

Guidance from PABCO

This is guidance from PABCO to their membership regarding the statewide shutdown of construction. PABCO, the Pennsylvania Association of Building Code Officials, is a statewide organization representing Building Code Officials and their member companies. This document reflects PABCO's guidance to its members as of 8:50 a.m. on March 26, 2020.

This is being provided in an effort to keep you informed about the coronavirus pandemic and the Commonwealth's response.

The guidance being offered is based on facts as we understand them and interpretations that seem to be common and consistent.

That being said, PABCO does not and cannot assume any responsibility or liability for the guidance it is providing, and each of you should consult with solicitors, attorneys and government officials.

The clarification we distributed several days ago remains in place. Basically:

All residential and non-residential construction has been deemed to be non life-sustaining and is therefore, not essential.

The two exceptions being: residential and commercial emergency repairs (to buildings, structures, equipment, etc.) AND any construction pertaining to health care facilities, including the construction or erection of temporary tents for screening purposes.

We already addressed our thoughts on how to deal with requests for inspections for those exceptions already spelled out in the Governor's order.

Since then, there have been a number of waivers issued by the Commonwealth. Those waivers allow businesses to continue to operate their physical site locations and as such, they are to be treated as essential, life-sustaining.

A growing number of these waivers are for residential and commercial construction. The waivers being issued are waivers for the operations of the business and do not identify or specify specific construction projects underway. The waivers also require social distancing and working remotely to the greatest degree possible.

It is highly unlikely that the businesses applying for the waivers will have a copy of their application since they are submitted digitally. Therefore, it will be generally impossible to see what they applied for in terms of the waiver.

Until different information becomes available, it would seem that municipalities and third party agencies will be expected to respond to any inspection request from a contractor with a waiver, provided that waiver is provided to the entity conducting the inspection.

These will likely entail "routine" inspections and are not bound by the emergency repairs language.

Additionally, information on the waiver FAQ page makes it clear that a construction business is not required to apply for a waiver if the work they are doing on a worksite is related to securing and stabilizing the site and making it temporarily weathertight to avoid undue damage. This would be considered "emergency repairs" under the Governor's order.

All businesses are allowed to operate remotely, whether essential or not. As such, submittal of permit applications, plans and documents for review and approval, etc. may continue to the degree that they can be done remotely or delivered to a municipality or third party agency without public contact occurring.

At this time, there is no "delay" in reviewing and approving applications under the UCC. 15 days residential and 30 days commercial, 5 days residential with sealed and certified plans.

The concern here is that once plans are reviewed and approved, permits are required to be released. However, unless the project meets one of the Governor's exemptions, construction cannot begin **UNLESS THE PERMIT APPLICANT ALSO HAS A WAIVER, IN WHICH CASE CONSTRUCTION CAN BEGIN AND INSPECTIONS REQUESTED.**

The last bit of information this evening is that Third Party Agencies that have applied for a waiver have received a response that a waiver is not needed because the nature of their business already qualifies them as an essential, life-sustaining business.

For those of you who deal with zoning and planning, it has been suggested by some that waivers be sought of MPC and local land use ordinance timelines so that applicants do not claim "deemed approval" for subdivision, land development and Zoning Hearing Board applications.

If you live in or work in a "stay at home" county, please remember that performing essential services is allowed (inspections in particular) as long as social distancing guidelines are followed.

Feel free to respond with any questions or any situations that you are experiencing that are not addressed in any of this updated guidance.

Thanks for this opportunity to be of service!