

FAQ ABOUT THE MAINE UNIFORM BUILDING AND ENERGY CODE ADOPTION

When does the code take effect?

- Towns with a population of 2,000 that had a building code on 8/1/2008 will be required to begin enforcing the code December 1st, 2010.
- Towns with a population of 2,000 that did not have a building code on 8/1/2008 will be required to begin enforcing the code July 1st, 2012.
- Towns with a population under 2,000 are not required to enforce the code.

Does the code cover the entire state?

Yes

Will the code adopted include all State buildings?

Yes

What codes will be included in the State Building and Energy Code?

1. International Building Code, 2009 edition
2. International Existing Building Code, 2009 edition
3. International Residential Code, 2009 edition
4. International Energy Conservation Code, 2009 edition
5. ASTM E 1465 06 Standard Practice for Radon Control Options for the Design and Construction of New Low-Rise Residential Buildings, published by the ASTM International
6. ASHRAE Standard 62.1 – 2007 Ventilation for Acceptable Indoor Air Quality, published by the American Society of Heating, Refrigerating and Air-conditioning Engineers, Inc.
7. ASHRAE Standard 62.2 – 2007 Ventilation and Acceptable Indoor Air Quality in Low-Rise Residential Buildings, published by the American Society of Heating, Refrigerating and Air-conditioning Engineers, Inc.
8. ASHRAE Standard 90.1 – 2007 Energy Standard for Buildings Except Low-Rise Residential Buildings, published by the American Society of Heating, Refrigerating and Air-conditioning Engineers, Inc.

What about local modifications to the Maine Uniform Building and Energy Code?

The Maine Uniform Building and Energy Code replaces all local municipal building codes.

Cities and towns may not amend any MUBEC provisions.

Are there other statewide requirements?

Electrical Code	NFPA 70
Fire Code	NFPA 1
Flammable Liquides Code	NFPA 30
Fuel Gas Code	NFPA 54
Life Safety Code	NFPA 101
Oil Burner Code	NFPA 31

Plumbing Code
Floodplain Regulations
Shoreland Zoning Regulations
Sprinkler Codes

Maine State Plumbing Code
Local Municipal Regulation

NFPA 13, 13D & 13R

Are there amendments to the MUBEC?

Yes

What about accessibility and the ADA?

The State Fire Marshals Office provides review and approval of ADA in Maine.

If there is a conflict between the State Building Code and the State Fire Code, which one prevails?

The Building Codes and Standards Board have the responsibility of resolving conflicts between the Maine Uniform Building and Energy Code and the State Fire Codes.

Can a town or city adopt building code requirements in addition to the State Building Code?

No

To whom do you appeal for relief of a section of the Building Code?

Administration of the provisions of the Maine Uniform Building and Energy Code are given to the individual cities and towns. Non-binding interpretations are available to the municipalities upon request, but their CEO is the Authority Having Jurisdiction. Appeals are made to the municipal Board of Appeals or Superior Court.

Does the State Building Code apply to 1 & 2 family dwellings?

The Maine Uniform Building and Energy Code applies to all buildings and structures. Each of the following documents contains information that the designer of a 1 & 2 family dwelling should be aware of, in preparing construction plans.

- The International Residential Code, 2009 edition
- The International Energy Conservation Code, 2009 edition
- ASTM E 1465 06 Standard Practice for Radon Control Options for the Design and Construction of New Low-Rise Residential Buildings
- ASHRAE Standard 62.2-2007 Ventilation and Acceptable Indoor Air Quality in Low-Rise Residential Buildings

What other codes apply to 1 & 2 family dwellings?

Electrical Code
Fire Code
Flammable Liquides Code
Fuel Gas Code

NFPA 70
NFPA 1
NFPA 30
NFPA 54

Life Safety Code

Oil Burner Code

Chimneys/Vents

Plumbing Code

Floodplain Regulations

Shoreland Zoning Regulations

NFPA 101

NFPA 31

NFPA 211

Maine State Plumbing Code

Local Municipal Regulation

Who enforces the State Building Code?

The CEO enforces the code in towns with populations of more than 2,000 persons. Inspections by the CEO are required to obtain a Certificate of Occupancy.

Who enforces the State Building Code if there is no local CEO?

Not all municipalities are required to enforce the Maine Uniform Building and Energy Code. It is the responsibility of the Property Owner and Builder to construct projects in compliance with the code.

If the CEOs miss a code violation, can I sue the town?

It is the responsibility of the owner and builder to design and construct the project in compliance with the code.

If a municipality doesn't have a CEO (certified by SPO as a Building Official), who does the inspections and issues the certificate of occupancy?

Municipalities without a CEO certified by the State Planning Office may authorize a Third-party Inspector to conduct compliance inspections and prepare a report to be given to the municipal CEO as an application for the Certificate of Occupancy.

What are the functions of the Technical Building Codes and Standards Board?

To adopt regulations regarding adoption of the Building and Energy Code,
To adopt regulations for the maintenance of the Building and Energy Code,
To adopt regulations for the amendment of the Building and Energy Code.
To adopt regulations for the resolution of conflicts between the Building and Energy Code and the State Fire Code.

What if a municipality chooses to allow Third-party Inspectors ?

Towns may chose to allow TPI's to work in their town rather than employ a CEO to supervise construction activity.

The town may still have a CEO, but their job description may be limited to working with land use issues or plumbing regulations.

A property owner should check with the CEO to verify how to proceed with obtaining construction authorization and the ultimate path to obtaining a certificate of occupancy.

Will a building permit be required in all towns?

No.

Towns may choose to have a permit system or not.

If they choose to have a building permit but not have the CEO actively enforce the provisions of MUBEC they may choose to authorize a TPI to assist the property owner.

In such cases the building permit allows the property owner permission to build but “does not ensure the owner that what is to be built is in compliance with the provisions of the MUBEC.”

The Third-party Inspector is then consulted and presented with the construction documents for review.

The TPI, reviews the construction documents, if they are found to be in compliance with the MUBEC provisions, the TPI then issues a “notice to proceed.”

It is the “notice to proceed” that gives the property owner and contractor some level of assurance that the project when constructed and inspected can meet the requirements to obtain a certificate of occupancy.

When the town has a CEO but chooses to allow Third-party Inspectors who does what?

TPI’s assisting in supervising construction for the town complete the following:

- A review of the construction documents,
- **On-site inspections** of the project to verify compliance with MUBEC,
- **A final report** stating the project is in compliance with MUBEC,
- **A written request** for a Certificate of Occupancy is given to the CEO/BO.

Then the CEO/BO may issue a Certificate of Occupancy.

What’s a third-party inspector?

A third-party inspector (TPI) is a person certified by the State Planning Office who can inspect buildings and issue a building inspection report indicating whether construction meets code.

Does a municipality have to hire a third-party inspector?

No, the use of a third-party inspector is optional for any municipality. A municipality may want to use a third-party inspector if they chose not to do inspections or if the municipal building official does not have the time or expertise to inspect buildings. For example, a municipality may choose not to inspect commercial building construction (perhaps there is little commercial construction in that municipality). As an alternative, the municipality could choose to have third-party inspectors do this work when it is needed.

What does the town do with the third-party inspector's report?

Upon receipt of the report, the building official issues a certificate of occupancy. The municipality has no obligation to review an inspection report from a TPI for accuracy prior to issuing a certificate of occupancy, but it may choose to if it wishes. If the municipality chooses to review TPI inspection reports before issuing a certificate of occupancy, this would be considered municipal enforcement of the building code and the municipal building official would need to be certified in building standards by the State Planning Office.

Does a municipality have to pay the third-party inspector?

No. There are several options available to the municipality for using third-party inspectors. A municipality may contract with one or more third-party inspectors and require homeowners to use the TPIs who are under town contract. A municipality could either pay the TPIs a lump sum contract fee or a per inspection fee; or a municipality could require the homeowner to pay a per inspection fee, either to the town or directly to the TPI. Or the municipality could not be involved in the inspection at all and require individual homeowners to hire and pay for their own inspection performed by a certified third-party inspector.

Do these third-party inspectors become employees of the town?

No. State statute prohibits a third-party inspector from being appointed as a municipal building official. In cases where municipalities choose to contract with a TPI, the TPI would be a vendor or contractor for the municipality. In cases where the homeowner contacts a TPI directly, the TPI would be a contractor for the homeowner.

In the absence of a municipal building official, is there anyone else besides a third-party inspector who can do inspections in a municipality?

A certified code enforcement officer or municipal building official from another municipality may perform these inspections, as long as that CEO or building official is appointed by the municipal officers as an alternate or assistant building inspector.

Can a municipality refuse to issue a certificate of occupancy if the report of the third-party inspector says the construction meets code?

Yes, subject to the homeowners right to appeal in 25 MRSA, section 2357-A.

If the municipal building official declines to give a certificate, the homeowner may appeal to the municipal officers.

Does the municipality have to provide homeowners with a list of third-party inspectors?

No. This is not required.

The municipality may provide homeowners with a list of third-party inspectors, if it chooses.

The State Planning Office and Bureau of Building Codes and Standards will maintain a list of certified TPIs on their web sites.

Can the certification of a third-party inspector be revoked?

Maine law provides for revocation of a CEO or TPI certification by the District Court for cause as follows:

- fraud or deception;
- lack of reasonable care, judgment, or the application of duties;
- incompetence or inability to perform properly the duties.

To seek revocation of a CEO's or TPI's certification, a homeowner or municipality would need to hire an attorney and file a complaint in court.

Why are TPIs prohibited from serving as a municipal building inspector even in a different municipality?

It is currently a statutory prohibition. In order to permit a CEO or municipal building inspector to serve as a TPI in another municipality, the Legislature would need to act to change the statute.

Recently we have noted inquiries regarding the State Fire Marshals Office role in the administration or enforcement of the MUBEC requirements.

The SFMO is not responsible for, nor involved in, the administration of or enforcement of the MUBEC provisions.

The State Fire Marshals Office does not review projects for compliance with MUBEC.

The construction permit authorized by the SFMO is directly related to those codes and standards adopted by the SFMO.

The Maine Human Rights Commission has authorized the SFMO to conduct mandatory plan reviews and issue Barrier-Free Permits for places of public accommodation and/or places of employment.