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Authority

The provisions of this Chapter 403 issued under sections 105(c), 301 and 304 of the Pennsylvania Construction Code (35 P. S. §§ 7210.105(c), 7210.301 and 7210.304), unless otherwise noted.

Source

The provisions of this Chapter 403 adopted January 9, 2004, effective April 9, 2004, 34 Pa.B. 319, unless otherwise noted.

GENERALLY**§ 403.1. Scope.****(a) Application.**

- (1) The Uniform Construction Code applies to the construction, alteration, repair, movement, equipment, removal, demolition, location, maintenance,

occupancy or change of occupancy of every building or structure which occurs on or after April 9, 2004, and all existing structures that are not legally occupied.

(2) The Department will promulgate regulations adopting the new triennial BOCA National Building Code, or its successor building code as the Uniform Construction Code by December 31 of the year of the issuance under section 304(a)(1) of the act (35 P. S. § 7210.304(a)(1)). New buildings or renovations to existing buildings for which a design or construction contract was executed before the effective date of the regulatory amendment adopting the latest triennial versions of the construction codes and standards shall comply with the codes and standards in effect at the time that the design or construction contract was executed.

(b) *Exclusions and exemptions.* The Uniform Construction Code does not apply to:

(1) New buildings or renovations to existing buildings for which an application for a permit was made to the Department or a municipality before April 9, 2004.

(2) New buildings or renovations to existing buildings on which a contract for design or construction was signed before April 9, 2004.

(3) The following structures if the structure has a building area less than 1,000 square feet and is accessory to a detached one-family dwelling except as might be required by an ordinance adopted under section 503 of the act (35 P. S. § 7210.503):

- (i) Carports.
- (ii) Detached private garages.
- (iii) Greenhouses.
- (iv) Sheds.

(4) An agricultural building.

(5) Manufactured or industrialized housing shipped from the factory under section 901(a) of the act (35 P. S. § 7210.901(a)) as provided in § 403.25 (relating to manufactured and industrialized housing).

(6) Installation of tubing, piping, propane gas burning appliances, equipment or fixtures related to liquefied petroleum gas under the Propane and Liquefied Petroleum Gas Act (35 P. S. §§ 1329.1—1329.19).

(7) Construction of individual sewage disposal systems under 25 Pa. Code Chapter 73 (relating to onlot sewage treatment facilities).

(8) Alterations to residential buildings which do not make structural changes or changes to means of egress, except as required by ordinances in effect under sections 303(b)(1) or 503 of the act (35 P. S. §§ 7210.303(b)(1) and 7210.503). Under this subsection, a structural change does not include a minor framing change needed to replace existing windows or doors.

(9) Repairs to residential buildings, except as required by ordinances in effect under sections 303(b)(1) and 503 of the act.

- (10) Installation of aluminum or vinyl siding onto an existing residential or an existing commercial building, except as might be required by ordinances in effect under section 303(b)(1) (35 P. S. §§ 7210.303(b)(1)) or section 503 of the act.
- (11) A recreational cabin if the following conditions are met:
- (i) The cabin is equipped with at least one smoke detector, one fire extinguisher and one carbon monoxide detector in both the kitchen and sleeping quarters.
 - (ii) The owner of the cabin files one of the following with the municipality:
 - (A) A Department form UCC-13 attesting to the fact that the cabin meets the definition of a “recreational cabin” in § 401.1 (relating to definitions).
 - (B) A valid proof of insurance for the recreational cabin, written and issued by an insurer authorized to do business in this Commonwealth, stating that the structure meets the definition of a “recreational cabin.”
- (c) *Continuity of recreational cabin exclusion.*
- (1) Upon the transfer of ownership of a recreational cabin subject to the recreational cabin exclusion, written notice of the following shall be provided in the sales agreement and the deed:
 - (i) The recreational cabin is exempt from the act.
 - (ii) The recreational cabin may not be in conformance with the Uniform Construction Code.
 - (iii) The recreational cabin is not subject to municipal regulation.
 - (2) Failure to comply with the notice requirement under paragraph (1) renders the sale void at the purchaser’s option.
- (d) *Prior permits and construction.*
- (1) A permit issued under construction regulations before April 9, 2004, remains valid and the construction of the building or structure may be completed in accordance with the approved permit. The permit is invalid unless the construction commenced within 2 years of permit issuance or a time period specified by municipal ordinance, whichever is less. The permit holder shall acquire a new permit under section 104(c) of the act (35 P. S. § 7210.104(c)) if the permit was not actively prosecuted during this time period.
 - (2) Construction may be completed without a permit under section 104(c)(2) of the act when construction of a building or structure commenced before April 9, 2004, and a permit was not required at that time.
 - (3) The legal occupancy of a structure existing on April 9, 2004, may continue without change except where the Uniform Construction Code provides otherwise.
- (e) The Uniform Construction Code applies to the construction of a residential building or structure governed by a homeowner’s or community association under section 104(d)(2)(ii) of the act.

(f) The electrical provision, and lumber and wood provisions, not relating to pressure treatment, of the Uniform Construction Code do not apply to a dwelling unit or one-room school house utilized by a member or members of a recognized religious sect if a code administrator grants an exemption under section 901(b) of the act (35 P. S. § 7210.901(b)) as follows:

(1) The permit applicant shall file an application with the code administrator stating the manner in which an electrical provision, and the lumber and wood provision unrelated to pressure treatment of the Uniform Construction Code conflicts with the applicant's religious beliefs. The application must also contain an affidavit by the applicant stating:

- (i) The permit applicant is a member of a religious sect.
- (ii) The religious sect has established tenets or teachings which conflict with an electrical provision and lumber and wood provisions unrelated to pressure treatment of the Uniform Construction Code.
- (iii) The permit applicant adheres to the established tenets or teachings of the sect.

(A) For a dwelling unit, the dwelling will be used solely as a residence for the permit applicant and the applicant's household.

(B) For a one-room school house, the school house will be used solely by members of the religious sect.

(2) The code administrator shall grant the application for the exemption if made in accordance with paragraph (1).

(3) If the permit applicant receives an exemption for a building under section 901(b) of the act and the applicant subsequently sells or leases the building, the applicant shall bring the building into compliance with the provision of the Uniform Construction Code from which it was exempted prior to the sale or lease of the building unless the prospective subsequent owner or lessee files an affidavit in compliance with paragraph (1).

(g) Coal-fired boilers installed in residential buildings must be designed, constructed and tested in accordance with the requirements of Chapter 20, section M2001.1.1 of the "International Residential Code," except for the ASME stamping requirement.

Authority

The provisions of this § 403.1 amended under 301 of the Pennsylvania Construction Code (35 P. S. § 7210.301).

Source

The provisions of this § 403.1 amended December 15, 2006, effective December 31, 2006, 36 Pa.B. 7548. Immediately preceding text appears at serial pages (302328) to (302330).

Cross References

This section cited in 34 Pa. Code § 403.42 (relating to permit requirements and exemptions); and 34 Pa. Code § 403.62 (relating to permit requirements and exemptions).

§ 403.2. Other statutes or ordinances.

(a) Under section 104(d)(1) of the act (35 P. S. § 7210.104(d)(1)), the provisions of the Uniform Construction Code listed in § 403.21 (relating to Uniform Construction Code) preempt and rescind construction standards provided by a statute, local ordinance or regulation. The rescission or preemption does not apply to ordinances in effect on July 1, 1999, or reenactments of simultaneously repealed ordinances which were originally adopted before July 1, 1999, which contain provisions which meet or exceed the Uniform Construction Code under section 303(b)(1) of the act (35 P. S. § 7210.303(b)(1)).

(b) Under section 303(a)(2) of the act, a municipal building code ordinance provision in effect in or adopted by a city of the first class on or before January 1, 1998, shall remain in effect until December 31, 2003. The provisions of the ordinance which do not comply with the Uniform Construction Code on December 31, 2003, will be amended to provide for the minimum requirements of the Uniform Construction Code.

§ 403.3. Building code official delegation.

(a) The Department, a municipality or third-party agency shall employ or contract with a building code official to enforce the act.

(b) A building code official may delegate his duties to a construction code official or current code administrator.

STANDARDS**§ 403.21. Uniform Construction Code.**

(a) The Department adopts and incorporates by reference the following codes as the Uniform Construction Code:

- (1) The provisions of Chapters 2—29 and 31—35 of the “International Building Code.”
- (2) The “ICC Electrical Code.”
- (3) The “International Mechanical Code.”
- (4) The “International Fuel Gas Code.”
- (5) The “International Plumbing Code.”

(i) Except that a municipality within a county of the second class may not administer and enforce the “International Plumbing Code” adopted under this chapter.

(ii) A municipality within a county of the second class that has adopted a plumbing code and accompanying rules and regulations under the Local Health Administration Law (16 P. S. §§ 12001—12028), shall retain the authority to promulgate and enforce this plumbing code and to make any changes it deems necessary if the changes meet the Uniform Construction Code’s minimum requirements.

(6) The “International Residential Code,” except that:

(i) The provisions of R313.1.1 requiring interconnected smoke alarms do not apply to one-family and two-family dwellings undergoing alterations, repairs or additions. Noninterconnected battery operated smoke alarms shall be installed in these dwellings.

(ii) The following specifications apply to residential stairway treads and risers.

(A) The maximum riser height is 8 1/4 inches. There may be no more than a 3/8 inch variation in riser height within a flight of stairs. The riser height is to be measured vertically between leading edges of the adjacent treads.

(B) The minimum tread depth is 9 inches measured from tread nosing to tread nosing.

(C) The greatest tread depth within any flight of stairs may not exceed the smallest by more than 3/8 inch.

(D) Treads may have a uniform projection of not more than 1 1/2 inches when solid risers are used.

(E) Stairways may not be less than 3 feet in clear width and clear headroom of 6 feet 8 inches shall be maintained for the entire run of the stair.

(F) Handrails may project from each side of a stairway a distance of 3 1/2 inches into the required width of the stair.

(7) The “International Fire Code.” Section 804.1.1 of the International Fire Code (relating to natural cut trees) is not adopted under this chapter. A municipality that elects to adopt an ordinance for the administration and enforcement of the Uniform Construction Code may, by ordinance, restrict the placement of natural cut trees in an occupancy group. The ordinance restricting the placement of natural cut trees is not subject to section 503(b)—(k) of the act (35 P. S. § 7210.503(b)—(k)) and § 403.102(i)—(k) (relating to municipalities electing to enforce the Uniform Construction Code).

(8) The “International Energy Conservation Code.”

(9) The “International Existing Building Code.”

(10) The “International Wildland-Urban Interface Code.”

(11) Appendix E of the “International Building Code.”

(12) Appendix H of the “International Building Code.”

(13) Appendix G of the “International Residential Code.”

(b) The codes and standards adopted under subsection (a) are part of the Uniform Construction Code to the prescribed extent of each code or standard. The provisions of the Uniform Construction Code apply if there is a difference between the Uniform Construction Code and the codes or standards adopted in subsection (a). This chapter’s administrative provisions govern under § 403.27(e) (relating to applicability and use of standards) if there is a conflict with the provisions of the codes relating to administration incorporated under subsection (a).

(c) Appendices to a code or standard listed in subsection (a) are not adopted in the Uniform Construction Code except for the provisions adopted in subsection (a)(9) and (12)—(14).

(d) A permit applicant may utilize one of the following prescriptive methods to demonstrate compliance with the energy conservation requirements of the Uniform Construction Code. The standards are those listed for the climatic zone of this Commonwealth where the building or structure is located:

(1) The prescriptive methods for detached residential buildings contained in the current version of the “International Energy Conservation Code” compliance guide containing State maps, prescriptive energy packages and related software published by the United States Department of Energy, Building Standards and Guidelines Program (REScheck_{TM}) or “Pennsylvania’s Alternative Residential Energy Provisions.”

(2) The prescriptive methods for all other buildings or structures contained in the current version of the “International Energy Conservation Code” compliance guide containing State maps, prescriptive packages and related software published by the United States Department of Energy, Building Standards and Guidelines Program (COMcheck_{TM}).

(e) Construction of individual sewage disposal systems is governed under 25 Pa. Code Chapter 73 (relating to onlot sewage treatment facilities).

(f) The repair, alteration, change of occupancy, addition and relocation of existing buildings must comply with Chapter 34 of the “International Building Code” or with the “International Existing Building Code.”

Authority

The provisions of this § 403.21 amended under 301 of the Pennsylvania Construction Code (35 P. S. § 7210.301).

Source

The provisions of this § 403.21 amended December 15, 2006, effective December 31, 2006, 36 Pa.B. 7548. Immediately preceding text appears at serial pages (302331) to (302332) and (306381).

Notes of Decisions

The Department of Labor and Industry had the authority to adopt model codes to serve as basis for the Uniform Construction Code; this authority included the implied authority to incorporate an appendix of the International Residential Code setting standards for manufactured homes which the Department deemed relevant. *DRB v. Department of Labor*, 853 A.2d 8, 18, 19 (Pa. Cmwlth. 2004) aff’d 887 A.2d 1216 (Pa. 2005).

Cross References

This section cited in 34 Pa. Code § 403.2 (relating to other statutes or ordinances); 34 Pa. Code § 403.27 (relating to applicability and use of standards); 34 Pa. Code § 403.44 (relating to alternative construction materials and methods); and 34 Pa. Code § 403.102 (relating to municipalities electing to enforce the Uniform Construction Code).

§ 403.22. Health care facilities.

(a) A health care facility shall comply with all of the following under sections 104(d)(3) and 105(d)(1) of the act (35 P. S. §§ 7210.104(d)(3) and 7210.105(d)(1)):

(1) The Health Care Facilities Act.

(2) Regulations of the Department of Health in 28 Pa. Code Part IV (relating to health facilities).

(3) Building codes and regulations set forth in the applicable licensure laws and regulations under section 105(d) of the act (35 P. S. § 7210.105(d)).

(4) This chapter.

(b) Chapter 405 (relating to elevators and other lifting devices) always applies to health care facilities.

(c) In addition to the requirements of this chapter, a permit applicant for a health care facility shall obtain a license from the Department of Health under the Health Care Facilities Act and its regulations and comply with the Department of Health's license application procedures and its licensing regulations.

(d) A permit applicant for construction or alteration of a health care facility shall do all of the following:

(1) Submit construction or alteration plans to the Department of Health and obtain Department of Health approval before commencing construction or performing the alteration.

(2) Obtain approval from the Department of Health before occupancy of a new health care facility under 28 Pa. Code § 51.5 (relating to building occupancy).

(3) Obtain approval from the Department of Health before occupancy of an altered portion of an existing health care facility.

(e) A Department of Health inspector may inspect a health care facility site before, during and after construction to monitor compliance with Department of Health's health facility regulations.

(f) A building code official may not approve plans for a health care facility under this chapter unless the Department of Health has approved the plans.

(g) A building code official may not issue a certificate of occupancy for the health care facility under this chapter unless the Department of Health approved occupancy under 28 Pa. Code § 51.5.

(h) This section applies to construction or alteration of all health care facilities that the Department or a building code official review and approve under this chapter.

§ 403.23. Child day care facilities.

(a) A dwelling unit where child day care services are provided for less than 24 hours for 4 to 12 children is an R-3 occupancy if the dwelling unit is used primarily as a private residence and the provision of day care services is accessory to the principal use of the dwelling unit as a residence.

(b) A day care facility that is an R-3 occupancy under subsection (a) which provides day care services to 4—6 children shall comply with all of the following:

(1) Have a smoke detector on each floor and in the basement. The smoke detector may be powered by a nonreplacable, lithium battery listed by Underwriters Laboratories® that is warranted for 10 years and should sound an alarm when activated that is audible to persons in the unit's indoor child care space with all intervening doors closed. Where this type of detector is utilized, the unit owner of this detector shall keep the proof and date of purchase of the detector in the unit's fire drill logs.

(2) Have a portable fire extinguisher rated for Class B Fires in the kitchen and other cooking areas.

(3) Meet the exiting requirements for an R-3 occupancy and licensure under 55 Pa. Code Chapter 3290 (relating to family child day care homes).

(c) A day care facility that is an R-3 occupancy under subsection (a) which provides day care services to 7—12 children shall comply with all of the following:

(1) Have an interconnected smoke detector system.

(2) Have a fire extinguisher rated for Class B fires in the kitchen and other cooking areas.

(3) Meet the exiting requirements for an R-3 occupancy and licensure under 55 Pa. Code Chapter 3280 (relating to group child day care homes).

(d) All other child day care facilities shall be classified under Chapter 3 of the "International Building Code." The facilities shall meet all Uniform Construction Code standards for these occupancy classifications.

Cross References

This section cited in 55 Pa. Code § 3270.15 (relating to building codes); 55 Pa. Code § 3280.15 (relating to building codes); and 55 Pa. Code § 3290.14 (relating to building codes).

§ 403.24. Historic buildings, structures and sites.

A building code official may exclude an entire historic building or structure or part of the building or structure from compliance with the Uniform Construction Code if it meets all of the following conditions under section 902 of the act (35 P. S. § 7210.902):

(1) The building or structure is an existing building or structure, or a new building or structure that is not intended for residential use on an historic site.

(2) The building or structure is identified and classified by Federal or local government authority or the Historical and Museum Commission as an historic building or site.

(3) A building code official judges the building or structure or parts of the building and structure as safe and the exclusion is in the interest of public health, safety or welfare. The building code official shall apply the Uniform Construction Code to parts of the building or structure where its exclusion is not within the interest of the public health, safety and welfare. A building code official may not waive the Uniform Construction Code's accessibility requirements under this section.

§ 403.25. Manufactured and industrialized housing.

(a) Manufactured housing is governed by the following under section 901(a) of the act (35 P. S. § 7210.901(a)):

(1) Except as provided in paragraph (2), the Uniform Construction Code does not apply to new manufactured housing assembled by and shipped from the manufacturer and which bears a label which certifies that it conforms to Federal construction and safety standards adopted under the Housing and Community Development Act of 1974 (42 U.S.C.A. §§ 5401—5426) and installation of new manufactured housing in conformity with the manufacturer's approved design applicable to the particular home.

(2) Construction activities or processes including utility connections and grading not addressed by the manufacturer's approved design must comply with the Uniform Construction Code.

(3) The Uniform Construction Code applies to the following:

(i) Alteration or repair to the unit that does not fall within 24 CFR 3280.1—3280.904 (relating to manufactured home construction and safety standards) and the manufacturer's installation instructions after assembly and shipment by the manufacturer.

(ii) Additions to the unit after delivery to the site.

(iii) Construction, alteration, repair or change of occupancy if the manufactured housing is resold to a subsequent purchaser.

(iv) Construction, alteration, repair or change of occupancy if the original purchaser relocates the manufactured housing.

(b) Industrialized housing is governed by the following under section 901(a) of the act:

(1) Except as provided in subsection (b)(2), the Uniform Construction Code does not apply to industrialized housing assembled by and shipped from the manufacturer.

(2) The Uniform Construction Code applies to all of the following:

(i) Site preparation.

(ii) Foundation construction.

(iii) Utilities connection.

(iv) Construction, alteration or repair to the industrialized housing unit after installation.

(v) Construction, alteration, repair or occupancy if industrialized housing is resold to a subsequent purchaser.

(vi) Construction, alteration, repair or occupancy if industrialized housing is relocated.

(c) The Department of Community and Economic Development may enforce and take action under the Industrialized Housing Act (35 P. S. §§ 1651.1—1651.12) and the Manufactured Housing Construction and Safety Standards Authorization Act (35 P. S. §§ 1656.1—1656.9).

Authority

The provisions of this § 403.25 amended under section 301 of the Pennsylvania Code Construction Act (35 P. S. § 7210.301).

Source

The provisions of this § 403.25 amended December 15, 2006, effective December 31, 2006, 36 Pa.B. 7548. Immediately preceding text appears at serial pages (306383) to (306384).

Notes of Decisions

The Construction Code Act does not apply to manufactured housing assembled by and shipped from the manufacturer bearing a label certifying it conforms to Federal construction and safety standards; however, it does regulate site preparation, foundation construction, and utility connections. *DRB v. Department of Labor*, 853 A.2d 8, 18, 19 (Pa. Cmwlth. 2004); affirmed 887 A.2d 1216 (Pa. 2005).

§ 403.26. Swimming pools.

(a) A swimming pool, hot tub and spa which is accessory to a one- or two-family dwelling shall comply with all of the following:

- (1) Chapter 41 of the “International Residential Code.”
- (2) Appendix G of the “International Residential Code.”
- (3) Section 2406.2, paragraph 9 of the International Building Code (glazing in walls and fences enclosing indoor and outdoor swimming pools, hot tubs and spas).
- (4) Section 3109.4 of the “International Building Code” (residential swimming pool enclosures).

(b) A swimming pool that is not accessory to a one- or two-family dwelling must comply with this chapter, the “American National Standards for Public Pools” issued by ANSI and APSP (ANSI/NSPI-1 2003) and the Public Bathing Law (35 P. S. §§ 672—680d).

(c) A hot tub or spa that is not accessory to a one- or two-family dwelling must comply with this chapter and the “American National Standard for Public Spas” issued by ANSI and APSP (ANSI/NSPI-2 1999).

Authority

The provisions of this § 403.26 amended under section 301 of the Pennsylvania Construction Code (35 P. S. § 7210.301).

Source

The provisions of this § 403.26 amended December 15, 2006, effective December 31, 2006, 36 Pa.B. 7548. Immediately preceding text appears at serial page (306384).

§ 403.27. Applicability and use of standards.

(a) Portions of this chapter designate and incorporate portions of the following ICC 2006 copyrighted works:

- (1) The “International Building Code.”
- (2) The “International Residential Code.”
- (3) The “ICC Electrical Code.”
- (4) The “International Plumbing Code.”
- (5) The “International Mechanical Code.”

(b) The “International Residential Code” and the “International Existing Building Code” apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demo-

lition of detached one- and two-family dwellings and multiple single-family dwellings no more than 3 stories in height with a separate means of egress and their accessory structures.

(c) The ICC owns the copyrighted works in subsection (a). Reproduced with permission. All rights reserved.

(d) If different sections of this chapter specify different materials, method of construction or other requirements, the most restrictive material, method of construction or other requirement shall govern. The specific requirement of this part applies if there is a conflict between a general requirement and a specific requirement.

(e) This chapter governs if there is a conflict between this chapter and the provisions of the codes relating to administration incorporated under § 403.21(a) (relating to Uniform Construction Code).

(f) A provision of the “International Mechanical Code” does not apply if the provision conflicts with the Boiler and Unfired Pressure Vessel Law (35 P. S. §§ 1331.1—1331.9).

Cross References

This section cited in 34 Pa. Code § 403.21 (relating to Uniform Construction Code).

§ 403.28. Uncertified buildings.

(a) Under section 902(b)(6) of the act (35 P. S. § 7210.902(b)(6)), an uncertified building that was built before April 27, 1927, is deemed to be legally occupied until the owner proposes to renovate, add an addition, alter or change the occupancy of the building. The renovation, addition, alteration or change in occupancy must comply with the Uniform Construction Code.

(b) Under section 902(b) of the act, uncertified buildings within the Department’s jurisdiction must meet the following requirements which do not apply to uncertified buildings under subsection (a):

(1) Maximum story height, minimum allowable construction type based on floor area, vertical opening and shaft protection requirements, means of egress requirements pertaining to minimum number of exits, maximum travel distances to exits, means of egress illumination, minimum egress widths and heights for exit doors, exit stairs, exit ramps and exit corridors requirements under the “International Building Code.”

(2) Fire safety requirements in the “International Building Code” for fire alarms, fire extinguishers, heat and smoke detectors, automatic sprinkler systems and occupancy and incidental use separations. The following also apply:

(i) If construction began on a building before May 19, 1984, the installation of automatic sprinkler systems is not required.

(ii) If construction began on a building after May 19, 1984, automatic sprinklers are only required if the building is classified in use groups E (educational), H (high-hazard), I (institutional), or R-1 or R-2 (residential) or if

the building has occupied floors more than 75 feet above lowest level of fire department access. Buildings in use groups R-1 and R-2 which do not have occupied floors more than 75 feet above lowest level of fire department access may, instead of installing automatic sprinkler systems, install hard-wired interconnected heat and smoke detectors in all rooms or spaces, whether they are occupied or unoccupied.

(iii) If construction of a building began after May 18, 1984, automatic sprinkler installation shall be completed by December 22, 2010, or any certificate of occupancy issued shall be invalid.

(3) Accessibility requirements are applicable as follows:

(i) If construction of an uncertified building began before September 1, 1965, accessibility requirements will not be imposed by the Department.

(ii) If construction of a building began after August 31, 1965, and before February 18, 1989, and if the building is a State-owned building, a restaurant or a retail commercial establishment, the building must have at least one accessible main entrance, an accessible route from the accessible entrance to any public spaces on the same level as the accessible entrance and, if toilet rooms are provided, the building must have at least one toilet room for each sex or a unisex toilet room complying with the accessibility requirements of the "International Building Code."

(iii) If construction of the building began after February 17, 1989, all accessibility requirements of the "International Building Code" shall be met.

(4) Structural requirements will not be imposed unless the Department determines that the building or a portion of the building has defects that are defined as dangerous in section 202 of the "International Existing Building Code." If the building is dangerous, the Department may impose only those requirements minimally necessary to remove danger to the building's occupants.

(c) The following apply to uncertified buildings where the Department does not have jurisdiction and which are not governed under subsection (a):

(1) A construction code official shall issue a certificate of occupancy to an uncertified building if it meets the requirements of the latest version of the "International Existing Building Code" or Chapter 34 of the "International Building Code." The construction code official shall utilize the code for the municipality which best applies, in the official's professional judgment.

(2) A construction code official may deny the issuance of a certificate of occupancy if the official deems that a building is unsafe because of inadequate means of egress, inadequate lighting and ventilation, fire hazards or other dangers to human life or to public welfare.

(3) A municipality governed under this subsection may utilize the standards of subsection (b) for the issuance of certificates of occupancy to uncertified buildings if the municipality adopts an ordinance.

Authority

The provisions of this § 403.28 issued under section 301 of the Pennsylvania Construction Code (35 P. S. § 7210.301).

Source

The provisions of this § 403.28 adopted December 15, 2006, effective December 31, 2006, 36 Pa.B. 7548.

PERMIT AND INSPECTION PROCESS FOR COMMERCIAL CONSTRUCTION**§ 403.41. Commercial construction.**

This section and §§ 403.42—403.48 apply to the Department and municipalities electing to enforce the Uniform Construction Code under § 403.102 (relating to municipalities electing to enforce the Uniform Construction Code).

§ 403.42. Permit requirements and exemptions.

(a) An owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a commercial building, structure and facility or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, or plumbing system regulated by the Uniform Construction Code shall first apply to the building code official and obtain the required permit under § 403.42a (relating to permit application).

(b) Emergency repairs or replacement of equipment may be made without first applying for a permit if a permit application is submitted to the building code official within 3 business days of the repair or replacement.

(c) A permit is not required for the exceptions listed in § 403.1(b) (relating to scope) and the following construction as long as the work does not violate a law or ordinance:

(1) Building construction for the following:

(i) Fences that are not over 6 feet high.

(ii) Oil derricks.

(iii) Retaining walls, which are not over 4 feet in height measured from the lowest level of grade to the top of the wall, unless it is supporting a surcharge or impounding Class I, II or III-A liquids.

(iv) Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2 to 1.

(v) Sidewalks and driveways not more than 30 inches above grade and that are not located over a basement or story below it and which are not part of an accessible route.

(vi) Painting, papering, tiling, carpeting, cabinets, counter tops and similar finishing work.

- (vii) Temporary motion picture, television, and theater stage sets and scenery.
- (viii) Prefabricated swimming pools accessory to a Group R-3 occupancy which are less than 24 inches deep, do not exceed 5,000 gallons and are installed entirely aboveground.
 - (ix) Shade cloth structures constructed for nursery or agricultural purposes that do not include service systems.
 - (x) Swings and other playground equipment accessory to one- or two-family dwellings.
 - (xi) Window awnings supported by an exterior wall which do not project more than 54 inches from the exterior wall and do not require additional support of group R-3 as applicable in the “International Building Code,” and Group U occupancies.
 - (xii) Movable cases, counters and partitions that are not over 5 feet 9 inches in height.
 - (xiii) Window replacement without structural change.
 - (2) Electrical work for the following:
 - (i) Minor repair and maintenance work that includes the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.
 - (ii) Electrical equipment used for radio and television transmissions. The provisions of the Uniform Construction Code apply to equipment and wiring for power supply and the installation of towers and antennas.
 - (iii) The installation of a temporary system for the testing or servicing of electrical equipment or apparatus.
 - (3) The following gas work:
 - (i) A portable heating appliance.
 - (ii) Replacement of a minor part that does not alter approval of equipment or make the equipment unsafe.
 - (4) The following mechanical work or equipment:
 - (i) A portable heating appliance.
 - (ii) Portable ventilation equipment.
 - (iii) A portable cooling unit.
 - (iv) Steam, hot or chilled water piping within any heating or cooling equipment governed under the Uniform Construction Code.
 - (v) Replacement of any part that does not alter its approval or make it unsafe.
 - (vi) A portable evaporative cooler.
 - (vii) A self-contained refrigeration system containing 10 pounds or less of refrigerant and placed into action by motors that are not more than 1 horsepower.
 - (5) The following plumbing repairs:

- (i) Stopping leaks in a drain and a water, soil, waste or vent pipe. The Uniform Construction Code applies if a concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and is removed and replaced with new material.
- (ii) Clearing stoppages or repairing leaks in pipes, valves or fixtures, and the removal and installation of water closets, faucets and lavatories if the valves or pipes are not replaced or rearranged.
- (d) An ordinary repair does not require a permit. The following are not ordinary repairs:
 - (1) Cutting away a wall, partition or portion of a wall.
 - (2) The removal or cutting of any structural beam or load-bearing support.
 - (3) The removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements.
 - (4) The addition to, alteration of, replacement or relocation of any stand-pipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical.
- (e) A permit is not required for the installation, alteration or repair of generation, transmission, distribution, metering or other related equipment that is, by established right, under the ownership and control of a public utility as the term “public utility” is defined in 66 Pa.C.S. § 102 (relating to definitions).
- (f) A building code official may issue an annual permit instead of an individual permit for each alteration to an already approved electrical, gas, mechanical or plumbing installation. All of the following are required:
 - (1) The applicant shall regularly employ at least one qualified trades person in the building or structure owned or operated by the applicant.
 - (2) The applicant shall submit an application in accordance with § 403.42a(m).
 - (3) An annual permit holder shall keep detailed records of alterations made in accordance with the annual permit. The permit holder shall provide access to these records to the building code official.

Cross References

This section cited in 34 Pa. Code § 403.41 (relating to commercial construction); 34 Pa. Code § 403.42a (relating to permit application); and 34 Pa. Code § 403.102 (relating to municipalities electing to enforce the Uniform Construction Code).

§ 403.42a. Permit application.

- (a) Applications for a permit required under § 403.42 (relating to permit requirements and exemptions) shall be submitted to the building code official in accordance with this section.
- (b) A permit applicant shall submit an application to the building code official and attach construction documents, including plans and specifications, and information concerning special inspection and structural observation programs,

Department of Transportation highway access permits and other data required by the building code official with the permit application. The applicant shall submit three sets of documents when the Department conducts the review.

(c) A licensed architect or licensed professional engineer shall prepare the construction documents under the Architects Licensure Law (63 P. S. §§ 34.1—34.22), or the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. §§ 148—158.2). An unlicensed person may prepare design documents for the remodeling or alteration of a building if there is no compensation and the remodeling or alteration does not relate to additions to the building or changes to the building's structure or means of egress.

(d) A building code official may require submission of additional construction documents in special circumstances.

(e) The permit applicant shall submit construction documents in a format approved by the building code official. Construction documents shall be clear, indicate the location, nature and extent of the work proposed, and show in detail that the work will conform to the Uniform Construction Code.

(f) All of the following fire egress and occupancy requirements apply to construction documents:

(1) The permit applicant shall submit construction documents that show in sufficient detail the location, construction, size and character of all portions of the means of egress in compliance with the Uniform Construction Code.

(2) The construction documents for occupancies other than Groups R-2 and R-3 shall contain designation of the number of occupants to be accommodated on every floor and in all rooms and spaces.

(3) The permit applicant shall submit shop drawings for a fire protection system that indicates conformance with the Uniform Construction Code in accordance with the following:

(i) The shop drawings shall be approved by the building code official before the start of the system installation.

(ii) The shop drawings must contain the information required by the referenced installation standards contained in Chapter 9 of the "International Building Code."

(g) Construction documents shall contain the following information related to the exterior wall envelope:

(1) Description of the exterior wall envelope indicating compliance with the Uniform Construction Code.

(2) Flashing details.

(3) Details relating to intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves, or parapets, means of drainage, water-resistive membrane and details around openings.

(h) Construction documents shall contain a site plan that is drawn to scale. The building code official may waive or modify the following site plan require-

ments if the permit application is for an alteration or repair or if waiver or modification is warranted. Site plan requirements include all of the following:

- (1) The size and location of new construction and existing structures on the site.
- (2) Accurate boundary lines.
- (3) Distances from lot lines.
- (4) The established street grades and the proposed finished grades.
- (5) If the construction involves demolition, the site plan shall indicate construction that is to be demolished and the size and location of existing structures and construction that will remain on the site or plot.
- (6) Location of parking spaces, accessible routes, public transportation stops and other required accessibility features.
 - (i) A permit applicant shall submit certifications required in the “International Building Code” for construction in a flood hazard area to the building code official.
 - (j) A permit applicant shall identify, on the application, the name and address of the licensed architect or engineer in responsible charge. The permit applicant shall notify the building code official in writing if another licensed architect or engineer assumes responsible charge.
 - (k) The permit applicant shall describe an inspection program, identify a person or firm who will perform special inspections and structural observations if section 1704 or 1709 of the “International Building Code” requires special inspections or structural observations for the construction.
 - (l) A building code official may waive or modify the submission of construction documents, that are not required to be prepared by a licensed architect or engineer, or other data if the nature of the work applied for does not require review of construction documents or other data to obtain compliance with the Uniform Construction Code. The building code official may not waive the submission of site plans that relate to accessibility requirements.
 - (m) An applicant for an annual permit under § 403.42(f) shall complete an application and provide information regarding the system that may be altered and the date that approval was previously provided for the approved electrical, gas, mechanical or plumbing installation.
 - (n) A permit applicant shall comply with the permit, certification or licensure requirements of the following laws applicable to the construction:
 - (1) The Boiler and Unfired Pressure Vessel Law (35 P. S. §§ 1331.1—1331.19).
 - (2) The Propane and Liquefied Petroleum Gas Act (35 P. S. §§ 1329.1—1329.19).
 - (3) The Health Care Facilities Act.
 - (4) The Older Adult Daily Living Centers Licensing Act (62 P. S. §§ 1511.1—1511.22).

Cross References

This section cited in 34 Pa. Code § 403.42 (relating to permit requirements and exemptions); and 34 Pa. Code § 403.102 (relating to municipalities electing to enforce the Uniform Construction Code).

§ 403.43. Grant, denial and effect of permits.

(a) A building code official shall grant or deny a permit application, in whole or in part, within 30 business days of the filing date. Reasons for the denial shall be in writing and sent to the applicant. The building code official and the permit applicant may agree in writing to extend the deadline by a specific number of days. A building code official may establish a different deadline to consider applications for a permit in an historic district.

(b) A building code official shall examine the construction documents and shall determine whether the construction indicated and described is in accordance with the Uniform Construction Code and other pertinent laws or ordinances as part of the application process.

(c) A building code official shall stamp or place a notation on each page of the set of reviewed construction documents that the documents were reviewed and approved for Uniform Construction Code compliance before the permit is issued. The building code official shall clearly mark any required nondesign changes on the construction documents. The building code official shall return a set of the construction documents with this notation and any required changes to the applicant. The permit holder shall keep a copy of the construction documents at the work site open to inspection by the construction code official or an authorized representative.

(d) A building code official may not issue a permit for any property requiring access to a highway under the Department of Transportation's jurisdiction unless the permit contains notice that a highway occupancy permit is required under section 420 of the State Highway Law (36 P. S. § 670-420) before driveway access to a Commonwealth highway is permitted.

(e) A building code official may issue a permit for the construction of the foundations or other parts of a building or structure before the construction documents for the whole building or structure are submitted if the permit applicant previously filed adequate information and detailed statements for the building or structure under the Uniform Construction Code. Approval under this section is not assurance that the building code official will issue a permit for the entire building or structure.

(f) Issuance of a permit does not bar prosecution or other legal action for violations of the act, the Uniform Construction Code or a construction ordinance. A building code official may suspend or revoke a permit issued under the Uniform Construction Code when the permit holder does not make the required changes directed by the building code official under subsection (c), when the per-

mit is issued in error, on the basis of inaccurate or incomplete information or in violation of any act, regulation, ordinance or the Uniform Construction Code.

(g) A permit becomes invalid unless the authorized construction work begins within 180 days after the permit's issuance or if the authorized construction work permit is suspended or abandoned for 180 days after the work has commenced. A permit holder may submit a written request for an extension of time to commence construction for just cause. The building code official may grant extensions of time to commence construction in writing. A permit may be valid for no more than 5 years from its issue date.

(h) The permit holder shall keep a copy of the permit on the work site until the completion of the construction.

(i) A permit applicant may request extensions of time or variances or appeal a building code official's action on the permit application to a board of appeals under § 403.122 (relating to appeals, variances and extensions of time).

(j) A board of appeals may not rule on requests for extensions of time, variances or appeals relating to this chapter's accessibility requirements. The Secretary has the exclusive power to grant modifications and extensions of time and decide issues of technical infeasibility under § 403.142 (relating to Accessibility Advisory Board)

(k) A building code official may allow deferred submittals of portions of the design of the building and structure from the time of the application until a specified time set by the building code official. All of the following apply to deferred submittals:

(1) The building code official shall provide prior approval of the deferral of any submittal items.

(2) A licensed architect or professional engineer in responsible charge shall list the deferred submittals on the construction documents for review by the building code official.

(3) A licensed architect or professional engineer shall first review submittal documents for deferred submittal items and place a notation on the documents that the architect or engineer reviewed the documents and that the documents are in general conformance with the design of the building or structure.

(4) Deferred submittal items may not be installed until the building code official approves the design and submittal documents for the deferred submittal items.

(l) Work shall be installed in accordance with the approved construction documents. The permit holder shall submit a revised set of construction documents for approval for changes made during construction that are not in accordance with the approved construction documents.

(m) A permit is not valid until the required fees are collected under §§ 401.2 and 401.2a (relating to Department fees; and municipal and third-party agency fees).

Cross References

This section cited in 34 Pa. Code § 403.102 (relating to municipalities electing to enforce the Uniform Construction Code).

§ 403.44. Alternative construction materials and methods.

(a) Materials, products and methods of construction that were evaluated as meeting codes enumerated in § 403.21 (relating to Uniform Construction Code) by the ICC Evaluation Service, Inc. or an evaluation service accredited under the “General Requirements for Bodies Operating Product Certification Systems” issued by the ISO (ISO Guide 65) are approved for use. The use shall conform with the evaluation.

(b) Materials, equipment and devices bearing the label or listed by a testing laboratory or quality assurance agency accredited by the International Accreditation Service, Inc. or another agency accredited under the “Calibration and Testing Laboratory Accreditation Systems-General Requirements for Operation and Recognition” issued by ISO (ISO Guide 58) are approved for use if:

- (1) The testing laboratory or quality assurance agency deemed the material as meeting Uniform Construction Code-required standards.
- (2) The scope of accreditation is applicable to Uniform Construction Code-required standards.

(c) A new building or remodeling, alteration, addition or change of use and occupancy of an existing building which complies with the International Performance Code shall also be in compliance with the Uniform Construction Code.

Cross References

This section cited in 34 Pa. Code § 403.102 (relating to municipalities electing to enforce the Uniform Construction Code).

§ 403.45. Inspections.

(a) A construction code official shall perform inspections to insure that the construction complies with the approved permit and the Uniform Construction Code.

(b) Before issuing a permit, a building code official may examine, or cause to be examined, buildings, structures, facilities or sites related to the permit application.

(c) The permit holder or an authorized agent shall notify the construction code official when work is ready for inspection and provide access for the inspection. The work shall remain accessible and exposed for inspection. A construction code official may inspect the construction and equipment only during normal hours at the construction site unless the permit holder or agent requests or agrees to another time. Inspections may be conducted under § 403.86 (relating to right of entry to inspect).

(d) A construction code official shall notify a permit holder if construction complies with the Uniform Construction Code or fails to comply with the Uniform Construction Code.

(e) A construction code official shall conduct a final inspection of the completed construction work and file a final inspection report, which indicates that all of the following areas met Uniform Construction Code requirements after a final inspection of the completed construction work:

- (1) General building under § 401.7(6) (relating to certification category specification for building inspector).
- (2) Electrical under § 401.7(7).
- (3) Plumbing under § 401.7(9).
- (4) Accessibility under § 401.7(11).
- (5) Fire protection under § 401.7(6).
- (6) Mechanical under § 401.7(8).
- (7) Energy conservation under § 401.7(10)

(f) A code administrator may act in place of a lumber grading or inspection agency to satisfy the requirements under section 2303.1.1 of the “International Building Code” or its successor code.

Authority

The provisions of this § 403.45 amended under section 301 of the Pennsylvania Construction Code (35 P. S. § 7210.301).

Source

The provisions of this § 403.45 amended December 15, 2006, effective December 31, 2006, 36 Pa.B. 7548. Immediately preceding text appears at serial pages (302344) to (302345).

Cross References

This section cited in 34 Pa. Code § 403.102 (relating to municipalities electing to enforce the Uniform Construction Code).

§ 403.46. Certificate of occupancy.

(a) A building, structure or facility may not be used or occupied without a certificate of occupancy issued by a building code official.

(b) A building code official shall issue a certificate of occupancy within 5 business days after receipt of a final inspection report that indicates compliance with the Uniform Construction Code. The certificate of occupancy shall contain the following information:

- (1) The permit number and address of the building, structure or facility.
- (2) The permit holder’s name and address.
- (3) A description of the portion of the building, structure or facility covered by the occupancy permit.
- (4) The name of the building code official who issued the occupancy permit.

- (5) The applicable construction code edition applicable to the occupancy permit.
 - (6) The use and occupancy classification under Chapter 3 (Use and Occupancy Classification) of the “International Building Code,” when designated.
 - (7) The type of construction defined in Chapter 6 (Types of Construction) of the “International Building Code,” when designated.
 - (8) Special stipulations and conditions relating to the permit and board of appeals’ decisions and variances for accessibility requirements granted by the Secretary.
 - (9) The date of the final inspection.
- (c) A building code official may issue a certificate of occupancy for a portion of a building, structure or facility if the portion independently meets the Uniform Construction Code.
- (d) A building code official may suspend or revoke a certificate of occupancy when the certificate was issued in error, on the basis of incorrect information supplied by the permit applicant or in violation of the Uniform Construction Code. Before a certificate of occupancy is revoked, a building owner may request a hearing before the board of appeals under § 403.122 (relating to appeals, variances and extensions of time).
- (e) A building code official may issue a temporary certificate of occupancy for a portion or portions of the building or structure before the completion of the entire work covered by the permit if the portion or portions may be occupied safely. The building code official shall set a time period during which the temporary certificate of occupancy is valid.

Authority

The provisions of this § 403.46 amended under section 301 of the Pennsylvania Construction Code (35 P. S. § 7210.301).

Source

The provisions of this § 403.46 amended December 15, 2006, effective December 31, 2006, 36 Pa.B. 7548. Immediately preceding text appears at serial pages (302345) to (302346).

Cross References

This section cited in 34 Pa. Code § 403.102 (relating to municipalities electing to enforce the Uniform Construction Code).

§ 403.47. Public utility connections.

- (a) A building code official may authorize the temporary connection of a building or system under construction to a utility source of energy, fuel or power.
- (b) Connection to a public electric or gas utility for the completed construction may not occur unless the permit holder provides written proof to the utility company that the building or structure passed inspections under this chapter.

Cross References

This section cited in 34 Pa. Code § 403.102 (relating to municipalities electing not to enforce the Uniform Construction Code).

§ 403.48. Boilers.

(a) The Boiler and Unfired Pressure Law (35 P. S. §§ 1331.1—1331.19) and Chapter 3 (relating to boilers and unfired pressure vessels) govern the new installation, repair or replacement of a boiler or other pressure vessel.

(b) A permit under this chapter is not required for the installation, repair or replacement of a boiler or unfired pressure vessel under subsection (a). The building or structure containing the boiler or unfired pressure vessel shall comply with the Uniform Construction Code or the regulation or ordinance in effect at the time of its legal occupancy.

PERMIT AND INSPECTION PROCESS FOR RESIDENTIAL BUILDINGS**§ 403.61. Residential buildings.**

This subchapter and §§ 403.62—403.66 apply to municipalities electing to enforce the Uniform Construction Code under § 403.102 (relating to municipalities electing to enforce the Uniform Construction Code) and third-party agencies.

Cross References

This section cited in 34 Pa. Code § 403.103 (relating to municipalities electing not to enforce the Uniform Construction Code).

§ 403.62. Permit requirements and exemptions.

(a) An owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a residential building or erect, install, enlarge, alter, repair, remove, convert or replace an electrical, gas, mechanical or plumbing system regulated by the Uniform Construction Code shall first apply to the building code official and obtain the required permit under § 403.62a (relating to permit application).

(b) An emergency repair or replacement of equipment may be made without first applying for a permit if a permit application is submitted to the building code official within 3 business days of the repair or replacement.

(c) A permit is not required for the exceptions listed in § 403.1(b) (relating to scope) and the following, if the work does not violate a law or ordinance:

(1) Fences that are no more than 6 feet high.

(2) Retaining walls that are not over 4 feet in height measured from the lowest level of grade to the top of the wall unless the wall supports a surcharge.

- (3) Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2 to 1.
 - (4) Sidewalks and driveways that are 30 inches or less above adjacent grade and not placed over a basement or story below it.
 - (5) Prefabricated swimming pools that are less than 24 inches deep.
 - (6) Swings and other playground equipment accessory to a one- or two-family dwelling.
 - (7) Window awnings supported by an exterior wall which do not project more than 54 inches from the exterior wall and do not require additional support.
 - (8) Installation of an uncovered deck where the floor of the deck is no more than 30 inches above grade.
 - (9) Installation or rearrangement of communications wiring.
- (d) An ordinary repair does not require a permit. The following are not ordinary repairs:
- (1) Cutting away a load-bearing wall, partition or portion of a wall.
 - (2) The removal or cutting of any structural beam or load-bearing support.
 - (3) The removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements.
 - (4) The addition to, or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical.
- (e) A permit is not required for the installation, alteration or repair of generation, transmission, distribution, metering or other related equipment that is, by established right, under the ownership and control of a public utility as the term "public utility" is defined in 66 Pa.C.S. § 102 (relating to the definitions).

Authority

The provisions of this § 403.62 amended under section 301 of the Pennsylvania Construction Code (35 P. S. § 7210.301).

Source

The provisions of this § 403.62 amended December 15, 2006, effective December 31, 2006, 36 Pa.B. 7548. Immediately preceding text appears at serial pages (311579) to (311580) and (302349) to (302350).

Cross References

This section cited in 34 Pa. Code § 403.61 (relating to residential buildings); 34 Pa. Code § 403.62a (relating to permit application); 34 Pa. Code § 403.102 (relating to municipalities electing to enforce the Uniform Construction Code); and 34 Pa. Code § 403.103 (relating to municipalities electing not to enforce the Uniform Construction Code).

§ 403.62a. Permit application.

(a) Applications for a permit required under § 403.62 (relating to permit requirements and exemptions) shall be submitted to the building code official in accordance with this section.

(b) A permit applicant shall submit an application to the building code official and attach construction documents with plans and specifications.

(c) A building code official may waive the submission of construction documents if the nature of the construction does not require the review of the construction documents to determine compliance with the Uniform Construction Code.

(d) A permit applicant for a building or structure located in a flood hazard area under the National Flood Insurance Program shall submit the following information with the construction documents:

(1) Delineation of flood hazard areas, floodway boundaries and flood zones and the design flood elevation, as appropriate.

(2) The elevation of the proposed lowest floor including basement and the height of the proposed lowest floor including basement above the highest adjacent grade is to be included in the documents if the building or structure is located in areas of shallow flooding (Zone AO).

(3) Design flood elevations contained on the municipality's Flood Insurance Rate Map produced by the Federal Emergency Management Agency. The building code official and the applicant shall obtain and reasonably utilize design flood elevation and floodway data available from other sources if this information is not contained on the municipality's Flood Insurance Rate Map.

(e) The application must contain a site plan showing the size and location of the new construction and existing structures on the site and the structures' distance from lot lines. If the construction involves demolition, the site plan must indicate construction that is to be demolished and the size and location of existing structures and construction that will remain on the site or plot. A building code official may waive or modify the site plan requirement when the permit application is for an alteration or a repair or if the waiver is warranted for other reasons.

Authority

The provisions of this § 403.62a amended under section 301 of the Pennsylvania Construction Code (35 P. S. § 7210.301).

Source

The provisions of this § 403.62a amended December 15, 2006, effective December 31, 2006, 36 Pa.B. 7548. Immediately preceding text appears at serial pages (302350) to (302351).

Cross References

This section cited in 34 Pa. Code § 403.61 (relating to residential buildings); 34 Pa. Code § 403.62 (relating to permit requirements and exemptions); and 34 Pa. Code § 403.103 (relating to municipalities electing not to enforce the Uniform Construction Code).

§ 403.63. Grant, denial and effect of permits.

(a) A building code official shall grant or deny a permit application, in whole or in part, within 15 business days of the filing date or the application is deemed approved. Reasons for the denial must be in writing and sent to the permit applicant. The building code official and the applicant may agree in writing to extend the deadline by a specific number of days.

(b) A building code official shall examine the construction documents and shall determine whether the construction indicated and described is in accordance with the Uniform Construction Code and other pertinent laws or ordinances as part of the application process.

(c) A building code official shall stamp or place a notation on each page of the set of reviewed construction documents that the documents were reviewed and approved for Uniform Construction Code compliance before the permit is issued. The building code official shall clearly mark any required nondesign changes on the construction documents. The building code official shall return a set of the construction documents with this notation and any required changes to the applicant. The applicant shall keep a copy of the construction documents at the work site open to inspection by the construction code official or an authorized representative.

(d) A building code official may not issue a permit for any property requiring access to a highway under the Department of Transportation's jurisdiction unless the permit contains notice that a highway occupancy permit is required under section 420 of the State Highway Law (36 P. S. § 670-420) before driveway access to a Commonwealth highway is permitted.

(e) A building code official may issue a permit for the construction of the foundations or other parts of a building or structure before the construction documents for the whole building or structure are submitted if the permit applicant previously filed adequate information and detailed statements for the building or structure under the Uniform Construction Code. Approval under this section is not assurance that the building code official will issue a permit for the entire building or structure.

(f) Issuance of a permit does not bar prosecution or other legal action for violations of the act, the Uniform Construction Code or a construction ordinance. A building code official may suspend or revoke a permit issued under the Uniform Construction Code when the owner does not make the required changes directed by the building code official under subsection (c), when the permit is issued in error, on the basis of inaccurate or incomplete information or in violation of any act, regulation, ordinance or the Uniform Construction Code.

(g) A permit becomes invalid unless the authorized construction work begins within 180 days after the permit's issuance or if the authorized construction work permit is suspended or abandoned for 180 days after the work has commenced. A permit holder may submit a written request for an extension of time to commence construction for just cause. The building code official may grant extensions of time to commence construction in writing. A permit may be valid for no more than 5 years from its issue date.

(h) The permit holder shall keep a copy of the permit on the work site until the completion of the construction.

(i) A permit applicant may request extensions of time or variances or appeal a building code official's action on the permit application to a board of appeals under § 403.122 (relating to appeals, variances and extensions of time) in a municipality which has adopted an ordinance for the administration and enforcement of the act or municipalities which are parties to an agreement for the joint administration and enforcement of the act.

(j) Work shall be installed in accordance with the approved construction documents. The permit holder shall submit a revised set of construction documents for approval for changes made during construction that are not in accordance with the approved construction documents.

(k) A permit is not valid until the required fees are collected under § 401.2a (relating to municipal and third-party agency fees).

Cross References

This section cited in 34 Pa. Code § 403.61 (relating to residential buildings); and 34 Pa. Code § 403.103 (relating to municipalities electing not to enforce the Uniform Construction Code).

§ 403.64. Inspections.

(a) A construction code official shall inspect all construction for which a permit was issued. The permit holder shall insure that the construction is accessible for inspection. An inspection does not bar prosecution or other legal action for violation of the Uniform Construction Code.

(b) The permit holder or an authorized agent shall notify the construction code official when work is ready for inspection and provide access for the inspection.

(c) The construction code official shall notify a permit holder if construction complies with the Uniform Construction Code or fails to comply with the Uniform Construction Code.

(d) A construction code official shall make the following inspections and file inspection reports relating to Uniform Construction Code compliance in all of the following areas:

- (1) Foundation inspection.
- (2) Plumbing, mechanical and electrical system inspection.
- (3) Frame and masonry inspection.

(4) Wallboard inspection.

(e) The construction code official may conduct other inspections to ascertain compliance with the Uniform Construction Code or municipal ordinances.

(f) A construction code official shall conduct a final inspection of the completed construction work and file a final inspection report that indicates compliance with the Uniform Construction Code.

(g) A third-party agency under contract with a permit holder shall submit a copy of the final inspection report to the property owner, builder and the lender designated by the builder.

Cross References

This section cited in 34 Pa. Code § 403.61 (relating to residential buildings); 34 Pa. Code § 403.102 (relating to municipalities electing to enforce the Uniform Construction Code); and 34 Pa. Code § 403.103 (relating to municipalities electing not to enforce the Uniform Construction Code).

§ 403.65. Certificate of occupancy.

(a) A residential building may not be used or occupied without a certificate of occupancy issued by a building code official.

(b) A building code official shall issue a certificate of occupancy after receipt of a final inspection report that indicates compliance with the Uniform Construction Code within 5 business days. The certificate of occupancy shall contain all of the following information:

(1) The permit number and address of the residential building.

(2) The name and address of the owner of the residential building.

(3) A description of the portion of the residential building covered by the occupancy permit.

(4) A statement that the described portion of the residential building was inspected for compliance with the Uniform Construction Code.

(5) The name of the building code official who issued the occupancy permit.

(6) The construction code edition applicable to the occupancy permit.

(7) If an automatic sprinkler system is provided.

(8) Any special stipulations and conditions relating to the building permit.

(c) A building code official may issue a certificate of occupancy for a portion of a residential building if the portion independently meets the Uniform Construction Code.

(d) A building code official may suspend or revoke a certificate of occupancy when the certificate was issued in error, on the basis of incorrect information supplied by the permit applicant, or in violation of the Uniform Construction Code. Before a certificate of occupancy is revoked, a building owner may request a hearing before the board of appeals in accordance with § 403.122 (relating to appeals, variances and extensions of time).

(e) A third-party agency under contract with a building permit holder shall submit a copy of the certificate of occupancy to the municipality.

(f) A building code official may issue a temporary certificate of occupancy for a portion or portions of the building or structure before the completion of the entire work covered by the permit if the portion or portions may be occupied safely. The building code official shall set a time period during which the temporary certificate of occupancy is valid.

Authority

The provisions of this § 403.65 amended under section 301 of the Pennsylvania Construction Code (35 P. S. § 7210.301).

Source

The provisions of this § 403.65 amended December 15, 2006, effective December 31, 2006, 36 Pa.B. 7548. Immediately preceding text appears at serial pages (302353) to (302354).

Cross References

This section cited in 34 Pa. Code § 403.61 (relating to residential buildings); 34 Pa. Code § 403.102 (relating to municipalities electing to enforce the Uniform Construction Code); and 34 Pa. Code § 403.103 (relating to municipalities electing not to enforce the Uniform Construction Code).

§ 403.66. Public utility connections.

(a) A building code official may authorize the temporary connection of a building or system under construction to a utility source of energy, fuel or power.

(b) Connection to a public electric or gas utility for the completed construction may not occur unless the permit holder provides written proof to the utility company that the building or structure passed inspections under this chapter.

Cross References

This section cited in 34 Pa. Code § 403.61 (relating to residential buildings); 34 Pa. Code § 403.102 (relating to municipalities electing to enforce the Uniform Construction Code); and 34 Pa. Code § 403.103 (relating to municipalities electing not to enforce the Uniform Construction Code).

DEPARTMENT, MUNICIPAL AND THIRD-PARTY ENFORCEMENT FOR NONCOMPLIANCE

§ 403.81. Stop work order.

(a) A building code official may issue a written stop work order when the official determines that construction violates the Uniform Construction Code or is being performed in a dangerous or unsafe manner. The stop work order is to contain the reasons for the order and list the required conditions for construction to resume.

(b) The building code official shall serve the stop work order on the permit owner or the owner's agent by certified mail or personal service.

(c) A person who continues construction after service of a stop work order, except for construction work that is necessary to remove a violation or an unsafe condition, may be subject to the penalties under section 903 of the act (35 P. S. § 7210.903). A building code official may seek enforcement of a stop work order in a court of competent jurisdiction.

Cross References

This section cited in 34 Pa. Code § 403.102 (relating to municipalities electing to enforce the Uniform Construction Code).

§ 403.82. Notice of violations.

A building code official shall follow the following procedures if an inspection reveals a violation of the Uniform Construction Code:

(1) A construction code official shall discuss the inspection results with the permit holder at the completion of the inspection.

(2) The building code official may issue a written notice of violations to the permit holder. The notice is to contain a description of the violations and an order requiring correction of the violations within a reasonable period determined by the building code official. When a violation relates to an unsafe building, structure or equipment, a building code official shall act in accordance with § 403.84 (relating to unsafe building, structure or equipment).

(3) After the compliance date contained in the order, the building code official shall inspect the building, structure or equipment to determine whether the violation was corrected. The building code official shall close the order if the violation was corrected. The building code official may issue an order to show cause under § 403.83 (relating to order to show cause/order to vacate) to the owner for a violation that was not corrected.

Cross References

This section cited in 34 Pa. Code § 403.102 (relating to municipalities electing to enforce the Uniform Construction Code).

§ 403.83. Order to show cause/order to vacate.

(a) A building code official may initiate action to vacate or close a building, structure or equipment for violations of the Uniform Construction Code by issuing an order to show cause to the owner or owner's agent of a building or structure.

(b) The order to show cause shall contain a statement of the grounds for the action, the alleged violations of the Uniform Construction Code and notification that the building, structure or equipment may be closed or vacated. The order to show cause shall contain notification that the owner or owner's agent shall sub-

mit a written answer within 30 days. The building code official shall serve the order to show cause upon the owner or owner's agent by certified mail or personal service.

(c) The owner or owner's agent may file a written answer to the order to show cause with the building code official within 30 days following service of the order to show cause. The answer shall contain specific admissions or denials of the allegations contained in the order to show cause and set forth the specific facts, matters of law or Uniform Construction Code interpretation relied upon by the owner. The answer may contain a request for a variance or an extension of time for compliance. The building code official shall forward all requests for variances, extensions of time or appeals regarding interpretations of the Uniform Construction Code to the board of appeals within 5 business days. The building code official shall send a request for variance, extension of time or appeals regarding interpretation of the Uniform Construction Code's accessibility requirements to the Department within 5 business days.

(d) If the owner or owner's agent files an appeal, the board of appeals or Department will assume jurisdiction and consolidate the answer with any pending request for variance, extension of time or appeal filed by the owner with the board of appeals.

(e) The building code official shall consider the pending request for variance or extension of time or appeal as a stay to an enforcement action.

(f) After receipt of the answer, the building code official may take the following actions if the owner or owner's agent did not previously file an appeal or request for variance or extension of time:

- (1) Issue a stop work order.
- (2) Vacate or close the building or structure or place equipment out of operation.
- (3) Abate or modify the alleged violation.
- (4) Order other action to protect persons or property.

(g) A construction code official shall inspect the construction at the expiration of an extension of time or other time period granted for compliance under this section. If the building, structure or equipment violates the Uniform Construction Code following inspection, the building code official may issue an order vacating or closing the building or structure or placing equipment out of operation. The building code official shall serve this order upon the owner or owner's agent by certified mail or personal service.

(h) Where an unsafe condition exists, a building code official shall act in accordance with § 403.84 (relating to unsafe building, structure or equipment).

Cross References

This section cited in 34 Pa. Code § 403.102 (relating to municipalities electing to enforce the Uniform Construction Code).

§ 403.84. Unsafe building, structure or equipment.

(a) A building code official may determine that a building, structure or equipment is unsafe because of inadequate means of egress, inadequate light and ventilation, fire hazard, other dangers to human life or the public welfare, illegal or improper occupancy or inadequate maintenance. A vacant building or structure that is not secured against entry is unsafe under this section.

(b) When a building code official determines the existence of an unsafe condition, the building code official shall order the vacating of the building or structure.

(c) A building code official shall serve a written notice on the owner or owner's agent of the building, structure or equipment that is unsafe under this section. The notice shall contain the order to vacate the building, structure or seal the equipment out of service and state the unsafe conditions, required repairs or improvements. The order shall be served by certified mail or personal service to the owner or to the owner's agent's last known address or on the owner, agent or person in control of the building, structure or equipment. A building code official shall post the written notice at the entrance of the structure or on the equipment if service cannot be accomplished by certified mail or personal service.

(d) When a building or structure is ordered vacated under this section, the building code official shall post a notice at each entrance stating that the structure is unsafe and its occupancy is prohibited.

(e) A building code official may not rescind the order to vacate until the owner abates or corrects the unsafe condition.

(f) The Department may seal an elevator for an unsafe condition under section 105(c)(1) of the act (35 P. S. § 7210.105(c)(1)). The Department is the only entity that may remove or authorize the removal of a seal if an owner abates or corrects the unsafe condition.

Cross References

This section cited in 34 Pa. Code § 403.82 (relating to notice of violations); 34 Pa. Code § 403.83 (relating to order to show cause/order to vacate); 34 Pa. Code § 403.102 (relating to municipalities electing to enforce the Uniform Construction Code); 34 Pa. Code § 403.122 (relating to appeals, variances and extensions of time); 34 Pa. Code § 403.142 (relating to Accessibility Advisory Board); and 34 Pa. Code § 405.11 (relating to accident report).

§ 403.85. Release, retention and sharing of commercial construction records.

(a) A building code official shall keep records of all applications received, permits issued, reviewed building plans and specifications, certificates issued, fees collected, reports of inspections, notices and orders issued for all commercial buildings and structures under the Uniform Construction Code. A building code official shall retain these records as long as the related building, structure or equipment remains in existence.

(b) A building code official shall reproduce records kept in an electronic format to a hard-copy format upon request. A building code official may charge for the reproduction costs.

(c) A municipality that discontinues enforcing the Uniform Construction Code shall keep records of previous Uniform Construction Code enforcement. A municipality shall make these records available to the Department.

(d) The Department will make its records available to a municipality that elects to enforce the Uniform Construction Code under section 501 of the act (35 P. S. § 7210.501).

(e) The Department, a municipality and a third-party agency acting on behalf of a municipality may prohibit release of applications received, building plans and specifications, inspection reports and similar documents to the public under the act of June 21, 1957 (P. L. 390, No. 212) known as the Right-to-Know Law (65 P. S. §§ 66.1—66.9). The Department, the municipality or the third-party agency may release these documents to the building owner of record, the permit holder, the design professional of record or a third party authorized by the building owner in writing to receive the documents upon presentation of valid identification.

(f) The Department, a municipality and a third-party agency acting on behalf of a municipality may release any document obtained under this chapter to the following:

- (1) The Department.
- (2) The Department of General Services.
- (3) Law enforcement or emergency response entities.
- (4) Federal, State or local health entities.

Cross References

This section cited in 34 Pa. Code § 403.102 (relating to municipalities electing to enforce the Uniform Construction Code).

§ 403.86. Right of entry to inspect.

(a) A construction code official may enter a building, structure or premises during normal business hours or at a time agreed to by the owner or owner's agent to perform inspections under the Uniform Construction Code, to enforce Uniform Construction Code provisions or if there is reasonable cause to believe a condition on the building, structure or premises violates the Uniform Construction Code or which constitutes an unsafe condition.

(b) A construction code official may enter a building, structure or premises when the official presents credentials to the occupant and receives permission to enter.

(c) A construction code official may not enter a building, structure or premises that is unoccupied or after normal business hours without obtaining permission to enter from the owner or the owner's agent.

(d) A construction code official may seek the assistance of a law enforcement agency to gain entry to enforce the Uniform Construction Code when the construction code official has reasonable cause to believe that the building, structure or premises is unsafe.

(e) This section shall be used in conjunction with the Fire and Panic Act.

Cross References

This section cited in 34 Pa. Code § 403.45 (relating to inspections).

MUNICIPAL ELECTION

§ 403.101. Effective date.

(a) The Fire and Panic Act, the act of September 1, 1965 (P. L. No. 235) (71 P. S. §§ 1455.1—1455.3b), known as the Universal Accessibility Act and a locally-enacted building code shall remain in effect until the date that one of the following has transpired:

(1) A municipality enacts an ordinance adopting the Uniform Construction Code and the municipality provides written notification to the Department of the adopted ordinance before August 7, 2004.

(2) The initial election and notification period ended on August 7, 2004, and the municipality has not provided written notification to the Department.

(3) The municipality elects not to adopt an ordinance enforcing the Uniform Construction Code and provides written notification to the Department.

(b) After the expiration of the initial election period, a municipality may elect to administer and enforce the Uniform Construction Code. The municipality shall provide 180 days notice to the Department of its intention to pass an ordinance adopting the Uniform Construction Code.

(c) The Fire and Panic Act, the Universal Accessibility Act and a locally-enacted building code shall remain in effect for the following construction:

(1) New buildings or renovations to existing buildings for which an application for a building permit was made to the municipality before April 9, 2004.

(2) New buildings or renovations to existing buildings on which a contract for design or construction was signed before April 9, 2004.

§ 403.102. Municipalities electing to enforce the Uniform Construction Code.

(a) A municipality which elects to enforce the Uniform Construction Code shall enact an ordinance adopting the Uniform Construction Code as its municipal building code under section 501(a) of the act (35 P. S. § 7210.501(a)).

(b) The initial election period is from April 9, 2004, through July 8, 2004. A municipality shall enact an ordinance adopting the Uniform Construction Code by July 8, 2004.

(c) A municipality shall submit written notification to the Department of adoption of the ordinance and the following information within 30 days of its adoption:

- (1) The number and date of adoption of the ordinance.
- (2) The name of building code official.
- (3) The business address of building code official.
- (4) The business phone number of building code official.
- (5) The electronic mail address of building code official, if available.

(d) A municipality may retain ordinances in effect on July 1, 1999, that contain standards that equal or exceed the Uniform Construction Code under section 303(b) of the act (35 P. S. § 7210.303(b)).

(e) A municipality that administers and enforces the Uniform Construction Code may cease administration and enforcement if it provides 180 days notice to the Department of its intention to adopt an ordinance ceasing administration and enforcement.

(f) A municipality shall notify the Department in writing within 30 days of any changes to the information it provided under subsections (b) and (e).

(g) A municipality that elects to administer and enforce the Uniform Construction Code shall utilize any of the following ways under section 501(b) of the act:

- (1) Employ at least one construction code official and designating an employee to serve as a building code official.
- (2) Retaining one or more third-party agencies.
- (3) Utilizing an intermunicipal agreement under 53 Pa.C.S. §§ 2301—2315 (relating to intergovernmental cooperation).
- (4) Contracting with another municipality.
- (5) Contracting with the Department for plan reviews, inspection and enforcement of structures other than one-family and two-family dwelling units and utility and miscellaneous use structures.

(h) A municipality may charge fees under § 401.2a (relating to municipal and third-party agency fees).

(i) A municipality may enact an ordinance containing standards that equal or exceed the Uniform Construction Code as adopted by § 403.21 (relating to the Uniform Construction Code) under section 503 of the act (35 P. S. § 7210.503) after Department review and approval. A municipality may enact ordinances under this section which adopt additional code requirements for alterations or repairs to residential buildings. A municipality may enact ordinances under this section which adopt stricter code requirements than required by the act for the regulation of utility and miscellaneous use structures. The municipality shall notify the Department of the proposed ordinance and submit the following to the Department for its review:

- (1) The complete ordinance.
- (2) The information required in subsection (c).

(3) A detailed statement containing the differences between the proposed ordinance and the Uniform Construction Code and how the ordinance will equal or exceed the Uniform Construction Code.

(j) The Department will review all proposed ordinances that are filed with the Department in accordance with section 503(f) and (i) of the act (35 P. S. § 7210.503(f) and (i)). The Department will provide written notification of its findings to the municipality including the Department's finding on the municipality's compliance with section 503(b) of the act.

(k) A written challenge of an ordinance is governed by the following:

(1) An aggrieved party may file a written challenge of an ordinance within 30 days of its enactment with the Department and the municipality under section 503(j) of the act.

(2) The Secretary will issue a ruling on the challenge within 45 days of receipt of the filing of the last challenge to the ordinance or within 30 days of the Department hearing on the challenge, whichever occurs last, under section 503(k) of the act.

(l) A municipality may enact an ordinance relating to the administration and enforcement of the Uniform Construction Code that meets or exceeds the requirements of the following sections:

(1) Section 403.42(b) and (c) (relating to permit requirements and exemptions).

(2) Section 403.42a(a)—(e) and (g)—(n) (relating to permit application).

(3) Section 403.43(b), (c), (g), (h) and (k) (relating to grant, denial and effect of permits).

(4) Section 403.44 (relating to alternative construction material and methods).

(5) Section 403.45 (relating to inspections).

(6) Section 403.46 (relating to certificate of occupancy).

(7) Section 403.47 (relating to public utility connections).

(8) Section 403.62(a)—(e) (relating to permit requirements and exemptions).

(9) Section 403.64 (relating to inspections).

(10) Section 403.65 (relating to certificates of occupancy).

(11) Section 403.66 (relating to public utility connections).

(12) Section 403.81(a) and (b) (relating to stop work order).

(13) Section 403.82 (relating to notice of violations).

(14) Section 403.83 (relating to order to show cause/ order to vacate).

(15) Section 403.84(a)—(e) (relating to unsafe building structure or equipment).

(16) Section 403.85(a)—(c) (relating to release, retention and sharing of commercial construction records).

(m) A municipality may utilize forms provided by the Department of Community and Economic Development as the permit application under §§ 403.42a and 403.62a.

(n) The Department will enforce Chapter 11 (Accessibility) of the Uniform Construction Code and other accessibility requirements contained in or referenced by the Uniform Construction Code until a municipality employs or contracts with a code administrator certified as an accessibility inspector/plans examiner under this part.

(o) A municipality may observe Department inspections of State-owned buildings in its jurisdiction under section 105(b)(1) of the act (35 P. S. § 7210.105(b)(1)). A municipality may review all building plans and plan review documents for State-owned buildings in the Department's custody.

Authority

The provisions of this § 403.102 amended under section 301 of the Pennsylvania Construction Code (35 P. S. § 7210.301).

Source

The provisions of this § 403.102 amended December 15, 2006, effective December 31, 2006, 36 Pa.B. 7548. Immediately preceding text appears at serial pages (302359) to (302362).

Cross References

This section cited in 34 Pa. Code § 403.21 (relating to uniform construction code); 34 Pa. Code § 403.41 (relating to commercial construction); and 34 Pa. Code § 403.61 (relating to residential buildings).

§ 403.103. Municipalities electing not to enforce the Uniform Construction Code.

(a) A municipality shall provide written notification to the Department before August 7, 2004, if it elects not to administer and enforce the Uniform Construction Code.

(b) An applicant for a residential building permit shall obtain the services of a third-party agency certified in the appropriate categories to conduct the plan review and inspections under §§ 403.61—403.66 (relating to permit and inspection process for residential buildings).

(c) A building code official shall approve an alternative material, design or method of construction if the proposed design is satisfactory and complies with the intent of the Uniform Construction Code and the offered material, method or work is equivalent to Uniform Construction Code requirements for its intended purpose. The building code official shall accept compliance with the International Performance Code as an alternative to compliance with the Uniform Construction Code.

(d) A building code official shall determine the climatic and geographic design criteria contained in Table R301.2(1) of the "International Residential Code" for residential construction.

(e) A third-party agency which conducts plan review and inspection of residential buildings and utility and miscellaneous use structures shall retain copies of all final inspection reports relating to Uniform Construction Code compliance.

(f) A third-party agency shall send a copy of the final inspection report to the property owner, builder, and a lender designated by the builder.

(g) A municipality shall provide written notification to a permit applicant for buildings and structures other than residential buildings that the applicant shall obtain the Department's services for plan review and inspection. The municipality shall send a copy of the notice to the Department. The notice shall contain the following information:

- (1) The name of the applicant.
- (2) The address of the applicant.
- (3) The name of the building or structure.
- (4) The address of the building or structure.
- (5) Proposed occupancy or use of building or structure under the Uniform Construction Code.

§ 403.104. Department review.

(a) The Department will investigate written and signed complaints concerning the enforcement and administration of the Uniform Construction Code under section 105(a) of the act (35 P. S. § 7210.105(a)). The Department will make a report to the governing body of the municipality or third-party agency that was the subject of the review and provide recommendations to address any deficiencies found by the Department.

(b) The Department will review each municipal enforcement program at least once every 5 years unless a complaint is received under section 105(a) of the act to ensure that code administrators are adequately administering and enforcing the provisions of Chapter 11 (Accessibility) of the Uniform Construction Code and any other accessibility requirements contained in or referenced by the Uniform Construction Code. The Department will submit a written report to the municipality of its findings. The municipality may submit a written response to the Department.

(c) The Department may take any of the following actions for violations of the act or to obtain compliance with the act:

- (1) Initiate proceedings in Commonwealth Court under section 105(a)(3) of the act.
- (2) Initiate proceedings against code administrators under section 701 of the act (35 P. S. § 7210.701) and § 401.14 (relating to decertification or refusal to certify).
- (3) Initiate prosecutions under section 903 of the act (35 P. S. § 7210.903).

BOARD OF APPEALS**§ 403.121. Board of appeals.**

(a) A municipality which has adopted an ordinance for the administration and enforcement of the Uniform Construction Code or is a party to an agreement for the joint administration and enforcement of the Uniform Construction Code shall establish and appoint members to serve on a board of appeals under section 501(c) of the act (35 P. S. § 7210.501(c)).

(b) The board of appeals shall hear and rule on appeals, requests for variances and requests for extensions of time. An application for appeal shall be based on a claim that the true intent of the act or Uniform Construction Code has been incorrectly interpreted, the provisions of the act or Uniform Construction Code do not fully apply or an equivalent form of construction is to be used.

(c) The composition of a board of appeals is governed by all of the following:

(1) A member of the board of appeals shall be qualified by training and experience to pass on matters pertaining to building construction. Training and experience may consist of licensure as an architect or engineer, experience in the construction industry, and training or experience as an inspector or plan reviewer.

(2) A member of the board of appeals holds office at the pleasure of the municipality's governing body.

(3) Members of a municipality's governing body and its code administrators may not serve on a board of appeals.

(4) A municipality may fill a position on the board of appeals with a qualified person who resides outside of the municipality when it cannot find a person within the municipality who satisfies the requirements of this section.

(d) Two or more municipalities may establish a joint board of appeals through an intermunicipal agreement under 53 Pa.C.S. §§ 2301—2315 (relating to inter-governmental cooperation).

(e) A board of appeals member may not cast a vote or participate in a hearing in any appeal, request for variance or request for extension of time in which the member has a personal, professional or financial interest.

(f) A board of appeals shall schedule meetings and provide public notice of meetings in accordance with 65 Pa.C.S. §§ 701—716 (relating to Sunshine Act).

(g) A board of appeals may not act upon appeals, requests for variance or requests for extension of time relating to accessibility under the act.

§ 403.122. Appeals, variances and extensions of time.

(a) An owner or owner's agent may seek a variance or extension of time or appeal a building code official's decision by filing a petition with the building code official or other person designated by the board of appeals on a form provided by the municipality.

(b) The postmark date or the date of personal service will establish the filing date of the appeal and request for variance or extension of time.

(c) An appeal or request for variance or extension of time to a board of appeals will automatically suspend an action to enforce an order to correct until the matter is resolved. An action under § 403.84 (relating to unsafe building, structure or equipment) may not be stayed.

(d) A board of appeals shall decide an appeal, variance request or request for extension of time by reviewing documents and written brief or argument unless the owner or owner's agent requests a hearing.

(e) A board of appeals shall hold a hearing within 60 days from the date of an applicant's request unless the applicant agreed in writing to an extension of time.

(f) A board of appeals shall only consider the following factors when deciding an appeal under section 501(c)(2) of the act:

(1) The true intent of the act or Uniform Construction Code was incorrectly interpreted.

(2) The provisions of the act do not apply.

(3) An equivalent form of construction is to be used.

(g) A board of appeals may consider the following factors when ruling upon a request for extension of time or the request for variance:

(1) The reasonableness of the Uniform Construction Code's application in a particular case.

(2) The extent to which the granting of a variance or an extension of time will pose a violation of the Uniform Construction Code or an unsafe condition.

(3) The availability of professional or technical personnel needed to come into compliance.

(4) The availability of materials and equipment needed to come into compliance.

(5) The efforts being made to come into compliance as quickly as possible.

(6) Compensatory features that will provide an equivalent degree of protection to the Uniform Construction Code.

(h) If the owner or owner's agent requests a hearing, the board of appeals shall schedule a hearing and notify the owner or owner's agent and building code official of the date, time and place of the hearing.

(i) The board of appeals may:

(1) Deny the request in whole or in part.

(2) Grant the request in whole or in part.

(3) Grant the request upon certain conditions being satisfied.

(j) The board of appeals shall provide a written notice of its decision to the owner and to the building code official.

(k) An owner shall file an appeal, request for variances and request for extension of time relating to accessibility with the Accessibility Advisory Board under § 403.142 (relating to Accessibility Advisory Board).

DEPARTMENT ENFORCEMENT**Cross References**

This section cited in 34 Pa. Code § 401.1 (relating to definitions); 34 Pa. Code § 403.43 (relating to grant, denial and effects of permits); 34 Pa. Code § 403.46 (relating to certificate of occupancy); 34 Pa. Code § 403.63 (relating to grant, denial and effect of permits); 34 Pa. Code § 403.122 (relating to appeals, variances and extensions of time); 34 Pa. Code § 403.141 (relating to enforcement by the Department); and 34 Pa. Code § 405.3 (relating to permit application).

DEPARTMENT ENFORCEMENT**§ 403.141. Enforcement by the Department.**

(a) The Department will conduct plan and specification review and inspections for all State-owned buildings under section 105(b) of the act (35 P. S. § 7210.105(b)). The Department will notify municipalities of all inspections of State-owned buildings and provide municipalities the opportunity to observe inspection of the buildings.

(b) The Department will retain jurisdiction over the provisions of Chapter 11 (Accessibility), and any other accessibility requirements contained in or referenced by the Uniform Construction Code, until a municipality administering and enforcing the Uniform Construction Code obtains the services of a code administrator certified as an accessibility specialist.

(c) The Department will enforce the Uniform Construction Code for all buildings and structures except for residential buildings and utility and miscellaneous use structures in municipalities that have not adopted an ordinance to enforce the act under section 501(a)(1) of the act (35 P. S. § 7210.501(a)(1)).

(d) The Industrial Board will decide petitions for variances and extensions of time and appeals of Department decisions under the Uniform Construction Code. The Industrial Board will hold the first hearing on a petition within 45 days of receipt of the petition.

(e) An owner or owner's agent may file a petition for variance or extension of time or an appeal with the Industrial Board under § 403.122 (relating to appeals, variances and extensions of time). An owner or owner's agent may file an appeal concerning technical infeasibility under Chapter 11 (Accessibility) of the Uniform Construction Code and other accessibility requirements contained in or referenced by the Uniform Construction Code with the Accessibility Advisory Board under § 403.142 (relating to Accessibility Advisory Board).

Cross References

This section cited in 34 Pa. Code § 401.2 (relating to Department fees).

§ 403.142. Accessibility Advisory Board.

(a) The Secretary has the exclusive power to grant modifications and extensions of time and decide issues of technical infeasibility under Chapter 11 (Acces-

sibility) of the Uniform Construction Code and other accessibility requirements contained in or referenced by the Uniform Construction Code for individual projects under section 301(a)(3) of the act (35 P. S. § 7210.301(a)(3)).

(b) The Accessibility Advisory Board is created with the following powers and duties under section 106 of the act (35 P. S. § 7210.106):

(1) Review all proposed regulations under the act and offer comment and advice to the Secretary on all issues related to accessibility by persons with physical disabilities and enforcement of accessibility requirements.

(2) Review all applications for modifications or variances of Chapter 11 (Accessibility) of the Uniform Construction Code and any other accessibility requirements contained in or referenced by the Uniform Construction Code. The Accessibility Advisory Board will advise the Secretary whether modification or variance should be granted or whether compliance is technically feasible.

(3) Hear appeals from decisions of building code officials and recommend modifications, variances or extensions of time. An appeal of a decision of a building code official shall be based on a claim that the true intent of the act or the Uniform Construction Code was incorrectly interpreted, the act does not apply or an equivalent form of construction is to be used.

(c) The Accessibility Advisory Board will schedule meetings and provide public notice of meetings in accordance with 65 Pa.C.S. §§ 701—716 (relating to the Sunshine Act).

(d) The Accessibility Advisory Board will hear requests for variances or modification, requests for extensions of time and appeals in accordance with the following procedure:

(1) An owner or owner's agent shall file an appeal with the Accessibility Advisory Board on a Department-provided form.

(2) The postmark date or the date of personal service will establish the filing date of the appeal.

(3) An appeal to the Accessibility Advisory Board will automatically suspend an action to enforce an order to correct except where there is an unsafe building, structure or equipment under § 403.84 (relating to unsafe building, structure or equipment).

(4) The Accessibility Advisory Board will make recommendations based upon documents and written brief unless the owner requests a hearing.

(5) If the owner or owner's agent requests a hearing, the Accessibility Advisory Board will schedule a hearing and will provide written notification to the owner or owner's agent and the building code official of the date, time and place of the hearing. The notification will be made no less than 5 days prior to the hearing unless the owner waives this period.

(6) The Accessibility Advisory Board may consider the following factors when a request for an extension of time or a variance or other appropriate relief is reviewed:

- (i) The reasonableness of the regulations or Uniform Construction Code as applied in the specific case.
 - (ii) The extent to which an extension of time or a variance will subject occupants of the building or structure to conditions which do not comply with the Uniform Construction Code.
 - (iii) The availability of professional or technical personnel needed to comply with the Uniform Construction Code.
 - (iv) The availability of materials and equipment needed to comply with the Uniform Construction Code.
 - (v) The efforts made to safeguard occupants.
 - (vi) The efforts made to comply with the Uniform Construction Code.
 - (vii) Compensatory features that will provide an equivalent degree of compliance with the intent of the Uniform Construction Code.
- (7) The Accessibility Advisory Board will recommend that the Secretary take one of the following actions:
- (i) Deny the request in whole or in part.
 - (ii) Grant the request in whole or in part.
 - (iii) Grant the request upon certain conditions being satisfied.
 - (iv) Grant other appropriate relief.
- (8) The Secretary will make a final decision on the request and will issue written notice of the decision to the owner or the owner's agent and the building code official.
- (e) An individual, partnership, agency, association or corporation who reasonably believes there is a violation of the accessibility provisions of the act or the Uniform Construction Code by a governmental entity or private owner may file a complaint with the body responsible for enforcement of the Uniform Construction Code under section 501(f) of the act (35 P. S. § 7210.501(f)).

Cross References

This section cited in 34 Pa. Code § 401.1 (relating to definitions); 34 Pa. Code § 403.43 (relating to grant, denial and effects of permits); 34 Pa. Code § 403.122 (relating to appeals, variances and extensions of time); and 34 Pa. Code § 403.141 (relating to enforcement by the Department).

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