



Board of Building Standards

CODE COMMITTEE MEETING AGENDA

DATE: MARCH 21, 2024
TIME: 1:00 PM
LOCATION: TRAINING RM 2, 6606 TUSSING RD, REYNOLDSBURG, OHIO 43068
[Click here to join the meeting](#)

Call to Order

Approval of Minutes

[MIN-1](#) February 22, 2024 Code Committee Minutes

Petitions

Recommendations of the Residential Construction Advisory Committee

Old Business

[OB-1](#) City of Union Determination of Conflict
[OB-2](#) Proposed Code Change - OBC Section 907.5.2.2.3
[OB-3](#) Use of Glass Fiber Reinforced Polymer (GFRP) in structural concrete

New Business

NB-1 RCO Chapter 34 (Electrical) update

Adjourn

File Attachments for Item:

MIN-1 February 22, 2024 Code Committee Minutes

**OHIO BOARD OF BUILDING STANDARDS
CODE COMMITTEE MINUTES
February 22, 2024**

The Code Committee met on February 22, 2024 with the following members present: Mr. Denk, Mr. Johnson, Mr. Miller, Mr. Pavlis, Mr. Samuelson, Mr. Stanbery, and Mr. Yankie. Board Chairman Galvin was also present.

The following staff members were present: Regina Hanshaw, Bruce Culver, Robert Johnson, Debbie Ohler, and Jay Richards.

Guests present: Joseph Moore, John Applegate, Andy Switzer, Matt Rohan, and John Johnson, III

Guests present via Teams: Charles Huber and BBS member Ms. Cromwell

CALL TO ORDER

The meeting was called to order by Mr. Denk at 1:07 P.M.

APPROVAL OF MINUTES

Mr. Miller made the motion to approve the minutes of the Code Committee meeting held on December 14, 2023. Mr. Stanbery seconded the motion. The motion passed unanimously.

PETITIONS

No items for consideration

RECOMMENDATIONS OF THE RESIDENTIAL CONSTRUCTION ADVISORY COMMITTEE

City of Union Determination of Conflict

Ms. Hanshaw stated that staff was contacted last year by a builder indicating that the City of Union has an ordinance that prohibits the use of concrete masonry units (CMU), and instead, requires the use of poured concrete. Mr. Robert Johnson, the Board's investigator, subsequently contacted the City's building official, Andrew Switzer, to discuss the purpose of the ordinance. The builder then requested that the Board make a determination of conflict in accordance with the procedure outlined in Revised Code §3781.01. The Residential Construction Advisory Committee (RCAC) met in November of 2023 and voted to make a recommendation to the Board that the City of Union's ordinance is in conflict with the Residential Code of Ohio (RCO) in that it doesn't allow other materials that the RCO allows and that it is not necessary for the health, safety, and welfare of Ohio's citizens. Therefore, it is not recommended that a similar prohibition be added to the RCO. Ms. Hanshaw stated that no action from the Code committee was expected today, but that the City asked for time before the committee to present their position.

Mr. Joseph Moore, Law Director for the City of Union, introduced Mr. John Applegate, City Manager, and Andy Switzer, Residential Building Official for the City. Mr. Moore indicated that the City of Union adopted the ordinance in the best health, safety, and welfare interest of the citizens of Union. The city is a Charter City in Montgomery County with a population of approximately 7000. He explained that the city is a plat city and that there are no luxury home subdivisions in the city. As a Charter City, they believe that they can decide to use

only one of the four acceptable methods in the RCO. Aesthetics is a legitimate government interest. The city planning commission recommended that a poured foundation is preferable and is in the best interest of the city. He believes that the City Council can do what is in the city's best interest.

Mr. Applegate provided the history of why the city's many ordinances were adopted. He indicated that most of the time, ordinances were adopted in response to citizen complaints. For example, they adopted a property maintenance code and presale inspection requirements as a direct result of citizen complaints. Essentially, the city leaders want their residential housing stock to stand the test of time. They are not wanting the RCO changed. They simply want to allow the City of Union to choose what is best for their community.

Mr. Moore mentioned that Dusty Balsbaugh, of Balsbaugh Excavating and Concrete, a local concrete expert and contractor that does a lot of work in the City of Union is quoted as saying that "poured concrete is a better long-term product." Mr. Moore provided copies of the following documents and asked that they be entered into the record: Affidavit of Mr. Balsbaugh, Ordinance No. 1762, and the City Council minutes dated 12/12/2022 documenting when the ordinance was adopted.

Mr. Samuelson asked whether the ordinance applies to only basements or to all foundations.

Mr. Applegate answered that it applies to all foundations. He mentioned that particularly with Ryan Homes, they notice deterioration of block due to deicing around the garage and the porch. He mentioned that they get calls and complaints from residents and that they try to be committed to the community.

Mr. Denk commented that it seems to be the heavy hand of government, but that it is well-intended. He asked whether CMU with bar and grout adequate?

Mr. Switzer answered "apparently not" and indicated that the front porch is the main issue. CMU rots, according to Mr. Switzer. If the porch is replaced, no reinforcement is required based on the small size of the porch.

Mr. Applegate confirmed that block is porous. The joints are weak points. He also emphasized that it is hard to find good block masons these days.

Mr. Pavlis explained that since 2000, they have tried to have a uniform RCO in Ohio. He is concerned that next year you might want only two by sixes. Builders don't want different codes across the state. The OHBA fought for one code throughout the state. He is an expert witness and has seen cracked CMUs as well as cracked poured walls.

Mr. Applegate mentioned that Union had its own code prior to the RCO. It's a blue-collar community and the city council wants to help the residents keep their homes. They want to choose from the methods allowed in the RCO. They don't care if a builder doesn't want to build in Union.

Mr. Pavlis shared his belief that the owner should be allowed to build what's in the code.

Mr. Applegate confirmed that they are not asking the BBS to change the code. He believes that a Charter Community should be allowed to choose what they want in their community. He stated that they want to keep their community strong and safe.

Mr. Switzer mentioned that rake and soffits are also required in Union. This protects the walls from rotting.

Mr. Pavlis indicated that he admires Mr. Applegate's passion, but that he disagrees with his position.

Mr. Stanbery questioned the problems that they had with Ryan Homes.

Mr. Applegate answered that we made them believers.

Mr. Johnson asked whether they have any retirement homes or apartments in the city and whether they are trying to keep certain people out. Typically the residents of these type of buildings are on a fixed income.

Mr. Applegate indicated that their goal is to have a blend of types of affordable homes. People in the city love it because we listen and care.

Mr. Johnson said that concrete will crack, but still be structurally sound. He shared that his personal feelings don't matter, but that he sees it as overreaching. He struggles having to tell a builder that they have to only build in one way. That makes costs go up. Poor people can't live in that city anymore. Building standards have evolved and we work hard to make sure the codes produce good homes. He worries that we are pricing them out. He can understand their intent but he worries that it will cost too much.

Mr. Applegate agreed with Mr. Johnson and indicated that all builders, except Arcon, have switched to poured concrete. They can work all year with concrete. The builders can't find bricklayers and masons anymore.

Mr. Pavlis suggested to just let it ride out and play itself out. The market will work itself out. He will also be transitioning to poured due to the lack of labor.

Mr. Stanbery suggested adding more property maintenance inspections.

Mr. Pavlis, again, emphasized the need for a uniform code.

Mr. Applegate appreciated the opportunity to present their position.

Ms. Hanshaw asked for clarification of the second sentence in the ordinance which allows for case-by-case application. She mentioned that type of code language is unusual and makes it hard for citizens to know what the city is looking for.

Mr. Switzer indicated that was intended to allow tilt-up concrete and to allow block for existing construction.

Mr. Applegate mentioned that they respond to their residents. When bushes grow into neighbor's yards, they require that the bush owner trim their bushes. It's a team effort. The city works with the residents and respond to complaints.

Mr. Miller asked for the cost difference between poured vs. block.

Mr. Applegate indicated that the cost is weather dependent, but the difference is 25%.

Mr. Pavlis confirmed that the cost is weather dependent, but that he plans for 40-50% more for poured. There is more labor in setting the forms. It's more specialized and many contractors are union workers.

Mr. Miller mentioned that ultimately, this will be a home rule argument. The committee will need to discuss this with home rule in mind.

After a brief break, Mr. Miller discussed the legal concept of home rule with the committee members. He explained that the Ohio constitution Article 18 allows for statutory cities and home rule cities.

Ms. Hanshaw mentioned the language in HB 175 inserted the BBS in the determination of conflict. She mentioned that the Dublin court case was the only case since HB 175 was enacted. She agreed that this is a constitutional issue.

Ms. Hanshaw mentioned that the RCAC specifically asked the city whether there were any unique local conditions that warranted the need for the ordinance. She believes that allowing this type of preference undermines the intent of HB 175.

No action was taken by the committee.

OLD BUSINESS

No items for consideration

NEW BUSINESS

Public Comment

Mr. Matt Rohan, the Midwest Territory Manager for the Cast Iron Soil Pipe Institute (CISPI), introduced himself and the organization to the Code Committee and wanted the committee to know that he is available to answer any of their questions. The committee and staff asked a few questions about the use, application, and advantages of cast iron pipe vs. PVC pipe.

Proposed Code Change – OBC Section 907.5.2.2.3

Ms. Hanshaw provided the background that prompted a proposed change to the OBC. A new school in southwest Ohio was recently constructed with a required Emergency Voice Alarm Communication System (EVACS). The school administrators subsequently contracted to add an active shooter alarm system that included blue pull stations installed next to the red fire alarm pull stations. The active shooter alarm system was funded through

the Ohio School Facilities Commission and was programmed to take precedence over the fire alarm system. The local fire official wrote a letter in support of the installation, but the State Fire Marshal Inspector cited the OFC Section 907.5.2.2.3 which prohibits any other system from taking precedence over the manual alarm signal. The school administrator and the designer of the EVACS system indicated that the NFPA 72 standard referenced from the OBC/OFC provides more design flexibility and that the NFPA standard was used as the basis of the fire/security system design. The building official issued an order that will allow the owner/school administrator to appeal the OBC/OFC requirement and request a variance.

Ms. Ohler presented proposed draft language for consideration to be added to the OBC, and hopefully the OFC, at a future time to allow more flexibility to building owners trying to balance safety and security risks. The language allows other high priority urgent emergency messages to take precedence over a fire alarm message provided that the building is sprinklered, the fire alarm system is addressable, and the proposed system priority levels are established in a building-specific emergency response plan.

Mr. Pavlis moved to table the item until we get input from the State Fire Marshal. Mr. Miller seconded. The motion passed unanimously.

Request that the RCAC reconsider Arc-Fault Circuit Interrupter (AFCI) requirements

Mr. Pavlis moved for the RCAC to re-review the technical feasibility of the AFCI requirements in the Residential Code of Ohio (RCO). He mentioned that the OHBA is getting complaints that dishwashers, microwaves, refrigerators, and vacuum cleaners are causing AFCI devices to trip, resulting in multiple call-backs and electricians replacing the AFCI devices with normal circuit breakers. Mr. Pavlis wonders if NFPA is working with the appliance industry to ensure that the AFCI devices are properly tested before adding the requirement in the National Electrical Code (NEC). Mr. Stanbery seconded. The motion passed unanimously.

ADJOURN

Mr. Miller made the motion to adjourn at 3:35 P.M. Mr. Yankee seconded the motion. The motion passed unanimously.

File Attachments for Item:

OB-1 City of Union Determination of Conflict

From: [Cassie Shellabarger](#)
To: [BBS, BBSOfficeAsst3](#)
Cc: [Tim Shellabarger](#)
Subject: Determination of Conflict
Date: Monday, June 26, 2023 3:13:50 PM
Attachments: [Union Local Provisions.pdf](#)
[Ohio Revised Code.pdf](#)

To whom it may concern,

We believe Section 1312.03 item (e) of the local provisions stating “**New buildings are to be constructed with poured-in-place concrete foundations. Existing buildings may have additions with foundations constructed using concrete block, CMU, if, and only if, the main building foundation is also constructed using CMU.** Pre-cast poured concrete foundations may be approved on a case-by-case basis after examination by the Zoning Administrator. Accessory buildings less than 144 sqft in area are exempt from the poured in place concrete requirements” (attached) conflicts with the RCO section 404.1.2.1 and 404.1.3 (attached).

We believe that the local provisions are opinion based and do not follow the RCO.

- a contact name: Tim Shellabarger
- what local governing authority’s regulations are being represented: Union, Oh
- a mailing address: 7824 Alternate State Route 49, Arcanum, Oh 45304
- E-mail address if available: timshellabarger@arconbuilders.com
- a daytime phone number: 937-692-6330

Appreciated,

Cassie Shellabarger

cassie@arconbuilders.com

accounts@arconbuilders.com



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CHAPTER 1312

Local Provisions

- 1312.01 Storage sheds.
- 1312.02 Patios.
- 1312.03 Requirements for new one, two, and three-family dwelling homes.
- 1312.04 Portable storage containers.
- 1312.99 Penalty.

1312.01 STORAGE SHEDS.

- (a) The maximum dimension of storage sheds shall not exceed twelve feet by twelve feet, with a total height of no more than twelve feet and no more height than eight feet to eaves soffit from concrete floor.
- (b) All storage sheds must be installed on a four-inch slab, and anchored with concrete anchoring devices.
- (c) In lieu of concrete slab, pilasters may be used consisting of concrete or treated lumber for ground contact as approved by the Building Inspector. Pilasters shall be a minimum of eight inches in diameter and eighteen inches in depth. In addition, a wooden structure shall be seven inches above grade if built of untreated lumber, to prevent rotting and wood boring insects; if metal, two to three inches off ground to prevent rusting.
- (d) No storage shed shall be placed closer than ten feet to main structure, or within six feet of any property line, or on any easements; and no storage shed shall be installed closer to the street than the building setback line.
- (e) No plumbing shall be installed in storage sheds.
- (f) Materials and construction of storage sheds must be of acceptable quality. This must be determined by the Building Inspector when application for building permit is submitted.
- (g) Pre-fabricated kit building, less than 144 square feet in area, will usually not be judged for structural soundness if produced and sold by a reputable manufacturer and if no history of problems or serious defects are known to the Building Inspector. In such cases, the owner should check the warranties.

(Ord. 1384, Passed 1-23-06.)

1312.02 PATIOS.

- All patios must be of four-inch concrete on four inches of gravel.
- (Ord. 1092, Passed 5-12-97.)

1312.03 REQUIREMENTS FOR NEW ONE, TWO, AND THREE-FAMILY DWELLING HOMES.

- (a) Minimum two car garage.
 - (b) All driveways and sidewalks must be concrete in approved subdivision plats.
 - (c) Sod is required in the front yard, side yard, and fifteen feet in the rear yard for any dwelling when there is less than a seventy-five foot setback. Sod or hydroseed is required in the front yard, side yard and fifteen feet in the rear yard for any dwelling that has more than a seventy-five foot setback.
 - (d) Overhangs are required on all new houses.
 - (e) New buildings are to be constructed with poured-in-place concrete foundations. Existing buildings may have additions with foundations constructed using concrete block, CMU (concrete masonry units) if, and only if, the main building foundation is also constructed using CMU. Pre-cast poured concrete foundations may be approved on a case-by-case basis after examination by the Zoning Administrator. Accessory buildings less than 144 sq. ft. in area are exempt from this poured-in-place concrete requirement.
 - (f) New buildings and additions thereto are to be constructed with plywood or oriented strand-board exterior wall sheathing. Accessory buildings less than 144 sq. ft. in area are exempt from this requirement.
- (Ord. 1762, Passed 12-12-22; Ord. 1763, Passed 12-12-22.)

403.4.2 Concrete footings. Concrete footings shall be installed in accordance with Section 403.1 and Figure 403.4(2).

403.5 Exterior deck footings. See Section 507 for exterior deck foundation requirements.

**SECTION 404
FOUNDATION AND RETAINING WALLS**

404.1 Concrete and masonry foundation walls. Concrete foundation walls shall be selected and constructed in accordance with the provisions of Section 404.1.3. Masonry foundation walls shall be selected and constructed in accordance with the provisions of Section 404.1.2.

404.1.1 Design required. Concrete or masonry foundation walls shall be designed in accordance with accepted engineering practice where either of the following conditions exists:

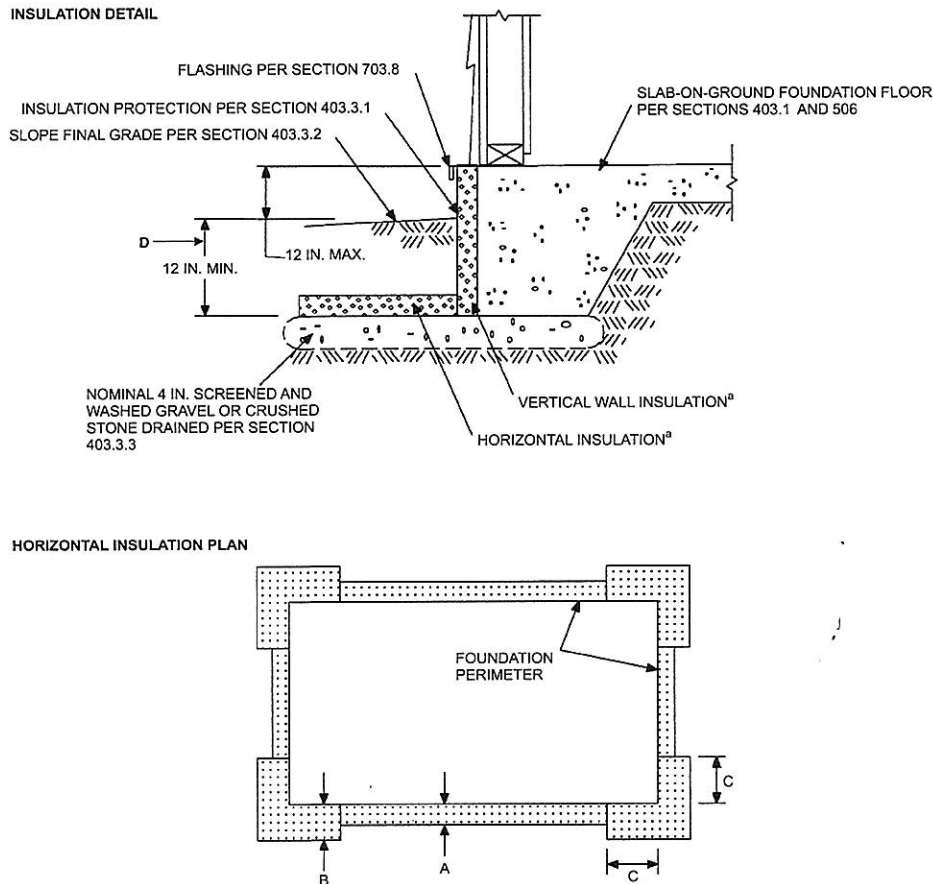
1. Walls are subject to hydrostatic pressure from ground water.

2. Walls supporting more than 48 inches (1219 mm) of unbalanced backfill that do not have permanent lateral support at the top or bottom.

404.1.2 Design of masonry foundation walls. Masonry foundation walls shall be designed and constructed in accordance with the provisions of this section or in accordance with the provisions of TMS 402.

404.1.2.1 Masonry foundation walls. Concrete masonry and clay masonry foundation walls shall be constructed as set forth in Table 404.1.1(1), 404.1.1(2), 404.1.1(3) or 404.1.1(4) and shall comply with applicable provisions of Section 606. Rubble stone masonry foundation walls shall be constructed in accordance with Sections 404.1.8 and 606.4.2.

404.1.3 Concrete foundation walls. Concrete foundation walls that support light-frame walls shall be designed and constructed in accordance with the provisions of this section, ACI 318, ACI 332 or PCA 100. Concrete foundation walls that support above-grade concrete walls that are within the applicability limits of Section 608.2 shall be designed and constructed in accordance with the provisions of this section, ACI 318, ACI 332 or PCA 100. Concrete foundation walls that support above-grade concrete



For SI: 1 inch = 25.4 mm.

a. See Table 403.3(1) for required dimensions and R-values for vertical and horizontal insulation and minimum footing depth.

**FIGURE 403.3(1)
INSULATION PLACEMENT FOR FROST-PROTECTED FOOTINGS IN HEATED BUILDINGS**

**TABLE 404.1.1(1)
PLAIN MASONRY FOUNDATION WALLS^f**

MAXIMUM WALL HEIGHT (feet)	MAXIMUM UNBALANCED BACKFILL HEIGHT ^c (feet)	PLAIN MASONRY ^a MINIMUM NOMINAL WALL THICKNESS (inches)		
		Soil classes ^b		
		GW, GP, SW and SP	GM, GC, SM, SM-SC and ML	SC, MH, ML-CL and inorganic CL
5	4	6 solid ^d or 8	6 solid ^d or 8	6 solid ^d or 8
	5	6 solid ^d or 8	8	10
6	4	6 solid ^d or 8	6 solid ^d or 8	6 solid ^d or 8
	5	6 solid ^d or 8	8	10
	6	8	10	12
7	4	6 solid ^d or 8	8	8
	5	6 solid ^d or 8	10	10
	6	10	12	10 solid ^d
	7	12	10 solid ^d	12 solid ^d
8	4	6 solid ^d or 8	6 solid ^d or 8	8
	5	6 solid ^d or 8	10	12
	6	10	12	12 solid ^d
	7	12	12 solid ^d	Footnote e
	8	10 grout ^d	12 grout ^d	Footnote e
9	4	6 grout ^d or 8 solid ^d or 12	6 grout ^d or 8 solid ^d	8 grout ^d or 10 solid ^d
	5	6 grout ^d or 10 solid ^d	8 grout ^d or 12 solid ^d	8 grout ^d
	6	8 grout ^d or 12 solid ^d	10 grout ^d	10 grout ^d
	7	10 grout ^d	10 grout ^d	12 grout
	8	10 grout ^d	12 grout	Footnote e
	9	12 grout	Footnote e	Footnote e

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm, 1 pound per square inch = 6.895 Pa.

- a. Mortar shall be Type M or S and masonry shall be laid in running bond. Ungrouted hollow masonry units are permitted except where otherwise indicated.
- b. Soil classes are in accordance with the Unified Soil Classification System. Refer to Table 405.1.
- c. Unbalanced backfill height is the difference in height between the exterior finish ground level and the lower of the top of the concrete footing that supports the foundation wall or the interior finish ground level. Where an interior concrete slab-on-grade is provided and is in contact with the interior surface of the foundation wall, measurement of the unbalanced backfill height from the exterior finish ground level to the top of the interior concrete slab is permitted.
- d. Solid indicates solid masonry unit; grout indicates grouted hollow units.
- e. Wall construction shall be in accordance with either Table 404.1.1(2), Table 404.1.1(3), Table 404.1.1(4), or a design shall be provided.
- f. The use of this table shall be prohibited for soil classifications not shown.

* 4-5 BLOCK HIGH 8" CMU w/ SOLID L-BLOCK @ TOP ROW OR FHA CAP

* MASONRY 8" CMU WALL CURRENTLY USED AT UNION LOCATION

CITY OF UNION

Good afternoon. My name is John Applegate, City Manager for the City of Union. At this time, I would like to thank the Board of Building Standards for the opportunity to be here today. I would like to talk about some of the things our City Council has passed over the years to keep residential property to a certain standard and to enhance how its street scape looks. Let's start with

CHAPTER 1311 Residential Code of Ohio in our City Code Book (Ord. 1697. Passed 7-8-19)

1311.01 ADOPTION (Ord. 1697. Passed 7-8-19)

- (A) Pursuant to Section 2.13 of the City Charter and Ohio R.C. 731.231, there is hereby adopted by the Municipality, the 2019 Residential Code of Ohio, for one, two, and three family dwellings. Said 2019 Residential Code of Ohio is hereby adopted by the City of Union and incorporated by reference herein.
- (B) The purpose of this code is to provide minimum standard for the protection of life, limb, health, property and environment and for the safety and welfare of the consumer, general public and the owners and occupants of residential buildings regulated by this code.
- (C) A complete copy of this code on file with Clerk of Council, the Building Official and the Montgomery County Law Library
(Ord. 1697. Passed 7-8-19.)

1312.01 STORAGE SHEDS. (Ord. 1384. Passed 1-23-06)

- Max 12' x 12' x 11' no more than 8' from floor to soffit /eaves
- 4" concrete slab and anchored with concrete anchoring devices
- 10' from structure; 6' from property line or easement
- No plumbing
(Ord. 375. Passed 9-22-75)

- Or optional pilasters made of concrete or treated lumber 8” diameter; 18” deep. (Ord. 719. Passed 6-10-85)
- Max height 12’ (Ord. 1384. Passed 1-23-06)

1312.02 PATIOS. (Ord. 375. Passed 9-22-75)

- All patios must be of four-inch concrete on four inches of gravel. (Ord. 375. Passed 9-22-75)
- Patios larger than 6’x 8’ next to main structures require a footer/foundation
- All flat work (including sidewalks) must be inspected on residential property

1312.03 REQUIREMENTS FOR NEW ONE, TWO, AND THREE-FAMILY DWELLING HOMES. (Ord. 1092. Passed 5-12-97)

- Minimum two car garage. (Ord. 1092. Passed 5-12-97)
- Concrete driveways and sidewalks. (Ord. 1092. Passed 5-12-97)
- Sod is required in the front yard, side yard, and fifteen feet in the rear yard. (Ord. 1092. Passed 5-12-97)
- Overhangs are required. (Ord. 1092. Passed 5-12-97)
- poured-in-place concrete foundations. Existing additions with foundations constructed using concrete block, CMU (concrete masonry units) if, the main foundation is also constructed using CMU. (Ord. 1762. Passed 12-12-22)
- constructed with plywood or oriented strand-board exterior wall sheathing. Accessory buildings less than 144 sq. ft. in area are exempt from this requirement. (Ord. 1763. Passed 12-12-22.)
- Requiring sheeting for 25 years

1312.04 PORTABLE STORAGE CONTAINERS. (Ord. 1710. Passed 3-9-20.)

- PODS shall be located in driveways outside the right of way.
- No more than thirty (30) days
- \$50.00 permit fee
- issued no more than two times for any designated property 365 days. (Ord. 1710. Passed 3-9-20.)

1361.01 The Exterior Property Maintenance Code

(Ord. 703. Passed 2-11-85.)

1361.02 FINDINGS AND DECLARATION OF POLICY. (Ord. 703. Passed 2-11-85.)

- residential and nonresidential substandard properties, lack of maintenance, fire hazards and unsanitary conditions, constitute a menace to the health, safety, welfare and reasonable comfort of the residents and inhabitants of the City.
(Ord. 703. Passed 2-11-85.)

1361.03 PURPOSES. (Ord. 703. Passed 2-11-85.)

- to protect the public health, safety and welfare by establishing minimum standards (Ord. 703. Passed 2-11-85.)
- **1361.05 SCOPE.** (Ord. 703. Passed 2-11-85.)
- Every residential and nonresidential building shall comply with the provisions of this chapter, This chapter establishes minimum (Ord. 703. Passed 2-11-85.)

1381.01 PRE-SALE INSPECTION AND CERTIFICATE OF OCCUPANCY REQUIRED (Ord. 1381. Passed 1-23-06.)

- unlawful sell or transfer a property without pre-sale inspection
- Application
- Result of the inspection to be certificate of occupancy: Within fourteen (14) days after application was made for a pre-sale inspection, the code official shall have completed the inspection, compiled a list of any items to be brought into compliance with this chapter and applicable provisions of the Fire Code, Zoning Code, Property Maintenance Code and other ordinances of the City of Union and shall have issued a certificate of occupancy as described below. This period of time may be extended by the code official if a delay is caused by any matter beyond the reasonable control of the official.
- Certificate of Occupancy. valid for one year after its date or until sixty (60)
- A signed certificate of occupancy evidence that the premises complies with the requirements (Ord. 1381. Passed 1-23-06.)

1381.04 CERTIFICATE OF OCCUPANCY REQUIRED FOR NEW OWNER. (Ord. 1381. Passed 1-23-06.)

1381.05 DISCLOSURE OF VIOLATIONS TO NEW OWNER.
(Ord. 1381. Passed 1-23-06.)

As Mr. Moore has stated in his opening remarks, the City's goal is not only what's good for our residential housing today but also for the preservation and future stability of our residential housing stock. Being a small, primarily residential community, our housing stock and its residential homeowners are the backbone of the financial stability of our city. Items I've talked about today deal with what we have done so far to protect the public health, safety, and welfare of our city. By choosing better standards, it is the city's desire to prevent future conditions such as structural deterioration of its residential housing stock. Should this occur, it would constitute a menace to the health, safety and welfare and reasonable comfort of the City's inhabitants. Also, this could lead to progressive deterioration of residential properties creating blighted conditions that will necessitate, in time, the expenditure of public funds to correct and eliminate the same. We want our residential housing to stand the test of time.

For example, I live in a house that I purchased in 1968 that was built in 1901. The foundation and basement of that structure is poured concrete and it's still as structurally sound as when it was built.

In conclusion, requiring concrete foundations in building codes for residential structures offers numerous advantages in terms of structural integrity, durability, waterproofing, consistency, fire resistance, and long-term cost savings. It's my belief that concrete foundations offer consistency in quality and performance since they are typically constructed using standardized methods and materials. In contrast, block foundations may vary in quality depending on factors such as weather, workmanship, mortar strength, and block type, leading to potential inconsistencies and vulnerabilities in the foundation system. These benefits contribute to safer, more resilient, and higher-quality homes for occupants, making concrete foundations a preferred choice in many residential housing projects. That's why the city is always looking at ways to make a basic home better. The core of any house is the footer, foundation, and structural framing. These are key components of a house

that help it meet the test of time standard. We are not asking to change the residential code of Ohio but request that you allow us to choose poured foundations as our minimum requirement for foundations.

ORDINANCE 1697

Passed July 8, 2019

AN ORDINANCE AMENDING 1311.01 OF THE UNION CODE, ADOPTING THE 2019 RESIDENTIAL BUILDING CODE OF OHIO FOR ONE, TWO, AND THREE FAMILY DWELLINGS.

WHEREAS, the revised 2019 Residential Code of Ohio provides for a more efficient and effective enforcement of building standards throughout the City of Union, and;

WHEREAS, all of the certified building departments throughout Montgomery County, have indicated a desire to adopt and implement this revised 2019 Residential Code of Ohio, and;

WHEREAS, it is in the best interest of the City to adopt the 2019 Residential Code of Ohio originally adopted by Ordinance No. 1212, passed February 12, 2001 and amended by Ordinance 1341, passed November 22, 2004 and amended by Ordinance 1471, passed May 11, 2009 and amended by Ordinance 1547, passed November 13, 2012.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Union, Montgomery County, Ohio, the majority of all members elected thereto concurring, that;

SECTION I:

1311.01 ADOPTION

Pursuant to Section 2.13 of the City Charter and R.C. Section 731.231, there is hereby adopted by the Municipality, the 2019 Residential Code of Ohio, for one, two, and three family dwellings. Said 2019 Residential Code of Ohio is hereby adopted by the City of Union and incorporated by reference herein.

The purpose of this code is to provide minimum standard for the protection of life, limb, health, property, and environment and for the safety and welfare of the consumer, general public and the owners and occupants of residential buildings regulated by this code.

ORDINANCE 1697

Passed July 8, 2019

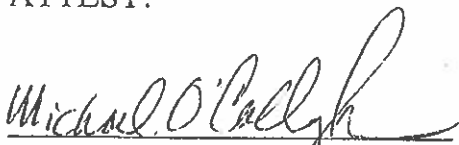
A complete copy of this code and the amendments thereto are on file with the Clerk of Council, the Building Official and the Montgomery County Law Library for inspection. The Clerk of Council shall maintain additional copies available for sale at cost.

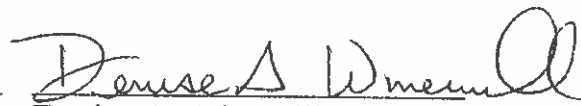
SECTION II:

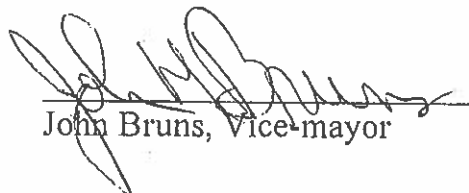
This Ordinance will take effect and be in force within thirty days.

PASSED THIS 8 DAY OF July, 2019.

ATTEST:


Michael O'Callaghan, Mayor


Denise A. Winemiller
Clerk of Council


John Bruns, Vice-mayor

ORDINANCE 1762

Passed 12/12/2022

AN ORDINANCE AMENDING CODE SECTION 1312.03, AS ENACTED BY ORDINANCE NO. 1547

WHEREAS, it is Council's desire to amend Section 1312.03 to govern the material used to construct commercial and residential building foundations; and

WHEREAS, the Council of the City of Union finds that the change and amendment to Section 1312.03 is necessary and desirable in order to prevent deterioration of building foundations which will enhance and protect the physical appearance of the City and reduce on-going maintenance costs to its residents; and

WHEREAS, the Council of the City of Union finds that the change and amendment is necessary and desirable for the orderly administration of said City and that Section 1312.03 be amended as set forth in this Ordinance.

NOW BE IT ORDAINED BY THE COUNCIL OF THE CITY OF UNION, STATE OF OHIO.

SECTION I:

That Section 1312.03 of the Codification of the City of Union be amended to read as follows: (with deletions lined out and additions underlined):

1312.03 REQUIREMENTS FOR NEW ONE, TWO, AND THREE-FAMILY DWELLING HOMES.

- (a) Minimum two car garage.
- (b) All driveways and sidewalks must be concrete in approved subdivision plats.
- (c) Sod is required in the front yard, side yard, and fifteen feet in the rear yard for any dwelling when there is less than a seventy-five foot setback. Sod or hydroseed is required in the front yard, side yard and fifteen feet in the rear yard for any dwelling that has more than a seventy-five foot setback.
- (d) Overhangs are required on all new houses.


(e) New buildings are to be constructed with poured-in-place concrete foundations. Existing buildings may have additions with foundations constructed using concrete block, CMU (concrete masonry units) if, and only if, the main building foundation is also constructed using CMU. Pre-cast poured concrete foundations may be approved on a case-by-case basis after examination by the zoning administrator. Accessory buildings less than 144 sq. ft. in area are exempt from this poured-in-place concrete requirement.


SECTION II:

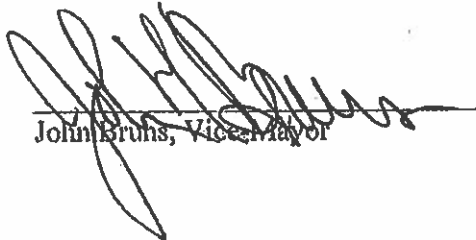
This Ordinance shall take effect and be in force from the earliest period allowed by law.

PASSED THIS 12 day of December, 2022

ATTEST:


Michael O'Callaghan, Mayor


Denise Winemiller,
Clerk of Council


John Bruhs, Vice Mayor

RECORD OF PROCEEDINGS

MEETING OF COUNCIL

December 12, 2022

Mr. Bruns then moved that they have the one and only reading and adopt emergency Ordinance 1760. Mrs. Oberer seconded the motion. All concurred and emergency Ordinance 1760 was adopted.

5. ONE READING - ORDINANCE 1761 - AN ORDINANCE ESTABLISHING A REGULAR PAY TABLE, ASSIGNING PAY GRADES, STEPS/SALARIES AND MAXIMUM NUMBER OF FULL-TIME, REGULAR PART-TIME, PART TIME (SEASONAL) AND AUXILIARY POSITIONS WITHIN THE CITY OF UNION FOR 2023 AND DECLARING AN EMERGENCY.

Mr. Applegate stated that the payroll Ordinance for 2023 is declared an emergency so that the pay rates go in effect on January 1, 2023 and City staff recommends that council adopts this legislation.

Mr. Bruns moved that Ordinance 1761 be declared an emergency for the reasons set forth in the Ordinance. Mrs. Oberer seconded the motion. All concurred and Ordinance 1761 was declared an emergency.

Mr. Bruns then moved that they have the one and only reading and adopt emergency Ordinance 1761. Mrs. Oberer seconded the motion. All concurred and emergency Ordinance 1761 was adopted.

6. ONE READING - ORDINANCE - 1762 - AN ORDINANCE AMENDING CODE SECTION 1312.03, AS ENACTED BY ORDINANCE NO. 1547.

Mr. Applegate stated that the concrete block tends to be porous and can deteriorate. Foundations then begin to fail and front porches can start to crumble resulting in violations being issued. We feel this amendment to require concrete foundations needs to be incorporated into the code so it is in effect and gives the City

RECORD OF PROCEEDINGS

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authority to enforce the requirements with the builders. The Planning Commission reviewed and approved the new code to be presented to the Council for approval. Staff recommends Councils approval.

Mr. Bruns moved that they suspend the charter requirements of three separate readings on three separate days in regard to Ordinance 1762. Mrs. Oberer seconded the motion. All concurred and the motion was passed.

Mr. Bruns moved to have the one and only reading and adopt Ordinance 1762. Mrs. Oberer seconded the motion. All concurred and Ordinance 1762 was adopted.

7. ONE READING -- ORDINANCE 1763 -- AN ORDINANCE AMENDING CODE SECTION 1312.03, AS ENACTED BY ORDINANCE NO. 1547.

Mr. Applegate commented that this Ordinance will require new buildings and additions to be constructed with plywood or oriented strand-board wall sheathing. Some builders use Styrofoam or other thin materials for wall sheathing that either collapses or warps. It will provide better structure to install and finish siding. It can also prevent wind damage and save the homeowners future maintenance cost. We have had conversations with builders in town and they have agreed to comply. This is the standard that we have always expected but it was not in the code. This Ordinance will make it a requirement. Staff recommends councils approval.

Mr. Bruns moved that they suspend the charter requirements of three separate readings on three separate days in regard to Ordinance 1763. Mrs. Oberer seconded the motion. All concurred and the motion was passed.

Mr. Bruns moved to have the one and only reading and adopt Ordinance 1763. Mrs. Oberer seconded the motion. All concurred and Ordinance 1763 was adopted.

CHAPTER 1311
Residential Code of Ohio

1311.01 Adoption.

CROSS REFERENCES

Adoption of Codes - see CHTR. Sec. 2.13

Local provisions - see BLDG. Ch. 1312

1311.01 ADOPTION.

(a) Pursuant to Section 2.13 of the City Charter and Ohio R.C. 731.231, there is hereby adopted by the Municipality, the 2019 Residential Code of Ohio, for one, two, and three family dwellings. Said 2019 Residential Code of Ohio is hereby adopted by the City of Union and incorporated by reference herein.

(b) The purpose of this code is to provide minimum standard for the protection of life, limb, health, property and environment and for the safety and welfare of the consumer, general public and the owners and occupants of residential buildings regulated by this code.

(c) A complete copy of this code and the amendments thereto are on file with the Clerk of Council, the Building Official and the Montgomery County Law Library for inspection. The Clerk of Council shall maintain additional copies available for sale at cost.
(Ord. 1697. Passed 7-8-19.)

AFFIDAVIT

STATE OF OHIO
MONTGOMERY COUNTY, SS:

Dusty Balsbaugh, having been first duly sworn, deposed and says that:

1. I am an owner of Balsbaugh Excavating and Concrete;
2. The Company installs roads, concrete curbs, sidewalks and foundations in regard to the installation of a subdivision;
3. In the commercial and industrial area, the Company installs concrete in parking garage foundations, foundations for commercial buildings, and concrete work related to water and wastewater treatment facilities;
4. The Company is located in the City of Union and has done extensive work for the City of Union. Balsbaugh has also done work for private contractors and other governmental entities including as far North as Lima, East to Columbus, South to Cincinnati and West to Indianapolis;
5. It is my opinion that poured concrete is a better long-term product than block for the foundations of residential properties.

Further Affiant sayeth naught.



Dusty Balsbaugh

Sworn to before me in my presence by the said Dusty Balsbaugh, this 21st day of February, 2024. No oath or affirmation was administered to the signer with regard to the notarial act.



Notary Public

LISA J. ROBINSON, Notary Public
and for the State of Ohio
Commission Expires May 2, 2027

The City of Union is a municipality in Montgomery County, Ohio. It is a Charter City and has a population of seven thousand (7,000) people. The City has its own:

1. Police Department;
2. Fire Department;
3. EMS Service;
4. Water distribution and sewer collection systems as well as water and waste water treatment facilities. It also has a storm water collection system.
5. A public park system;
6. Street department;
7. Council consisting of seven (7) members; one whom is the Mayor.

The primary residential part of the City is located on the west side of the Stillwater River; it has an industrial park on the east side of the Stillwater River.

The City of Union, is located in northwestern Montgomery County, Ohio. It is a City Manager type of government and the City Manager is John Applegate who will be speaking next.

The types of residences in the City of Union consists of subdivisions that contain primarily plat homes. There are no subdivisions that have luxury homes built in them. Historically, the City of Union has done things for its residents' short-term and long-term welfare in regard to residential construction and maintenance. Mr. Applegate will address these more specifically. The issue before you and advocated by the City is that its Ordinance and requirement is that foundations be poured concrete. (See Ordinance 1762 attached)

This Ordinance requires that Section 1312 .03 (e) that "New buildings are to be constructed with poured-in-place concrete foundations"

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This Ordinance requires that Section 1312 .03 (e) that "New buildings are to be constructed with poured-in-place concrete foundations"

In the Preface of the Residential Code of Ohio, it states “This code is founded on principles intended to establish provisions consistent with the scope of a residential code that adequately protects public health, safety and welfare; provisions that do not unnecessarily increase construction costs; provisions that do not restrict the use of new materials, products or methods of construction; and provisions that do not give preferential treatment to particular types or classes of materials, products or methods of construction”

In Chapter 4 **Foundations** it states “Chapter 4 provides the requirements for the design and construction of foundation systems for building regulated by this code. Provisions for seismic load, flood load and frost protection are contained in this chapter. A foundation system consists of two interdependent components: the foundation structure itself and the supporting soil.

The prescriptive provisions of this chapter provide requirements for constructing footings and walls for foundations of wood, masonry, concrete, and precast concrete. In addition to a foundation’s ability to support the required design loads, this chapter addresses several other factors that can affect foundation performance. These include controlling surface water and subsurface drainage, requiring soil tests where conditions warrant and evaluating proximity to slopes and minimum depth requirements. The chapter also provides requirements to minimize adverse effects of moisture, decay and pests in basements and crawl spaces.”

The question at issue between the City of Union and the Residential Code of Ohio is whether these methods all must be permitted by a **Charter City** or can the construction of foundations be limited by a local Ordinance to one of the four methods (wood, masonry, concrete and precast concrete) based upon the facts and

experiences of use in a particular City. In other words, can one (1) of the four (4) methods be chosen and be used exclusively in a particular city; the City of Union.

The City of Union's position is that "the protection of real estate from impairment and destruction of value" is a legitimate government interest. The City of Union further believes that "the maintenance of aesthetics of a community" is a legitimate government interest. Additionally, the City of Union contends these interests "may be preserved by the reasonable exercise of a municipality's police power where such actions bear a substantial relationship to the general welfare of the public." The welfare of the citizens of the City of Union, in the City Councils' determination, is best served by having the poured concrete foundation requirement. From past experience with subdivisions and residences built in the City of Union, there is less maintenance, potential damage and upkeep for the citizens with the poured concrete requirement.

"The objective of a government's police power is to maintain the public health, safety, and general welfare, and in order for its exercise to be valid, the police power must bear a substantial relationship to that objective. Maintaining the aesthetics of the community is a legitimate government interest and constitutes a valid exercise of its police power."

The Residential Code of Ohio and the law, has the concept of the health and safety or health, safety, and welfare as a standard in it. The question of what is best for the health, safety, and welfare of residents in the City of Union is determined by the Council of the City and implemented by the City Manager.

In this case, Council passed Ordinance 1762 Amending Section 1312.03 of the Code of the City of Union.

The minutes of the December 12, 2022 Council Meeting when the Ordinance was passed indicate that:

“ONE READING – ORDINANCE – 1762 – AN ORDINANCE AMENDING CODE SECTION 1312.03, AS ENACTED BY ORDINANCE NO 1547.

Mr. Applegate stated that the concrete block tends to be porous and can deteriorate. Foundations then begin to fail and front porches can start to crumble resulting in violations being issued. We feel this amendment to require concrete foundations needs to be incorporated into the code so it is in effect and gives the City authority to enforce the requirements with the builders. The Planning Commission reviewed and approved the new code to be presented to the Council for approval. Staff recommends Councils approval.”

As indicated previously, the question of maintaining the health, safety, and welfare is a question of fact for each community and in the City of Union, it is determined by the Council of the City and implemented by the City Manager.

In the instance of the City of Union, its Council has the benefit of years of experience and observations upon which to base its actions. This is not only because the City had been a village and became eligible to become a City in 1980 but also because the City of Union’s current City Manager, John Applegate, who is here today to testify has worked for the Village and the City thereafter for sixty (60) years. In those years, Mr. Applegate started as laborer, obtained and currently has a class three (3) wastewater and class one (1) water treatment license, has been the building and zoning inspector, and is the City Manager. (Since 1982).

Mr. Applegate will address you now and I will offer some additional comments when he is done.

Not only does the City of Union Council and the City Manager believe the health, safety, and welfare of the City is best served by Ordinance 1762 and its requirement for poured concrete foundations, but also a representative of Balsbaugh Construction which Company has worked for years in and around the community believes it is so also.

Mr. Dusty Balsbaugh's affidavit is being made part of today's record.

The City of Union's position is it can determine what conditions for residential construction are best for the health, safety, and welfare of its residents.

The City's position is that City of Union has the right, as an exercise of its police power, to consider maintenance of the aesthetics of community when specifying and choosing which the type of material of those listed in the Residential building Code to be used in the City.

This Board does not have evidence before it to find that the City of Union's requirement of poured foundations does not maintain and enhance the aesthetics of the community.

Further, this Board does not have evidence before it to find that Ordinance is not necessary to protect the health, safety, and welfare of the persons within the City of Union.

Therefore, the City of Union's position is that Board cannot find that the City of Union's Ordinance is unenforceable.

File Attachments for Item:

OB-2 Proposed Code Change - OBC Section 907.5.2.2.3

Emergency Communication System – Proposed message priority exception

OBC/OFC 907.5.2.2.3 Alternate uses. The emergency voice/alarm communication system shall be allowed to be used for other announcements, provided the manual fire alarm use takes precedence over any other use.

Exception: When the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the fire alarm system provides initiating device identification and annunciation in accordance with Section 907.6.3, other high priority urgent emergency messages relating to the safety and security of the building occupants are permitted to take precedence over a fire alarm message when consistent with message priority levels previously established in a building-specific, emergency response plan developed by the building owners, administrators, and first responders.

Note: This language is only intended for those occupancies that are required to, or opt to have an emergency voice/alarm communication system (generally Group A with large occupant loads, most Group E, special amusement buildings, high rise buildings, and building having atriums). We should consider whether we want to narrow this only to schools. Progressive building owners may opt to install these systems and when they do, they should be provided the flexibility to set priorities based upon an emergency response plan, even if a plan would not normally be required.