

## AGENDA

UNIFORM BUILDING CODE COMMISSION  
ARCHITECTURAL ADVISORY COMMITTEE  
UNIFIED CODE ANALYSIS COUNCIL  
JOINT MEETING

April 15, 2014 9:00 AM

**Sandy City Hall Room 201**

**10000 Centennial Pkwy, Sandy, UT**

*This agenda is subject to change up to 24 hours prior to the meeting.*

Sign attendance sheet

1. Approve minutes from the March 11, 2014 joint meeting
2. Review proposed amendment to IEBC
  - Section 705.1 General
  - Section 705.2 Alterations affecting an area containing a primary function
  - Section 1012.8 Accessibility
  - Section 1012.8 Complete change of occupancy
3. Approve the 2012 IEBC as amended
4. Discuss a new meeting day

### INFO ITEMS

- a. IBC Amendment Status Log
- b. IEBC Amendment Status Log

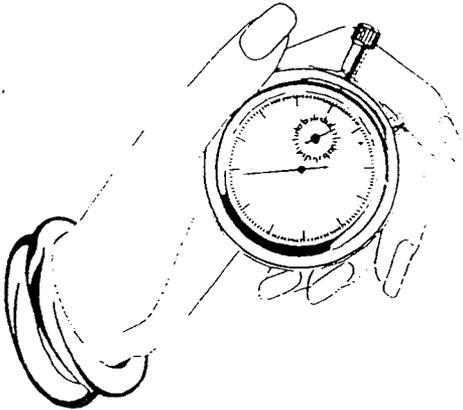
Next Scheduled Meeting: as needed

If you do not plan on attending this meeting, please call Sharon at 530-6163 or email at [ssmalley@utah.gov](mailto:ssmalley@utah.gov) or [dansjones@utah.gov](mailto:dansjones@utah.gov).



In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Dave Taylor, ADA Coordinator, at least three working days prior to the meeting. Division of Occupational and Professional Licensing, 160 East 300 South, Salt Lake City UT 84115, Phone 530-6628 or toll-free in Utah only 866-275-3675.

AGENDA  
ITEM # 1



MINUTES

UNIFORM BUILDING CODE COMMISSION  
ARCHITECTURAL ADVISORY COMMITTEE  
UNIFIED CODE ANALYSIS COUNCIL

March 11, 2014  
Sandy City Hall Room 341  
10000 Centennial Pkwy Sandy, UT

MINUTES

STAFF:

Sharon Smalley, Board Secretary

ARCHITECTURAL ADVISORY COMMITTEE

|                       |                         |
|-----------------------|-------------------------|
| William Hall          | Chris Jenen             |
| Ron McArthur (absent) | Kenny Nichols           |
| Scott Marsell         | Gary Payne (excused)    |
| Jerry Jensen          | James Sullivan (absent) |

UNIFIED CODE ANALYSIS COUNCIL

|                         |                         |
|-------------------------|-------------------------|
| Jim McClintic           | Martha Ellis            |
| Mike Pedersen (excused) | Wendy Johnson           |
| Jeff Darr               | Deanne Mousley          |
| Scott Adams             | Andrew Baxter (excused) |
| Kevin Bell (absent)     |                         |

MINUTES

A motion was made by William Hall to approve the minutes from February 11, 2014 joint meeting as written. The motion was seconded by Chris Jensen and passed unanimously.

REVIEW PROPOSED AMENDMENT TO  
IEBC SECTIONS:

705.1 GENERAL  
705.2 ALTERATIONS AFFECTING AN  
AREA CONTAINING A PRIMARY  
FUNCTION  
1012.8 ASSESSIBILITY  
1012.8.2 COMPLETE CHANGE OF OC-  
CUPANCY

Those present reviewed the proposed amendments. During the discussion several concerns were expressed as to if this would make modifications more restrictive and costly. Following the discussion, a motion was made by Scott Adams to table the decision on these proposed amendments until further clarification and study can be done and to contact Steve Orłowski with the National Association of Home Builders to have some of the questions raised during the discussion clarified. The motion was seconded by William Hall and passed unanimously.

Scott Adams will contact Mr. Orłowski to get clarification on the proposals and report back at the next meeting.

APPROVE THE 2012 IEBC AS  
AMENDED

A motion was made by Martha Ellis to table approval of the 2012 IEBC until the next meeting. The motion was seconded by Kenny Nichols and passed unanimously.

The meeting adjourned at 10:20.

*Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.*

# Agenda Item #2

# National Association of Home Builders Recommended State & Local Amendments to the 2012 Edition of the International Existing Building Code (IEBC)

**Issue:** Compliance with Federal Fair Housing Law

**2012 IEBC Section Number:** Various (705.1, 705.2, 1012.8, 1012.8.2)

**Recommended Amendment:**

***Modify the sections as shown below:***

**705.1 General.** A *facility* that is altered shall comply with the applicable provisions in Sections 705.1.1 through 705.1.14, and Chapter 11 of the *International Building Code* unless it is *technically infeasible*. Where compliance with this section is *technically infeasible*, the alteration shall provide access to the maximum extent that is technically feasible.

A *facility* that is constructed or altered to be accessible shall be maintained accessible during occupancy.

**Exceptions:**

1. The altered element or space is not required to be on an accessible route unless required by Section 705.2.
2. Accessible means of egress required by Chapter 10 of the *International Building Code* are not required to be provided in existing *facilities*.
3. Type B dwelling or sleeping units required by Section 1107 of the *International Building Code* are not required to be provided in existing *facilities* ~~undergoing less than a Level III alteration.~~
4. The alteration to Type A individually owned dwelling units within a Group R-2 occupancy shall meet the provisions for Type B dwelling units.

**705.2 Alterations affecting an area containing a primary function.** Where an *alteration* affects the accessibility to a, or contains an area of, *primary function*, the route to the *primary function* area shall be accessible. The accessible route to the *primary function* area shall include toilet facilities or drinking fountains serving the area of *primary function*.

**Exceptions:**

1. The costs of providing the accessible route are not required to exceed 20 percent of the costs of the alterations affecting the area of *primary function*.
2. This provision does not apply to *alterations* limited solely to windows, hardware, operating controls, electrical outlets and signs.
3. This provision does not apply to *alterations* limited solely to mechanical systems, electrical systems, installation or *alteration* of fire protection systems and abatement of hazardous materials.
4. This provision does not apply to *alterations* undertaken for the primary purpose of increasing the accessibility of a *facility*.
5. ~~This provision does not apply to altered areas limited to Type B dwelling and sleeping units.~~

**1012.8 Accessibility.** *Existing buildings* that undergo a change of group or occupancy classification shall comply with this section.

**Exception:** Type B dwelling or sleeping units required by Section 1107 of the *International Building Code* are not required to be provided in existing buildings and facilities undergoing a *change of occupancy* ~~in conjunction with less than a Level III alteration.~~

**1012.8.2 Complete change of occupancy.** Where an entire building undergoes a *change of occupancy*, it shall comply with Section 1012.8.1 and shall have all of the following accessible features:

1. At least one accessible building entrance.
2. At least one accessible route from an accessible building entrance to *primary function* areas.
3. Signage complying with Section 1110 of the *International Building Code*.
4. Accessible parking, where parking is provided.
5. At least one accessible passenger loading zone, where loading zones are provided.
6. At least one accessible route connecting accessible parking and accessible passenger loading zones to an accessible entrance.

Where it is *technically infeasible* to comply with the new construction standards for any of these requirements for a change of group or occupancy, the above items shall conform to the requirements to the maximum extent technically feasible.

~~**Exception:** The accessible features listed in Items 1 through 6 are not required for an accessible route to Type B units.~~

**Reason:**

*These sections, new to the 2012 edition of the IEBC, should be stricken as they far exceed the Federal Fair Housing Act (FHAAct) requirements for accessibility. Of most importance is that this change requiring compliance with IBC "Type B Units" in an alteration or change of use of an existing building is contrary to Federal law. First, these requirements expand the Federal law that only "multifamily buildings" constructed for first occupancy after March 13, 1991 need to be constructed to the FHAAct requirements. Second, these requirements would apply to ALL existing buildings converted to multifamily use, no matter when they were first constructed. But, Federal law does not require existing buildings to comply with the FHAAct. This is mainly due to the design and construction of the components of older buildings such as door and hallway widths, and the location of structural elements that that cannot be changed without great expense. This added expense can deter inner-city revitalization efforts of converting older existing buildings into residential occupancies.*

*Another problem is that this HUD supported change seems to be an attempt to circumvent and nullify the FHAAct and the rulings handed down by the Federal Courts. The FHAAct Rules includes a two-year statute of limitations on bringing suit and making corrections to an existing non-compliant multifamily building, a statute of limitations upheld by the Federal Circuit Courts of Appeals. It also appears this change is an attempt by a department of the federal government to mandate a change to the federal regulations without going through the Federal Administrative Procedure Act rulemaking process.*

*There is also the aspect of Federal preemption. The inclusion of these requirements in the IEBC is contrary to Federal Law. As Federal Law will preempt any state or local law, there will be challenges to the adoption of this Code. There is no benefit for any state or local jurisdiction to have to fight a challenge in court if the adoption of the IEBC contains these requirements. Until such time as the U.S. Congress passes Federal law, and HUD goes through the rule making process and develops such accessibility requirements for inclusion in the FHAAct design manual, these requirements should not be included in the adoption of the IEBC.*

**Staff Contact:** Steve Orłowski – [sorlowsk@nahb.org](mailto:sorlowsk@nahb.org) 1-800-368-5242, ext. 8303

# Info Items

IEBC AMENDMENT STATUS LOG  
PENDING

| Section to Amend  | Propositor Agency                     | Approved/Denied by Committee | Commission Application for Hearing                 | Published | Public Hearing | Commission Adoption Amendment | Effective Date |
|---|---------------------------------------|------------------------------|--|-----------|----------------|-------------------------------|----------------|
| 2012 IEBC   | Structural Advisory Committee         | Approved 11-7-13             | 1-15-14 sent to Arch, Mech, and Unified for review |           |                |                               |                |
| 705.1 General   | National Association of Home Builders |                              |  |           |                |                               |                |
| 705.2 Alterations affecting an area containing a primary function | National Association of Home Builders |                              |  |           |                |                               |                |
| 1012.8 Accessibility  | National Association of Home Builders |                              |  |           |                |                               |                |
| 1012.8.2 Complete change of occupancy                             | National Association of Home Builders |                              |  |           |                |                               |                |



Sharon Smalley &lt;ssmalley@utah.gov&gt;

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**FW: Compliance with Federal Fair Housing Law**

In Message

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**Scott Adams** <SAdams@pcfd.org>  
To: Sharon Smalley <ssmalley@utah.gov>

Tue, Apr 15, 2014 at 12:09 PM

**From:** Orlowski, Steve [mailto:sorlowski@nahb.org]  
**Sent:** Tuesday, April 15, 2014 7:45 AM  
**To:** Scott Adams  
**Cc:** Nichols, Kenny; Chris Jensen; smarsell@sandy.utah.gov  
**Subject:** RE: Compliance with Federal Fair Housing Law

Scott-

I apologize for the delayed response, been a bit hectic around here. Here is some clarification for the proposed changes.

- The proposed changes to section 705.1, deleting the last sentence in exception 5, "undergoing less than a Level III alteration" - **Appears straight forward. If exception # 3 under section 705.1 is revised, as we suggest in our amendment, then there would be a blanket exemption from providing type B units in existing facilities. The intent being that users are not required to provide type B units in existing facilities undergoing an alteration, if there were no type B units previously in the building. Hence none of the provisions or requirements in section 705 apply to the project.**

The proposed change to section 705.2, deleting exception 5, "This provision does not apply to altered areas limited to Type B dwelling and sleeping units"- **Appears that this section would now apply to altered areas limited to Type B dwelling and sleeping units, and require the route to the primary function area to be accessible, and also include the accessible route to the primary function area that include toilet facilities or drinking fountains serving the area of primary function. Is that your intent, or are we reading your proposal incorrectly? The intent is to clarify that if you have an existing facility that was required to provide type B units and has a non-compliant accessible route, the route needs to be altered. The other intent is not to require an accessible route be provided in an existing multifamily facility undergoing alterations that was never designed with type b units, since the exception in 705.1 provides a blanket exception from providing type b units when altering an existing facility. I do see your point, that as written, you would now have to provide toilet facilities or drinking fountains in the accessible route , which was not our intent. I would suggest not including this revision.**

- Proposed change to 1012.8, deleting the following from the exception, "in conjunction with less than a Level 3 alteration" - **Appears this change by deleting this wording from the exception, would not**

**require Type B dwelling or sleeping units required by Section 1107 of the International Building Code to be provided in existing buildings and facilities when undergoing a change of occupancy. Is that your intent, or are we reading your proposal incorrectly? Yes, our intent is to exclude all existing buildings undergoing a change of occupancy from having to provide type B units. The reason for the amendment, is that under the FHA act all buildings that were previously occupied and are later converted to residential are exempt from providing type B units.**

1012.8 Accessibility. Existing buildings that undergo a change of group or occupancy classification shall comply with this section.

Exception: Type B dwelling or sleeping units required by Section 1107 of the International Building Code are not required to be provided in existing buildings and facilities undergoing a change of occupancy **in conjunction with less than a Level 3 alteration.**

- The proposed change to section 1012.8.2, deleting the exception – **Appears this change would now require that items 1 through 6 as stated above, would now be required for an accessible routes to Type B units. Is that your intent, or are we reading your proposal incorrectly? If the exception to section 1028 is revised as we have proposed, type B units are not required to be provided in the change of occupancy, therefore there is no need for the exception.**

**STEVEN ORLOWSKI**

Director

*Construction, Codes & Standards*

National Association of Home Builders

1201 15th Street, NW

Washington, DC 20005

D 202 266 8303

F 202 266 8369 T 800 368 5242 x8

sorlowski@nahb.org

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**From:** Scott Adams [mailto:SAdams@pcfd.org]

**Sent:** Tuesday, April 15, 2014 6:58 AM

**To:** Orłowski, Steve; Nichols, Kenny; Chris Jensen; smarsell@sandy.utah.gov

**Subject:** Re: Compliance with Federal Fair Housing Law

Steve: Just wanted to follow up on my email yesterday. We gave our meeting this morning and just want to make sure we have all the information correct for your propose code change.

AC Adams - iPhone

On Apr 14, 2014, at 8:25 AM, "Scott Adams" <SAdams@pcfd.org> wrote:

Thank You again Steve for the information.

We have our meeting tomorrow to discuss the various proposed changes to sections 705.1, 705.2, 1012.8 and 1012.8.2 for the 2012 IEBC, and I have the following questions and/or clarifications that I need your assistance with:

- The proposed changes to section 705.1, deleting the last sentence in exception 5, "undergoing less than a Level III alteration" - **Appears straight forward.**
- The proposed change to section 705.2, deleting exception 5, "This provision does not apply to altered areas limited to Type B dwelling and sleeping units"- **Appears that this section would now apply to altered areas limited to Type B dwelling and sleeping units, and require the route to the primary function area to be accessible, and also include the accessible route to the primary function area that include toilet facilities or drinking fountains serving the area of primary function. Is that your intent, or are we reading your proposal incorrectly?**
- Proposed change to 1012.8, deleting the following from the exception, "in conjunction with less than a Level 3 alteration" - **Appears this change by deleting this wording from the exception, would not require Type B dwelling or sleeping units required by Section 1107 of the International Building Code to be provided in existing buildings and facilities when undergoing a change of occupancy. Is that your intent, or are we reading your proposal incorrectly?**

1012.8 Accessibility. Existing buildings that undergo a change of group or occupancy classification shall comply with this section.

Exception: Type B dwelling or sleeping units required by Section 1107 of the International Building Code are not required to be provided in existing buildings and facilities undergoing a change of occupancy ~~in conjunction with less than a Level 3 alteration.~~

- The proposed change to section 1012.8.2, deleting the exception – **Appears this change would now require that items 1 through 6 as stated above, would now be required for an accessible routes to Type B units. Is that your intent, or are we reading your proposal incorrectly?**

Thank you again for your assistance.

P.S. I have also copied other members from our committee on this email too.

**Scott W. Adams**

**Assistant Fire Chief**

**Park City Fire District**

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**From:** Orłowski, Steve [mailto:sorłowski@nahb.org]

**Sent:** Friday, March 14, 2014 1:43 PM

**To:** Scott Adams

**Subject:** Compliance with Federal Fair Housing Law

Scott,

Looks like I already had your email address. Here is the reason we suggest amending the IEBC regarding the type b units,

**Reason:**

*These sections, new to the 2012 edition of the IEBC, should be stricken as they far exceed the Federal Fair Housing Act (FHAct) requirements for accessibility. Of most importance is that this change requiring compliance with IBC "Type B Units" in an alteration or change of use of an existing building is contrary to Federal law. First, these requirements expand the Federal law that only "multifamily buildings" constructed for first occupancy after March 13, 1991 need to be constructed to the FHAct requirements. Second, these requirements would apply to ALL existing buildings converted to multifamily use, no matter when they were first constructed. But, Federal law does not require existing buildings to comply with the FHAct. This is mainly due to the design and construction of the components of older buildings such as door and hallway widths, and the location of structural elements that that cannot be changed without great expense. This added expense can deter inner-city revitalization efforts of converting older existing buildings into residential occupancies.*

*Another problem is that this HUD supported change seems to be an attempt to circumvent and nullify the FHAct and the rulings handed down by the Federal Courts. The FHAct Rules includes a two-year statute of limitations on bringing suit and making corrections to an existing non-compliant multifamily building, a statute of limitations upheld by the Federal Circuit Courts of Appeals. It also appears this change is an attempt by a department of the federal government to mandate a change to the federal regulations without going through the Federal Administrative Procedure Act rulemaking process.*

*There is also the aspect of Federal preemption. The inclusion of these requirements in the IEBC is contrary to Federal Law. As Federal Law will preempt any state or local law, there will be challenges to the adoption of this Code. There is no benefit for any state or local jurisdiction to have to fight a challenge in court if the adoption of the IEBC contains these requirements. Until such time as the U.S. Congress passes Federal law, and HUD goes through the rule making process and develops such accessibility requirements for inclusion in the FHAAct design manual, these requirements should not be included in the adoption of the IEBC.*

**STEVEN ORLOWSKI**

Director

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