

# Box Elder County Land Use Management & Development Code

## Article 2 – Administration and Enforcement

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- 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 2-4-060 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 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);

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- 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 cancelled 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 2-2-1670(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 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:

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- 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 2-2-1890 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 2-4-060 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 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.

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- 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 2-2-1780(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:

1. Administrative interpretations shall not add to or change the provisions of this Code.

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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 Planning Commission as provided in Section 2-2-1~~8~~90 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.

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

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- 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 2-2-1890(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 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(h) of 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.

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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.

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

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- 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 the 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.