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Utility Buildings and Structures Permitted in Residential Agricultural Zones

Utility buildings and structures such as water, sewer and electric buildings and structures may be constructed in all residential zones but only after approval has been given by the Board of Adjustment as a special exception. The Board of Adjustment may require conditions which are reasonably necessary to protect surrounding property values and residential amenities.

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Exposed Slopes to be Less than the Critical Angle of Repose

No cut or fill slope that is created as part of the constructing of any roadway, whether public or privately owned, shall exceed the critical angle of repose except by special permission of the Board of County Commissioners. Such special permission may be given after the owners have shown that they have adopted all practical measures to reduce the slopes to less than the critical angle of repose by selecting an alternate location, by planting the slopes with vegetative material, by covering the slopes with burlap, wire mesh or other material which will have the effect of preventing the soil from moving under the force of gravity until vegetative material become established. Where terrain leading to an electric transmission tower will not permit the installation of such towers without the slopes of the construction roads exceeding the critical angle of repose, air transport or other methods must be used in lieu of such construction roads.

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Fractional Numbers

Any computation or measurement resulting in a fractional number shall be rounded down to the next smaller whole number, i.e. 23.75 inches would be truncated to 23 inches.

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Agricultural Land for Agricultural Purposes

Wherever the provisions of this Code require the Board of County Commissioners, Planning Commission or Board of Adjustment to approve a tract or parcel of land as meeting the qualification of agricultural land for agricultural purposes, said Commission or Board shall be guided by the following legal decisions, interpretations, conditions and standards.

- A. The term agricultural use is to be construed in accordance with common and approved usage without enlargement or restriction and without regard to conception of expediency.
(Moulton v. Building, Inc.)

- B. The term "agriculture" is defined in Webster's Dictionary as the act or science of cultivating the ground, the act or science of the production of plants and animals useful to man or beast; it includes gardening or horticulture fruit growing, and storage and marketing.
(Hagenburher v. Los Angeles, 51 Cal. App. 2d 161.)
- C. A shepherd is an "agricultural laborer" not entitled to compensation under the Utah Industrial Act. "Every standard authority that defines the word agriculture includes in the definition the raising and care of livestock".
(Davis v. Industrial Commission of Utah.)
- D. At this point, the limitations on the scope of "agricultural land" must be noted. Clearly, in order to qualify as "agricultural land for agricultural purposes" the primary use of the land must be "agricultural" in nature. One who is engaged in raising a backyard garden on one-half acre of land in a village is not engaged in "agriculture", nor is the land "agricultural" because of that action. Therefore, in the event that an individual buys one acre of land in a subdivision and fences it off and puts cattle on it, he is not using the land for "agricultural purposes, especially if he were to put a dwelling on the land for dwelling purposes.
- E. Other examples that would have some difficulty in qualifying under the definition of "agricultural use" would be the placing of horses on the land which were used for recreation, backyard gardens, etc. In other words, the primary purpose and use of the land must be agricultural and not residential or recreational. Determination must be made in a case-by-case basis wherein the pertinent facts may be individually considered.
- F. For the purpose of this Code, the following factors may be considered as evidence of the existence of agricultural land for agricultural purposes
1. Past use and income from the land.
 2. Plans of the landowner for future use of the land.

Otherwise, the primary use of the land should be considered as being for dwelling purposes, recreation, speculation or other non-agricultural use. Nor should land in its natural state qualify as agricultural land for agricultural purposes, un-

less the land is used for the raising of Christmas trees, livestock or other agricultural products and not primarily for building sites or other non-agricultural use.

- G. The determination of "agricultural land" would be meaningless if an individual could buy a small tract of ground and graze his horse on it and qualify as being "agricultural land for agricultural use". The factor of "use" of the land for production or income or simply pleasure must be carefully looked at in meeting the "agricultural use" definition. (See letter from the Attorney General of Utah, dated September 13, 1975.) On the other hand, where a family derives all or a substantial part of their living from the raising of crops or livestock on a tract of land, such land should be considered as agricultural land for agricultural purposes.