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Response to Public Comments regarding PLI's Draft Licensing Rules and Regulations.

On August 2, 2018, the City of Pittsburgh Department of Permits, Licenses, and Inspections ("PLI") released for public notice and comment proposed rules and regulations for implementation of recent amendments to Title Seven of the City of Pittsburgh Code of Ordinances (also known and referred to as the "Pittsburgh City Code of Ordinances," "PCC," and "City Code"). Throughout August, PLI received several comments and questions regarding the proposed rules and regulations. Many of the comments and questions dealt with licensing for the fire suppression, electrical, and mechanical /HVAC trades, as well as specific comments and questions regarding testing and continuing education requirements.

In addition to the direct responses sent to people who contacted PLI, to better address people's comments and questions, the Department is issuing this list of questions and answers. PLI appreciates and has considered all of the feedback received.

The new *Rules and Regulations* will take effect on **November 15, 2018**, except for those for the Fire Suppression Trade License, which will go into effect on January 1, 2019.

Questions, Comments and Answers

Questions, Comments, and Answers Regarding Exams

Q1: Some public commenters asked about which International Code Council ("ICC") exam that they need to take, particularly in regard to the fire suppression trade license. They pointed out that when PLI published for notice and comment the proposed rules and regulations, multiple exams were listed.

A1: PLI requires documented verification provided to the applicant from the exam provider that the applicant passed the relevant trade license exam.

- For electrical and mechanical/ HVAC license applicants, PLI will accept any authentic, relevant, passed ICC exam, for any code year, or City-proctored exam documentation.
- For the upcoming Fire Suppression trade license applicants, PLI will accept any authentic, passed "Fire Suppression Installation Contractor" ICC exam for the 2015 code year. PLI will also accept passed National Institute for Certification in Engineering Technology ("NICET") exams including *both* the Level III Water-Based Systems Layout and Level III Special Hazards Systems Layout tests; both tests must be

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completed in order to be considered equivalent to the ICC test defined above.

- Stationary Power Engineer applicants will continue to be required to pass the National Institute for the Uniform Licensing of Power Engineers (“NIULPE”) exams.
- Finally, per the City Code, equivalent certification testing programs from states other than Pennsylvania shall be accepted as proof of compliance of the testing requirements upon review and determination of equivalence by the License Officer.

If multiple exams exist that meet the requirement through the ICC, then the applicant should choose the exam that covers the most recent code year—in this case, 2015—adopted by the Pennsylvania Uniform Construction Code (“UCC”). The code years available through the ICC are periodically updated and restrict the exams available to new license applicants over time. Other relevant ICC exams not specifically called out can be submitted and will be reviewed for substantial equivalence and acceptance.

Several license holders completed and passed the City’s trade license exams that are no longer offered or proctored by the City. PLI will continue to accept those passing exam documents as proof of the testing requirement.

Q2: Some public commenters asked if PLI will also accept successful completion of exams not called out in the *Rules and Regulations*, such as NICET exams.

A2: PLI will accept any authentic, passed “Fire Suppression Installation Contractor” ICC exam, beginning with the 2015 code year and continuing forward as proof of meeting the testing requirements for the fire suppression trade license. In addition, upon review as requested, PLI will also accept passed NICET exams including both the Level III Water-based Systems Layout and Level III Special Hazards Systems Layout tests; both tests must be completed to be considered equivalent to the ICC test defined above and in Section VI(7) of the *Rules and Regulations*.

Per City Code, equivalent certification testing programs from states other than Pennsylvania shall be accepted as proof of compliance of the testing requirements upon review and determination of equivalence by the License Officer.

Q3: Some public commenters asked whether they would be required to re-test for the most recent ICC exam(s), even if their license is active and they already successfully completed relevant exam(s).

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A3: For all trade licensees, if they have already successfully completed the appropriate exam(s) for their field(s) and have proof of passing the exam in the form of an official document showing the passing exam and score, they do not have to retake the exam(s).

Under the *Licensing Rules and Regulations*, trade license holders that let their licenses expire and subsequently lapse will be subject to a closure of the license. The applicant must meet all of the new application requirements, which may include re-testing if the applicant does not have proof of passing the relevant exam from the exam provider. Pursuant to the PCC, applicants and licensees have the obligation to meet all licensing requirements.

Questions, Comments, and Answers Regarding Continuing Education Units (“CEUs”)

Q4: Public commenters asked what type of training would be acceptable for CEUs.

A4: PLI will accept relevant continuing education credits from accredited institutions as listed by:

1. The ICC Preferred Provider’s Directory. For a full list of current providers, visit <https://ppp.iccsafe.org>, and click on “Providers Directory.”
2. The Pennsylvania Department of Labor and Industry’s (PA - DLI) UCC continuing education providers. For a list of current providers, visit www.dli.pa.gov/ucc, and click on the “Continuing Education Providers” link.
3. For Stationary Power Engineers, relevant trainings provided by the International Union of Operating Engineers (“IUOE”) and relevant Occupational Safety and Health Administration (“OSHA”) courses.

In addition, relevant trainings provided by trade-specific union and apprenticeship programs are accepted.

In determining whether a CEU provider is acceptable, PLI will refer to the lists maintained by the third-parties identified above, but PLI is not responsible for the lists and makes no guarantees that the lists are up-to-date or that the listed CEU providers will continue to be accepted. PLI will review requests outside those categories on a case by case basis. A determination will be made within ten (10) business days. This pending determination is not a valid reason for license renewal delays. Licenses that expire or lapse during any determination period will be subject to standard processing consequences per the *Rules and Regulations*.

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Q5: Public commenters asked PLI to specifically add/name certain organizations to a list of acceptable CEU providers.

A5: PLI has provided examples of acceptable CEU providers. Those examples are not exclusive or exhaustive. Trade license holders are free to seek out other providers but are advised that other providers may not be accepted. Upon a formal written request, PLI will review alternative CEU providers and courses. Additional language has been added to the *Rules and Regulations* to address that process.

In addition, while PLI has attempted to review information and visit websites for all of the suggested CEU providers, PLI does not have the time, staff, and resources to independently and exhaustively research and compile a list of all possible CEU providers. Additionally, PLI does not want to unreasonably limit the providers that a person may choose, and providing an exhaustive, exclusive list of providers could do just that.

Q6: Some public commenters opposed adding the CEU requirement for maintaining/renewing professional licenses.

A6: The 2018 Title Seven City Code updates for trade licenses require eight (8) CEUs annually. One (1) CEU equates to one (1) hour of training. By adding CEU requirements, PLI is moving to national best practices and ensuring that building trade professionals are well-qualified and have received relevant, up-to-date training.

PLI understands that the CEU requirement comes with costs for trade license holders in terms of time and money. However, PLI has legitimate public safety concerns. Those concerns include, for example, limiting the risk of catastrophic fire by requiring proper installation of electrical wiring and fire suppression systems. One way for PLI to ensure public safety is to have licensed professionals who know and practice the latest industry standards, including safety standards. Setting a minimum CEU requirement of 8 CEUS provides a ready, simple, uniform, measurable, and objective standard for PLI to ensure contractor qualifications and capabilities without placing an undue burden on PLI and/or contractors.

Q7: In opposing the proposed CEU requirements, some public commenters suggested that PLI inspectors and inspections, not the CEU requirements, are and should be the real safeguard in making sure that permitted work is done properly and safely.

A7: It is true that PLI inspectors are a safeguard. For public safety, PLI inspectors do inspect permitted work and determine whether the work passes or fails. PLI inspectors also undergo ongoing training, testing, and certifications for public safety reasons and in order to do their inspections. Inspectors ensure building safety, but the person doing the work must have a

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baseline of knowledge to conform to building code standards.

Ultimately, the contractor or trade licensee has the duty to make sure that any work that they do is done right in the first place, and one way to make sure that happens is to require that licensees remain up-to-date on the latest standards in their respective industries. Requiring eight (8) CEUs is an objective and easily measurable standard to guarantee that those trade license holders have the expertise to meet basic code standards without placing an undue burden on PLI, the public, and/or contractors.

Q8: Some public commenters made slightly varying requests/comments about wanting to be exempted from CEU requirements if they have a long work history, particularly where they have remained continuously licensed during that work history.

A8: There will be no exemptions to the CEU requirement to complete eight (8) CEU hours within the past twelve months from the license renewal date. The CEU requirement is proactive, not retroactive, and takes effect when the new rules and regulations go into effect. The relatively small burden of eight (8) CEUs is offset by the benefit to public safety.

Trade licensees whose licenses are due for renewal after the effective date of the rules and regulations will have to provide proof of eight (8) CEUs completed in the past twelve months from the date of renewal. For example, if your license is due for renewal on April 1, 2019, the eight (8) relevant CEUs must have been obtained between April 1, 2018 through March 31, 2019.

Q9: Some public commenters expressed concern about not being able to obtain eight (8) CEUs between the date that the rules go into effect and the date that their licenses come up for renewal.

A9: PLI understands and has considered the difficult situation that some trade license holders will be in to obtain all eight (8) CEUs within a short amount of time. However, upon review of the hundreds of qualified providers and programs, PLI is confident that online and in-class trainings, including free trainings, will be available in the short initial time frames for the percentage of trade license holders who will require CEUs for the renewal of their license this winter of 2018.

Questions and Comments Regarding Fire Suppression Contractors

Q10: Some public commenters suggested changing the title for fire suppression trade licenses, and/or having different categories/sub-categories of fire suppression contractors.

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A10: Changing the title to something like fire “protection” appears to expand the definition too broadly and go beyond the scope of work that the licensing requirement covers. Specifically, the license is only required in order to do work that requires a fire suppression permit type, such as installing a sprinkler system. Relatedly, because the license is only required for work that requires a permit from PLI, the license will be treated in the same manner as other trade licenses; subcategories of trade licenses are not used or required for any permit type at this time.

Q11: Some public commenters asked about the types of work for which a fire suppression license is necessary.

A11: As stated above, the fire suppression license is required in order to do work that requires a fire suppression permit, such as installing a sprinkler system. There is one exception: cooking hood suppression system permit types will continue to require a manufacturer’s certified installer, registered with PLI as a general contractor license type.

Owners, contractors, employers, etc., have the duty and to check and verify if the work that they want to do requires a permit, and, therefore, a license.

Q12: One public commenter suggested requiring fire suppression contractors to carry liability insurance coverage with a minimum coverage amount of \$1,000,000 dollars per occurrence/claim.

A12: Where a fire suppression trade license is connected to permit work, insurances will be required. After doing some research, although coverage may vary on a case by case basis, it appears that for fire suppression trade licenses, requiring a minimum liability coverage amount of \$1,000,000 dollars per occurrence/claim with \$2,000,000 aggregate per claim period is recommended and reasonable, and, therefore, will be required under the new rules and regulations.

In addition, PLI notes that the general insurance industry practice and standard as of the 2018 amendment to Title Seven of the PCC for all contractors and/or trade licensees is to carry general liability insurance in the minimum amounts of \$1,000,000 dollars per occurrence/claim and \$2,000,000 aggregate per claim period. In evaluating the adequacy of an applicant’s/licensee’s general liability insurance coverage, PLI will start with those figures/amounts as guidance for minimal adequacy, adjusting them when practicable as insurance industry practices and standards change and to better correspond to the nature and scope of the licensed/permitted activity.

Q13: A commenter asked how ongoing open permits would be handled once the fire suppression contractor license goes into effect.

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A13: Sprinkler/fire suppression permits issued to general contractor license holders prior to the January 1, 2019 Fire Suppression trade effective date, will continue to be valid; a current permit holder will not be required to re-apply under a new Fire suppression license. However, any new, related, or amended permits that may be required due to changes, will be subject to the new rules.

Questions, Comments, and Answers Regarding Electrical Contractors

Q14: At least one public commenter asked if Sections VI(6)(E)(b)(i) and (ii) of the *Rules and Regulations* regarding electrical contractors are the same or different requirements.

A14: Sections VI(6)(E)(b)(i) and (ii) of the *Rules and Regulations* work together and will be clarified in the final rules and regulations. Section VI(6)(E)(b)(i) requires proof of completing the annual eight (8) CEU requirement for electrical contractors. Section VI(6)(E)(b)(ii) establishes the acceptable form of that proof.

Questions, Comments, and Answers Regarding Sign Contractors

Q15: One public commenter asked if the *Rules and Regulations* could be changed to allow a sign contractor to connect a sign directly to a power supply instead of having to get a licensed electrical contractor to do the work.

A15: At this time, although the work may seem simple to some people, given the nature of the work and PLI's concern for public safety, a licensed electrician will still have to do the electrical work related to illuminated signs. Moreover, the PCC requires a separate permit for the electrical work and that the permitted work be done by someone with the proper, corresponding license. Additionally, although permits and licenses are intertwined, the currently proposed rules and regulations considered here and adopted only address licenses, not permits.

Questions, Comments, and Answers Regarding Who Must Have and Who May Have the License

Q16: Some public commenters asked who specifically needs to have a trade license.

A16: A contractor license or trade license is required to obtain a building permit. The license holder identified on the permit is ultimately responsible for ensuring that the work is completed to code.

Q17: Some public commenters asked if the business that employs a trade licensee can be the licensee instead of the individual doing the work.

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A17: No, a business cannot be a trade licensee. A trade license is given to an individual only, who has passed the relevant trade exam and completed all other requirements. The business/employer may be listed with the license but will not be a licensee.

Q18: One public commenter asked if a single company can have multiple trade license holders.

A18: Yes, a single company can have multiple trade license holders.

Q19: One public commenter asked about who is required to have insurance.

A19: The insurance should cover the licensed permit holder. A licensed permit holder may subcontract but they are still the responsible party for the work. PLI only maintains insurances connected to the permit holder.

Questions, Comments, and Answers Regarding License Expiration

Q20: One commenter asked if licenses could essentially be placed or marked “out-of-use” temporarily during times when the licensee is not actively using the license.

A20: PLI is not adopting this suggestion at this time. PLI does not have the time, staff, and resources to track such licenses and situations. It would also be unfair to those licensees who are actively maintaining their licenses by meeting the annual CEU requirements and paying licensing fees.

Q21: One commenter suggested that PLI go back to having a single annual renewal date for all licensees as opposed to the individual 365-day period attached to each license.

A21: PLI is not adopting this suggestion. PLI used to operate with a single annual renewal date, and it was inefficient for both the department and customers. The single date would create periods in which PLI would receive more renewal applications than PLI has the staff, time, and resources to handle. Having a single renewal date would also require licensees to pay for a full year when they do not actually get the license for a full year, or require PLI to prorate the licensing fee(s), which creates more of an administrative burden. Additionally, in situations where people first apply for a license shortly before a set expiration date, they will have to file a renewal application within an unnecessarily short amount of time, which places additional, unnecessary burdens on PLI and licensees. The new online licensing system will provide customers with notifications regarding expiring licenses and prompt the licensee to renew forty-five (45) days prior to expiration.

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Questions, Comments, and Answers Regarding the Workers' Compensation Exemption

Q22: One commenter asked if full-time employees who have licenses and only work for their employers can/will be exempt from providing the notarized worker's compensation affidavit that states that they have no employees and are exempt from the Pennsylvania Workers' Compensation Act.

A22: Employers and employees must adhere to the requirements of the PA Worker's Compensation Act. Contractors that have no employees must complete an affidavit of exemption as required. Contractors that have employees must provide worker's compensation insurance at the time of license application, throughout the license period, and at the time of permit application and issuance. Either an affidavit attesting to having no workers under a business entity, or certificate of worker's compensation insurance, is required to obtain a permit. The insurance should cover the permit holder. A permit holder may subcontract but they are still the responsible party for the work. PLI only maintains insurances connected to the permit holder.

Electrician, Fire Suppression, and HVAC/Mechanical trade licenses are exempt from providing proof of insurance(s) at the time of license application, but are required to provide proof of insurance(s) that comply with the *Rules and Regulations* and the PCC prior to the issuance of any permit under Title Ten.

Q23: One commenter asked PLI to include in the Appendix for the *Rules and Regulations* a copy of the notarized worker's compensation affidavit.

A23: Yes, PLI has included in the Appendix a copy of the notarized worker's compensation affidavit (see pg. 71 of the *Rules and Regulations*).

Miscellaneous Questions, Comments, and Answers

Q24: One commenter had concerns about permitted work that was abandoned before being completed and about people doing work without the proper license(s) and/or permit(s).

A24: PLI relies on people to report suspected PCC violations. If someone suspects violations, such as abandoned work, abandoned permits, or occupancy issues, they can submit requests by:

1. Calling 311, or, for those calling from an area outside of the City, 412-255-2621;
2. Using the online form at <http://pittsburghpa.gov/innovation-performance/311.html>;
3. Downloading and using the myBurch app for Android and iOS;
4. Contacting the City via TeleTypewriter at 412-255-8647; and/or
5. Tweeting to the 311 Response Center at @PGH311.

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Q25: One commenter asked if a license is needed for mortgage origination.

A25: No, a license is not needed for mortgage origination.

Q26: One commenter asked who creates the online licensing account.

A26: Once PLI launches the online licensing software for public use, people can use it to do things like apply for, renew and amend licenses. The person/applicant/licensee creates the online account. PLI does not create the online account.

Q27: Public commenters pointed out errors in the Appendix to the proposed *Rules and Regulations*.

A27: Prior to publication of the final *Rules and Regulations*, PLI has attempted to fix the errors.

Q28: Public commenters expressed concern about not receiving advance notice that their licenses were coming up for renewal.

A28: Once PLI launches the online licensing software system, licensees can opt to receive advance notice via email or mail to inform them that licenses are coming up for renewal. However, the PCC states that licensees—not the City, PLI, and/or any other City department—are responsible for monitoring and renewing their licenses without notice. The license expiration date is included on the license document.

Q29: One commenter asked what it means in Section I(1) of the *Rules and Regulations* to have to post a copy of the new *Rules and Regulations* at the “premises.”

A29: Section I(1) of the *Rules and Regulations* states that “[t]he License Officer shall ensure that a copy of the Rules and Regulations is kept on the premises.” In that context, “premises” means PLI’s office. The final *Rules and Regulations* have been amended to reflect that information.