

BUILDING CODE AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Todd E. Kiser

LONG TITLE

General Description:

This bill modifies the adoption and administration of the building and fire codes.

Highlighted Provisions:

This bill:

- ▶ modifies the powers and duties of the Uniform Building Code Commission, including:
 - authorizing the commission to recommend building codes to the Legislature for adoption; and
 - authorizing the commission to adopt building codes for public welfare during the legislative interim that are repealed at the end of the next legislative session;
 - ▶ modifies the powers and duties of the Fire Prevention Board, including:
 - authorizing the board to recommend fire codes to the Legislature for adoption;
- and
- authorizing the board to adopt fire codes for public welfare during the legislative interim that are repealed at the end of the next legislative session;
- and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

30 AMENDS:

- 31 **26-15-3**, as last amended by Laws of Utah 1995, Chapter 218
- 32 **26A-1-113**, as last amended by Laws of Utah 2002, Chapter 249
- 33 **26A-1-114**, as last amended by Laws of Utah 2008, Chapter 339
- 34 **53-7-106**, as last amended by Laws of Utah 2001, Chapter 25
- 35 **53-7-202**, as last amended by Laws of Utah 2007, Chapter 253
- 36 **53-7-204**, as last amended by Laws of Utah 2008, Chapter 382
- 37 **53-7-209**, as last amended by Laws of Utah 2001, Chapter 25
- 38 **58-56-3**, as last amended by Laws of Utah 2007, Chapter 145
- 39 **58-56-4**, as last amended by Laws of Utah 2008, Chapter 382
- 40 **58-56-5**, as last amended by Laws of Utah 2002, Chapter 75
- 41 **58-56-6**, as last amended by Laws of Utah 2002, Chapter 75
- 42 **58-56-7**, as last amended by Laws of Utah 2008, Chapter 382



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

45 Section 1. Section **26-15-3** is amended to read:

46 **26-15-3. Department to advise Uniform Building Code Commission regarding**
47 **the code and specific edition of a plumbing code.**

48 The department shall advise the Division of Occupational and Professional Licensing
49 and the Uniform Building Code Commission with respect to the code and specific edition of a
50 plumbing code adopted by a nationally recognized code authority to be ~~adopted~~ administered
51 by the Division of Occupational and Professional Licensing, and amendments to that code as
52 provided for under Section 58-56-5. The department may enforce the plumbing code adopted
53 by the Division of Occupational and Professional Licensing under Section 58-56-4. The
54 provisions of Section 58-56-9 do not apply to health inspectors acting under this section.

55 Section 2. Section **26A-1-113** is amended to read:

56 **26A-1-113. Right of entry to regulated premises by representatives for**
57 **inspection.**

58 (1) Upon presenting proper identification, authorized representatives of local health
59 departments may enter upon the premises of properties regulated by local health departments
60 to perform routine inspections to insure compliance with rules, standards, regulations, and
61 ordinances as adopted by the Departments of Health and Environmental Quality, local boards
62 of health, county or municipal governing bodies, or administered by the Division of
63 Occupational and Professional Licensing under Section 58-56-4.

64 (2) Section 58-56-9 does not apply to health inspectors acting under this section.

65 (3) This section does not authorize local health departments to inspect private
66 dwellings.

67 Section 3. Section **26A-1-114** is amended to read:

68 **26A-1-114. Powers and duties of departments.**

69 (1) A local health department may:

70 (a) subject to the provisions in Section 26A-1-108, enforce state laws, local
71 ordinances, department rules, and local health department standards and regulations relating to
72 public health and sanitation, including the plumbing code [~~adopted~~] administered by the
73 Division of Occupational and Professional Licensing under Section 58-56-4 and under Title
74 26, Chapter 15a, Food Safety Manager Certification Act, in all incorporated and
75 unincorporated areas served by the local health department;

76 (b) establish, maintain, and enforce isolation and quarantine, and exercise physical
77 control over property and over individuals as the local health department finds necessary for
78 the protection of the public health;

79 (c) establish and maintain medical, environmental, occupational, and other laboratory
80 services considered necessary or proper for the protection of the public health;

81 (d) establish and operate reasonable health programs or measures not in conflict with
82 state law which:

83 (i) are necessary or desirable for the promotion or protection of the public health and
84 the control of disease; or

85 (ii) may be necessary to ameliorate the major risk factors associated with the major

86 causes of injury, sickness, death, and disability in the state;

87 (e) close theaters, schools, and other public places and prohibit gatherings of people
88 when necessary to protect the public health;

89 (f) abate nuisances or eliminate sources of filth and infectious and communicable
90 diseases affecting the public health and bill the owner or other person in charge of the
91 premises upon which this nuisance occurs for the cost of abatement;

92 (g) make necessary sanitary and health investigations and inspections on its own
93 initiative or in cooperation with the Department of Health or Environmental Quality, or both,
94 as to any matters affecting the public health;

95 (h) pursuant to county ordinance or interlocal agreement:

96 (i) establish and collect appropriate fees for the performance of services and operation
97 of authorized or required programs and duties;

98 (ii) accept, use, and administer all federal, state, or private donations or grants of
99 funds, property, services, or materials for public health purposes; and

100 (iii) make agreements not in conflict with state law which are conditional to receiving
101 a donation or grant;

102 (i) prepare, publish, and disseminate information necessary to inform and advise the
103 public concerning:

104 (i) the health and wellness of the population, specific hazards, and risk factors that
105 may adversely affect the health and wellness of the population; and

106 (ii) specific activities individuals and institutions can engage in to promote and protect
107 the health and wellness of the population;

108 (j) investigate the causes of morbidity and mortality;

109 (k) issue notices and orders necessary to carry out this part;

110 (l) conduct studies to identify injury problems, establish injury control systems,
111 develop standards for the correction and prevention of future occurrences, and provide public
112 information and instruction to special high risk groups;

113 (m) cooperate with boards created under Section 19-1-106 to enforce laws and rules

114 within the jurisdiction of the boards;

115 (n) cooperate with the state health department, the Department of Corrections, the
116 Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime
117 Victim Reparations Board to conduct testing for HIV infection of convicted sexual offenders
118 and any victims of a sexual offense;

119 (o) investigate suspected bioterrorism and disease pursuant to Section 26-23b-108;
120 and

121 (p) provide public health assistance in response to a national, state, or local
122 emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by
123 the President of the United States or other federal official requesting public health-related
124 activities.

125 (2) The local health department shall:

126 (a) establish programs or measures to promote and protect the health and general
127 wellness of the people within the boundaries of the local health department;

128 (b) investigate infectious and other diseases of public health importance and
129 implement measures to control the causes of epidemic and communicable diseases and other
130 conditions significantly affecting the public health which may include involuntary testing of
131 convicted sexual offenders for the HIV infection pursuant to Section 76-5-502 and voluntary
132 testing of victims of sexual offenses for HIV infection pursuant to Section 76-5-503;

133 (c) cooperate with the department in matters pertaining to the public health and in the
134 administration of state health laws; and

135 (d) coordinate implementation of environmental programs to maximize efficient use of
136 resources by developing with the Department of Environmental Quality a Comprehensive
137 Environmental Service Delivery Plan which:

138 (i) recognizes that the Department of Environmental Quality and local health
139 departments are the foundation for providing environmental health programs in the state;

140 (ii) delineates the responsibilities of the department and each local health department
141 for the efficient delivery of environmental programs using federal, state, and local authorities,

142 responsibilities, and resources;

143 (iii) provides for the delegation of authority and pass through of funding to local
144 health departments for environmental programs, to the extent allowed by applicable law,
145 identified in the plan, and requested by the local health department; and

146 (iv) is reviewed and updated annually.

147 (3) The local health department has the following duties regarding public and private
148 schools within its boundaries:

149 (a) enforce all ordinances, standards, and regulations pertaining to the public health of
150 persons attending public and private schools;

151 (b) exclude from school attendance any person, including teachers, who is suffering
152 from any communicable or infectious disease, whether acute or chronic, if the person is likely
153 to convey the disease to those in attendance; and

154 (c) (i) make regular inspections of the health-related condition of all school buildings
155 and premises;

156 (ii) report the inspections on forms furnished by the department to those responsible
157 for the condition and provide instructions for correction of any conditions that impair or
158 endanger the health or life of those attending the schools; and

159 (iii) provide a copy of the report to the department at the time the report is made.

160 (4) If those responsible for the health-related condition of the school buildings and
161 premises do not carry out any instructions for corrections provided in a report in Subsection
162 (3)(c), the local health board shall cause the conditions to be corrected at the expense of the
163 persons responsible.

164 (5) The local health department may exercise incidental authority as necessary to carry
165 out the provisions and purposes of this part.

166 Section 4. Section **53-7-106** is amended to read:

167 **53-7-106. Adoption of fire code.**

168 (1) A fire code promulgated by a nationally recognized code authority and adopted by
169 the [~~Utah Fire Prevention Board pursuant to Section 53-7-204~~] Legislature under Section

170 58-56-4 is the state fire code, to which cities, counties, fire protection districts, and the state
171 shall adhere in safeguarding life and property from the hazards of fire and explosion.

172 (2) (a) The legislative body of a political subdivision may make ordinances that are
173 more restrictive in its fire code requirements than the state fire code, in order to meet the
174 public safety needs of the political subdivision.

175 (b) The legislative body of a political subdivision shall provide to the Utah Fire
176 Prevention Board one copy of each ordinance enacted under Subsection (2)(a).

177 (c) The state fire marshal shall keep an indexed copy of the ordinances.

178 (d) Copies of the ordinances are available from the state fire marshal on request.

179 Section 5. Section **53-7-202** is amended to read:

180 **53-7-202. Definitions.**

181 As used in this part:

182 (1) "Agricultural and wildlife fireworks" means a class C dangerous explosive that:

183 (a) uses sound or light when deployed; and

184 (b) is designated to prevent crop damage or unwanted animals from entering a
185 specified area.

186 (2) "Board" means the Utah Fire Prevention Board created in Section 53-7-203.

187 (3) "Class A explosive" means a division 1.1 or 1.2 explosive as defined by the U.S.
188 Department of Transportation in Part 173, Title 49, Code of Federal Regulations.

189 (4) "Class B explosive" means a division 1.2 or 1.3G explosive as defined by the U.S.
190 Department of Transportation in Part 173, Title 49, Code of Federal Regulations.

191 (5) "Class C explosive" means a division 1.4G explosive as defined by the U.S.
192 Department of Transportation in Part 173, Title 49, Code of Federal Regulations.

193 (6) (a) "Class C common state approved explosive" means a class C explosive that is:

194 (i) a cardboard or heavy paper cylindrical tube or cone that:

195 (A) produces a shower of color and sparks that reach a maximum height of 15 feet;

196 (B) may whistle or pop; and

197 (C) is not designed to explode or leave the ground;

- 198 (ii) a pyrotechnic wheel device that:
199 (A) may be attached to a post or tree; and
200 (B) contains up to six "driver" units or tubes;
201 (iii) any device that:
202 (A) spins, jumps, or emits popping sounds when placed on the ground;
203 (B) does not exceed a height of 15 feet when discharged; and
204 (C) does not travel laterally more than ten feet on a smooth surface when discharged;
205 (iv) a morning glory, suzuki, or flitter sparkler; and
206 (v) a single tube day type parachute that does not carry any flare or flame upon
207 descent.
- 208 (b) "Class C common state approved explosive" does not mean:
209 (i) class C dangerous explosives; or
210 (ii) exempt explosives.
- 211 (7) (a) "Class C dangerous explosive" means a class C explosive that is:
212 (i) a firecracker, cannon cracker, salute, cherry bomb, or other similar explosive;
213 (ii) a skyrocket or any device other than a model rocket that uses combustible or
214 explosive material and rises more than 15 feet when discharged;
215 (iii) a roman candle or other device that discharges balls of fire over 15 feet in height;
216 (iv) a tube or cone aerial firework that propels comets, shells, salutes, flash shells, or
217 similar devices more than 15 feet into the air; and
218 (v) a chaser, whistler, or other device that darts or travels more than ten feet laterally
219 on a smooth surface or exceeds 15 feet in height when discharged.
- 220 (b) A "class C dangerous explosive" does not mean:
221 (i) class C common state approved explosives; or
222 (ii) exempt explosives.
- 223 (8) "Display fireworks" means an aerial shell, salute, flash shell, comet, sky battle,
224 mine, and any similar class C explosive or class B explosive.
- 225 (9) (a) "Display operator" means the person who purchases and is responsible for

226 setting up and discharging display fireworks.

227 (b) "Display operator" does not mean a fire department.

228 (10) "Exempt explosive" means a model rocket, toy pistol cap, emergency signal flare,
229 snake or glow worm, party popper, trick noisemaker, match, and wire sparkler under 12 inches
230 in length.

231 (11) (a) "Fireworks" means:

232 (i) class C explosives;

233 (ii) class C dangerous explosives; and

234 (iii) class C common state approved explosives.

235 (b) "Fireworks" does not mean:

236 (i) exempt explosives;

237 (ii) class A explosives; and

238 (iii) class B explosives.

239 (12) "Importer" means a person who brings class B or class C explosives into Utah for
240 the general purpose of resale within the state or exportation to other states.

241 (13) (a) "Pyrotechnic" means any composition or device manufactured or used to
242 produce a visible or audible effect by combustion, deflagration, or detonation.

243 (b) "Pyrotechnic" does not mean exempt explosives.

244 (14) "Retail seller" means a person who sells class C common state approved
245 explosives to the public during the period authorized under Section 53-7-225.

246 (15) "State fire code" means a nationally recognized fire code [~~adopted~~] administered
247 by the Utah Fire Prevention Board pursuant to Section 53-7-204.

248 (16) "Trick noisemaker" includes a:

249 (a) tube or sphere containing pyrotechnic composition that produces a white or
250 colored smoke as its primary effect when ignited; and

251 (b) device that produces a small report intended to surprise the user, including a:

252 (i) "booby trap," which is a small tube with a string protruding from both ends that
253 ignites the friction sensitive composition in the tube when the string is pulled;

254 (ii) "snapper," which is a small paper-wrapped device containing a minute quantity of
255 explosive composition coated on bits of sand that explodes producing a small report;

256 (iii) "trick match," which is a kitchen or book match coated with a small quantity of
257 explosive or pyrotechnic composition that produces a small shower of sparks when ignited;

258 (iv) "cigarette load," which is a small wooden peg coated with a small quantity of
259 explosive composition that produces a small report when the cigarette is ignited; and

260 (v) "auto burglar alarm," which is a tube that:

261 (A) contains pyrotechnic composition that produces a loud whistle and smoke when
262 ignited;

263 (B) may contain a small quantity of explosive to produce a small explosive noise; and

264 (C) is ignited by a squib.

265 (17) "Unclassified fireworks" means any of the following:

266 (a) a pyrotechnic device that is used, given away, or offered for sale, that has not been
267 tested, approved, and classified by the U.S. Department of Transportation;

268 (b) an approved device that has been altered or redesigned since obtaining approval by
269 the U.S. Department of Transportation; and

270 (c) a pyrotechnic device that is being tested by a manufacturer, importer, or wholesaler
271 before receiving approval by the U.S. Department of Transportation.

272 (18) "Wholesaler" means any of the following:

273 (a) a person who sells class C common state approved explosives to a retailer; and

274 (b) a person who sells class B explosives or class C dangerous explosives for display
275 use.

276 Section 6. Section **53-7-204** is amended to read:

277 **53-7-204. Duties of Utah Fire Prevention Board -- Local administrative duties.**

278 (1) The board shall:

279 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
280 Rulemaking Act:

281 (i) ~~[adopting]~~ administer a nationally recognized fire code and the specific edition of

282 that fire code as the state fire code to be used as the standard;

283 (ii) establishing minimum standards for the prevention of fire and for the protection of
284 life and property against fire and panic in any:

285 (A) publicly owned building, including all public and private schools, colleges, and
286 university buildings;

287 (B) building or structure used or intended for use as an asylum, a mental hospital, a
288 hospital, a sanitarium, a home for the aged, an assisted living facility, a children's home or day
289 care center, or any similar institutional type occupancy of any capacity; and

290 (C) place of assemblage where 50 or more persons may gather together in a building,
291 structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;

292 (iii) establishing safety and other requirements for placement and discharge of display
293 fireworks based upon:

294 (A) the specific edition of the nationally recognized fire code [~~selected by the board~~
295 under Subsection (1)(a)(i)] adopted by the Legislature under Section 58-56-4; and

296 (B) relevant publications of the National Fire Protection Association;

297 (iv) establishing minimum safety standards for retail storage, handling, and sale of
298 class C common state approved explosives;

299 (v) defining methods to establish proof of competence to place and discharge display
300 fireworks;

301 (vi) for deputizing qualified persons to act as deputy fire marshals, and to secure
302 special services in emergencies;

303 (vii) implementing Sections 53-7-106 and 53-7-205;

304 (viii) setting guidelines for use of funding;

305 (ix) establishing criteria for training and safety equipment grants for fire departments
306 enrolled in firefighter certification; and

307 (x) establishing minimum ongoing training standards for hazardous materials
308 emergency response agencies;

309 (b) recommend to the commissioner a state fire marshal;

310 (c) develop policies under which the state fire marshal and the state fire marshal's
311 authorized representatives will perform;

312 (d) provide for the employment of field assistants and other salaried personnel as
313 required;

314 (e) prescribe the duties of the state fire marshal and the state fire marshal's authorized
315 representatives;

316 (f) establish a statewide fire prevention, fire education, and fire service training
317 program in cooperation with the Board of Regents;

318 (g) establish a statewide fire statistics program for the purpose of gathering fire data
319 from all political subdivisions of the state;

320 (h) establish a fire academy in accordance with Section 53-7-204.2;

321 (i) coordinate the efforts of all people engaged in fire suppression in the state;

322 (j) work aggressively with the local political subdivisions to reduce fire losses;

323 (k) regulate the sale and servicing of portable fire extinguishers and automatic fire
324 suppression systems in the interest of safeguarding lives and property;

325 (l) establish a certification program for persons who inspect and test automatic fire
326 sprinkler systems;

327 (m) establish a certification program for persons who inspect and test fire alarm
328 systems; ~~and~~

329 (n) establish a certification for persons who provide response services regarding
330 hazardous materials emergencies[-]; and

331 (o) in accordance with Section 58-56-4, make a report to the Business and Labor
332 Interim Committee by:

333 (i) no later than November 30 of each year recommending any amendments to the
334 currently adopted fire code; and

335 (ii) no later than November 30 in a year of a regularly scheduled update cycle of a
336 nationally promulgated fire code recommending the adoption of, amendment to, or repeal of
337 the updated nationally promulgated fire code.

338 (2) The board may incorporate in its rules by reference, in whole or in part, nationally
 339 recognized and readily available standards and codes adopted by the Legislature pertaining to
 340 the protection of life and property from fire, explosion, or panic.

341 (3) (a) The board [~~may only make~~] shall recommend to the Legislature in accordance
 342 with Subsection (1)(o) amendments to the state fire code adopted [~~under Subsection (1)(a)(i)]~~
 343 by the Legislature in accordance with Section [~~53-7-205~~] 58-56-7.

344 (b) The amendments, as adopted by the Legislature, may be applicable to the entire
 345 state or within a city, county, or fire protection district.

346 (4) The following functions shall be administered locally by a city, county, or fire
 347 protection district:

348 (a) issuing permits, including open burning permits pursuant to Sections 11-7-1 and
 349 19-2-114;

350 (b) creating a local board of appeals in accordance with the state fire code; and

351 (c) establishing, modifying, or deleting fire flow and water supply requirements.

352 Section 7. Section **53-7-209** is amended to read:

353 **53-7-209. Inspection of buildings by officials.**

354 (1) A fire chief or officer may enter any building or premises not used as a private
 355 dwelling at any reasonable hour to inspect the building or premises and enforce the rules made
 356 under this part, including the state fire code adopted under Section [~~53-7-204~~] 58-56-4.

357 (2) The owner, lessee, manager, or operator of any building or premises not used as a
 358 private dwelling shall permit inspections under this section.

359 Section 8. Section **58-56-3** is amended to read:

360 **58-56-3. Definitions.**

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

362 (1) (a) "Adopted code" means:

363 (i) (A) a new edition of or amendment to an existing code, including the standards and
 364 specifications contained in the code, adopted by the Legislature under Section 58-56-7; and

365 (B) administered by the division under Section 58-56-6; and

366 (ii) adopted by a nationally recognized code authority, including:
367 (A) a building code;
368 (B) the National Electrical Code promulgated by the National Fire Protection
369 Association;
370 (C) a residential one and two family dwelling code;
371 (D) a plumbing code;
372 (E) a mechanical code;
373 (F) a fuel gas code;
374 (G) an energy conservation code; and
375 (H) a manufactured housing installation standard code.
376 (b) "Adopted code" includes:
377 (i) a fire code administered by the Fire Prevention Board under Section 53-7-204; and
378 (ii) a code listed in Subsection (1)(a)(ii) that was adopted or amended by the division
379 and Uniform Building Code Commission or the Fire Protection Board before May 12, 2009.
380 (2) (a) (i) "Approved code" means a code, including the standards and specifications
381 contained in the code, approved by the division under Section 58-56-4 for use by a compliance
382 agency; and
383 (ii) administered by the division under Section 58-56-6.
384 (b) "Approved code" does not include an adopted code listed under Subsection (1)(b).
385 (3) "Board" means the Fire Prevention Board created in Section 53-7-203.
386 ~~[(1)]~~ (4) "Building" means a structure used or intended for supporting or sheltering
387 any use or occupancy and any improvements attached to it.
388 ~~[(2) "Code(s)" means the following codes, including the standards and specifications~~
389 ~~contained in them:]~~
390 ~~[(a) codes adopted by the commission under Subsection 58-56-4(2); and]~~
391 ~~[(b) codes approved by the commission under Subsection 58-56-4(4)(a).]~~
392 ~~[(3)]~~ (5) "Commission" means the Uniform Building Code Commission created under
393 this chapter.

394 [~~(4)~~] (6) "Compliance agency" means:

395 (a) an agency of the state or any of its political subdivisions which issues permits for
396 construction regulated under the codes;

397 (b) any other agency of the state or its political subdivisions specifically empowered to
398 enforce compliance with the codes; or

399 (c) any other state agency which chooses to enforce codes adopted under this chapter
400 by authority given the agency under a title other than Title 58, Occupations and Professions.

401 [~~(5)~~] (7) "Factory built housing" means manufactured homes or mobile homes.

402 [~~(6)~~] (8) (a) "Factory built housing set-up contractor" means an individual licensed by
403 the division to set up or install factory built housing on a temporary or permanent basis.

404 (b) The scope of the work included under the license includes the placement or
405 securing, or both placement and securing, of the factory built housing on a permanent or
406 temporary foundation, securing the units together if required, and connection of the utilities to
407 the factory built housing unit, but does not include site preparation, construction of a
408 permanent foundation, and construction of utility services to the near proximity of the factory
409 built housing unit.

410 (c) If a dealer is not licensed as a factory built housing set-up contractor, that
411 individual must subcontract the connection services to individuals who are licensed by the
412 division to perform those specific functions under Title 58, Chapter 55, Utah Construction
413 Trades Licensing Act.

414 [~~(7)~~] (9) "HUD code" means the National Manufactured Housing Construction and
415 Safety Standards Act, 42 U.S.C. Sec. 5401 et seq.

416 (10) "Legislative action" means the Legislature's:

417 (a) adoption of a new adopted code;

418 (b) adoption of an amendment to an existing adopted code;

419 (c) repeal of an adopted code; or

420 (d) repeal of a provision of an adopted code.

421 [~~(8)~~] (11) "Local regulator" means each political subdivision of the state which is

422 empowered to engage in the regulation of construction, alteration, remodeling, building,
423 repair, and other activities subject to the codes.

424 ~~[(9)]~~ (12) (a) "Manufactured home" means a transportable factory built housing unit
425 constructed on or after June 15, 1976, according to the HUD Code, in one or more sections,
426 which:

427 (i) in the traveling mode, is eight body feet or more in width or 40 body feet or more in
428 length, or when erected on site, is 400 or more square feet; and

429 (ii) is built on a permanent chassis and designed to be used as a dwelling with or
430 without a permanent foundation when connected to the required utilities, and includes the
431 plumbing, heating, air-conditioning, and electrical systems.

432 (b) Manufactured homes constructed on or after June 15, 1976, shall be identifiable by
433 the manufacturer's data plate bearing the date the unit was manufactured and a HUD label
434 attached to the exterior of the home certifying the home was manufactured to HUD standards.

435 ~~[(10)]~~ (13) "Mobile home" means a transportable factory built housing unit built prior
436 to June 15, 1976, in accordance with a state mobile home code which existed prior to the
437 HUD Code.

438 ~~[(11)]~~ (14) "Modular unit" means a structure built from sections which are
439 manufactured in accordance with the construction standards adopted pursuant to Section
440 58-56-4 and transported to a building site, the purpose of which is for human habitation,
441 occupancy, or use.

442 ~~[(12)]~~ (15) "Opinion" means a written, nonbinding, and advisory statement issued by
443 the commission concerning an interpretation of the meaning of the codes or the application of
444 the codes in a specific circumstance issued in response to a specific request by a party to the
445 issue.

446 ~~[(13)]~~ (16) "State regulator" means an agency of the state which is empowered to
447 engage in the regulation of construction, alteration, remodeling, building, repair, and other
448 activities subject to the codes adopted pursuant to this chapter.

449 Section 9. Section **58-56-4** is amended to read:

450 **58-56-4. Definitions -- Adoption of building codes -- Amendments -- Approval of**
451 **other codes -- Exemptions.**

452 (1) As used in this section:

453 (a) "agricultural use" means a use that relates to the tilling of soil and raising of crops,
454 or keeping or raising domestic animals;

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

457 (i) maintenance and repair; and

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

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

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

462 (B) less than five contiguous acres;

463 (ii) (A) within a subdivision for which the county has approved a subdivision plat
464 under Title 17, Chapter 27a, Part 6, Subdivisions; and

465 (B) less than two contiguous acres; or

466 (iii) not located in whole or in part in an agricultural protection area created under
467 Title 17, Chapter 41, Agriculture and Industrial Protection [~~Area~~] Areas.

468 ~~[(2) (a) Subject to the provisions of Subsections (4) and (5), the following codes, each~~
469 ~~of which must be promulgated by a nationally recognized code authority, shall be adopted, in~~
470 ~~the manner described in Subsection (2)(b), as the construction codes which the state and each~~
471 ~~political subdivision of the state shall follow in the circumstances described in Subsection~~
472 ~~(3):]~~

473 ~~[(i) a building code;]~~

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

476 ~~[(iii) a residential one and two family dwelling code;]~~

477 ~~[(iv) a plumbing code;]~~

478 ~~[(v) a mechanical code;]~~

479 ~~[(vi) a fuel gas code;]~~

480 ~~[(vii) an energy conservation code; and]~~

481 ~~[(viii) a manufactured housing installation standard code.]~~

482 ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
483 ~~the division, in collaboration with the commission, shall adopt by rule specific editions of the~~
484 ~~codes described in Subsection (2)(a), and may adopt by rule successor editions of any adopted~~
485 ~~code.]~~

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

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

491 ~~[(a) new construction is involved;]~~

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

493 ~~[(i) the repair, renovation, remodeling, alteration, enlargement, rehabilitation,~~
494 ~~conservation, or reconstruction of the building; or]~~

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

497 (2) A person shall follow an adopted code when:

498 (a) new construction is involved; and

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

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

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

504 (3) (a) Beginning May 12, 2009, the board and commission shall, in accordance with
505 Sections 53-7-204 and 58-56-5, make recommendations to the Business and Labor Interim

506 Committee as to whether or not the Legislature should take legislative action.

507 (b) (i) If the Business and Labor Interim Committee decides to recommend legislative
508 action to the Legislature, the Business and Labor Interim Committee shall prepare legislation
509 for consideration by the Legislature in the next general session.

510 (ii) The legislation described in Subsection (3)(b)(i) shall direct:

511 (A) the division to administer an adopted code, excluding the fire code, in accordance
512 with legislative action approved by the Legislature; and

513 (B) the board to administer an adopted fire code in accordance with legislative action
514 approved by the Legislature.

515 (4) (a) Notwithstanding Subsection (3), the commission may, in accordance with Title
516 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt an adopted code, except the fire
517 code, if the commission determines that waiting for legislative action in the next general
518 legislative session under Subsection (3) would:

519 (i) cause an imminent peril to the public health, safety, or welfare; or

520 (ii) place a person in violation of federal or other state law.

521 (b) If the commission adopts an adopted code under Subsection (4)(a), the
522 commission shall file with the division:

523 (i) the text of the adopted code; and

524 (ii) an analysis that includes the specific reasons and justifications for its findings.

525 (c) The division shall, in accordance with Subsection (4)(b):

526 (i) publish the adopted code in accordance with Section 58-56-6; and

527 (ii) notify the Business and Labor Interim Committee of the adoption, including a
528 copy of the commission's analysis described in Subsection (5)(b).

529 (d) If not formally adopted by the Legislature at its next annual general session, an
530 adopted code adopted under this Subsection (4) is repealed effective at midnight on the last
531 day that the Legislature adjourns sine die at its next annual general session.

532 (5) (a) Notwithstanding Subsection (3), the board may, in accordance with Title 63G,
533 Chapter 3, Utah Administrative Rulemaking Act, adopt a fire code, if the board determines

534 that waiting for legislative action in the next general legislative session under Subsection (3)
535 would:

536 (i) cause an imminent peril to the public health, safety, or welfare; or

537 (ii) place a person in violation of federal or other state law.

538 (b) The board shall:

539 (i) publish the adopted fire code; and

540 (ii) notify the Business and Labor Interim Committee of the adoption, including a
541 copy of an analysis by the board identifying specific reasons and justifications for its findings.

542 (c) If not formally adopted by the Legislature at its next annual general session, a fire
543 code adopted under this Subsection (5) is repealed effective at midnight on the last day that
544 the Legislature adjourns sine die at its next annual general session.

545 ~~[(4)]~~ (6) (a) The division, in [collaboration] consultation with the commission, has
546 discretion to approve, without adopting, certain approved codes [in addition to those described
547 in Subsection (2)(a)], including specific editions of the approved codes, for use by a
548 compliance agency.

549 ~~(b) [If the applicable code is one which the division has approved under Subsection~~
550 ~~(4)(a)]~~ Under Subsection (6)(a), a compliance agency has the discretion to:

551 (i) adopt an ordinance requiring removal, demolition, or repair of a building,
552 according to [a] an adopted code;

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

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

555 ~~[(5)]~~ (7) (a) Except in a residential area, a structure used solely in conjunction with
556 agriculture use, and not for human occupancy, is exempted from the permit requirements of
557 [any code adopted by the division] an adopted code.

558 (b) Notwithstanding Subsection [(5)] (7)(a), unless otherwise exempted, plumbing,
559 electrical, and mechanical permits may be required when that work is included in the
560 structure.

561 Section 10. Section ~~58-56-5~~ is amended to read:

562 **58-56-5. Uniform Building Code Commission -- Composition of commission --**
563 **Commission duties and responsibilities.**

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

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

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

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

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

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

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

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

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

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

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

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

588 (b) Notwithstanding the requirements of Subsection (4)(a), the executive director
589 shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the

590 terms of commission members are staggered so that approximately half of the commission is
591 appointed every two years.

592 (5) When a vacancy occurs in the membership for any reason, the executive director
593 shall appoint a replacement [~~shall be appointed~~] for the unexpired term.

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

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

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

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

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

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

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

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

616 (9) (a) The commission shall annually designate one of its members to serve as chair
617 of the commission.

618 (b) The division shall provide a secretary to facilitate the function of the commission
619 and to record its actions and recommendations.

620 ~~[(10) The duties and responsibilities of the commission are to:]~~

621 ~~[(a) recommend to the director the:]~~

622 ~~[(i) adoption by rule of codes and amendments under Subsections 58-56-4(2)(b) and
623 (c); and]~~

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

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

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

630 ~~[(d) establish advisory peer committees on either a standing or ad hoc basis to advise
631 the commission with respect to matters related to the codes described in Section 58-56-4,
632 including a committee to advise the commission regarding health matters related to the
633 plumbing code; and]~~

634 ~~[(e) assist the division in overseeing code-related training in accordance with Section
635 58-56-9.]~~

636 (10) The commission shall:

637 (a) in accordance with Section 58-56-4, make a report to the Business and Labor
638 Interim Committee by no later than November 30 of each year;

639 (b) ensure that the report includes recommendations as to whether or not the
640 Legislature should take legislative action, excluding any recommendations on the fire code;

641 (c) offer an opinion regarding the interpretation of or the application of an adopted
642 code, excluding the fire code, or an approved code if a party submits a request for an opinion;

643 (d) act as an appeals board as provided in Section 58-56-8;

644 (e) establish advisory peer committees on either a standing or ad hoc basis to advise
645 the commission with respect to matters related to an adopted code, excluding the fire code, or

646 approved code, including a committee to advise the commission regarding health matters
 647 related to the plumbing code; and

648 (f) assist the division in overseeing code-related training in accordance with Section
 649 58-56-9.

650 (11) A party requesting an opinion under Subsection (10)(c) shall submit a formal
 651 request clearly stating:

652 (a) the facts in question;

653 (b) the specific code citation at issue; and

654 (c) the position taken by all parties.

655 Section 11. Section **58-56-6** is amended to read:

656 **58-56-6. Building codes -- Division duties and responsibilities.**

657 (1) The division shall administer the codes adopted or approved under Section 58-56-4
 658 pursuant to this chapter, but ~~shall have~~ has no responsibility or duty to conduct inspections
 659 to determine compliance with the codes, issue permits, or assess building permit fees.

660 (2) Administration of the codes adopted or approved under Section 58-56-4 by the
 661 division shall include:

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

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

667 ~~[(c) maintaining and publishing for reference on a current basis the adopted~~
 668 ~~amendments to the codes under Subsection 58-56-4(2)(c); and]~~

669 ~~[(d) receiving requests for amendments and opinions from the commission;]~~

670 (a) scheduling appropriate hearings [and publishing the amendments to the codes
 671 and];

672 (b) maintaining, publishing for reference, and keeping the current adopted code,
 673 excluding the fire code, and approved code; and

674 (c) publishing the opinions of the commission with respect to interpretation and
675 application of the codes.

676 Section 12. Section **58-56-7** is amended to read:

677 **58-56-7. Code amendments -- Commission recommendations -- Division duties**
678 **and responsibilities.**

679 (1) (a) [~~The~~] Subject to Subsection (1)(b), the division, in consultation with the
680 commission, shall establish by rule the procedure and manner under which requests for
681 [~~amendments to codes under Subsection 58-56-4(2)(c)] legislative action to an adopted code
682 shall be:~~

683 [~~(a)~~] (i) filed with the division; [and]

684 [~~(b) recommended or declined for adoption.]~~

685 (ii) reviewed by the commission; and

686 (iii) recommended by the commission to the Business and Labor Interim Committee
687 for legislative action in accordance with Section 58-56-5.

688 (b) Notwithstanding Subsection (1)(a), the board shall recommend legislative action to
689 the fire code in accordance with Section 53-7-204.

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

694 (3) (a) [~~The~~] Except in the case of the fire code, the division may make
695 recommendations to the commission for [amendments to codes under Subsection
696 58-56-4(2)(c). The] legislative action.

697 (b) Except in the case of the fire code, the commission may also consider
698 [amendments] legislative action on its own initiative.

699 (4) (a) On May 15 and [~~November 15~~] October 15 of each calendar year, or the first
700 government working day [~~thereafter~~] after those dates if either date falls on a weekend or
701 government holiday, the division shall convene a public hearing, [~~as a part of the rulemaking~~

702 ~~process,] before the commission concerning requests for [amendment of the codes,~~
703 ~~recommended by the division and commission to be adopted by rule] legislative action to an~~
704 ~~adopted code in accordance with Section 58-56-4.~~

705 (b) The hearing shall be conducted in accordance with the rules of the commission.

706 (5) The commission shall, after the hearing described in Subsection (4), make a
707 written report of recommended amendments to be included in the commission's report to the
708 Business and Labor Interim Committee under Section 58-56-5.

709 (6) In making rules required by this chapter, the division shall comply with Title 63G,
710 Chapter 3, Utah Administrative Rulemaking Act.

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

714 [~~(6) The division shall consider the recommendations and promulgate amendments by~~
715 ~~rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act and as~~
716 ~~prescribed by the director.]~~

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

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

723 [~~(9) (a) Amendments with statewide application:]~~

724 [~~(i) shall be effective on the January 1 or July 1 following the public hearing or as~~
725 ~~soon after that date as the requirements of Title 63G, Chapter 3, Utah Administrative~~
726 ~~Rulemaking Act, are met; or]~~

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

729 [~~(b) Amendments with local application only shall be effective on a date to be~~

730 ~~determined by the division and the commission.]~~

731 ~~[(c) In making rules required by this chapter, the division shall comply with the~~
732 ~~provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act. The provisions of~~
733 ~~that chapter shall have control over this section in case of any conflict.]~~