

# **DECLARATION OF EMERGENCY**

## **Department of Public Safety and Corrections State Uniform Construction Code Council**

### **Uniform Construction Code (LAC 55:VI.Chapters 1-11)**

The Louisiana Department of Public Safety and Corrections, Louisiana State Uniform Construction Code Council hereby adopts the following Emergency Rules governing the implementation of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730.21 et seq. This Rule is being adopted in accordance with the Emergency Rule provisions of R.S. 49:953(B) of the Administrative Procedure Act. This Emergency Rule becomes effective on the date of the signature by the authorized representative of the Louisiana State Uniform Construction Council and shall remain in effect for the maximum period allowed by the APA, which is 120 days.

As a result of the widespread damage caused by Hurricanes Rita and Katrina, the Legislature enacted and mandated a state uniform construction code to promote public safety and building integrity. Since this new code goes into effect statewide on January 1, 2007, it was necessary for the Louisiana State Uniform Construction Code Council to promulgate rules in order to help clarify the building code officer registration process, the specific codes to be enforced, and the provisional registration periods for code enforcement officers. The council instituted the regular rulemaking process in August 2006, however, due to the various procedural delays, the rules are still in the rulemaking process and have not become final. Immediately adopting these administrative rules will greatly improve the facilitation of the intent of this legislation in mandating a statewide uniform construction code until the permanent rules are finalized.

### **Title 55 PUBLIC SAFETY Part VI. Uniform Construction Code**

#### **Chapter 1. Preliminary Provisions**

##### **§101. Request for Rule Change**

A. Anyone petitioning the Undersecretary, Department of Public Safety, for the adoption of, or change of, any rule shall submit in writing to the Council Administrator at 8181 Independence Boulevard, Baton Rouge, LA 70806, an application containing the following basic information organized and captioned:

1. the name, address, telephone number and email address of the applicant;
2. a brief description of the facts supporting the applicant's request for the adoption of a rule or the change of a rule that has already been adopted;

3. suggested specific language or language setting forth the substance of the rule or rule change which is being requested;
4. an indication as to whether or not a public hearing is requested;
5. a copy of each and every document upon which the applicant bases his request for a rule or a citation of the information and where it can be easily obtained for review by this office.

B. Whenever the council administrator determines that a public hearing or public hearings should be held prior to the adoption of any rule or rule change, a notice of the meeting date and place and the agenda will be recorded in the *Louisiana Register*; however, whenever that is not possible, a copy of the meeting notice including the date, time, and place, and agenda of the meeting will be mailed to the official journals of the cities of Lafayette, Alexandria, Shreveport, Monroe, Lake Charles, Baton Rouge and New Orleans.

C. Within 90 days of the request for adoption of or change of a rule, the council administrator will notify the applicant and each individual who request a copy of either his denial of the application or notice of intent to adopt the requested rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

### **Chapter 3. Adoption of the Louisiana State Uniform Construction Code**

#### **§301. Louisiana State Uniform Construction Code**

A. In accordance with the requirements set forth in R.S. 40:1730.28, effective, January 1, 2007, the following is hereby adopted as the Louisiana State Uniform Construction Code.

1. International Building Code, 2006 Edition, not including Chapter 1-Administration, Chapter 11-Accessibility, Chapter 27-Electrical and Chapter 29-Plumbing Systems. The applicable standards referenced in that code are included for regulation of construction within this state.

2. International Existing Building Code, 2006 Edition, not including Chapter 1-Administration, and the standards referenced in that code for regulation of construction within this state.

3. International Residential Code, 2006 Edition, not including Parts I-Administrative, V-Mechanical, VII-Plumbing and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. Appendix J, Existing Buildings and Structures, is also included for mandatory regulation. For

purposes of this part, section R301.2.1.1 of the 2003 edition of the International Residential Code is hereby specifically adopted in lieu of the 2006 edition and shall be effective until January 1, 2008. Furthermore, IRC R301.1.1 (Design Criteria) shall be amended as follows and shall only apply to the International Residential Code:

- a. amendment of R301.2.1.1 (Design Criteria);
- b. item 6, the American Concrete Institute, *Guide to Concrete Masonry Residential Construction in High Winds Areas*, shall be added;
- c. item 7, Institute for Business and Home Safety, *Optional Code-plus Fortified for Safer Living*, shall be added;
- d. item 8, Federal Alliance for Safe Homes, *Optional Code-plus Blueprint for Safety*, shall be added.

4. International Mechanical Code, 2006 Edition, and the standards referenced in that code for regulation of construction within this state.

5. The Louisiana State Plumbing Code [Part XIV (Plumbing) of the State Sanitary Code] as amended by the state health officer acting through the Office of Public Health of the Department of Health and Hospitals. Nothing in this Part shall be construed so as to prevent the state health officer from enforcing Part XIV (Plumbing) of the State Sanitary Code, the enforcement of which is his statutory and regulatory responsibility.

6. International Fuel Gas Code, 2006 Edition, and the standards referenced in that code for regulation of construction within this state.

7. National Electrical Code, 2005 Edition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

## **Chapter 5. Enforcement of Louisiana State Uniform Construction Code**

### **§501. General**

A. Effective January 1, 2007, all municipalities and parishes shall enforce the Louisiana State Uniform Construction Code. Municipalities and parishes may establish agreements with other governmental entities or registered and certified third party providers to issue permits and enforce the state uniform construction code. No municipality or parish shall require that residential building plans for one and two family dwellings be prepared or stamped by a licensed architect or engineer if the dwelling falls within the prescriptive

codes of the Louisiana State Uniform Construction Code, except as required by Chapter 12 of the Louisiana State Plumbing Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

### **§503. Farm or Recreational Structures**

#### **A. Definitions**

1. For the purposes of these regulations the words defined in this Section have the following meaning.

*Farm Structure* —a structure which is constructed on a farm, other than a residence or structure attached to it, for use on the farm including, but not limited to barns, sheds and poultry houses.

*Private Outdoor Recreational Structure* —a hunting or fishing camp not used as a residence nor attached to a residence.

#### **B. Exemptions to State Uniform Construction Code**

1. The governing authority of a parish or municipality may not enforce the Louisiana State Uniform Construction Code pertaining to the construction or improvement of a farm structure or private outdoor recreational structure. For private outdoor recreational structures only, the property owner of record, in applying for an exemption, shall execute an affidavit attesting to the structure's exempt status. The affidavit shall be filed into the parish conveyance records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

## **Chapter 7. Certificates of Registration**

### **§701. General**

A. On and after January 1, 2007, no person shall practice as a code enforcement officer in this state unless registered with the Louisiana State Uniform Construction Code Council (council). A person desiring to be registered as a parish or municipality building code enforcement officer or a third party provider shall apply to the council for a Certificate of Registration. The applicant shall apply on the application form prescribed by the council. An applicant shall furnish satisfactory proof to the council of valid certification. A Certificate of Registration is valid for one year and expires on the last day of the month

of issuance. Those possessing Certificates of Registration must timely renew their certificates in order to remain in good standing with the council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

### **§703. Classifications and Required Certifications for Municipal or Parish Building Code Enforcement Officers**

#### A. General

1. In order to obtain a Certificate of Registration from the council for a particular classification, an individual must meet the following qualifications.

#### B. Definitions

*Building Code Enforcement Officer (BCEO)* —a person employed by a public entity who is primarily responsible for the overall inspection or enforcement of applicable building code requirements within the jurisdiction of the employer.

*Building Official* —the BCEO employed and charged by a public entity with the administration and enforcement of the Louisiana State Uniform Construction Code (LSUCC).

*Inspector* —a BCEO, who under the authority of the building official, is charged with the inspection of structures for compliance with his or her specialty classification(s) of the LSUCC.

*Plans Examiner or Reviewer* —a BCEO, who under the authority of the Building Official, is charged with the inspection of construction documents for compliance with his or her specialty classification(s) of the LSUCC.

*Third-Party Provider (TPP)* —any individual, entity or an individual employed by an entity contracted by a municipality, parish or licensed contractor to act in the capacity of a BCEO.

#### C. BCEO Registration Classifications/Requirements

##### 1. General Classifications

a. *Building Official (BO)* —requirements; possess a current ICC Certified Building Official certificate or a current ICC Master Code Professional certificate and have two years experience as an architect, engineer, inspector, plans examiner, contractor or

superintendent of construction or any combination of these. General classifications are not restricted and may enforce all classified specialties of the LSUCC.

## 2. Specialty Classifications

### a. Commercial Inspectors

i. Commercial Building Inspector Requirements —possess a current ICC Commercial Building Inspector certificate.

ii. Commercial Electrical Inspector Requirements —possess a current ICC Commercial Electrical Inspector certificate.

iii. Commercial Mechanical Inspector Requirements —possess a current ICC Commercial Mechanical Inspector certificate.

iv. Commercial Plumbing Inspector Requirements —possess a current ICC Commercial Plumbing Inspector certificate. v. Commercial Energy Requirements —shall be enforced by the Office of the State Fire Marshal.

### b. Commercial and Residential Plan Examiners or Reviewers

i. Building Plans Examiner Requirements possess a current ICC Commercial Building Plans Examiner certificate.

ii. Electrical Plans Examiner Requirements —possess a current ICC Commercial Electrical Plans Examiner certificate.

iii. Mechanical Plans Examiner Requirements —possess a current ICC Commercial Mechanical Plans Examiner certificate.

iv. Plumbing Plans Examiner Requirements —possess a current ICC Commercial Plumbing Plans Examiner certificate.

v. Commercial Energy Requirements —shall be enforced by the Office of the State Fire Marshal.

### c. Residential Inspectors

i. Residential Building Inspector Requirements —possess a current ICC Residential Inspector certificate.

ii. Residential Electrical Inspector Requirements —possess a current ICC Residential Electrical Inspector certificate.

iii. Residential Mechanical Inspector Requirements —possess a current ICC Residential Mechanical Inspector certificate.

iv. Residential Plumbing Inspector Requirements —possess a current ICC Residential Plumbing Inspector certificate.

v. Residential Energy Inspector Requirements —possess a current ICC Residential Energy Inspector/Plans Examiner certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.34(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

### **§705. Third Party Providers**

#### **A. General**

1. A third party provider shall register with the council. Third party providers shall meet the requirements of the general or specialty classification(s) whichever applicable and as contracted with the parish or municipality. Furthermore, any individual employed by a third party provider who is also performing work for the parish or municipality, shall also be council certified.

#### **B. Insurance**

1. All third party providers shall carry at least \$100,000 in general liability insurance. Proof of valid and current insurance coverage must be provided to the council upon registration and renewal of registration.

#### **C. Restrictions**

1. Third party providers shall not provide plan review or inspections on projects of their own design and/or construction.

#### **D. Code Enforcement Services for Non-Governmental Entities**

1. Third party providers providing plan review services for non-governmental entities shall provide written copies of the plan review to the code enforcement officer of the municipality or parish prior to issuance of construction permits.

2. Where a third party provider provides services in a jurisdiction which has a building department, third party providers shall adhere to the permitting and inspection procedures of said jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.34(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

**Chapter 9. Temporary Exemption to Certification Requirement**  
**§901. Employment after January 1, 2007**

A. Upon employment by a parish, municipality, or other political subdivision, an individual must be granted a provisional certificate of registration without certification by a recognized code organization or testing agency, provided that such individual is under the supervision of a registered code enforcement officer who is certified by the International Code Council. This provisional certificate of registration is valid for 12 months. Residential plan reviewers shall be granted an additional 12 month provisional certificate of registration commencing on the date of the first ICC residential plans examiner test. Thereafter, anyone renewing this Certificate of Registration shall satisfy the certification requirement(s) as set forth in §703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

**§903. Employment prior to January 1, 2007**

A. Certificates of Registration may be issued without certification by a recognized code organization or testing agency to building code enforcement officers already employed in code enforcement on January 1, 2007 only for the position and locality held at the time of registration. This registration is valid for three years for building officials and six months for building inspectors and plans reviewers. Additionally, inspectors and plan reviews who were employed by an authority having jurisdiction before July 1, 2006, and remain employed by that authority having jurisdiction, an additional 30 month provisional certificate or registration may be granted provided the individual can demonstrate an annual minimum of 3 continuing education units for a core discipline as require in §703. Thereafter, anyone renewing this Certificate of Registration shall satisfy the certification requirement(s) as set forth in §703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

## **§905. Third Party Providers**

Third party providers who are Louisiana licensed architects or engineers and who obtain a certificate of registration after January 1, 2007, shall be granted a provisional certificate for registration without certification by a recognized code organization for their specialty work only. For purposes of this section, specialty work shall be designated as follows: Architects – building; Civil engineers – building; Electrical engineers – electrical; Mechanical engineer - plumbing, fuel gas, and mechanical. This provisional certificate shall expire on December 31, 2007. Thereafter, any third party provider renewing this Certification of Registration shall satisfy the certification requirement(s) as set forth in §703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) & (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety.

## **Chapter 11. Disciplinary Proceedings**

### **§1101. General**

A. The council shall have the authority to suspend, revoke or deny renewal of Certificates of Registration upon any violation of R.S. 40:1730.21 et seq. after notice and proper hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

### **§1102. Informal Proceedings**

A. Notice. If the council receives written information indicating that a person holding a Certificate of Registration (registrant) is violating or has violated any provision of R.S. 40:1730.21 et seq. or this Part, the council, after an investigation, may, in writing, order the person to immediately refrain from the conduct or violation.

B. Response. The registrant shall respond in writing to the council's informal notice within 10 days of receipt by providing the council with a written statement containing any information related to the allegations of the informal notice which would show compliance with all requirements for retention or renewal of his or her Certificate of Registration. In lieu of providing a written statement, the registrant may request an informal conference with the council administrator and council chair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

### **§1103. Formal Proceedings**

A. Complaint. In the event that the matter is not resolved during the informal proceedings, the council shall file a formal complaint which then shall be forwarded to the registrant, via certified mail, to the address on file with the council.

B. Hearing. No hearing shall be conducted prior to 20 business days following the filing of the formal complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

### **§1105. Procedures**

A. Hearings. All hearings conducted before the council or a designated committee shall be in accordance with the Administrative Procedure Act.

B. Notice. The hearing notice shall include:

1. a statement of the time, place and nature of the hearing;
2. a statement of the legal authority under which the hearing is to be had;
3. a reference to the particular sections of the statutes and rules involved;
4. a short plain statement of the matters asserted.

C. Opportunity shall be afforded to all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross examination as may be required for a full and true disclosure of the facts.

D. Unless precluded by law, informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order or default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

### **§1107. Decisions and Orders**

A. A final decision or order adverse to a party in an adjudication proceeding shall be in writing. A final decision shall include findings of fact and conclusions of law. Findings of

fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Parties shall be notified by mail of the decision or order. A copy of the decision or order shall be sent via certified mail forthwith to each party and, if applicable, to his attorney of record. The parties by written stipulation may waive compliance with this Section. The council, in the event there is no contest, may eliminate compliance with this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

### **§1109. Rehearings**

A. A decision or order in a case of adjudication are subject to rehearing, reopening, or reconsideration by the council, within ten days from the date of its entry. The grounds for such action shall be either that:

1. the decision or order is clearly contrary to the law and the evidence;
2. the party has discovered since the hearing evidence important to the issues which he could not have with due diligence obtained before or during the hearing;
3. there is a showing that issues not previously considered ought to be examined in order properly to dispose of the matter; or
4. there is other good ground for further consideration of the issues and the evidence in the public interest.

B. The petition of a party for rehearing, reconsideration, or review, and the order of the council granting it, shall set forth the grounds which justify such action. On reconsideration, reopening, or rehearing, the matter may be heard by the council, or it may be referred to a subordinate committee. The hearing shall be confined to those grounds upon which the reconsideration, reopening, or rehearing was ordered. If an application for rehearing shall be timely filed, the period within which judicial review, under the applicable statute, must be sought, shall run from the final disposition of such application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

### **§1111. Judicial Review of Adjudication**

A. A registrant who is aggrieved by a final decision or order in an adjudication proceeding is entitled to judicial review whether or not he has applied to the agency for rehearing, without limiting, however, utilization of or the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by law. A preliminary, procedural, or intermediate action or ruling is immediately reviewable if review of the final council decision would not provide an adequate remedy and would inflict irreparable injury.

B. Proceedings for review may be instituted by filing a petition in the District Court of East Baton Rouge Parish within thirty days after mailing of notice of the final decision or, if a rehearing is requested, within 30 days after the decision thereon. Copies of the petition shall be served upon the council and all parties of record.

C. The filing of the petition does not itself stay enforcement of the council decision. The council may grant, or the reviewing court may order, a stay ex parte upon appropriate terms, relative to professions and occupations. The court may require that the stay be granted in accordance with the local rules of the reviewing court pertaining to injunctive relief and the issuance of temporary restraining orders.

D. Within 30 days after the service of the petition, or within further time allowed by the court, the council shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

E. If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the council, the court may order that the additional evidence be taken before the council upon conditions determined by the court. The council may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

F. The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the council, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

G. The court may affirm the decision of the council or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

1. in violation of constitutional or statutory provisions;

2. in excess of the statutory authority of the agency;
3. made upon unlawful procedure;
4. affected by other error of law;
5. arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
6. not supported and sustainable by a preponderance of evidence as determined by the reviewing court. In the application of this rule, the court shall make its own determination and conclusions of fact by a preponderance of evidence based upon its own evaluation of the record reviewed in its entirety upon judicial review. In the application of the rule, where the council has the opportunity to judge the credibility of witnesses by first-hand observation of demeanor on the witness stand and the reviewing court does not, due regard shall be given to the agency's determination of credibility issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.35(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:

Jill Boudreaux  
Acting Undersecretary

0701#011