

Representative Paul Ray proposes the following substitute bill:

LOCAL GOVERNMENT BUILDING REGULATION

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to local government building regulation.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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



ENACTS:

10-6-160.1, Utah Code Annotated 1953

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

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

10-6-160.1. Report.

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

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

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

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

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

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

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

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

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

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

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

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

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

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.

~~[(1)]~~ (2) (a) The planning commission shall provide notice, as provided in Section 10-9a-203, of its intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

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

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

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

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

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and

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

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

(ii) a transportation and traffic circulation element that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

138 (I) allow for single room occupancy developments;

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

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

143 (L) preserve existing moderate income housing;

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

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

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

(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

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

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

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

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

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

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

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

organization; or

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

(3) The proposed general plan may include:

(a) an environmental element that addresses:

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

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

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

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

(i) historic preservation;

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

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

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

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

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

212 and

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

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

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

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

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

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

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

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

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

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

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

237 (i) a land use element that:

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

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

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

(ii) a transportation and traffic circulation element that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The proposed general plan may include:

(a) an environmental element that addresses:

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

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

protection of watersheds and wetlands, and the mapping of known geologic hazards;

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

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

(i) historic preservation;

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

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

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

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

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

(g) any other element the county considers appropriate.

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

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

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

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

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