**16 DEPARTMENT OF PUBLIC SAFETY**

**642 BUREAU OF BUILDING CODES AND STANDARDS**

**Chapter 2: MAINE UNIFORM BUILDING ~~CODE~~ AND ~~UNIFORM~~ ENERGY CODE - THIRD PARTY INSPECTORS (“TPI”)**

**SUMMARY:** All building construction within the State of Maine shall be governed by the Maine Uniform Building and Energy Code (“MUBEC”), which is adopted by the Technical Building Codes and Standards Board by rule in Chapters 1 through 7 pursuant to 10 M.R.S Chapter 1103, §9721, *et seq*. The primary objective of the Board is to establish a uniform building code throughout the State of Maine.

These rules set forth the methods by which municipalities and MUBEC certified Code Officials may utilize a Third Party Inspector (TPI~~s~~) as an option ~~with~~ for the enforcement of the MUBEC, the role of a TPI and the work product requirements for the TPI.

**SECTION 1. PURPOSE AND SCOPE**

~~A TPI certified by the Maine Department of Economic and Community Development is authorized to enter into a private agreement for remuneration with an Applicant or with a municipality or municipalities, to conduct inspections under 30-A M.R.S. §4451 for compliance with these Codes, to issue a Notice to Proceed to the Applicant and to issue an inspection report to the municipality for the issuance of a certificate of occupancy.~~

A municipality or Applicant may choose to engage a Third-Party Inspector (TPI) to review Construction Documents and inspect construction to ensure compliance with certain components of the MUBEC. In order to perform the duties enumerated in this rule for compensation, a TPI must be certified by the Maine Department of Public Safety, Office of State Fire Marshal. The specific inspection services under Title 30-A M.R.S. §4451 for compliance with the MUBEC to be provided by the TPI and the level of remuneration shall be defined in a private written agreement signed by the TPI and the municipality, Applicant, or Client.

**SECTION 2. AUTHORITY**

The authority for Third Party Inspectors is found in Title 25 M.R.S. §§ 2353-A and 2371 *et seq.* ~~10 M.R.S. §9723~~.

TPI authority is limited to the MUBEC certifications only and does not include the authorities of Court Rule 80K, Shoreland Zoning, Land Use, or Local Plumbing Inspector without appointment by a municipality and certification as stated in Title 30-A §4451. Municipalities with a population with fewer than 4,000 are not required to enforce the MUBEC but may formally acknowledge enforcement as outlined in this Chapter.

A TPI may not hold a pecuniary interest, directly or indirectly, in any building for which the TPI issues an inspection report pursuant to Title 25 §2373 and may not serve as a TPI in any municipality where that TPI has been appointed as a building official or code enforcement officer.

**SECTION 3.** **DEFINITIONS**

1. **Applicant.** The Applicant is the owner or authorized agent or legal entity proposing the construction project.
2. **Area(s) of Certification.** The Area of Certification is the component of the MUBEC in which the TPI has been awarded Certification by the Department of Public Safety. A TPI may hold multiple Areas of Certification.
3. **Certificate of Completion.** The Certificate of Completion is the document issued by the TPI that certifies the Project was completed in compliance with the components of the MUBEC for which the TPI is certified.
4. **Client.** The Client is the person or entity named in the private written agreement as the person or entity responsible for engaging and providing compensation to the TPI.
5. **Construction Documents.** The Construction Documents describe the proposed project and include drawings, plans, technical specifications and any other documents that describe the proposed Project.
6. **Inspection Report.** Every time a TPI visits the Project Site, the TPI shall create an Inspection Report that lists their observations and summarizes any discussions between the TPI and the Applicant, Client or their agent.
7. **MUBEC (also “the Code”).** “MUBEC” means the Maine Uniform Building and Energy Code adopted pursuant to Title 10 M.R.S. §9271, et seq.
8. **Notice of Approval of Construction Documents**. The Notice of Approval of Construction Documents shall be in the form of a letter issued by the TPI to the Applicant, Client, and the municipality.
9. **Project.** The Project is the proposed construction, generally a building, and including the land upon which construction occurs.
10. **Project File.** The Project File shall be created and maintained by the TPI and shall include, at a minimum, documents listed in Section 5.
11. **Third-Party Inspector (TPI).** “TPI” means a person certified by the Office of State Fire Marshal to conduct inspections under Title 30-A M.R.S. §4451, for compliance with the MUBEC.

**SECTION ~~3~~ ~~4~~. NOTICE ~~TO PROCEED~~ OF APPROVAL OF CONSTRUCTION DOCUMENTS**

1. A TPI shall ~~inspect~~ review the Applicant’s or Client’s ~~planned~~ proposed Construction Documents, ~~including diagrams, schematics, specifications, etc.~~ for compliance with ~~these Codes~~ the MUBEC. If the TPI finds the ~~planned~~ proposed construction complies with the Code, the TPI shall~~:~~ issue a Notice of Approval of Construction Documents. This Notice shall list the specific Area(s) of Certification for which the TPI is certified and the components of the MUBEC for which the proposed construction is deemed compliant.

~~A. Approve the planned construction in writing to the Applicant, as currently in compliance with these Codes, within the specific building area for which the TPI is certified.~~

**~~SECTION 4.~~** *~~RESERVED~~*

**SECTION 5. ~~CONSTRUCTION~~ PROJECT FILE**

1. ~~One copy of the Construction~~ A Project File shall be created, maintained and retained by the TPI and a copy provided to the municipality. ~~and an additional copy shall be furnished to the municipality when the Application for Certificate of Occupancy is submitted.~~ The Applicant, Client, and municipality shall, at all times, have reasonable access to the Project File.

~~2. One copy of the Construction File shall be provided to the Applicant and shall be available upon request, for inspection, during the planned construction.~~

~~3~~2. The ~~Construction~~ Project File shall contain the following:

A. All written correspondence between the TPI and the Applicant or Client regarding the ~~planned~~ proposed construction. The inclusion of ~~contractual documents regarding~~ the private written agreement ~~contracted~~ for services by and between the TPI and ~~Applicant~~  Client is voluntary.

B. A copy of the Construction Documents ~~plans, schematics, diagrams, and specifications fully describing the planned construction.~~

C. A copy of the Notice ~~to Proceed~~ of Approval of Construction Documents ~~issued by the TPI to the Applicant for the planned construction.~~

D. A copy of any ~~Change orders~~ modifications to the Construction Documents ~~for significant modification of planned~~ approved ~~construction and~~ by the TPI ~~approval for each change order.~~

E. A copy of all Inspection Reports ~~prepared~~ created by the TPI.

~~F. A copy of all photographs of the construction. Each photograph shall be time dated.~~

~~G.~~ F. A copy of the Certificate of Completion ~~final statement of the TPI to the municipality advising if the subject construction is compliance with these Codes.~~

**SECTION ~~7~~ 6. INSPECTIONS**

1. ~~Construction for which a Notice to Proceed is issued shall be subject to inspection by the TPI and such construction~~ The Project shall remain accessible and the work exposed for inspection purposes until approved by the TPI.

2. The TPI, upon notification by the Applicant or the Client, shall make inspections pursuant to ~~the Code and~~ Chapter ~~I~~1 of ~~each~~  the applicable component(s) ~~international code~~ of the MUBEC. Such inspection(s) shall be within the specific ~~building area(s)~~ Area(s) of Certification for which the TPI is certified.

**SECTION ~~6~~ 7. INSPECTION REPORT**

1. The Inspection Report shall be prepared, dated and signed, by the TPI. ~~and~~ The Inspection Report shall include, but not be limited to the following information:

A. ~~The Inspection Report shall contain a clear and concise~~ A general description of each Code item reviewed for compliance.

B. ~~The Inspection Report shall provide instruction and~~ A record of any ~~guidance to the Applicant to identify and resolve items~~ work found to be in noncompliance with the Code and any guidance the TPI offered regarding correcting such work.

C. ~~Inspection~~ ~~items~~ A listing of any work found to be ~~in~~ noncompliant shall be described and identified by Code section.

D. ~~Correction of~~ ~~non-conforming~~ ~~inspection items shall be documented.~~ Documentation that any noncompliant work has been corrected and a description of the corrective work.

~~E. All change orders that significantly modify the planned construction, shall be dated and shall include a written determination by the TPI of Code compliance or noncompliance.~~

~~F~~ E. ~~Each Inspection Report shall include the time and date of inspections,~~ A general description of the stage of the ~~planned~~ proposed construction that was observed. ~~and shall be signed by the TPI conducting the inspection.~~

**SECTION 8. PROJECT COMPLETION**

1.       When the TPI is notified that construction is complete, the TPI shall conduct a final inspection and create a final inspection report.

2.       If, based on the final inspection, the TPI deems components of the project are in compliance with the MUBEC, the TPI shall issue a Certificate of Completion. The Certificate of Completion shall note the TPI’s Area(s) of Certification and any other limitations. 

3.       The TPI shall also present the Certificate of Completion to the municipality who shall acknowledge receipt. The municipality is only acknowledging the work of the TPI and not assuming responsibility for compliance.

4. Municipality is required to accept the Certificate of Completion indicating the work has been finished and shall provide acknowledgement to the applicant. Acknowledgement shall act as Certificate of Occupancy in respect to the MUBEC portion of the project.

STATUTORY AUTHORITY: Title 25 M.R.S. §§ 2353-A and 2371 *et seq.* ~~10 M.R.S. §9723~~

EFFECTIVE DATE:

October 11, 2010 – filing 2010-471

AMENDED:

January 23, 2018 – filing 2018-007