

Chapter 63

BUILDING CONSTRUCTION

ARTICLE I

Uniform Construction Code

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[HISTORY: Adopted by the Board of Supervisors of the Township of West Earl 6-14-2004 by Ord. No. 174.' Amendments noted where applicable.]

GENERAL REFERENCES

Planning Commission – See Ch. 34.

Outdoor burning – See Cli. 67.

Driveways – See Ch. 85.

Sewers and sewage disposal – See Ch. 138.

Stormwater management – See Ch. 149.

Subdivision and land development – See Ch. 155.

Zoning – See Ch. 184.

ARTICLE I

Uniform Construction Code

§ 63-1. Short title.

This chapter shall be known and may be cited as the ‘West Earl Township Construction Code Ordinance.’”

§ 63-2. Legislative intent.

By Act 45 of 1999,² the Pennsylvania Legislature provided for the adoption of a Pennsylvania Uniform Construction Code and directed the Department of Labor and Industry to promulgate regulations for the Uniform Construction Code. In 2002, the Department of Labor and Industry adopted final regulations governing certification and training of persons to administer the Uniform Construction Code, and on January 10, 2004, the Department issued final regulations for the administration of the Uniform Construction Code. The Uniform Construction Code incorporates the International Building Code/2003, the International

1. Editor’s Note: This chapter provided for the repeal of former Ch. 63, Building Construction, adopted 2.8.1999 by Ord. No. 145, as amended.

This chapter also provided that its provisions shall not affect any act done, contract executed or liability incurred prior to its effective date, or affect any suit or prosecution pending or to be instituted to enforce any rights, rules, regulations or ordinances, or part thereof, or to punish any violation which occurred under any prior zoning regulation or ordinance. In the event any violation has occurred under Ch. 63, Building Construction, Art. 1, BOCA National Building Code, or Art. II, Residential Construction, in effect prior to the effective date of this chapter, prosecution may be initiated against the alleged offender pursuant to the provisions of said prior regulations, and the provisions and penalties provided in Ch. 63, Building Construction, Art. I, BOCA National Building Code, or Art. 11, Residential Construction, prior to the effective date of this chapter, shall remain effective as to said violation.

This chapter further provided for an effective date of 7.1.2004.

2. Editor’s Note: See 35 P.S. § 7210.101 et seq.

Residential Code/2003, the International Existing Building Code/2003, the standards incorporated into such publications by reference, and other publications as set forth in the L & I Regulations. The Board of Supervisors desires to adopt and administer the Pennsylvania I Uniform Construction Code and establish administrative and enforcement regulations.

§ 63-3. Adoption of Pennsylvania Uniform Construction Code. [Amended 12-11-2006 by Ord. No. 193]

The Township hereby adopts the standards which the Pennsylvania Department of Labor and Industry has adopted as the Pennsylvania Uniform Construction Code identified in Section 403.21 of the L & I Regulations, as such regulations and standard codes adopted by such regulations may be amended from time to time, as the West Earl Township Construction Code with the following additions to the International Building Code/2006 or such future edition of the International Building Code as may be adopted from time to time:

A. Section 202, Definitions, shall be amended by inserting the following definitions in alphabetical order:

BOARD OF SUPERVISORS. The governing body of the Township.

BUILDING CODE OFFICIAL. A Township official certified by L & I under Section 103 of the Pennsylvania Construction Code Act. The term includes an individual certified in a category established under Chapter 401 of the L & I Regulations to manage building code enforcement activities, supervise building inspectors or plans examiners, issue building permits, occupancy permits, notice of violations and orders to vacate, and initiate prosecutions.

CONSTRUCTION CODE OFFICIAL. A Township official or a third-party agency appointed by the Township certified by L & I under Section 103 of the Pennsylvania Construction Code Act in an appropriate category established under Section 701(b) of the Pennsylvania Construction Code Act to perform plan review of construction documents, inspect construction or administer and enforce codes and regulations in that category under the Pennsylvania Construction Code Act or related statutes.

DEP. The Department of Environmental Protection of the Commonwealth of Pennsylvania.

INTERMUNICIPAL AGREEMENT. The agreement among East Lampeter Township, Upper Leacock Township and West Earl Township to form the Conestoga Valley Building Code Appeals Board.

L & I. The Department of Labor and Industries of the Commonwealth of Pennsylvania.

L & I REGULATIONS. All regulations adopted by L & I to implement the Pennsylvania Construction Code Act.

PENNSYLVANIA CONSTRUCTION CODE ACT. Act 45 of 1999, 35 P.S. § 72 10.101 et seq., as amended.

THIRD-PARTY AGENCY. A person, firm or corporation certified by L & I as a Construction Code Official and which may be contracted to perform plan review of construction documents, inspect construction or administer and enforce codes under the Pennsylvania Construction Code Act.

TOWNSHIP. The Township of West Earl, Lancaster County, Pennsylvania.

UNIFORM CONSTRUCTION CODE. The code adopted pursuant to the Pennsylvania Construction Code Act and the L & I Regulations.

- B. Section 1612.3 is amended by inserting “West Earl Township” and “April 19, 2005,” in the respective blanks. [**Amended 12-11-2006 by Ord. No. 1931**]
- C. Section 3410.2 is amended by inserting the date of March 1, 1999, for residential dwellings and March 1, 1999, for non-residential structures.

§ 63-4. Administration and enforcement of West Earl Township Construction Code.

- A. The Township hereby adopts the provisions of Chapter 1, Administration, of the International Building Code/2003 and the provisions of the L & I Regulations set forth below to govern administration and enforcement of the West Earl Township Construction Code. The provisions of this Construction Code govern if there is a conflict with the provisions of the codes set forth in Section 403.21 of the L & I Regulations or the L & I Regulations relating to administration or enforcement.
- B. Changes from the International Building Code/2003, (IBC), Chapter 1 and the L & I Regulations to the West Earl Township Construction Code are as follows:
 - (1) IBC Section 101.1. Insert “Township of West Earl, Lancaster County, Pennsylvania.”
 - (2) IBC Section 101.2 shall provide as follows:

101.2 Scope. These regulations shall control all matters concerning the construction, alteration, addition, repair, removal, demolition, location, occupancy and maintenance of all buildings and structures and shall apply to existing or proposed structures except as such matters are otherwise provided for in other ordinances or statutes, including but not limited to the Township Zoning Ordinance, ~ Subdivision and Land Development Ordinance, --Stormwater Management Ordinance s or in the rules and regulations authorized for promulgation under the provisions of this Construction Code. Whenever there is a conflict between the provisions of this Construction Code and any other Township ordinance, including but not limited to the Zoning Ordinance, it is the intent of the Board of Supervisors that the more stringent requirement shall apply. All construction which the Pennsylvania Construction Code Act or the L & I Regulations exempt from compliance with the Uniform Construction Code are exempt from the provisions of this Construction Code. Items exempted from compliance with the Uniform Construction Code by Sections 403.1(b) and 403.1(e) of the L & I Regulations do not have to comply with the Construction Code hut shall comply with all other applicable Township ordinances.

- (3) IBC Section 101.3 shall be amended by adding the following sentence to the existing section:

It is the further intent of the Board of Supervisors that all construction within the Township shall comply with the provisions of the Americans with Disabilities Act and all applicable regulations to implement the Americans with Disabilities

Act promulgated by federal and state regulatory agencies and with the Code Requirements for Housing Accessibility, and this code shall be interpreted in a manner which fulfills this intent. It is also the further intent of the Board of Supervisors to comply with the requirements of the Pennsylvania Construction Code Act and the L & I Regulations.

- (4) IBC Section 10 *1.4.5* shall be deleted in its entirety.
- (5) IBC Section 103, Department of Building Safety, shall be deleted in its entirety and a new Section 103, Administration, shall be inserted which shall provide as follows:

103.1 Building official. The Board of Supervisors shall appoint a person or persons to serve as a Building Code Official and a Construction Code Official as those terms are defined in the L & I Regulations. Both the Building Code Official and the Construction Code Official shall be considered the Building Official as such term is defined and used in this Construction Code.

3. Editor's Note: See Ch. 184, Zoning.
4. Editor's Note: See Ch. 155, Subdivision and Land Development.
5. Editor's Note: See Ch. 149, Stormwater Management.

103.2 Powers and duties of Building Code Official and Construction Code Official. The Building Code Official shall have all powers set forth in the L & I Regulations and shall have the powers and duties of the Building Official set forth in this Construction Code. The Construction Code Official shall have the powers set forth in the L & I Regulations and may also have the powers of the Building Official set forth in this Construction Code. The respective duties and responsibilities of the Building Code Official and the Construction Code Official shall be determined by the Board of Supervisors and shall be within the limitations of any certifications required or issued by L & I.

103.2.1 The Building Code Official shall serve at the pleasure of the Board of Supervisors. The Building Code Official shall provide supervision of the Construction Code Official, receive uniform Construction Code Permit applications, address citizen inquiries, concerns and complaints, issuing building permits, occupancy permits, and manage code enforcement activities, including but not limited to issuing notice of violations and orders to vacate, and initiation of prosecutions.

103.2.2 The Construction Code Official shall serve at the pleasure of the Board of Supervisors. The Construction Code Official shall perform plan review of construction documents, issue Construction Code permits, inspect construction, provide the Building Code Official with reports of inspections and recommendations upon issuance of certificates of occupancy, and administer and enforce this Construction Code. The Construction Code Official may be a third party agency.

103.2.3 Any applicants for Construction Code permits shall submit two complete copies of the application to the Building Code Official. The Building Code Official shall transmit a complete copy of the Construction Code permit application to the Construction Code Official for plan review, issuance of the Construction Code permit, and inspection of construction. The Construction Code Official shall notify the applicant when plan review has been completed, and the applicant shall pay plan review and estimated inspection fees to the Construction Code Official prior to issuance of the Construction Code permit. The Construction Code Official shall notify the Building Code Official when the work is complete and has successfully had its final inspection. The Building Code Official shall issue the certificate of occupancy after receipt of notification from the Construction Code Official that the work has been finally inspected and all fees have been paid.

103.3 Organization. The Board of Supervisors shall appoint such other officers, technical assistants, inspectors and other employees as shall be necessary for the administration of this Construction Code.

- (6) JEC Section 104.4 shall be amended by inserting the following language after the first sentence:

The Building Official shall have the right to reject any report performed by any individual or agency unless the permit holder has requested and obtained the prior approval of the Building Official for such individual or agency to perform such inspection. Any individual or agency performing such inspection and providing such report shall demonstrate to the satisfaction of the Building Official that such individual or agency has obtained all necessary certifications from L & J.

- (7) IBC Section 104.8 shall provide as follows:

104.8 Liability. The Township and the Building Official shall have all immunities and rights granted by the Pennsylvania Judicial Code, including but not limited to Chapter 85.

- (8) IBC Sections 105, Permits, 106, Construction Documents, and 111, Service Utilities, of Chapter 1 of the International Building Code/2003 shall not be a part of the Township Construction Code. The Township hereby adopts and incorporates Sections 403.41, 403.42, 403.42a, 403.43, 403.44, 403.47, 403.48, 403.61, 403.62,

403.62a, 403.63 and 403.66 of the L & I Regulations to govern applications for and issuance of Construction Code permits for nonresidential and residential construction with the changes set forth below:

- (a) L & I Regulations Sections 403.42(a) and 403.62(a) shall be amended by inserting the following at the end of the existing sections:

It shall be the joint responsibility of the owner, lessee, if any, and the contractor to determine that a Construction Code permit (and all other required permits and approvals) has been obtained before performing any work. It shall be unlawful for any contractor or subcontractor to perform any work for which a Construction Code permit is required unless the owner and contractor obtain and post a Construction Code permit as required by this Construction Code.

- (b) L & I Regulations Sections 403.42a(b) and 403.62a(b) shall be amended by inserting the following at time end of the existing sections:

At the time of filing an application for a Construction Code permit, the applicant shall present to the Building Code Official adequate evidence that the applicant has obtained from all governmental authorities having jurisdiction, all permits, licenses, approvals and/or variances required in connection with the proposed use, occupancy, construction, enlargement, alteration or demolition. Such agencies shall include but not be limited to the Zoning Officer, Zoning Hearing Board, public sewer service provided or Sewage Enforcement Officer, public water service provider (if applicable), Lancaster County Conservation District, State Police Fire Marshal, DEP, L & I, and the Pennsylvania Departments of Community and Economic Development and Transportation. No application for a Construction Code permit is complete without a copy of any required zoning permit and proof of any required subdivision and/or land development approval and stormwater management plan approval.

- (c) L & I Regulations Sections 403.43(h) and 403.63(h) shall be amended by inserting the following at the end of the existing sections:

The applicant shall post a copy of the Construction Code permit at a location on the property clearly visible to members of the public.

- (9) A new USC Section 108.1.2 shall be inserted which shall provide as follows:

108.1.2 Time of payment of fees. Applicants for permits under this Construction Code shall pay to the Township at the time of application all administrative fees. Applicants shall pay directly to the Construction Code Official costs incurred for the review of an application and construction documents prior to the issuance of a permit. Applicants shall pay to the Construction Code Official (which shall be a different third-party agency) costs incurred for all inspections required during the costs of construction prior to the issuance of a certificate of use and occupancy for the structure for which the permit has been issued.

- (10) IBC Section 108.4 shall be revised to provide:

108.4 Work commencing before permit issuance. Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary Construction Code permits shall be subject to an additional fee for expedited processing which shall be equal to the fee which should have been paid at permit application. The expedited processing fee shall be paid in full in addition to the normal application fee prior to the issuance of a Construction Code permit.

- (11) JBC Section 108.6 shall be deleted in its entirety.

- (12) IBC Sections 109.3, 109.4, 109.5, and 109.6 shall be deleted, and the Township hereby adopts Sections 403.45, 403.64, and 403.86 of the L & I Regulations governing inspections with the changes set forth below:

- (a) L & I Regulations Section 403.64(g) shall be deleted in its entirety.

- (13) IIBC Section 110, Certificate of Occupancy, is deleted. The Township adopts Sections 403.46 and 403.65 of the L & I Regulations governing certificates of occupancy. Sections 403.46 and 403.65 of the L & I Regulations are amended as follows:

- (a) L & I Regulations Section 403.46(b) is amended by adding the following subsection:

(10) A statement that the issuance of a certificate of occupancy shall not be deemed permission to occupy the structure or commence a use if any other ordinance requires the issuance of a permit or certificate prior to use and occupancy.

- (b) L & I Regulations Section 403.65(b) is amended by adding the following subsection:

(9) A statement that the issuance of a certificate of occupancy shall not be deemed permission to occupy the structure or commence a use if any other ordinance requires the issuance of a permit or certificate prior to use and occupancy.

(14) IBC Section 112, Board of Appeals, shall be amended in its entirety to provide as follows:

112.1 Board of appeals. The Township hereby appoints the Conestoga Valley Building Code Appeals Board as the Board of Appeals under the West Earl Township Construction Code. Members of the Conestoga Valley Building Code Appeals Board shall be selected in accordance with the intermunicipal agreement.

112.2 Authority of board of appeals. The Board of Appeals shall hear and rule on appeals, requests for variances and requests for extensions of time. An application or appeal shall be based upon, and the Board of Appeals in making its decisions shall consider, those factors set forth in the L & I Regulations.

112.3 Membership of board of appeals. A member of the Board of Appeals shall be qualified by training and experience to pass on matters pertaining to building construction. Members of the governing body may not serve on the Board of Appeals. A Board of Appeals member may not cast a vote or participate in a hearing in any appeal, request for variance or request for extension of time in which the member has a personal, professional or financial interest.

112.4 Operation of board. The Board of Appeals may establish policies and procedures necessary to carry out its duties in accordance with the intermunicipal agreement. The Board shall annually select one of its members to serve as chairperson and one of its members to serve as vice chairperson. The Board of Appeals shall keep minutes of its meetings and file a written decision on all appeals under this Construction Code. The Board of Appeals shall provide notice of and conduct its meetings in accordance with the Sunshine Act, 65 Pa.C.S.A. § 701 et seq.

112.5 Procedures for applications and appeals. Any person desiring to file an application or appeal to the Board of Appeals may file such appeal with the Building Code Official. All applications and appeals to the Board of Appeals shall be in writing and shall specify the section of this Construction Code from which relief is sought or the action of the Building Official which is the subject of the appeal. The written application or appeal shall state all of the grounds for the application or appeal and shall include any necessary plans or specification to provide the Board of Appeals with information to evaluate the application or appeal and shall include the fee. No application appeal will be considered complete without the necessary appeal fee. Any appeal from a determination of the Building Official shall be filed within 20 calendar days of the determination.

112.5.1 Hearings. An applicant or appellant who desires to present testimony to the Board of Appeals shall request a hearing in the application or appeal. If the applicant or appellant does not request a hearing, it will be assumed that the Board of Appeals may render its determination based on the written information submitted with the application or appeal and any additional information available to members of the Board of Appeals.

112.5.2 Parties. The Township shall be considered a party to all appeals or applications filed with the Board of Appeals. Other persons affected by the appeal or application who have made timely appearances of record may also be recognized as parties to the appeal or application.

112.5.3 Decision. The Board of Appeals shall render its decision in writing within any time periods imposed in state laws or L & I Regulations. The Board of Appeals shall provide the applicant or appellant, the Building Official and the Township with copies of the appeal.

(15) LBC Section 113, Violations, shall provide as follows:

113.1 Unlawful acts. It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, demolish, use or occupy, or to permit the erection, construction, alteration, extension, repair, removal, demolition, use or occupancy of, any building or structure or equipment regulated by this Construction Code, or cause same to be done, in conflict with or in violation of this Construction Code. It shall also be unlawful for any person to place inaccurate or misleading information on an application or plan or to omit relevant information from an application or a plan submitted to the Township.

113.2 Notice of violation. The Building Official may serve a notice of violation on any person responsible for the erection, construction, alteration, extension, repair, removal, demolition, use, permission to use, occupancy, or permission for occupancy of a building or structure or equipment in violation of the provisions of this Construction Code, or in violation of a detailed statement or a plan approved thereunder, or in violation of a permit or certificate issued under the provisions of this Construction Code. Such notice shall order discontinuance of the illegal action or condition and the abatement of the violation. Notwithstanding the foregoing, it shall not be a defense to an enforcement action that the Building Official did not serve or that the defendant did not receive a written notice of violation prior to the institution of the enforcement action.

113.2.1 If an inspection reveals a violation of this Construction Code, the Construction Code Official shall discuss the inspection results with the permit holder at the completion of the inspection.

113.2.2 When a violation relates to an unsafe building, structure or equipment, the Building Official shall proceed in accordance with Section 403.84 of the L & I Regulations.

113.3 Prosecution of violation. If the Building Code Official has served a notice of violation and the notice of violation is not complied with within the time specified by the Building Official, or if the Building Code Official determines that there is insufficient time to serve a notice of violation or that such notice of violation will have no practical or beneficial effect, the Building Code Official shall notify the Board of Supervisors of the violation and shall request the Board of Supervisors to authorize institution of enforcement proceedings against the violator and/or authorize the Township Solicitor to institute the appropriate proceedings at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the building or structure in violation of the provisions of this Construction Code or of the order or direction made pursuant thereto.

113.4 Violation penalties. Any person who shall violate a provision of this Construction Code or who shall fail to comply with any of the requirements thereof or who shall erect, construct, alter, extend, repair, remove, demolish, use or occupy, or permit the use or occupancy of, any building or structure or equipment regulated by this Construction Code in violation of the provisions of this Construction Code or of an approved plan or of a directive of the Building Official or of a permit or certificate issued under the provisions of this Construction Code or who shall permit the use, occupancy, erection, construction, alteration, extension, removal, demolition or repair of the building or structure or equipment in violation thereof, shall, upon being found guilty in an enforcement proceeding commenced by the Township, pay a penalty of not less than \$100 and not more than \$1,000 dollars for each violation, plus all costs of prosecution, which fines and penalties may be collected as provided by law. Each day that a violation continues shall be deemed a separate offense, and each section of this Construction Code which is violated shall be deemed a separate offense. The Building Official may request the Police Department to make arrests for any offense against this Construction Code or orders of the Building Official affecting the immediate safety of the public.

113.5 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the Township Solicitor or the Building Official from instituting appropriate action to prevent the unlawful construction or to restrain, correct, or abate a violation, or to prevent illegal occupancy of a building, structure or premises or to stop an illegal act, conduct, business, or use of a building or structure on or about any premises.

- (16) IBC Section 114.3 shall provide as follows:

114.3 Unlawful continuance. Any person who shall continue any work in or about the structure after having been served with a stop-work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall commit a violation of this Construction Code and shall be subject to penalties or fines as provided in Section 113.4 and remedies as provided in Section 113.5.

- (17) IBC Section 115, Unsafe Structures and Equipment, is deleted. The Township adopts Section 403.84 of the L & I Regulations governing unsafe buildings, structures, or equipment.
- (18) Table P301.2(1) of the International Residential Code/2003 is hereby completed by inserting the following information:
- (a) Ground snow load: 30 pounds per square foot.
 - (b) Wind speed (mph): 80 mph.
 - (c) Seismic design category: A.
 - (d) Weathering: severe.
 - (e) Frost line depth: 36 inches.
 - (f) Termite: moderate to heavy.
 - (g) Decay: slight to moderate.
 - (h) Winter design temperature: 10 degrees
 - (i) Ice shield underlayment required: Yes.
 - (j) Flood hazard: November 19, 1980.
 - (k) Air freezing index: 75 degrees
 - (l) Mean annual temperature: 50 degrees.