

**How Projects are Impacted
When the Michigan Construction Codes are Updated or Modified
Bureau of Construction Codes**

A D V I S O R Y

While the code sets forth the provisions for plan review and permit application, a written application may not be submitted at the time of preliminary discussions and this causes some confusion regarding which code is applicable at the time of a change in the codes during mid-design or when the design of a project is nearing completion.

It may be argued that the date of the application of a plan review or permit is the demarcation of which code is applicable. Another view would note that the project was under review if on-going, informal discussions with code officials were taking place as the project was being designed.

Each individual situation should be reviewed based on its merits. However, to avoid any uncertainty, the below scenarios have been outlined for your guidance:

- When a project is in the design phase, professionals and construction contractors should be engaged in on-going discussions with the code officials regarding project requirements from the on-set of the project. Therefore, when code changes are being contemplated, they would be discussed up front so that all parties are aware of potential changes that may impact the design of a particular project.
- When a project design is likely to be completed prior to the enactment of new code provisions, but the project isn't submitted prior to the effective date of the new code, the new changes would need to be contemplated. However, as stated in the above case, where the design professional has submitted preliminary design documents for discussion with a code official it may be argued that while the application had not been submitted, the code official and design professional were engaged in review of the project before the actual submission of the finalized plans.
- Once the plans have been approved or the permit has been issued, the code under which the project was approved/issued is the applicable code throughout the completion of the project.

A person aggrieved by a decision of a local or state code official may appeal that decision to the construction board of appeals. In such cases, an appeal shall be heard under the provisions of Section 15 of the Stille-DeRossett-Hale Single State Construction Code Act. A construction board of appeals may grant a variance where the literal application of the requirement would result in an exceptional, practical difficulty where the performance of the particular item, with respect to the variance being sought, meets the intended performance of the code and does not compromise the health, safety and welfare of the people of the state and the specific condition justifying the variance is not so general in nature as to cause an amendment to the code.