

§9722. Technical Building Codes and Standards Board

1. Establishment. The Technical Building Codes and Standards Board, established in Title 5, section 12004-G, subsection 5-A and located within the Department of Public Safety, Office of the State Fire Marshal, is established to adopt, amend and maintain the Maine Uniform Building and Energy Code, to resolve conflicts between the Maine Uniform Building and Energy Code and the fire and life safety codes in Title 25, sections 2452 and 2465 and to provide for training for municipal building officials, local code enforcement officers and 3rd-party inspectors. [PL 2011, c. 633, §5 (AMD).]

2. Membership. The board consists of 12 members, including the Director of the Efficiency Maine Trust, who serves ex officio and may not vote, and the following 11 individuals, who are voting members appointed by the Governor:

A. The State Fire Marshal or a designee or a fire chief, recommended by the Maine Fire Chiefs' Association or its successor organization; [PL 2007, c. 699, §6 (NEW).]

B. A municipal code enforcement officer employed by a municipality that is not a service center community under Title 30-A, chapter 187, recommended by the Maine Municipal Association or its successor organization; [PL 2007, c. 699, §6 (NEW).]

C. A municipal code enforcement officer employed by a service center community under Title 30-A, chapter 187, recommended by the Maine Service Centers Coalition or its successor organization; [PL 2007, c. 699, §6 (NEW).]

D. A residential builder recommended by a statewide or regional association of home builders and remodelers; [PL 2007, c. 699, §6 (NEW).]

E. A commercial builder recommended by a statewide association of general contractors; [PL 2007, c. 699, §6 (NEW).]

F. An architect licensed in the State who is accredited by a nationally recognized organization that administers credentialing programs related to environmentally sound building practices and standards, recommended by a statewide chapter of a national institute of architects; [PL 2007, c. 699, §6 (NEW).]

G. A structural engineer licensed in the State, recommended by a statewide association of structural engineers; [PL 2007, c. 699, §6 (NEW).]

H. A historic preservation representative, recommended by the Maine Historic Preservation Commission, with experience implementing the standards for the treatment of historic properties set forth in 36 Code of Federal Regulations, Part 68 (2007), who is:

- (1) An architect licensed in the State;
- (2) A structural engineer licensed in the State; or
- (3) A builder; [PL 2007, c. 699, §6 (NEW).]

I. An energy efficiency representative, recommended by the Director of the Governor's Energy Office within the Executive Department, who has experience or expertise in the design or implementation of energy codes or in the application of energy efficiency measures in residential or commercial construction; [PL 2011, c. 655, Pt. MM, §10 (AMD); PL 2011, c. 655, Pt. MM, §26 (AFF).]

J. A mechanical engineer licensed in the State, recommended by a statewide association of mechanical engineers; and [PL 2007, c. 699, §6 (NEW).]

K. A lumber material dealer or supplier, recommended by a statewide association of lumber dealers in the State. [PL 2007, c. 699, §6 (NEW).]

A member appointed under this subsection must have at least 5 years' experience in the field that member is nominated to represent and must be employed in that field.

[PL 2019, c. 391, §2 (AMD).]

3. Ex officio member; chair. The Commissioner of Public Safety, or the commissioner's designee, serves as an ex officio member and as the chair of the board. The chair is a nonvoting member, except in the case of a tie of the board. The chair is responsible for ensuring that the board maintains the purpose of its charge when executing its assigned duties, that any adoption and amendment requirements for the Maine Uniform Building and Energy Code are met and that training and technical assistance is provided to municipal building officials.

[PL 2007, c. 699, §6 (NEW).]

4. Terms; removal. Appointed members of the board are appointed for 4-year terms and are eligible for reappointment. If there is a vacancy for any cause among the appointed members, the Governor shall make an appointment immediately effective for the unexpired term. An appointed member of the board may be removed from the board for cause by the Governor.

[PL 2019, c. 391, §3 (AMD).]

5. Meetings; quorum. The board shall meet quarterly and at such other times as the board determines necessary. Seven voting members of the board constitute a quorum for the transaction of business under this chapter.

[PL 2007, c. 699, §6 (NEW).]

6. Duties and powers. In addition to other duties set forth in this chapter, the board shall:

A. Adopt rules in accordance with the Maine Administrative Procedure Act necessary to carry out its duties under this chapter. Rules adopted pursuant to this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A; [PL 2007, c. 699, §6 (NEW).]

B. Adopt, amend and maintain the Maine Uniform Building and Energy Code. The board shall ensure that the Maine Uniform Building and Energy Code consists of the following codes and standards:

- (1) International Building Code published by the International Code Council;
- (2) International Existing Building Code published by the International Code Council;
- (3) International Residential Code published by the International Code Council;
- (4) International Energy Conservation Code published by the International Code Council;
- (5) International Mechanical Code published by the International Code Council;
- (6) ASHRAE Standard 62.1 Ventilation for Acceptable Indoor Air Quality;
- (7) ASHRAE Standard 62.2 Ventilation and Acceptable Indoor Air Quality in Low-Rise Residential Buildings;
- (8) ASHRAE Standard 90.1 Energy Standard for Buildings Except Low-Rise Residential Buildings; and
- (9) Standard Practice for Radon Control Options for the Design and Construction of New Low-Rise Residential Buildings published by the American Society for Testing and Materials.

For purposes of this paragraph, ASHRAE has the same meaning as in section 1413, subsection 1.

Codes and standards adopted under this paragraph are mandatory, except as provided in paragraph B-1. The board shall ensure that each new edition of a code or standard adopted under this paragraph is reviewed by the board, and that each code or standard adopted under paragraph B is either the most recent edition or the edition previous to the most recent edition of that code or standard; [PL 2019, c. 391, §4 (AMD).]

B-1. Ensure the following in adopting and amending the Maine Uniform Building and Energy Code:

- (1) That historic preservation is a policy priority by ensuring that:
 - (a) Provisions of model codes and standards intended to facilitate the continued use or adaptive reuse of historic buildings are maintained in the adopted versions of the Maine Uniform Building and Energy Code; and
 - (b) The board proactively identifies additional or alternative compliance means and methods for historic buildings in the adoption and amendment of the Maine Uniform Building and Energy Code;
- (2) That nontraditional or experimental construction, including but not limited to straw bale, mass timber and earth berm construction, is permissible under the Maine Uniform Building and Energy Code;
- (3) That building materials from local sawmills, including but not limited to nongraded lumber, are permissible under the Maine Uniform Building and Energy Code; and
- (4) That buildings used to house livestock, store harvested crops or cultivate crops are not subject to the Maine Uniform Building and Energy Code. The exemption in this subparagraph does not include the cultivation of cannabis regulated under Title 22 or 28-B; [PL 2023, c. 527, §1 (AMD).]

C. Adopt rules for the review and adoption of amendments to the Maine Uniform Building and Energy Code, including:

- (1) A process for consideration of amendment proposals submitted by municipalities, county, regional or state governmental units, professional trade organizations and the public;
- (2) A requirement that amendments that are more restrictive than the national minimum standard be accompanied by an economic impact statement that includes:
 - (a) An identification of the types and an estimate of the number of the small businesses subject to the proposed amendment;
 - (b) The projected reporting, record-keeping and other administrative costs required for compliance with the proposed amendment, including the type of professional skills necessary for preparation of the report or record;
 - (c) A brief statement of the probable impact on affected small businesses; and
 - (d) A description of any less intrusive or less costly, reasonable alternative methods of achieving the purposes of the proposed amendment;
- (3) A process for reviewing and evaluating criteria to identify whether an amendment is needed to:
 - (a) Address a critical life or safety need, a specific state policy or statute or a unique character of the State;
 - (b) Ensure consistency with state rules or federal regulations; or
 - (c) Correct errors and omissions;
- (4) Timelines governing the filing of amendments and a process to establish an annual adoption cycle; and
- (5) A process for publication of adopted amendments within 30 days of adoption; [PL 2007, c. 699, §6 (NEW).]

D. Identify and resolve conflicts between the Maine Uniform Building and Energy Code and the fire safety codes and standards adopted pursuant to Title 25, section 2452. The board shall develop rules designed to resolve these conflicts, which must include:

- (1) Notification to the authority or authorities having jurisdiction over the code or standard that is in conflict with the Maine Uniform Building and Energy Code and a request for submission of proposed solutions for such conflicts;
- (2) Procedures for consideration of proposed solutions submitted by the authority or authorities having jurisdiction over the code or standard that is in conflict with the Maine Uniform Building and Energy Code and consideration of new approaches to resolving the conflict; and
- (3) Publication of resolution of the conflict within 30 days of adoption; [PL 2007, c. 699, §6 (NEW).]

E. On January 31st of each calendar year beginning in 2011, report to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters any proposals for proposed conflict resolutions for codes and standards referenced in section 9725, subsections 2 to 7; proposals to improve the efficiency and effectiveness of those codes and standards; and alternative methods of funding for the board to create an equitable source of revenue; [PL 2009, c. 261, Pt. A, §6 (AMD).]

F. Develop technical advisory groups of experts and interest group representatives as necessary to provide the board with detailed information and recommendations on amendments to the Maine Uniform Building and Energy Code, national model codes revisions and conflict resolution with other building-related codes and standards adopted in the State. The board may direct the technical advisory groups to identify economic impacts on small businesses, housing affordability, construction costs, life-cycle costs or code enforcement costs of proposed changes to the code; [PL 2007, c. 699, §6 (NEW).]

G. In accordance with section 9723, ensure that training and certification regarding the Maine Uniform Building and Energy Code is readily available, affordable and accessible to municipal building officials; [PL 2021, c. 293, Pt. A, §17 (AMD).]

H. [PL 2019, c. 391, §4 (RP).]

I. Approve methods of energy performance rating for use in generating any consumer information labels that may be required in the marketing and sale of residential and commercial buildings or units within buildings; [PL 2021, c. 524, §1 (AMD).]

J. [PL 2019, c. 391, §4 (RP).]

K. [PL 2019, c. 391, §4 (RP).]

L. [PL 2019, c. 391, §4 (RP).]

REVISOR'S NOTE: (Paragraph L as enacted by PL 2011, c. 408, §3 is REALLOCATED TO TITLE 10, SECTION 9722, SUBSECTION 6, PARAGRAPH M)

M. **(REALLOCATED FROM T. 10, §9722, sub-§6, ¶L)** [PL 2021, c. 293, Pt. A, §19 (RP).]

N. [PL 2021, c. 293, Pt. A, §20 (RP).]

O. No later than July 1, 2020, adopt, amend and maintain an appendix to the Maine Uniform Building and Energy Code as an optional part of the code that contains energy conservation and efficiency requirements that are based on established national voluntary efficiency standards that exceed the energy code requirements established in the Maine Uniform Building and Energy Code. As the code is updated, the board shall ensure that the energy conservation and efficiency requirements in the appendix continue to exceed the requirements established in the Maine Uniform Building and Energy Code. The appendix must be made available for voluntary adoption by any

municipality. The board shall maintain a list of municipalities that have voluntarily adopted the appendix to the Maine Uniform Building and Energy Code on its publicly accessible website; [PL 2023, c. 292, §1 (AMD).]

P. Ensure, through the adoption of necessary amendments, that the Maine Uniform Building and Energy Code expressly allows the installation and use of acceptable refrigeration or air conditioning products or equipment as defined in section 9724, subsection 7; and [PL 2023, c. 292, §2 (AMD).]

Q. No later than December 1, 2023, adopt the standards set forth in the Canadian Standards Association Standard for Residential Mechanical Ventilation Systems, CAN/CSA-F326-M91, as an alternative path for compliance with the ASHRAE Standard 62.2 Ventilation and Acceptable Indoor Air Quality in Low-Rise Residential Buildings under the Maine Uniform Building and Energy Code. For purposes of this paragraph, "ASHRAE" has the same meaning as in section 1413, subsection 1. [PL 2023, c. 292, §3 (NEW).]

[PL 2023, c. 527, §1 (AMD).]

SECTION HISTORY

PL 2007, c. 699, §6 (NEW). PL 2009, c. 261, Pt. A, §6 (AMD). RR 2011, c. 1, §§10-12 (COR). PL 2011, c. 365, §§1-3 (AMD). PL 2011, c. 408, §§2, 3 (AMD). PL 2011, c. 633, §5 (AMD). PL 2011, c. 655, Pt. MM, §10 (AMD). PL 2011, c. 655, Pt. MM, §26 (AFF). PL 2015, c. 126, §§1-3 (AMD). PL 2019, c. 391, §§2-4 (AMD). PL 2019, c. 392, §§1-3 (AMD). PL 2021, c. 293, Pt. A, §§17-20 (AMD). PL 2021, c. 524, §§1-3 (AMD). PL 2023, c. 292, §§1-3 (AMD). PL 2023, c. 527, §1 (AMD).

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