

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;
- allows a building permit applicant to opt out of certain local building inspection or plan review requirements in specified circumstances; and
- prohibits a municipality or county from regulating certain building design elements.

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 2019, Chapter 20

10-6-160, as last amended by Laws of Utah 2018, Chapter 236

17-36-55, as last amended by Laws of Utah 2019, Chapter 20

ENACTS:

10-9a-529, Utah Code Annotated 1953

17-27a-527, Utah Code Annotated 1953



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:

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

(b) "Licensed building inspector" means an individual who is licensed by the Division of Occupational and Professional Licensing under Title 58, Chapter 56, Building Inspector and Factory Built Housing Licensing Act.

~~[(b)]~~ (c) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) a dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

~~[(c)]~~ (d) "Planning review" means a review to verify that a town has approved the following elements of a construction project:

(i) zoning;

(ii) lot sizes;

(iii) setbacks;

(iv) easements;

(v) curb and gutter elevations;

(vi) grades and slopes;

(vii) utilities;

(viii) street names;

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

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

(x) subdivision.

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

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

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

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

(D) that the applicant paid any required fees;

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

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

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

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

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

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

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

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

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

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

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

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

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

92 (A) footing size and bar placement;

93 (B) foundation thickness and bar placement;

94 (C) beam and header sizes;

95 (D) nailing patterns;

96 (E) bearing points;

97 (F) structural member size and span; and

98 (G) sheathing; or

99 (ii) if the review exceeds the scope of the review described in Subsection (1)~~[(e)]~~(h)(i),

100 a review that a licensed engineer conducts.

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

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

105 (b) If a town cannot provide a building inspection within a reasonable time, the town
106 shall promptly engage an independent inspector with fees collected from the applicant.

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

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

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

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

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

119 (c) (i) Subject to Subsection (3)(c)(ii), if a town does not complete a plan review before
120 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.

(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

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

(ii) the applicant opts out of the plan review requirement in accordance with Subsection (5)(b).

(b) A town may attach to a reviewed plan a list that includes:

(i) items with which the town is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

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

(5) Notwithstanding any other provision of law, an applicant may:

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

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

(ii) a licensed contractor completes the construction project;

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

(iv) the applicant provides to the town written notice of:

(A) the name and address of the individuals described in Subsections (5)(a)(i) through (iii); and

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

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

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

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

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

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

(1) As used in this section:

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

(b) "Licensed building inspector" means an individual who is licensed by the Division of Occupational and Professional Licensing under Title 58, Chapter 56, Building Inspector and Factory Built Housing Licensing Act.

~~[(b)]~~ (c) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) a dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

~~[(c)]~~ (d) "Planning review" means a review to verify that a city has approved the following elements of a construction project:

(i) zoning;

(ii) lot sizes;

(iii) setbacks;

(iv) easements;

(v) curb and gutter elevations;

(vi) grades and slopes;

(vii) utilities;
(viii) street names;
(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and
(x) subdivision.

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

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

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

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

(D) that the applicant paid any required fees;

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

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

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

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

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

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

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

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

~~[(e)]~~ (f) "Structural review" means:

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

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

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

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

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

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

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

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

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

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

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

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

(d) An applicant may:

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

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

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

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

[(it)] (B) a licensed architect or structural engineer, or both when required by law, stamps the plan[-]; or

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

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

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

(ii) building code violations found in the plan.

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

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

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

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

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

(ii) a licensed contractor completes the construction project;

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

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

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

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

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

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

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

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

10-9a-529. Regulation of residential building design elements prohibited --**Exceptions.**

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

(i) exterior building color;

(ii) type or style of exterior cladding material;

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

(iv) exterior nonstructural architectural ornamentation;

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

(vi) the number or type of rooms;

(vii) the interior layout of a room; or

(viii) the minimum square footage of a structure.

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

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

(ii) buffering or screening used to:

(A) minimize visual impacts;

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

(C) protect the privacy of neighbors.

(2) A municipal legislative body may not adopt an ordinance regulating a residential building design element.

(3) This section does not apply to:

(a) an ordinance regulating a structure located in an area designated as a local historic district;

(b) an ordinance regulating a structure located in an area designated as a historic district on the National Register of Historic Places;

(c) an ordinance regulating a structure designated as a local, state, or national historic landmark;

(d) a regulation created by a valid private covenant or other contractual agreement among property owners relating to a residential building design element, including a building

agreement between a property owner and a municipality;

(e) an ordinance regulating a residential building design element directly and substantially related to the requirements of an applicable state or federal building or safety regulation;

(f) an ordinance regulating a residential building design element for a manufactured home as defined in Section 15A-1-302;

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

(h) an ordinance regulating a residential building design element if the ordinance directly relates to an established immediate public health or safety hazard.

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

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

Exceptions.

(1) As used in this section:

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

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

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

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

(A) exterior building color;

(B) type or style of exterior cladding material;

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

(D) exterior nonstructural architectural ornamentation;

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

(F) the number or type of rooms;

(G) the interior layout of a room; or

(H) the minimum square footage of a structure.

- 338 (ii) "Residential building design element" does not include for a single-family
339 residential building:
- 340 (A) the height, bulk, orientation, or location of a structure on a lot; or
341 (B) buffering or screening used to minimize visual impacts, mitigate the impacts of
342 light or noise, or protect the privacy of neighbors.
- 343 (2) A county legislative body may not adopt an ordinance regulating a residential
344 building design element.
- 345 (3) This section does not apply to:
- 346 (a) an ordinance regulating a structure located in an area designated as a local historic
347 district;
- 348 (b) an ordinance regulating a structure located in an area designated as a historic
349 district on the National Register of Historic Places;
- 350 (c) an ordinance regulating a structure designated as a local, state, or national historic
351 landmark;
- 352 (d) a regulation created by a valid private covenant or other contractual agreement
353 among property owners relating to a residential building design element, including a building
354 agreement between a property owner and a county;
- 355 (e) an ordinance regulating a residential building design element directly and
356 substantially related to the requirements of an applicable state or federal building or safety
357 regulation;
- 358 (f) an ordinance regulating a residential building design element for a manufactured
359 home as defined in Section [15A-1-302](#);
- 360 (g) an ordinance enacted as a condition for participation in the National Flood
361 Insurance Program administered by the Federal Emergency Management Agency; or
- 362 (h) an ordinance regulating a residential building design element if the ordinance
363 directly relates to an established immediate public health or safety hazard.

364 Section 5. Section **17-36-55** is amended to read:

365 **17-36-55. Fees collected for construction approval -- Approval of plans.**

366 (1) As used in this section:

- 367 (a) "Construction project" means the same as that term is defined in Section [38-1a-102](#).
368 (b) "Licensed building inspector" means an individual who is licensed by the Division

of Occupational and Professional Licensing under Title 58, Chapter 56, Building Inspector and
Factory Built Housing Licensing Act.

~~[(b)]~~ (c) "Lodging establishment" means a place providing temporary sleeping
accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

~~[(c)]~~ (d) "Planning review" means a review to verify that a county has approved the
following elements of a construction project:

(i) zoning;

(ii) lot sizes;

(iii) setbacks;

(iv) easements;

(v) curb and gutter elevations;

(vi) grades and slopes;

(vii) utilities;

(viii) street names;

(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban
Interface Code adopted under Section 15A-2-103; and

(x) subdivision.

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

- 400 (B) that the construction project complies with the energy code adopted under Section
401 15A-2-103;
- 402 (C) that the construction project received a planning review;
- 403 (D) that the applicant paid any required fees;
- 404 (E) that the applicant obtained final approvals from any other required reviewing
405 agencies;
- 406 (F) that the construction project complies with federal, state, and local storm water
407 protection laws;
- 408 (G) that the construction project received a structural review; and
- 409 (H) the total square footage for each building level of finished, garage, and unfinished
410 space.
- 411 (ii) "Plan review" does not mean a review of a document:
- 412 (A) required to be re-submitted for additional modifications or substantive changes
413 identified by the plan review;
- 414 (B) submitted as part of a deferred submittal when requested by the applicant and
415 approved by the building official; or
- 416 (C) that, due to the document's technical nature or on the request of the applicant, is
417 reviewed by a third party.
- 418 ~~[(e)]~~ (f) "State Construction Code" means the same as that term is defined in Section
419 15A-1-102.
- 420 ~~[(f)]~~ (g) "State Fire Code" means the same as that term is defined in Section
421 15A-1-102.
- 422 ~~[(g)]~~ (h) "Structural review" means:
- 423 (i) a review that verifies that a construction project complies with the following:
- 424 (A) footing size and bar placement;
- 425 (B) foundation thickness and bar placement;
- 426 (C) beam and header sizes;
- 427 (D) nailing patterns;
- 428 (E) bearing points;
- 429 (F) structural member size and span; and
- 430 (G) sheathing; or

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) An applicant may:

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

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

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

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

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

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

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

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

(ii) building code violations found in the plan.

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

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

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

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

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

(ii) a licensed contractor completes the construction project;

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

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

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

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

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

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

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