nearest hydrant;
- (c) construction plans and drawings, including:
  - (i) elevations, only if the construction project is new construction;
  - (ii) floor plans for each level, including the location and size of doors and windows;
  - (iii) foundation, structural, and framing detail; and
  - (iv) electrical, mechanical, and plumbing design;
- (d) documentation of energy code compliance;
- (e) structural calculations, except for trusses;
- (f) a geotechnical report, including a slope stability evaluation and retaining wall

design, if:

- (i) the slope of the lot is greater than 15%; and
- (ii) required by the city; and
- (g) a statement indicating that actual construction will comply with applicable local

ordinances and building codes.

Section 3. Section **10-9a-403** is amended to read:

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### 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)] (1) (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 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~~

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concurrence of the county or other municipalities affected.

~~[(3)]~~ (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) 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.

(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



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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 developments;

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

(L) preserve existing moderate income housing;

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(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) reduce residential building design elements; and]~~

~~[(X)]~~ (W) 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

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

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(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.

~~[(4)]~~ (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 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

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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 4. Section **10-9a-530** is enacted to read:

### **10-9a-530. Regulation of building design elements prohibited -- Exceptions.**

(1) As used in this section, "building design element" means:

(a) exterior color;

(b) type or style of exterior cladding material;

(c) style, dimensions, 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;

(f) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;

(g) number or type of rooms;

(h) interior layout of a room;

(i) minimum square footage over 1,000 square feet, not including a garage;

(j) rear yard landscaping requirements;

(k) minimum building dimensions; or

(l) a requirement to install front yard fencing requirements.

(2) Except as provided in Subsection (3), a municipality may not impose a requirement for a building design element on a one to two family dwelling or townhome.

(3) Subsection (2) does not apply to:

(a) a dwelling located within an area designated as a historic district in:

(i) the National Register of Historic Places;

(ii) the state register as defined in Section 9-8-402; or

(iii) a local historic district or area, or a site designated as a local landmark, created by

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ordinance before January 1, 2021;

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

(c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;

(d) building design elements agreed to under a development agreement;

(e) a dwelling located within an area that:

(i) is zoned primarily for residential use; and

(ii) was substantially developed before calendar year 1940;

(f) an ordinance enacted to implement water efficient landscaping in a rear yard;

(g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:

(i) defects in the material of existing cladding; or

(ii) consistent defects in the installation of existing cladding; or

(h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:

(i) the municipality to apply to the owner's property; and

(ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district.

Section 5. Section **15A-1-104** is amended to read:

### **15A-1-104. Permit approval required -- Certificate of occupancy valid.**

(1) As used in this section:

(a) "Compliance agency" is as defined in Section 15A-1-202.

(b) "Project" is as defined in Section 15A-1-209.

(2) A compliance agency for a political subdivision may not reject a permit, or otherwise withhold approval of a project whenever approval is required, for failure to comply with the applicable provisions of this title unless the compliance agency:

(a) cites with specificity the applicable provision with which the project has failed to comply; and

(b) describes how the project has failed to comply.

(3) If a compliance agency [~~or a~~], representative of a compliance agency, or building

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inspector that has the authority to issue a certificate of occupancy under Section 10-5-132, 10-6-160, or 17-36-55 issues a certificate of occupancy, the [~~compliance agency~~] individual or entity that issued the certificate of occupancy may not withdraw the certificate of occupancy or exert additional jurisdiction over the elements of the project for which the certificate was issued unless additional changes or modifications requiring a building permit are made to elements of the project after the certificate was issued.

Section 6. Section **15A-1-202** is amended to read:

### **15A-1-202. Definitions.**

As used in this chapter:

(1) "Agricultural use" means a use that relates to the tilling of soil and raising of crops, or keeping or raising domestic animals.

(2) (a) "Approved code" means a code, including the standards and specifications contained in the code, approved by the division under Section 15A-1-204 for use by a compliance agency.

(b) "Approved code" does not include the State Construction Code.

(3) "Building" means a structure used or intended for supporting or sheltering any use or occupancy and any improvements attached to it.

(4) "Code" means:

(a) the State Construction Code; or

(b) an approved code.

(5) "Commission" means the Uniform Building Code Commission created in Section 15A-1-203.

(6) "Compliance agency" means:

(a) an agency of the state or any of its political subdivisions which issues permits for construction regulated under the codes;

(b) any other agency of the state or its political subdivisions specifically empowered to enforce compliance with the codes; or

(c) any other state agency which chooses to enforce codes adopted under this chapter by authority given the agency under a title other than this part and Part 3, Factory Built Housing and Modular Units Administration Act.

(7) "Construction code" means standards and specifications published by a nationally

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recognized code authority for use in circumstances described in Subsection 15A-1-204(1), including:

- (a) a building code;
- (b) an electrical code;
- (c) a residential one and two family dwelling code;
- (d) a plumbing code;
- (e) a mechanical code;
- (f) a fuel gas code;
- (g) an energy conservation code;
- (h) a swimming pool and spa code; and
- (i) a manufactured housing installation standard code.

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

~~[(8)]~~ (9) "Executive director" means the executive director of the Department of Commerce.

~~[(9)]~~ (10) "Legislative action" includes legislation that:

- (a) adopts a new State Construction Code;
- (b) amends the State Construction Code; or
- (c) repeals one or more provisions of the State Construction Code.

~~[(10)]~~ (11) "Local regulator" means a political subdivision of the state that is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, and other activities subject to the codes.

(12) "Membrane-covered frame structure" means a nonpressurized building with a structure composed of a rigid framework to support a tensioned membrane that provides a weather barrier.

(13) "Natural disaster" means:

~~{~~ ~~—~~ (a) an explosion;

~~—~~ (b) fire;

~~‡~~ ~~(c)~~ (a) a flood;

~~(d)~~ (b) a storm;

~~(e)~~ (c) a tornado;

~~(f)~~ (d) winds;

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~~(f)(e)~~ an earthquake;

~~(f)(f)~~ lightning; or

~~(f)(g)~~ any other adverse weather event.

~~(H)~~ (14) "Not for human occupancy" means use of a structure for purposes other than protection or comfort of human beings, but allows people to enter the structure for:

(a) maintenance and repair; and

(b) the care of livestock, crops, or equipment intended for agricultural use which are kept there.

~~(H2)~~ (15) "Opinion" means a written, nonbinding, and advisory statement issued by the commission concerning an interpretation of the meaning of the codes or the application of the codes in a specific circumstance issued in response to a specific request by a party to the issue.

(16) "Remote yurt" means a membrane-covered frame structure that:

(a) is no larger than 710 square feet;

(b) is not used as a permanent residence;

(c) is located in an unincorporated county area that is not zoned for residential, commercial, industrial, or agricultural use;

(d) does not have plumbing or electricity;

(e) is set back at least 300 feet from any river, stream, lake, or other body of water; and

(f) is registered with the local health department.

~~(H3)~~ (17) "State regulator" means an agency of the state which is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, and other activities subject to the codes adopted pursuant to this chapter.

Section 7. Section **15A-1-204** is amended to read:

**15A-1-204. Adoption of State Construction Code -- Amendments by commission -- Approved codes -- Exemptions.**

(1) (a) The State Construction Code is the construction codes adopted with any modifications in accordance with this section that the state and each political subdivision of the state shall follow.

(b) A person shall comply with the applicable provisions of the State Construction Code when:



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(i) new construction is involved; and

(ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

(A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation,

conservation, or reconstruction of the building; or

(B) changing the character or use of the building in a manner that increases the occupancy loads, other demands, or safety risks of the building.

(c) On and after July 1, 2010, the State Construction Code is the State Construction Code in effect on July 1, 2010, until in accordance with this section:

(i) a new State Construction Code is adopted; or

(ii) one or more provisions of the State Construction Code are amended or repealed in accordance with this section.

(d) A provision of the State Construction Code may be applicable:

(i) to the entire state; or

(ii) within a county, city, or town.

(2) (a) The Legislature shall adopt a State Construction Code by enacting legislation that adopts a nationally recognized construction code with any modifications.

(b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection (6), a State Construction Code adopted by the Legislature is the State Construction Code until, in accordance with this section, the Legislature adopts a new State Construction Code by:

(i) adopting a new State Construction Code in its entirety; or

(ii) amending or repealing one or more provisions of the State Construction Code.

(3) (a) Except as provided in Subsection (3)(b), for each update of a nationally recognized construction code, the commission shall prepare a report described in Subsection (4).

(b) For the provisions of a nationally recognized construction code that apply only to detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with separate means of egress and their accessory structures, the commission shall:

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(i) prepare a report described in Subsection (4) in 2021 and, thereafter, for every second update of the nationally recognized construction code; and

(ii) not prepare a report described in Subsection (4) in 2018.

(4) (a) In accordance with Subsection (3), on or before September 1 of the same year as the year designated in the title of a nationally recognized construction code, the commission shall prepare and submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee that:

(i) states whether the commission recommends the Legislature adopt the update with any modifications; and

(ii) describes the costs and benefits of each recommended change in the update or in any modification.

(b) After the Business and Labor Interim Committee receives the report described in Subsection (4)(a), the Business and Labor Interim Committee shall:

(i) study the recommendations; and

(ii) if the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

(5) (a) (i) The commission shall, by no later than September 1 of each year in which the commission is not required to submit a report described in Subsection (4), submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee recommending whether the Legislature should amend or repeal one or more provisions of the State Construction Code.

(ii) As part of a recommendation described in Subsection (5)(a)(i), the commission shall describe the costs and benefits of each proposed amendment or repeal.

(b) The commission may recommend legislative action related to the State Construction Code:

(i) on its own initiative;

(ii) upon the recommendation of the division; or

(iii) upon the receipt of a request by one of the following that the commission recommend legislative action related to the State Construction Code:

(A) a local regulator;

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- (B) a state regulator;
- (C) a state agency involved with the construction and design of a building;
- (D) the Construction Services Commission;
- (E) the Electrician Licensing Board;
- (F) the Plumbers Licensing Board; or
- (G) a recognized construction-related association.

(c) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session.

(6) (a) Notwithstanding the provisions of this section, the commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State Construction Code if the commission determines that waiting for legislative action in the next general legislative session would:

- (i) cause an imminent peril to the public health, safety, or welfare; or
- (ii) place a person in violation of federal or other state law.

(b) If the commission amends the State Construction Code in accordance with this Subsection (6), the commission shall file with the division:

- (i) the text of the amendment to the State Construction Code; and
- (ii) an analysis that includes the specific reasons and justifications for the commission's findings.

(c) If the State Construction Code is amended under this Subsection (6), the division shall:

- (i) publish the amendment to the State Construction Code in accordance with Section 15A-1-205; and

- (ii) prepare and submit, in accordance with Section 68-3-14, a written notice to the Business and Labor Interim Committee containing the amendment to the State Construction Code, including a copy of the commission's analysis described in Subsection (6)(b)(ii).

(d) If not formally adopted by the Legislature at the next annual general session, an amendment to the State Construction Code under this Subsection (6) is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

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(7) (a) The division, in consultation with the commission, may approve, without adopting, one or more approved codes, including a specific edition of a construction code, for use by a compliance agency.

(b) If the code adopted by a compliance agency is an approved code described in Subsection (7)(a), the compliance agency may:

- (i) adopt an ordinance requiring removal, demolition, or repair of a building;
- (ii) adopt, by ordinance or rule, a dangerous building code; or
- (iii) adopt, by ordinance or rule, a building rehabilitation code.

(8) Except as provided in Subsections (6), (7), (9), and (10), or as expressly provided in state law, a state executive branch entity or political subdivision of the state may not, after December 1, 2016, adopt or enforce a rule, ordinance, or requirement that applies to a subject specifically addressed by, and that is more restrictive than, the State Construction Code.

(9) A state executive branch entity or political subdivision of the state may:

(a) enforce a federal law or regulation;

(b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or requirement applies only to a facility or construction owned or used by a state entity or a political subdivision of the state; or

(c) enforce a rule, ordinance, or requirement:

(i) that the state executive branch entity or political subdivision adopted or made effective before July 1, 2015; and

(ii) for which the state executive branch entity or political subdivision can demonstrate, with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an individual from a condition likely to cause imminent injury or death.

(10) The Department of Health or the Department of Environmental Quality may enforce a rule or requirement adopted before January 1, 2015.

(11) (a) Except as provided in Subsection (11)(b), a structure used solely in conjunction with agriculture use, and not for human occupancy, or a structure that is no more than 1,500 square feet and used solely for the type of sales described in Subsection 59-12-104(20), is exempt from the requirements of the State Construction Code.

(b) (i) Unless exempted by a provision other than Subsection (11)(a), a plumbing, electrical, and mechanical permit may be required when that work is included in a structure

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described in Subsection (11)(a).

(ii) Unless located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, a structure described in Subsection (11)(a) is not exempt from a permit requirement if the structure is located on land that is:

(A) within the boundaries of a city or town, and less than five contiguous acres; or

(B) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

~~[(12)(a) As used in this Subsection (12):]~~

~~[(i) "Membrane-covered frame structure" means a nonpressurized building wherein the structure is composed of a rigid framework to support a tensioned membrane that provides the weather barrier.]~~

~~[(ii) "Remote yurt" means a membrane-covered frame structure that:]~~

~~[(A) is no larger than 710 square feet;]~~

~~[(B) is not used as a permanent residence;]~~

~~[(C) is located in an unincorporated county area that is not zoned for residential, commercial, industrial, or agricultural use;]~~

~~[(D) does not have plumbing or electricity;]~~

~~[(E) is set back at least 300 feet from any river, stream, lake, or other body of water; and]~~

~~[(F) registers with the local health department.]~~

~~[(b)] (12)(a) A remote yurt is exempt from the State Construction Code including the permit requirements of the State Construction Code.~~

~~[(c)] (b) Notwithstanding Subsection (12)[(b)](a), a county may by ordinance require remote yurts to comply with the State Construction Code, if the ordinance requires the remote yurts to comply with all of the following:~~

~~(i) the State Construction Code;~~

~~(ii) notwithstanding Section 15A-5-104, the State Fire Code; and~~

~~(iii) notwithstanding Section 19-5-125, Title 19, Chapter 5, Water Quality Act, rules made under that chapter, and local health department's jurisdiction over onsite wastewater disposal.~~

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(13) (a) Subsection (1)(b) does not apply to a person repairing damage to an existing structure caused by a natural disaster, if the sole purpose of the repairs is to restore the structure to the same or substantially the same condition as before the natural disaster.

(b) Subject to Subsection (13)(c), the permit requirements of the State Construction Code do not apply to a construction project involving repairs to an existing structure described in Subsection (13)(a).

(c) Upon the completion of a construction project involving repairs to an existing structure described in Subsection (13)(a), the owner of the structure shall ensure that the structure, to determine compliance with Subsection (13)(a), is inspected by:

(i) the local regulator within the political subdivision in which the construction project takes place; or

(ii) a licensed building inspector, as defined in Section 10-6-160, in accordance with:

(A) Subsection 10-5-132(~~(6)~~2)(b)(ii), if the local regulator described in Subsection (13)(c)(i) is a town;

(B) Subsection 10-6-160(~~(6)~~2)(b)(ii), if the local regulator described in Subsection (13)(c)(i) is a city; or

(C) Subsection 17-36-55(~~(6)~~2)(b)(ii), if the local regulator described in Subsection (13)(c)(i) is a county.

Section 8. Section **15A-3-102** is amended to read:

### **15A-3-102. Amendments to Chapters 1 through 3 of IBC.**

(1) IBC, Section 106, is deleted.

(2) In IBC, Section 110, a new section is added as follows: " 110.3.5.1, Weather-resistant exterior wall envelope. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section 1404.2, and flashing as required by Section 1404.4 to prevent water from entering the weather-resistive barrier."

(3) In IBC, Section 111.2, a new exception is added as follows: "Exception: A licensed building inspector who conducts an inspection on behalf of the owner or the owner's authorized agent in accordance with Utah Code, Section 10-5-132, 10-6-160, or 17-36-55 may issue a certificate of occupancy."

~~(3)~~ (4) IBC, Section 115.1, is deleted and replaced with the following: "115.1 Authority. Whenever the building official finds any work regulated by this code being

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performed in a manner either contrary to the provisions of this code or other pertinent laws or ordinances or is dangerous or unsafe, the building official is authorized to stop work."

~~[(4)]~~ (5) In IBC, Section 202, the following definition is added for Ambulatory Surgical Center: "AMBULATORY SURGICAL CENTER. A building or portion of a building licensed by the Utah Department of Health where procedures are performed that may render patients incapable of self preservation where care is less than 24 hours. See Utah Administrative Code R432-13."

~~[(5)]~~ (6) In IBC, Section 202, the following definition is added for Assisted Living Facility: "ASSISTED LIVING FACILITY. See Residential Treatment/Support Assisted Living Facility, Type I Assisted Living Facility, and Type II Assisted Living Facility."

~~[(6)]~~ (7) In IBC, Section 202, the definition for Foster Care Facilities is modified by deleting the word "Foster" and replacing it with the word "Child."

(8) In IBC, Section 202, the following definition is added for Licensed Building Inspector: "LICENSED BUILDING INSPECTOR. An individual who is licensed by the Utah Division of Occupational and Professional Licensing under Utah Code, Title 58, Chapter 56, Building Inspector and Factory Built Housing Licensing Act, and is covered by liability insurance when providing private services as a licensed building inspector."

~~[(7)]~~ (9) In IBC, Section 202, the definition for "[F]Record Drawings" is modified by deleting the words "a fire alarm system" and replacing them with "any fire protection system."

~~[(8)]~~ (10) In IBC, Section 202, the following definition is added for Residential Treatment/Support Assisted Living Facility: "RESIDENTIAL TREATMENT/SUPPORT ASSISTED LIVING FACILITY. A residential facility that provides a group living environment for four or more residents licensed by the Department of Human Services, and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person."

~~[(9)]~~ (11) In IBC, Section 202, the following definition is added for Type I Assisted Living Facility: "TYPE I ASSISTED LIVING FACILITY. A residential facility licensed by the Department of Health that provides a protected living arrangement, assistance with activities of daily living and social care to two or more ambulatory, non-restrained persons who are capable of mobility sufficient to exit the facility without the assistance of another person. Subcategories

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are:

Limited Capacity: two to five residents;

Small: six to sixteen residents; and

Large: over sixteen residents."

~~[(10)]~~ (12) In IBC, Section 202, the following definition is added for Type II Assisted Living Facility: "TYPE II ASSISTED LIVING FACILITY. A residential facility licensed by the Department of Health that provides an array of coordinated supportive personal and health care services to two or more residents who are:

A. Physically disabled but able to direct his or her own care; or

B. Cognitively impaired or physically disabled but able to evacuate from the facility, or to a zone or area of safety, with the physical assistance of one person. Subcategories are:

Limited Capacity: two to five residents;

Small: six to sixteen residents; and

Large: over sixteen residents."

~~[(11)]~~ (13) In IBC, Section 305.2, the following changes are made:

(a) delete the words "more than five children older than 2 1/2 years of age" and replace with the words "five or more children 2 years of age or older";

(b) after the word "supervision" insert the words "child care services"; and

(c) add the following sentence at the end of the paragraph: "See Section 429, Day Care, for special requirements for day care."

~~[(12)]~~ (14) In IBC, Section 305.2.2 and 305.2.3, the word "five" is deleted and replaced with the word "four" in all places.

~~[(13)]~~ (15) A new IBC Section 305.2.4 is added as follows: "305.2.4 Child day care -- residential child care certificate or a license. Areas used for child day care purposes with a residential child care certificate, as described in Utah Administrative Code, R430-50, Residential Certificate Child Care, or a residential child care license, as described in Utah Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or R-3 occupancy as provided in Sections 310.3 and 310.4 comply with the International Residential Code in accordance with Section R101.2."

~~[(14)]~~ (16) A new IBC Section 305.2.5 is added as follows: "305.2.5 Child care centers. Each of the following areas may be classified as accessory occupancies, if the area



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complies with Section 508.2:

1. Hourly child care centers, as described in Utah Administrative Code, R381-60, Hourly Child Care Centers;

2. Child care centers, as described in Utah Administrative Code, R381-100, Child Care Centers; and

3. Out-of-school-time programs, as described in Utah Administrative Code, R381-70, Out of School Time Child Care Programs."

~~[(15)]~~ (17) In IBC, Table 307.1(1), footnote "d" is added to the row for Explosives, Division 1.4G in the column titled STORAGE - Solid Pounds (cubic feet).

~~[(16)]~~ (18) In IBC, Section 308.2, in the list of items under "This group shall include," the words "Type-I Large and Type-II Small, see Section 308.2.5" are added after "Assisted living facilities."

~~[(17)]~~ (19) In IBC, Section 308.2.4, all of the words after the first International Residential Code are deleted.

~~[(18)]~~ (20) A new IBC, Section 308.2.5 is added as follows:

"308.2.5 Group I-1 assisted living facility occupancy groups. The following occupancy groups shall apply to assisted living facilities:

Type I assisted living facilities with seventeen or more residents are Large Facilities classified as an Institutional Group I-1, Condition 1 occupancy.

Type II assisted living facilities with six to sixteen residents are Small Facilities classified as an Institutional Group I-1, Condition 2 occupancy. See Section 202 for definitions."

~~[(19)]~~ (21) In IBC, Section 308.3 Institutional Group I-2, the following changes are made:

(a) The words "more than five" are deleted and replaced with "four or more";

(b) The group "Assisted living facilities, Type-II Large" is added to the list of groups;

(c) The words "Foster care facilities" are deleted and replaced with the words "Child care facilities"; and

(d) The words "(both intermediate care facilities and skilled nursing facilities)" are added after "Nursing homes."

~~[(20)]~~ (22) In IBC, Section 308.3.2, the number "five" is deleted and replaced with the

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number "four" in each location.

~~[(21)]~~ (23) A new IBC, Section 308.3.3 is added as follows:

"308.3.3 Group I-2 assisted living facilities. Type II assisted living facilities with seventeen or more residents are Large Facilities classified as an Institutional Group I-2, Condition 1 occupancy. See Section 202 for definitions."

~~[(22)]~~ (24) In IBC, Section 308.5, the words "more than five" are deleted and replaced with the words "five or more."

~~[(23)]~~ (25) In IBC, Section 308.5.1, the following changes are made:

(a) The words "more than five" are deleted and replaced with the words "five or more."  
(b) The words "2-1/2 years or less of age" are deleted and replaced with "under the age of two."

(c) The following sentence is added at the end: "See Section 429 for special requirements for Day Care."

~~[(24)]~~ (26) In IBC, Sections 308.5.3 and 308.5.4, the words "five or fewer" are deleted and replaced with the words "four or fewer" in both places and the following sentence is added at the end: "See Section 429 for special requirements for Day Care."

~~[(25)]~~ (27) In IBC, Section 310.4, the following changes are made:

(a) The words "and single family dwellings complying with the IRC" are added after "Residential Group-3 occupancies."

(b) The words "Assisted Living Facilities, limited capacity" are added to the list of occupancies.

~~[(26)]~~ (28) In IBC, Section 310.4.1, the following changes are made:

(a) The words "other than Child Care" are inserted after the words "Care facilities" in the first sentence.

(b) All of the words after the first "International Residential Code" are deleted.

(c) The following sentence is added at the end of the last sentence: "See Section 429 for special requirements for Child Day Care."

~~[(27)]~~ (29) A new IBC Section 310.4.3 is added as follows: " 310.4.3 Child Care. Areas used for child care purposes may be located in a residential dwelling unit under all of the following conditions and Section 429:

1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted under the

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authority of the Utah Fire Prevention Board.

2. Use is approved by the Utah Department of Health, as enacted under the authority of the Utah Code, Title 26, Chapter 39, Utah Child Care Licensing Act, and in any of the following categories:

- a. Utah Administrative Code, R430-50, Residential Certificate Child Care.
  - b. Utah Administrative Code, R430-90, Licensed Family Child Care.
3. Compliance with all zoning regulations of the local regulator."

~~[(28)]~~ (30) A new IBC, Section 310.4.4 is added as follows: "310.4.4 Assisted living facilities. Type I assisted living facilities with two to five residents are Limited Capacity facilities classified as a Residential Group R-3 occupancy or are permitted to comply with the International Residential Code. See Section 202 for definitions."

~~[(29)]~~ (31) In IBC, Section 310.5, the words "Type II Limited Capacity and Type I Small, see Section 310.5.3" are added after the words "assisted living facilities."

~~[(30)]~~ (32) A new IBC, Section 310.5.3, is added as follows: "310.5.3 Group R-4 Assisted living facility occupancy groups. The following occupancy groups shall apply to Assisted Living Facilities: Type II Assisted Living Facilities with two to five residents are Limited Capacity Facilities classified as a Residential Group R-4, Condition 2 occupancy. Type I assisted living facilities with six to sixteen residents are Small Facilities classified as Residential Group R-4, Condition 1 occupancies. See Section 202 for definitions."

Section 9. Section **15A-5-104** is amended to read:

### **15A-5-104. Exemptions from State Fire Code.**

(1) As used in this section, "remote yurt" means the same as that term is defined in ~~[Subsection 15A-1-204(12)]~~ Section 15A-1-202.

(2) A remote yurt is exempt from the State Fire Code unless otherwise provided by ordinance in accordance with Subsection 15A-1-204(12)~~(c)~~(b).

(3) An owner of a remote yurt shall ensure that a fire extinguisher is in the remote yurt.

Section 10. Section **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

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process of preparing its recommendation.

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

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employment, education, recreation, and commerce; and

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

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

~~[(W)]~~ (V) consider any other program or strategy implemented by the county to address

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the housing needs of residents of the county who earn less than 80% of the area median 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;

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(ii) the diminution or elimination of a development impediment as defined in Section 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 11. Section **17-27a-527** is enacted to read:

### **17-27a-527. Regulation of building design elements prohibited -- Exceptions.**

(1) As used in this section, "building design element" means:

(a) exterior color;

(b) type or style of exterior cladding material;

(c) style, dimensions, 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;

(f) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;

(g) number or type of rooms;

(h) interior layout of a room;

(i) minimum square footage over 1,000 square feet, not including a garage;

(j) rear yard landscaping requirements;

(k) minimum building dimensions; or

(l) ~~a requirement to install front yard fencing requirements.~~

(2) Except as provided in Subsection (3), a county may not impose a requirement for a



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building design element on a one to two family dwelling or townhome.

(3) Subsection (2) does not apply to:

(a) a dwelling located within an area designated as a historic district in:

(i) the National Register of Historic Places;

(ii) the state register as defined in Section 9-8-402; or

(iii) a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021;

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

(c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;

(d) building design elements agreed to under a development agreement;

(e) a dwelling located within an area that:

(i) is zoned primarily for residential use; and

(ii) was substantially developed before calendar year 1940;

(f) an ordinance enacted to implement water efficient landscaping in a rear yard;

(g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:

(i) defects in the material of existing cladding; or

(ii) consistent defects in the installation of existing cladding; or

(h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:

(i) the county to apply to the owner's property; and

(ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district.

Section 12. Section **17-36-55** is amended to read:

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

(1) As used in this section:

(a) "Business day" means the same as that term is defined in Section 54-8c-1.

~~(a)~~ (b) "Construction project" means the same as that term is defined in Section

38-1a-102.

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(c) "Licensed building inspector" means an individual who is:

(i) licensed by the Division of Occupational and Professional Licensing under Title 58, Chapter 56, Building Inspector and Factory Built Housing Licensing Act; and

(ii) covered by liability insurance when providing private services as a licensed building inspector, in an amount established in rules made by the Division of Occupational and Professional Licensing in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(b)]~~ (d) "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)]~~ (e) "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.

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

(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 a construction project other than a construction project for a one to two family dwelling or townhome if additional modifications or substantive changes are 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)]~~ (g) "State Construction Code" means the same as that term is defined in Section 15A-1-102.

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

~~[(g)]~~ (i) "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)~~(g)~~(i)(i), a review that a licensed engineer conducts.

~~(h)~~ (j) "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 after the day on which the county receives the request for the inspection~~[-]~~:

(i) the county ~~shall~~ may promptly engage an independent inspector with fees collected from the applicant~~[-]~~; or

(ii) the applicant may engage an independent third-party licensed building inspector to complete each required inspection on the applicant's behalf in accordance with Subsection (2)(d), if the construction project is for a one to two family dwelling or townhome.

(c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, the inspector shall give the permit holder written notification that:

(i) identifies each violation;

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

(iii) is delivered:

(A) in hardcopy or by electronic means; and

(B) the day on which the inspection occurs.

(d) (i) An applicant who engages an independent licensed building inspector to

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complete each required inspection on the applicant's behalf under Subsection (2)(b)(ii) shall promptly notify the county in writing of the name and address of the licensed building inspector at the time the applicant engages the licensed building inspector.

(ii) The licensed building inspector described in Subsection (2)(d)(i) shall:

(A) complete each required inspection of the construction project on the applicant's behalf;

(B) provide written notification to the county after completing the final required inspection; and

(C) issue the applicant a certificate of occupancy for the construction project.

(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~~] applicant submits a complete building permit application 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~~] applicant submits a complete building permit application 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:

(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~~]

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(b) the applicant makes a request under Subsection (3)(c)(i);

(c) the county does not complete the plan review within the time period described in Subsection (3)(c)(ii); and

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

~~[(b)]~~ (5) (a) 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)]~~ (b) 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)]~~ (5)(a) 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.]~~

(c) A county may require a single resubmittal of plans for a one or two family dwelling or townhome if the resubmission is required to address deficiencies identified by a ~~third party~~ third-party review of a geotechnical report or geological report.

(6) If a county charges a fee for a building permit, the county may not refuse payment of the fee at the time the applicant submits a building permit application under Subsection (3).

(7) A county may not limit the number of building permit applications submitted under Subsection (3).

(8) For purposes of Subsection (3), a building permit application is complete if the application contains:

(a) the name, address, and contact information of:

(i) the applicant; and

(ii) the construction manager/general contractor, as defined in Section 63G-6a-103, for the construction project;

(b) a site plan for the construction project that:

(i) is drawn to scale;

(ii) includes a north arrow and legend; and

(iii) provides specifications for the following:

(A) lot size and dimensions;

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(B) setbacks and overhangs for setbacks;

(C) easements;

(D) property lines;

(E) topographical details, if the slope of the lot is greater than 10%;

(F) retaining walls;

(G) hard surface areas;

(H) curb and gutter elevations as indicated in the subdivision documents;

(I) utilities, including water meter and sewer lateral location;

(J) street names;

(K) driveway locations;

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

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

(M) the location of the nearest hydrant;

(c) construction plans and drawings, including:

(i) elevations, only if the construction project is new construction;

(ii) floor plans for each level, including the location and size of doors and windows;

(iii) foundation, structural, and framing detail; and

(iv) electrical, mechanical, and plumbing design;

(d) documentation of energy code compliance;

(e) structural calculations, except for trusses;

(f) a geotechnical report, including a slope stability evaluation and retaining wall

design, if:

(i) the slope of the lot is greater than 15%; and

(ii) required by the county; and

(g) a statement indicating that actual construction will comply with applicable local

ordinances and building codes.

Section 13. Section **38-1a-102** is amended to read:

### **38-1a-102. Definitions.**

As used in this chapter:

(1) "Alternate means" means a method of filing a legible and complete notice or other document with the registry other than electronically, as established by the division by rule.

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(2) "Anticipated improvement" means the improvement:

- (a) for which preconstruction service is performed; and
- (b) that is anticipated to follow the performing of preconstruction service.

(3) "Applicable county recorder" means the office of the recorder of each county in which any part of the property on which a claimant claims or intends to claim a preconstruction or construction lien is located.

(4) "Bona fide loan" means a loan to an owner or owner-builder by a lender in which the owner or owner-builder has no financial or beneficial interest greater than 5% of the voting shares or other ownership interest.

(5) "Claimant" means a person entitled to claim a preconstruction or construction lien.

(6) "Compensation" means the payment of money for a service rendered or an expense incurred, whether based on:

(a) time and expense, lump sum, stipulated sum, percentage of cost, cost plus fixed or percentage fee, or commission; or

(b) a combination of the bases listed in Subsection (6)(a).

(7) "Construction lender" means a person who makes a construction loan.

(8) "Construction lien" means a lien under this chapter for construction work.

(9) "Construction loan" does not include a consumer loan secured by the equity in the consumer's home.

(10) "Construction project" means an improvement that is constructed pursuant to an original contract.

(11) "Construction work":

(a) means labor, service, material, or equipment provided for the purpose and during the process of constructing, altering, or repairing an improvement; and

(b) includes scheduling, estimating, staking, supervising, managing, materials testing, inspection, observation, and quality control or assurance involved in constructing, altering, or repairing an improvement.

(12) "Contestable notice" means a notice of preconstruction service under Section 38-1a-401, a preliminary notice under Section 38-1a-501, or a notice of completion under Section 38-1a-506.

(13) "Contesting person" means an owner, original contractor, subcontractor, or other



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interested person.

(14) "Designated agent" means the third party the division contracts with as provided in Section 38-1a-202 to create and maintain the registry.

(15) "Division" means the Division of Occupational and Professional Licensing created in Section 58-1-103.

(16) "Entry number" means the reference number that:

(a) the designated agent assigns to each notice or other document filed with the registry; and

(b) is unique for each notice or other document.

(17) "Final completion" means:

(a) the date of issuance of a permanent certificate of occupancy by the local government entity having jurisdiction over the construction project or building inspector that has the authority to issue a certificate of occupancy for the construction project under Section 10-5-132, 10-6-160, or 17-36-55, if a permanent certificate of occupancy is required;

(b) the date of the final inspection of the construction work by the local government entity having jurisdiction over the construction project or building inspector described in Subsection (17)(a), if an inspection is required under a state-adopted building code applicable to the construction work, but no certificate of occupancy is required;

(c) unless the owner is holding payment to ensure completion of construction work, the date on which there remains no substantial work to be completed to finish the construction work under the original contract, if a certificate of occupancy is not required and a final inspection is not required under an applicable state-adopted building code; or

(d) the last date on which substantial work was performed under the original contract, if, because the original contract is terminated before completion of the construction work defined by the original contract, the local government entity having jurisdiction over the construction project or building inspector described in Subsection (17)(a) does not issue a certificate of occupancy or perform a final inspection.

(18) "Final lien waiver" means a form that complies with Subsection 38-1a-802(4)(c).

(19) "First preliminary notice filing" means a preliminary notice that:

(a) is the earliest preliminary notice filed on the construction project for which the preliminary notice is filed;

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(b) is filed on a construction project that, at the time the preliminary notice is filed, has not reached final completion; and

(c) is not cancelled under Section 38-1a-307.

(20) "Government project-identifying information" has the same meaning as defined in Section 38-1b-102.

(21) "Improvement" means:

(a) a building, infrastructure, utility, or other human-made structure or object constructed on or for and affixed to real property; or

(b) a repair, modification, or alteration of a building, infrastructure, utility, or object referred to in Subsection (21)(a).

(22) "Interested person" means a person that may be affected by a construction project.

(23) "Notice of commencement" means a notice required under Section 38-1b-201 for a government project, as defined in Section 38-1b-102.

(24) "Original contract":

(a) means a contract between an owner and an original contractor for preconstruction service or construction work; and

(b) does not include a contract between an owner-builder and another person.

(25) "Original contractor" means a person, including an owner-builder, that contracts with an owner to provide preconstruction service or construction work.

(26) "Owner" means the person that owns the project property.

(27) "Owner-builder" means an owner, including an owner who is also an original contractor, who:

(a) contracts with one or more other persons for preconstruction service or construction work for an improvement on the owner's real property; and

(b) obtains a building permit for the improvement.

(28) "Preconstruction lien" means a lien under this chapter for a preconstruction service.

(29) "Preconstruction service":

(a) means to plan or design, or to assist in the planning or design of, an improvement or a proposed improvement:

(i) before construction of the improvement commences; and

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(ii) for compensation separate from any compensation paid or to be paid for construction work for the improvement; and

(b) includes consulting, conducting a site investigation or assessment, programming, preconstruction cost or quantity estimating, preconstruction scheduling, performing a preconstruction construction feasibility review, procuring construction services, and preparing a study, report, rendering, model, boundary or topographic survey, plat, map, design, plan, drawing, specification, or contract document.

(30) "Private project" means a construction project that is not a government project.

(31) "Project property" means the real property on or for which preconstruction service or construction work is or will be provided.

(32) "Registry" means the State Construction Registry under Part 2, State Construction Registry.

(33) "Required notice" means:

- (a) a notice of preconstruction service under Section 38-1a-401;
- (b) a preliminary notice under Section 38-1a-501 or Section 38-1b-202;
- (c) a notice of commencement;
- (d) a notice of construction loan under Section 38-1a-601;
- (e) a notice under Section 38-1a-602 concerning a construction loan default;
- (f) a notice of intent to obtain final completion under Section 38-1a-506; or
- (g) a notice of completion under Section 38-1a-507.

(34) "Subcontractor" means a person that contracts to provide preconstruction service or construction work to:

- (a) a person other than the owner; or
- (b) the owner, if the owner is an owner-builder.

(35) "Substantial work" does not include repair work or warranty work.

(36) "Supervisory subcontractor" means a person that:

(a) is a subcontractor under contract to provide preconstruction service or construction work; and

(b) contracts with one or more other subcontractors for the other subcontractor or subcontractors to provide preconstruction service or construction work that the person is under contract to provide.

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Section 14. Section 58-56-2 is amended to read:

**58-56-2. Chapter administration -- Duties.**

(1) The provisions of this chapter shall be administered by the Division of Occupational and Professional Licensing.

(2) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the minimum amount of liability insurance coverage for a licensed building inspector to complete inspections under Subsection 10-5-132(2)(b)(ii), 10-6-160(2)(b)(ii), or 17-36-55(2)(b)(ii).

Section ~~{14}~~15. Section 78B-2-225 is amended to read:

**78B-2-225. Actions related to improvements in real property.**

(1) As used in this section:

(a) "Abandonment" means that there has been no design or construction activity on an improvement for a continuous period of at least one year.

(b) "Action" means any claim for judicial, arbitral, or administrative relief for acts, errors, omissions, or breach of duty arising out of or related to the design, construction, or installation of an improvement, regardless of whether that action is based in tort, contract, warranty, strict liability, product liability, indemnity, contribution, or other source of law.

(c) "Completion" means the date of substantial completion of an improvement to real property as established by the earliest of:

(i) a ~~[Certificate of Substantial Completion]~~ certificate of substantial completion;

(ii) a ~~[Certificate of Occupancy]~~ certificate of occupancy issued by a governing agency or building inspector that has the authority to issue the certificate of occupancy under Section 10-5-132, 10-6-160, or 17-36-55; or

(iii) the date of first use or possession of the improvement.

(d) "Improvement" means any building, structure, infrastructure, road, utility, or other similar man-made change, addition, modification, or alteration to real property.

(e) "Person" means an individual, corporation, limited liability company, partnership, joint venture, association, proprietorship, or any other legal or governmental entity.

(f) "Provider" means any person:

(i) contributing to, providing, or performing:

(A) studies, plans, specifications, drawings, designs, value engineering, cost or quantity

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estimates, surveys, staking, construction, installation, or labor to an improvement; or

(B) the review, observation, administration, management, supervision, inspections, and tests of construction for or in relation to an improvement; or

(ii) providing or contributing materials, products, or equipment that is incorporated into an improvement.

(2) The Legislature finds that:

(a) exposing a provider to suits and liability for acts, errors, omissions, or breach of duty after the possibility of injury or damage has become highly remote and unexpectedly creates costs and hardships to the provider and the citizens of the state;

(b) these costs and hardships include liability insurance costs, records storage costs, undue and unlimited liability risks during the life of both a provider and an improvement, and difficulties in defending against claims many years after completion of an improvement;

(c) these costs and hardships constitute clear social and economic evils;

(d) the possibility of injury and damage becomes highly remote and unexpected seven years following completion or abandonment; and

(e) except as provided in Subsection (7), it is in the best interests of the citizens of the state to impose the periods of limitation and repose provided in this chapter upon all causes of action by or against a provider arising out of or related to the design, construction, or installation of an improvement.

(3) (a) Except as provided in Subsections (3)(b) and (c), an action by or against a provider based in contract or warranty shall be commenced within six years after the date of completion or abandonment of an improvement.

(b) If a provider is required by an express term of a contract or warranty to perform an obligation later than the six-year period described in Subsection (3)(a), and the provider fails to perform the obligation as required, an action for that breach of the contract or warranty shall be commenced within two years after the day on which the breach is discovered or should have been discovered.

(c) If a contract or warranty expressly establishes a different period of limitations than this section, the action shall be commenced within that limitations period.

(4) (a) All other actions by or against a provider shall be commenced within two years from the earlier of the date of discovery of a cause of action or the date upon which a cause of

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action should have been discovered through reasonable diligence.

(b) If the cause of action is discovered or discoverable before completion or abandonment of an improvement, the two-year period begins to run upon completion or abandonment.

(c) Notwithstanding Subsection (4)(a), and except as provided in Subsection (4)(d), an action under this Subsection (4) may not be commenced against a provider more than nine years after completion or abandonment of an improvement.

(d) If an action under Subsection (4)(a) is discovered or discoverable in the eighth or ninth year of the nine-year period, a claimant shall have two years from the date of discovery to commence an action.

(5) Subsection (4) does not apply to an action against a provider:

(a) who has fraudulently concealed the provider's act, error, omission, or breach of duty, or the injury, damage, or other loss caused by the provider's act, error, omission, or breach of duty; or

(b) for a willful or intentional act, error, omission, or breach of duty.

(6) If an individual otherwise entitled to bring an action did not commence the action within the periods prescribed by Subsections (3) and (4) solely because that individual was a minor or mentally incompetent and without a legal guardian, that individual shall have two years from the date the disability is removed to commence the action.

(7) This section shall not apply to an action for the death of or bodily injury to an individual while engaged in the design, installation, or construction of an improvement.

(8) This section does not apply to any action against any person in actual possession or control of the improvement as owner, tenant, or otherwise, at the time any defective or unsafe condition of the improvement proximately causes the injury for which the action is brought.

(9) This section does not extend the period of limitation or repose otherwise prescribed by law or a valid and enforceable contract.

(10) This section does not create or modify any claim or cause of action.

(11) This section applies to all causes of action that accrue after May 3, 2003, notwithstanding that the improvement was completed or abandoned before May 3, 2004.