

RESIDENTIAL BUILDING CODE OF OHIO

Pursuant to the authority granted to the Ohio Board of Building Standards by House Bill 175, effective May 27, 2006, the Board has adopted a residential building code for Ohio entitled the “Residential Building Code of Ohio for One-, Two- and Three-Family Dwellings”. Effective May 27, 2006, enforcement of this code will be mandatory for each municipality which elects to enforce a residential building code within the municipality or to contract for its enforcement. In order to enforce the Residential Building Code, the municipality’s building department must be certified by the Ohio Board of Building Standards. A municipality currently enforcing a residential building code may enforce the new code beginning May 27, 2006 but its continued enforcement is contingent upon its becoming certified by May 27, 2007.

Ohio R.C. 3781.01(B) now provides that a municipality may adopt “additional regulations governing residential structures that do not conflict with the state residential building code if the following procedures in division (C) of the section are followed:

- (C) (1) A local governing authority shall, and any person may, notify the board of building standards of any regulation the local governing authority adopts pursuant to division (B) of this section and request the board of building standards to determine whether that regulation conflicts with the state residential building code.
- (2) Not later than sixty days after receiving a notice under division (C)(1) of this section, the board shall determine whether the regulation conflicts with the state residential building code and shall notify any person who submitted the notice and the local governing authority that adopted the regulation of the board’s determination.
 - (a) If the board determines that a conflict does not exist, the board shall take no further action with regard to the regulation. If the board determines a conflict exists and the regulation is not necessary to protect the health or safety of the persons within the local governing authority’s jurisdiction, the regulation is not valid and the local governing authority may not enforce the regulation.
 - (b) If the board determines that a conflict exists and that the regulation is necessary to protect the health or safety of the persons within the local governing authority’s jurisdiction, the board shall adopt a rule to incorporate the regulation into the state residential building code. Until the rule becomes a part of the state residential building code, the board shall grant a temporary variance to the local governing authority and any similarly situated local governing authority to which the board determines that temporary variance should apply.”

Each municipality that chooses to enforce the new residential code must provide for a board of appeals. Section 112.1 of the Residential Building Code states: “In order to hear and decide appeals of orders, decisions or determinations made by the *residential* building official relative to the application of this code, there shall be a *local appeals process within the certified jurisdiction.*”

Set forth below is a model ordinance you may wish to review in preparing a new chapter in the Codified Ordinances. We don't believe it is necessary nor do we see any advantage in adopting the new code by reference. Rather, we recommend that a new chapter be adopted in which it is stated that the municipality shall enforce the Residential Building Code of Ohio for One-, Two- and Three-Family Dwellings. Any supplemental regulations not in conflict with the Ohio Residential Building Code may be added to this chapter, along with any residential building code fees not established elsewhere.

We have not enclosed a model chapter establishing a board of building appeals since procedures in establishing these boards vary so widely among Ohio municipalities. Our on-line codes at www.walterdrane.com such as Warren (Ch. 1311), Sandusky (Ch.1309) and Maumee (Ch. 1303) may assist you in drafting new provisions if such a board has not already been established.

Due to local modifications and variation in the enforcement of a residential building codes among Ohio municipalities, we will not automatically revise residential building code provisions when we prepare replacement pages to the Codified Ordinances during the coming year. We will, however, be glad to assist you in any way that we can in incorporating the new law into the Codified Ordinances.

AN ORDINANCE TO APPROVE ENFORCEMENT OF THE RESIDENTIAL BUILDING CODE OF OHIO FOR ONE-, TWO- AND THREE-FAMILY DWELLINGS, AND DECLARING AN EMERGENCY.

WHEREAS, the Municipality chooses to regulate the construction, repair, alteration and maintenance of residential dwellings within the Municipality;

WHEREAS, the Ohio Constitution requires that the exercise of police powers by Ohio municipalities be in compliance with State law; and

WHEREAS, the Ohio Board of Building Standards has adopted a uniform residential building code for municipalities et al choosing to enforce a residential building code within their jurisdictions;

NOW, THEREFORE, BE IT ORDAINED _____

SECTION 1. That Chapter 13__ is hereby amended to read as follows:

CHAPTER 13
Residential Building Code of Ohio for
One-, Two-, and Three-Family Dwellings

13__. 01 APPLICATION AND ENFORCEMENT.

In order to regulate the erection, construction, repair, alteration and maintenance of residential dwellings, the Residential Code of Ohio for One-, Two-, and Three-Family Dwellings as adopted by the Ohio Board of Building Standards pursuant to Ohio R.C. 3781.10, shall apply and be enforced within the Municipality.

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, welfare and safety and for the further reason that there exists an imperative necessity for the earliest adoption of the State residential building code, so as to facilitate administration, daily operation and avoid practical and legal entanglements, including conflict with State law; wherefore, this Ordinance shall be in full force and effect from and immediately after its passage.