

R156. Commerce, Occupational and Professional Licensing.

R156-15A. State Construction Code Administration and Adoption of Approved State Construction Code Rule.

R156-15A-101. Title.

This rule is known as the "State Construction Code Administration and Adoption of Approved State Construction Code Rule".

R156-15A-102. Definitions.

In addition to the definitions in Title 15A, as used in Title 15A or this rule:

(1) "Advisory Board" or "LUEDAB" mean the Land Use and Eminent Domain Advisory Board created under Section 13-43-202.

(2) "Building permit" means, for the purpose of determining the building permit surcharge under Subsection 15A-1-209(5)(a), a warrant, license or authorization to build or construct a building or structure or any part thereof.

(3) "Building permit fee" means, for the purpose of determining the building permit surcharge under Subsection 15A-1-209(5)(a), fees assessed by a state agency or state political subdivision for the issuance of permits for construction, alteration, remodeling, repair, and installation, including building, electrical, mechanical and plumbing components.

(4) "Ombudsman" means the Office of the Property Rights Ombudsman created under Section 13-43-201.

(5) "Permit number", as used in Section 15A-1-209, means the standardized building permit number described below in Sections R156-15A-220 and R156-15A-221.

(6) "Refuses to establish a method of appeal" means, with respect to Subsection 15A-1-207(3)(b), that:

(a) a compliance agency does not in fact adopt a formal written method of appealing uniform building standard matters in accordance with generally recognized standards of due process; or

(b) that the compliance agency does not convene an appeals board and render a decision in the matter within ninety days from the date on which the appeal is properly filed with the compliance agency.

R156-15A-103. Authority.

This rule is adopted by the Division under the authority of Subsection 15A-1-204(6), Section 15A-1-205 and Subsection 58-1-106(1)(a) to enable the Division to administer Title 15A.

R156-15A-201. Advisory Peer Committees Created - Membership - Duties.

(1) There is created in accordance with Subsections 58-1-203(1)(f) and 15A-1-203(10)(d), the following advisory peer committees to the Uniform Building Codes Commission:

(a) the Education Advisory Committee consisting of ten members, which shall include a factory built housing representative, a design professional, a general contractor, an electrical contractor, a mechanical or plumbing contractor, an educator, and four inspectors (one from each of the specialties of plumbing, electrical, mechanical and general building);

(b) the Plumbing and Health Advisory Committee consisting of nine members;

(c) the Structural Advisory Committee consisting of seven members;

- (d) the Architectural Advisory Committee consisting of seven members;
- (e) the Fire Protection Advisory Committee consisting of five members;
- (i) This committee shall join together with the Fire Advisory and Code Analysis Committee of the Utah Fire Prevention Board to form the Unified Code Analysis Council.
- (ii) The Unified Code Analysis Council shall meet as directed by the Utah Fire Prevention Board, or as directed by the Uniform Building Code Commission, or as needed to review fire prevention and building code issues that require definitive and specific analysis.
- (iii) The Unified Code Analysis Council shall select one of its members to act as chair and another to act as vice chair. The chair and vice chair shall serve for one-year terms on a calendar year basis. Elections for chair and vice chair shall occur at the meeting conducted in the last quarter of the calendar year.
- (iv) The chair or vice chair shall report to the Utah Fire Prevention Board or Uniform Building Code Commission recommendations of the council with regard to the review of fire and building codes;
 - (f) the Mechanical Advisory Committee consisting of seven members; and
 - (g) the Electrical Advisory Committee consisting of seven members.
- (2) The committees shall be appointed and serve in accordance with Subsection 15A-1-203(10)(d). The membership of each committee shall be made up of individuals who have direct knowledge or involvement in the area of code involved in the title of that committee.
- (3) The duties and responsibilities of the committees shall include:
 - (a) reviewing codes proposed for adoption or approval as assigned by the Division in collaboration with the Commission;
 - (b) reviewing requests for amendments to the adopted codes or approved codes as assigned to each committee by the Division with the collaboration of the Commission; and
 - (c) submitting recommendations concerning the reviews made under Subsection (a) and (b).
- (4) The duties and responsibilities of the Education Advisory Committee shall include:
 - (a) reviewing and making recommendations regarding funding requests that are submitted; and
 - (b) reviewing and making recommendations regarding budget, revenue and expenses of the education funds established pursuant to Subsection 15A-1-209(5)(c)(i) and (ii).

R156-15A-202. Code Amendment Process.

In accordance with Section 15A-1-206, the procedure and manner under which requests for amendments to codes shall be filed with the Division and recommended or declined for adoption are as follows:

- (1) All requests for amendments to any of the adopted codes or approved codes shall be submitted to the Division on forms specifically prepared by the Division for that purpose.
- (2) The processing of requests for code amendments shall be in accordance with Division policies and procedures.

R156-15A-210. Compliance with Codes - Appeals.

If the Commission is required to act as an appeals board in accordance with the provisions of Subsection 15A-1-207(3)(b), the following shall regulate the convening and conduct of the appeals board:

- (1) If a compliance agency refuses to establish a method of appeal regarding a uniform

building standard issue, the appellant may petition the Commission to act as the appeals board.

(2) The appellant shall file the request to convene the Commission as an appeals board in accordance with the requirements for a request for agency action, as set forth in Subsection 63G-4-201(3)(a) and Sections R151-4-202 and R151-4-203. A request by other means shall not be considered and shall be returned to the appellant with appropriate instructions.

(3) A copy of the final written decision of the compliance agency interpreting or applying a code which is the subject of the dispute shall be submitted as an attachment to the request. If the appellant requests, but does not receive a timely final written decision, the appellant shall submit an affidavit to this effect in lieu of including a copy of the final written decision with the request.

(4) The request shall be filed with the Division no later than 30 days following the issuance of the compliance agency's disputed written decision.

(5) The compliance agency shall file a written response to the request not later than 20 days after the filing of the request. The request and response shall be provided to the Commission in advance of any hearing in order to properly frame the disputed issues.

(6) Except with regard to the time period specified in Subsection (7), the time periods specified in this section may, upon a showing of good cause, be modified by the presiding officer conducting the proceeding.

(7) The Commission shall convene as an appeals board within 45 days after a request is properly filed.

(8) Upon the convening of the Commission as an appeals board, the board members shall review the issue to be considered to determine if a member of the board has a conflict of interest which would preclude the member from fairly hearing and deciding the appeal. If it is determined that a conflict does exist, the member shall be excused from participating in the proceeding.

(9) The hearing shall be a formal hearing held in accordance with the Utah Administrative Procedures Act, Title 63G, Chapter 4.

(10) Decisions relating to the application and interpretation of the code made by a compliance agency board of appeals shall be binding for the specific individual case and shall not require Commission approval.

R156-15A-220. Standardized Building Permit Number.

As provided in Section 15A-1-209, any agency issuing a permit for construction within the state of Utah shall use the standardized building permit numbering system in a form adopted by rule. There are no additional requirements to those specified in Subsection 15A-1-209.

R156-15A-230. Building Code Training Fund Fees and Factory Built Housing Fees.

(1) In accordance with Subsection 15A-1-209(5)(a), on April 30, July 31, October 31 and January 31 of each year, each state agency and each state political subdivision that assesses a building permit fee shall:

(a) file with the Division a report of building fees and surcharge for the immediately preceding calendar quarter; and

(b) remit 85% of the amount of the surcharge collected to the Division.

(2) In accordance with Subsection 15A-1-209(5)(c), the Division shall allocate and deposit the monies received under Subsection 15A-1-209(5)(a)(ii) into the following three separate funding accounts:

(a) 30% to the Division's Building Code Inspector Training Fund, to be held, administered, and distributed pursuant to Section R156-15A-231 to provide education regarding codes and code amendments to building inspectors;

(b) 10% to the Division's Building Code Construction-Related Training Fund, to be held, administered, and distributed pursuant to Section R156-15A-231 to provide education regarding codes and code amendments to individuals licensed in construction trades or related professions; and

(c) 60% to the Ombudsman's Land Use Fund, to be held, administered, and distributed pursuant to Section R156-15A-232 to provide education and training regarding:

(i) the drafting and application of land use laws and regulations; and

(ii) land use dispute resolution.

(3) In accordance with Subsection 58-56-17.5(2)(c), the Division shall hold, administer, and distribute a portion of the monies in the Factory Built Housing Fees Account pursuant to Section R156-15A-231 to provide education for factory built housing.

(4) Department of Commerce Employees may not participate in the administration, selection, or payment of grants to an organization under Section R156-15A-231 or R156-15A-232 if the Department of Commerce Employee:

(a) is in a leadership position with the entity, including membership on a board of directors or the equivalent;

(b) is an employee of the entity or has received payment of any kind from the entity in the last five years; or

(c) has any other relationships with the entity or individuals affiliated with the entity that could lead to a reasonable question about the employee's impartiality.

R156-15A-231. Administration of Building Code Inspector Training Fund, Building Code Construction-Related Training Fund, and Factory Built Housing Fees Account.

In accordance with Subsections 15A-1-209(5)(c) and 58-56-17.5(2)(c), and Section R156-15A-230, the following procedures, standards, and policies are established to apply to the administration of the Building Code Inspector Training Fund, the Building Code Construction-Related Training Fund, and the Factory Built Housing Fees Account:

(1) The Division shall not approve or deny education grant requests from any separate fund or account until the Uniform Building Code Commission (UBCC) Education Advisory Committee ("the Committee"), created in accordance with Subsections 58-1-203(1)(f) and R156-15A-201(1)(a), has considered and made its recommendations on the requests.

(2) Appropriate funding expenditure categories include:

(a) for the Building Code Inspector Training Fund or the Factory Built Housing Fees Account, grants in the form of reimbursement funding to the following organizations that administer code-related training or factory built housing educational events, seminars, or classes:

(i) schools, colleges, universities, departments of universities, or other institutions of learning;

(ii) construction trade associations;

(iii) professional associations or organizations; and

(iv) governmental agencies;

(b) for the Building Code Construction-Related Training Fund, grants in the form of reimbursement funding to the following organizations that administer code-related training events, seminars, or classes:

- (i) construction trade associations; or
- (ii) professional associations;
- (c) costs or expenses incurred as a result of code events, seminars, or classes directly administered by the Division;

- (d) expenses incurred for the salary, benefits, or other compensation and related expenses resulting from the employment of a Board Secretary;

- (e) office equipment and associated administrative expenses required for the performance of the duties of the Board Secretary, including computer equipment, telecommunication equipment and costs and general office supplies; and

- (f) other related expenses as determined by the Division.

- (g) Gift cards, door prizes, and the cost of food and food services provided to training participants are not appropriate funding expenditure categories, and may not be paid or reimbursed from any fund.

(3) The following procedure shall be used for submission, review, and payment of funding grants:

- (a) A funding grant applicant shall submit a completed application on forms provided for that purpose by the Division, at least 15 days prior to the meeting at which the request is to be considered, and prior to the training event. Applications received less than 15 days prior to a meeting may be denied.

- (b) Payment of approved funding grants shall be made as reimbursement after:

- (i) the approved event, class, or seminar has been held; and

- (ii) the required receipts, invoices, and supporting documentation, including proof of payment if requested by the Division or Committee, have been submitted to the Division.

- (c) Approved funding grants shall be reimbursed only for eligible expenditures which have been executed in good faith with the intent to ensure the best reasonable value.

- (d)(i) A Request for Reimbursement of an approved funding grant shall be submitted to the Division within 60 days following the approved event, class, or seminar, unless an extenuating circumstance occurs. Written notice shall be given to the Division of such an extenuating circumstance.

- (ii) Failure to submit a Request for Reimbursement within 60 days shall result in non-payment of approved funds, unless an extenuating circumstance has been reviewed and accepted by the Division.

(4) The Committee shall consider the following in determining whether to recommend approval of a proposed funding request to the Division:

- (a) the fund balance available and whether the proposed request meets the overall training objectives of the fund, including:

- (i) the need for training on the subject matter;

- (ii) the need for training in the geographical area where the training is offered; and

- (iii) the need for training on new codes being considered for adoption;

- (b) whether the grant applicant agrees to charge a cost for the training event, class, or seminar that is uniform across categories of attendees;

- (c) the prior record of the program sponsor in providing codes training, including:

- (i) whether the subject matter taught was appropriate;

- (ii) whether the instructor was appropriately qualified and prepared; and

- (iii) whether the program sponsor followed appropriate and adequate procedures and requirements in providing the training and submitting requests for funding;

- (d) costs of the facility, including:
 - (i) the location of a facility or venue, or the type of event, seminar, or class;
 - (ii) the suitability of said facility or venue with regard to the anticipated attendance at or in connection with additional non-funded portions of an event or conference;
 - (iii) the duration of the proposed event, seminar, or class; and
 - (iv) whether the proposed cost of the facility is reasonable compared to the cost of alternative available facilities;
- (e) the estimated cost for instructor fees, including:
 - (i) a reimbursement rate not to exceed \$150 per instruction hour without further review and approval by the Committee. This reimbursement rate represents the total amount reimbursable for instruction activities. Preparation time, event coordination, course development costs, staff time, and travel time are not separately reimbursable;
 - (ii) the experience or expertise of the instructor in the proposed training area;
 - (iii) the quality of training based upon events, seminars or classes that have been previously taught by the instructor;
 - (iv) the drawing power of the instructor, meaning the ability to increase the attendance at the proposed educational event, seminar, or class;
 - (v) travel expenses; and
 - (vi) whether the proposed cost for the instructor or instructors is reasonable compared to the costs of similar events, seminars, or classes;
- (f) the estimated cost of advertising materials, brochures, registration, and agenda materials, including:
 - (i) printing costs that may include creative or design expenses;
 - (ii) whether printed materials comply with Subsection (4)(b); and
 - (iii) delivery or mailing costs;
- (g) other reasonable and comparable cost alternatives for each proposed expense item;
- (h) other information the Committee reasonably believes may assist in evaluating a proposed expenditure; and
 - (i) a total reimbursement rate of the lesser of \$10 per student hour or the cost of the approved actual expenditures.

(5) The Division, after consideration and recommendation of the Committee, based upon the criteria in Subsection (4), may reimburse the following items in addition to the lesser of \$10 per student hour or the cost of the approved actual expenditures:

- (a) text books, code books, or code update books;
- (b) cost of one Division licensee mailing list per provider per two-year renewal period;
- (c) cost incurred to upload continuing education hours into the Division's online registry for contractors, plumbers, electricians, or elevator mechanics; and
- (d) reasonable cost of advertising materials, brochures, registration and agency materials, including:
 - (i) printing costs that may include creative or design expenses; and
 - (ii) delivery or mailing costs.

(6) Joint function.
(a) "Joint function" means a proposed event, class, seminar, or program that provides code or code-related training or factory built housing education, and education or activities in other areas.

- (b) Only the prorated portions of a joint function that apply to the purposes of a separate

fund are eligible for a funding grant from that fund.

(c) In considering a proposed funding request that involves a joint function, the Committee shall consider whether:

(i) the expenses subject to funding are reasonably prorated for the costs directly related to the purposes of the separate fund; and

(ii) the education being proposed will be reasonable and successful in the training objective in the context of the entire program or event.

(7) Advertising materials, brochures, and agenda or training materials for a Building Code Training funded event, seminar, or class shall include a statement that acknowledges that partial funding of the program has been provided by the Utah Division of Occupational and Professional Licensing from the 1% surcharge funds on building permits.

(8) Advertising materials, brochures, and agenda or training materials for a Factory Built Housing Fees Account funded educational event, seminar, or class shall include a statement that acknowledges that partial funding of the training program has been provided by the Utah Division of Occupational and Professional Licensing from surcharge fees on factory built housing sales.

(9) If an approved event or joint event is not held, no amount is reimbursable except for the costs described in Subsection (5)(d).

R156-15A-232. Administration of the Office of the Property Rights Ombudsman's Land Use Fund.

In accordance with Subsection 15A-1-209(5)(c)(iii) and Section R156-15A-230, the following procedures, standards, and policies are established for the administration of the Ombudsman's Land Use Fund:

(1) Reimbursements to the Office of the Property Rights Ombudsman.

(a) The Ombudsman shall use the Land Use Fund to pay its expenses, including personnel salaries, course development costs, travel, and other related expenses as agreed upon by the Ombudsman and the Department of Commerce, that are incurred as a result of:

(i) administering the Land Use Fund;

(ii) conducting training activities under Subsection 13-43-203(1)(g); and

(iii) creating, compiling, and updating model land use ordinances.

(b) Expenses paid to the Ombudsman under this Subsection (1) shall first be approved by:

(i) the Advisory Board; and

(ii) the Department's executive director.

(c) The fact that an expenditure type is reimbursable to the Ombudsman under Subsection (1)(a) does not affect whether an item is reimbursable as a grant under Subsection (2).

(2) The Ombudsman shall use the Land Use Fund to provide grants to providers of land use training programs, as follows:

(a) Eligibility Criteria.

(i) To be eligible to receive funds, the provider's program shall primarily provide training on Utah land use law, and in particular the drafting and application of land use laws and regulations.

(ii) Program training may take the form of live or prerecorded seminars or lectures, continuing education programs, video production, or distribution of training materials and

written information.

(iii) The following factors shall apply to the consideration of whether to approve, approve with conditions, or deny a grant request:

- (A) previous experience in providing training;
- (B) cost estimates, including cost-per-attendee estimates;
- (C) how well the education fits in with the land use education and training objectives of Subsection 13-43-203(1)(i)(i);
- (D) whether the training addresses current Utah land use law, issues, and best practices;
- (E) how well the text relates to the course objectives;
- (F) the target audience - for example, whether the education is targeted for land use officials such as commissioners, council members, etc.;
- (G) the expected number of students, hours of instruction, and the ratio of students per dollar spent;
- (H) the location or region of the state targeted by the education;
- (I) the percentage of training costs paid for by the student;
- (J) any other considerations deemed important by the Advisory Board, the Ombudsman, and the Department; and
- (K) available funds.

(b) Reimbursement Criteria.

(i) Funds may be expended only as reimbursement for expenditures incurred in providing land use training.

(ii) The reimbursement rate for instructor fees shall be limited to \$150 per instruction hour and up to \$3,000 total for all instructors per day, including airfare, vehicle mileage, and meals. This fee represents the total amount reimbursable for live or prerecorded instruction activities. Preparation time, course development, event coordination, staff time, and travel time are not separately reimbursable. Any excess instructor fees, including honoraria for keynote speakers, shall require further justification, review, and approval. Instructor fees may not be paid to State or local government employees if the instructor is also being paid wages for the same time period.

(iii) Reimbursement for instructor meals, mileage, and lodging may not exceed current State of Utah rates for mileage and daily travel per diem.

(iv) Reimbursement for other expenses such as workbooks, study guides, textbooks used in the education course, meeting rooms or facilities, audio/visual equipment rental costs, if needed, actual printing costs, reasonable cost of advertising materials, and mailing and postage costs, shall be approved as needed.

(v) Gift cards, door prizes, and the cost of food and food services provided to training participants may not be paid or reimbursed from the Ombudsman's Land Use Fund. Any items that do not qualify for state funding, including food and food service provided to training participants, shall be paid for by the participant or sponsor of the program.

(vi) Programs that receive sponsorships or grants from other sources are eligible for reimbursement on a net cost basis after subtracting sponsorships or grants from other sources.

(vii) Total reimbursement shall be the lesser of \$15 per student hour or the cost of all approved actual expenditures. Reimbursement in excess of this total requires further justification, review, and approval.

(viii) Notwithstanding Subsection (2)(b)(iii), if an instructor is required to travel to a remote, rural Utah location, the instructor may be compensated up to \$50 an hour for time

traveling to and from the event venue in addition to mileage.

(c) Procedures for the submission, review, and payment of funding grants shall be as follows:

(i) A funding grant applicant shall submit a completed Request for Land Use Training Funds application to the Ombudsman on a form provided for that purpose by the Ombudsman. The application shall require a description of the proposed land use training program, including program objectives, instructors, target audience, and budget, and may encompass other criteria including that set forth in Subsection (2)(a).

(ii) The Ombudsman shall submit the completed Request for Land Use Training Funds application to the Advisory Board for selection or proposal by the Advisory Board. The submission, selection, or proposal may be done in person or by electronic means in accordance with Title 63G.

(iii) A Request for Land Use Training Funds application selected or proposed by the Advisory Board shall then be reviewed by the Ombudsman's director, the Land Use Fund's manager, and the Department's executive director, or their designees. They may jointly approve the application, approve the application with conditions, or deny the application.

(iv) To apply for reimbursement based on an approved Request for Land Use Training Funds application, the approved program shall submit one or more completed Request for Reimbursement forms to the Ombudsman as follows:

(A) The Request for Reimbursement shall be on a form provided by the Ombudsman for that purpose, and shall include receipts, invoices, and supporting documentation of expenditures, including proof of payment if requested by the Ombudsman or the Department of Commerce.

(B) The complete Request for Reimbursement shall be submitted within 60 days following the approved event, class, or seminar, unless an extenuating circumstance occurs. Written notice shall be given to the Ombudsman of such an extenuating circumstance. Failure to submit a complete Request for Reimbursement within 60 days shall result in non-payment of approved funds, unless an extenuating circumstance has been reviewed and accepted by the Ombudsman.

(v) A Request for Reimbursement accepted by the Ombudsman for review shall then be reviewed by the Ombudsman director, the Land Use Fund manager, and the Department executive director or their designees, and may be approved, approved with conditions, or denied.

(vi) Reimbursement funds may be paid only:

(A) for eligible expenditures which have been executed in good faith with the intent to ensure the best reasonable value; and

(B) pursuant to a Request for Reimbursement form that has been signed as approved by the Ombudsman director, the Land Use Fund manager, and the Department executive director, or their designees.

R156-15A-401. Adoption - Approved Codes.

Approved Codes. In accordance with Subsection 15A-1-204(6)(a), and subject to the limitations contained in Subsection 15A-1-204(6)(b), the following codes or standards are hereby incorporated by reference and approved for use and adoption by a compliance agency as the construction standards which may be applied to existing buildings in the regulation of building alteration, remodeling, repair, removal, seismic evaluation, and rehabilitation in the state:

(1) the 1997 edition of the Uniform Code for the Abatement of Dangerous Buildings

(UCADB) promulgated by the International Code Council;

(2) ASCE 31-03, Seismic Evaluation of Existing Buildings, promulgated by the American Society of Civil Engineers;

(3) ASCE/SEI 41-06, the Seismic Rehabilitation of Existing Buildings, promulgated by the American Society of Civil Engineers, 2007 edition.

KEY: contractors, building codes, building inspection, licensing

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STATE CONSTRUCTION CODE ADMINISTRATION AND
ADOPTION OF APPROVED STATE CONSTRUCTION
CODE RULE

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