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A Quick Guide to the Residential Provisions of Pennsylvania's Uniform Construction Code and Local Amendments

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An Overview of this Guide

This guide focuses on the *residential* provisions of the Uniform Construction Code (UCC)[1], which defines *residential* structures as one- and two-family dwellings and townhouses that are three stories or less in height above grade, and accessory structures to these types of buildings.

Part 1 of this guide contains a brief summary of the UCC, along with an explanation for why there is a patchwork of code requirements found across the Commonwealth of Pennsylvania. Part 1 also provides an explanation of the types of amendments to the UCC that can be found in Pennsylvania municipalities. It also includes information regarding applying for permits, when a permit is or is not required and other important information contained in the UCC related to residential applications of the code such as the time frame for decision, fees, and filing appeals.

Part 2 of this guide contains a series of maps indicating which Pennsylvania municipalities are on record or have self-reported through a separate PHRC project[2] as having amendments to the UCC. The first map is a map of the entire Commonwealth, and subsequent maps show each county in Pennsylvania on a separate page. These county maps are accompanied by tables showing available information on what aspects of construction these amendments regulate.

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[1] Uniform Construction Code Statute 35 P.S. §§7210.101 to 7210.1103. Act 45 of 1999 as amended. Available online at http://www.portal.state.pa.us/portal/server.pt?open=514&objID=552999&mode=2

[2] Kasal, B., Turns, M., *Impact of the Uniform Construction Code in Rural Pennsylvania*, the Center for Rural Pennsylvania: A Legislative Agency of the Pennsylvania General Assembly, September 2010.

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Part 1 – An Overview of the Uniform Construction Code

I. Variations in the Uniformity of the Uniform Construction Code

In the Pennsylvania Construction Code Act (Act 45 of 1999), policymakers cited several reasons for adopting a commonwealth-wide construction code in Pennsylvania. One of these reasons was, "to encourage standardization and economy in construction by providing requirements for construction and construction materials consistent with nationally recognized standards," or in other words, to create uniformity. However, many townships, boroughs and cities in Pennsylvania have amendments to the commonwealth's Uniform Construction Code (UCC) that impose additional requirements to those contained in the state law and the adopted building codes.

In 1999, the legislature gave each municipality the choice to opt-in or opt-out of administering and enforcing the UCC. About 92 percent of Pennsylvania municipalities chose to opt-in, meaning they are responsible for enforcing UCC building codes through municipal building officials or contracts with certified third-party agencies. Each *opt-in* municipality must have a single, designated *Building Code Official*, who is the person ultimately responsible for building code enforcement in that municipality. In *opt-out* municipalities, it is the responsibility of the building owner to obtain a permit from a certified third-party agency (Sec 403.103).

To determine whether a project will be located in an opt-in or an opt-out jurisdiction, interested parties can contact the municipality, or visit the Department of Labor and Industry's *Uniform Construction Code* webpage, click on the "Local Enforcement" tab, and then follow the "Municipal Elections and Contact Information" link.

Two types of amendments

Legal amendments to the UCC fall into two categories:

1. local ordinances adopted before the passage of the Pennsylvania Construction Codes Act (noted as the pre-July 1, 1999 amendments), and
2. ordinances adopted after implementation of the Act began (noted as the post-April 9, 2004 amendments).

The first category of amendment applies to any municipality that had a building code ordinance in effect on or before July 1, 1999 – provided the ordinance's requirements are more restrictive than those contained in UCC-adopted building codes (including the *International Residential Code*). The second type of amendment is for municipalities who passed ordinances after April 9, 2004, the date the administration of the Act took effect. Like pre-July 1, 1999 amendments, the post-April 9, 2004 ordinances are required to be more stringent than UCC code provisions. The post-April 9, 2004 amendment must go through a process described in the UCC Section 503, which requires approval by the Department of Labor and Industry. If the amendment is challenged during the approval process, a municipality must demonstrate a special condition that would necessitate the ordinance.

The Department of Labor and Industry declared all UCC amendments adopted between July 1, 1999 and April 9, 2004 to be null and void.

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Act 45 did not require municipalities to file information about pre-July 1, 1999 ordinances with the Department of Labor and Industry – only to indicate whether or not they had an existing ordinance – and therefore there is no official or centralized source that builders, remodelers, or policymakers may use to determine what amendments exist in which municipalities. However, the Pennsylvania Housing Research Center at Penn State conducted a survey for a 2010 report titled, *Impact of the Uniform Construction Code in Rural Pennsylvania*[3], which asked municipalities and third-party agencies to categorize any amendments to the UCC enforced in their jurisdictions. Part 2 of this guide contains a listing of municipalities with pre-July 1, 1999 ordinances amending the UCC, along with self-reported information on the aspects of construction regulated by those ordinances. This information on pre-July 1, 1999 amendments is incomplete, so interested parties should contact a specific municipality to determine whether any amendments are being enforced.

There is a central source containing a list of all municipalities who have legally adopted post-April 9, 2004 amendments. These ordinances, and a summary of their requirements, may be found at the Department of Labor and Industry's *Uniform Construction Code* webpage under the "*Local Enforcement*" tab. Section 503 of the UCC outlines the process and requirements for amending.

II. Applicability of the Uniform Construction Code to Various Project Types

When permits are required under the UCC, a contractor must apply for, and be issued, a building permit prior to initiating any aspect of construction. Work requiring permits relating to residential buildings and their accessory structures must comply with UCC-adopted building codes. The relevant code for projects covered under the scope of this guide is the *International Residential Code*, published by the International Code Council. This code is republished every three years with changes and additions, and contractors must use the edition that is currently adopted under Pennsylvania Department of Labor and Industry regulations. At present, Pennsylvania's adopted code for residential structures is the 2009 edition of the *International Residential Code*. Permit applicants may ask to inspect a review of the *International Residential Code* at the code office of any opt-in municipality.

Residential Construction Projects Requiring Permits

In addition to new construction, many types of projects require a building permit, inspections and certificate of occupancy. List 1 contains a summary of residential-related project types for which construction must be completed in accordance with UCC-adopted building codes; and for which building permits, inspections, and certificates of occupancy are required under the UCC without exception (Section 403.62(a)).

List 1. Projects that require permits and adherence to UCC-adopted building codes under Pennsylvania's Uniform Construction Code.

- All new residential construction
- All additions to existing residential construction, including:
  - Construction adding one or more stories on top of an existing dwelling
  - Construction increasing the perimeter of an existing dwelling
- Installing a new manufactured (HUD-Code) home – Only items installed on-site
- Installing a new industrialized (modular) home – Only items installed on-site

[3] Kasal, B., Turns, M., *Impact of the Uniform Construction Code in Rural Pennsylvania*, the Center for Rural Pennsylvania: A Legislative Agency of the Pennsylvania General Assembly, September 2010.

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- All attached garages
- Detached garages, carports, sheds, or greenhouses *1,000 square feet or larger* that are accessory to a *single-family* dwelling
- Detached garages, carports, sheds, or greenhouses *120 square feet or larger* that are accessory to a *two-family* dwelling or *townhouse*
- Enclosing an existing porch or patio
- Installing or building a sunroom or "three-seasons" room
- New decks greater than 30 inches above ground level at any point around the perimeter of the deck
- New decks with roofs or coverings (any height above ground level)
- Installing hot tubs and spas (indoors or outdoors)
- Constructing an in-ground swimming pool (inside or outside)
- Installing any swimming pool (including inflatable) with a water depth of 24 inches or more
- New fences higher than 6 feet
- New retaining walls higher than 4 feet
- Structural alterations to existing dwellings ("Structural alteration" is not defined, but does not include minor framing changes needed to replace existing windows or doors.)
- Changes to an existing means of egress, including: exit doors, stairs, handrails, guards, and ramps
- Any portion of a dwelling or residential accessory structure that will be used for *commercial* purposes (open to employees or the public). Examples include: professional or business offices, notaries, beauty shops, nail salons, barber shops, car or equipment repair
- Emergency repair if a permit application is submitted to the BCO within 3 days

Residential Exclusions from the UCC – Local Amendments May Exist

The UCC specifically lists types of projects that are *excluded* from the requirements of UCC-adopted building codes, and for which building permits, inspections, and certificates of occupancy are *not* required under the UCC. Although not required by the UCC, permits for these items may be required in municipalities with legally adopted amendments to the UCC. See List 2 for a summary of project types that are excluded from the UCC but for which a local amendment is allowed.

List 2. Projects that are excluded from Pennsylvania's Uniform Construction Code and are exempt from the requirement to obtain a permit. Local amendments relating to these items are allowed.

- Detached garages, carports, sheds, or greenhouses *less than 1,000 square feet* that are accessory to a *single-family* dwelling
- All residential repairs – ordinary, emergency, or otherwise, unless the repair includes a structural change or affects means of egress
- Replacement of residential equipment
- Residential alterations (remodeling, renovations, maintenance, etc.) that are not structural in nature
- Installation of solar panels, geothermal systems, windmills and other alternative energy source equipment and structures (Some municipalities consider the

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installation of equipment on existing roofs to be structure alterations, and thus require permits without having a local amendment.)
- Finish work, including: painting, papering, carpeting, tile work, cabinetry, countertops, etc.
- Sidewalks, driveways, and other flatwork
- Swimming pools with a water depth of less than 24 inches
- Window replacements
- Installation of residential elevators and lifts for use in a single dwelling unit (There are Department of Labor and Industry regulations separate from the UCC for elevators and lifts.)

Residential Exemptions from the UCC – Local Amendments Not Allowed

There is an additional category of projects for which the UCC dictates that local amendments cannot be enacted. List 3 contains a summary of project types that are *exempt* from the requirements of UCC-adopted building codes, and for which building permits, inspections, and certificates of occupancy are *not* required under the UCC. Local amendments are not allowed for these items.

List 3. Projects that are exempt from Pennsylvania's Uniform Construction Code. Local amendments relating to these items are not allowed.

- Recreational cabins meeting certain qualifications (affidavit must be filed with the BCO)
- Plumbing, electrical, and graded lumber requirements in single-family dwellings of members of recognized religious sects (affidavit must be filed with the BCO)
- Tubing, piping, fixtures, appliances and equipment connected to a source of liquefied petroleum (propane) gas
- Manufactured housing

III. Contacting the Building Code Official

As indicated above, Part 2 of this guide provides information on which municipalities are on record as having amendments, and the best information available on what those amendments regulate; however, interested parties contractor should contact an opt-in municipality's designated Building Code Official (BCO) to determine whether a permit is required for projects that do not fall under the UCC, or if there are any additional local requirements for any type of project. The BCO can also provide you with the following information: a list of the types of activities where permits are required, permit applications, requirements for construction documents, permit fee schedules, inspection requirements and fees, and occupancy permit applications and requirements. Note that contractors must comply with both the UCC (and its adopted building codes) and any legally adopted local amendments.

To contact the Building Code Official, call the township, borough or city government office. BCO contact information is also available at the Department of Labor and Industry's *Uniform Construction Code* webpage under the "Local Enforcement" tab and then selecting the "Municipal Elections and Contact Information" link.

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IV. Timeframes for Decisions

The UCC dictates review time limits for residential permit applications (Section 403.62(a)). The BCO has 15 business days to review, and approve or deny, a permit application. If the building plans are not complete, the BCO may return them to the applicant. Upon resubmittal, the BCO has an additional 15 business days to review and take action.

If the building plans are prepared and sealed by a registered Pennsylvania design professional, who also certifies that the construction is in compliance with the Uniform Construction Code, the BCO has only five business days to take action on a completed application.

If the permit application is not acted upon within the designated time limit, the plans are deemed approved.

V. Fines and Penalties for Unpermitted Construction

Any construction regulated by the UCC or local amendments that is performed without a permit may result in penalties imposed by the municipality. The contractor may be subject to fines and penalties of up to $1,000 per day for each violation. In addition, if a structure is occupied without a certificate of occupancy issued by the Building Code Official, the municipality may take additional – and serious – punitive actions.

VI. Building Permit and Inspection Fees

The Uniform Construction Code does not contain a standard fee schedule for building permits and inspections. Elected officials in each opt-in municipality must adopt, by resolution, their own fee schedule, which must be made publicly available. This information should be available upon request by contacting the Building Code Official or municipal secretary or manager.

The survey conducted for the previously mentioned Pennsylvania Housing Research Center (PHRC) report titled, *Impact of the Uniform Construction Code in Rural Pennsylvania*[4], asked municipalities to estimate the building permit fee for three representative residential building scenario examples. Using this information, the PHRC determined the average and range of permit fee amounts among over 1,000 Pennsylvania municipalities. Please refer to that report (available on the PHRC website at http://www.engr.psu.edu/phrc/Impact%20of%20the%20UCC%20Rural%20PA%20Report.pdf) for more information on typical permit fee amounts.

VII. Scheduling Inspections

Permit-holders are generally not allowed to choose their own inspectors, as each opt-in municipality determines who is allowed to perform inspections within its jurisdiction. A municipality may perform inspections with municipal staff, or may have contracts with one or more third-party inspection agencies. All inspectors must be certified by the Department of Labor and Industry. When a permit is issued, the code office should give permit-holders written instructions on how to request required inspections.

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[4] Kasal, B., Turns, M., *Impact of the Uniform Construction Code in Rural Pennsylvania*, the Center for Rural Pennsylvania: A Legislative Agency of the Pennsylvania General Assembly, September 2010.

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VIII. Filing Appeals to Code Decisions

The UCC requires every opt-in municipality to have a UCC Board of Appeals to hear challenges to code decisions (Section 403.121). Contractors who believe that a Building Code Official or inspector in an opt-in municipality has made an improper decision regarding a permit application, inspection, or certificate of occupancy, may appeal to a municipal UCC Board of Appeals. To file an appeal, contractors should ask the BCO or municipal secretary or manager for an appeal application. A fee to cover the costs of such an appeal may apply.

IX. Zoning, Land Use, and Other Municipal Approvals

Local zoning and land use ordinances, where they exist, may restrict or prohibit structures that are allowed by the UCC. The Building Code Official can help determine whether proposed work requires zoning or other municipal approvals. These approvals must be obtained and presented to the BCO before a building permit for UCC-regulated construction may be issued.

X. Opt-Out Municipalities

Contractors performing construction in an opt-out municipality must hire a certified third-party agency approved by the Pennsylvania Department of Labor and Industry. A list of certified third-party agencies may be found at the Department of Labor and Industry's *Uniform Construction Code* website under the "Certified Third-Party Agencies (Buildings)" tab, or by contacting Labor and Industry at 717-772-3396.

Third-party agencies operating in opt-out municipalities perform all of the same functions as municipal code offices or third-party agencies in opt-in municipalities, including reviewing plans, issuing building permits, conducting required inspections, and issuing certificates of occupancy. These third-party agencies establish their own fees for permits and inspections, and contractors may use this as one criterion for selecting a third-party agency.

XI. Summary of Residential Provisions of the UCC

1. Every building, or portion thereof, that falls under the scope of the UCC, is required to meet the same minimum code requirements, regardless of where in Pennsylvania it is built. Some municipalities have requirements that are more stringent than the UCC.
2. Ninety-two percent of Pennsylvania municipalities are responsible for enforcing building codes in their jurisdiction ("opt-in" municipalities).
3. Opt-in municipalities may have pre-July 1, 1999 ordinances containing provisions that are more restrictive than the UCC. Opt-in municipalities may also have ordinances amending the UCC after April 9, 2004, provided they have gone through the process described in UCC Section 503.
4. Each opt-in municipality is required to have a single designated Building Code Official (BCO), who is the person ultimately responsible for code administration and enforcement in that municipality.
5. The Building Code Official (BCO) has 15 business days to take action on a building permit application. This is reduced to five business days, if the construction documents are sealed by a registered Pennsylvania design professional.
6. There are stiff penalties for performing work without a permit when a permit is required.
7. Disagreements over code decisions may be heard in a municipality's UCC Board of Appeals. Each opt-in municipality is required to have such a board.

8. Work performed in opt-out municipalities that falls under scope of the UCC must still be permitted and inspected. It is the responsibility of the proposed building owner, or a contractor acting in their behalf, to obtain a permit from a registered third-party inspection agency.

XII. Resources

1. The Department of Labor and Industry's *Uniform Construction Code* website: http://www.portal.state.pa.us/portal/server.pt/community/uniform_construction_code/10524

2. Kasal, B., Turns, M., *Impact of the Uniform Construction Code in Rural Pennsylvania*, the Center for Rural Pennsylvania: A Legislative Agency of the Pennsylvania General Assembly, September 2010. (http://www.engr.psu.edu/phrc/Impact%20of%20the%20UCC%20Rural%20PA%20Report.pdf)

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