

**AMENDMENTS TO UTAH UNIFORM BUILDING
STANDARDS ACT**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Parley G. Hellewell

This act modifies the Utah Uniform Building Standards Act. The act clarifies and modifies the circumstances in which political subdivisions are required to follow codes adopted by the Division of Occupational Health and Professional Licensing, in collaboration with the Uniform Building Code Commission. The act gives the division authority, in collaboration with the commission, to approve certain other codes, without adopting them. The act gives political subdivisions discretion to adopt a dangerous building code or rehabilitation code if the applicable code is one approved by the division. The act makes technical changes.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

58-56-3, as last amended by Chapter 1, Laws of Utah 2000

58-56-4, as last amended by Chapters 13 and 351, Laws of Utah 1998

58-56-5, as last amended by Chapters 13 and 351, Laws of Utah 1998

58-56-6, as last amended by Chapter 218, Laws of Utah 1995

58-56-7, as last amended by Chapter 13, Laws of Utah 1998

58-56-8, as last amended by Chapter 79, Laws of Utah 1996

58-56-9, as last amended by Chapter 225, Laws of Utah 1996

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

Section 1. Section **58-56-3** is amended to read:

58-56-3. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

~~[(1) "ANSI" means American National Standards Institute, Inc.]~~

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

~~(2) "Code(s)" means the [NEC, building code, mechanical code, or plumbing code as~~

~~defined in this section and as applied in context.]~~ following codes, including the standards and specifications contained in them:

(a) codes adopted by the commission under Subsection 58-56-4(2); and

(b) codes approved by the commission under Subsection 58-56-4(4)(a).

(3) "Commission" means the Uniform Building Code Commission created under this chapter.

(4) "Compliance agency" means an agency of the state or any of its political subdivisions which issue permits for construction regulated under the codes, or any other agency of the state or its political subdivisions specifically empowered to enforce compliance with the codes.

(5) "Factory built housing" means manufactured homes or mobile homes.

(6) "Factory built housing set-up contractor" means an individual licensed by the division to set up or install factory built housing on a temporary or permanent basis. The scope of the work included under the license includes the placement and or securing of the factory built housing on a permanent or temporary foundation, securing the units together if required, and connection of the utilities to the factory built housing unit, but does not include site preparation, construction of a permanent foundation, and construction of utility services to the near proximity of the factory built housing unit. If a dealer is not licensed as a factory built housing set up contractor, that individual must subcontract the connection services to individuals who are licensed by the division to perform those specific functions under Title 58, Chapter 55, Utah Construction Trades Licensing Act.

(7) "HUD code" means the Federal Manufactured Housing Construction and Safety Standards Act.

(8) "Installation standard" means the standard adopted and published by the National Conference of States on Building Codes and Standards (NCSBCS), for the installation of manufactured homes titled "The Standard for Manufactured Home Installations," the accompanying manufacturer's instructions for the installation of the manufactured home, or such equivalent standard as adopted by rule.

(9) "Local regulator" means each political subdivision 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]~~.

(10) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. All manufactured homes constructed on or after June 15, 1976, shall be identifiable by the manufacturer's data plate bearing the date the unit was manufactured and a HUD label attached to the exterior of the home certifying the home was manufactured to HUD standards.

(11) "Mobile home" means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

(12) "Modular unit" means a structure built from sections which are manufactured in accordance with the construction standards adopted pursuant to Section 58-56-4 and transported to a building site, the purpose of which is for human habitation, occupancy, or use.

~~[(13) "NEC" means the National Electrical Code.]~~

~~[(14)]~~ (13) "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.

~~[(15)]~~ (14) "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.

~~[(16)]~~ (15) "Unlawful conduct" is as defined in Subsection 58-1-501(1) and includes:

(a) engaging in the sale of factory built housing without being registered with the division as a dealer, unless the sale is exempt under Section 58-56-16; and

(b) selling factory built housing within the state as a dealer without collecting and remitting

to the division the fee required by Section 58-56-17.

[~~(17)~~] (16) "Unprofessional conduct" is as defined in Subsection 58-1-501(2) and includes:

- (a) any nondelivery of goods or services by a registered dealer which constitutes a breach of contract by the dealer;
- (b) the failure of a registered dealer to pay a subcontractor or supplier any amounts to which that subcontractor or supplier is legally entitled; and
- (c) any other activity which is defined as unprofessional conduct by division rule in accordance with the provisions of Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

Section 2. Section **58-56-4** is amended to read:

58-56-4. Definitions -- Adoption of building codes -- Amendments -- Approval of other codes -- Exemptions.

(1) As used in this section:

- (a) "agricultural use" means a use that relates to the tilling of soil and raising of crops, or keeping or raising domestic animals, for the purpose of commercial food production;
- (b) "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:
 - (i) maintenance and repair; and
 - (ii) the care of livestock, crops, or equipment intended for agricultural use which are kept there; and
- (c) "residential area" means land that is not used for an agricultural use and is:
 - (i) (A) within the boundaries of a city or town; and
 - (B) less than five contiguous acres;
 - (ii) (A) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27, Part 8, Subdivision; and
 - (B) less than two contiguous acres; or
 - (iii) not located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agricultural Protection Area.

(2) (a) Subject to the provisions of Subsections (4) and (5), the following ~~[are]~~ codes, each

of which must be promulgated by a nationally recognized code authority, shall be adopted, in the manner described in Subsection (2)(b), as the construction [standards to] codes which the state and each political subdivision of [this] the state shall [adhere in building construction, alteration, remodeling, and repair, and in the regulation of building construction, alteration, remodeling and repair] follow in the circumstances described in Subsection (3):

~~[(a)]~~ (i) a building code ~~[promulgated by a nationally recognized code authority];~~

~~[(b)]~~ (ii) the National Electrical Code promulgated by the National Fire Protection Association;

~~[(c)]~~ (iii) a plumbing code ~~[adopted by a nationally recognized code authority; and]; and~~

~~[(d)]~~ (iv) a mechanical code ~~[promulgated by a nationally recognized code authority].~~

~~[(3)]~~ (b) The division, in collaboration with the commission, shall adopt by rule ~~[the edition of the NEC or code and]~~ specific ~~[edition]~~ editions of the codes described in ~~[Subsections (2)(a), (c), and (d) to be used as the standard]~~ Subsection (2)(a), and may adopt by rule successor editions of any adopted code.

~~[(4)]~~ (c) The division, in collaboration with the commission, may, in accordance with Section 58-56-7, adopt amendments to the codes adopted ~~[codes]~~ under Subsection (2)(a), to be applicable to the entire state or within ~~[a]~~ one or more political ~~[subdivision only in accordance with Section 58-56-7]~~ subdivisions.

(3) Subject to the provisions of Subsections (4) and (5), the codes and amendments adopted under Subsection (2) shall be followed when:

(a) new construction is involved;

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

(i) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation, or reconstruction of the building; or

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

(4) (a) The division, in collaboration with the commission, shall have discretion to approve, without adopting, certain codes in addition to those described in Subsection (2)(a), including specific

editions of the codes, for use by a compliance agency.

(b) If the applicable code is one which the division has approved under Subsection (4)(a), a compliance agency has the discretion to:

(i) adopt an ordinance requiring removal, demolition, or repair of a building, according to a code;

(ii) adopt, by ordinance or rule, a dangerous building code; or

(iii) adopt, by ordinance or rule, a building rehabilitation code.

(5) (a) Except in a residential area, a structure used solely in conjunction with agriculture use, and not for human occupancy, is exempted from the permit requirements of any [building] code adopted by the division.

(b) Notwithstanding Subsection (5)(a), unless otherwise exempted, plumbing, electrical, and mechanical permits may be required when that work is included in the structure.

Section 3. Section **58-56-5** is amended to read:

58-56-5. Building Code Commission -- Composition of commission -- Commission duties and responsibilities.

(1) There is established a Uniform Building Code Commission to advise the division with respect to the division's responsibilities in administering the codes under this chapter.

(2) The commission shall be appointed by the executive director who shall submit his nominations to the governor for confirmation or rejection. If a nominee is rejected, alternative names shall be submitted until confirmation is received. Following confirmation by the governor, the appointment shall be made.

(3) The commission shall consist of eleven members who shall be appointed in accordance with the following:

(a) one member shall be from among candidates nominated by the Utah League of Cities and Towns and the Utah Association of Counties;

(b) one member shall be a licensed building inspector employed by a political subdivision of the state;

(c) one member shall be a licensed professional engineer;

- (d) one member shall be a licensed architect;
- (e) one member shall be a fire official;
- (f) three members shall be contractors licensed by the state, of which one shall be a general contractor, one an electrical contractor, and one a plumbing contractor;
- (g) two members shall be from the general public and have no affiliation with the construction industry or real estate development industry; and
- (h) one member shall be from the Division of Facilities Construction Management, Department of Administrative Services.

(4) (a) Except as required by Subsection (4)(b), as terms of current commission members expire, the executive director shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(6) No commission member may serve more than two full terms, and no commission member who ceases to serve may again serve on the commission until after the expiration of two years from the date of cessation of service.

(7) A majority of the commission members shall constitute a quorum and may act on behalf of the commission.

(8) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem,

or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the commission at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

(c) (i) Local government members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Local government members may decline to receive per diem and expenses for their service.

(9) The commission shall annually designate one of its members to serve as chair of the commission. The division shall provide a secretary to facilitate the function of the commission and to record its actions and recommendations.

(10) The duties and responsibilities of the commission are to:

(a) recommend to the director the:

(i) adoption by rule of [the edition of the NEC, and the specific codes and editions of the codes described in Subsections 58-56-4(2)(a), (c) and (d) adopted pursuant to this chapter] codes and amendments under Subsections 58-56-4(2)(b) and (c); and

~~[(b) recommend to the director the adoption by rule of amendments to the NEC, the building code, the mechanical code, and plumbing code adopted pursuant to this chapter;]~~

(ii) approval by rule of the codes referenced in Subsection 58-56-4(4)(a);

~~[(e)]~~ (b) offer an opinion regarding the interpretation of or the application of any of the codes adopted ~~[pursuant to this chapter]~~ or approved under Section 58-56-4 upon a formal submission by a party to the matter in question which submission must clearly state the facts in question, the specific code citation involved and the position taken by all parties;

~~[(d)]~~ (c) act as an appeals board as provided in Subsection 58-56-8(3);

~~[(e)]~~ (d) establish advisory peer committees on either a standing or ad hoc basis to advise

the commission with respect to [~~building code~~] matters related to the codes described in Section 58-56-4, including a committee to advise the commission regarding health matters related to the [~~UPC~~] plumbing code; and

[~~(f)~~] (e) assist the division in overseeing code-related training in accordance with Section 58-56-9.

Section 4. Section **58-56-6** is amended to read:

58-56-6. Building codes -- Division duties and responsibilities.

(1) The division shall administer the [~~adoption and amendment of the NEC, the building code, the mechanical code, and the plumbing code~~] codes adopted or approved under Section 58-56-4 pursuant to this chapter[;], but[;] shall have no responsibility or duty to conduct inspections to determine compliance with the codes, issue permits, or assess building permit fees.

(2) Administration of the [~~NEC, the building code, the mechanical code, and the plumbing code~~] codes adopted or approved under Section 58-56-4 by the division shall include:

(a) receiving recommendations from the commission and thereafter adopting by rule the editions of the codes and amendments to the codes under Subsections 58-56-4(2)(b) and (c);

(b) receiving recommendations from the commission and thereafter approving by rule the code editions referenced in Subsection 58-56-4(4)(a);

[~~(b)~~] (c) maintaining and publishing for reference on a current basis the [~~editions of the code in force and~~] adopted amendments [~~thereto~~] to the codes under Subsection 58-56-4(2)(c); and

[~~(c)~~] (d) receiving requests for amendments and opinions from the commission, scheduling appropriate hearings and publishing the amendments to the codes and the opinions of the commission with respect to interpretation and application of the codes.

Section 5. Section **58-56-7** is amended to read:

58-56-7. Code amendments -- Commission recommendations -- Division duties and responsibilities.

(1) The division, with the commission, shall establish by rule the procedure and manner under which requests for amendments to codes under Subsection 58-56-4(2)(c) shall be:

(a) filed with the division; and

(b) recommended or declined for adoption.

(2) The division shall accept from any local regulators, state regulators, state agencies involved with the construction and design of buildings, the contractors, plumbers, or electricians licensing boards, or from recognized construction-related associations a request for amendment to the [~~NEC, the building code, the mechanical code, or the plumbing code adopted~~] codes under [~~Section~~] Subsection 58-56-4(2)(c).

(3) The division [~~or the commission on its own initiative~~] may make recommendations to the commission for [~~amendment to the NEC, the building code, the mechanical code, or the plumbing code adopted~~] amendments to codes under [~~Section~~] Subsection 58-56-4(2)(c). The commission may also consider amendments on its own initiative.

(4) On May 15 and November 15 of each calendar year, or the first government working day thereafter if either date falls on a weekend or government holiday, the division shall convene a public hearing, as a part of the rulemaking process, before the commission concerning requests for amendment of the codes, recommended by the division and commission to be adopted by rule. The hearing shall be conducted in accordance with the rules of the commission.

(5) Within 15 days following completion of the hearing under Subsection (4) [~~or (5)~~], the commission shall provide to the division a written recommendation concerning each amendment.

(6) The division shall consider the recommendations and promulgate amendments by rule in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act and as prescribed by the director.

(7) The decision of the division to accept or reject the recommendation of the commission shall be made within 15 days after receipt of the recommendation.

(8) All decisions of the division pertaining to adoption of a code edition or amendments to any code, which are contrary to recommendations of the commission, may be overridden by a two-thirds vote of the commission according to a procedure to be established by rule.

(9) (a) Amendments with statewide application:

(i) shall be effective on the January 1 or July 1 [~~immediately~~] following the public hearing or as soon after that date as the requirements of Title 63, Chapter 46a, Utah Administrative

Rulemaking Act, are met; or

(ii) may be effective prior to the dates in Subsection (9)(a)(i) if designated by the division and the commission as necessary for the public health, safety, and welfare.

(b) Amendments with local application only shall be effective on a date to be determined by the division and the commission.

(c) In making rules required by this chapter, the division shall comply with the provisions of Title 63, Chapter 46a, Utah Administrative Rulemaking Act[~~, the~~]. The provisions of that chapter shall have control over this section in case of any conflict.

Section 6. Section **58-56-8** is amended to read:

58-56-8. Compliance with codes -- Responsibility for inspections -- Appeals.

(1) The responsibility for inspection of construction projects and enforcement of compliance with provisions of the codes shall be with the compliance agency having jurisdiction over the project and the applicable codes.

(2) A finding by a compliance agency that a licensed contractor, electrician, or plumber has materially violated the provisions of a code in a manner to jeopardize the public health, safety, and welfare and failed to comply with corrective orders of the compliance agency shall be furnished in writing to the division by the compliance agency. It is the responsibility of the compliance agency to conduct a primary investigation to determine that, in fact, there has been a material violation of the provisions of the code jeopardizing the public interest and provide the report of investigation to the division.

(3) Each compliance agency shall establish a method of appeal by which a person disputing the application and interpretation of a code may appeal and receive a timely review of the disputed issues in accordance with [~~provisions of the National Electrical Code, the building code, the mechanical code, or the plumbing code~~] the codes adopted or approved under Section 58-56-4. If a compliance agency refuses to establish a method of appeal, the commission shall act as the appeals board and conduct a hearing within 45 days. The findings of the commission shall be binding. An appeals board established under this section shall have no authority to interpret the administrative provisions of the codes nor shall the appeals board be empowered to waive requirements of the

codes.

Section 7. Section **58-56-9** is amended to read:

58-56-9. Qualifications of inspectors -- Contract for inspection services.

(1) [~~Effective July 1, 1993, all~~] All inspectors employed by a local regulator, state regulator, or compliance agency to enforce provisions of the codes adopted or approved pursuant to this chapter shall:

(a) meet minimum qualifications as established by the division in collaboration with the commission or be certified by a nationally recognized organization which promulgates codes adopted under this chapter, or pass an examination developed by the division in collaboration with the commission;

(b) be currently licensed by the division as meeting those minimum qualifications; and

(c) be subject to revocation or suspension of their license or may be placed on probation if found guilty of unlawful or unprofessional conduct.

(2) A local regulator, state regulator, or compliance agency may contract for the services of a licensed inspector not regularly employed by the regulator or agency.

(3) (a) The division shall use the monies received in Subsection (4) to provide education regarding the codes and code amendments adopted or approved under Section 58-56-4 to:

(i) building inspectors; and

(ii) individuals engaged in construction-related trades or professions.

(b) All funding available for the building inspector's education program shall be nonlapsing.

(4) Each compliance agency shall charge a 1% surcharge on all building permits issued and shall transmit 80% of the amount collected to the division to be utilized by the division to fulfill the requirements of Subsection (3). The surcharge shall be deposited as a dedicated credit.