

## CHAPTER 7. BUILDING

### Article 7-1. Building and Safety Codes

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#### 7-1-1. Adoption of Utah State Construction Code.

In accordance with the provisions of Section 58-56-4, Utah Code Annotated, 1953, as amended, Utah County adopts the Utah State Construction Code, as adopted by the Utah State Legislature, ("Construction Code") as the construction standard to be adhered to within unincorporated Utah County. (Ord. No. 2003-44, 12-30-03)(Ord. 2006-11, 4-4-06)(Ord. No. 2006-20; 5-9-06)(Ord. No. 2008-35; 12-23-08)(Ord. No. 2010-19; 8-31-10).

#### 7-1-2. Copy on File.

A copy of the Utah State Construction Code is ordered to be filed in the office of the Utah County Clerk/Auditor for the use and examination by the public. (Ord. No. 2003-44, 12-30-03) (Ord. 2006-11, 4-4-06)(Ord. 2006-20; 5-9-06)(Ord 2007-2)(Ord. No. 2010-19; 8-31-10).

#### 7-1-3. Violations.

It shall be unlawful for a property owner, or other person, firm, corporation, partnership, or entity, to do any grading, excavating, or filling in Utah County; or to erect, construct, enlarge, alter, repair, move, improve, convert, demolish, equip, use, occupy or maintain any building, structure, or service equipment, or to permit, hire, authorize, or cause the same to occur in Utah County; contrary to or in violation of the provision of this Chapter. (Ord No. 2003-44, 12-30-03)(Ord. 2006-11, 4-4-06)(Ord. 2006-20; 5-9-06)(Ord. No. 2010-19; 8-31-10).

#### 7-1-4. Penalties.

Any property owner or other person, firm, corporation, partnership, or entity violating any of the provisions of this Chapter shall be deemed guilty of a Class B Misdemeanor; it shall be a separate offense for each and every day within which a violation of any provision of this Chapter is committed. Upon conviction, the violator shall be punished as provided

by Section 1-1-9 of the Utah County Code. (Ord No. 2003-44, 12-30-03)(Ord. 2006-11, 4-4-06)(Ord. 2006-20; 5-9-06)(Ord. No. 2010-19; 8-31-10).

#### 7-1-5. Appeals.

(a) There is hereby created a Building Board of Appeals of Utah County (the "Board") to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of the Construction Code adopted under Article 7-1, Utah County Code. The members of the Board shall be appointed by the Board of County Commissioners and shall serve until replaced or a resignation is accepted by the commission. Members shall be administered the oath of office after being appointed but before taking part in any deliberations of the Board. The Board shall consist of three members who are qualified by training and experience to pass on matters pertaining to building construction and are not employees of Utah County.

There must be a minimum of two members to form a quorum. The chair, or the acting chair, shall conduct all hearings and may administer oaths and compel the attendance of witnesses. The Secretary of the Community Development Department shall be the Secretary of the Board and shall keep minutes of the proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact; and shall keep records of its examinations and other official actions. These minutes and records, along with the appeal application, written statements, and other facts bearing on the appeal and decision of the Board, shall be filed in the office of the Board and shall be public record.

The Secretary shall make a tape recording of the proceedings of the Board, and a transcription may be requested from the Secretary. The Board shall establish rules relating to such requests, including a reasonable compensation to be paid to the Secretary for making the transcription. The secretary shall oversee the making of the transcript and shall be responsible for maintaining the integrity of the tape. Where more than one record exists or is purported to exist, a transcription caused to be prepared by the Secretary and certified to its accuracy before a notary public, shall be the official record of the proceedings of the Board.

(b) Any person or entity wishing to appeal a decision made in applying the Construction Code may commence such action by completing the standard forms and filing the forms in the office of the Secretary of the Board. The Secretary of the Board shall accept and process such forms only if they are properly completed and accompanied by the filing fee

in the current amount set by the County Commission. Any appeal of a decision made in applying the Construction Code must be properly filed within thirty (30) calendar days of the date of the contested decision, or it shall be time-barred and not heard.

(c) The Board shall fix a reasonable time for hearing the appeal and decide the same. The Board shall set a standard procedure for conducting public hearings and reviewing requests before the Board, which may include: reasonable limits of time in which appellants, respondents, and other parties may speak; sign-up sheets for those who wish to speak at the public hearing (and cut off times for adding names); deadlines for submitting written comment; and other rules needed to conduct a fair and orderly hearing. The decision of the Board shall be based upon the facts and not upon expressions of support or protest, or lack of support or protest, which may be made at the hearing. Any party may appear at the hearing in person or by agent or by attorney.

(d) An appeal shall be approved only when the Board finds that all of the forms, procedures, and rules have been completed and fully complied with. To reverse any order, requirement, decision, or determination made in administering or interpreting the Construction Code it shall require the concurring vote of a majority of the members of the Board hearing the matter. When an appeal is approved, the Board shall enter into the official minutes the specific reasons for approval, any conditions or limitations of the approval, and the names of those voting for and against. If the decision of the Board is to deny an appeal, the Board shall enter into the official minutes the specific reasons for denial and the names of those voting for and against.

(e) The Board shall not grant the relief appealed for unless it finds that all of the following standards have been met:

(1) Prior to filing the appeal with the Board, the Board shall lack jurisdiction and shall not hear the appeal unless, within ten (10) calendar days of the date of the decision being appealed, the appellant provided to the Building Official, or other person or entity which made the decision in question, a claim of error which fully sets forth a brief statement of the facts, and the nature of the claim of error.

Within fifteen (15) calendar days of the date of the decision being appealed, the Building Official, or other person or entity which made the decision in question may, but is not required to, respond in writing to the claim of error. The claim of error shall be deemed denied if the Building Official, or other person or entity which made the decision in question, fails to approve or deny the claim of error or otherwise respond. A copy of the claim of error, and any

response received, shall be attached to the appeal application.

(2) If the Board finds that the claim of error was timely filed, the Board shall not grant the reversal or relief appealed for unless it finds that all of the following standards have been met:

(A) The appellant has filed a properly completed written application for appeal, which states with specificity the nature of the alleged error and how the appellant has been adversely affected by said alleged error.

(B) The application for appeal was properly filed with the Secretary of the Board twenty (20) calendar days or less after the date of the decision being appealed. This twenty (20) calendar day filing deadline is jurisdictional and the Board shall dismiss the appeal if the Board finds that the application for appeal filing deadline has not been met.

(C) The appellant is a party which was adversely affected by the subject decision applying the Construction Code.

(D) If the Board grants the appellant's request, the result will be consistent with the provisions of the Construction Code, and not waive or modify any of the terms or requirements thereof.

(E) The applicant has the burden of proving that an error was made; however, expressions of support or protest alone shall not constitute the basis of approval or denial.

(F) The Board shall presume that the order, requirement, decision, or determination made in the administration or determination of the Construction Code is valid; and determine only whether or not the order, requirement, decision, or determination is arbitrary, capricious, or illegal.

(G) An order, requirement, decision, or determination is valid if the decision is supported by substantial evidence in the record and is not arbitrary, capricious, or illegal.

(H) A determination of illegality requires a determination that the order, requirement, decision, or determination violates a law, statute, or ordinance in effect at the time the order, requirement, decision, or determination was made.

(I) If there is a record, the Board's review is limited to the record provided; and the Board may not accept or consider any evidence outside the record, unless that evidence was previously offered and it was improperly excluded. If there is no record, the Board may call witnesses and take evidence.

(f) After a decision has been made, the secretary shall file the written decision of the Board in the Community Development Office and mail a copy of the decision to the applicant at the address supplied in the application form. The decision of the Board shall

be deemed final at the time it is filed in the Community Development Office.

(g) Any person adversely affected by any decision of the Board may file a petition with the 4th District Court for Utah County for a review of that decision. Any such appeal or petition shall be barred unless it is filed within twenty (20) calendar days of the date when the decision was filed in the Community Development Office. The petition shall be limited to the allegation that the decision of the Board was arbitrary, capricious, or illegal. The Board shall transmit to the reviewing court the complete record of its proceedings, including applications, exhibits, minutes, findings, orders, and any transcript of tape recordings which may be on file with the Board. The person or entity filing the petition for review shall request from the Secretary to the Board a verbatim transcript of the record and such person or entity shall pay the reasonable transcription fees as set by the Board. If there is a record, the review of the District Court is limited to the record, and the Court may not accept or consider evidence outside of the record unless it determines that such evidence was offered to the Board and improperly excluded. If there is no record, the Court may call witnesses and take evidence. The Court shall affirm the decision of the Board if the decision is supported by substantial evidence in the record. Filing a petition for review with the Court does not automatically stay the decision of the Board. Before filing the petition for review with the Court, the aggrieved party may petition the Board to stay its decision. The Board shall take action on any petition to stay only in a meeting where proper notice was given and where a quorum is present. Upon considering such petition to stay, the Board may grant the stay if it finds such to be in the best interests of the County. After filing a petition for review with the Court, the petitioner may seek from the Court an injunction staying the decision of the Board. No decision of the Board shall be subject to rehearing by the Board, except when remanded from a court of competent jurisdiction. (Ord No. 2003-44, 12-30-03)(Ord. 2006-11, 4-4-06)(Ord. 2006-20; 5-9-06)(Ord. No. 2010-19; 8-31-10).

#### 7-1-6. Agricultural Structure Exemption.

Any person who asserts that a proposed structure is exempt from the building permit requirements pursuant to the agriculture use exemption contained in Section 58-56-4(5), Utah Code Annotated, 1953 as amended, shall file an application for exemption with the Utah County Community Development Department. The Community Development Department and the Building Official shall review the application and make a determination if the proposed

structure qualifies for the exemption. Any structure built or constructed without first making application for and obtaining the necessary exception approval shall be subject to the applicable fines as adopted under the most current Utah County Government Fee Schedule.(Ord No. 2003-44, 12-30-03) (Ord. 2006-11, 4-4-06) (Ord. 2006-20; 5-9-06)(Ord. No. 2010-19; 8-31-10).

#### 7-1-7. Fees.

Fees associated with Article 7-1, Utah County Code, are found in the most recently adopted Utah County Government Fee Schedule and Ordinance. (Ord. 2006-20; 5-9-06)(Ord. No. 2010-19; 8-31-10)..

#### 7-1-8. Review of single-family residential building permit inspection.

(a) As used in this section, "International Residential Code" means the International Residential Code adopted by the Utah State Construction Code under Section 58-56-4, Utah Code Annotated, 1953 as amended.

(b) Upon request by a person seeking a single-family residential building permit, the Director of the Utah County Community Development Department, as the designee of the Board of County Commissioners of Utah County, shall, with reasonable diligence, review an inspection conducted by the county's building inspector for a single-family residential building permit to determine whether the inspection constitutes a fair administration of the International Residential Code .

(c) A review described in this section:

(1) is separate and unrelated to an appeal under the International Residential Code;

(2) may not be used to review a matter that may be brought by appeal under the International Residential Code;

(3) may not result in the waiver or modification of an International Residential Code requirement or standard;

(4) may not conflict with an appeal, or the result of an appeal, under the International Residential Code; and

(5) does not prohibit a person from bringing an appeal under the International Residential Code.

(d) A person who seeks a review described in this section may not be prohibited by preclusion, estoppel, or otherwise from raising an issue or bringing a claim in an appeal under the International Residential Code on the grounds that the person raised the issue or brought the claim in the review described in this section.(Ord. No. 2005-37, 12-20-05) (Ord. 2006-20; 5-9-06)(Ord. No. 2010-19; 8-31-10).