

Construction Code Communicator



State of New Jersey
 Chris Christie, Governor
 Kim Guadagno, Lt. Governor

Department of Community Affairs
 Richard E. Constable III, Commissioner

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Fall/Winter 2014

The Winter Communicator: A Reminder (& More)

The final (Winter) issue of the *Construction Code Communicator* each year typically consists of a collection of Alerts, Hot Topics, Letters from the Director, guidance documents, and other information items that were posted on the Division's website during the calendar year. This year, we are including articles that were printed in earlier editions of the *Construction Code Communicator* on topics that continue to generate questions. *This issue also commemorates the 40th anniversary of the signing of the Uniform Construction Code Act into law.*

Also, the Index for all four issues of the *Construction Code Communicator* 2014 is included in this issue as a handy reference.

Prospectively, we plan to have the *Construction Code Communicator* follow this format: three issues, Spring, Summer, and Fall, that contain new articles and a Winter issue that will provide in one place all the Alerts, Hot Topics, Letters from the Director, guidance documents, and other information items that were posted on the Division's website in that calendar year with previously printed articles where the topic continues the generate questions.

If you have any questions about the *Construction Code Communicator*, or if you have any recommendations for articles, please feel free to contact me at (609) 984-7609 or at Emily.Templeton@dca.nj.gov.

Source: Emily W. Templeton
 Division of Codes and Standards



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The UCC Act at 40

On October 7, 1975, then Governor Brendan Byrne signed the Uniform Construction Code Act into law.

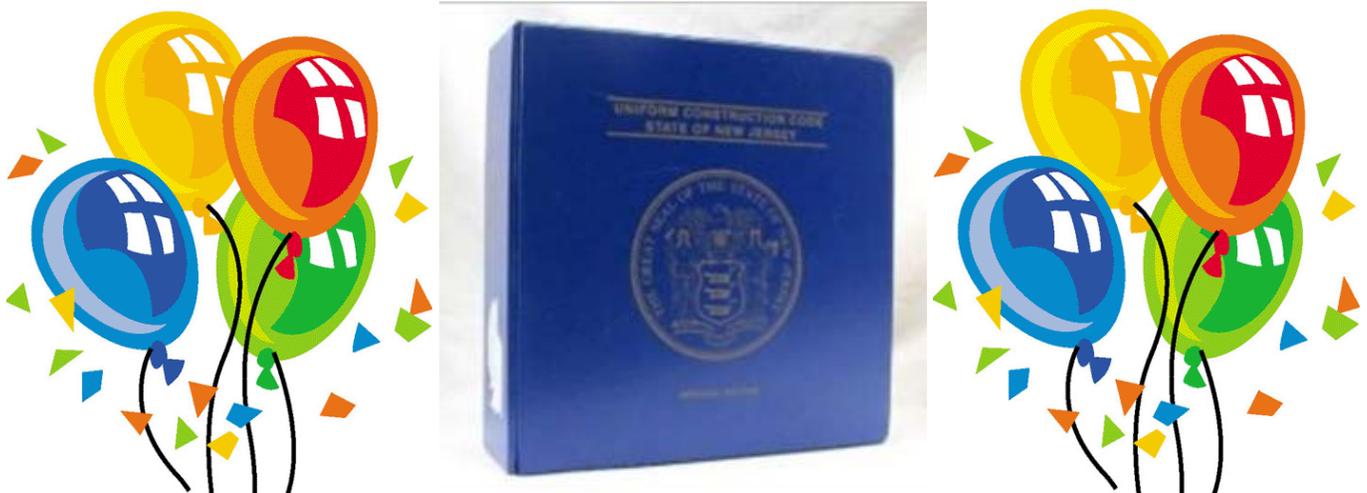
The Uniform Construction Code itself was brought into existence through the visionary work of two people: Bill Connolly and Chuck Decker. Both were architects by training. Their creative work was not in the design of a building, but in the design of a code enforcement system. This code enforcement system has met the test of time. The passing years have brought new challenges and many changes, but the basic structure of New Jersey’s code enforcement system has remained intact.

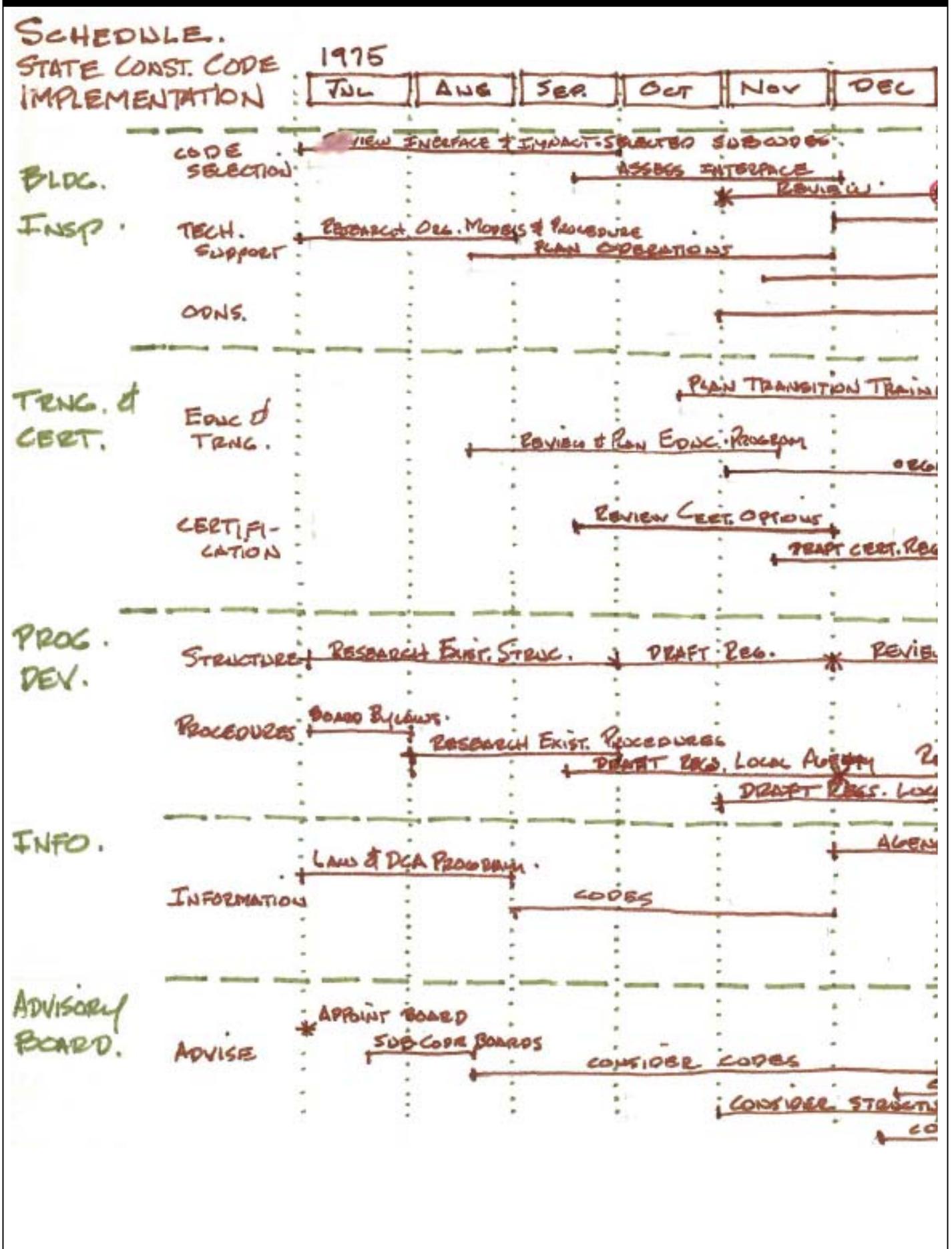
On the following pages, Chuck’s handwritten timeline for implementation of the Uniform Construction Code, beginning from passage of the Act in 1975, is reprinted. It is followed by his hand-drawn flow chart—a depiction of the code enforcement process which continues to be remarkably accurate. These documents truly are the blueprints for the Uniform Construction Code enforcement system.

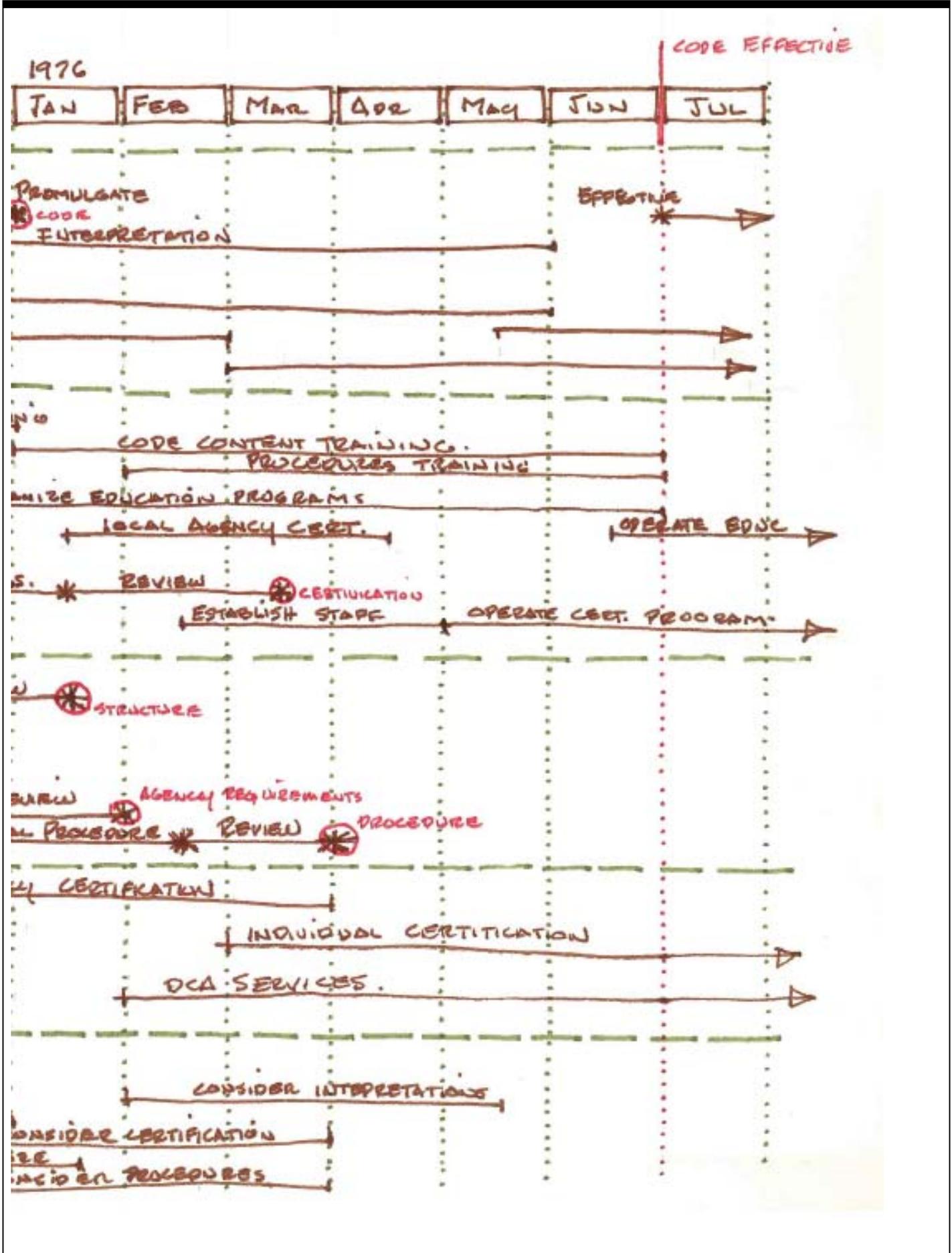
Our code enforcement system is straightforward and logical. From our vantage point, 40 years later, it is easy to say “of course.” There are few still working in code enforcement who remember what existed before the adoption of the UCC. In 1975, each town adopted its own construction requirements. Some were outdated. Some were non-existent. Some were specification codes rather than performance codes. Some did not provide even minimal protection to the public. Enforcement of these requirements was scattered and uneven. Property owners went to the local fire prevention bureau for approval to install or to replace oil burners or tanks; the plumbing inspectors were under the local board of health and electrical inspectors worked through a third party agency under the jurisdiction of the Board of Public Utility Commissioners (now the Board of Public Utilities.) At the State level, there were 22 different agencies or authorities regulating some aspect of construction. It seems crazy now to think about each municipality having different requirements and permit applicants running from one desk to another in town hall to obtain approvals. The idea of a single set of requirements adopted at the State level and enforced at the municipal level by a single administrative unit, headed by a construction official, became law in New Jersey with that bill signing. The plans were laid for the creation of a body of well trained professionals to enforce the new rules. And New Jersey went on to become recognized as a national leader in code enforcement.

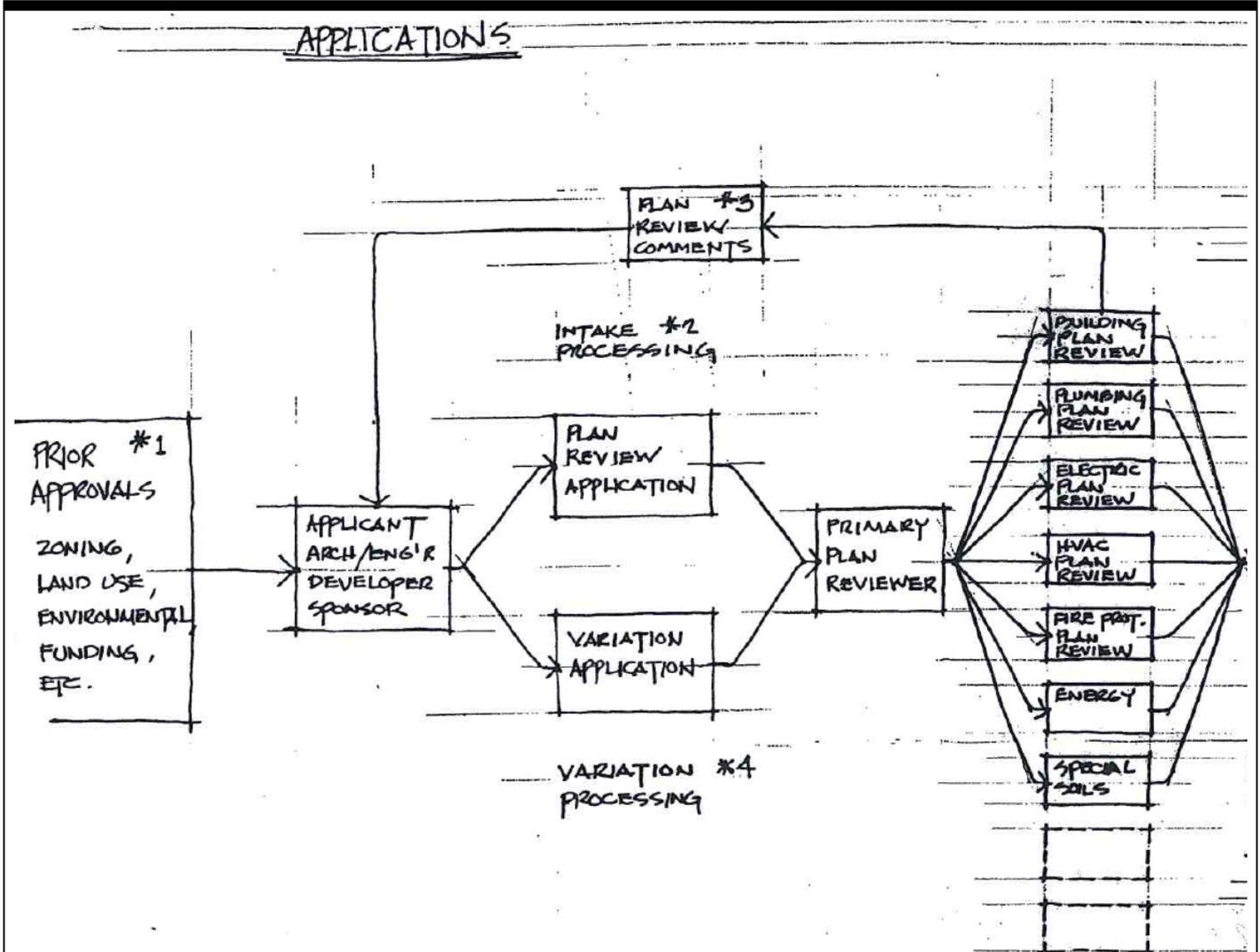
As we mark this milestone, we are also looking to the future of code enforcement in New Jersey. How do we attract qualified people to this field? How should code enforcement be organized so that it continues to serve the citizens of New Jersey well? It is incumbent on us to ensure that this highly effective system of code enforcement is adapted to continue for the next 40 years.

Source: Amy Fenwick Frank
Division of Codes and Standards









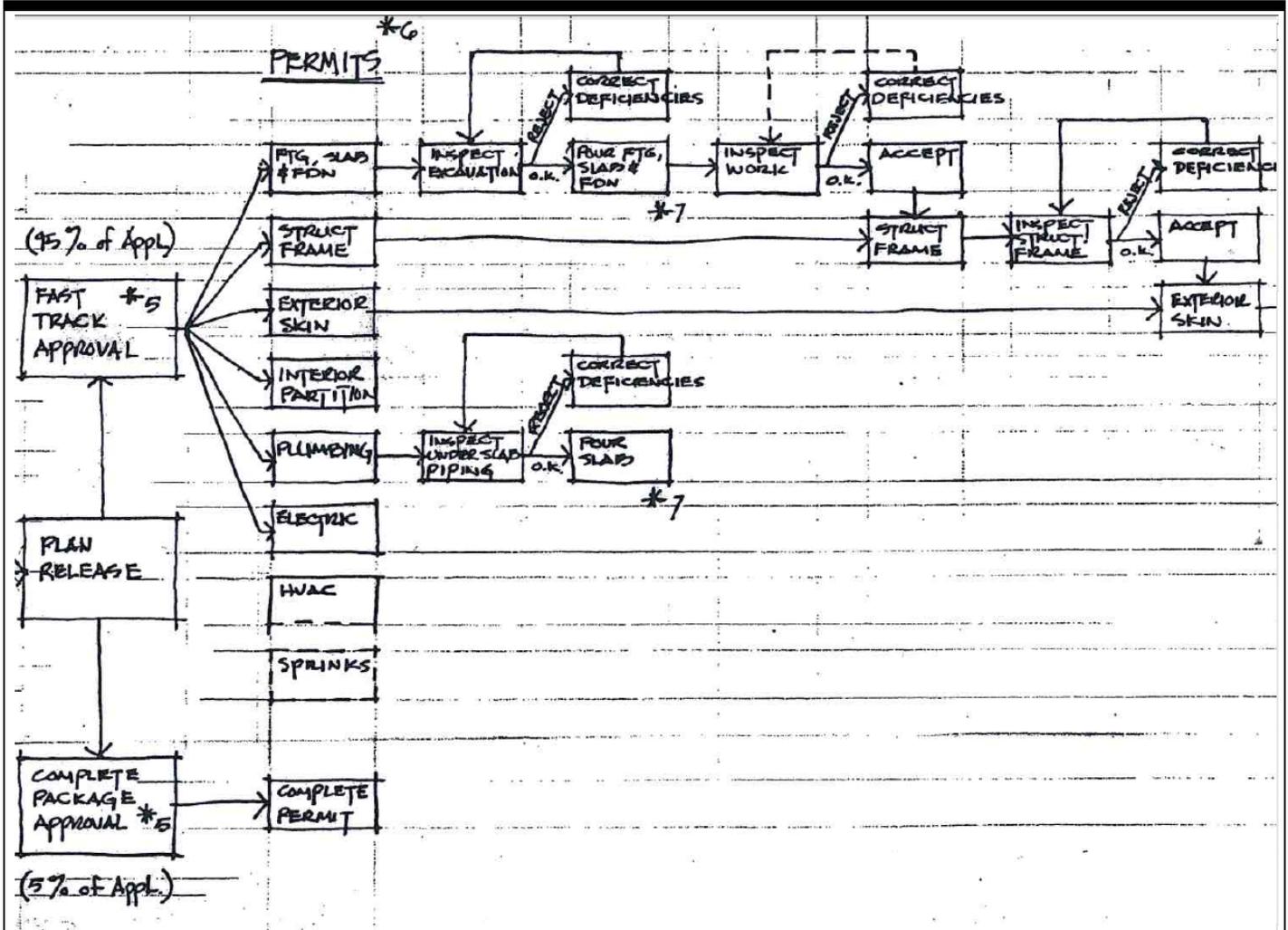
**Simplifying Building Codes
Why New Jersey Scrapped Local and State Codes in favor of National Model Codes**

(The below is an abridged and edited version of an article William M. Connolly wrote more than 20 years ago. It was published in a construction industry magazine to describe New Jersey's code enforcement system for a national audience.)

Locally written building codes, by their nature, promote duplication and non-uniformity and detract from timeliness and predictability. A better choice is based on national model codes and a strong working partnership between levels of government. In New Jersey, local and State officials have formed a partnership that has gone a long way toward providing an open, responsive, timely, predictable and effective regulatory system.

Reliance on national model codes establishes a framework that makes possible several desirable characteristics, beginning with timeliness and predictability. Because the model codes are the product of associations of public sector enforcement experts working in conjunction with private sector standards and testing systems, they also serve as valuable referees on maintaining a fair balance between public health and safety on one hand and costs on the other. The organizations promulgating these codes provide the soundest of technical and safety foundations for a building regulatory program. No state, county or local government can sustain, or as a practical matter will sustain, comparable code research and writing for very long. Even where the effort can be sustained, the wisdom of expending taxpayers' money to develop what is already available is questionable. Adopting national model codes has an additional benefit. With an accessible, reliable national organization handling codes and standards, local officials can devote their attention to implementation issues, such as efficient administration, effective enforcement and continuing education.

(continued on page 7)



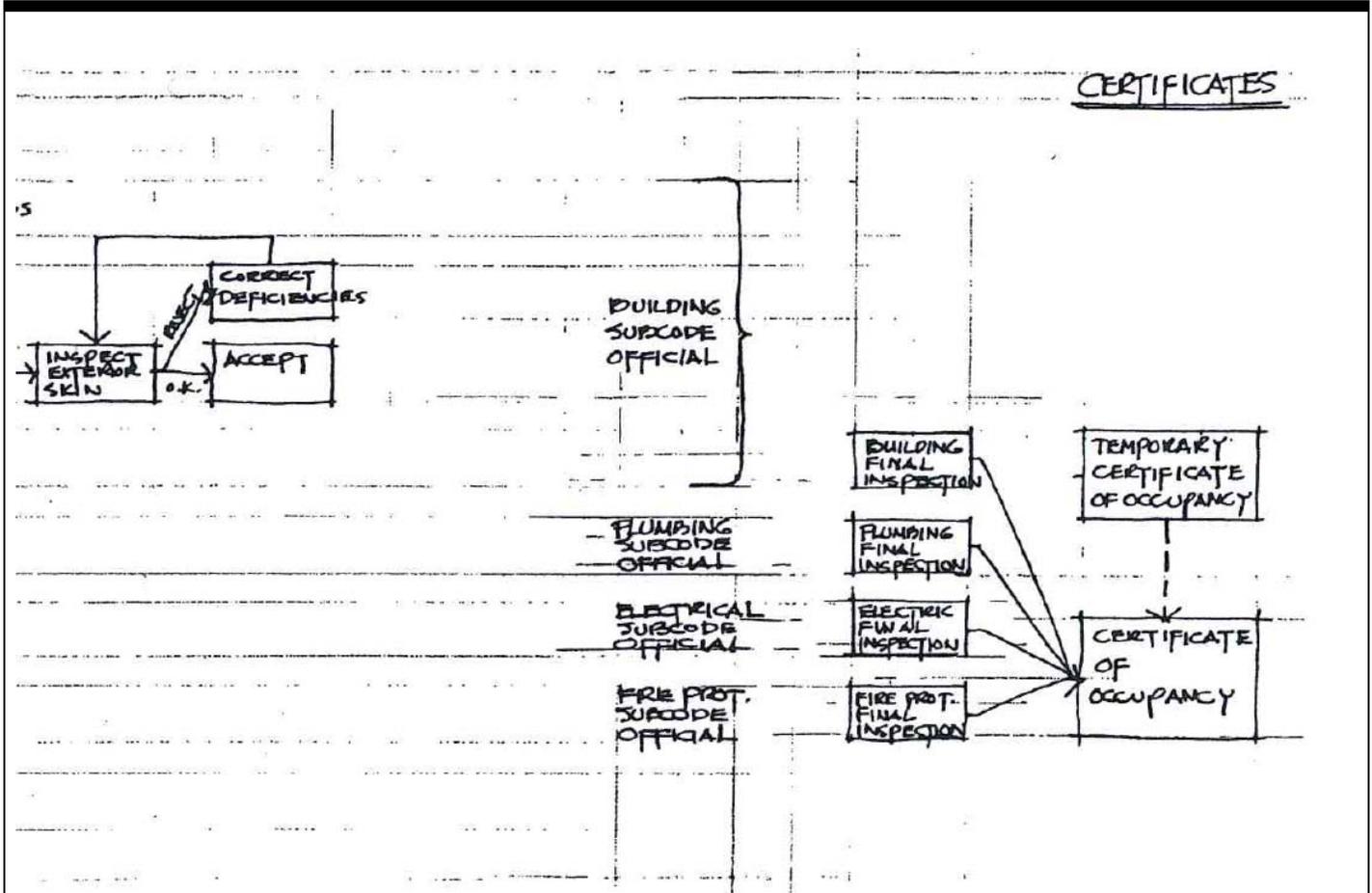
(Simplifying Building Codes – continued from page 7)

No public agency in New Jersey writes the technical provisions of construction codes. Instead, New Jersey adopts national model codes by reference. We do not amend these codes at the State or local level. We have adhered to this policy without exception since January 1, 1977. On that day, New Jersey swept away a web of confusion and duplication and implemented the Uniform Construction Code (UCC.) There is no question in my mind that the citizens of New Jersey are safer today because of it.

Because no code or code enforcement system is any better than the professionals who administer it, we seek to promote the technical competence and ethical integrity of the profession through the following enforcement principles:

- **Licensing of code enforcement professionals.** Every construction official, subcode official and inspector must be licensed the Department of Community Affairs. The UCC provides for separate technical licenses for each discipline.
- **Plan review system.** The UCC provides for levels of licensure. If a project is proposed in a municipality without adequate licensing, the plans are reviewed by the State. When released, the plans then serve as the basis for inspections by local officials.
- **Tenure of officials.** While New Jersey has a strong tradition of civil service protection for public employees, include code enforcement employees, about half of our towns do not offer civil service protection. In those towns, code officials are appointed for four year terms. A second appointment brings tenure. This kind of protection is necessary if we expect code officials to carry out their responsibilities professionally.
- **Professional accountability.** When technical incompetence, dishonest conduct or failure to maintain adequate public records are found, New Jersey takes action, include the ability to suspend or to revoke the license of the official involved.

(continued on page 8)



(Simplifying Building Codes – continued from page 8)

- **Conflict of interest.** One cannot be involved in the construction industry and properly regulate it. The UCC contains strong provisions limiting the outside employment of code officials.
- **Code variations.** Literal application of even the best code will sometimes prove impractical. Rather than relying on variance boards, the UCC empowers subcode officials to judge written variation requests on life-safety equivalence criteria.
- **Professional Responsibility.** Each of the subcode disciplines has clear and distinct responsibilities. All necessary enforcement activities must be approved by officials with appropriate licenses.
- **Administrative civil penalties.** In some situations, traditional enforcement resources, such as stop-work orders or withholding a certificate, become inadequate. Uncorrected violations are civil matters, with violators subject to administrative assessment of civil penalties. Unpaid penalties are subject to summary civil collections proceedings just as any other debt would be.
- **Fee-supported enforcement.** The Uniform Construction Code requires that enforcement be self-supporting through user fees. The construction industry in New Jersey has acknowledged that it is far better to pay realistic fees than to suffer the financial consequences of delay and confusion resulting from inadequately funded enforcement.
- **Education and training.** The education and training that support the design professions and the construction industry do not provide satisfactory background in codes, standards or code enforcement. New Jersey created extensive education and training programs. These include: approved courses which provide the prerequisite instruction for licensing test and continuing education required during each cycle to meet license renewal criteria. This extensive education and training effort is supported by a small surcharge levied on most permits.

This, then, is the "state of the art" regarding construction code enforcement in New Jersey. Our approach has been based on national model codes and a strong working partnership between the State and local officials. I am convinced that we have made our State safer through this system characterized by timeliness, predictability and professionalism.

Home Elevation Contractor Registration and Home Elevation Standards

(In a memorandum to Construction Officials dated October 3, 2014, Director Smith wrote...)

P.L. 2014, c. 34, signed into law by Governor Christie on August 15, 2014, calls for the Division of Consumer Affairs, in the Department of Law and Public Safety, to adopt rules for the registration of home elevation contractors. The Department of Community Affairs is charged with the adoption of rules governing the methods, procedures and other requirements that must be followed in performing home elevations. The statute authorized the two agencies to adopt special rules to implement these new requirements as quickly as possible. The rules are a special adoption and concurrent proposal. What does this mean? It means that the rules became effective on October 1, 2014 when they were filed with the Office of Administrative Law. And they have been proposed for public comment at the same time. The Notice of special adoption and concurrent proposal is posted on the Division's webpage and is attached for your review. It will appear in the New Jersey Register on November 3. The public comment period will extend until January 2, 2015. But the rules are on the books and must be enforced now.

The rules adopted (and concurrently proposed) by the Division of Consumer Affairs require a registered home elevation contractor for contracts to elevate entered into on or after October 1, 2014. (A copy of a notice on the new rules sent out by the Division of Consumer Affairs is attached. These rules include experience and insurance requirements for home elevation contractors.)

The following is a summary of the amendments to the Uniform Construction Code to establish standards for the elevation of existing buildings.

PERMIT APPLICATION – These requirements apply to permit applications submitted on or after October 1, 2014. N.J.A.C. 5:23-2.15 is amended to require that a permit application to elevate an existing home include the registration number of the home elevation contractor—or home improvement contractor if the contract was entered into prior to October 1.

Certification – The permit application must be accompanied by a certification signed by the contractor. A form to use for this purpose is attached. (Please note that this requirement is statutory.) When issuing permits for home elevations, it will be necessary to ask whether the contract was entered into before October 1. In every case, have the contractor complete the certification indicating that he/she is in compliance with the applicable provisions of the new laws. Those with contracts signed before October 1 may be home improvement contractors. Those with contracts signed on or after October 1 must be home elevation contractors.

INSPECTIONS – N.J.A.C. 5:23-2.18 is amended to state that a pile certification, prepared by a licensed professional engineer, takes the place of an inspection for pile foundations. The amendments include a description of what the certification must include and a requirement that the certification be based on the engineer's personal observations. (The person on site may be an employee of the engineer.)

REQUIREMENTS FOR HOME ELEVATIONS – A new rule, N.J.A.C. 5:23-2.37, contains the requirements for elevation, including addressing utility service connections, methods and equipment required, and protection of adjoining property. This is similar to the requirements contained at N.J.A.C. 5:23-2.17 for demolitions.

AMENDMENT TO THE ONE- AND TWO-FAMILY DWELLING SUBCODE FOR CONSTRUCTION ON PILES – N.J.A.C. 5:23-3.21 is amended to require the use of American Society of Civil Engineers (ASCE) Standard 24 for the construction of one- or two-family homes on piles. Previously, the use of ASCE 24 was required for buildings other than one- or two-family homes, but was listed as an alternative in the one- and two-family dwelling subcode. ASCE 24 is recognized as the industry standard for construction on piles. Its use is now required for all construction on piles. Alternate designs that do not conform to ASCE 24 may still be used through application for and granting of a variation. Because this is an amendment to an adopted subcode of the Uniform Construction Code, the six month grace period provided at N.J.A.C 5:23-1.6 will apply.

Up until this point, the Uniform Construction Code has not contained requirements specifically applicable to the elevation of an existing house. All of us have witnessed incidents of unscrupulous or incompetent contractors taking advantage of homeowners in the Sandy-affected communities. The intent of these new rules is to protect homeowners and to provide local code enforcement agencies with regulatory tools to be used for this purpose. Should you have any questions or concerns, please feel free to contact the Code Assistance Unit at (609) 984-7607 or codeassist@dca.nj.gov.

No DCA Approval Required for Local Review of Plans for Projects Undertaken at Schools

(In a letter to Construction Officials dated September 3, 2013, Director Smith wrote...)

September 3, 2013 Dear Construction Official: I am writing to inform you of a change in the process for review of plans for projects at schools. Effective immediately, no Department of Community Affairs approval will be required for local review of plans for projects to be undertaken at schools. The use of Department of Education Form DOE-124 is being discontinued. If a local code enforcement agency is classified at the appropriate level to review the project in question, as with all other types of construction projects, that agency may accept the project. If a local code enforcement agency declines to perform plan review for a school project or is not classified at the appropriate level for the project in question, then the project may go to an appropriately classified local code enforcement agency in a neighboring town or to the Department for review. Because of the added security requirements, plans and specifications for the construction of new schools will continue to be reviewed by the Department. Projects involving a change of use or an addition may be reviewed by a local enforcing agency classified at the appropriate level for the project. All Schools Development Authority (SDA) projects will continue to be reviewed by the Department.

Please note that, in addition to plan review for compliance with all applicable provisions of the adopted subcodes of the Uniform Construction Code, the local code enforcement agency also has responsibility to ensure compliance with N.J.A.C. 5:23-3.11A(c) and with the Department of Education's public school facility requirements enumerated in Bulletin 00-3.

Approval from the Department of Education is still required pursuant to the Educational Facilities Construction and Financing Act, P.L. 2000, c. 72. The Department of Education also performs a review for compliance with the educational adequacy requirements set forth in N.J.A.C. 6A:26-5. As before, the approval of the Department of Education must be in place before a plan review is undertaken pursuant to the Uniform Construction Code.

Should you have any questions about this letter or enforcement of the requirements of the Uniform Construction Code applicable to schools, please contact John Terry at john.terry@dca.nj.gov or (609) 984-7609. Should you have questions about the Department of Education approval, please contact Frank LoDolce in the Department of Education's Office of School Facilities at frank.lodolce@doe.nj.gov or (609) 292-7078.

Private Garages Below Living Spaces
(updated from Volume 13, Number 1, Spring 2001)

Recently, the Department has received a number of inquiries regarding the requirements for floor/ceiling separation assemblies between the dwelling unit and a private garage located beneath living spaces in single-family homes. According to Section 406.1.4 of the 2009 International Building Code (Building Subcode) and Section R302.6 of the 2009 International Residential Code (One- and Two-family Dwelling Subcode), fire partitions and floor/ceiling assemblies that have a minimum one-hour fire-resistance rating shall separate private garages located beneath habitable rooms from adjacent interior spaces.

In Formal Technical Opinion (FTO)-13, the Department has provided some working examples of construction practices that meet the intent of the Building Subcode and One- and Two-family Dwelling Subcode and which are considered acceptable methods of providing a one-hour fire-resistance-rated assembly. FTO-13 does not, however, supersede the Building Subcode and One- and Two-family Dwelling Subcode. FTO-13 provides examples of acceptable ways to meet the requirements of the Building Subcode and One- and Two-family Dwelling Subcode. Designs other than those included in FTO-13 are possible. Therefore, it is up to the design professional to decide which resource to use.

If you have any questions, please contact me at (609) 984-7609.

Source: Marcelino Iglesias
Code Assistance Unit

Permit Extension Act 2008

(In a letter the Construction Officials dated January 15, 2015, Director Smith wrote...)

P.L. 2014, c. 84, signed into law by the Governor on December 26, 2014, amends the "Permit Extension Act of 2008," P.L. 2008, c.78, and again extends the expiration date of certain permits. Under this new law, only the dates have changed. All of the other terms and conditions of the Permit Extension Act remain as they were. Below please find updated guidance on the application of the Permit Extension Act which has been revised to reflect the new expiration dates.

As code officials, you will continue to deal with this law on two levels: its impact on permits issued under the UCC and its impact on prior approvals. The Act stops the clock on the running of approvals during the "extension period," which is now defined as January 1, 2007 through December 31, 2015. This means that any UCC permit that was valid as of January 1, 2007 will still be valid on December 31, 2015. On December 31, 2015, when the clock starts again, the permit is valid for an additional six months or for the time that would have remained on January 1, 2007, whichever is shorter. Any permit issued during the extension period (between January 1, 2007 and December 31, 2015) will be valid until June 30, 2016 (six months beyond the end of the extension period,) or until the date when it would have expired if the Permit Extension Act had not been passed, whichever is longer. (Some examples of how to apply the Permit Extension Act to UCC permits are enclosed.)

There continues to be an exclusion in the Act for permits issued for projects in environmentally sensitive areas. To determine whether your municipality or any portion of your municipality is an "environmentally sensitive area" as that term is defined in the Act, please refer to the enclosed attachment.

In order to determine whether a prior approval qualifies for extension under this Act, construction officials should check with the agencies and officials responsible for issuing those prior approvals to make sure that those prior approvals remain in effect. A list of the approvals included and of those excluded by the Act is enclosed.

In those cases where plan review was done by DCA, any plan release that was valid on or after January 1, 2007 may be used to support issuance of a permit through June 30, 2016. The same would be true of released prototypes. Once again, before issuing a permit, it is necessary to check with the agencies or officials involved to ensure that any required prior approvals remain valid.

Information, including this letter and the full text of the Act, is posted on the Division's website for your use. <http://www.nj.gov/dca/divisions/codes/topics/#pea>

Should you have any questions about the application of the Permit Extension Act, please feel free to call the Code Assistance Unit at (609) 984-7607.



Code Citations Decoded

(reprinted from Volume 10, Number 1, Spring 1998)

I can't tell you how many times I get calls from architects and contractors asking if a code official is required to provide a code citation for a plan review rejection comment. The answer simply is YES.

N.J.A.C. 5:23-2.16(a), Construction permits-procedure, states, "If the application is denied in whole or in part, the enforcing agency shall set forth the reasons therefor in writing." An applicant has a due process right to question a rejected item. The applicant's due process right entitles him/her to know what specifically has been violated. Therefore, written comments MUST be accompanied by the appropriate code citation. This provides the applicant the ability to appeal a rejection. Also, remember the code citation must be accurate and complete. If you can't find an applicable code section, you can't cite the item as a violation.

Source: Gerald Grayce *(Retired)*
Bureau of Regulatory Affairs

Lead-Free Fixtures and Piping

(In a memorandum to Plumbing Subcode Officials dated February 24, 2014, Director Smith wrote...)

The Reduction of Lead in Drinking Water Act (P.L. 111-380) is a federal law, enacted on January 4, 2011, that amends the Safe Drinking Water Act (42 USC 300g-6) by setting new, lower standards for the amount of lead allowed in plumbing products that come into contact with potable (drinkable) water. This change reduces the permissible levels of lead in the wetted surfaces of pipe, pipe fittings, plumbing fittings and fixtures to a weighted average of not more than 0.25 percent. For solder and flux, the limit remains 0.2 percent lead. The amendments also address the method for calculating lead content. Products that meet this standard are defined in the law as "lead free."

This law became effective on January 4, 2014. It is anticipated that the 2015 edition of the National Standard Plumbing Code will address this issue. However, since the federal law is in effect, local code officials should begin enforcing this requirement now. All pipe, pipe fittings, plumbing fittings and fixtures used in potable water systems should comply with this new requirement.

There are resources available on the International Code Council website that may be helpful in the identification of compliant fixtures and piping. The links are provided below for your convenience. Should you have any questions, please feel free to contact Thomas Pitcherello in our Code Assistance Unit at (609) 984-7607.

This site has examples of product markings: <http://www.iccsafe.org/cs/PMG/Documents/GetTheLeadOut.pdf>

Under "Lead in Plumbing Products," this site has information on the new federal requirements: <http://www.iccsafe.org/cs/PMG/Pages/default.aspx>

Vapor Retarders

(updated from Volume 23, Number 3, Fall 2011)

The requirements --and the exceptions--for vapor retarders in the International Residential Code (IRC)/2006 have been distributed throughout the text of IRC/2009 regarding the building thermal envelope. The Department has received many questions on the application and installation of vapor retarders, so, in this article, we are providing the IRC/2006 text, footnoted, to help you find the requirements in the IRC/2009; keep in mind that climate zone 4 is exempt for framed assemblies, so the following applies to climate zone 5, unless otherwise noted.

IRC/2006

R318.1 Moisture control.

In all framed walls^a, floors^b and roof/ceilings^c comprising elements of the building thermal envelope, a vapor retarder shall be installed on the warm- in-winter side of the insulation.

Exceptions:

1. In construction where moisture or freezing will not damage the materials.
2. Where the framed cavity or space is ventilated to allow moisture to escape.
3. In counties identified as in climate zones 1 through 4.

IRC/2009

a – R601.3, General wall construction

b – R408.1 and R408.2, Naturally ventilated underfloor spaces; R408.3, Unvented under-floor spaces; R506.2.3, Concrete floors on ground (not a framed assembly and contains its own exceptions)

c – R806.4, Unvented attic assemblies

If you have questions, please contact me at (609) 984-7609.

Source: Rob Austin

Code Assistance Unit

When is a Demolition Permit Required?
(updated from Volume 13, Number 3, Fall 2001)

The Department of Community Affairs has become aware of some confusion in the field about when permits are required for demolition. As a general rule of thumb, a true demolition permit is required when the entire building is being demolished. Under the Rehabilitation Subcode, when a portion of a building is being demolished, this type of work is considered an alteration or reconstruction. In an alteration or reconstruction project, a permit may be issued for the portion of the building being demolished in conjunction with a construction permit.

The exception to this rule is that, when a building or structure is going to be demolished and the foundation left in place, a full demolition permit is required. Any portion of the new structure built on the existing foundation is treated as new construction and is required to comply with the Building Subcode; the existing foundation is required to comply with the Rehabilitation Subcode.

If you have any questions, you may contact me at (609) 984-7609.

Source: Marcel Iglesias
Code Assistance Unit



Owners Doing Work In Their Own Homes
(reprinted from Volume 21, Number 1, Spring/Summer 2009)

This article intends to help clear up some confusion between home improvement contractors (HIC) and homeowners preparing their own plans.

The HIC requirements, as they pertain to the Uniform Construction Code (UCC), can be found at N.J.A.C. 5:23-2.15(b)8. The exception for single-family homeowners preparing their own plans can be found at N.J.A.C. 5:23-2.15(f)1ix.

Please keep in mind that the UCC references above have distinct differences. N.J.A.C. 5:23-2.15(f)1ix. allows the construction official to waive the requirement for signed/sealed plans in the case of a single family homeowner who has **prepared** construction plans to a detached structure used or intended to be used exclusively as his or her private residence. As per N.J.A.C. 5:23-2.15(b)8ii, a HIC registration is not required for any person **performing** a home improvement upon a building or structure in Group R-2, R-3, R-4 or R-5 owned by that person, or by a member of that person's immediate family.

As you can see from the bolded/italicized words above, N.J.A.C. 5:23-2.15(f)1ix deals with the **preparation of the plans**, while N.J.A.C. 5:23-2.15(b)8ii deals with **construction work being performed**. As an example, a single family homeowner owns two homes; one is his residence, the other is a rental property. The homeowner has decided to build an attached deck at his home and also to build an attached deck at the rental property. The homeowner is allowed to draw the deck plans for the home he lives in, but may not draw the deck plans for the rental property; the plans for the rental property must be drawn by a design professional. However, the homeowner may construct the deck his home and may also construct the deck at the rental property without being registered as a HIC.

If you have any questions on this matter, you may contact me at (609) 984-7609.

Source: Rob Austin
Code Assistance Unit

The Natural Nuisance - Mold

(updated from Volume 13, Number 4, Winter 2004)

What's green, black, or a variety of other colors; is sometimes hairy and smelly; and oftentimes hides in the dark, or can be found in places where water is present? Drum roll, please ... MOLD.

Recently, there has been much in the media about the effects mold has on health. Understandably, the media's sometimes sensational approach to informing the public has caused some uneasiness among New Jersey's homeowners. The Department of Community Affairs has received inquiries about mold in homes. The most fundamental question is whether the Uniform Construction Code has jurisdiction over this problem -- as a construction issue-- or whether jurisdiction lies with the Department of Health (DoH) as a health problem.

Before we jump to conclusions, what do we know about mold? Molds are fungi. They can be found everywhere - indoors and outdoors - and they grow anywhere, and I mean anywhere, moisture is present. Approximately 1,000 of the 10,000 species of mold are found in the United States, with the most commonly found being Cladosporium, Penicillium, and Aspergillus.

Molds play a saprophytic role, which means that they derive their nourishment from metabolizing or breaking down carbon surfaces, examples of which are cellulose, carpet, wood, dirt, asbestos, insulation, and wallboard. As a result of this metabolic process, molds release millions upon millions of spores containing proteins.

Now, let's consider how molds might affect a person's health. Imagine you are a person with an allergy to pollen. When the air contains pollen, your allergies act up. Your nose might get stuffy, your eyes might be itchy, your chest might be a little congested, and you probably sneeze a lot. Common sense would tell us then that when spores from a certain species of mold are released into the air and are free floating, a person's allergy to that particular species of mold might be triggered, much as it would were he or she allergic to pollen. Similarly, persons with compromised immune systems might be sensitive to molds. Here's an important rule of thumb: the lower your immunity, the greater the chance of being susceptible to allergy and illness.

Through investigation, it has become clear that this is not a construction issue. However, if water/moisture is a problem in the building and is code related, then code officials should address this. Otherwise, medical problems resulting from exposure to molds in buildings or homes are due to an indoor air quality problem, which is a health issue. Jurisdiction for addressing complaints lies with DoH.

Code Officials: If homeowners have questions about mold or general indoor air quality problems, you may direct them to the DoH Indoor Environments Program at (609) 826-4950. Also, information may be obtained from the DoH website at <https://www.nj.gov/health/ceohs/environmental-occupational/mold/>.

If you have any questions, please contact the Code Assistance Unit at (609) 984-7609.

Source: Megan Sullivan Cyz
Code Development Unit

What Is the Meaning Behind the Issuance of a Certificate of Occupancy?

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The Uniform Construction Code Act itself states that "the Certificate of Occupancy shall certify that the building or structure has been constructed in accordance with the provisions of the construction permit, the code, and other applicable laws and ordinances." There are three important concepts related to Certificates of Occupancy (C.O.'s) which need to be understood:

1. The law states that the "certificate of occupancy shall certify." This does not mean that the construction official or subcode officials are certifying that the structure complies. Rather, those officials issue or approve the issuance of the C.O. based on the applicant's certification that the work complies and their own inspections which are intended to check on, rather than substitute for, the owner's certification. The certification is called for at N.J.A.C. 5:23-2.23(h)4. It should be a part of the application for a C.O.
2. The C.O. is to be issued only if the requirements of all other applicable laws and ordinances are met. An example would tie conditions imposed by a municipal planning board as a part of site plan approval. It is important to understand that the authority to decide whether or not the requirements of other laws and ordinances have been met rests with the construction official and no one else. If the other law or ordinance is enforced by some other municipal, county, or state official, then the Construction Official will ordinarily rely on the advice of that other official as to whether or not the other law or ordinance has been complied with. Final decision-making authority, however, rests with the Construction Official. Similarly, the authority to issue a Temporary Certificate of Occupancy (T.C.O.) when work required under some other law or ordinance is not fully complete rests with the Construction Official. The Construction Official should use the guidelines for TCO's established in the regulations at N.J.A. C. 5:23-2.23(g).
3. The Certificate of Occupancy constitutes permission to occupy a building for a specific use - and no more. The requirement for a C.O. was established because some control on when the use of a new building or the changed use of an existing one may legally commence. This permission is granted by the Construction Official and it can be withdrawn by the Construction Official because the C.O. is conditional. There are conditions which have to be met in order for a building to qualify for a certificate of occupancy. They are listed in the regulations at N.J.A.C. 5:23-2.24. There are also conditions which have to be met in order for a building to keep its certificate of occupancy. They are set forth at N.J.A.C. 5:23-2.23(i). The regulations provide that a C.O. may be revoked if the condition for obtaining it or the conditions for keeping it are no longer met. For example, if it is found that a serious violation of the code is present which was not picked up during construction or if it is found that a required system such as a fire alarm is no longer operable, then the C.O. can be revoked. The revocation of a C.O. is a serious matter since the owner loses use of the building. It is a remedy which should not be invoked lightly, but it is important to understand that it is there.

There is one final principal related to Certificate of Occupancy which is important. It is quite common for Temporary Certificates of Occupancy (T.C.O.) to be issued. These T.C.O.'s should only be issued for a fixed period of time. It is expected that any remaining work will be completed before the T.C.O. expires. A T.C.O. can, of course, be extended for good cause. If a T.C.O. expires without all remaining work being done, then the building is being occupied without a C.O. in violation of the code. The construction official is obliged to assess penalties and take any other step as may be necessary to terminate the illegal occupancy. This holds true whether the remaining work is required by the code or required by one of the other laws or ordinances referred to by law.

The certificate of occupancy is not a certification, but a powerful enforcement tool which is there for the Construction Official to use to compel compliance with the law.

Source: William M. Connolly, AIA (*Retired*)
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