

## PART IV-B. STATE UNIFORM CONSTRUCTION CODE

### § 1730.21. PUBLIC POLICY FOR STATE UNIFORM CONSTRUCTION CODE

A. The public policy of Louisiana is to maintain reasonable standards of construction in buildings and other structures in the state consistent with the public health, safety, and welfare of its citizens.

B. This Part is enacted to enable the state of Louisiana to promulgate a state uniform construction code to govern the construction, reconstruction, alteration, and repair of buildings and other structures and the installation of mechanical devices and equipment therein. The state uniform construction code shall establish uniform performance standards providing reasonable safeguards for health, safety, welfare, comfort, and security balanced with affordability for the residents of this state who are occupants and users of buildings, and will provide for the use of modern methods, devices, materials, and techniques. The state uniform construction code will encourage the use of construction materials of the greatest durability, lower long-term costs, and provide greater storm resistance.

C. To clarify the intent of the legislature and address questions which might arise or have arisen with respect to provisions of the nationally known codes which have been or are in place, only those portions or provisions of the nationally known building and safety codes which relate to building standards and safety are binding upon a state or local governmental entity or agency which adopts the building and safety codes authorized or required by this Part.

D. To further clarify the intent of the legislature, this Part continues to apply to a person who may act under authority of the Department of Public Safety and Corrections and that the allocation of inspection duties among local officials is not dictated by this Part but remains a matter for the local authority.

E. To secure these purposes, the Louisiana State Uniform Construction Code Council shall certify a person performing building codes enforcement including building officials, plans reviewers, and inspectors.

### ✓ § 1730.22. LOUISIANA STATE UNIFORM CONSTRUCTION CODE COUNCIL; MEMBERSHIP; FUNCTION OF COUNCIL; MEETING REQUIREMENTS; IMMUNITY

A. The Louisiana State Uniform Construction Code Council, hereinafter referred to as the "council," is hereby created and shall consist of nineteen members. Each member of the council shall be appointed by the governor, subject to Senate confirmation, for a term of three years and until a successor is appointed and qualifies. No member of the council shall receive per diem or other compensation for their duties on the commission.

B. A vacancy must be filled in the manner of the original appointment for the unexpired portion of the term.

✓ C. The primary function of the council is to review and adopt the state uniform construction code, provide for training and education of code officials, and accept all requests for amendments of the code, except the Louisiana State Plumbing Code [Part XIV (Plumbing) of the State Sanitary Code]. Specifically, the council shall establish the requirements and process for the certification and continuing education of code enforcement officers, code enforcement inspectors, and building officials and determine if any amendments to the state uniform construction code are justified. If the council determines that an amendment is justified, it may enact such an amendment after a finding on the record that the modification provides a reasonable degree of public health, safety, and welfare. The council shall adopt rules in accordance with the Administrative Procedure Act in order to implement the provisions of this Part.

D. The council shall elect from its members a chairman and vice chairman. The council shall adopt regulations under the Administrative Procedure Act in order to implement the provisions of this Part. A meeting may be called by the chairman on his own initiative and must be called by him at the request of three or more members of the council within fourteen days of such request. Each member must be notified by the chairman in writing of the time and place of the meeting at least seven days before the meeting. Each meeting shall be open to the public and any official decision of the council may be made only by a vote of at least two-thirds of those members in attendance at the meeting provided that a quorum is established prior to a vote. A majority of members of the council shall constitute a quorum.

E. The council and its members shall be immune from personal liability for actions taken in good faith in the discharge of their responsibilities. The state shall hold the council and its members harmless from all costs, damages, and attorney fees arising from claims and suits against them with respect to matters to which such immunity applies.

✓ § 1730.23. **ENFORCEMENT OF BUILDING CODES BY MUNICIPALITIES AND PARISHES**

A. Notwithstanding any other law to the contrary relating to the authority of local governments to enforce construction codes, all municipalities and parishes in this state shall enforce only the construction codes provided for in this Part.

B. Nothing in this Part shall conflict with the Federal Department of Housing and Urban Development's regulations regarding manufactured housing construction or the provisions of R.S. 51:912.21 et seq., as it relates to manufactured housing installation.

C. In connection with the construction of any building, structure, or other improvement to immovable property, neither the performance of any enforcement procedure nor any provision of a building code shall constitute or be construed as a warranty or guarantee by a governmental enforcement agency as to durability or fitness, or as a warranty or guarantee by a governmental enforcement official or a third-party provider who contracts with a municipality or parish as provided for in R.S. 40:1730.24(A), that said building, structure, or other improvement to immovable property

or any materials, equipment, or method or type of construction used therein is or will be free from defects, will perform in a particular manner, is fit for a particular purpose, or will last in any particular way. In the enforcement of any provision of a construction code provided for in this Part, or any regulations governed by R.S. 33:4771 et seq., the performance or non-performance of any procedure by a governmental enforcement agency, contract employee or official, shall be subject to the provisions of R.S. 9:2798.1.

D.(1) Notwithstanding any provision of Title 33 of the Louisiana Revised Statutes of 1950 or any other law to the contrary, no municipality or parish shall require that residential building plans for one and two family dwellings be prepared or stamped by a certified architect or engineer if the dwelling falls within the prescriptive standards of the latest edition of the International Residential Code or its referenced amendments as provided for in R.S. 40:1730.28.

(2) The provisions of this Section shall be effective for both the duration of the emergency wind and flood mitigation provisions as provided for in R.S. 40:1730.27 and after this Part becomes effective statewide as provided for in R.S. 40:1730.28(B)

√ § **1730.24. AGREEMENTS WITH OTHER GOVERNMENTAL ENTITIES FOR PROVISION OF SERVICES; PRIVATE AGREEMENTS**

A. Municipalities and parishes may establish agreements with other governmental entities of the state or certified third-party providers to issue permits and enforce the state uniform construction code in order to provide the services required by this Part. The council may assist in arranging for municipalities, parishes, or certified third-party providers to provide the services required by this Part to other municipalities or parishes if a written request from the governing body of the municipality or parish is submitted to the council.

B. Commercial and residential contractors may establish agreements with certified third-party providers to conduct plans review and inspections and enforce the State Uniform Construction Code. A third-party provider shall be a Louisiana licensed architect or engineer or certified by the International Code Council for purposes of the emergency provisions of R.S. 40:1730.27. For purposes of plans review and inspections of a residential single-family dwelling, a certified third-party provider may also be a licensed contractor for purposes of the emergency provisions of R.S. 40:1730.27, provided however that no contractor shall inspect their own work. A parish or municipality may, by local ordinance, prohibit a licensed contractor from acting as a certified third-party provider for purposes of the emergency provisions of R. S. 40:1730.27. On and after January 1, 2007, a third-party provider shall meet the requirements imposed by the council for certificates of registration. No architect, contractor, or engineer shall inspect the work of a contractor who is an "immediate family member" during the duration of the emergency provisions. For the purposes of this Section, an "immediate family member" is a parent, child, sibling, or spouse of the architect, contractor, or engineer. During the time period that the provisions of R.S. 40:1730.27 of this Part are in effect, every certified third-party provider doing business within the state shall notify the Department of Public Safety and Corrections of their intention to do business within the state and

the department shall maintain a listing of the name of the provider and the name and location of the person or entity with whom the provider has contracted to provide enforcement services. Once the council meets for the first time, certified third-party providers shall notify the council of their intention to do business within the state and the council shall maintain a listing of all certified third-party providers. For purposes of the emergency wind and flood provisions contained in R.S. 40:1730.27, the state fire marshal is authorized to adopt rules and regulations necessary to provide temporary additional third-party provider options for implementation of the uniform construction code by municipalities and parishes.

✓ § 1730.25. **APPOINTMENT OF BUILDING OFFICIAL OR CONTRACTUAL ARRANGEMENT FOR SUCH SERVICES; AFFIDAVIT FOR EXEMPTION**

Each parish and municipality shall appoint a council-certified building official or contract with other governmental entities or third parties as authorized in R.S. 40:1730.24 of this Part so that the unincorporated area of the parish is under the jurisdiction of a council-certified building official. A parish or municipality may use a certified building inspector in lieu of a certified building official for a period not to exceed four years from the date the state uniform construction code becomes effective in the parish or municipality. Nothing in this Part shall prevent a municipality or parish from appointing and employing other council-certified personnel and assistants necessary to perform the required inspections and technical duties and prescribing fees for construction permits and inspections as provided by law.

§ 1730.26. **ADOPTION AND PROMULGATION OF CERTAIN BUILDING CODES AND STANDARDS AS STATE UNIFORM CONSTRUCTION CODE; PROCEDURES**

The council shall review, adopt, modify, and promulgate the building codes referenced in R.S. 40:1730.28 of this Part, provided that:

(1) The council shall promulgate rules and regulations to modify portions of the state uniform construction code referenced in R.S. 40:1730.28 of this Part under the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The Senate and House committees on commerce shall receive notice of intent to modify portions of the state uniform construction code and shall have oversight of any such modifications under the provisions of the Administrative Procedure Act.

(2) The state uniform construction code shall be updated every three years.

✓ § 1730.27. **ADOPTION AND ENFORCEMENT OF EMERGENCY WIND AND FLOOD MITIGATION REQUIREMENTS**

A. The wind and flood mitigation requirements prescribed by the 2003 International Building Code and the 2003 International Residential Code, as modified in R.S. 40:1730.28(A)(3), shall apply within the parishes of Calcasieu, Cameron, Vermilion, Iberia, St. Tammany, Orleans, Jefferson, St. Bernard, Plaquemines, Terrebonne, and Lafourche.

B. Emergency wind and flood building requirements adopted in this Section shall remain in force until January 1, 2007.

C. Except as otherwise provided herein, the emergency wind and flood mitigation requirements adopted by this Section shall be enforced pursuant to R.S. 40:1730.23 and 1730.24 of this Part. If municipalities and parishes are unable to enforce the emergency wind and flood mitigation requirements prescribed in this Section on the effective dates provided for in Subsection D of this Section, the Louisiana Department of Public Safety and Corrections shall enforce them as long as they remain in effect.

D. The provisions of this Section shall go into effect thirty days from November 29, 2005 for parishes and municipalities that have code enforcement procedures in place on November 29, 2005. For those parishes and municipalities without code enforcement procedures, the provisions of this Section shall be applied no later than ninety days from November 29, 2005.

E. The Department of Public Safety and Corrections, office of state fire marshal, may establish contract agreements with parishes, municipalities, and third-party providers in order to provide enforcement of this Section.

√ **§ 1730.28. MANDATORY ADOPTION OF CERTAIN NATIONALLY RECOGNIZED CODES AND STANDARDS AS THE STATE UNIFORM CONSTRUCTION CODE; ADOPTION BY REFERENCE**

A. The council shall adopt and amend only the latest editions of the following as the state uniform construction code:

(1) International Building Code, not including Parts I-Administrative, 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. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(2) International Existing Building Code, not including Parts I-Administrative, and the standards referenced in that code for regulation of construction within this state. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(3) International Residential Code, 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. The appendices of that code may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption, with the exception of Appendix J, Existing Buildings and Structures, which is hereby adopted by this reference. For the purposes of this Part, IRC R301.2.1.1 (Design Criteria) shall be

amended as follows and shall only apply to the International Residential Code, 2003 edition:

- (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 & 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 and the standards referenced in that code for regulation of construction within this state. The appendices of the code provided in this Paragraph may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(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 and the standards referenced in that code for regulation of construction within this state. The appendices of the code provided in this Paragraph may be adopted as needed, but the specific appendix or appendices must be referenced by name or letter designation at the time of adoption.

(7) National Electric Code.

B. The initial code adopted by the council under the provisions of this Part shall become effective on January 1, 2007.

✓ **§ 1730.29. REGULATION OF CONSTRUCTION OR IMPROVEMENT OF INDUSTRIAL FACILITIES**

Excluding the applicable requirements of the Louisiana State Plumbing Code, the provisions of this Part shall not apply to the construction or improvement of the following types of industrial facilities that are engaged in activities defined or classified under one or more of the following subsectors, industry groups, or industries of the 1997 North American Industry Classification System (NAICS):

- (1) 22111 electric power generation.
- (2) 321 wood products manufacturing.

- (3) 322 paper manufacturing.
- (4) 324 petroleum and coal products manufacturing.
- (5) 325 chemical manufacturing.
- (6) 326 plastics and rubber products manufacturing.
- (7) 331 primary metals manufacturing.
- (8) 562211/562212 hazardous and solid waste landfills.
- (9) 422710 bulk stations and materials.
- (10) 486110 crude oil pipelines.
- (11) 486910 refined petroleum products pipelines.
- (12) 486210 natural gas pipelines.
- (13) 486990 other pipelines.
- (14) 211112 natural gas processing plants.

✓ **§ 1730.30. REGULATION OF CONSTRUCTION OR IMPROVEMENT OF FARM OR RECREATIONAL STRUCTURE; AUTHORITY TO ISSUE BUILDING PERMITS**

A. For purposes of this Section, "farm structure" means a structure which is constructed on a farm, other than a residence or a structure attached to it, for use on the farm including but not limited to barns, sheds, and poultry houses, but not public livestock areas. For purposes of this Section, "farm structure" does not include a structure originally qualifying as a "farm structure" but later converted to another use.

B. The governing authority of a parish or municipality may not enforce that portion of the state uniform construction code which regulates the construction or improvement of a farm structure or private outdoor recreational structure, other than a residence or structure attached to a residence, such as a hunting or fishing camp.

C. For residential construction, the standards published by the Federal Emergency Management Agency for the National Flood Insurance Program shall apply.

D. The provisions of this Section shall not affect the power of the governing authority of a parish or municipality to issue building permits before the construction or improvement of a farm or private

outdoor recreational structure.

✓ **§ 1730.31. MANDAMUS AND INJUNCTIVE RELIEF FOR VIOLATION OF CODE OR REGULATION; PENALTIES**

For a violation of the building codes or regulations adopted pursuant to this Part, the local building official may enjoin further construction of the project as provided by local ordinance. The municipal, district, or parish attorney, attorney general, or other appropriate authorities of a political subdivision, in addition to other remedies, may apply for injunctive relief, mandamus, or other appropriate proceeding in the district court of the parish where the violation occurred.

**§ 1730.32. IMPOSITION OF FEES**

Nothing in this Part shall prohibit the governing authority of a parish or municipality from imposing fees necessary to implement and continue the provisions required by this Part as provided by law.

**§ 1730.33. CODES APPLICABLE TO BUILDING INSPECTIONS**

Buildings must be inspected in accordance with the codes in effect for the locality on the date of the issuance of the original building permit, except that:

(1) If no date of issuance of original building permit can be found, the date of submission of the completed application to the local authority must be used.

(2) If no date of application for, or date of issuance of, building permit is available, the director of the applicable parish planning and development service or similar agency shall determine the nearest possible date by using available documents, such as transfer of property records, mortgage records, tax records, or rent records.

**§ 1730.34. RESPONSIBILITY OF LOUISIANA STATE CONSTRUCTION CODE COUNCIL FOR REGISTRATION OF BUILDING CODES ENFORCEMENT OFFICERS; RECORD OF HEARINGS AND PROCEEDINGS; REGISTER OF APPLICATIONS FOR CERTIFICATES OF REGISTRATION**

A. The Louisiana State Uniform Construction Code Council is responsible for the registration of building codes enforcement officers pursuant to this Part. When used in this Part "building codes enforcement officer" means 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.

B. The council or its designated representatives may conduct hearings and proceedings required by law or considered necessary by the council. The council and its members shall be subject to the Open Meetings Law, the Public Records Law, and the Code of Governmental Ethics, provided however,

that when any member of the council has a real or perceived conflict of interest upon an issue before the council, he shall recuse himself from participation in that issue by providing a verbal explanation of the real or perceived conflict to the council. The Department of Public Safety and Corrections shall employ and supervise personnel necessary for the administration of this Part. The council may promulgate regulations under the provisions of the Administrative Procedure Act for the proper enforcement of this Part.

C. The council shall keep a record of its hearings and proceedings and a register of applications for the certificates of registration showing the date of application, name, qualifications, and addresses of the business and residence of the applicant and whether the certificate is approved or denied. The council shall publish at least annually the applications in the register which are approved. Applicants and registrants shall notify the council of changes in required information within ten days of a change.

**§ 1730.35. APPLICATION AND ISSUANCE OF CERTIFICATES OF REGISTRATION; PROVISIONAL CERTIFICATES OF REGISTRATION; REGISTRATION**

A. A person desiring to be registered as a building code enforcement officer as required by this Part shall apply to the council for a certificate of registration.

B. An applicant shall furnish satisfactory proof to the council of valid certification by a recognized code organization or testing agency that is prescribed by the council in the general or special capacity in which he desires to be registered. Special certificates of registration authorize the registrant to practice in the named specialty only. General certificates of registration are not restricted. The council or its designated representatives shall review the guidelines employed by the organization or agency in order to determine their continued compatibility with the requirements considered by the council to be consistent with this Part.

✓ C. Certificates of registration may be issued without certification by a recognized code organization or testing agency to building code enforcement officers employed in code enforcement on January 1, 2007 only for the position and locality held at the time of registration pursuant to this Section. This registration is valid for three years for building officials and six months for building inspectors and plans reviewers. The certificates of registration provided for in this Subsection may not be renewed except as provided in Subsection B of this Section.

✓ D. Upon initial 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 code enforcement officer who is certified by the International Code Council. Such provisional certificate of registration is valid for the time period stipulated by regulation of the council for each registration classification from the date of issuance. The provisional certificate of registration may not be renewed except as provided in Subsection B of this Section.

E. The council shall have the authority to suspend or revoke certificates of registration upon any violation of this Part after notice and a proper hearing. The council shall implement rules for such

proceedings under the Administrative Procedure Act.

**§ 1730.36. REGISTRATION REQUIRED TO PRACTICE AS CODE ENFORCEMENT OFFICER; VIOLATIONS; PENALTY**

On or after January 1, 2007, no person may practice as a code enforcement officer in this state unless registered as provided in this Part. A person violating the provisions of this Part shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than two hundred dollars or imprisoned not more than thirty days. Each day the violation continues is a separate offense.

**§ 1730.37. INJUNCTION TO RESTRAIN PERSON FROM VIOLATING THIS PART**

If the council has reason to believe that a person is violating or intends to violate a provision of this Part, in addition to other remedies, it may order the person immediately to refrain from the conduct. The council may apply to the district court of the parish for an injunction restraining the person from the conduct. The court may issue a temporary injunction ex parte not to exceed ten days and upon notice and full hearing may issue other orders in the matter it considers proper. No bond is required of the council by the court as a condition to the issuance of an injunction or other order pursuant to this Part.

**§ 1730.38. DURATION OF CERTIFICATES; RENEWAL; CONTINUING EDUCATION REQUIREMENTS; FUNDING**

A certificate of registration issued under R.S. 40:1730.35(B) is valid for one year and expires on the last day of the month of issuance. Renewal of all registrations must be based upon a determination by the council of the applicant's participation in council-approved continuing education programs. The council must promulgate regulations setting forth the continuing education requirements for building code enforcement officers. A person failing to make timely renewal of his certificate is not registered unless qualified in the manner provided for new registrants under R.S. 40:1730.35(B) and may not practice until registered in accordance with this Part.

**§ 1730.39. POWERS OF STATE FIRE MARSHAL**

A. The state fire marshal may establish contract agreements with municipalities and parishes in order to provide code enforcement on behalf of the municipality or parish as provided in R.S. 40:1730.24 of this Part.

B. Nothing in this Part shall be construed so as to prevent the state fire marshal from enforcing the fire protection, life safety, handicapped accessibility, and high rise laws of this state, the enforcement of which are his statutory and regulatory responsibility.

C. Nothing in this Part shall be construed so as to prevent the state fire marshal from enforcing the Commercial Building Energy Conservation Code as provided in R.S. 40:1730.41 et seq.