

Representative Val L. Peterson proposes the following substitute bill:

LAND USE AND HOME OWNERSHIP AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill prohibits certain municipal and county land use regulations, and restricts certain land use decisions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a county or municipal legislative body from adopting or enforcing a land use regulation that regulates co-owned homes differently from other residential units;
- ▶ prohibits a county or municipal legislative body from using a land use regulation regarding co-owned homes to punish individuals for owning or using a co-owned home; and
- ▶ for local non-historic lots:
 - prohibits certain land use regulations; and
 - restricts certain land use decisions.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 [10-9a-534](#), as enacted by Laws of Utah 2021, First Special Session, Chapter 3

30 [17-27a-530](#), as enacted by Laws of Utah 2021, First Special Session, Chapter 3

31 ENACTS:

32 [10-8-85.10](#), Utah Code Annotated 1953

33 [17-50-340](#), Utah Code Annotated 1953



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

36 Section 1. Section [10-8-85.10](#) is enacted to read:

37 **[10-8-85.10](#). Ordinances regarding co-ownership -- Prohibition on municipal**
38 **ordinances restricting co-ownership models.**

39 (1) As used in this section:

40 (a) "Co-owned home" means any residential unit that is jointly owned, in any manner
41 or form, by any combination of individuals or entities.

42 (b) "Residential unit" means the same as that term is defined in Section [10-8-85.4](#).

43 (2) Notwithstanding Section [10-9a-501](#) and Subsection [10-9a-503\(1\)](#), a municipal
44 legislative body may not:

45 (a) adopt or enforce a land use regulation that regulates co-owned homes differently
46 than other residential units; or

47 (b) use a land use regulation governing co-owned homes to fine, charge, prosecute, or
48 otherwise punish an individual solely for the act of owning or using a co-owned home.

49 (3) Notwithstanding Subsection (2), a legislative body may adopt and enforce land use
50 regulations, if the regulations are applied equally to all residential units, including co-owned
51 homes.

52 (4) This section does not limit private individuals or associations from adopting rules
53 or regulations governing co-owned homes.

54 (5) Nothing in this section limits a municipality's authority to adopt or enforce
55 regulations regarding:

56 (a) accessory dwelling units, as defined in Section [10-91-103](#);

57 (b) internal accessory dwelling units, as defined in Section 10-9a-511.5; or
 58 (c) the rental of a residential unit for fewer than 30 days consistent with Section
 59 10-8-85.4.

60 Section 2. Section **10-9a-534** is amended to read:

61 **10-9a-534. Regulation of building design elements prohibited -- Exceptions.**

62 (1) As used in this section[;]:

63 (a) "[~~building~~] Building design element" means:

- 64 [~~(a)~~] (i) exterior color;
- 65 [~~(b)~~] (ii) type or style of exterior cladding material;
- 66 [~~(c)~~] (iii) style, dimensions, or materials of a roof structure, roof pitch, or porch;
- 67 [~~(d)~~] (iv) exterior nonstructural architectural ornamentation;
- 68 [~~(e)~~] (v) location, design, placement, or architectural styling of a window or door;
- 69 [~~(f)~~] (vi) location, design, placement, or architectural styling of a garage door, not
- 70 including a rear-loading garage door;
- 71 [~~(g)~~] (vii) number or type of rooms;
- 72 [~~(h)~~] (viii) interior layout of a room;
- 73 [~~(i)~~] (ix) minimum square footage over 1,000 square feet, not including a garage;
- 74 [~~(j)~~] (x) rear yard landscaping requirements;
- 75 [~~(k)~~] (xi) minimum building dimensions; or
- 76 [~~(l)~~] (xii) a requirement to install front yard fencing.

77 (b) "Local non-historic lot" means a lot that:

- 78 (i) is in an area designated in:
 - 79 (A) the National Register of Historic Places;
 - 80 (B) the state register, as defined in Section 9-8-402; or
 - 81 (C) a local historic district or area, or a site designated as a local landmark;
- 82 (ii) was created by a subdivision plat approved by a municipality and recorded after
- 83 January 1, 1990;
- 84 (iii) is larger than one acre; and
- 85 (iv) includes primary structures built after January 1, 1997.

86 (c) "Subterranean improvement" means an improvement or area for connecting
 87 structures that is:

- 88 (i) located entirely below grade; and
- 89 (ii) constructed or will be constructed consistent with Title 15A, State Construction
- 90 and Fire Codes Act.
- 91 (2) Except as provided in Subsection (3), a municipality may not impose a requirement
- 92 for a building design element on a one to two family dwelling.
- 93 (3) Subsection (2) does not apply to:
- 94 (a) a dwelling located within an area designated as a historic district in:
- 95 (i) the National Register of Historic Places;
- 96 (ii) the state register as defined in Section 9-8-402; or
- 97 (iii) a local historic district or area, or a site designated as a local landmark, created by
- 98 ordinance before January 1, 2021;
- 99 (b) an ordinance enacted as a condition for participation in the National Flood
- 100 Insurance Program administered by the Federal Emergency Management Agency;
- 101 (c) an ordinance enacted to implement the requirements of the Utah Wildland Urban
- 102 Interface Code adopted under Section 15A-2-103;
- 103 (d) building design elements agreed to under a development agreement;
- 104 (e) a dwelling located within an area that:
- 105 (i) is zoned primarily for residential use; and
- 106 (ii) was substantially developed before calendar year 1950;
- 107 (f) an ordinance enacted to implement water efficient landscaping in a rear yard;
- 108 (g) an ordinance enacted to regulate type of cladding, in response to findings or
- 109 evidence from the construction industry of:
- 110 (i) defects in the material of existing cladding; or
- 111 (ii) consistent defects in the installation of existing cladding; or
- 112 (h) a land use regulation, including a planned unit development or overlay zone, that a
- 113 property owner requests:
- 114 (i) the municipality to apply to the owner's property; and
- 115 (ii) in exchange for an increase in density or other benefit not otherwise available as a
- 116 permitted use in the zoning area or district.
- 117 (4) On a local non-historic lot:
- 118 (a) a municipality may not impose restrictions on a dwelling's vertical or horizontal

119 facade or massing;

120 (b) the exemptions under Subsections (3)(a)(iii) and (3)(h) do not apply for any

121 building design element;

122 (c) any conditional use for a dwelling, use, or activity is a permitted use; and

123 (d) a municipality may not include subterranean improvements in any evaluation,
124 decision, or determination of whether a single-family dwelling, or any accessory buildings,
125 comply with a land use regulation, plat, or other restriction.

126 Section 3. Section **17-27a-530** is amended to read:

127 **17-27a-530. Regulation of building design elements prohibited -- Exceptions.**

128 (1) As used in this section[;]:

129 (a) "[~~building~~] Building design element" means:

130 [~~(a)~~] (i) exterior color;

131 [~~(b)~~] (ii) type or style of exterior cladding material;

132 [~~(c)~~] (iii) style, dimensions, or materials of a roof structure, roof pitch, or porch;

133 [~~(d)~~] (iv) exterior nonstructural architectural ornamentation;

134 [~~(e)~~] (v) location, design, placement, or architectural styling of a window or door;

135 [~~(f)~~] (vi) location, design, placement, or architectural styling of a garage door, not
136 including a rear-loading garage door;

137 [~~(g)~~] (vii) number or type of rooms;

138 [~~(h)~~] (viii) interior layout of a room;

139 [~~(i)~~] (ix) minimum square footage over 1,000 square feet, not including a garage;

140 [~~(j)~~] (x) rear yard landscaping requirements;

141 [~~(k)~~] (xi) minimum building dimensions; or

142 [~~(l)~~] (xii) a requirement to install front yard fencing.

143 (b) "Local non-historic lot" means a lot that:

144 (i) is in an area designated in:

145 (A) the National Register of Historic Places;

146 (B) the state register, as defined in Section [9-8-402](#); or

147 (C) a local historic district or area, or a site designated as a local landmark;

148 (ii) was created by a subdivision plat approved by a municipality and recorded after

149 January 1, 1990;

- 150 (iii) is larger than one acre; and
- 151 (iv) includes primary structures built after January 1, 1997.
- 152 (c) "Subterranean improvement" means an improvement or area for connecting
- 153 structures that is:
- 154 (i) located entirely below grade; and
- 155 (ii) constructed or will be constructed consistent with Title 15A, State Construction
- 156 and Fire Codes Act.
- 157 (2) Except as provided in Subsection (3), a county may not impose a requirement for a
- 158 building design element on a one to two family dwelling.
- 159 (3) Subsection (2) does not apply to:
- 160 (a) a dwelling located within an area designated as a historic district in:
- 161 (i) the National Register of Historic Places;
- 162 (ii) the state register as defined in Section 9-8-402; or
- 163 (iii) a local historic district or area, or a site designated as a local landmark, created by
- 164 ordinance before January 1, 2021;
- 165 (b) an ordinance enacted as a condition for participation in the National Flood
- 166 Insurance Program administered by the Federal Emergency Management Agency;
- 167 (c) an ordinance enacted to implement the requirements of the Utah Wildland Urban
- 168 Interface Code adopted under Section 15A-2-103;
- 169 (d) building design elements agreed to under a development agreement;
- 170 (e) a dwelling located within an area that:
- 171 (i) is zoned primarily for residential use; and
- 172 (ii) was substantially developed before calendar year 1950;
- 173 (f) an ordinance enacted to implement water efficient landscaping in a rear yard;
- 174 (g) an ordinance enacted to regulate type of cladding, in response to findings or
- 175 evidence from the construction industry of:
- 176 (i) defects in the material of existing cladding; or
- 177 (ii) consistent defects in the installation of existing cladding; or
- 178 (h) a land use regulation, including a planned unit development or overlay zone, that a
- 179 property owner requests:
- 180 (i) the county to apply to the owner's property; and

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

183 (4) On a local non-historic lot:

184 (a) a county may not impose restrictions on a dwelling's vertical or horizontal facade or
185 massing;

186 (b) the exemptions under Subsections (3)(a)(iii) and (3)(h) do not apply for any
187 building design element;

188 (c) any conditional use for a dwelling, use, or activity is a permitted use; and

189 (d) a county may not include subterranean improvements in any evaluation, decision,
190 or determination of whether a single-family dwelling, or any accessory buildings, comply with
191 a land use regulation, plat, or other restriction.

192 Section 4. Section **17-50-340** is enacted to read:

193 **17-50-340. Ordinances regarding co-ownership -- Prohibition on county**
194 **ordinances restricting co-ownership models.**

195 (1) As used in this section:

196 (a) "Co-owned home" means any residential unit that is jointly owned, in any manner
197 or form, by any combination of individuals or entities.

198 (b) "Residential unit" means the same as that term is defined in Section [17-50-338](#).

199 (2) Notwithstanding Section [17-27a-501](#) or Subsection [17-27a-503\(1\)](#), a county
200 legislative body may not:

201 (a) adopt or enforce a land use regulation that governs co-owned homes differently
202 than other residential units; or

203 (b) use a land use regulation that regulates co-owned homes to fine, charge, prosecute,
204 or otherwise punish an individual solely for the act of owning or using a co-owned home.

205 (3) Notwithstanding Subsection (2), a legislative body may adopt and enforce land use
206 regulations, if the regulations are applied equally to all residential units, including co-owned
207 homes.

208 (4) This section does not limit homeowners' associations or condominium associations
209 from adopting rules or regulations governing co-owned homes.

210 (5) Nothing in this section limits a county's authority to adopt or enforce regulations
211 regarding:

- 212 (a) accessory dwelling units, as defined in Section [17-27a-103](#);
- 213 (b) internal accessory dwelling units, as defined in Section [17-27a-510.5](#); or
- 214 (c) the rental of a residential unit for fewer than 30 days consistent with Section
- 215 [17-50-338](#).