

28 **58-56-3. Definitions.**

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

30 [~~(1) "ANSI" means American National Standards Institute, Inc.]~~31 (1) "Building" means a structure used or intended for supporting or sheltering any use or
32 occupancy and any improvements attached to it.33 (2) "Code(s)" means the [~~NEC, building code, mechanical code, or plumbing code as~~
34 ~~defined in this section and as applied in context.] following codes, including the standards and~~
35 specifications contained in them:36 (a) codes adopted by the commission under Subsection 58-56-4(2); and37 (b) codes approved by the commission under Subsection 58-56-4(5)(a).38 (3) "Commission" means the Uniform Building Code Commission created under this
39 chapter.40 (4) "Compliance agency" means an agency of the state or any of its political subdivisions
41 which issue permits for construction regulated under the codes, or any other agency of the state or
42 its political subdivisions specifically empowered to enforce compliance with the codes.

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

44 (6) "Factory built housing set-up contractor" means an individual licensed by the division
45 to set up or install factory built housing on a temporary or permanent basis. The scope of the work
46 included under the license includes the placement and or securing of the factory built housing on
47 a permanent or temporary foundation, securing the units together if required, and connection of
48 the utilities to the factory built housing unit, but does not include site preparation, construction of
49 a permanent foundation, and construction of utility services to the near proximity of the factory
50 built housing unit. If a dealer is not licensed as a factory built housing set up contractor, that
51 individual must subcontract the connection services to individuals who are licensed by the division
52 to perform those specific functions under Title 58, Chapter 55, Utah Construction Trades
53 Licensing Act.54 (7) "HUD code" means the Federal Manufactured Housing Construction and Safety
55 Standards Act.56 (8) "Installation standard" means the standard adopted and published by the National
57 Conference of States on Building Codes and Standards (NCSBCS), for the installation of
58 manufactured homes titled "The Standard for Manufactured Home Installations," the

59 accompanying manufacturer's instructions for the installation of the manufactured home, or such
60 equivalent standard as adopted by rule.

61 (9) "Local regulator" means each political subdivision of the state which is empowered to
62 engage in the regulation of construction, alteration, remodeling, building, repair, and other
63 activities subject to the codes ~~[adopted pursuant to this chapter]~~.

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

74 (11) "Mobile home" means a transportable factory built housing unit built prior to June
75 15, 1976, in accordance with a state mobile home code which existed prior to the Federal
76 Manufactured Housing and Safety Standards Act (HUD Code).

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

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

81 ~~[(14)]~~ (13) "Opinion" means a written, nonbinding, and advisory statement issued by the
82 commission concerning an interpretation of the meaning of the codes or the application of the
83 codes in a specific circumstance issued in response to a specific request by a party to the issue.

84 ~~[(15)]~~ (14) "State regulator" means an agency of the state which is empowered to engage
85 in the regulation of construction, alteration, remodeling, building, repair, and other activities
86 subject to the codes adopted pursuant to this chapter.

87 ~~[(16)]~~ (15) "Unlawful conduct" is as defined in Subsection 58-1-501(1) and includes:

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

90 (b) selling factory built housing within the state as a dealer without collecting and
91 remitting to the division the fee required by Section 58-56-17.

92 [(17)] (16) "Unprofessional conduct" is as defined in Subsection 58-1-501(2) and includes:

93 (a) any nondelivery of goods or services by a registered dealer which constitutes a breach
94 of contract by the dealer;

95 (b) the failure of a registered dealer to pay a subcontractor or supplier any amounts to
96 which that subcontractor or supplier is legally entitled; and

97 (c) any other activity which is defined as unprofessional conduct by division rule in
98 accordance with the provisions of Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

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

100 **58-56-4. Definitions -- Adoption of building codes -- Amendments -- Exemptions.**

101 (1) As used in this section:

102 (a) "agricultural use" means a use that relates to the tilling of soil and raising of crops, or
103 keeping or raising domestic animals, for the purpose of commercial food production;

104 (b) "not for human occupancy" means use of a structure for purposes other than protection
105 or comfort of human beings, but allows people to enter the structure for:

106 (i) maintenance and repair; and

107 (ii) the care of livestock, crops, or equipment intended for agricultural use which are kept
108 there; and

109 (c) "residential area" means land that is not used for an agricultural use and is:

110 (i) (A) within the boundaries of a city or town; and

111 (B) less than five contiguous acres;

112 (ii) (A) within a subdivision for which the county has approved a subdivision plat under
113 Title 17, Chapter 27, Part 8, Subdivision; and

114 (B) less than two contiguous acres; or

115 (iii) not located in whole or in part in an agricultural protection area created under Title
116 17, Chapter 41, Agricultural Protection Area.

117 (2) (a) Subject to the provisions of Subsections (4), ~~and~~ (5), and (6), the following ~~are~~
118 codes, each of which must be promulgated by a nationally recognized code authority, shall be
119 adopted, in the manner described in Subsection (2)(b), as the construction [standards to] codes
120 which the state and each political subdivision of [this] the state shall [adhere in building

121 ~~construction, alteration, remodeling, and repair, and in the regulation of building construction,~~
 122 ~~alteration, remodeling and repair]~~ follow in the circumstances described in Subsection (3):

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

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

125 Association;

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

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

128 (v) a fuel gas code;

129 (vi) a residential code;

130 (vii) an energy code; and

131 (viii) a replacement of any of the codes listed in Subsections (2)(a)(i) through (vii) which

132 results from a name change or subdivision of a given code into multiple codes by a nationally

133 recognized code authority.

134 ~~[(3)]~~ (b) The division, in collaboration with the commission, shall adopt by rule [the

135 ~~edition of the NEC or code and]~~ specific [edition] editions of the codes described in [Subsections

136 ~~(2)(a), (c), and (d) to be used as the standard]~~ Subsection (2)(a), and may adopt by rule successor

137 editions of any adopted code or replacements to the code which may result either from a name

138 change or subdivision of the code into multiple codes.

139 ~~[(4)]~~ (c) The division, in collaboration with the commission, may, in accordance with

140 Section 58-56-7, adopt amendments to the codes adopted [codes] under Subsection (2)(a), to be

141 applicable to the entire state or within [a] one or more political [subdivision only in accordance

142 with Section 58-56-7] subdivisions.

143 (3) Subject to the provisions of Subsections (4), (5), and (6), the codes and amendments

144 adopted under Subsection (2) shall be followed when:

145 (a) new construction is involved;

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

147 (i) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation,

148 or reconstruction of the building; or

149 (ii) changing the character or use of the building in a manner which increases the

150 occupancy loads, other demands, or safety risks of the building.

151 (4) The administrative provisions of the codes adopted under Subsection (2) shall be

152 followed by each compliance agency in regulating the erection, construction, enlargement,
153 replacement, rehabilitation, conservation, replacement, alteration, repair, moving, removal,
154 demolition, conversion, occupancy, use, height, area, and maintenance of buildings within its
155 jurisdiction. However, a compliance agency may, by ordinance or rule, adopt amendments to the
156 administrative provisions.

157 (5) (a) The division, in collaboration with the commission, shall have discretion to
158 approve, without adopting, certain codes in addition to those described in Subsection (2)(a),
159 including specific editions of the codes, for use by a compliance agency.

160 (b) If the applicable code is one which the division has approved under Subsection (5)(a),
161 a compliance agency has the discretion to:

162 (i) adopt, by ordinance or rule, a code in which the administrative provisions authorize the
163 compliance agency to declare that a building is unsafe;

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

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

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

168 ~~(5)~~ (6) (a) Except in a residential area, a structure used solely in conjunction with
169 agriculture use, and not for human occupancy, is exempted from the permit requirements of any
170 ~~[building]~~ code adopted by the division.

171 (b) Notwithstanding Subsection ~~[(5)]~~ (6)(a), unless otherwise exempted, plumbing,
172 electrical, and mechanical permits may be required when that work is included in the structure.

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

174 **58-56-5. Building Code Commission -- Composition of commission -- Commission**
175 **duties and responsibilities.**

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

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

182 (3) The commission shall consist of eleven members who shall be appointed in accordance

183 with the following:

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

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

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

189 (d) one member shall be a licensed architect;

190 (e) one member shall be a fire official;

191 (f) three members shall be contractors licensed by the state, of which one shall be a general
192 contractor, one an electrical contractor, and one a plumbing contractor;

193 (g) two members shall be from the general public and have no affiliation with the
194 construction industry or real estate development industry; and

195 (h) one member shall be from the Division of Facilities Construction Management,
196 Department of Administrative Services.

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

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

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

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

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

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

214 63A-3-106 and 63A-3-107.

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

216 (b) (i) State government officer and employee members who do not receive salary, per
217 diem, or expenses from their agency for their service may receive per diem and expenses incurred
218 in the performance of their official duties from the commission at the rates established by the
219 Division of Finance under Sections 63A-3-106 and 63A-3-107.

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

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

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

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

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

232 (a) recommend to the director the;

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

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

238 (ii) approval by rule of the codes referenced in Subsection 58-56-4(5)(a);

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

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

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

245 the commission with respect to [~~building code~~] matters related to the codes described in Section
 246 58-56-4, including a committee to advise the commission regarding health matters related to the
 247 [~~UPC~~] plumbing code; and

248 [~~(f)~~] (e) assist the division in overseeing code-related training in accordance with Section
 249 58-56-9.

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

251 **58-56-6. Building codes -- Division duties and responsibilities.**

252 (1) The division shall administer the [~~adoption and amendment of the NEC, the building~~
 253 ~~code, the mechanical code, and the plumbing code~~] codes adopted or approved under Section
 254 58-56-4 pursuant to this chapter[;], but[;] shall have no responsibility or duty to conduct
 255 inspections to determine compliance with the codes, issue permits, or assess building permit fees.

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

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

260 (b) receiving recommendations from the commission and thereafter approving by rule the
 261 code editions referenced in Subsection 58-56-4(5)(a);

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

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

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

268 **58-56-7. Code amendments -- Commission recommendations -- Division duties and**
 269 **responsibilities.**

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

272 (a) filed with the division; and

273 (b) recommended or declined for adoption.

274 (2) The division shall accept from any local regulators, state regulators, state agencies
 275 involved with the construction and design of buildings, the contractors, plumbers, or electricians

276 licensing boards, or from recognized construction-related associations a request for amendment
277 to the [~~NEC, the building code, the mechanical code, or the plumbing code adopted~~] codes under
278 [~~Section~~] Subsection 58-56-4(2)(c).

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

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

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

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

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

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

298 (9) (a) Amendments with statewide application:

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

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

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

306 (c) In making rules required by this chapter, the division shall comply with the provisions

307 of Title 63, Chapter 46a, Utah Administrative Rulemaking Act~~[, the]~~. The provisions of that
308 chapter shall have control over this section in case of any conflict.

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

310 **58-56-8. Compliance with codes -- Responsibility for inspections -- Appeals.**

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

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

321 (3) Each compliance agency shall establish a method of appeal by which a person
322 disputing the application and interpretation of a code may appeal and receive a timely review of
323 the disputed issues in accordance with [~~provisions of the National Electrical Code, the building~~
324 ~~code, the mechanical code, or the plumbing code]~~ the codes adopted or approved under Section
325 58-56-4. If a compliance agency refuses to establish a method of appeal, the commission shall act
326 as the appeals board and conduct a hearing within 45 days. The findings of the commission shall
327 be binding. An appeals board established under this section shall have no authority to interpret the
328 administrative provisions of the codes nor shall the appeals board be empowered to waive
329 requirements of the codes.

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

331 **58-56-9. Qualifications of inspectors -- Contract for inspection services.**

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

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

338 the commission;

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

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

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

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

346 (i) building inspectors; and

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

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

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

Legislative Review Note
as of 1-7-02 4:38 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel