

Box Elder County Land Use Management & Development Code

Article 5: Regulations of General Applicability

Chapter 5-1 - Regulations Applicable To All Zones

Box Elder Zoning Ordinance as Adopted October 2007

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(Updated 7-08; 8-8-08; 1-6-10, 3-23-10, 4-1-10, 8-10-10)

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5-1-010. Purpose.

This Chapter establishes several miscellaneous land development regulations, which are applicable throughout the County regardless of zone.

5-1-020. Scope.

The requirements of this Chapter shall apply in addition to the development and use standards set forth in other chapters of this Code, including base zones, special purpose and overlay zones, development regulations of general applicability, and regulations for specific uses. The requirements of this Chapter shall not be construed to prohibit or limit other applicable provisions of this Code, the Box Elder County ordinances, or other laws. Provided however, that the requirements of this Chapter shall prevail over conflicting provisions of any other requirement in this Code unless a different standard is expressly authorized.

5-1-030. Definitions.

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

5-1-040. Curbs, Gutters, Sidewalks, Street Paving, etc. - Condition Building Permit Approval.

The installation of curb, gutter, sidewalks, street paving, drainage culverts, and covered or fenced irrigation ditches of a type approved by the County Commission shall be required on any existing or proposed street adjoining a lot on which a building is to be established. Such curbs, gutters, sidewalks, paving, drainage culverts, and safety features for irrigation ditches and canals, etc., are required as a condition of building permit approval, when Box Elder County adopts a policy that such street is to be improved according to a given plan adopted by Box Elder County.

5-1-050 Conditional Use Permit Required for Restricted Lots.

No building permits shall be issued for construction of any building or structure to be located on a restricted lot unless a valid Conditional Use Permit for the same has previously been issued pursuant to this Code.

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(Updated 7-08; 8-8-08; 1-6-10, 3-23-10, 4-1-10, 8-10-10)

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5-1-60. Substandard Lots at Time of Code Passage. (Ordinance 303)

Any lot legally held in separate ownership at the time of adoption of this Code, which lot is below the requirements for lot area or lot width or frontage for the district in which it is located and on which lot a dwelling would be permitted if the lot meets the area requirements of the Code, may be used for a single-family dwelling. The width of each of the side yards for such dwelling may be reduced to a width which is not less than the same percentage of the lot width as the required side yard would be of the required lot width, provided that in no case shall the smaller of the two yards be less than five (5) feet; nor shall the total width of the two yards be less than thirteen (13) feet; provided however, that when this Code replaces a previously adopted zoning ordinance, if a lot was legally created under the provisions of that ordinance, it shall be classified as a legal non-conforming lot under this Code.

5-1-070. Lot Standards and Street Frontage.

Except for planned unit developments, condominiums, and as otherwise provided in this Code, every lot presently existing or hereafter created shall have such area, width, and depth as required by this Code for the district in which such lot is located and shall have frontage upon a public street or upon a private street or right-of-way approved by the Planning Commission, before a building permit may be issued, provided that no lot containing five (5) acres or less shall be created which is more than three (3) times as long as it is wide.

5-1-080. Every Dwelling to be on a Lot – Exceptions.

Every dwelling structure shall be located and maintained on a separate lot having no less than the minimum area, width, depth and frontage required by this Code for the district in which the dwelling structure is located, except that farm or ranch dwellings, group dwellings, condominiums, and other multi-structure dwelling complexes under single ownership and management, which are permitted by this Code and have approval from the Planning Commission, may occupy a single lot.

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5-1-090. Lots and Dwellings Fronting on Private Streets - Special Provisions.

Lots with frontage only on private streets shall be allowed by conditional use permit procedure only, and shall be subject to all applicable requirements of this Code.

5-1-100. Yard Space for One Building Only.

No required yard or other open space around an existing building or which is hereafter provided around any building for the purpose of complying with the provisions of this Code shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot where on a building is to be erected or established.

5-1-110. Yards to be Unobstructed – Exceptions.

Every part of a required yard shall be open to the sky, unobstructed except for permitted accessory buildings in a rear yard, the ordinary architectural projections of skylight, sills, belt courses, cornices, chimneys, flues, and other ornamental features which project into a yard not more than two and one half (2 ½) feet, and open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers projecting into yard not more than five (5) feet.

5-1-120. Exceptions to Height Limitations.

Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless, radio, or television masts, theater lofts, silos, energy generation and conservation apparatus, or similar structures may be erected above the height limits herein prescribed. Nonetheless no space above the height limit shall be allowed for purposes of providing additional floor space, nor shall such increased height be in violation of any other ordinances or regulations of Box Elder County.

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5-1-130. Additional Height Allowed.

Public buildings and utility buildings, when authorized in a district, may be erected to a height greater than the district height limit by conditional use permit.

5-1-140. Minimum Height of Dwellings.

No dwelling shall be erected to a height less than one (1) story above grade, except in a planned unit development.

5-1-150. Maximum Height and Floor Area of Accessory Buildings. (Ordinance 345)

No building which is accessory to a one-family, two-family, three-family, or four-family dwelling shall be erected to a height greater than twenty-five (25) feet, nor be higher, nor contain greater square foot floor area than the principal building to which it is accessory. The accessory building shall comply with the setback distances required by this Code for the district in which such lot is located.

5-1-160. Area of Accessory Buildings.

No accessory building or group of accessory buildings in any residential district shall cover more than twenty-five (25) percent of the rear yard.

5-1-170. Water and Sewerage Requirements.

In all cases where a proposed building or proposed use will involve the use of sewage facilities, and a connection to a public sewer system as defined by the Utah State Division of Health is not available; and in all cases where a connection to a public water system approved by the Utah State Division of Health is not available: the sewage disposal system and the domestic water supply shall comply with requirements adopted by Box Elder County, and the application for a building permit shall be accompanied by evidence of the physical presence, legal right to and availability of culinary water acceptable to Box Elder County and showing the actual physical presence, legal right and availability of a sewer system for the proposed

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building or use.

5-1-180. Clear View of Intersecting Streets.

In all districts which require a front yard, no obstruction to view in excess of two (2) feet in height shall be placed on any corner lot within a triangular area formed by the street property lines and a line connecting them at points forty (40) feet from the intersection of the street lines, except pedestal type identification signs and pumps at gasoline service stations, and a reasonable number of trees pruned so as to permit unobstructed vision to automobile drivers.

5-1-190. Fences May Be Required.

When approved by the County Commission, the Planning Commission may require the erection of fences as a prerequisite to approval of any project or to the granting of any building permit where, in the opinion of said Commission, this is necessary to protect life and property, or to prevent conflict of uses. Such fences shall be of a type and size necessary, in the opinion of the Planning Commission, to accomplish the above-stated purpose.

5-1-200. Maximum Height of Fences, Walls, and Hedges.

- A. Fences, walls, and hedges may be erected or allowed to the permitted building height in the district when located within the required buildable area.
- B. Fences, walls, and hedges may not exceed 6 feet in height within any required rear yard or interior side yard.
- C. Notwithstanding any other provisions herein, no view-obscuring fence, wall or hedge exceeding three (3) feet in height shall be erected or allowed closer to any street line than the required building setback line. Non view-obscuring fences or walls may be erected to a maximum height of four (4) feet within the front yard.
- D. For the purpose of this section, single shrub planting shall not constitute a hedge if the closest distance between the foliage of any two (2) plants is and remains at least five (5) feet.
- E. Where a fence, wall, or hedge is located along a property line separating two (2) lots and there is a difference in the grade of the properties on the two sides of the property

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(Updated 7-08; 8-8-08; 1-6-10, 3-23-10, 4-1-10, 8-10-10)

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line, the fence, wall, or hedge may be erected or allowed to the maximum height permitted on either side of the property line.

- F. There shall be no fence nor hedge within three (3) feet of any fire hydrant.

5-1-210. Sale or Lease of Required Space.

No space needed to meet the width, yard, area, coverage, parking or other requirements of this Code for lot or building may be sold or leased away from such lot or building.

5-1-220. Construction Subject to Geologic and Flood Hazards.

- A. Whenever development or construction is or may be subject to geologic or flood hazards, the Planning Commission may require the applicant to submit a geologic and soils survey report prepared by a qualified professional team.
- B. When such report indicates a lot to be subject to unusual potential or actual geological or flood hazards, the applicant shall meet the special conditions required by the Planning Commission to reduce or eliminate such hazard, or if such conditions cannot be met or will not be met, the application for a building or conditional use permit shall be denied.

5-1-230. Location of Gasoline Pumps.

Gasoline pumps shall be set back no less than eighteen (18) feet from any street line (property line) to which the pump island is perpendicular, and twelve (12) feet from any street line to which the pump island is parallel, and not less than ten (10) feet from any residential or agricultural district boundary line. If the pump island is set at an angle on the property, it shall be so located that the automobiles stopped for service will not extend over the property line.

5-1-240. Property Divided by Zoning District Boundaries.

Where a zoning district boundary cuts through a lot existing at the time of adoption of this Code, the use regulations governing the portion of the lot located within the more restrictive zone shall govern the use and development of the entire lot, unless a variance has been granted

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(Updated 7-08; 8-8-08; 1-6-10, 3-23-10, 4-1-10, 8-10-10)

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by the Board of Adjustment in accordance with the limitations of Chapter 2-2 of this Code --- Board of Adjustment. Legally existing non-conforming uses and buildings on the lot, and lots that can be legally subdivided into two or more legal conforming lots are exempt.

5-1-250. Utility Extensions Authorized Only to Permitted Structures and Buildings.

No sewer service line, water service line, electrical, nor gas utility line shall be installed by a public or private company to a building, structure, or use which does not comply with the provisions of this Code or other local regulations.

5-1-260. Utilities Responsible for Excavations.

It is the intent of this Code to hold franchised utilities responsible for all excavations, back-filling and paving. To this end all such work, whether done by a private or public entity shall be commenced only pursuant to the issuance of a permit. Cuts and fills shall be constructed according to standards established by Box Elder County.

5-1-270. Property Owned by Other Government Units – Effect of Land Use and Development Ordinances.

- A. Each county, municipality, school district, special district, and political subdivision of the state shall conform to any applicable land use ordinances of the County when installing, constructing, operating, or otherwise using any area, land, or building situated within the unincorporated portion of the County.
- B. In addition to any other remedies provided by law, when the County's land use ordinance is violated or about to be violated by another political subdivision, the County may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.
- C. A school district is subject to the County's land use ordinances as required by state statute, except that the County may not:

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1. impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;
2. require a school district to participate in the cost of any roadway or sidewalk not reasonably necessary for the safety of school children, and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;
3. require a school district to pay fees not authorized by state statute;
4. provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;
5. require a school district to pay any impact fee for any improvement project that is not reasonably related to the impact of the project upon the need which the improvement is to address; or
6. impose regulations upon the location of a project except as necessary to avoid unreasonable risks to health or safety.

5-1-280. Effect of General Plan on Front Yard Requirements.

Wherever a lot is adjacent to a mapped street in or on the adopted Official Map of Box Elder County General Plan, there shall be a front yard provided which is measured from planned edge of the future right-of-way.

5-1-290. Home Occupation.

- A. A Conditional Use Permit may be approved by the Planning Commission for a home occupation, i.e., an occupation of a person or family where they reside and which occupation is clearly incidental and secondary to the use of the structure for dwelling and residential purposes, and does not change the residential character of the dwelling

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(Updated 7-08; 8-8-08; 1-6-10, 3-23-10, 4-1-10, 8-10-10)

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- or the neighborhood, and in connection with which there is no display and/or stock of merchandise.
- B. The home occupation shall not involve the use of any accessory building, either attached or detached, which substantially changes the character of the dwelling or of the neighborhood.
- C. The Planning Commission's review of an application in arriving at affirmative findings to meet the above policies shall also include the following specific standards:
1. No employees (members of the immediate family residing in the home are not considered employees).
 2. No unusual traffic (delivery trucks, commercial vehicles, heavy equipment etc.) is permitted either on or off-site which are not customarily observed in residential use.
 3. No parking except for customary automobiles and other traditional residential vehicles including vans and pickups.
 4. No parking lots for more than four (4) vehicles on the premises outside of the residential structure(s).
 5. All required parking will be accommodated on-site.
 6. Unusual waste, or amounts, residential or otherwise may not be generated.
 7. Unusual electronic interference may not be generated.
 8. Non-residential dust, odors, noise, and other contamination may not be generated.
- D. When day-care and pre-school centers for four (4) or more children under the age of fourteen (14) for more than four (4) hours a day are approved as "home occupations" the following conditions will also be required:
1. A license shall be issued by the Utah Department of Workforce Services for same, and all regulations and conditions imposed by that agency observed.
 2. Copies of all required State licenses will be attached to application.

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3. Outside yard space will be fenced for the protection of the children (contain them safely).
- C. When a foster care home for more than one school age child, older person, or preschool child is approved as a “home occupation,” the following conditions will also be required:
1. A social worker licensed by the State shall submit to the County Commission, in writing or shall appear in person, to explain how the applicant complies with all the applicable State regulations.
 2. The host family shall be a husband and wife legally married or otherwise found to be a suitable host for a foster child by the County Commission.
 3. The foster child or adult can be assimilated reasonably well into the family (socially).
 4. The residence occupied by the host family and those placed in foster care shall have adequate eating, sleeping, living and sanitary facilities for the foster care individuals, the host family and all natural and adopted children of the host family.
 5. There will be reasonable privacy and freedom for the foster care individuals to allow normal living and social growth.
 6. The foster care home is reasonably located with respect to neighborhood and other public facilities.
 7. The County Commission shall make a determination that approving the application will not adversely impact the neighborhood.
 8. The number of foster care persons living in the home shall be limited to five (5) or less.
- D. A Conditional Use Permit may be approved administratively by the Zoning Administrator for certain Home Occupations such as, daycare, computer/office services, professional, or crafts etc. under the following conditions:

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1. The occupation is clearly incidental and secondary to the use of the structure for dwelling and residential purposes, and does not change the residential character of the dwelling or the neighborhood, and in connection with which there is no display and/or stock of merchandise.
2. The home occupation shall not involve the use of any accessory building, either attached or detached, which substantially changes the character of the dwelling or of the neighborhood.
3. The Zoning Administrator's review of an application in arriving at affirmative findings to meet the above policies shall also include the following specific standards:
 - a. No employees (members of the immediate family residing in the home are not considered employees).
 - b. No unusual traffic (delivery trucks, commercial vehicles, heavy equipment etc.) is permitted either on or off-site which are not customarily observed in residential use.
 - c. No parking except for customary automobiles and other traditional residential vehicles including vans and pickups.
 - d. No parking lots for more than 4 vehicles on the premises outside of the residential structure(s).
 - e. All required parking will be accommodated on-site.
 - f. Unusual waste, or amounts, residential or otherwise may not be generated.
 - g. Unusual electronic interference may not be generated.
 - h. Non-residential dust, odors, noise, and other contamination may not be generated.
 - i. When day-care and pre-school centers for 4 or more children under the age of 14 for more than 4 hours a day are approved as a home occupations the following conditions will also be required:

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- 1) A license shall be issued by the Utah Department of Workforce Services for same, and all regulations and conditions imposed by that agency observed.
- 2) Copies of all required State licenses will be attached to application.
- 3) Outside yard space will be fenced for the protection of the children (contain them safely).

5-1-300. Conservation of Values.

The appearance and condition of premises has a significant effect on property values, wholesomeness of surroundings and moral values. Accordingly, the following regulations shall apply:

- A. The outside surface of buildings which are constructed of wood shall be coated with paint or other wood preservative before such building is occupied or used.
- B. Whenever a front yard is required, such yard shall be planted and maintained in lawn and shrubbery except for walks and driveways.
- C. Trash, weeds or other material liable to contribute to a fire hazard, infestation by rodent or insects, shall not be allowed to remain on any lot outside of approved containers in Box Elder County, and no junk, debris, abandoned or dismantled vehicles, or similar refuse material shall be stored or allowed to remain outdoors except in an MD or MG district by conditional use permit.
- D. View obscuring fences shall be installed by the property owner to block the view from the public right-of-way, or from neighboring properties whenever uses of land are found by the Planning Commission to be offensive, detracting, obnoxious, visually polluting or otherwise visually devaluing to the Community.

5-1-310. Corner Lots. On a corner lot, there are two front yards.

5-1-311. Flag Lots (Ordinance 249)

All flag lots shall be approved as a special provision to Box Elder County Land Use and Development Code by the Planning Commission in accordance with the following provisions:

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(Updated 7-08; 8-8-08; 1-6-10, 3-23-10, 4-1-10, 8-10-10)

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1. All flag lots shall be approved as a special provision to the Land Use and Development Code by the Planning Commission. The Planning Commission may grant approval only if 1) The applicant makes written application for a flag lot on a form approved by the Planning Commission and pays the required fees at the time the application is submitted, 2) there are special circumstances attached to the property that do not generally apply to other properties in the same area and, 3) the Planning Commission specifically finds that all of the following conditions are met as to the proposed flag lot:
 - a. It is necessary, reasonable and feasible to allow the flag lot in the area;
 - b. Approval of a flag lot in the area will not substantially affect the general plan;
 - c. Approval of a flag lot in the area will not be contrary to the public interest;
 - d. The staff of the flag lot has a minimum width of thirty (30) feet
 - e. The staff of the flag lot has a maximum length of two hundred and fifty (250) feet
 - f. The flag lot, exclusive of the staff portion meets all of the zoning requirements of a lot in the area in which it is located; or be a minimum of ½ acre in lot size, whichever is greater.
 - g. The applicant for a flag lot has prepared plan showing the location of fire hydrants to serve the flag lot and that plan has been approved by the Fire Marshall.
 2. Flag lots shall be approved only in subdivisions containing four (4) lots or fewer.
 3. The staff portion of a flag lot shall be used only for ingress/egress. The staff portion shall be landscaped to be in harmony with other adjacent property and shall be improved by the installation of an improved hard surface such as concrete, asphalt or compacted road base with a dust prevention treatment.
 4. All improvements to the flag lot, including installation of the hard surface and fire hydrants, shall be performed at the applicant's expense. No certificate of occupancy shall be issued for the proposed flag lot until the improvements are fully installed.
 5. The Planning Commission may impose such additional requirements or conditions on the proposed flag lot as it deems necessary.
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6. The Planning Commission may hold a public hearing on each flag lot application it receives. Notice of such hearings shall be given to property owners within a three-hundred (300) foot radius of the proposed flag lot. The costs of such notices shall be paid by the applicant.

5-1-320. LARGE SCALE UTILITY LINE INSTALLATIONS (Ordinance 300; 8-5-2008)

A. INTENT

The intent of this section is to allow the installation of major electric power, natural gas, and water transmission lines, and other public and private utility lines while meeting the responsibility to provide for the health, safety, and general welfare of the public and protect the environment.

B. SCOPE

Large-scale utility line installations shall be permitted only when in compliance with this ordinance and the regulations set forth in this section. The following are large-scale utility line installations:

1. Electric power transmission lines with a voltage greater than one hundred thirty eight [138] kV or more, or that cross a distance of 12 miles or more.
2. Gas transmission lines design pressure of six hundred [600] psi or more, or a pipe diameter of sixteen [16] inches or more, or that cross a distance of 12 miles or more.
3. Water transmission facilities with a capacity of fifty [50] second-feet or more, or that cross a distance of 12 miles or more, except those providing irrigation water to agricultural operations within Box Elder County limits.
4. Other utility installations such as, but not limited to, fiber optic, oil, telephone, cable television/internet service which are sized such that they could provide service to 1000 residences or more, or that are being constructed to provide services primarily outside of Box Elder County and crosses a distance of 12 miles or more.

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(Updated 7-08; 8-8-08; 1-6-10, 3-23-10, 4-1-10, 8-10-10)

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C. CONDITIONAL USE PERMIT/ GENERAL PLAN AMENDMENT REQUIRED

In all areas of unincorporated Box Elder County, whether zoned or un-zoned, any proposed large-scale utility line installation which will not be located or co-located within 150 feet, for its entire length, of an existing utility line of equivalent size, height and capacity, can be approved as a conditional use only if the General Plan of Box Elder County has first been amended to identify the proposed location of the large-scale line as an approved public utility corridor. No such amendment to the Box Elder County General Plan shall be required if the proposed large-scale utility line installation will be located or co-located within 150 feet of an existing utility line of equivalent size, height and capacity for its entire length.

The general plan amendment application and conditional use permit application may be processed concurrently, provided the general plan amendment is adopted prior to the conditional use permit being issued. If the applications are processed concurrently and the general plan amendment is not adopted the conditional use permit fees will not be refunded and any conditional use approvals shall be void.

In the event an amendment to the General Plan of Box Elder County is required, the amendment shall be accomplished in accordance with the requirements of the Box Elder County Land Use Management & Development Code and any other requirements imposed by Utah law. The individual and/or entity seeking such amendment shall be responsible for the costs of consultants hired by the Box Elder County to review and manage the General Plan amendment process.

In the event an amendment to the General Plan of Box Elder County is not required, the individual and/or entity seeking approval of the proposed large-scale utility line shall conform to the Box Elder County Land Use and Management Code requirements for approval of a conditional use permit.

5-1-330. BOX ELDER COUNTY MINIMUM ROAD STANDARDS (Ordinance 330)

A. INTENT

The intent of this section is to provide a minimum standard for present and future development involving inhabited structures in the zoned and un-zoned areas of unincorporated Box Elder County and appropriately provide for the health, safety, and general welfare of the public and to protect the environment.

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(Updated 7-08; 8-8-08; 1-6-10, 3-23-10, 4-1-10, 8-10-10)

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B. SCOPE

The drawings of this Chapter shall serve as minimum standards to the development and use standards set forth in other chapters of this Code, including but not limited to base zones, special purpose and overlay zones, development regulations of general applicability, regulations for specific uses, and subdivisions. The drawings of this Chapter shall not be construed to prohibit or limit other applicable provisions of this Code, the Box Elder County ordinances, or other laws; provided, however, that the drawings of this Chapter shall prevail over conflicting provisions of any other requirement in this Code unless a different standard is expressly authorized.

C. MINIMUM STANDARD DRAWINGS

SEE EXHIBIT A