

# Box Elder County Land Use Management & Development Code

## Article 2 – Administration and Enforcement

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### Chapter 2-2 – Administrative and Development Review Procedures

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#### **2-2-010. Purpose.**

The purpose of this Chapter is to set forth procedures and standards for considering various types of land use and development applications to ensure that applications of the same type will be processed on a uniform basis consistent with applicable law.

#### **2-2-020. Scope.**

A proposed land use, development, or other matter which is subject to a procedure set forth in this Chapter shall be submitted, reviewed, and acted upon as provided in this Chapter.

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### 2-2-030. Definitions.

Certain words and phrases in this Chapter, including uses, are defined in Chapter 1-3 of this Code.

### 2-2-040. General Requirements.

The following requirements shall apply to a proposed land use, development, or other matter which is subject to procedures set forth in this Code.

- A. Application Form.** An application shall be submitted on a form provided by the Zoning Administrator and in such numbers as reasonably required by the Zoning Administrator for a particular type of application. For those applications which need Planning Commission or Hearing Officer Approvals, the application shall be submitted by the third Thursday of the month and by appointment with the Zoning Administrator, or at least twenty (20) business days prior to the meetings of those bodies.
- B. County Initiated Application.** The Planning Commission or County Commission may initiate any action under this Code without an application from a property owner. Notice, hearing and other procedural requirements of this Chapter shall apply to an application initiated by the County.
- C. Development Review Sequence.** No application shall be considered unless:
  - 1. The approval which is requested in the application is allowed by the zone existing on the subject property; or
  - 2. Where permitted by this Code, the application is submitted simultaneously with a proposed zoning map amendment that would allow the proposal.
- D. Accurate Information.** All documents, plans, reports, studies and information provided to the County by an applicant in accordance with the requirements of this Code shall be accurate and complete.
- E. Determination of Complete Application.** After receipt of an application, the Zoning Administrator shall determine whether the application is complete. If the application is not complete, the Zoning Administrator shall notify the applicant in writing and shall:
  - 1. Specify the deficiencies of the application;
  - 2. State the additional information which must be supplied; and
  - 3. Advise the applicant that no further action will be taken on the application until the deficiencies are corrected.

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- F. Fees.** When an application is filed, the applicant shall pay to the County the fee associated with such application as provided in the fee schedule adopted by the County Commission. Any application not accompanied by a required fee shall be deemed incomplete.
1. Fees shall be non-refundable except as provided in Subsection (G) of this section.
  2. Fees shall not be required for applications initiated by the County.
- G. Remedy of Deficiencies.** If an applicant fails to correct specified deficiencies within thirty (30) days after notification thereof the County may deem the application to be withdrawn. If the application is deemed withdrawn, the application and any associated fee shall be returned to the applicant upon request; provided, however, the County may deduct from the application fee the cost of determining completeness of the application.
- H. Decision Date.** A decision or recommendation made under the provisions of this Code shall take effect on the date of the meeting or hearing in which the decision or recommendation is made by the decision-making body or official, unless a different time is designated in the decision-making body's rules, or at the time the decision is made.
- I. Extensions of Time.** Unless otherwise prohibited by this Code, upon written request and for good cause shown, any decision-making body or official having authority to grant approval of an application may, without any notice or hearing, grant an extension of any time limit imposed by this Code on such application, its approval, or the applicant. The total period of time granted by any one (1) or more extensions for a given application shall not exceed twice the length of the original time period.
- J. Pending Ordinance Amendments.**
1. When a proposed amendment to the zoning map or text of this Code is pending, a person who thereafter files an application which may be affected by the proposed amendment shall not be entitled to rely on the existing zoning map or text which may be amended.
    - a. A proposed zoning map or text amendment shall be deemed “pending” when the amendment proposal first appears on a Planning Commission or County Commission agenda, as the case may be, which has been noticed as required in this Chapter.
    - b. An application shall be deemed “filed” when all materials required for the application, as set forth in this Code, have been submitted.
  2. An application affected by a pending amendment to the zoning map or text of this Code shall be subject to the following requirements:
    - a. The application shall not be acted upon until six (6) months from the date when

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the pending amendment to the zoning map or text of this Code was first noticed on a Planning Commission or County Commission agenda, as the case may be, unless: (1) The applicant voluntarily agrees to amend his or her application to conform to the requirements of the proposed amendment; or (2) The proposed amendment is sooner enacted or defeated, as the case may be.

- b. If a pending amendment to the zoning map or text of this Code **is enacted** within six (6) months after being noticed on a Planning Commission or County Commission agenda, as the case may be, an affected application which was filed while the amendment was pending shall conform to the enacted amendment.
  - c. If a pending amendment to the zoning map or text of this Code **is not enacted** within six (6) months after being noticed on a Planning Commission or County Commission agenda, as the case may be, the amendment shall no longer be considered pending and any affected application may be processed without regard to the previously pending amendment.
3. The Zoning Administrator shall give an applicant affected by a pending amendment to the zoning map or text of this Code written notice that:
    - a. There is pending legislation;
    - b. The application may require changes to conform to a zoning map or text amendment which may be enacted; and
    - c. Copies of the pending legislation are available at the Community Development Office.

**K. Substantial Action Required.** If within six (6) months after an application has been filed the applicant has not taken substantial action to obtain approval thereof, the application shall expire and any vested rights accrued thereunder shall terminate.

**L. Expiration of Application.** If within two (2) years after an application has been filed the application has not been approved or denied by the decision making body, the application shall expire and any vested rights accrued thereunder shall terminate.

### 2-2-050. Public Hearings and Meetings.

- A. **Scheduling a Public Hearing or Meeting.** An application requiring a public hearing or meeting shall be scheduled within a reasonable time following receipt of a complete application. The amount of time between receipt of an application and holding a public hearing or meeting shall be considered in light of:

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1. The complexity of the application submitted;
2. The number of other applications received which require a public hearing or meeting;
3. Available staff resources; and
4. Applicable public notice requirements.

**B. Public Notice Classifications and Requirements:** Notices for applicable public hearings or public meetings shall comply with Section 63G-30-102 of the Utah Code; and more particularly:

- a. Class A Notice shall be published on the Utah Public Notice Website, the Official Box Elder County Website, and the affected area.
  1. If the affected area is the unincorporated area of Box Elder County, the public notice will be posted at the County building.
  2. If the affected area is a public street, the public notice will be posted on or adjacent to the public street.
  3. If the affected area is an easement, the public notice will be posted on or adjacent to the easement; or in a public location that is reasonably likely to be seen by persons who are likely to be impacted by the easement.
- b. Class B Notice shall be published on the Utah Public Notice Website, the Official Box Elder County Website, and the affected area.
  1. For ordinance text amendments the area directly affected shall be the unincorporated area of Box Elder County and the public notice will be posted at the County building.
  2. For zoning map amendments, the area directly affected shall be the parcel(s) or lot(s) that have petitioned for the amendment. The public notice will be posted on the property that has petitioned for the amendment. In addition, the private real property owner and adjacent property owners to the proposed amendment will be sent a courtesy notice.

**C. Required Notice of Public Meeting.** Notices for public meetings shall comply with the Utah Open and Public meetings Act (*Utah Code Annotated 52-4-101 et. seq. as annotated*).

**D. Challenge of Notice.** If notice required by this section is not challenged in accordance with applicable appeal procedures within thirty (30) days from the date of the hearing or meeting for which notice was given, the notice shall be considered adequate and proper.

**E. Public Hearing and Meeting Procedures.** An application shall be considered pursuant

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to policies and procedures established by the decision-making body or official for the conduct of its meetings.

- F. Withdrawal of Application.** An applicant may withdraw an application at any time prior to action on the application by the decision-making body or official. Application fees shall not be refundable if prior to withdrawal:
1. A staff review of the application has been undertaken; or
  2. Notice for a public hearing or meeting on the application has been mailed, posted or published.
- G. Record of Public Hearing or Meeting.** A record of the public hearing or meeting shall be made in accordance with the *Utah Code Annotated 52-4* as amended.
- H. Notification.** Notice of a decision by the decision-making body or official shall be provided to an applicant within a reasonable time.

### 2-2-060. General Decision-Making Standards.

The decision-making standards set forth in this section are based on the fundamental distinction between legislative and administrative proceedings: legislative proceedings establish public law and policy which is applicable generally, while administrative proceedings apply such law and policy to factually distinct, individual circumstances.

**A. Legislative Proceedings.**

1. The following types of applications are hereby declared to be legislative proceedings:
  - a. General Plan amendment;
  - b. Zoning map amendment;
  - c. Zoning text amendment; and
  - d. Temporary regulations.
2. Decisions regarding a legislative application shall be based on the "reasonably debatable" standard, as follows:
  - a. The decision-making authority shall determine what action, in its judgment, will reasonably promote the public interest, conserve the values of other properties, avoid incompatible development, encourage appropriate use and development, and promote the general welfare.

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- b. In making such determination, the decision-making authority may consider the following: (1) Testimony presented at a public hearing or meeting; and (2) personal knowledge of various conditions and activities bearing on the issue at hand, including, but not limited to, the location of businesses, schools, roads and traffic conditions; growth in population and housing; the capacity of utilities; the zoning of surrounding property; and the effect that a particular proposal may have on such conditions and activities, the values of other properties, and upon the general orderly development of the County.
- c. The decision-making body should state on the record the basis for its decision.

### **B. Administrative Proceedings.**

- 1. The following types of applications are hereby declared to be administrative proceedings:
  - a. Permitted use review;
  - b. Conditional use permit;
  - c. Site plan review;
  - d. Variance;
  - e. Building permit;
  - f. Nonconformity;
  - g. Sign permit;
  - h. Subdivision review;
  - i. Temporary use permit;
  - j. Administrative interpretation;
  - k. Appeal of administrative decision;
  - l. Administrative conditional use permit; and
  - m. Special event permit.
- 2. Decisions regarding an administrative application shall be based on the "substantial evidence" standard including at least the following:
  - a. A statement of the standards for approval applicable to the application;
  - b. A summary of evidence presented to the decision-making body or official;
  - c. A statement of findings of fact or other factors considered, including the basis upon which such facts were determined and specific references to applicable standards set forth in this Code or other provisions of the Box Elder County Code; and
  - d. A statement of approval, approval with conditions, or disapproval, as the case may be.

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### 2-2-070. General Plan Amendment.

- A. **Purpose.** This section sets forth procedures for amending the Box Elder County General Plan.
- B. **Authority.** The County Commission may from time to time amend the General Plan as provided in this section. Such amendments may include any matter within the scope of the General Plan as provided in Section 1-2-030 of this Code.
- C. **Initiation.** Proposed amendments to the General Plan may be initiated by any person, the County Commission, Planning Commission, or authorized County staff as provided in this section.
- D. **Procedure.** General Plan amendments shall be considered and processed as provided in this subsection.
  - 1. An application shall be submitted to the Zoning Administrator in a form established by the Administrator along with any fee established by the County's schedule of fees. The County Commission, Planning Commission, or authorized County staff may initiate a General Plan amendment at any time without submittal of an application or payment of any fee.
  - 2. A person proposing General Plan amendments shall do the survey and analysis work necessary to justify the proposed amendment. To ensure the Planning Commission and County Commission have sufficient information to evaluate a proposed amendment, an applicant shall submit at least the following information:
    - a. The name, address and telephone number of the applicant, the applicant's agent, if any, and the name and address of every person or company the applicant represents;
    - b. For map amendments:
      - 1) 8-1/2" x 11" map showing the area of the proposed amendment;
      - 2) Current copy of County Assessor's parcel map showing the area of the proposed amendment;
      - 3) Mapped inventory of existing land uses within the area of the proposed amendment and extending 1/2 mile beyond such area;
      - 4) Correct property addresses of parcels included within the area of the proposed amendment;
      - 5) Written statement specifying the potential use of property within the area of the proposed amendment;



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- 6) Written statement explaining why the existing General Plan designation for the area is no longer appropriate, desirable, or feasible; and
      - 7) Analysis of the potential impacts of the proposed amendment on existing infrastructure and public services such as traffic, streets, intersections, water and sewer, storm drains, electrical power, fire protection, garbage collection, and such other matters as the County may require from time to time; and
    - c. For text amendments:
      - 1) Written statement showing the desired language change;
      - 2) Written statement explaining why existing General Plan language is no longer appropriate or feasible;
      - 3) Analysis of the potential impacts of the proposed amendment; and
      - 4) Map showing affected areas if text changes will affect specific geographic areas.
  3. After an application is determined to be complete, the Zoning Administrator may prepare a staff report evaluating the application.
  4. The County shall give a Class A notice on the proposed amendment as provided in Section 2-2-050 of this Code and Utah Code 17-27a-204 as amended.
    - a. Each notice of a public hearing shall be at least ten (10) calendar days before the public hearing.
    - b. Each notice of a public meeting shall be at least twenty four (24) hours before the meeting.
  5. After the public hearing, the Planning Commission may make changes to the proposed General Plan. The Planning Commission shall then forward the proposed General Plan amendment to the County Commission.
  6. The County Commission shall give notice and hold a public hearing on the proposed General Plan recommended to it by the Planning Commission and shall schedule and hold a public hearing on the proposed plan as provided in Section 2-2-050 of this Code and Utah Code 17-27a-204 as amended.
- E. Approval Standards.** A decision to amend the General Plan is a matter within the legislative discretion of the County Commission as described in Section 2-2-060(a) of this Chapter. After the public hearing described in Subsection (D) (5) of this section, the County Commission may make any modifications to the proposed General Plan that it considers appropriate. The County Commission may adopt the General Plan amendment

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as proposed; amend the proposal and adopt or reject it as amended; or reject the proposed General Plan amendment.

- F. Appeal.** Any person adversely affected by a final decision of the County Commission to amend the General Plan may appeal that decision to the district court as provided in *Utah Code Ann. §17-27a-801*, as amended.
- G. Effect of Approval.** Approval of an application to amend the General Plan shall not be deemed an approval of any zone, conditional use permit, site plan, or other permit. Approval of a particular zone or permits shall be obtained in accordance with applicable provisions of this Code.
- H. Effect of Disapproval.** County Commission denial of an application to amend the General Plan shall preclude a person from filing another application covering substantially the same subject or property, or any portion thereof, for six (6) months from the date of the disapproval. This section shall not limit the County Commission, Planning Commission, or authorized County staff from initiating a General Plan amendment at any time.

### 2-2-080. Zoning Map and Text Amendments.

- A. Purpose.** This section sets forth procedures for amending the provisions of this Code and the zoning map.
- B. Authority.** The County Commission may from time to time amend the text of this Code and the zoning map as provided in this section. Amendments may include changes in the number, shape, boundaries, or area of any zone, zone regulations, or any other provision of this Code. The provisions set forth herein shall not apply to temporary zoning regulations which may be enacted without public hearing in accordance with Section 2-2-200 of this Chapter.
- C. Initiation.** Proposed amendments to the text of this Code and the zoning map may be initiated by the County Commission, Planning Commission, authorized County Staff, or a property owner affected by a proposed amendment as provided in this section. An agent of a property owner shall provide a notarized authorization.
- D. Procedure.** Zoning text and map amendments shall be considered and processed as provided in this subsection.
  - 1. An application shall be submitted to the Zoning Administrator in a form established by the Administrator along with any fee established by the County's schedule of

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- fees. The application shall include at least the following information:
- a. The name, address and telephone number of the applicant and the applicant's agent, if any;
  - b. The names of all owners of the subject property;
  - c. The requested amendment and reasons supporting the request; and
  - d. If the proposed amendment requires a change in the zoning map, the application shall include:
    - 1) An accurate property map showing current and proposed zoning classifications; and all abutting properties showing current zoning classifications.
    - 2) An accurate legal description and parcel number of the area proposed to be rezoned.
  - e. If the proposed amendment requires a change in the text of this Code, the application shall include chapter and section references and a draft of the proposed text.
2. After an application is determined to be complete, the Zoning Administrator may prepare a staff report evaluating the application.
  3. The County shall give a Class A or a Class B notice on the proposed amendment as provided in Section 2-2-050 of this Code and Utah Code 17-27a-205 as amended.
    - a. Each notice of a public hearing shall be mailed to each affected entity and be noticed as a Class B notice for at least ten (10) calendar days before the day of the public hearing.
    - b. Each notice of a public meeting shall be at least twenty four (24) hours before the meeting and shall be published as a Class A notice.
    - c. A Class B notice shall be given to the owner of private real property whose property is located within the proposed zoning map enactment or amendment at least ten (10) calendar days before the scheduled day of the public hearing, as provided in Section 2-2-050 of this Code and Utah Code 17-27a-205-5 as amended.
    - d. A Class B notice shall be given to adjacent property owners to a proposed zoning map amendment as provided in Section 2-2-050 of this Code.
  4. Following the public hearing and review of the application the Planning Commission shall thereafter submit its recommendation for approval, approval with modifications, or denial thereof to the County Commission. After due consideration of the recommendation from the Planning Commission, the County Commission may approve, approve with modifications, or deny the proposed amendment in a public meeting.

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- E. Approval Standards.** A decision to amend the text of this Code or the zoning map is a matter within the legislative discretion of the County Commission as described in Section 2-2-060(A) of this Chapter. In making an amendment, the following factors shall be considered:
1. Whether the proposed amendment is consistent with goals, objectives and policies of the County's General Plan;
  2. Whether the proposed amendment is harmonious with the overall character of existing development in the vicinity of the subject property;
  3. The extent to which the proposed amendment may adversely affect adjacent property; and
  4. The adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection.
- F. Appeal.** Any person adversely affected by a final decision of the County Commission to amend the text of this Code or the zoning map may appeal that decision to the district court as provided in *Utah Code Ann. §17-27a-801*, as amended.
- G. Effect of Approval.** Approval of an application to amend the provisions of this Code or the zoning map shall not be deemed an approval of any conditional use permit, site plan, subdivision, or other permit. Approval of such permits shall be obtained in accordance with applicable provisions of this Code and other applicable Box Elder County ordinances.
- H. Effect of Disapproval.** County Commission denial of an application to amend the provisions of this Code or the zoning map shall preclude the filing of another application covering substantially the same subject or property, or any portion thereof, for six (6) months from the date of the disapproval, except as follows:
1. Another application may be sooner considered if:
    - a. The Planning Commission determines a substantial change in circumstances has occurred to merit consideration of the application; or
    - b. The application is for a change to a different zone.
  2. The County Commission or Planning Commission may propose any text or zoning map amendment at any time.

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### 2-2-090. Permitted Use Review.

- A. Purpose.** This section sets forth procedures for reviewing permitted uses in all zones to determine compliance with applicable requirements of this Code.
- B. Authority.** The Zoning Administrator is authorized to review and approve applications for permitted uses in all zones as set forth in this section.
- C. Initiation.** A property owner or a lessee may request a permitted use review as provided in this section. An agent or lessee of a property owner shall provide a notarized authorization.
- D. Procedure.** Permitted use applications shall be considered and processed as provided in this subsection.
  - 1. A complete application shall be submitted to the Zoning Administrator in a form established by the Administrator along with any fee established by the County's schedule of fees. The application shall include at least the following information:
    - a. The name, address and telephone number of the applicant and the applicant's agent, if any;
    - b. The address and parcel identification number of the subject property;
    - c. The zone, zone boundaries and present use of the subject property;
    - d. A plot plan (drawn to scale) showing the following:
      - 1) Applicant's name;
      - 2) Site address;
      - 3) Property boundaries and dimensions;
      - 4) Layout of existing and proposed buildings, parking, landscaping, and utilities;
      - 5) Adjoining property lines and uses within one hundred (100) feet of the subject property;
    - e. A description of the proposed use; and
    - f. Other information needed to demonstrate the permitted use conforms to applicable provisions of this Code.
  - 2. After an application is determined to be complete, the Zoning Administrator shall approve, approve with conditions, or deny the application pursuant to the standards set forth in Section 2-2-090(e) below. Any conditions of approval shall be limited to

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conditions needed to conform the permitted use to approval standards.

3. After making a decision, the Zoning Administrator shall give the applicant written notice of the decision.
4. A record of all permitted use reviews shall be maintained in the office of the Zoning Administrator.

**E. Approval Standards.** The following standards shall apply to approval of a permitted use.

1. A permitted use shall:
  - a. Be allowed as a permitted use in the applicable zone;
  - b. Conform to development standards of the applicable zone;
  - c. Conform to applicable regulations of general applicability and regulations for specific uses set forth in this Code; and
  - d. Conform to any other applicable requirements of Box Elder County Ordinances.
2. Conditions may be imposed as necessary to achieve conformance with applicable code requirements.
3. If proposed development is located on a lot or parcel which has been subdivided without County approval:
  - a. A subdivision plat shall be approved and recorded as a condition of approval, and
  - b. Street improvements shall be provided as required by the Box Elder County Public Works Standards and other applicable requirements of Box Elder County Ordinances.

**F. Appeal.** Any person adversely affected by a final decision of the Zoning Administrator regarding a permitted use review may appeal that decision to the Hearing Officer as provided in Section 2-2-190 of this Code.

**G. Effect of Approval.** Approval of a permitted use shall authorize an applicant to engage in the permitted use subject to any conditions of approval. Approval of a permitted use shall not be deemed an approval of any conditional use permit, site plan or other permit. Approval of such permits shall be obtained in accordance with applicable provisions of this Code and to any other applicable requirements of Box Elder County Ordinances.

**H. Amendment.** The procedure for amending any permitted use approval shall be the same as the original procedure set forth in this section.

**I. Revocation.** A permitted use approval may be revoked as provided in Section 2-4-070 B of this Code.

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- M. Expiration.** Except as otherwise provided in this Code, a permitted use approval shall expire and have no further force or effect if the building, activity, construction or occupancy authorized by the approval is not commenced within one hundred eighty (180) days after approval or not completed within two (2) years.

### **2-2-100. Conditional Use Permit.**

**A. Purpose.** The purpose of this chapter is to provide for a reasonable application, review, and approval process for land uses that are specified as "conditional," such that proposed new land uses meet County standards, State Law, and are properly integrated into the County through the imposition of conditions, based on standards. Standards are intended to mitigate the reasonably anticipated detrimental effects of a particular conditional use. Conditional uses shall be approved on a case-by-case basis provided the applicant adequately demonstrates that the reasonably anticipated detrimental effects of the proposed use can be mitigated through the imposition of reasonable conditions, based on standards in the ordinance.

**B. Authority.** The Planning Commission is designated as the Land Use Authority to issue conditional use permits as provided in this section.

**C. Initiation.** A property owner may request a conditional use permit as provided in this section. An agent of a property owner shall provide a notarized authorization.

**D. Procedure.** An application for a conditional use permit shall be considered and processed as provided in this subsection.

1. A complete application shall be submitted to the office of the Zoning Administrator in a form established by the Administrator along with any fee established by the County's schedule of fees. The application shall include at least the following information:
  - a) The name, address and telephone number of the applicant and the applicant's agent, if any;
  - b) The address and parcel identification of the subject property;
  - c) The zone, zone boundaries and present use of the subject property;
  - d) A description of the proposed conditional use;
  - e) A plot plan showing the following:
    - 1) Applicant's name;
    - 2) Site address;
    - 3) Property boundaries and dimensions;
    - 4) A site plan/layout, drawn to scale, of existing and proposed buildings,

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conceptual building elevations showing building materials, conceptual stormwater design, parking/on-site circulation, landscaping, conceptual lighting plan, proposed access, and letters of assurance from utility companies of their ability to serve the site; and

- 5) Include on the site plan the adjoining property lines, owners of record, and uses within one hundred (100) feet of the subject property.
  - f) Traffic impact analysis, if required by the County Engineer, Zoning Administrator, or the Planning Commission;
  - g) A statement by the applicant demonstrating how the conditional use permit request meets the approval standards of section (E);
  - h) Such other and further information or documentation as the Zoning Administrator may reasonably deem necessary for proper consideration and disposition of a particular application.
2. After the application is determined to be complete, the Zoning Administrator shall give a Class A notice of a public meeting before the Planning Commission as provided in Section 2-2-050 of this Chapter.
  3. A staff report evaluating the application shall be prepared by the Zoning Administrator or his designee.
  4. The Planning Commission shall hold a public meeting regarding the application. After due consideration the Planning Commission shall approve, approve with conditions, or deny the application if the standards of the applicable ordinances cannot be mitigated, and the approval standards set forth in Section (E) cannot be met through the imposition of conditions based on those standards.
  5. After the Planning Commission makes a decision, the Zoning Administrator shall give the applicant a written letter of agreement of the decision, which includes the Planning Commission conditions of approval, the site plan, other associated plans/information that was part of the application, and a signature block demonstrating the applicant's agreement to the approval.
  6. A record of all conditional use permits shall be maintained in the office of the Zoning Administrator.
- E. Approval Standards.** The following standards shall apply to the issuance of a conditional use permit.
1. Conditions may be imposed as necessary to prevent or minimize the anticipated detrimental effects of the use on adjacent properties and within the zoning district, or upon public facilities and services. Such conditions shall be expressly set forth in the approval authorizing a conditional use permit.



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2. The Planning Commission may request additional information as may be reasonably needed to determine whether the requirements prescribed by this Code and other applicable Codes, can be met or need mitigation.
3. The following standards should be reviewed and considered in determining whether a conditional use permit application should be approved, approved with conditions, or denied:
  - a) Compliance with Development Standards found in specific chapters of this Code
  - b) Mitigation of reasonably anticipated detrimental effects arising from the conditional use including, but not limited to:
    1. Decreased street service levels and/or traffic patterns including the need for street modifications such as dedicated turn lanes, traffic control devices, safety, street widening, curb, gutter and sidewalks, location of ingress/egress, lot surfacing and design of off-street parking and circulation, loading docks, as well as compliance with off-street parking standards.
    2. Negative impacts on the adequacy of utility systems, service delivery, and capacities, including the need for such items as relocating, upgrading, providing additional capacity, or preserving existing systems.
    3. Negative impacts on connectivity and safety for pedestrians and bicyclists.
    4. Detrimental effects by the use due to its nature, including noise that exceeds sound levels normally found in residential areas, odors beyond what is normally considered acceptable within the district including such effects as environmental impacts, dust, fumes, smoke, odor, noise, vibrations; chemicals, toxins, pathogens, gasses, heat, light, electromagnetic disturbances, glare, and radiation. Detrimental effects by the use may include hours of operation and the potential to create an attractive nuisance.
    5. Environmental impacts that increase the risk of contamination of or damage to adjacent properties and injury or sickness to people such as waste disposal, fire safety, geologic hazards such as fault lines, soil or slope conditions, liquefaction potential, site grading/topography, storm drainage/flood control, high ground water, environmental health hazards, or wetlands.
    6. Modifications to signs and exterior lighting to assure proper integration of the use.
    7. Incompatible designs in terms of use, scale, intensity, height, mass, setbacks, construction, solar access, landscaping, fencing, screening, and architectural design and exterior detailing/finishes and colors within the neighborhood in which the conditional use will be located.
    8. Reduction in the tax base and property values.

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9. Reduction in the current level of economy in governmental expenditures.
10. Insufficient emergency fire service and emergency vehicle access as determined by the County Fire Marshall.
11. Reduction in usable open space
12. Inadequate maintenance of the property and structures in perpetuity including performance measures, compliance reviews, and monitoring.

**F. Appeal.** Any person adversely affected by a final decision of the Planning Commission regarding the transfer, issuance or denial of a conditional use permit may appeal that decision to the Hearing Officer as provided in Section 2-2-190 of this Code.

**G. Effect of Approval.** A conditional use permit shall not relieve an applicant from obtaining any other authorization or permit required under this Code or any other Code of the Box Elder County Code and other applicable provisions of the Box Elder County Code.

1. A conditional use permit may be transferred so long as the use conducted there under conforms to the terms of the permit.
2. Unless otherwise specified by the Planning Commission and subject to the provisions relating to amendment, revocation or expiration of a conditional use permit, a conditional use permit shall be of indefinite duration and shall run with the land so long as the use continues.

**H. Amendment.** Except as may be provided elsewhere in this Code, no element of an approved conditional use permit shall be changed or modified without first obtaining approval of an amended conditional use permit as follows:

1. Alteration or expansion of an approved conditional use permit may be permitted by the Zoning Administrator upon making the following findings:
  - a. The proposed amendment does not relate to a matter specifically required as a condition of approval by the approving authority;
  - b. Any proposed change of use is consistent with uses permitted on the site;
  - c. Existing uses were permitted when the conditional use permit was approved, or have received a site plan permit;
  - d. The proposed use and site will conform to applicable requirements of the Box Elder County Code;
  - e. The proposed alteration or expansion meets the approval standards of Subsection 2-2-100(E) of this section;
  - f. The architecture of the proposed alteration or expansion, and landscaping, site design and parking layout are compatible with facilities existing on the site; and
  - g. The site can accommodate any change in the number of employees on the site or any change in impact on surrounding infrastructure.

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2. If the zoning Administrator cannot make the findings required in the foregoing subsection, a conditional use permit or amended site plan, as the case may be, shall be approved before any alteration or expansion occurs.
3. Except as provided in Subsection (1) of this section, the procedure for approval of an amended conditional use permit shall be the same as the procedure for approval of an original conditional use permit as set forth in this section.

**I. Revocation.** A conditional use permit may be revoked as provided in Section 2-4-070 of this Code.

1. In addition to the grounds set forth in Section 2-4-070 B of this Code, any of the following shall be grounds for revocation:
  - a) The use for which a permit was granted has ceased for one (1) year or more;
  - b) The holder or user of a permit has failed to comply with the conditions of approval or any County, State, or Federal law governing the conduct of the use;
  - c) The holder or user of the permit has failed to construct or maintain the site as shown on the approved site plan or map; or
  - d) The operation of the use has been found to be a nuisance or a public nuisance by a Court of competent jurisdiction in any civil or criminal proceeding.
2. No conditional use permit shall be revoked against the wishes of the holder or user of the permit without first giving such person an opportunity to appear before the Planning Commission and show cause as to why the permit should not be amended or revoked. Revocation of a permit shall not limit the County's ability to initiate or complete other legal proceedings against the holder or user of the permit.

**J. Expiration.** A conditional use permit shall expire and have no further force or effect if the building, foundation and site grading, activity, construction or occupancy authorized by the permit is not commenced within one hundred eighty (180) days after approval, and not completed within two (2) years, or if abandoned.

### **2-2-110. Administrative Conditional Use Permit.**

**A. Purpose.** This section sets forth procedures for considering and approving Administrative Conditional Use Permits.

**B. Authority.** The Zoning Administrator or a designee is authorized to issue Administrative Conditional Use Permits as provided in this section.

**C. Initiation.** A property owner may request an Administrative Conditional Use Permit as provided in this section. An Agent of a property owner shall provide a notarized

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authorization.

**D. Procedure.** An application for an Administrative Conditional Use Permit shall be considered and processed as provided in this subsection.

1. A complete application shall be submitted to the office of the Zoning Administrator in a form established by the Administrator along with any fee established by the County's schedule of fees. The application shall include at the least the following information:
  - a. The name, address and telephone number of the applicant and the applicant's agent, if any;
  - b. The address and parcel identification of the subject property.
  - c. The Zone, Zone boundaries and present use of the subject property;
  - d. A description of the proposed Administrative Conditional Use;
  - e. A plot plan showing the following:
    - 1) Applicant's name;
    - 2) Site address;
    - 3) Property boundaries and dimensions;
    - 4) Layout of existing and proposed buildings, parking, and utilities; and
    - 5) Adjoining property lines and uses within one hundred (100) feet of the subject property.
  - f. Traffic impact analysis, if required by the County Engineer, Zoning Administrator, or the Planning Commission;
  - g. A statement by the applicant demonstrating how the Administrative Conditional Use Permit request meets the approval standards of Subsection 2-2-110 D of this Section;
  - h. Such other and further information or documentation as the Zoning Administrator may reasonably deem necessary for proper consideration and disposition of a particular application.
2. After the application is determined to be complete, the Zoning Administrator shall approve, approve with conditions, or deny the application pursuant to the standards set forth in Section 2-2-110 E of this Section.
3. A record of all Administrative Conditional Use Permits shall be maintained in the office of the Zoning Administrator.

**E. Approval Standards.** The following standards shall apply to the issuance of an Administrative Conditional Use Permit.

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1. Conditions may be imposed as necessary to prevent or minimize the anticipated detrimental effects of the use on adjacent properties and within the zoning district, or upon public facilities and services. Such conditions shall be expressly set forth in the approval authorizing an administrative conditional use permit.
2. The Zoning Administrator may request additional information as may be reasonably needed to determine whether the requirements prescribed by this Code and other applicable Codes, can be met or need mitigation.
3. The following standards should be reviewed and considered in determining whether an administrative conditional use permit application should be approved, approved with conditions, or denied:
  - a) Compliance with Development Standards found in specific chapters of this Code
  - b) Mitigation of reasonably anticipated detrimental effects arising from the conditional use including, but not limited to:
    1. Decreased street service levels and/or traffic patterns including the need for street modifications such as dedicated turn lanes, traffic control devices, safety, street widening, curb, gutter and sidewalks, location of ingress/egress, lot surfacing and design of off-street parking and circulation, loading docks, as well as compliance with off-street parking standards.
    2. Negative impacts on the adequacy of utility systems, service delivery, and capacities, including the need for such items as relocating, upgrading, providing additional capacity, or preserving existing systems.
    3. Negative impacts on connectivity and safety for pedestrians and bicyclists.
    4. Detrimental effects by the use due to its nature, including noise that exceeds sound levels normally found in residential areas, odors beyond what is normally considered acceptable within the district including such effects as environmental impacts, dust, fumes, smoke, odor, noise, vibrations; chemicals, toxins, pathogens, gases, heat, light, electromagnetic disturbances, glare, and radiation. Detrimental effects by the use may include hours of operation and the potential to create an attractive nuisance.
    5. Environmental impacts that increase the risk of contamination of or damage to adjacent properties and injury or sickness to people such as waste disposal, fire safety, geologic hazards such as fault lines, soil or slope conditions, liquefaction potential, site grading/topography, storm drainage/flood control, high ground water, environmental health hazards, or wetlands.
    6. Modifications to signs and exterior lighting to assure proper integration of the use.
    7. Incompatible designs in terms of use, scale, intensity, height, mass, setbacks, construction, solar access, landscaping, fencing, screening, and architectural

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design and exterior detailing/finishes and colors within the neighborhood in which the conditional use will be located.

8. Reduction in the tax base and property values.
9. Reduction in the current level of economy in governmental expenditures.
10. Insufficient emergency fire service and emergency vehicle access as determined by the County Fire Marshall.
11. Reduction in usable open space
12. Inadequate maintenance of the property and structures in perpetuity including performance measures, compliance reviews, and monitoring.

**F. Appeal.** Any person adversely affected by a final decision of the Zoning Administrator regarding the transfer, issuance or denial of an Administrative Conditional Use Permit, may appeal that decision to the Hearing Officer as provided in Section 2-2-190 of this Code.

**G. Effect of Approval.** An Administrative Conditional Use Permit shall not relieve an applicant from obtaining any other authorization or permit required under this Code or any other Code of the Box Elder County Code and other applicable provisions of the Box Elder County Code.

1. An Administrative Conditional Use Permit may be transferred so long as the use conducted there under conforms to the terms of the permit.
2. Unless otherwise specified by the Zoning Administrator and subject to the provisions relating to amendment, revocation or expiration of an Administrative Conditional Use Permit, an Administrative Conditional Use Permit shall be of indefinite duration and shall run with the land so long as the use continues.

**H. Amendment.** The procedure for amending an Administrative Conditional Use Permit shall be the same as the original procedure set forth in this section.

**I. Revocation.** An Administrative Conditional Use Permit may be revoked as provided in Section 2-4-070 of this Code.

1. In addition to the grounds set forth in Section 2-4-070 B of this Code, any of the following shall be grounds for revocation:
  - a. The use for which a permit was granted has ceased for one (1) year or more;
  - b. The holder or user of a permit has failed to comply with the conditions of approval or any County, State, or Federal law governing the conduct of the use;

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- c. The holder or user of the permit has failed to construct or maintain the site as shown on the approved site plan or map; or
  - d. The operation of the use or the character of the site has been found to be a nuisance or a public nuisance by a Court of competent jurisdiction in any civil or criminal proceeding.
2. No Administrative Conditional Use Permit shall be revoked against the wishes of the holder or user of the permit without first giving such person an opportunity to appear before the Zoning Administrator and show cause as to why the permit should not be amended or revoked. Revocation of a permit shall not limit the County's ability to initiate or complete other legal proceedings against the holder or user of the permit.
- J. Expiration.** A conditional use permit shall expire and have no further force or effect if the building, activity, construction or occupancy authorized by the permit is not commenced within one hundred eighty (180) days after approval, not completed within two (2) years, or if abandoned.

### 2-2-120. Site Plan Review.

- A. Purpose.** This section sets forth procedures for considering and approving a site plan. Such procedures are intended to provide for orderly, harmonious, safe and functionally efficient development consistent with the priorities, values, and guidelines found in various elements of the Box Elder County General Plan and this Code.
- B. Authority.** The Planning Commission is authorized to approve site plans as provided in this section.
- C. Exceptions.** For buildings and land uses requiring conditional use permits, site plan review shall be incorporated within such conditional use permits and need not be a separate application, provided the requirements of this Chapter are met.
- D. Initiation.** A property owner may request approval of a site plan as provided in this section. An agent of a property owner shall provide a notarized authorization.
1. A site plan shall be required for any of the following uses unless expressly exempted from such requirement by another provision of this Code.
- a. Any multiple-family residential use;
  - b. Any public or civic use;
  - c. Any commercial use;
  - d. Any industrial use;

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2. No building permit for the construction of any building, structure, or other improvement to the site shall be issued prior to approval of the required site plan. No clearing, grubbing, grading, drainage work, parking lot construction or other site improvement shall be undertaken prior to site plan approval.

**E. Procedure.** An application for site plan approval shall be considered and processed as provided in this subsection. A complete application shall be submitted to the Zoning Administrator in a form established by the Administrator along with any fee established by the County's schedule of fees.

1. A site plan application shall include at least the following information:
  - a. The names, address and telephone number of the applicant and the applicant's agent, if any;
  - b. The uses for which site plan approval is requested;
  - c. A set of development plans showing the information required in subsections (d) to (h) of this subsection. The information required by each subsection shall be shown on separate sheets. Plans shall be drawn at a scale no smaller than one (1) inch equals one hundred (100) feet and shall be submitted in PDF format. Except for the landscaping plan, the plans shall be prepared, stamped and signed by a professional engineer licensed by the state of Utah and the architectural plans shall be prepared, stamped and signed by a professional, licensed architect by the State of Utah.
  - d. Site plan showing the following:
    - 1) All infrastructure and development facilities related to the project located within two hundred fifty (250) feet of the site boundary;
    - 2) Layout, dimensions, and names of existing and future road rights-of-way;
    - 3) Project name, North arrow, and tie to a section monument;
    - 4) The boundary lines of the project site with bearings and distances;
    - 5) Layout and dimensions of proposed streets, buildings, parking areas, and landscape areas;
    - 6) Location, dimensions, and labeling of other features such as bicycle racks, dumpsters, trash cans, fences, signage, and mechanical equipment;
    - 7) Location of man-made features including irrigation facilities, bridges, railroad tracks, and buildings;
    - 8) A tabulation table, showing total gross acreage, square footage of street rights of way, square footage of building footprint, square footage of total building floor area, square footage of landscaping, number of parking spaces, and if any, the number and type of dwellings, and the percentage devoted to each dwelling type and overall dwelling unit density; and



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- 9) Identification of property, if any, not proposed for development.
  - 10) As per the international fire code, fire and emergency vehicle access shall be shown.
- e. Grading and drainage plan showing the following:
- 1) North arrow and scale
  - 2) Topography contours at two (2) foot intervals
  - 3) Areas of substantial earth moving with an erosion control plan;
  - 4) Location of existing water courses, canals, ditches, springs, wells, culverts, and storm drains, and proposed method of dealing with all irrigation and waste water;
  - 5) Location of any designated flood plain and/or wetland boundaries;
  - 6) Direction of storm water flows, catch basins, inlets, outlets, waterways, culverts, detention basins, orifice plates, outlets to off-site facilities, and off-site drainage facilities when necessary based on adopted County requirement.
- f. Utility plan showing the following:
- 1) North arrow and scale
  - 2) All existing and proposed utilities including, but not limited to, sewer, culinary water, secondary water, fire hydrants, storm drains, subsurface drains, gas lines, power lines, communications lines, cable television lines, and street lights;
  - 3) Minimum fire flow required by the international building code and international fire code for the proposed structures, and fire flow calculations at all hydrant locations;
  - 4) As per the international fire code, an engineer's approved, stamped fire suppression system plans.
  - 5) Location and dimensions of all utility easements; and
  - 6) A letter from sewer and water providers, addressing the feasibility and their requirements the serve the project.
- g. Building elevations for all buildings showing the following:
- 1) Accurate front, rear, and side elevations drawn to scale;
  - 2) Exterior surfacing materials and colors, including roofing material and color;
  - 3) Outdoor lighting, furnishings and architectural accents. All lighting shall conform to Chapter 5-9, Outdoor Lighting Standards;
  - 4) Location and dimensions of signs proposed to be attached to the building or structure. All signs shall conform to Chapter 5-3, sign regulations; and
  - 5) Architectural guidelines, including occupancy levels and parking

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requirements.

- h. Where one (1) or more conditions of unusual soil, vegetation, geology or slope exists, resulting in increased fire, flood or erosion hazards, traffic circulation problems, sewage disposal problems and potential property damage from extensive soil slippage and subsidence, an applicant shall, upon request of the Planning Commission or county engineer, provide contour and drainage plans, cut and fill specifications, and soil and geologic reports. The required details of such reports and plans may vary depending on the severity of the unusual conditions, but in any event such plans and reports shall be reviewed and approved by the County prior to final approval of a development project.
  - i. Any necessary agreements with adjacent property owners regarding storm drainage or other pertinent matters.
  - j. Evidence of compliance with applicable federal, state, and local laws and regulations, if requested by the Zoning Administrator.
  - k. A traffic impact analysis, if requested by the County Engineer.
  - l. Warranty deed and preliminary title report or other document showing the applicant has control of the property.
  - m. Parcel map(s) from the County Recorder's office showing the subject property and all property located within four hundred (400) feet thereof.
- 2. After the application is determined to be complete, the Zoning Administrator shall schedule a public meeting before the Planning Commission.
  - 3. A staff report evaluating the application may be prepared by the zoning Administrator.
  - 4. The Planning Commission shall give a Class A notice of a public meeting pursuant to Section 2-2-050 of this Code and after due consideration shall approve, approve with conditions, or deny the application pursuant to the standards set forth in below:
    - a. Any conditions of approval shall be limited to conditions needed to conform the site plan to approval standards.
    - b. In the case of a conceptual site plan for a planned development, Planning Commission approval shall not be effective unless and until a corresponding

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Planned Unit Development Overlay or the Planned Community Overlay zone is approved by the County Commission.

5. After the Planning Commission makes a decision, the Zoning Administrator shall give the applicant written notice of the decision. Prior to the issuance of any building permit, the applicant shall provide the County a copy of the approved site plan which includes any required corrections or revisions. Once completed, a site plan shall be marked “Approved” by the County and shall be used as the basis for inspecting development and construction on the property subject to the site plan.
6. A record of all site plan approvals shall be maintained in the office of the Zoning Administrator.

**F. Standards for Approval.** The following standards shall apply to the approval of a site plan.

1. The entire site shall be developed at one time unless a phased development plan is approved by the approving authority. A phased development plan shall show:
  - a. The planned development of the entire site; and
  - b. The timing and sequencing of improvements to be completed with each phase, particularly amenities, open space, and public improvements.
2. A site plan shall conform to applicable standards set forth in this Code and other applicable provisions of the Box Elder County ordinances. Conditions may be imposed as necessary to achieve compliance with applicable code requirements.

**G. Appeal of Decision.** Any person adversely affected by a final decision of the Planning Commission or Zoning Administrator regarding approval or denial of a site plan may appeal that decision to the Hearing Officer as provided in Section 2-2-190 of this Chapter.

**H. Effect of Approval.**

1. A building permit shall not be issued for any building or structure, external alterations thereto, or any sign or advertising structure until the provisions of this section have been met. No structures or improvements may be constructed unless shown on an approved site plan or required by law.
2. Approval of a site plan shall not be deemed an approval of any conditional use permit or other permit. Approval of such permits shall be obtained in accordance with applicable provisions of this Code and other applicable provisions of the Box

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Elder County Code.

- I. Amendment.** Except as may be provided elsewhere in this Code, no element of an approved site plan shall be changed or modified without first obtaining approval of an amended site plan as follows:
1. Alteration or expansion of an approved site plan may be permitted by the Zoning Administrator upon making the following findings:
    - a. The proposed amendment does not relate to a matter specifically required as a condition of approval by the approving authority.
    - b. Any proposed change of use is consistent with uses permitted on the site;
    - c. Existing uses were permitted when the site plan was approved, or have received a conditional use permit.
    - d. The proposed use and site will conform to applicable requirements of the Box Elder County Code;
    - e. The proposed alteration or expansion meets the approval standards of Subsection 2-2-120(E) of this section;
    - f. The architecture of the proposed alteration or expansion, and landscaping, site design and parking layout are compatible with facilities existing on the site; and
    - g. The site can accommodate any change in the number of employees on the site or any change in impact on surrounding infrastructure.
  2. If the zoning Administrator cannot make the findings required in the foregoing subsection, a conditional use permit or amended site plan, as the case may be, shall be approved before any alteration or expansion occurs.
  3. Except as provided in Subsection (1) of this section, the procedure for approval of an amended site plan shall be the same as the procedure for approval of an original site plan as set forth in this section.
- J. Revocation.** A site plan approval may be revoked for failure to conform to the approved site plan or as provided in Section 2-4-070(B) of this Code.
- K. Expiration.**
1. A site plan approval shall expire and have no further force or effect if the building, activity, construction or occupancy authorized by the approval is not commenced within one (1) year or not completed within two (2) years.

### 2-2-130. Variances.

- A. Purpose.** This section sets forth procedures for considering and approving a variance to the provisions of this Code. Variance procedures are intended to provide a narrowly

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circumscribed means by which relief may be granted from particular unforeseen applications of the provisions of this Code that create unreasonable hardships.

- B. Authority.** The Hearing Officer is authorized to hear and decide variances to the provisions of this Code as provided in this section.
- C. Initiation.** A property owner or the owner's lessee may request a variance to the provisions of this Code as provided in this section. An agent of a property owner shall provide a notarized authorization.
- D. Procedure.** An application for a variance shall be considered and processed as provided in this subsection.
1. A complete application shall be submitted to the Zoning Administrator in a form established by the Administrator along with any fee established by the County's schedule of fees. The application shall include at least the following information:
    - a. The name, address and telephone number of the applicant and the applicant's agent, if any;
    - b. The address and parcel identification of the subject property;
    - c. The specific feature or features of the proposed use, construction or development that require a variance;
    - d. The specific provision of this Code from which a variance is sought;
    - e. A statement of the characteristics of the subject property that prevent compliance with the provisions of this Code and result in unnecessary hardship;
    - f. A statement of the amount of variation needed to allow the proposed use, construction or development;
    - g. An explanation of how the application satisfies the variance standards set forth in Section 2-2-130(E) of this section;
    - h. A plot plan showing the following:
      - 1) Applicant's name;
      - 2) Site address;
      - 3) Property boundaries and dimensions;
      - 4) Layout of existing and proposed buildings, parking, landscaping, and utilities; and
      - 5) Adjoining property lines and uses within one hundred (100) feet of the subject property.
    - i. An elevation plan drawn to scale showing elevations of existing and proposed structures;
    - j. When the variance involves building height, a streetscape plan showing the height of all buildings within one hundred fifty (150) feet of the subject property;

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- k. When a variance involves grade changes, a topographical drawing prepared by a licensed surveyor or civil engineer, showing existing topography in dashed lines at two (2) foot intervals and showing the proposed grade in solid lines at two (2) foot intervals;
  - l. When a variance involves retaining walls, a plan showing all retaining walls, including their height relative to proposed grades; and
  - m. Any other information reasonably determined by the Zoning Administrator to be pertinent to a requested variance.
2. After the application is determined to be complete, the Zoning Administrator shall give a Class A notice of a public meeting before the Hearing Officer as provided in Section 2-2- 050 of this Code.
  3. A staff report evaluating the application shall be prepared by the Zoning Administrator.
  4. The Hearing Officer shall hold a public meeting and after due consideration shall approve, approve with conditions or deny the application pursuant to the standards set forth in Section 2-2-130(E) of this section. Any conditions of approval shall be limited to conditions needed to conform the variance to approval standards.
  5. After the Hearing Officer makes a decision, the Zoning Administrator shall give the applicant written notice of the decision.
  6. A record of all variances shall be maintained in the office of the Zoning Administrator.

**E. Approval Standards.** The following standards shall apply to a variance.

1. The Hearing Officer may grant a variance only if:
  - a. Literal enforcement of this Code would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this Code;
  - b. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;
  - c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district;
  - d. The variance will not substantially affect the General Plan and will not be contrary to the public interest; and
  - e. The spirit of this Code is observed and substantial justice done.
2. The Hearing Officer may find an unreasonable hardship exists only if the alleged hardship is located on or associated with the property for which the variance is sought and comes from circumstances peculiar to the property, not from conditions

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that are general to the neighborhood. The Hearing Officer may not find an unreasonable hardship exists if the hardship is self-imposed or economic.

3. The Hearing Officer may find that special circumstances are attached to the property exist only if the special circumstances relate to the hardship complained of and deprive the property of privileges granted to other properties in the same zoning district.
  4. An applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
  5. A use variance may not be granted.
  6. In granting a variance, the Hearing Officer may impose additional requirements on an applicant that will mitigate any harmful effects of the variance, or serve the purpose of the standard or requirement that is waived or modified.
  7. A variance more restrictive than that requested by an applicant may be authorized when the record supports the applicant's right to some relief, but not to the extent requested.
- F. Appeal.** Any person adversely affected by a final decision of the Hearing Officer regarding a variance may appeal that decision to the district court as provided in *Utah Code Ann. §§ 17-27a-701 and 17-27a-801*, as amended.
- G. Effect of Approval.** A variance shall not authorize the establishment of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any approvals or permits that may be required by this Code and other applicable provisions of the Box Elder County ordinances.
- H. Amendment.** The procedure for amending any variance decision shall be the same as the original procedure set forth in this Section.
- I. Expiration.** Variances shall not expire but shall run with the land.

### 2-2-140. Building Permit.

- A. Purpose.** This section sets forth procedures for determining zoning compliance of a building permit application. This section applies in addition to applicable requirements of the building codes and regulations adopted by the County.
- B. Authority.** The Zoning Administrator or a designee is authorized to review building permits for zoning compliance as provided in this section.

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- C. Initiation.** Any property owner may apply for a building permit as provided in the building codes adopted by the County.
- D. Procedure.** A building permit application shall be reviewed for zoning compliance as provided in this subsection.
1. A complete building permit application shall be submitted to the Building Official in a form established by the Building Official along with any fee established by the County’s schedule of fees. The application shall include at least the following information:
    - a. The name, address and telephone number of the applicant and the applicant’s agent, if any; and
    - b. A plot plan showing the following:
      - 1) Applicant’s name;
      - 2) Site address;
      - 3) Parcel number;
      - 4) Property boundaries and dimensions;
      - 5) Layout of existing and proposed buildings, parking, landscaping, and utilities; and
      - 6) Adjoining property lines and uses within one hundred (100) feet of the subject property.
  2. After an application is determined to be complete, the Building Official shall transmit the application to the Zoning Administrator. The Zoning Administrator shall approve, approve with conditions, or deny the zoning compliance request pursuant to the standards set forth in Section 2-2-140(E) below. Any conditions of approval shall be limited to conditions needed to conform the permit to approval standards.
  3. After making a decision, the Zoning Administrator may give the Building Official written notice of the zoning compliance decision.
  4. A record of all zoning compliance reviews shall be maintained in the office of the building official, as per guidelines from the State of Utah.
- E. Approval Standards.** The following standards shall apply to determine zoning compliance of a building permit application.
1. No building permit shall be approved for zoning compliance unless the proposed building, structure or use when built and the land on which it is located will conform to applicable provisions of this Code and any applicable conditions of approval required under a permit applicable to the subject property. The use authorized in a building or structure authorized by a building permit shall:
    - a. Be allowed as a permitted or conditional use in the applicable zone;



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- b. Conform to development standards of the applicable zone;
  - c. Conform to applicable regulations of general applicability and regulations for specific uses set forth in this Code; and
  - d. Conform to any other applicable requirements of the Box Elder County Code.
2. Conditions may be imposed as necessary to achieve conformance with applicable code requirements.
- F. Appeal.** Any person adversely affected by a final decision of the Zoning Administrator regarding zoning compliance of a building permit may appeal that decision to the Hearing Officer as provided in Section 2-2-190 of this Code.
- G. Effect of Approval.** Approval of zoning compliance shall authorize an applicant to proceed with the building permit review process. The requirements of this section shall be in addition to any other requirements for the issuance of a building permit, as contained in this Code, and other applicable provisions of the Box Elder County Code.
- H. Amendment.** The procedure for amending any building permit zoning compliance decision shall be the same as the original procedure set forth in this Section.

### 2-2-150. Nonconformities.

- A. Purpose.** This section sets forth procedures for determining the existence, expansion, or modification of a nonconforming use, non-complying structure, nonconforming lot, or other nonconformity.
- B. Authority.** The Zoning Administrator or Hearing Officer, on appeal, are authorized to make determinations regarding the existence, expansion or modification of a nonconforming use, non-complying structure, nonconforming lot, or other nonconformity as provided in this section and *Utah State Code Annotated 17-27a-510*.
- C. Initiation.** A property owner may request a determination regarding the existence, expansion or modification of a nonconforming use, non-complying structure, nonconforming lot, or other nonconformity affecting the owner's property as provided in this section. An agent of a property owner shall provide a notarized authorization.
- D. Procedure.** An application for a determination of the existence, expansion, or modification of a nonconforming use, non-complying structure, nonconforming lot, or other nonconformity shall be considered and processed as provided in this subsection.
- 1. A complete application shall be submitted to the Zoning Administrator in a form established by the Administrator along with any fee established by the County's

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schedule of fees. The application shall include at least the following information:

- a. The name, address and telephone number of the applicant and the applicant's agent, if any;
  - b. The nonconforming use, non-complying structure, nonconforming lot or parcel, or other nonconformity in question;
  - c. A description of the action requested by the applicant; and
  - d. Grounds for finding the use, non-complying structure, nonconforming lot or parcel, or other circumstance is nonconforming or for allowing expansion or modification of the nonconformity.
2. After an application is determined to be complete, the Zoning Administrator shall determine the question presented under the application.
  3. If an applicant disagrees with a final determination of the Zoning Administrator regarding the existence, expansion, or modification of a nonconforming use, non-complying structure, nonconforming lot, or other nonconformity, the matter may be appealed to the Hearing Officer as provided in Section 2-2-190 of this Chapter.
  4. A staff report evaluating the application may be prepared by the Zoning Administrator.
  5. The County shall give a Class A notice of a public meeting. After due consideration the Hearing Officer shall approve, approve with conditions or deny the application pursuant to the standards set forth in Section 2-2-150(E) of this section. Any conditions of approval shall be limited to conditions needed to conform the nonconformity, its expansion or modification to approval standards.
  6. After making a decision, the Hearing Officer shall give the applicant written notice of the decision.
  7. A record of all nonconforming use determinations shall be maintained in the office of the Zoning Administrator.

**E. Standard for Decision.** A determination regarding the existence, expansion or modification of a nonconforming use, non-complying structure, nonconforming lot or parcel, or other nonconformity shall be based on applicable provisions of Chapter 2-3 of this Code.

**F. Appeal.** Any person adversely affected by a final decision of the Hearing Officer regarding a nonconforming use, non-complying structure, nonconforming lot, or other nonconformity may appeal that decision to the district court as provided in *Utah Code Ann. §§ 17-27a-801, as amended*.

**G. Effect of Decision.** An applicant may continue, expand, or modify a nonconforming use, non-complying structure, nonconforming lot, or other nonconformity as determined by the Zoning Administrator or Hearing Officer.

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- H. Expiration.** Determinations regarding nonconformities shall not expire, but shall run with the land.

### 2-2-160. Temporary Use Permit.

- A. Purpose.** This section sets forth procedures for considering and approving a temporary use permit.
- B. Authority.** The Zoning Administrator or a designee is authorized to approve temporary use permits as provided in this section.
- C. Initiation.** A property owner may apply for a temporary use permit as provided in this section. An agent of a property owner shall provide a notarized authorization.
- D. Procedure.** An application for a temporary use permit shall be considered and processed as provided in this subsection.
1. A complete application shall be submitted to the Zoning Administrator in a form established by the Administrator along with any fee established by the County's schedule of fees. The application shall include at least the following information:
    - a. The name, address and telephone number of the applicant and the applicant's agent, if any;
    - b. The name and address of the applicant and the name and address of every person or company the applicant represents;
    - c. The person chiefly responsible for the event or use and/or the sponsoring organization and its chief officer;
    - d. The requested temporary use;
    - e. The hours of operation of the proposed use;
    - f. A statement of the approximate number of persons, animals, and/or vehicles that will be generated by the temporary use, and an explanation of how such number was derived, (e.g., number of pre-sold tickets, available seating and/or parking, and past experience with similar activities);
    - g. The following maps, plans, routes, and documents evidencing sufficient measures to be taken to reasonably protect the health, safety, and welfare of patrons and the public in general; and a scale drawing of the area in which the temporary use will be conducted, showing the location of any existing non-complying structures and improvements on the site of the proposed temporary use, including, but not limited to, parking areas, utilities, curbs, gutter, sidewalks, and outside storage area.
  2. After the application is determined to be complete, the Zoning Administrator shall solicit recommendations from the County Fire Marshal, Sheriff, Health Department,

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Roads Department and/or County Engineer, as needed. Thereafter the Zoning Administrator shall schedule a public meeting before the Planning Commission as provided in Section 2-2-050 of this Chapter.

3. A staff report evaluating the application shall be prepared by the Zoning Administrator.
4. The Planning Commission shall give a Class A notice of a public meeting regarding the application pursuant to Section 2-2-050 of this Code. After due consideration the Planning Commission shall approve, approve with conditions, or deny the application pursuant to the standards set forth in Section 2-2-160(E) of this section.
5. After the Planning Commission has made a decision, the Zoning Administrator shall give the applicant written notice of the decision.
6. A record of all temporary use permits shall be maintained in the office of the Zoning Administrator.

**E. Approval Standards.** The following standards shall apply to the issuance of a temporary use permit.

1. A temporary use shall conform any recommendations received from the County Fire Marshal, Sheriff, Health Department, Roads Department, and County Engineer must tie to the standards under (E)(2) below.
2. No temporary use permit shall be issued unless the Planning Commission finds the proposed temporary use:
  - a. Will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working within the vicinity, or injurious to property, improvements or the public in general;
  - b. Will not substantially interrupt the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area, nor block traffic lanes or hinder traffic during peak commuter hours on weekdays on any primary arterial street or principal commuter route designated by the County;
  - c. Will not conflict with construction or development in the public right-of-way or at public facilities;
  - d. Will not unduly interfere with the movement of police, fire, ambulance, or other emergency vehicles on the streets, nor require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent reasonable police, fire, or other public services protection to the remainder of the County;
  - e. Will not conflict with nor be incompatible with the permitted uses and regulations of the zone within which the temporary use is located; and
  - f. Is in compliance with regulations, conditions and licensing requirements of applicable provisions of the Box Elder County ordinances.

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- F. Appeal.** Any person adversely affected by a final decision of the Planning Commission regarding a temporary use permit may appeal that decision to the Hearing Officer as provided in Section 2-2-190 of this Code.
- G. Effect of Approval.** Approval of a temporary use permit shall authorize an applicant to engage in the temporary use subject to conditions of approval as may be imposed by the Planning Commission.
- H. Amendment.** The procedure for amending a temporary use permit shall be the same as the original procedure set forth in this Section.
- I. Revocation.** A temporary use permit may be revoked as provided in Section 2-4-070(B) of this Code.

### 2-2-170. Special Event Permit.

- A. Purpose.** This section sets forth procedures for considering and approving a Special Event Permit.
- B. Authority.** The Zoning Administrator is authorized to issue Special Event Permits as provided in this section.
- C. Initiation.** A property owner may apply for a Special Event Permit as provided in this section. An agent of a property owner shall provide a notarized authorization.
- D. Procedure.** An application for a Special Event Permit shall be considered and processed as provided in this subsection.
  - 1. A complete application shall be submitted to the Zoning Administrator in a form established by the Administrator along with any fee established by the County's schedule of fees. The application shall include at least the following information:
    - a. The name, address and telephone number of the applicant and the applicant's agent, if any;
    - b. The name and address of the applicant and the name and address of every person or company the applicant represents;
    - c. The person chiefly responsible for the event or use and/or the sponsoring organization and its chief officer;
    - d. The requested special event;
    - e. The place, date, time of the event, and hours of operation of the event;
    - f. A statement of the approximate number of persons, animals, and/or vehicles

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that will participate in the event or be generated by the event, and an explanation of how such number was derived, (e.g., number of pre-sold tickets, available seating and/or parking, and past experience with similar activities);

- g. The following maps, plans, routes, and documents evidencing sufficient measures to be taken to reasonably protect the health, safety, and welfare of patrons and the public in general; and a scale drawing of the area in which the event is to be held, showing the location of any existing non-complying structures and improvements on the site of the proposed event, including, but not limited to, parking areas, utilities, curbs, gutter, sidewalks, and outside storage area.
- h. A liability insurance certificate:
  - 1. Minimum coverage of \$1,000,000 per occurrence / \$2,000,000 aggregate.
  - 2. Box Elder County listed as a certificate holder or additional insured.
  - 3. The date(s) and title of the event must be clearly stated.
  - 4. The certificate must state that coverage cannot be canceled or altered without written notification to the certificate holder (Box Elder County).
  - 5. Vendors/merchants must provide a certificate of insurance following the same guidelines as the applicant or the applicant's insurance coverage must clearly include liability coverage for vendors/merchants and the products they sell.
  - 6. If any work related to the event is sub-contracted to a separate entity, the sub-contractor must provide a separate certificate of insurance following the same guidelines as the applicant.
- 2. After the application is determined to be complete, the Zoning Administrator shall solicit recommendations from the County Fire Marshal, Sheriff, Health Department, Roads Department, and/or County Engineer, as needed. Thereafter the Zoning Administrator shall approve, approve with conditions or deny the application pursuant to the standards set forth in Section 2-2-170(E) of this section. Any conditions of approval shall be limited to conditions needed to conform the Special Event Permit to approval standards.
- 3. After making a decision, the Zoning Administrator shall give the applicant written notice of the decision.
- 4. A record of all Special Event Permits shall be maintained in the office of the Zoning Administrator.

**E. Approval Standards.** The following standards shall apply to the issuance of a Special Event Permit.

- 1. The event shall conform to any recommendations received from the County Fire Marshal, Sheriff, Health Department, Roads Department, and County Engineer

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must tie to the standards under (E)(2) below.

2. No Special Event Permit shall be issued unless the Zoning Administrator finds the proposed event:
  - g. Will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working within the vicinity, or injurious to property, improvements or the public in general;
  - h. Will not substantially interrupt the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area, nor block traffic lanes or hinder traffic during peak commuter hours on weekdays on any primary arterial street or principal commuter route designated by the County;
  - i. Will not conflict with construction or development in the public right-of-way or at public facilities;
  - j. Will not unduly interfere with the movement of police, fire, ambulance, or other emergency vehicles on the streets, nor require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent reasonable police, fire, or other public services protection to the remainder of the County;
  - k. Will not conflict with nor be incompatible with the permitted uses and regulations of the zone within which the event is located; and
  - l. Is in compliance with regulations, conditions and licensing requirements of applicable provisions of the Box Elder County ordinances.
  
- F. Appeal.** Any person adversely affected by a final decision of the Zoning Administrator regarding a Special Event Permit may appeal that decision to the Hearing Officer as provided in Section 2-2-190 of this Code.
  
- G. Effect of Approval.** Approval of a Special Event Permit shall authorize an applicant to engage in the event subject to conditions of approval as may be imposed by the Zoning Administrator.
  
- H. Amendment.** The procedure for amending a Special Event Permit shall be the same as the original procedure set forth in this Section.
  
- I. Revocation.** A Special Event Permit may be revoked as provided in Section 2-4-070(B) of this Code.

### **2-2-180. Administrative Interpretation.**

- A. Purpose.** The provisions of this Code, though detailed and extensive, cannot as a practical matter address every specific situation to which these provisions may be

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applied. This section allows the Zoning Administrator to interpret a provision of this Code in light of the general and specific purposes for which it was enacted and as applied to specific circumstances.

- B. Authority.** The Zoning Administrator is authorized to render interpretations of the provisions of this Code, and any rule or regulation adopted pursuant thereto, as provided in this section.
- C. Initiation.** Any person may request an administrative interpretation as provided in this section.
- D. Procedure.** An application for an administrative interpretation shall be considered and processed as provided in this subsection.
1. A complete application shall be submitted to the Zoning Administrator in a form established by the Administrator along with any fee established by the County’s schedule of fees. The application shall include at least the following information:
    - a. The name, address and telephone number of the applicant and the applicant’s agent, if any;
    - b. The specific provision or provisions of this Code for which an interpretation is requested;
    - c. Specific facts of the situation which illustrate the need for an administrative interpretation;
    - d. The interpretation claimed by the applicant to be correct; and
    - e. When a use interpretation is requested the application shall include:
      - 1) A statement explaining why the proposed use should be deemed as included within a use category allowed by the zone applicable to the property; and
      - 2) Documents, statements, and other evidence demonstrating that the proposed use will conform to all use limitations established by the zone applicable to the property.
  2. After an application is determined to be complete, the Zoning Administrator shall review the application and make an interpretation in accordance with the standards set forth in subsection 2-2-180(E) of this section.
  3. After making a decision, the Zoning Administrator shall give the applicant written notice of the decision.
  4. A record of all administrative interpretations shall be maintained in the office of the Zoning Administrator.
- E. Standards for Making Administrative Interpretations.**

The following standards shall apply to administrative interpretations:



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1. Administrative interpretations shall not add to or change the provisions of this Code.
  2. Questions about the location of zone boundaries shall be resolved by applying the standards set forth in Section 3-1-050 of this Code.
  3. An administrative interpretation shall be consistent with:
    - a. The provisions of this Code; and
    - b. Any previously rendered interpretations based on similar facts.
  4. A use interpretation shall also be subject to the following standards:
    - a. A use defined in Chapter 1-3 of this Code shall be interpreted as provided therein;
    - b. Any use specifically listed as “not permitted” in a table of permitted and conditional uses for a particular zone shall not be allowed in that zone;
    - c. No use interpretation shall allow a use in a particular zone unless the use is substantially similar to a use allowed in the zone;
    - d. If a proposed use is most similar to a conditional use authorized in the zone in which it is proposed to be located, any interpretation allowing such use shall require that the use be approved only as a conditional use pursuant to Section 2-2-100 of this Chapter; and
    - e. No use interpretation shall permit the establishment of any use that would be inconsistent with the statement of purpose of the zone in which it would be located.
- F. Appeal.** Any person adversely affected by a final administrative interpretation rendered by the Zoning Administrator may appeal that decision to the Hearing Officer as provided in Section 2-2-190 of this Chapter.
- G. Effect of Approval.** An administrative interpretation shall apply only to the property for which an interpretation is given.
1. A use interpretation finding a use to be a permitted or conditional use in a particular zone shall be deemed to authorize only that use on the subject property. A use interpretation shall not authorize another allegedly similar use for which a separate use interpretation has not been issued.
  2. A use interpretation finding a particular use to be a permitted or conditional use shall not authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any approvals or permits that may be required by this Code and other applicable provisions of the Box Elder County Code.

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### 2-2-190. Appeal of Administrative Decision.

- A. Purpose.** This section sets forth procedures for appealing an administrative decision applying provisions of this Code.
- B. Authority.** The Hearing Officer shall hear and decide appeals from administrative decisions applying the provisions of this Code as provided in this section.
- C. Initiation.** Any person, or any officer, department, board or commission of the County, adversely affected by a decision made in the administration or interpretation of a provision of this Code may appeal to the Hearing Officer as provided in Subsection 2-2-190(D)(1) of this section. A complete application for an appeal shall be filed within fourteen (14) days of the decision which is appealed.
1. Only administrative decisions applying this Code may be appealed to the Hearing Officer.
  2. A person may not appeal, and the Hearing Officer may not consider, any amendment to this Code. Appeals may not be used to waive or modify the terms or requirements of this Code.
- D. Procedure.** An appeal of an administrative decision to the Hearing Officer shall be considered and processed as provided in this subsection.
1. A complete application shall be submitted to the Zoning Administrator in a form established by the County along with any fee established by the County's schedule of fees. The application shall include at least the following information:
    - a. The name, address and telephone number of the applicant and the applicant's agent, if any;
    - b. The decision being appealed;
    - c. Grounds for the appeal; and
    - d. A description of the action claimed by the applicant to be incorrect.
  2. After an application is determined to be complete, the Zoning Administrator shall give a Class A notice and schedule a public meeting before the Hearing Officer as provided in Section 2-2- 050 of this Chapter. Prior to the meeting the Zoning Administrator shall transmit to the Hearing Officer all papers constituting the record of the action which is appealed.
  3. Upon receipt of a complete application for an appeal all further proceedings concerning the matter appealed shall be stayed as provided in Section 2-1-060(I) of

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this Code.

4. The Hearing Officer shall review the record of decision and shall consider and decide the matter in accordance with the standard of review set forth in Subsection 2-2-200(e) of this Section.
5. After the Hearing Officer makes a decision, the Zoning Administrator shall give the applicant written notice of the decision.
6. A record of all appeals of administrative decisions shall be maintained in the office of the Zoning Administrator.

### **E. Standards for Decision.**

1. Only those decisions in which a land use authority or its representative have applied a land use ordinance to a particular application, person, or parcel may be appealed to the Hearing Officer.
2. The Hearing Officer may reverse or affirm, wholly or in part, or may remand the administrative decision to the officer or body from whom the appeal was taken.
3. The Hearing Officer shall review an administrative decision for correctness of an administrative decision in its interpretation and application of a land use ordinance.
4. The Hearing Officer may establish standards of review of factual matters. If no standards are established, the Hearing Officer shall review the matter de novo.
5. The person making an appeal shall have the burden of proving that an error has been made.
6. If a provision of this Code is ambiguous, it shall be construed in favor of the property owner.

**F. Appeal.** Any person adversely affected by a final decision of the Hearing Officer regarding an appeal of an administration decision may appeal that decision to the district court as provided in *Utah Code Ann. §§ 17-27a-801 and 17-27a-808*, as amended.

### **2-2-200. Temporary Land Use Regulations.**

The County Commission may, without a public hearing, enact an ordinance establishing a temporary zoning regulation for any part or all of the area within the County if the Commission makes a finding of compelling, countervailing public interest; or the area is unregulated.

- A. A temporary land use regulation may prohibit or regulate the erection, construction, reconstruction, or alteration of any building or structure, or subdivision approval.
- B. A temporary land use regulation shall not impose an impact fee or other financial requirement on building or development.
- C. A temporary zoning regulation shall not exceed six (6) months in duration.

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### 2-2-210. Procedural Irregularities.

- A. Validity of Action.** Notwithstanding any provision of this Code which sets forth a procedure for any matter herein, no action, inaction or recommendation regarding the matter which is the subject of the procedure shall be void or invalid or set aside by a court due to any error (including, but not limited to, any irregularity, informality, neglect or omission) which pertains to a petition, application, notice, finding, record, hearing, report, recommendation or any other procedural matter whatsoever unless:
1. The procedure is required by state or federal law; and
  2. In an examination of the entire circumstances, including the evidence of record, the court is of the opinion that the procedural error complained of was prejudicial to a substantial right of the complainant as shown by the following:
    - a. Had the error not occurred the decision made pursuant to the procedure would have been different, and
    - b. Because of the error the complainant suffered an injury for which relief must be given.
- B. Presumption of Validity.** The court shall presume that action taken pursuant to a procedure was done in good faith and shall not presume that an error is prejudicial or that an injury occurred. The complainant shall have the burden of proof by a preponderance of the evidence to show that an error is prejudicial or that an injury occurred.
- C. Applicability.** All procedures within this Code shall be subject to this section.