

Construction

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PULL YOUR PERMITS BY MARCH 31, 2019, OR YOUR CONSTRUCTION CONTRACT MAY NEED TO BE AMENDED

By Alexandra A. Zeiger

After nearly a decade of only minor changes to the Pennsylvania Uniform Construction Code (“UCC”), the Department of Labor and Industry, by recommendation from the Uniform Construction Code Review and Advisory Council, acted in May, 2018 to approve significant changes to the UCC. The UCC changes adopt most of the 2015 International Building Code, taking effect on October 1, 2018.

All construction contracts entered into after October 1, 2018 require compliance with the new UCC provisions. However, if a design or construction contract for proposed work was executed prior to October 1, 2018, a contractor can pull a permit based on the old UCC provisions until March 31, 2019.

In other words, on and after April 1, 2019, contractors cannot pull a permit for a construction contract, based on old UCC standards, if executed prior to October 1, 2018. Contractors who timely pull permits by March 31, 2019 can continue construction and do not need to pull a subsequent permit after April 1, 2019 to comply with the new UCC requirements.

It is crucial for any contractor or subcontractor who executed an agreement prior to October 1, 2018, who has not yet pulled a permit, to pull a permit in a timely fashion. This short six-month

time window could be a headache for contractors who are working on a phased project executed prior to October 1, 2018, if they did not consider pulling permits until after April 1, 2019. Also, the six-month time frame could present difficulty to a contractor or subcontractor who might need to delay a project start date because of weather or other unanticipated delays and does not promptly pull a permit before April 1, 2019.

In the event a contractor does not pull a permit before April 1, 2019, construction and design plans may need to be amended to conform with the new UCC provisions. Since the new UCC provisions are vast and cumbersome, each project requires special consideration. Examples of new Code provisions with potential impact may include:

- Carbon monoxide alarms now must be connected to the home wiring system in new residential construction as well as providing a battery back-up.
- Among other changes to requirements for water heater drain valves and pans, plastic pans are now prohibited under gas-fired water heaters.
- New standards for the number of 15 and 20 amp receptacle outlets in garages generally require one for every car space.

If a contractor or subcontractor in this situation does not amend its construction contract or design plans, there are no guarantees that a permit may be issued by the appropriate municipal or government agency. Further, a contractor or subcontractor risks the construction or work performed not being up to code. Both the inability to pull a permit and potential code violations may greatly increase the likelihood of project disputes and burdensome litigation.

To minimize the risk of potentially not obtaining a permit or exposing oneself to litigation, the best course of action is to timely obtain a permit. If it is implausible or unfeasible to obtain a permit prior to April 1, 2019, carefully examine the new provisions of the UCC to determine what, if any, code changes could affect your project. If a provision is applicable to your project, before obtaining a permit after April 1, 2019, thoroughly review and amend contractual or design plans, where necessary, to ensure compliance with the Code. This revision may require compromise and negotiations with the developer, builder, or contractor (in the case of a subcontractor). However, due diligence prior to breaking ground on the project could save a contractor or subcontractor from unnecessary disputes.

In short, UCC compliance may involve the need for contract revisions and possible legal counsel, if permits cannot be pulled by March 31, 2019. Taking proactive steps now may prevent costly project delays and conflicts down the line. ♦

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