

# PENNSYLVANIA CONSTRUCTION CODE ACT

35 P.S §§7210.101 et. seq.  
(amended July, 2004)

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### § 7210.101. Short title

This act shall be known and may be cited as the Pennsylvania Construction Code Act.

### § 7210.102. Legislative findings and purpose

(a) FINDINGS.-- The General Assembly finds as follows:

(1) Many municipalities within this Commonwealth have no construction codes to provide for the protection of life, health, property and the environment and for the safety and welfare of the consumer, general public and the owners and occupants of buildings and structures. Consumers and occupants may be at risk from substandard construction.

(2) Likewise, in some regions of this Commonwealth a multiplicity of construction codes currently exist and some of these codes may contain cumulatively needless requirements which limit the use of certain materials, techniques or products and lack benefits to the public. Moreover, the variation of construction standards caused by the multiplicity of codes may slow the process of construction and increase the costs of construction.

(3) The way to insure uniform, modern construction standards and regulations throughout this Commonwealth is to adopt a Uniform Construction Code.

(4) The model code of the Building Officials and Code Administrators International, Inc. (BOCA), is a construction code which has been widely adopted in this Commonwealth and in the geographical region of the United States of which this Commonwealth is a part. Adoption of a nationally recognized code will insure that this Commonwealth has a uniform, modern construction code which will insure safety, health and sanitary construction.

(b) INTENT AND PURPOSE.-- It is the intent of the General Assembly and the purpose of this act:

(1) To provide standards for the protection of life, health, property and environment and for the safety and welfare of the consumer, general public and the owners and occupants of buildings and structures.

(2) To encourage standardization and economy in construction by providing requirements for construction and construction materials consistent with nationally recognized standards.

(3) To permit to the fullest extent feasible the use of state-of-the-art technical methods, devices and improvements consistent with reasonable requirements for the health, safety and welfare of occupants or users of buildings and structures.

(4) To eliminate existing codes to the extent that these codes are restrictive, obsolete, conflicting and contain duplicative construction regulations that tend to unnecessarily increase costs or retard the use of new materials, products or methods of construction or provide preferential treatment to certain types or classes of materials or methods of construction.

(5) To eliminate unnecessary duplication of effort and fees related to the review of construction plans and the inspection of construction projects.

(6) To assure that officials charged with the administration and enforcement of the technical provisions of this act are adequately trained and supervised.

(7) To insure that existing Commonwealth laws and regulations, including those which would be repealed or rescinded by this act, would be fully enforced during the transition to Statewide administration and enforcement of a Uniform Construction Code. Further, it is the intent of this act that the Uniform Construction Code requirements for making buildings accessible to and usable by persons with disabilities do not diminish from those requirements previously in effect under the former provisions of the act of September 1, 1965, entitled, as amended, "An act requiring that certain buildings and facilities adhere to certain principles, standards and specifications to make the same accessible to and usable by persons with physical handicaps, and providing for enforcement."

(8) To start a process leading to the design, construction and alteration of buildings under a uniform standard.

### **§ 7210.103. Definitions**

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Addition." An extension or increase in floor area or height of a building or structure.

"Advisory board." The Accessibility Advisory Board created in section 106.

"Agricultural building." A structure utilized to store farm implements, hay, feed, grain or other agricultural or horticultural products or to house poultry, livestock or other farm animals and a milk house. The term includes a carriage house owned and used by members of a recognized religious sect for the purposes of housing horses and storing buggies. The term shall not include habitable space or spaces in which agricultural products are processed, treated or packaged and shall not be construed to mean a place of occupancy by the general public.

"Alteration." Any construction or renovation to an existing structure other than repair or addition.

"Board of appeals." The body created by a municipality or more than one municipality to hear appeals from decisions of the code administrator as provided for by Chapter 1 of the 1999 Building Officials and Code Administrators International, Inc., National Building Code, Fourteenth Edition.

"BOCA." Building Officials and Code Administrators International, Inc.

"Code administrator." A municipal code official, a construction code official, a third-party agency or the Department of Labor and Industry.

"Construction code official." An individual certified by the Department of Labor and Industry in an appropriate category established pursuant to section 701(b) of this act to perform plan review of construction documents, inspect construction or administer and enforce codes and regulations in such code category under this act or related acts.

"Department." The Department of Labor and Industry of the Commonwealth.

"Habitable space." Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility spaces and similar areas shall not be construed as habitable spaces.

"Health care facility." As defined in section 802.1 of the act of July 19, 1979, known as the Health Care Facilities Act.

"ICC." The International Code Council.

"Industrialized housing." The term shall have the meaning ascribed to it in the act of May 11, 1972, known as the Industrialized Housing Act.

"Manufactured housing." Housing which bears a label, as required by and referred to in the act of November 17, 1982, known as the Manufactured Housing Construction and Safety Standards Authorization Act, certifying that it conforms to Federal construction and safety standards adopted under the Housing and Community Development Act of 1974.

"Municipal code official." An individual employed by a municipality or more than one municipality and certified by the Department of Labor and Industry under this act to perform plan review of construction documents, inspect construction or administer and enforce codes and regulations under this act or related acts.

"Municipality." A city, borough, incorporated town, township or home rule municipality.

"NCSBCS." The National Conference of State Building Codes and Standards.

"Occupancy." The purpose for which a building, or portion thereof, is used.

"Recreational Cabin." A structure which is:

- (1) Utilized principally for recreational activity;
- (2) Not utilized as a domicile or residence for any individual for any time period;
- (3) Not utilized for commercial purposes;
- (4) Not greater than two stories in height, excluding basement;
- (5) Not utilized by the owner or any other person as a place of employment;
- (6) Not a mailing address for bills and correspondence; and
- (7) Not listed as an individual's place of residence on a tax return, driver's license, car registration or voter registration.

"Repair." The reconstruction or renewal of any part of an existing building for the purpose of its maintenance.

"Residential Building." Detached one-family and two-family dwellings and multiple sing-family dwellings which are not more than three stores in height with a separate means of egress which includes accessory structures.

"Secretary." The Secretary of Labor and Industry of the Commonwealth.

"State institutions." As defined in section 901 of the act of June 13, 1967, known as the Public Welfare Code.

"Technically infeasible." An alteration of a building or a facility that has little likelihood of being accomplished because the existing structural conditions require the removal or alteration of a load-bearing member that is an essential part of the structural frame or because other existing physical or site constraints prohibit modification or addition of elements, spaces or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility.

"Third-party agency." A person, firm or corporation certified by the Department of Labor and Industry as a construction code official and contracted to perform plan review of construction documents, inspect construction or administer and enforce codes and regulations under this act.

"Uniform Construction Code." The code established in section 301.

"Utility and miscellaneous use structures." Buildings or structures of an accessory character and miscellaneous structures not classified by the Building Officials and Code Administrators International, Inc., in any specific use group. The term includes carports, detached private garages, greenhouses and sheds having a building area less than 1,000 square feet. The term does not include swimming pools or spas.

#### **§ 7210.104. Application**

(a) GENERAL RULE.-- This act shall apply to the construction, alteration, repair and occupancy of all buildings in this Commonwealth.

(b) EXCLUSIONS.-- This act shall not apply to:

(1) new buildings or renovations to existing buildings for which an application for a building permit has been made to the municipality prior to the effective date of the regulations promulgated under this act;

(2) new buildings or renovations to existing buildings on which a contract for design or construction has been signed prior to the effective date of the regulations promulgated under this act on projects requiring department approval;

(3) utility and miscellaneous use structures that are accessory to detached one-family dwellings; or

(4) any agricultural building.

(5) alterations to residential buildings which do not make structural changes or changes to means of egress, except as might be required by ordinances in effect pursuant to Section 303 (B) (1) or adopted pursuant to Section 503. For purposes of this paragraph, a structural change does not include a minor framing change needed to replace existing windows or doors;

(6) repairs to residential buildings, except as might be required by ordinances in effect pursuant to Section 303 (B) (1) or adopted pursuant to Section 503:

(7) any recreational cabin if:

(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; and

(II) The owner of the cabin files with the municipality either:

(A) An affidavit on a form prescribed by the department attesting to the fact that the cabin meets the definition of a "recreational cabin" in Section 103; or

(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" as defined in Section 103.

(B.1) Continuity of exclusion. - -

(1) If a recreational cabin is subject to exclusion under Subsection (B) (7), upon transfer of ownership of the recreational cabin, written notice must be provided in the sales agreement and the deed that the recreational cabin:

(I) Is exempt from this act;

(II) May not be in conformance with the uniform construction code; and

(III) Is not subject to municipal regulation.

(2) Failure to comply with the notice requirement under paragraph (1) shall render the sale voidable at the option of the purchase.

(c) PRIOR PERMITS AND CONSTRUCTION.--

(1) Subject to paragraph (2), a construction permit issued under valid construction regulations prior to the effective date of the regulations issued under this act shall remain valid, and the construction of any building or structure may be completed pursuant to and in accordance with the permit.

(2) If the requirements of the permit have not been actively prosecuted within two years of the effective date of the regulations or the period specified by a municipal ordinance, whichever is less, the former permit holder shall be required to acquire a new permit. Where construction of a building or structure commenced before the effective date of the regulations promulgated under this act and a permit was not required at that time, construction may be completed without a permit.

(d) PREEMPTION.--

(1) Except as otherwise provided in this act, construction standards provided by any statute or local ordinance or regulation promulgated or adopted by a board, department, commission, agency of State government or agency of local government shall continue in effect only until the effective date of regulations promulgated under this act, at which time they shall be preempted by regulations promulgated under this act and deemed thereafter to be rescinded.

(2)(i) Except as otherwise provided in this act and as specifically excepted in subparagraph (ii), a homeowners' association or community association shall be preempted from imposing building construction standards or building codes for buildings to be constructed, renovated, altered or modified.

(ii) In municipalities which have not adopted an ordinance for the administration and enforcement of this act, a homeowners' association or community association may adopt by board regulations the Uniform Construction Code or the ICC International One and Two Family Dwelling Code, 1998 Edition. The applicable building code shall constitute the standard governing building structures in the association's community.

(3) Nothing in this act shall preempt any licensure or Federal certification requirements for health care facilities, intermediate care facilities for the mentally retarded or for persons with related conditions or State institutions. This paragraph includes building and life safety code standards set forth in applicable regulations.

(4) Nothing in this act shall limit the ability of the Department of Aging, the Department of Health or the Department of Public Welfare to promulgate or enforce regulations which exceed the requirements of this act.

(e) MUNICIPAL REGULATION.-- Nothing in this act shall prohibit a municipality from licensing any persons engaged in construction activities or from establishing work rules or qualifications for such persons.

(f) APPLICATION TO SWIMMING POOLS AND SPAS.--

(1) The provisions of this act as they relate to swimming pools and spas shall not be applicable to those constructed or installed prior to the effective date of this act.

(2) All swimming pools and spas constructed or installed after the effective date of this act shall be governed by the requirements of this act, including section 503.

**§ 7210.105. Department of Labor and Industry**

(a) REVIEW.--

(1) The department shall with reasonable cause review municipalities, municipal code officials, third-party agencies, construction code officials and code administrators concerning the enforcement and administration of this act, including specifically complaints concerning accessibility requirements.

(2) The department shall make a report to the governing body of the municipality that was the subject of the review. The report shall include recommendations to address any deficiency observed by the department.

(3) The department may require compliance with this act through proceedings in Commonwealth Court.

(b) STATE-OWNED BUILDINGS.--

(1) The department shall maintain plan and specification review and inspection authority over all State-owned buildings. State-owned buildings shall be subject to regulations promulgated under this act. The department shall notify municipalities of all inspections of State-owned buildings and give municipalities the opportunity to observe the department inspection of such buildings.

(2) Municipalities shall notify the department of all inspection of buildings owned by political subdivisions and give the department the opportunity to observe municipal inspection of such buildings.

(3) The department shall make available to municipalities, upon request, copies of all building plans and plan review documents in the custody of the department for State-owned buildings.

(4) A municipality shall make available to the department, upon request, copies of all building plans and plan review documents in the custody of the municipality for buildings owned by political subdivisions.

(c) ELEVATORS AND CONVEYING SYSTEMS.--

(1) The department shall maintain Statewide administration and inspection authority over ski lifts, inclined passenger lifts and related devices, and elevators, conveying systems and related equipment as defined in section 3002.0 (definitions) of Chapter 30 of the 1999 BOCA National Building Code, Fourteenth Edition.

(2) Notwithstanding Chapters 3 and 5, the department may, subject to the act of June 25, 1982, known as the Regulatory Review Act, by regulation modify the 1999 BOCA National Building Code, Fourteenth Edition, Referenced Standards for elevator construction, repair, maintenance and inspection. The department shall not require reshackling more than once every two years.

(3) Nothing in this section shall be construed to disallow third-party elevator inspections.

(d) DEPARTMENT OF HEALTH.--

(1) Health care facilities, intermediate care facilities for the mentally retarded or for persons with related conditions and State institutions shall continue to comply with building codes and standards set forth in the applicable licensure laws and regulations. This paragraph includes the applicable edition of the National Fire Protection Association's Life Safety Code, NFPA No. 101, and the applicable edition of the Guidelines for Construction and Equipment of Hospital and Medical Facilities.

(2) The department may delegate its responsibility for conducting plan reviews and inspections for health care facilities to the Department of Health.

(e) LIMITATION.-- Nothing in this act, the regulations under this act or the administration of the act or the regulations by the department shall contravene the right of builders to freely compete for and perform contracts for construction of commercial buildings in this Commonwealth.

#### **§ 7210.106. Accessibility Advisory Board**

(a) CREATION AND COMPOSITION.--

(1) There is hereby created an Accessibility Advisory Board which shall be composed of 11 members appointed by the secretary. At least six members of the advisory board shall be public members, three of whom shall be persons with physical disabilities, one shall be an architect registered in Pennsylvania, one shall be a member of the business community, and one shall be a representative of the multifamily housing industry. One member shall be a municipal official. The chairman and minority chairman of the Labor and Industry Committee of the Senate and the chairman and minority chairman of the Labor Relations Committee of the House of Representatives, or their designees, shall be members. All members of the advisory board, except the members of the General Assembly, shall serve for a term of two years and until their successors are appointed.

(2) The members of the advisory board shall be paid traveling expenses and other necessary expenses and may receive a per diem compensation at a rate to be determined by the secretary for each day of actual service in the performance of their duties under this act.

(3) Meetings of the advisory board shall be called by the secretary. A quorum of the advisory board shall consist of four members.

(4) The initial advisory board shall be the body constituted under the former provisions of section 3.1 of the act of September 1, 1965, entitled, as amended, "An act requiring that certain buildings and facilities adhere to certain principles, standards and specifications to make the same accessible to and usable by persons with physical handicaps, and providing for enforcement."

(b) ADVICE ON REGULATION.-- The advisory board shall review all proposed regulations under this act and shall offer comment and advice to the secretary on all issues relating to accessibility by persons with physical disabilities, including those which relate to the enforcement of the accessibility requirements.

(c) RECOMMENDATIONS FOR MODIFICATIONS.-- The advisory board shall review all applications from individual projects for modifications of 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 and shall advise the secretary regarding whether modification should be granted or whether compliance by existing facilities with provisions of Chapter 11 (Accessibility) of the Uniform Construction Code and any other accessibility requirements contained in or referenced by the Uniform Construction Code is technically infeasible.

#### **§ 7210.301. Adoption by regulations**

(a) Regulations.--

(1) The department shall, within 180 days of the effective date of this section, promulgate regulations adopting the 1999 BOCA National Building Code, Fourteenth Edition, as a Uniform Construction Code, except as provided in section 105(c)(2) and this section. The department shall promulgate separate regulations which may make changes to Chapter 1 of the 1999 BOCA National Building Code, Fourteenth Edition, relating to administration that are necessary for the department's implementation of this act.

(2) The regulations shall include a provision that all detached one-family and two-family dwellings and one-family townhouses that are not more than three stories in height and their accessory structures shall be designed and constructed either in accordance with the ICC International One and Two Family Dwelling Code, 1998 Edition, or in accordance with the requirements of the Uniform Construction Code at the option of the building permit applicant. The provision shall require that an irrevocable election be made at the time plans are submitted for review and approval. If the building permit applicant does not indicate a code, the design and construction shall be in accordance with the Uniform Construction Code.

(3) The regulations shall include a provision that the secretary shall have the exclusive power to grant modifications and decide issues of technical infeasibility under Chapter 11 (Accessibility) of the Uniform Construction Code and any other accessibility requirements contained in or referenced by the Uniform Construction Code for individual projects.

(4) The secretary shall consider the recommendations of the advisory board as provided in section 106(c). The department shall consider the comments of the advisory board with respect to accessibility issues in any proposed regulations.

(5) The regulations shall provide for a system of periodic compliance reviews conducted by the department and for enforcement procedures conducted by the department to ensure that code administrators are adequately administering and enforcing Chapter 11 (Accessibility) of the Uniform Construction Code and any other accessibility requirements contained in or referenced by the Uniform Construction Code.

(6) The regulations shall include the provisions of exception 8 to section 1014.6 (relative to stairway treads and risers) of the 1993 BOCA National Building Code, Twelfth Edition, and the provisions of section R-213.1 (relative to stairways) of the CABO One and Two Family Dwelling Code, 1992 Edition, and such provisions shall be applicable notwithstanding section 303(b), which shall not apply to the provisions of any municipal building code ordinance which equals or exceeds these provisions.

(7) The department shall consult with the Department of Health in the development of regulations relating to health care facilities, intermediate care facilities for the mentally retarded or for persons with related conditions and State institutions.

(8) The regulations shall exclude Section R313.1.1 of the 2003 international residential code for one- and two- family dwellings or its successor code from applying to existing one-family and two-family unit dwellings undergoing alterations, repairs or additions but shall include provisions requiring non-interconnected battery-operated smoke alarms in one-family and two-family dwellings in accordance with section R313.1.1 of the 2003 international residential code for one- and two-family dwellings.

(b) International Fuel Gas Code.--The department shall, within 180 days of the effective date of this section, promulgate regulations adopting the International Fuel Gas Code for the installation of fuel gas piping systems, fuel gas utilization equipment and related accessories as the standard for the installation of piping, equipment and accessories in this Commonwealth.

(c) Prescriptive methods for energy-related standards.--The department shall, within 180 days of the effective date of this section, by regulation promulgate prescriptive methods to implement the energy-related standards of the Uniform Construction Code which take into account the various climatic conditions through this Commonwealth. In deriving these standards the department shall seek to balance energy savings with initial construction costs.

(d) Scope of regulations.--

(1) The regulations adopted by the department implementing these codes shall supersede and preempt all local building codes regulating any aspect of the construction, alteration and repair of buildings adopted or enforced by any municipality or authority or pursuant to any deed restriction, rule, regulation, ordinance, resolution, tariff or order of any public utility or any State or local board, agency, commission or homeowners' association except as may be otherwise specifically provided in this act.

(2) The department may establish by regulation plan review and inspection fees where the department is responsible for administration and enforcement and requirements for municipal notification to the department of ordinance adoption and repeal under Chapter 5. The department shall consult with the Department of Aging, the Department of Health or the Department of Public Welfare, as appropriate, to determine fees for health care facilities, intermediate care facilities for the mentally retarded or for persons with related conditions and State institutions.

(3) The department shall establish by regulation standards for the retention and sharing of building plans and other documents, for other than one-family or two-family dwelling units and utility and miscellaneous use structures, by the department, municipalities and third-party agencies.



**§ 7210.302. Referenced standards**

(a) GENERAL RULE.-- The standards referenced in Chapters 30 and 35 relating to elevators and conveying systems and referenced standards, respectively, or the applicable chapter, of the 1999 BOCA National Building Code, Fourteenth Edition, and the American National Standards for Passenger Tramways, Aerial Tramways, Aerial Lifts, Surface Lifts and Tows, ASME/ANSI B77.1, shall be considered part of the requirements of the Uniform Construction Code to the prescribed extent of each such reference except that BNPMC-96 BOCA National Property Maintenance Code and ASME/ANSI A17.3 (safety code for existing elevators and escalators) shall be excluded.

(b) NO PREEMPTION.-- Nothing contained in this act shall be construed to preempt the ability of a municipality to adopt or enforce the codes referred to in this section to the extent not referenced, in whole or in part, in Chapter 35 relating to referenced standards or applicable chapter of the 1999 BOCA National Building Code, Fourteenth Edition.

**§ 7210.303. Existing municipal building codes**

(a) FAILURE TO MEET MINIMUM REQUIREMENTS.--

(1) Except as provided in paragraph (2), the provisions of municipal building code ordinances in effect on the effective date of this act that do not equal or exceed the minimum requirements of the regulations promulgated under this act shall be amended by the effective date of the regulations promulgated under this act to provide for the minimum requirements.

(2) 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, by which time those provisions of the ordinance which do not comply with the minimum requirements of the regulations promulgated under this act shall be amended to provide for the minimum requirements of regulations promulgated under this act.

(b) PROVISIONS WHICH EQUAL OR EXCEED THE UNIFORM CONSTRUCTION CODE.--

(1) Municipal building code ordinances in effect on July 1, 1999, or reenactments of provisions of simultaneously repealed ordinances which were originally adopted prior to July 1, 1999, which contain provisions which equal or exceed the specific requirements of the regulations promulgated under this act shall remain in effect until such time as any such provisions fail to equal or exceed the minimum requirements of the regulations promulgated under this act, at which time the provisions of such ordinances shall be amended to provide for the minimum requirements of the regulations promulgated under this act.

(2) Municipal building code ordinances adopted or effective after July 1, 1999, except reenactments of provisions of simultaneously repealed ordinances which were originally adopted prior to July 1, 1999, shall continue in effect only until the effective date of the regulations promulgated under this act, at which time the municipal building code ordinance shall be preempted by the regulations promulgated under this act and shall be deemed thereafter to be rescinded.

**§ 7210.304. Revised or successor codes**

(a) Building code.--

(1) Subject to sections 105(c) and (d), 301(a)(3), (4), (5), (6) and (7), (c) and (d) and 302, by December 31 of the year of the issuance of a new triennial BOCA National Building Code, or its successor building code, the department shall promulgate regulations adopting the new code as the Uniform Construction Code.

(2) Subject to sections 105(c) and (d), 301(a)(3), (4), (5), (6) and (7), (c) and (d) and 302, by December 31 of the year of issuance of a new triennial ICC International One and Two Family Dwelling Code, or its successor building code, the department shall promulgate regulations providing that all detached one-family and two-family dwellings and one-family townhouses that are not more than three stories in height and their accessory structures may be designed in accordance with that code or the Uniform Construction Code at the option of the building permit applicant.

(b) International Fuel Gas Code.--By December 31 of the year of the issuance of a new International Fuel Gas Code, or its successor code, the department shall promulgate regulations adopting the new code.

(c) Prior permits and construction.--

(1) A construction permit issued under valid construction regulations prior to the effective date of regulations for a subsequent Uniform Construction Code or International Fuel Gas Code issued under this act shall remain valid, and the construction of any building or structure may be completed pursuant to and in accordance with the permit.

(2) If the permit has not been actively prosecuted within two years of the effective date of the regulation or the period specified by a municipal ordinance, whichever is less, the former permit holder shall be required to acquire a new permit.

(3) Where construction of a building or structure commenced before the effective date of the regulations for a subsequent Uniform Construction Code or International Fuel Gas Code issued under this act and a permit was not required at that time, construction may be completed without a permit.

**§ 7210.501. Administration and enforcement**

(a) Adoption of ordinance.--

(1) In order to administer and enforce the provisions of this act, municipalities shall enact an ordinance concurrently adopting the current Uniform Construction Code as their municipal building code and the current International Fuel Gas Code. Municipalities may adopt the Uniform Construction Code and incorporated codes and the International Fuel Gas Code by reference.

(2) Municipalities shall have 90 days after the promulgation of regulations under section 301 or 304 to adopt such an ordinance. Municipalities shall notify the department of the adoption of such an ordinance within 30 days. A municipality may adopt such an ordinance at any time thereafter, upon giving the department 180 days' notice of its intention to adopt such ordinance.

(a.1) Counties of the second class.- - notwithstanding the provisions of Subsection (A), a municipality located within a county of the second class shall not administer and enforce plumbing code provisions of an ordinance adopting the uniform construction code and incorporated codes for the purposes of Section 302(A). A county of the second class that has adopted a plumbing code and accompanying rules and regulations, pursuant to the act of August 24, 1951 (P.L.1304, No.315), known as the local health administration law, shall retain the authority to promulgate and enforce such plumbing code and to make such changes as it deems necessary, provided that such changes meet the minimum requirements as defined in the uniform construction code.

(b) Municipal administration and enforcement.--This act may be administered and enforced by municipalities in any of the following ways:

(1) By the designation of an employee to serve as the municipal code official to act on behalf of the municipality for administration and enforcement of this act.

(2) By the retention of one or more construction code officials or third-party agencies to act on behalf of the municipality for administration and enforcement of this act.

(3) Two or more municipalities may provide for the joint administration and enforcement of this act through an intermunicipal agreement under 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation).

(4) By entering into a contract with the proper authorities of another municipality for the administration and enforcement of this act. When such a contract has been entered into, the municipal code official shall have all the powers and authority conferred by law in the municipality which has contracted to secure such services.

(5) By entering into an agreement with the department for plan reviews, inspections and enforcement of structures other than one-family or two-family dwelling units and utility and miscellaneous use structures.

(c) Board of appeals.--

(1) A municipality which has adopted an ordinance for the administration and enforcement of this act or municipalities which are parties to an agreement for the joint administration and enforcement of this act shall establish a board of appeals

as provided by Chapter 1 of the 1999 BOCA National Building Code, Fourteenth Edition, to hear appeals from decisions of the code administrator. Members of the municipality's governing body may not serve as members of the board of appeals.

(2) An application for appeal shall be based on a claim that the true intent of this act or regulations legally adopted under this act have been incorrectly interpreted, the provisions of this act do not fully apply or an equivalent form of construction is to be used.

(3) When a municipality cannot find persons to serve on a board of appeals who meet the minimum qualifications of Chapter 1 of the BOCA National Building Code, the municipality may fill a position on the board with a qualified person who resides outside of the municipality.

(d) Registration.--Nothing in this act shall allow a municipality to prohibit a construction code official who meets the requirements of Chapter 7 and remains in good standing from performing inspections in the municipality. This section does not alter the power and duties given to municipalities under subsection (b)(1), (3) and (4).

(e) Nonmunicipal administration.--

(1) In municipalities which have not adopted an ordinance for the administration and enforcement of this act, it shall be the duty of the municipality to notify an applicant for a construction permit that it shall be the responsibility of the permit applicant of one-family or two-family dwelling units and utility and miscellaneous use structures to obtain the services of a construction code official or third-party agency with appropriate categories of certification to conduct the plan review and inspections. For one-family and two-family dwelling units and utility and miscellaneous use structures, all of the following five inspections shall be required:

(i) Foundation inspection.

(ii) Plumbing, mechanical and electrical inspection.

(iii) Frame and masonry inspection.

(iv) Wallboard inspection.

(v) Final inspection. The final inspection shall not be deemed approved until all previous inspections have been successfully completed and passed.

(2) In municipalities which have not adopted an ordinance for the administration and enforcement of this act, it shall be the duty of the municipality to notify the department and an applicant for a construction permit that it shall be the responsibility of the owner of structures other than one-family or two-family dwelling units and utility and miscellaneous use structures to obtain the services of the department or a third-party agency with appropriate categories of certification under contract to the department to conduct the plan review and inspections required by this act.

(3) A copy of the final inspection report shall be sent to the property owner and to the builder and to a lender designated by the builder.

(4) In municipalities which require a building permit or a certificate of occupancy but do not conduct inspections, the code administrator shall also be required to submit a copy of the report to the municipality. No certificate of occupancy shall be issued for a building unless it meets all of the applicable accessibility provisions of the Uniform Construction Code or has been granted a variance for the requirements it does not meet. A certificate of partial occupancy may be issued if the space to be occupied complies with the accessibility requirements contained in the Uniform Construction Code unless a variance for the space has been obtained in accordance with this act.

(f) Private right of action.--

(1) In relation to complaints arising out of Chapter 11 (Accessibility) of the Uniform Construction Code, any individual, partnership, agency, association or corporation who reasonably believes there is a violation of the accessibility provisions of this act and its regulations by a governmental entity or private owner may file a complaint with the body responsible for enforcement of the Uniform Construction Code. The complaint shall be in writing, shall be verified and shall set forth the grounds for the complaint. Within 60 days after the receipt of the complaint, the code enforcement body shall respond to

the complaint by acknowledging receipt of the complaint in writing. The enforcement body shall investigate the complaint and respond to the complainant in writing with its findings, determinations and any enforcement measures initiated or contemplated within 120 days after the receipt of the complaint. For the purpose of investigating a complaint, an employee of the enforcement organization may inspect at reasonable times the building or building site which is the subject of the complaint and may make any additional investigation deemed necessary for the full and effective determination of compliance with this act and regulations promulgated pursuant to it.

(2) Any individual, partnership, agency, association or corporation aggrieved by a final determination of the enforcement agency of a complaint filed pursuant to paragraph (1) hereof may file a petition for review within 30 days of the final determination in the Commonwealth Court pursuant to 42 Pa.C.S. § 763(a) (relating to direct appeals from government agencies). The decision of the enforcement agency shall not be reversed unless it is found to be arbitrary, capricious, illegal or not supported by substantial evidence.

(3)(i) Any individual, partnership, agency, association or corporation who filed a complaint pursuant to paragraph (1) and received no written response from the enforcement agency acknowledging receipt of its complaint within 60 days or received a response from the enforcement agency indicating that a violation was found but enforcement measures were not contemplated or enforcement measures were contemplated but such measures were not initiated after a period of 60 days from said response may bring a civil action in the appropriate court of common pleas against the agency for failure to enforce the provisions of this act and the regulations promulgated thereto or a building owner or owner's agent for a violation of any provisions of this act or regulations promulgated pursuant to it.

(ii) If the court finds a violation of this act or of regulations adopted pursuant to it, the court may enjoin construction or remodeling of the building, direct the correction of violations within a reasonable and specified time period or order such other relief deemed appropriate. The court, in issuing any final orders in any action brought pursuant to this section, may award costs of litigation, attorney and expert witness fees to any party whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the rules of civil procedure.

(iii) An architect or licensed design professional who has complied with the provisions of this act and its regulations and prepared construction documents in accordance with accepted professional standards shall have no further liability pursuant to litigation commenced under this section.

(g) Technical assistance to municipalities. The Governor's center for local government services in the Department of Community and Economic Development shall be the principal agency for developing and providing technical assistance to municipalities for implementing, administering and enforcing the provision of the act.

## **§ 7210.502. Consideration of applications and inspections**

### **(a) APPLICATIONS FOR CONSTRUCTION PERMITS.--**

(1) Every application for a construction permit for one-family and two-family dwelling units and utility and miscellaneous use structures shall be granted or denied, in whole or in part, within 15 business days of the filing date. All other construction permits shall be granted or denied, in whole or in part, within 30 business days of the filing date. Municipalities may establish different time limits to consider applications for construction permits in historic districts.

(2) If an application is denied in whole or in part, the code administrator shall set forth the reasons in writing.

(3) If the code administrator fails to act on an application for a construction permit for one-family and two-family dwelling units and utility and miscellaneous use structures within the time prescribed, the application shall be deemed approved. The time limits established in this section for permit applications other than one-family and two-family dwellings may be extended upon agreement in writing between the applicant and the municipality for a specific number of additional days.

### **(b) HIGHWAY OCCUPANCY PERMIT.--**

(1) No building permit shall be issued for any property which will require access to a highway under the jurisdiction of the Department of Transportation unless the permit contains a notice that a highway occupancy permit is required pursuant

to section 420 of the act of June 1, 1945, known as the State Highway Law, before driveway access to a State highway is permitted.

(2) The Department of Transportation shall, within 60 days of the date of receipt of an application for a highway occupancy permit:

(i) approve the permit;

(ii) deny the permit;

(iii) return the application for additional information or correction to conform with regulations of the Department of Transportation; or

(iv) determine that no permit is required, in which case the Department of Transportation shall notify the municipality and applicant in writing.

(3)(i) If the Department of Transportation fails to take any action within the 60-day period, the permit shall be deemed to be issued. The permit shall be marked to indicate that access to the State highway shall be only as authorized by a highway occupancy permit.

(ii) Notwithstanding the provisions of subparagraph (i), if the highway occupancy permit requires a determination by the United States Department of Transportation, the Pennsylvania Department of Transportation shall have 60 days from the receipt of the determination to take action on the permit or the permit shall be deemed to be issued.

(4)(i) Neither the Department of Transportation nor any municipality to which permit-issuing authority has been delegated under section 420 of the State Highway Law shall be liable in damages for any injury to persons or property arising out of the issuance or denial of a driveway permit or for failure to regulate any driveway.

(ii) The municipality from which the building permit approval has been requested shall not be held liable for damages to persons or property arising out of the issuance or denial of a driveway permit by the Department of Transportation.

(c) FINANCIAL INTEREST PROHIBITED.-- A code administrator shall not review or approve any plans for or construction of any building or structure in which the code administrator has any financial interest.

### **§ 7210.503. Changes in Uniform Construction Code**

(a) ADMINISTRATION.-- Municipalities may enact ordinances which equal or exceed the minimum requirements of Chapter 1 of the 1999 BOCA National Building Code, Fourteenth Edition, or successor codes, relating to administration consistent with the provisions of section 501(c).

(b) MINIMUM REQUIREMENT.-- Subject to the provisions of this act, no municipality may propose or enact any ordinance which is less than the minimum requirement of the Uniform Construction Code.

(c) MODIFICATION OF MINIMUM REQUIREMENT.-- Subject to the provisions of this act, the municipal governing body may propose and enact an ordinance to equal or exceed the minimum requirements of the Uniform Construction Code under the law governing the adoption of ordinances in that jurisdiction. Municipalities may enact ordinances pursuant to this section which adopt additional code requirements for alterations or repairs to residential buildings. Municipalities may enact ordinances pursuant to this section which adopt stricter code requirements than required by this act for the regulation of utility and miscellaneous use structures.

(d) PUBLIC HEARING.-- The municipality shall hold at least one public hearing prior to adoption of the ordinance.

(e) NOTICE OF PUBLIC HEARING.-- The municipality shall place notice in a newspaper of general circulation in the municipality at least seven days, but not more than 60 days, in advance of a public hearing to consider the proposed ordinance.

(f) **FILING OF PROPOSED ORDINANCE WITH DEPARTMENT.**-- The municipality shall file a copy of the proposed ordinance with the department at least 30 days prior to public hearing. The department shall make proposed ordinances available for public inspection.

(g) **MUNICIPAL ACTION.**-- Following the public hearing, the municipal governing body may enact the ordinance under the law governing the adoption of ordinance in that jurisdiction.

(h) **AMENDMENT OF PROPOSED ORDINANCE.**-- If the municipality proposes any substantive amendment to a proposed ordinance, the municipal governing body shall be required to meet the advertising, filing, notice and public hearing requirements of this section before enacting the proposed ordinance.

(i) **DEPARTMENT REVIEW.**-- The department shall review all proposed ordinances required to be filed with the department under subsection (f) for compliance with subsection (b). If the proposed ordinance does not comply with subsection (b), the department shall advise the municipality of its finding, setting forth the reasons in writing. The municipality shall then withdraw the proposed ordinance or revise the proposed ordinance to meet the minimum requirements of the Uniform Construction Code.

(j) **CHALLENGE OF ORDINANCE.**--

(1) Aggrieved parties shall have 30 days from date of enactment of the ordinance to file a written challenge with the department and the municipality. The challenge shall state the reason or reasons for the challenge. A municipal ordinance may not take effect for a period of 35 days following its enactment. If a challenge is filed in writing with the department within 30 days, the department has five business days from the end of the 30-day filing period to notify a municipality of the challenge. There may be no enforcement of the ordinance until a the last challenge to the ordinance, whichever occurs first.

(2) The department shall review any ordinance which would equal or exceed the minimum requirements of the Uniform Construction Code based on the following standards:

(i) that certain clear and convincing local climatic, geologic, topographic or public health and safety circumstances or conditions justify the exception;

(ii) the exception shall be adequate for the purpose intended and shall meet a standard of performance equal to or greater than that prescribed by the Uniform Construction Code;

(iii) the exception would not diminish or threaten the health, safety and welfare of the public; and

(iv) the exception would not be inconsistent with the legislative findings and purpose described in section 102.

The department shall take into consideration, in rendering the determination, the provision, code development process history, purpose and intent of relevant provisions of the 1999 BOCA National Building Code, Fourteenth Edition, ICC International One and Two Family Dwelling Code, 1998 Edition, or their successor codes.

(k) **RULING BY SECRETARY.**-- A ruling on a challenge by an aggrieved party shall be issued by the secretary within 45 days of receipt of the filing of the last challenge to the ordinance or within 30 days of the hearing on the challenge which must be held by the department upon the request of the municipality in the municipality wherein the ordinance is proposed, whichever last occurs. If the secretary approves the ordinance, the municipality may begin to administer and enforce the ordinance. If the secretary disapproves the ordinance, the ordinance shall be null and void. The secretary shall state the reasons for the disapproval in writing to the municipality.

#### **§ 7210.504. Appeals**

(a) **RULING OF SECRETARY.**-- An appeal of the secretary's ruling may be taken to the appropriate court of common pleas within 30 days of the date of the ruling.

(b) **APPLICATION FOR ENFORCEMENT OF ORDINANCE.**-- Any person aggrieved by the application or enforcement of any provision of an ordinance adopted pursuant to section 503 shall have the right to challenge the validity

of the ordinance in the appropriate court of common pleas. In order to be aggrieved, a person must have a direct, immediate and substantial interest in the application or enforcement of the ordinance.

**§ 7210.701. Training of inspectors**

(a) TRAINING PROGRAM.-- The department, in consultation with the advisory board, BOCA, NCSBCS and other interested parties, shall by regulation adopt a program of required training and certification for all categories of code administrators. This education program shall include accessibility requirements contained in and referenced by the Uniform Construction Code. The department may contract with third parties to provide the code training and testing programs.

(b) CATEGORIES OF INSPECTORS.—

(1) The department, in consultation with BOCA and other interested parties, shall establish appropriate categories of code administrators.

(2) A code administrator may act in place of a lumber grading or inspection agency to satisfy the requirement set forth under Section 2303.1.1 of the 2003 International Building Code or its Successor Code.

(c) CERTIFICATION.-- Upon determination of qualification, the department shall issue a certificate to the code administrator stating that he is so certified.

(d) WAIVER.-- The department shall by regulation establish a procedure for the consideration of requests for waivers of the initial training and certification requirements for individuals who present documentation that they have previously satisfied substantially similar training, testing and certification requirements. The department may also consider past work experience as an inspector when deciding a request for a waiver. Any waiver shall not apply to continuing education requirements.

(e) CURRENT OFFICIALS.--

(1) The department shall by regulation determine the time period for current code administrators to meet the training and certification requirements of this act. This time period shall not be less than three years and not exceed seven years from the effective date of this act for individuals conducting plan review and inspections of one-family or two-family residential property or not be less than five years and not exceed ten years for individuals conducting plan reviews and inspections on all other buildings and structures.

(2) Notwithstanding the provisions of this subsection, the department shall adopt regulations specifically providing for the department's administration and enforcement of 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 until code administrators have been certified regarding accessibility provisions. The department shall maintain jurisdiction over 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 until such time as municipal code administrators meet the requirements for certification.

(f) CONTINUING EDUCATION.-- The department shall by regulation adopt and implement the continuing education program, and all code administrators shall participate in the department's continuing education programs.

(g) REMEDIAL EDUCATION.-- The department is empowered to require code administrators to participate in remedial education programs for just cause.

(h) DECERTIFICATION.-- The department is empowered to decertify code administrators for just cause. The department shall by regulation establish a procedure for the notification of code administrators of decertification and the right of the individual to receive a hearing before the department on decertification.

(i) LIST OF CODE ADMINISTRATORS.-- The department shall maintain a list of code administrators, indicating the categories of certifications, which shall be made available to municipalities and, upon request, the public.

(j) FEES.-- The department shall determine and approve reasonable fees for educational programs, testing and certification of code administrators. The department shall consult with the Department of Aging, the Department of Health

or the Department of Public Welfare, as appropriate, to determine fees for health care facilities, intermediate care facilities for the mentally retarded or for persons with related conditions and State institutions.

(k) INSURANCE.-- The department shall promulgate regulations requiring code administrators in third-party agencies to carry minimum levels of liability insurance.

#### **§ 7210.702. Reciprocity**

The department may develop reciprocity agreements with other states or jurisdictions which have established accreditations and certification requirements which the department determines to be substantially similar to those set forth in this act.

#### **§ 7210.703. Education and training program**

(a) Fee.--Municipalities administering and enforcing this act under section 501(a) and third-party agencies providing services under section 501(e) shall assess a fee of \$2 on each construction or building permit issued under the authority of this act. The fee shall be in addition to any other fee imposed for the permit.

(b) Municipal Code Official Training Account.--There is hereby established within the State Treasury a restricted account which shall be known as the Municipal Code Official Training Account.

(c) Deposit.--Moneys collected as authorized under subsection (a) shall be transmitted quarterly to the State Treasury and shall be deposited in the account. Moneys so deposited are hereby appropriated on approval of the Governor to the Department of Community and Economic Development for the purpose of education and training programs provided by the Pennsylvania Construction Codes Academy for municipal code officials and individuals employed by third-party agencies under contract to a municipality.

#### **§ 7210.901. Exemptions**

(a) MANUFACTURED HOUSING.-- This act shall not apply to manufactured housing which bears a label, as required by and referred to in the act of November 17, 1982, known as the Manufactured Housing Construction and Safety Standards Authorization Act, which certifies that it conforms to Federal construction and safety standards adopted under the Housing and Community Development Act of 1974, nor shall it apply to industrialized housing, as defined in the act of May 11, 1972, known as the Industrialized Housing Act.

(b) RELIGIOUS BELIEFS.--

(1) An applicant for a construction permit for a dwelling unit or one-room schoolhouse utilized by a member or members of a recognized religious sect may file an application with a code administrator to be exempted from an electrical provision of the Uniform Construction Code which conflicts with the applicant's religious beliefs. The application shall state the manner in which the provision conflicts with the applicant's religious beliefs and shall include an affidavit by the applicant stating that:

(i) the applicant is a member of a recognized religious sect;

(ii) the religious sect has established tenets or teachings which conflict with an electrical provision of the Uniform Construction Code;

(iii) the applicant adheres to the established tenets or teachings of the sect; and

(iv) in the case of a dwelling unit the dwelling unit will be used solely as a residence for the applicant and the applicant's household; and

(v) in the case of a one-room schoolhouse, the one-room schoolhouse will be used solely by members of the religious sect.

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



(3) If an applicant receives an exemption for any building under this subsection 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 under this subsection prior to the sale or lease of the building unless the prospective subsequent owner or lessee files an affidavit in compliance with paragraph (1)(i) through (iv).

(c) Natural cut trees.—Section 804.1.1 (relating to natural cut trees) of the international fire code (2003) and any successor provision is excluded from this act. A municipality that elects to adopt an ordinance for the administration and enforcement of this act may, by ordinance, restrict the placements of natural cut trees in an occupancy group. The ordinance restricting the placement shall not be subject to Section 503 (B) through (K).

#### **§ 7210.902. Applicability to historic buildings, structures and sites**

The provisions of the 1999 BOCA National Building Code, Fourteenth Edition, relating to the construction, repair, alteration, addition, restoration and movement of structures shall not apply to existing buildings and structures, or new buildings and structures not intended for residential use on historic sites, that are identified and classified by the Federal, State or local government authority as historic buildings or sites where such buildings and structures are judged by the code official to be safe and in the interest of public health, safety and welfare.

#### **§ 7210.903. Penalties**

(a) VIOLATION OF ACT.--

(1) Any individual, firm or corporation that violates any provision of this act commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not more than \$ 1,000 and costs.

(2) Each day that a violation of this act continues shall be considered a separate violation.

(b) DISPOSITION OF PENALTIES.-- The amount of the penalty shall be forwarded to the entity with enforcement jurisdiction.

#### **§ 7210.1101. Savings**

This act shall not repeal or in any way affect:

Sections 1, 3.3, 3.4, 3.5, 3.6(f)(1)(i), (f.1) and (g), 10.1, 13, 14 and 15 of the act of April 27, 1927 (P.L. 465, No. 299), referred to as the Fire and Panic Act.

Section 2203-A of the act of April 9, 1929 (P.L. 177, No. 175), known as The Administrative Code of 1929.

Act of May 2, 1929 (P.L. 1513, No. 451), referred to as the Boiler Regulation Law.

Act of August 24, 1951 (P.L. 1304, No. 315), known as the Local Health Administration Law, insofar as it applies to counties of the first class and of the second class, and rules and regulations adopted by counties of the first class and of the second class under the act. Any construction standard adopted after October 31, 1996, by counties of the first class and of the second class under the authority of the Local Health Administration Law shall comply with Chapters 3 and 5 of this act.

Act of December 27, 1951 (P.L. 1793, No. 475), referred to as the Liquefied Petroleum Gas Act.

Act of October 27, 1955 (P.L. 744, No. 222), known as the Pennsylvania Human Relations Act, and regulations promulgated under the act.

Act of January 24, 1966 (1965 P.L. 1535, No. 537), known as the Pennsylvania Sewage Facilities Act, and regulations promulgated under the act.

Act of June 13, 1967 (P.L. 31, No. 21), known as the Public Welfare Code.

Act of October 4, 1978 (P.L. 851, No. 166), known as the Flood Plain Management Act, and regulations and ordinances promulgated under the act.

Act of July 19, 1979 (P.L. 130, No. 48), known as the Health Care Facilities Act.

Act of July 11, 1990 (P.L. 499, No. 118), known as the Older Adult Daily Living Centers Licensing Act.

**§ 7210.1102. Repeals**

(a) ABSOLUTE.-- The following acts and parts of acts are repealed:

Sections 2, 3, 3.1, 3.2, 3.6(a), (b), (c), (d), (e), (f)(1)(ii), (iii) and (2), 4, 4.1, 4.2, 5, 6, 7, 8, 9, 10, 11, 12 and 15.1 of the act of April 27, 1927 (P.L. 465, No. 299), referred to as the Fire and Panic Act.

Act of May 2, 1929 (P.L. 1518, No. 452), referred to as the Elevator Regulation Law.

Act of September 1, 1965 (P.L. 459, No. 235), entitled, as amended, "An act requiring that certain buildings and facilities adhere to certain principles, standards and specifications to make the same accessible to and usable by persons with physical handicaps, and providing for enforcement."

Act of July 9, 1976 (P.L. 919, No. 170), entitled "An act providing for the approval or disapproval of applications for a permit relating to the construction or maintenance of improvements to real estate."

Act of December 15, 1980 (P.L. 1203, No. 222), known as the Building Energy Conservation Act, and regulations promulgated there under.

Act of December 17, 1990 (P.L. 742, No. 185), entitled "An act providing for restrooms in facilities where the public congregates; and requiring that restroom facilities be provided for women on an equitable basis."

Act of December 19, 1990 (P.L. 1387, No. 214), known as the Dry Cleaning Law.

(b) GENERAL.-- All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

**§ 7210.1103. Effective date**

This act shall take effect as follows:

(1) Sections 104(d)(3) and (4), 301, 302, 701 and this section shall take effect immediately.

(2) The remainder of this act shall take effect 90 days following publication of notice in the Pennsylvania Bulletin that the regulations required by this act have been finally adopted.