



Board of Building Standards

Request for Local Ordinance Review and Determination of Conflict

In accordance with ORC Section 3781.01, a local governing authority shall, and any person may, notify the Board of Building Standards of any regulation governing residential structures the local governing authority adopts to determine whether that regulation conflicts with the Residential Code of Ohio.

The Board of Building Standards has determined there are several pieces of information needed to expedite a review of local ordinances as to whether they are in conflict with the Residential Code of Ohio. This is necessary because the Board is required to reply to the request no later than 60 days after receiving a letter asking for a review of local regulations that may be in conflict with the Residential Code of Ohio.

When submitting your request please list a contact name, what local governing authority's regulations are being represented, a mailing address, E-mail address if available, and a daytime phone number. For each regulation, include the following information:

1. Please provide the local requirement which is believed to be in conflict with the Ohio Residential Code rather than simply sending a copy of the entire codified ordinance.
2. Please give the Ohio Residential Code (RCO) section reference with which the local requirement may conflict and, if possible, what the RCO and the local ordinance language state. Showing the RCO code language modified to match the local ordinance would expedite the review (example below).
3. Please provide an explanation of why you believe the RCO provision should change or the local provision is necessary to protect the health or safety of the persons within the local governing authority's jurisdiction. This justification is especially helpful in determining that a conflict exists, and also why the requirement should be included in the Residential Code of Ohio.

When the proper information is received, the Board must make a determination of conflict no later than 60 days after receiving the request to review local regulations. The Board's determination will be based upon a recommendation from the Residential Construction Advisory Committee. Section 4740.14(d) of the Ohio Revised Code requires that any recommendation on the residential code from the RCAC to the Board must consider (1) the impact that the state residential building code requirements may have upon the health, safety, and welfare of the public; (2) the economic reasonableness of the residential building code requirements; (3) the technical feasibility of the residential building code requirements; and (4) the financial impact that the residential building code requirements may have on the public's ability to purchase affordable housing.

Upon determining whether the regulation conflicts with the Residential Code of Ohio, the Board will notify the person who submitted the request and the jurisdiction of its determination. Pursuant to Section 3781.01 of the Revised Code, the Board has the following options based upon its findings:

1. If the Board finds a conflict does not exist, the Board will take no further action with regard to the local regulation.
2. If the Board finds a conflict exists and the regulation is necessary to protect the health or safety of the persons within the local governing authority's jurisdiction, the Board shall grant a temporary variance to the local governing authority and any similarly situated local governing authority until the rule becomes part of the state residential building code.
3. If the Board finds 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 because the conflicting local requirement is properly addressed in the Residential Code of Ohio, the regulation is not valid and the local governing authority may not enforce the regulation.

If, in the preparation of a local ordinance submittal, any questions arise please call the Board's offices at 614-644-2613 or E-mail at: dic.bbs@com.state.oh.us.

BBS MEMO

Ohio Board of Building Standards

Friday, August 04, 2006

6606 Tussing Road, P.O. Box 4009, Reynoldsburg, Ohio 43068-9009

SUBMITTING LOCAL RESIDENTIAL ORDINANCES FOR DETERMINATION OF CONFLICT

With the passage of H.B. 175 and its being signed into law, there is now a mechanism that is required to be used by political subdivisions for evaluating local residential building code requirements to determine if they conflict with provisions of the Residential Code of Ohio (RCO). In accordance with ORC Section 3781.01, *“a local governing authority shall, and any person may, notify the Board of Building Standards of any regulation governing residential structures the local governing authority adopts to determine whether that regulation conflicts with the Residential Code of Ohio.”*

Two methods for requesting a determination of conflict are now available; one to the political jurisdiction itself and one to those individuals who may be subject to local changes that may conflict with the RCO. Because these options are available, it is essential that the local modifications be submitted in a way that will facilitate the review by the Board of Building Standards and the Residential Construction Advisory Committee (RCAC).

Consequently, the Board of Building Standards and the RCAC have determined that there are several pieces of information needed to expedite a review of local ordinances as prescribed in the ORC to establish whether or not they are in conflict with the Residential Code of Ohio. This is necessary because the Board is required to reply to the request no later than 60 days after receiving a request for a review of local regulations for conflict with the Residential Code of Ohio. The process to be used is explained below.

WHAT TO SUBMIT:

When submitting your request please provide this basic information:

1. A cover letter requesting a determination of conflict,
2. A contact name,
3. What local governing authority's regulations are being represented,
4. A mailing address,
5. An E-mail address if available, and
6. A daytime phone number.

For each regulation, include the following information:

1. Please provide the local requirement which is believed to be in conflict with the Ohio Residential Code rather than simply sending a copy of the entire codified ordinance.
2. Please give the Ohio Residential Code (RCO) section reference with which the local requirement may conflict and, if possible, what the RCO and the local ordinance language state. Showing the RCO code language modified to match the local ordinance would expedite the review (example below *).
3. Please provide an explanation of why you believe the RCO provision should change or the local provision is necessary to protect the health or safety of the persons within the local governing authority's jurisdiction. This justification is especially helpful in determining that a conflict exists, and also why the requirement should be included in the Residential Code of Ohio.

WHAT PROCESS WILL BE FOLLOWED:

When the proper information is received, the Board's process can begin in which it must make a determination of conflict no later than 60 days after receiving the request to review the local regulations. The Board's determination will be based upon a recommendation from the Residential Construction Advisory Committee.

Section 4740.14(d) of the Ohio Revised Code requires that any recommendation on the residential code from the RCAC to the Board must consider 1) the impact that the state residential building code requirements may have upon the health, safety, and welfare of the public; 2) the economic reasonableness of the residential building code requirements; 3) the technical feasibility of the residential building code requirements; and 4) the financial impact that the residential building code requirements may have on the public's ability to purchase affordable housing.

Upon determining whether the regulation conflicts with the Residential Code of Ohio, the Board will notify the person who submitted the request and the jurisdiction of its determination. Pursuant to Section 3781.01 of the Revised Code, the Board has the following options based upon its findings:

1. If the Board finds a conflict does not exist, the Board will take no further action with regard to the local regulation.
2. If the Board finds a conflict exists and the regulation is necessary to protect the health or safety of the persons within the local governing authority's jurisdiction, the Board shall grant a temporary variance to the local governing authority and any similarly situated local governing authority until the rule becomes part of the state residential building code.
3. If the Board finds 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 because the conflicting local requirement is properly addressed in the Residential Code of Ohio, the regulation is not valid and the local governing authority may not enforce the regulation.

If, in the preparation of a local ordinance submittal, any questions arise, please call the Board's offices at 614-644-2613 or E-mail to: dic.bbs@com.state.oh.us.

* **Example** of a submitted ordinance with changes made to RCO shown in ~~strikeout~~ and underline:

RCO SECTION R302 LOCATION ON LOT

R302.1 Exterior Walls. Exterior walls with a fire separation distance of ~~3~~ 5 feet or less shall have not less than a one-hour fire-resistive rating with exposure from both sides.

Projections shall not extend to a point closer than ~~4~~ 4 feet from the line used to determine the fire separation distance.

Exception: Detached garages accessory to a dwelling located within ~~4~~ 5 feet of a lot line may have roof eave projections not exceeding 4 inches.