

# Chapter 1

## Administration

### General Comments

This chapter contains provisions for the application, enforcement and administration of subsequent requirements of the code. In addition to establishing the scope of the code, Chapter 1 identifies which buildings and structures come under its purview. Section 101 addresses the scope of the code and references the other *International Codes®* that are mentioned elsewhere in the code. Section 102 establishes the applicability of the code and addresses existing structures.

Section 103 establishes the department of building safety and the appointment of department personnel. Section 104 outlines the duties and authority of the building official with regard to permits, inspections and right of entry. It also establishes the authority of the building official to approve alternative materials, used materials and modifications. Section 105 states when permits are required and establishes the procedures for the review of applications and the issuance of permits. Section 106 describes the information that must be included on the construction documents submitted with the application. Section 107 authorizes the building official to issue permits for temporary structures and uses. Section 108 establishes requirements for a fee schedule. Section 109 includes inspection duties of the building official or an inspection agency that has been approved by the building official. Provisions for the issuance of certificates of occupancy are detailed in Section 110. Section 111 gives the building official the authority to approve utility connections. Section 112 establishes the board of appeals and the criteria for making applications for appeal. Administrative provisions for violations are addressed in Section 113, including provisions for unlawful acts, violation notices, prosecution and penalties. Section 114 describes procedures for stop work orders. Section 115 establishes the criteria for unsafe structures and equipment and the procedures to be followed by the building official for abatement and for notification to the responsible party.

Each state's building code enabling legislation, which is grounded within the police power of the state, is the source of all authority to enact building codes. In terms of how it is used, police power is the power of the state to legislate for the general welfare of its citizens. This power enables passage of such laws as building codes. If the state legislature has limited this power in any way, the municipality may not exceed these limitations. While the municipality may not further delegate its police power (e.g., by delegating the burden of determining code compliance to the building owner, contractor or architect), it may turn over the administration of the building code to a

municipal official, such as a building official, provided that sufficient criteria are given to establish clearly the basis for decisions as to whether or not a proposed building conforms to the code.

Chapter 1 is largely concerned with maintaining "due process of law" in enforcing the building performance criteria contained in the body of the code. Only through careful observation of the administrative provisions can the building official reasonably hope to demonstrate that "equal protection under the law" has been provided. While it is generally assumed that the administration and enforcement section of a code is geared toward a building official, this is not entirely true. The provisions also establish the rights and privileges of the design professional, contractor and building owner. The position of the building official is merely to review the proposed and completed work and to determine if the construction conforms to the code requirements. The design professional is responsible for the design of a safe structure. The contractor is responsible for constructing the structure in conformance with the plans.

During the course of construction, the building official reviews the activity to ascertain that the spirit and intent of the law are being met and that the safety, health and welfare of the public will be protected. As a public servant, the building official enforces the code in an unbiased, proper manner. Every individual is guaranteed equal enforcement of the provisions of the code. Furthermore, design professionals, contractors and building owners have the right of due process for any requirement in the code.

### Purpose

A building code, as with any other code, is intended to be adopted as a legally enforceable document to safeguard health, safety, property and public welfare. A building code cannot be effective without adequate provisions for its administration and enforcement. The official charged with the administration and enforcement of building regulations has a great responsibility, and with this responsibility goes authority. No matter how detailed the building code may be, the building official must, to some extent, exercise his or her own judgement in determining code compliance. The building official has the responsibility to establish that the homes in which the citizens of the community reside and the buildings in which they work are designed and constructed to be structurally stable, with adequate means of egress, light and ventilation and to provide a minimum acceptable level of protection to life and property from fire.

## SECTION 101 GENERAL

**101.1 Title.** These regulations shall be known as the *Building Code* of [NAME OF JURISDICTION], hereinafter referred to as “this code.”

❖ The purpose of this section is to identify the adopted regulations by inserting the name of the adopting jurisdiction into the code.

**101.2 Scope.** The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

### Exceptions:

1. Detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the *International Residential Code*.
2. Existing buildings undergoing repair, alterations or additions and change of occupancy shall be permitted to comply with the *International Existing Building Code*.

❖ This section establishes when the regulations contained in the code must be followed, whether all or in part. Something must happen (construction of a new building, modification to an existing one or allowing an existing building or structure to become unsafe) for the code to be applicable. While such activity may not be as significant as a new building, a fence is considered a structure and, therefore, its erection is within the scope of the code. The building code is not a maintenance document requiring periodic inspections that will, in turn, result in an enforcement action, although periodic inspections are addressed by the *International Fire Code*® (IFC®).

The first exception mandates that detached one- and two-family dwellings and townhouses that are not more than three stories above grade and have separate means of egress are to comply with the *International Residential Code*® (IRC®) and are not required to comply with the code. This applies to all such structures, whether or not there are lot lines separating them and also to their accessory structures, such as garages and pools. Such structures four stories or more in height are beyond the scope of the IRC and must comply with the provisions of the IBC and its referenced codes.

The second exception provides an option to use the *International Existing Building Code*® (IEBC™) for alterations, repairs, additions or change of occupancy, rather than the provisions of the code, which are contained mainly in Chapter 34.

**101.2.1 Appendices.** Provisions in the appendices shall not apply unless specifically adopted.

❖ The provisions contained in Appendices A through J are not considered part of the code and are, therefore, not enforceable unless they are specifically included in the ordinance or other adopting law or regulation of the jurisdiction. See Section 1 of the sample ordinance on page v of the code for where the appendices to be adopted are to be specified in the adoption ordinance.

**101.3 Intent.** The purpose of this code is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.

❖ The intent of the code is to set forth regulations that establish the minimum acceptable level to safeguard public health, safety and welfare and to provide protection for fire fighters and emergency responders in building emergencies. The intent becomes important in the application of such sections as Sections 102, 104.11 and 113, as well as any enforcement-oriented interpretive action or judgement. Like any code, the written text is subject to interpretation. Interpretations should not be affected by economics or the potential impact on any party. The only considerations should be protection of public health, safety and welfare and emergency responder safety.

**101.4 Referenced codes.** The other codes listed in Sections 101.4.1 through 101.4.7 and referenced elsewhere in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference.

❖ The International Code Council® (ICC®) promulgates a complete set of codes to regulate the built environment. These codes are coordinated with each other so as not to contain conflicting provisions. When the code is adopted by a jurisdiction, the codes that regulate a building's electrical, fuel gas, mechanical and plumbing systems are also included in the adoption and are considered a part of the code. The *International Property Maintenance Code*® (IPMC®) and the IFC are also referenced and enable the building official to address unsafe conditions in existing structures. Various other sections of the code also specifically refer to these codes. Note that these codes are listed in Chapter 35 and further identified by the specific year of issue. Only that edition of the code is legally adopted and any future editions are not enforceable. The issuance of new editions of all the *International Codes* occurs concurrently and new editions of the referenced codes are adopted with each new edition of the building code. Adoption is done in this manner so that there are not conflicting provisions in these codes.

**101.4.1 Electrical.** The provisions of the *ICC Electrical Code* shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

❖ The *ICC Electrical Code*® (ICC EC™) regulates all aspects of electrical systems and is adopted by reference in this section, as well as Section 2701.1, as the enforceable document for regulating electrical systems. Note that the ICC EC contains the necessary administrative provisions for enforcing the requirements of NFPA 70, the *National Electrical Code*®.

**101.4.2 Gas.** The provisions of the *International Fuel Gas Code* shall apply to the installation of gas piping from the point of delivery, gas appliances and related accessories as covered in this code. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories.

❖ The *International Fuel Gas Code*® (IFGC®) regulates gas piping and appliances and is adopted by reference from this section, as well as Section 2801.1, as the enforceable document for regulating gas systems. This section also establishes the scope of the IFGC as extending from the point of delivery to the inlet connections of each gas appliance. The "Point of delivery" is defined in the IFGC as the outlet of the service meter, regulator or shutoff valve.

**101.4.3 Mechanical.** The provisions of the *International Mechanical Code* shall apply to the installation, alterations, repairs and replacement of mechanical systems, including equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems.

❖ The *International Mechanical Code*® (IMC®) regulates all aspects of a building's mechanical systems, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems and is adopted by reference from this section, as well as Section 2801.1, as the enforceable document for regulating these systems.

**101.4.4 Plumbing.** The provisions of the *International Plumbing Code* shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system. The provisions of the *International Private Sewage Disposal Code* shall apply to private sewage disposal systems.

❖ The *International Plumbing Code*® (IPC®) regulates the components of a building's plumbing system, including water supply and distribution piping; sanitary and storm drainage systems; the fixtures and appliances connected thereto and medical gas and oxygen systems and is adopted by reference from this section, as well as Section 2901.1, as the enforceable document for regulating these systems. The *International Private Sewage*

*Disposal Code*® (IPSDC®) is also adopted as the enforceable document for regulating on-site sewage disposal systems.

**101.4.5 Property maintenance.** The provisions of the *International Property Maintenance Code* shall apply to existing structures and premises; equipment and facilities; light, ventilation, space heating, sanitation, life and fire safety hazards; responsibilities of owners, operators and occupants; and occupancy of existing premises and structures.

❖ The applicability of the code to existing structures is set forth in Section 101.2 and Chapter 34 and is generally limited to new work or changes in use that occur in these buildings. The IPMC, however, is specifically intended to apply to existing structures and their premises and provides a jurisdiction with an enforceable document for public health, safety and welfare when occupying all buildings, including those that were constructed prior to the adoption of the current building code.

**101.4.6 Fire prevention.** The provisions of the *International Fire Code* shall apply to matters affecting or relating to structures, processes and premises from the hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices; from conditions hazardous to life, property or public welfare in the occupancy of structures or premises; and from the construction, extension, repair, alteration or removal of fire suppression and alarm systems or fire hazards in the structure or on the premises from occupancy or operation.

❖ The IFC contains provisions for safeguarding structures and premises from the hazards of fire and explosion that result from the materials, substances and operations that may be present in a structure; from circumstances that endanger life, property or public welfare and from the modification or removal of fire suppression and alarm systems. Many of the provisions contained in the code, especially in Chapters 9 and 10, also appear in the IFC. So that all the *International Codes* contain consistent provisions, only one development committee is responsible for considering proposed changes to such provisions and that committee is identified by a letter designation in brackets that appears at the beginning of affected sections. This is described more fully in the preface to the codes. The IFC also contains provisions that are specifically applicable to existing structures and uses and, like the IPMC, provides a jurisdiction with an enforceable document for public health, safety and welfare in all buildings.

**101.4.7 Energy.** The provisions of the *International Energy Conservation Code* shall apply to all matters governing the design and construction of buildings for energy efficiency.

❖ The *International Energy Conservation Code*® (IECC®) contains provisions for the efficient use of energy in building construction by regulating the design of building envelopes for thermal resistance and low air leakage and the design and selection of mechanical systems for effective use of energy and is adopted by

reference in this section, as well as Section 1301.1.1, as the enforceable document for regulating these systems.

## SECTION 102 APPLICABILITY

**102.1 General.** Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

❖ The most restrictive requirement is to apply where there may be different requirements in the code for a specific installation. In cases where the code establishes a specific requirement for a certain condition, that requirement is applicable even if it is less restrictive than a general requirement elsewhere in the code. For instance, specific requirements for certain uses and occupancies are located in Chapter 4 and take precedence over general requirements found in other chapters of the code. As an example, the requirements contained in Section 402.4 for means of egress in a covered mall building would govern over any differing requirements located in Chapter 10, whether the requirements in Section 402.4 are more or less restrictive.

**102.2 Other laws.** The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

❖ In some cases, other laws enacted by the jurisdiction or the state or federal government may be applicable to a condition that is also governed by a requirement in the code. In such circumstances, the requirements of the code are in addition to that other law that is still in effect, although the building official may not be responsible for its enforcement.

**102.3 Application of references.** References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

❖ In a situation where the code may make reference to a chapter or section number or to another code provision without specifically identifying its location in the code, assume that the referenced section, chapter or provision is in the code and not in a referenced code or standard.

**102.4 Referenced codes and standards.** The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

❖ A referenced code, standard or portion thereof is an enforceable extension of the code as if the content of the standard were included in the body of the code. For example, Section 905.2 references NFPA 14 in its entirety

for the installation of standpipe systems. In those cases where the code references only portions of a standard, the use and application of the referenced standard is limited to those portions that are specifically identified. For example, Section 412.2.6 requires that aircraft hangars must be provided with fire suppression systems as required in NFPA 409. Section 412.2.6 cannot be construed to require compliance with NFPA 409 in its entirety. It is the intent of the code to be in harmony with the referenced standards. If conflicts occur because of scope or purpose, the code text governs.

**102.5 Partial invalidity.** In the event that any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions.

❖ Only invalid sections of the code (as established by the court of jurisdiction) can be set aside. This is essential to safeguard the application of the code text to situations whereby a provision is declared illegal or unconstitutional. This section preserves the legislative action that put the legal provisions in place.

**102.6 Existing structures.** The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, the *International Property Maintenance Code* or the *International Fire Code*, or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public.

❖ An existing structure is generally "grandfathered" to be considered approved with code adoption, provided that the building meets a minimum level of safety. Frequently, the criteria for this level are the regulations (or code) under which the existing building was originally constructed. If there are no previous code criteria to apply, the building official must apply those provisions that are reasonably applicable to existing buildings. A specific level of safety is dictated by provisions dealing with hazard abatement in existing buildings and maintenance provisions, as contained in the code, the IPMC and the IFC. These codes are referenced (see Sections 101.4.5 and 101.4.6) and are applicable to existing buildings. Additionally, Chapter 34 comprehensively identifies the pertinent requirements for existing buildings on which a construction operation is intended or that undergoes a change of occupancy.

## SECTION 103 DEPARTMENT OF BUILDING SAFETY

**103.1 Creation of enforcement agency.** The Department of Building Safety is hereby created and the official in charge thereof shall be known as the building official.

❖ This section creates the building department and describes its composition (see Section 109 for a discussion of the inspection duties of the department). Appen-

dix A contains qualifications for the employees of the building department involved in the enforcement of the code. If a jurisdiction desires to establish these qualifications for its employees, Appendix A must be specifically referenced in the adopting ordinance.

The executive official in charge of the building department is named the “building official” by this section. In actuality, the person who is in charge of the department may hold a different title, such as building commissioner, building inspector or construction official. For the purpose of the code, that person is referred to as the “building official.”

**103.2 Appointment.** The building official shall be appointed by the chief appointing authority of the jurisdiction.

- ❖ This section establishes the building official as an appointed position of the jurisdiction.

**103.3 Deputies.** In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the building official shall have the authority to appoint a deputy building official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the building official. For the maintenance of existing properties, see the *International Property Maintenance Code*.

- ❖ This section provides the building official with the authority to appoint other individuals to assist with the administration and enforcement of the code. These individuals have the authority and responsibility as designated by the building official. Such appointments, however, may be exercised only with the authorization of the chief appointing authority.

## SECTION 104 DUTIES AND POWERS OF BUILDING OFFICIAL

**104.1 General.** The building official is hereby authorized and directed to enforce the provisions of this code. The building official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

- ❖ The duty of the building official is to enforce the code and he or she is the “authority having jurisdiction” for all matters relating to the code and its enforcement. It is the duty of the building official to interpret the code and to determine compliance. Code compliance will not always be easy to determine and will require judgement and expertise, particularly when enforcing the provisions of Sections 104.10 and 104.11. In exercising this

authority, however, the building official cannot set aside or ignore any provision of the code.

**104.2 Applications and permits.** The building official shall receive applications, review construction documents and issue permits for the erection, and alteration, demolition and moving of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code.

- ❖ The code enforcement process is normally initiated with an application for a permit. The building official is responsible for processing applications and issuing permits for the construction or modification of buildings in accordance with the code.

**104.3 Notices and orders.** The building official shall issue all necessary notices or orders to ensure compliance with this code.

- ❖ An important element of code enforcement is the necessary advisement of deficiencies and corrections, which is accomplished through written notices and orders. The building official is required to issue orders to abate illegal or unsafe conditions. Section 115.3 contains additional information for these notices.

**104.4 Inspections.** The building official shall make all of the required inspections, or the building official shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The building official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

- ❖ The building official is required to make inspections as necessary to determine compliance with the code or to accept written reports of inspections by an approved agency. The inspection of the work in progress or accomplished is another significant element in determining code compliance. While a department does not have the resources to inspect every aspect of all work, the required inspections are those that are dictated by administrative rules and procedures based on many parameters, including available inspection resources. In order to expand the available resources for inspection purposes, the building official may approve an agency that, in his or her opinion, complies with the criteria set forth in Section 1703. When unusual, extraordinary or complex technical issues arise relative to building safety, the building official has the authority to seek the opinion and advice of experts. Since this usually involves the expenditure of funds, the approval of the jurisdiction’s chief executive (or similar position) is required. A technical report from an expert requested by the building official can be used to assist in the approval process (also see Section 1704 for special inspection requirements).

**104.5 Identification.** The building official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

- ❖ This section requires the building official (including by definition all authorized designees) to carry identification in the course of conducting the duties of the position. This removes any question as to the purpose and authority of the inspector.

**104.6 Right of entry.** Where it is necessary to make an inspection to enforce the provisions of this code, or where the building official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or hazardous, the building official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

- ❖ The first part of this section establishes the right of the building official to enter the premises in order to make the permit inspections required by Section 109.3. Permit application forms typically include a statement in the certification signed by the applicant (who is the owner or owner's agent) granting the building official the authority to enter areas covered by the permit in order to enforce code provisions related to the permit. The right to enter other structures or premises is more limited. First, to protect the right of privacy, the owner or occupant must grant the building official permission before an interior inspection of the property can be conducted. Permission is not required for inspections that can be accomplished from within the public right-of-way. Second, such access may be denied by the owner or occupant. Unless the inspector has reasonable cause to believe that a violation of the code exists, access may be unattainable. Third, building officials must present proper identification (see Section 104.5) and request admittance during reasonable hours—usually the normal business hours of the establishment—to be admitted. Fourth, inspections must be aimed at securing or determining compliance with the provisions and intent of the regulations that are specifically within the established scope of the building official's authority.

Searches to gather information for the purpose of enforcing the other codes, ordinances or regulations are considered unreasonable and are prohibited by the Fourth Amendment to the U.S. Constitution. "Reasonable cause" in the context of this section must be distinguished from "probable cause," which is required to gain access to property in criminal cases. The burden of proof establishing reasonable cause may vary among jurisdictions. Usually, an inspector must show that the

property is subject to inspection under the provisions of the code; that the interests of the public health, safety and welfare outweigh the individual's right to maintain privacy and that such an inspection is required solely to determine compliance with the provisions of the code.

Many jurisdictions do not recognize the concept of an administrative warrant and may require the building official to prove probable cause in order to gain access upon refusal. This burden of proof is usually more substantial, often requiring the building official to stipulate in advance why access is needed (usually access is restricted to gathering evidence for seeking an indictment or making an arrest); what specific items or information is sought; its relevance to the case against the individual subject; how knowledge of the relevance of the information or items sought was obtained and how the evidence sought will be used. In all such cases, the right to privacy must always be weighed against the right of the building official to conduct an inspection to verify that public health, safety and welfare are not in jeopardy. Such important and complex constitutional issues should be discussed with the jurisdiction's legal counsel. Jurisdictions should establish procedures for securing the necessary court orders when an inspection is deemed necessary following a refusal.

**104.7 Department records.** The building official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for retention of public records.

- ❖ In keeping with the need for an efficiently conducted business practice, the building official must keep official records pertaining to permit applications, permits, fees collected, inspections, notices and orders issued. Such documentation provides a valuable resource of information if questions arise regarding the department's actions with respect to a building. The code does not require that construction documents be kept after the project is complete. It requires that other documents be kept for the length of time mandated by a jurisdiction's, or its state's, laws or administrative rules for retaining public records.

**104.8 Liability.** The building official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit or pro-



ceeding that is instituted in pursuance of the provisions of this code.

- ❖ The building official, other department employees and members of the appeals board are not intended to be held liable for those actions performed in accordance with the code in a reasonable and lawful manner. The responsibility of the building official in this regard is subject to local, state and federal laws that may supersede this provision. This section further establishes that building officials (or subordinates) must not be liable for costs in any legal action instituted in response to the performance of lawful duties. These costs are to be borne by the state, county or municipality. The best way to be certain that the building official's action is a "lawful duty" is always to cite the applicable code section on which the enforcement action is based.

**104.9 Approved materials and equipment.** Materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

- ❖ The code is a compilation of criteria with which materials, equipment, devices and systems must comply to be suitable for a particular application. The building official has a duty to evaluate such materials, equipment, devices and systems for code compliance and, when compliance is determined, approve the same for use. The materials, equipment, devices and systems must be constructed and installed in compliance with, and all conditions and limitations considered as a basis for, that approval. For example, the manufacturer's instructions and recommendations are to be followed if the approval of the material was based even in part on those instructions and recommendations. The approval authority given to the building official is a significant responsibility and is a key to code compliance. The approval process is first technical and then administrative and must be approached as such. For example, if data to determine code compliance are required, such data should be in the form of test reports or engineering analysis and not simply taken from a sales brochure.

**104.9.1 Used materials and equipment.** The use of used materials which meet the requirements of this code for new materials is permitted. Used equipment and devices shall not be reused unless approved by the building official.

- ❖ The code criteria for materials and equipment have changed over the years. Evaluation of testing and materials technology has permitted the development of new criteria that the old materials may not satisfy. As a result, used materials are required to be evaluated in the same manner as new materials. Used materials, equipment and devices must be equivalent to that required by the code if they are to be used again in a new installation.

**104.10 Modifications.** Wherever there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for indi-

vidual cases, upon application of the owner or owner's representative, provided the building official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

- ❖ The building official may amend or make exceptions to the code as needed where strict compliance is impractical. Only the building official has authority to grant modifications. Consideration of a particular difficulty is to be based on the application of the owner and a demonstration that the intent of the code is accomplished. This section is not intended to permit setting aside or ignoring a code provision; rather, it is intended to provide for the acceptance of equivalent protection. Such modifications do not, however, extend to actions that are necessary to correct violations of the code. In other words, a code violation or the expense of correcting one cannot constitute a practical difficulty.

**104.11 Alternative materials, design and methods of construction and equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

- ❖ The code is not intended to inhibit innovative ideas or technological advances. A comprehensive regulatory document such as a building code cannot envision and then address all future innovations in the industry. As a result, a performance code must be applicable to and provide a basis for the approval of an increasing number of newly developed, innovative materials, systems and methods for which no code text or referenced standards yet exist. The fact that a material, product or method of construction is not addressed in the code is not an indication that such material, product or method is intended to be prohibited. The building official is expected to apply sound technical judgement in accepting materials, systems or methods that, while not anticipated by the drafters of the current code text, can be demonstrated to offer equivalent performance. By virtue of its text, the code regulates new and innovative construction practices while addressing the relative safety of building occupants. The building official is responsible for determining if a requested alternative provides the equivalent level of protection of public health, safety and welfare as required by the code.

**104.11.1 Research reports.** Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

❖ When an alternative material or method is proposed for construction, it is incumbent upon the building official to determine whether this alternative is, in fact, an equivalent to the methods prescribed by the code. Reports providing evidence of this equivalency are required to be supplied by an approved source, meaning a source that the building official finds to be reliable and accurate. The ICC Evaluation Service is an example of an agency that provides research reports for alternative materials and methods.

**104.11.2 Tests.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

❖ To provide the basis on which the building official can make a decision regarding an alternative material or method, sufficient technical data, test reports and documentation must be provided for evaluation. If evidence satisfactory to the building official indicates that the alternative material or construction method is equivalent to that required by the code, he or she may approve it. Any such approval cannot have the effect of waiving any requirements of the code. The burden of proof of equivalence lies with the applicant who proposes the use of alternative materials or methods.

The building official must require the submission of any appropriate information and data to assist in the determination of equivalency. This information must be submitted before a permit can be issued. The type of information required includes test data in accordance with referenced standards, evidence of compliance with the referenced standard specifications and design calculations. A research report issued by an authoritative agency is particularly useful in providing the building official with the technical basis for evaluation and approval of new and innovative materials and methods of construction. The use of authoritative research reports can greatly assist the building official by reducing the time-consuming engineering analysis necessary to review these materials and methods. Failure to substantiate adequately a request for the use of an alternative is a valid reason for the building official to deny a request. Any tests submitted in support of an application must have been performed by an agency approved by the building official based on evidence that the agency has

the technical expertise, test equipment and quality assurance to properly conduct and report the necessary testing. The test reports submitted to the building official must be retained in accordance with the requirements of Section 104.7.

## SECTION 105 PERMITS

**105.1 Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

❖ This section contains the administrative rules governing the issuance, suspension, revocation or modification of building permits. It also establishes how and by whom the application for a building permit is to be made, how it is to be processed, fees and what information it must contain or have attached to it.

In general, a permit is required for all activities that are regulated by the code or its referenced codes (see Section 101.4), and these activities cannot begin until the permit is issued, unless the activity is specifically exempted by Section 105.2. Only the owner or a person authorized by the owner can apply for the permit. Note that this section indicates a need for a permit for a change in occupancy, even if no work is contemplated. Although the occupancy of a building or portion thereof may change and the new activity is still classified in the same group, different code provisions may be applicable. The means of egress, structural loads and light and ventilation provisions are examples of requirements that are occupancy sensitive. The purpose of the permit is to cause the work to be reviewed, approved and inspected to determine compliance with the code.

**105.1.1 Annual permit.** In lieu of an individual permit for each alteration to an already approved electrical, gas, mechanical or plumbing installation, the building official is authorized to issue an annual permit upon application therefor to any person, firm or corporation regularly employing one or more qualified tradespersons in the building, structure or on the premises owned or operated by the applicant for the permit.

❖ In some instances, such as large buildings or industrial facilities, the repair, replacement or alteration of electrical, gas, mechanical or plumbing systems occurs on a frequent basis, and this section allows the building official to issue an annual permit for this work. This relieves both the building department and the owners of such facilities from the burden of filing and processing individual applications for this activity; however, there are restrictions on who is entitled to these permits. They can be issued only for work on a previously approved installation and only to an individual or corporation that em-



employs persons specifically qualified in the trade for which the permit is issued. If tradespeople who perform the work involved are required to be licensed in the jurisdiction, then only those persons would be permitted to perform the work. If trade licensing is not required, then the building official needs to review and approve the qualifications of the persons who will be performing the work. The annual permit can apply only to the individual property that is owned or operated by the applicant.

**105.1.2 Annual permit records.** The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The building official shall have access to such records at all times or such records shall be filed with the building official as designated.

❖ The work performed in accordance with an annual permit must be inspected by the building official, so it is necessary to know the location of such work and when it was performed. This can be accomplished by having records of the work available to the building official either at the premises or in the official's office, as determined by the official.

**105.2 Work exempt from permit.** Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

**Building:**

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11.15 m<sup>2</sup>).
2. Fences not over 6 feet (1829 mm) high.
3. Oil derricks.
4. Retaining walls which are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids.
5. Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18 925 L) and the ratio of height to diameter or width does not exceed 2 to 1.
6. Sidewalks and driveways not more than 30 inches (762 mm) above grade and not over any basement or story below and which are not part of an accessible route.
7. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
8. Temporary motion picture, television and theater stage sets and scenery.
9. Prefabricated swimming pools accessory to a Group R-3 occupancy, as applicable in Section 101.2, which are less than 24 inches (610 mm) deep, do not exceed 5,000 gallons (18 925 L) and are installed entirely above ground.
10. Shade cloth structures constructed for nursery or agricultural purposes and not including service systems.

11. Swings and other playground equipment accessory to detached one- and two-family dwellings.
12. Window awnings supported by an exterior wall which do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support of Group R-3, as applicable in Section 101.2, and Group U occupancies.
13. Movable cases, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

**Electrical:**

**Repairs and maintenance:** Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

**Radio and television transmitting stations:** The provisions of this code shall not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for power supply, the installations of towers and antennas.

**Temporary testing systems:** A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

**Gas:**

1. Portable heating appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

**Mechanical:**

1. Portable heating appliance.
2. Portable ventilation equipment.
3. Portable cooling unit.
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any part which does not alter its approval or make it unsafe.
6. Portable evaporative cooler.
7. Self-contained refrigeration system containing 10 pounds (4.54 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.

**Plumbing:**

1. The stopping of leaks in drains, water, soil, waste or vent pipe provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.
2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

❖ Section 105.1 essentially requires a permit for any activity involving work on a building and its systems and

other structures. This section lists those activities that are permitted to take place without first obtaining a permit from the building department. Note that in some cases, such as Items 9, 10, 11 and 12, the work is exempt only for certain occupancies. It is further the intent of the code that even though work may be exempted for permit purposes, it must still comply with the code and the owner is responsible for proper and safe construction for all work being done. Work exempted by the codes adopted by reference in Section 101.4 is also included here.

**105.2.1 Emergency repairs.** Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the building official.

❖ This section recognizes that in some cases, emergency replacement and repair work must be done as quickly as possible, so it is not practical to take the necessary time to apply for and obtain approval. A permit for the work must be obtained the next day that the building department is open for business. Any work performed before the permit is issued must be done in accordance with the code and corrected if not approved by the building official.

**105.2.2 Repairs.** Application or notice to the building official is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

❖ This section distinguishes between what might be termed by some as repairs but are in fact alterations, wherein the code is to be applicable, and ordinary repairs, which are maintenance activities that do not require a permit.

**105.2.3 Public service agencies.** A permit shall not be required for the installation, alteration or repair of generation, transmission, distribution or metering or other related equipment that is under the ownership and control of public service agencies by established right.

❖ Utilities that supply electricity, gas, water, telephone, television cable, etc., do not require permits for work involving the transmission lines and metering equipment that they own and control; that is, to their point of delivery. Utilities are typically regulated by other laws that give them specific rights and authority in this area. Any equipment or appliances installed or serviced by such

agencies that are not owned by them and under their full control are not exempt from a permit.

**105.3 Application for permit.** To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the department of building safety for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use and occupancy for which the proposed work is intended.
4. Be accompanied by construction documents and other information as required in Section 106.3.
5. State the valuation of the proposed work.
6. Be signed by the applicant, or the applicant's authorized agent.
7. Give such other data and information as required by the building official.

❖ This section requires that a written application for a permit be filed on forms provided by the building department and details the information required on the application. Permit forms will typically have sufficient space to write a very brief description of the work to be accomplished, which is sufficient for only small jobs. For larger projects, the description will be augmented by construction documents as indicated in Item 4. As required by Section 105.1, the applicant must be the owner of the property or an authorized agent of the owner, such as an engineer, architect, contractor, tenant or other. The applicant must sign the application, and permit forms typically include a statement that if the applicant is not the owner, he or she has permission from the owner to make the application.

**105.3.1 Action on application.** The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reasons therefor. If the building official is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the building official shall issue a permit therefor as soon as practicable.

❖ This section requires the building official to act with reasonable speed on a permit application. In some instances, this time period is set by state or local law. The building official must refuse to issue a permit when the application and accompanying documents do not conform to the code. In order to ensure effective communication and due process of law, the reasons for denial of an application for a permit are required to be in writing. Once the building official determines that the work de-

scribed conforms with the code and other applicable laws, the permit must be issued upon payment of the fees required by Section 108.

**105.3.2 Time limitation of application.** An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

- ❖ Typically, an application for a permit is submitted and goes through a review process that ends with the issuance of a permit. If a permit has not been issued 180 days after the date of filing, however, the application is considered abandoned, unless the applicant was diligent in efforts to obtain the permit. The building official has the authority to extend this time limitation (in increments of 90 days), provided there is reasonable cause. This would cover delays beyond the applicant's control, such as prerequisite permits or approvals from other authorities within the jurisdiction or state. The intent of this section is to limit the time between the review process and the issuance of a permit.

**105.4 Validity of permit.** The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data. The building official is also authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this jurisdiction.

- ❖ This section states the fundamental premise that the permit is only a license to proceed with the work. It is not a license to violate, cancel or set aside any provisions of this code. This is significant because it means that despite any errors or oversights in the approval process, the permit applicant, not the building official, is responsible for code compliance. Also, the permit can be suspended or revoked in accordance with Section 105.6.

**105.5 Expiration.** Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

- ❖ The permit becomes invalid under two distinct situations—both based on a 180-day period. The first situa-

tion is when no work was ever started 180 days from issuance of a permit. The second situation is when the authorized work has stopped for 180 days. The person who was issued the permit should be notified, in writing, that it is invalid and what steps must be taken to reinstate it and restart the work. The building official has the authority to extend this time limitation (in increments of 180 days), provided the extension is requested in writing and there is reasonable cause, which typically includes events beyond the permit holder's control.

**105.6 Suspension or revocation.** The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

- ❖ A permit is in reality a license to proceed with the work. The building official, however, can suspend or revoke permits shown to be based, all or in part, on any false statement or misrepresentation of fact. A permit can also be suspended or revoked if it was issued in error, such as an omitted prerequisite approval or code violation indicated on the construction documents. An applicant may subsequently apply for a reinstatement of the permit with the appropriate corrections or modifications made to the application and construction documents.

**105.7 Placement of permit.** The building permit or copy shall be kept on the site of the work until the completion of the project.

- ❖ The permit, or copy thereof, is to be kept on the job site until the work is complete and made available to the building official or representative to conveniently make required entries thereon.

## SECTION 106 CONSTRUCTION DOCUMENTS

**106.1 Submittal documents.** Construction documents, special inspection and structural observation programs, and other data shall be submitted in one or more sets with each application for a permit. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.

**Exception:** The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

- ❖ This section establishes the requirement to provide the building official with construction drawings, specifications and other documents that describe the structure or

system for which a permit is sought (see Section 202 for a complete definition). It describes the information that must be included in the documents, who must prepare them and procedures for approving them.

A detailed description of the work for which an application is made must be submitted. When the work can be briefly described on the application form and the services of a registered design professional are not required, the building official may utilize judgement in determining the need for detailed documents. An example of work that may not involve the submission of detailed construction documents is the replacement of an existing 60-amp electrical service with a 200-amp service. Other sections of the code also contain specific requirements for construction documents, such as Sections 1603, 1901.4, 2101.3 and 3103.2. These provisions are intended to reflect the minimum scope of information needed to determine code compliance. Although this section specifies that "one or more" sets of construction documents be submitted, note that Section 106.3.1 requires one set of approved documents to be retained by the building official and one set to be returned to the applicant, essentially requiring at least two sets of construction documents. The building official should establish a consistent policy of the number of sets required by the jurisdiction and make this information readily available to applicants.

This section also requires the building official to determine that any state professional registration laws be complied with as they apply to the preparation of construction documents.

**106.1.1 Information on construction documents.** Construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the building official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, ordinances, rules and regulations, as determined by the building official.

❖ The construction documents are required to be of a quality and detail such that the building official can determine that the work conforms to the code and other applicable laws and regulations. General statements on the documents, such as "all work must comply with the *International Building Code*," are not an acceptable substitute for showing the required information. The following subsections and sections in other chapters indicated in the commentary to Section 106.1 specify the detailed information that must be shown on the submitted documents. When specifically allowed by the building official, documents can be submitted in electronic form.

**106.1.1.1 Fire protection system shop drawings.** Shop drawings for the fire protection system(s) shall be submitted to indicate conformance with this code and the construction documents and shall be approved prior to the start of system in-

stallation. Shop drawings shall contain all information as required by the referenced installation standards in Chapter 9.

❖ Since the fire protection contractor(s) may not have been selected at the time a permit is issued for construction of a building, detailed shop drawings for fire protection systems are not available. Because they provide the information necessary to determine code compliance, as specified in the appropriate referenced standard in Chapter 9, they must be submitted and approved by the building official before the contractor can begin installing the system. For example, the professional responsible for the design of an automatic sprinkler system should determine that the water supply is adequate, but will not be able to prepare a final set of hydraulic calculations if the specific materials and pipe sizes, lengths and arrangements have not been identified. Once the installing contractor is selected, specific hydraulic calculations can be prepared. Factors such as classification of the hazard, amount of water supply available and the density or concentration to be achieved by the system are to be included with the submission of the shop drawings. Specific data sheets identifying sprinklers, pipe dimensions, power requirements for smoke detectors, etc., should also be included with the submission.

**106.1.2 Means of egress.** The construction documents shall show in sufficient detail the location, construction, size and character of all portions of the means of egress in compliance with the provisions of this code. In other than occupancies in Groups R-2, R-3, as applicable in Section 101.2, and I-1, the construction documents shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces.

❖ The complete means of egress system is required to be indicated on the plans to permit the building official to initiate a review and identify pertinent code requirements for each component. Additionally, requiring such information to be reflected in the construction documents requires the designer not only to become familiar with the code, but also to be aware of egress principles, concepts and purposes. The need to ensure that the means of egress leads to a public way is also a consideration during the plan review. Such an evaluation cannot be made without the inclusion of a site plan, as required by Section 106.2.

Information essential for determining the required capacity of the egress components (see Section 1005) and the number of egress components required from a space (see Sections 1014.1 and 1018.1) must be provided. The designer must be aware of the occupancy of a space and properly identify that, along with its resultant occupant load, on the construction documents. In occupancies in Groups I-1, R-2 and R-3, the occupant load can be readily determined with little difference in the number so that the designation of the occupant load on the construction documents is not required.

**106.1.3 Exterior wall envelope.** Construction documents for all buildings shall describe the exterior wall envelope in sufficient detail to determine compliance with this code. The construction documents shall provide details of the exterior wall envelope as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves or parapets, means of drainage, water-resistive membrane and details around openings.

The construction documents shall include manufacturer's installation instructions that provide supporting documentation that the proposed penetration and opening details described in the construction documents maintain the weather resistance of the exterior wall envelope. The supporting documentation shall fully describe the exterior wall system which was tested, where applicable, as well as the test procedure used.

- ❖ This section specifically identifies details of exterior wall construction that are critical to the weather resistance of the wall and requires those details to be provided on the construction documents. Where the weather resistance of the exterior wall assembly is based on tests, the submitted documentation is to describe the details of the wall envelope and the test procedure that was used. This provides the building official with the information necessary to determine code compliance.

**106.2 Site plan.** The construction documents submitted with the application for permit shall be accompanied by a site plan showing to scale the size and location of new construction and existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades and, as applicable, flood hazard areas, floodways, and design flood elevations; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The building official is authorized to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when otherwise warranted.

- ❖ Certain code requirements are dependent on the structure's location on the lot (see Sections 506.2, 507, 704, 1023 and 1205) and the topography of the site (see Sections 1104, 1107.7.4 and 1803.3). As a result, a scaled site plan containing the data listed in this section is required to permit review for compliance. The building official can waive the requirement for a site plan when it is not required to determine code compliance, such as work involving only interior alterations or repairs.

**106.3 Examination of documents.** The building official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this code and other pertinent laws or ordinances.

- ❖ The requirements of this section are related to those found in Section 105.3.1 regarding the action of the building official in response to a permit application. The building official can delegate review of the construction

documents to subordinates as provided for in Section 103.3.

**106.3.1 Approval of construction documents.** When the building official issues a permit, the construction documents shall be approved, in writing or by stamp, as "Reviewed for Code Compliance." One set of construction documents so reviewed shall be retained by the building official. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the building official or a duly authorized representative.

- ❖ The building official must stamp or otherwise endorse as "Reviewed for Code Compliance" the construction documents on which the permit is based. One set of approved construction documents must be kept on the construction site to serve as the basis for all subsequent inspections. To avoid confusion, the construction documents on the site must be the documents that were approved and stamped. This is because inspections are to be performed with regard to the approved documents, not the code itself. Additionally, the contractor cannot determine compliance with the approved construction documents unless they are readily available. Unless the approved construction documents are available, the inspection should be postponed and work on the project halted.

**106.3.2 Previous approvals.** This code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

- ❖ If a permit is issued and construction proceeds at a normal pace and a new edition of the code is adopted by the legislative body, requiring that the building be constructed to conform to the new code is unreasonable. This section provides for the continuity of permits issued under previous codes, as long as such permits are being "actively prosecuted" subsequent to the effective date of the ordinance adopting this edition of the code.

**106.3.3 Phased approval.** The building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted.

- ❖ The building official has the authority to issue a partial permit to allow for the practice of "fast tracking" a job. Any construction under a partial permit is "at the holder's own risk" and "without assurance that a permit for the entire structure will be granted." The building offi-

cial is under no obligation to accept work or issue a complete permit in violation of the code, ordinances or statutes simply because a partial permit had been issued. Fast tracking places an unusual administrative and technical burden on the building official. The purpose is to proceed with construction while the design continues for other aspects of the work. Coordinating and correlating the code aspects into the project in phases requires attention to detail and project tracking so that all code issues are addressed. The coordination of these submittals is the responsibility of the registered design professional in responsible charge described in Section 106.3.4.

#### 106.3.4 Design professional in responsible charge.

**106.3.4.1 General.** When it is required that documents be prepared by a registered design professional, the building official shall be authorized to require the owner to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge. The building official shall be notified in writing by the owner if the registered design professional in responsible charge is changed or is unable to continue to perform the duties.

The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building.

Where structural observation is required by Section 1709, the inspection program shall name the individual or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur (see also duties specified in Section 1704).

❖ At the time of permit application and at various intervals during a project, the code requires detailed technical information to be submitted to the building official. This will vary depending on the complexity of the project, but typically includes the construction documents with supporting information, applications utilizing the phased approval procedure in Section 106.3.3 and reports from engineers, inspectors and testing agencies required in Chapter 17. This section specifically references the special inspection requirements in Section 1704 and the structural observation requirements in Section 1709. Since these documents and reports are prepared by numerous individuals, firms and agencies, it is necessary to have a single person charged with responsibility for coordinating their submittal to the building official. This person is the point of contact for the building official for all information relating to the project. Otherwise, the building official could waste time and effort attempting to locate the source of accurate information

when trying to resolve an issue such as a discrepancy in plans submitted by different designers. The requirement that the owner engage a person to act as the design professional in responsible charge is applicable to projects where the construction documents are required by law to be prepared by a registered design professional (see Section 106.1) and when required by the building official. Small projects that do not involve phased approvals, deferred submittals or special inspection reports (see Section 1704) that cannot be readily administered by the building official and staff does not require the designation of a design professional in responsible charge. The person employed by the owner to act as the design professional in responsible charge must be identified on the permit application, but the owner can change the designated person at any time during the course of the review process or work, provided the building official is so notified in writing.

**106.3.4.2 Deferred submittals.** For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted at the time of the application and that are to be submitted to the building official within a specified period.

Deferral of any submittal items shall have the prior approval of the building official. The registered design professional in responsible charge shall list the deferred submittals on the construction documents for review by the building official.

Documents for deferred submittal items shall be submitted to the registered design professional in responsible charge who shall review them and forward them to the building official with a notation indicating that the deferred submittal documents have been reviewed and been found to be in general conformance to the design of the building. The deferred submittal items shall not be installed until the design and submittal documents have been approved by the building official.

❖ Often, especially on larger projects, details of certain building parts are not available at the time of permit issuance because they have not yet been designed; for example, exterior cladding, prefabricated items such as trusses and stairs and the components of fire protection systems (see Section 106.1.1.1). The design professional in responsible charge must identify on the construction documents the items to be included in any deferred submittals. Documents required for the approval of deferred items must be reviewed by the design professional in responsible charge for compatibility with the design of the building, forwarded to the building official with a notation that this is the case and approved by the building official before installation of the items. Sufficient time must be allowed for the approval process. Note that deferred submittals differ from the phased permits described in Section 106.3.3 in that they occur after the permit for the building is issued and are not for work covered by separate permits.

**106.4 Amended construction documents.** Work shall be installed in accordance with the approved construction docu-



ments, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

- ❖ Any amendments to the approved construction documents must be filed before constructing the amended item. In the broadest sense, amendments include all addenda, change orders, revised drawings and marked-up shop drawings. Building officials should maintain a policy that all amendments be submitted for review. Otherwise, a significant amendment may not be submitted because of misinterpretation, resulting in an activity that is not approved and that causes a needless delay in obtaining approval of the finished work.

**106.5 Retention of construction documents.** One set of approved construction documents shall be retained by the building official for a period of not less than 180 days from date of completion of the permitted work, or as required by state or local laws.

- ❖ A set of the approved construction documents must be kept by the building official as may be required by state or local laws, but for a period of no less than 180 days after the work is complete. Questions regarding an item shown on the approved documents may arise in the period immediately following completion of the work and the documents should be available for review. See Section 104.7 for requirements to retain other records that are generated as a result of the work.

## SECTION 107 TEMPORARY STRUCTURES AND USES

**107.1 General.** The building official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 180 days. The building official is authorized to grant extensions for demonstrated cause.

- ❖ In the course of construction or other activities, structures that have a limited service life are often necessary. This section contains the administrative provisions that permit such temporary structures without full compliance with the code requirements for permanently occupied structures. This section should not be confused with the scope of Section 3103, which regulates temporary structures larger than 120 square feet (11 m<sup>2</sup>) in area.

This section allows the building official to issue permits for temporary structures or uses. The applicant must specify the time period desired for the temporary structure or use, but the approval period cannot exceed 180 days. Structures or uses that are temporary but are anticipated to be in existence for more than 180 days are required to conform to code requirements for permanent structures and uses. The section also autho-

rizes the building official to grant extensions to this time period if the applicant can provide a valid reason for the extension, which typically includes circumstances beyond the applicant's control. This provision is not intended to be used to circumvent the 180-day limitation.

**107.2 Conformance.** Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare.

- ❖ This section prescribes those categories of the code that must be complied with, despite the fact that the structure will be removed or the use discontinued at some time in the future. These criteria are essential for measuring the safety of any structure or use, temporary or permanent; therefore, the application of these criteria to a temporary structure cannot be waived.

"Structural strength" refers to the ability of the temporary structure to resist anticipated live, environmental and dead loads (see Chapter 16). It also applies to anticipated live and dead loads imposed by a temporary use in an existing structure.

"Fire safety" provisions are those required by Chapters 7, 8 and 9 invoked by virtue of the structure's size, use or location on the property.

"Means of egress" refers to full compliance with Chapter 10.

"Accessibility" refers to full compliance with Chapter 11 for making buildings accessible to physically disabled persons, a requirement that is repeated in Section 1103.1.

"Light, ventilation and sanitary" requirements are those imposed by Chapter 12 of the code or applicable sections of the IPC or IMC.

**107.3 Temporary power.** The building official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in the ICC *Electrical Code*.

- ❖ Commonly, the electrical service on most construction sites is installed and energized long before all of the wiring is completed. This procedure allows the power supply to be increased as construction demands; however, temporary permission is not intended to waive the requirements set forth in the ICC EC or NFPA 70. Construction power from the permanent wiring of the building does not require the installation of temporary ground-fault circuit-interrupter (GFCI) protection or the assured equipment grounding program, because the building wiring installed as required by the code should be as safe for use during construction as it would be for use after completion of the building.

**107.4 Termination of approval.** The building official is authorized to terminate such permit for a temporary structure or use and to order the temporary structure or use to be discontinued.

- ❖ This section provides the building official with the necessary authority to terminate the permit for a temporary structure or use. The building official can order that a temporary structure be removed or a temporary use be discontinued if conditions of the permit have been violated or the structure or use poses an imminent hazard to the public, in which case the provisions of Section 115 become applicable. This text is important because it allows the building official to act quickly when time is of the essence in order to protect public health, safety and welfare.

## SECTION 108 FEES

**108.1 Payment of fees.** A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

- ❖ The code anticipates that jurisdictions will establish their own fee schedules. It is the intent that the fees collected by the department for building permit issuance, plan review and inspection be adequate to cover the costs to the department in these areas. If the department has additional duties, then its budget will need to be supplemented from the general fund. This section requires that all fees be paid prior to permit issuance or release of an amendment to a permit. Since department operations are intended to be supported by fees paid by the user of department activities, it is important that these fees are received before incurring any expense. This philosophy has resulted in some departments having fees paid prior to the performance of two areas of work: plan review and inspection.

**108.2 Schedule of permit fees.** On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established by the applicable governing authority.

- ❖ The jurisdiction inserts its desired fee schedule at this location. The fees are established by law, such as in an ordinance adopting the code (see page v of the code for a sample), a separate ordinance or legally promulgated regulation, as required by state or local law. Fee schedules are often based on a valuation of the work to be performed. This concept is based on the proposition that the valuation of a project is related to the amount of work to be expended in plan review, inspections and administering the permit, plus an excess to cover the department overhead.

To assist jurisdictions in establishing some uniformity in fees, building evaluation data are published periodically in ICC's *Building Safety Journal*.

**108.3 Building permit valuations.** The applicant for a permit shall provide an estimated permit value at time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems. If, in the opinion of the building official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the building official. Final building permit valuation shall be set by the building official.

- ❖ As indicated in Section 108.2, jurisdictions usually base their fees on the value of the work being performed. This section, therefore, requires the applicant to provide this figure, which is to include the total value of the work, including materials and labor, for which the permit is sought. If the building official believes that the value provided by the applicant is underestimated, the permit is to be denied unless the applicant can substantiate the value by providing detailed estimates of the work to the satisfaction of the building official. For the construction of new buildings, the building valuation data referred to in Section 108.2 can be used by the building official as a yardstick against which to compare the applicant's estimate.

**108.4 Work commencing before permit issuance.** Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee established by the building official that shall be in addition to the required permit fees.

- ❖ The building official will incur certain costs (i.e., inspection time and administrative) when investigating and citing a person who has commenced work without having obtained a permit. The building official is, therefore, entitled to recover these costs by establishing a fee, in addition to that collected when the required permit is issued, to be imposed on the responsible party. Note that this is not a penalty, as described in Section 113.4, for which the person can also be liable.

**108.5 Related fees.** The payment of the fee for the construction, alteration, removal or demolition for work done in connection to or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

- ❖ The fees for a building permit may be in addition to other fees required by the jurisdiction or others for related items, such as sewer connections, water service taps, driveways and signs. It cannot be construed that the building permit fee includes these other items.

**108.6 Refunds.** The building official is authorized to establish a refund policy.

- ❖ This section allows for a refund of fees, which may be full or partial, typically resulting from the revocation, abandonment or discontinuance of a building project for which a permit has been issued and fees have been collected. The refund of fees should be related to the cost

of enforcement services not provided because of the termination of the project. The building official, when authorizing a fee refund, is authorizing the disbursement of public funds; therefore, the request for a refund must be in writing and for good cause.

## SECTION 109 INSPECTIONS

**109.1 General.** Construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

- ❖ The inspection function is one of the more important aspects of building department operations. This section authorizes the building official to inspect the work for which a permit has been issued and requires that the work to be inspected remain accessible to the building official until inspected and approved. Any expense incurred in removing or replacing material that conceals an item to be inspected is not the responsibility of the building official or the jurisdiction. As with the issuance of permits (see Section 105.4), approval as a result of an inspection is not a license to violate the code and an approval in violation of the code does not relieve the applicant from complying with the code and is not valid.

**109.2 Preliminary inspection.** Before issuing a permit, the building official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

- ❖ The building official is granted authority to inspect the site before permit issuance. This may be necessary to verify existing conditions that impact the plan review and permit approval. This section provides the building official with the right-of-entry authority that otherwise does not occur until after the permit is issued (see Section 104.6).

**109.3 Required inspections.** The building official, upon notification, shall make the inspections set forth in Sections 109.3.1 through 109.3.10.

- ❖ The building official is required to verify that the building is constructed in accordance with the approved construction documents. It is the responsibility of the permit holder to notify the building official when the item is ready for inspection. The inspections that are necessary to provide such verification are listed in the following

sections, with the caveat in Section 109.3.8 that inspections in addition to those listed here may be required depending on the work involved.

**109.3.1 Footing and foundation inspection.** Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

- ❖ It is necessary for the building official to inspect the soil upon which the footing or foundation is to be placed. This inspection also includes any reinforcing steel, concrete forms and materials to be used in the foundation, except for ready-mixed concrete that is prepared off site.

**109.3.2 Concrete slab and under-floor inspection.** Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor.

- ❖ The building official must be able to inspect the soil and any required under-slab drainage, waterproofing or dampproofing material, as well as reinforcing steel, conduit, piping and other service equipment embedded in or installed below a slab prior to placing the concrete. Similarly, items installed below a floor system other than concrete must be inspected before they are concealed by the floor sheathing or subfloor.

**109.3.3 Lowest floor elevation.** In flood hazard areas, upon placement of the lowest floor, including the basement, and prior to further vertical construction, the elevation certification required in Section 1612.5 shall be submitted to the building official.

- ❖ Where a structure is located in a flood hazard area, as established in Section 1612.3, the building official must be provided with certification that either the lowest floor elevation (for structures located in flood hazard areas not subject to high-velocity wave action) or the elevation of the lowest horizontal structural member (for structures located in flood hazard areas subject to high-velocity wave action) is in compliance with Section 1612. This certification must be submitted prior to any construction proceeding above this level.

**109.3.4 Frame inspection.** Framing inspections shall be made after the roof deck or sheathing, all framing, fireblocking and bracing are in place and pipes, chimneys and vents to be concealed are complete and the rough electrical, plumbing, heating wires, pipes and ducts are approved.

- ❖ This section requires that the building official be able to inspect the framing members, such as studs, joists, rafters and girders and other items, such as vents and chimneys, that will be concealed by wall construction.

Rough electrical work, plumbing, heating wires, pipes and ducts must have already been approved in accordance with the applicable codes prior to this inspection.

**109.3.5 Lath and gypsum board inspection.** Lath and gypsum board inspections shall be made after lathing and gypsum board, interior and exterior, is in place, but before any plastering is applied or gypsum board joints and fasteners are taped and finished.

**Exception:** Gypsum board that is not part of a fire-resistance-rated assembly or a shear assembly.

- ❖ In order to verify that lath and gypsum board is properly attached to framing members, it is necessary for the building official to be able to conduct an inspection before the plaster or joint finish material is applied. This is required only for gypsum board that is part of either a fire-resistant assembly or a shear wall.

**109.3.6 Fire-resistant penetrations.** Protection of joints and penetrations in fire-resistance-rated assemblies shall not be concealed from view until inspected and approved.

- ❖ The building official must have an opportunity to inspect joint protection required by Section 713 and penetration protection required by Section 712 for fire-resistance-rated assemblies before concealed from view.

**109.3.7 Energy efficiency inspections.** Inspections shall be made to determine compliance with Chapter 13 and shall include, but not be limited to, inspections for: envelope insulation *R* and *U* values, fenestration *U* value, duct system *R* value, and HVAC and water-heating equipment efficiency.

- ❖ Items installed in a building that are required by the IECC to comply with certain criteria, such as insulation material, windows, HVAC and water-heating equipment, must be inspected and approved.

**109.3.8 Other inspections.** In addition to the inspections specified above, the building official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this code and other laws that are enforced by the department of building safety.

- ❖ Any item regulated by the code is subject to inspection by the building official to determine compliance with the applicable code provision, and no list can include all items in a given building. This section, therefore, gives the building official the authority to inspect any regulated items.

**109.3.9 Special inspections.** For special inspections, see Section 1704.

- ❖ Special inspections are to be provided by the owner for the types of work required in Section 1704. The building official is to approve special inspectors and verify that the required special inspections have been conducted. See the commentary to Section 1704 for a complete discussion of this topic.

**109.3.10 Final inspection.** The final inspection shall be made after all work required by the building permit is completed.

- ❖ Upon completion of the work for which the permit has been issued and before issuance of the certificate of occupancy required by Section 110.3, a final inspection is to be made. All violations of the approved construction documents and permit are to be noted and the holder of the permit is to be notified of the discrepancies.

**109.4 Inspection agencies.** The building official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

- ❖ As an alternative to the building official conducting the inspection, he or she is permitted to accept inspections of and reports by approved inspection agencies. Appropriate criteria on which to base approval of inspection agencies can be found in Section 1703.

**109.5 Inspection requests.** It shall be the duty of the holder of the building permit or their duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code.

- ❖ It is the responsibility of the permit holder or other authorized person, such as the contractor performing the work, to arrange for the required inspections when completed work is ready and to allow for sufficient time for the building official to schedule a visit to the site to prevent work from being concealed prior to being inspected. Access to the work to be inspected must be provided, including any special means such as a ladder.

**109.6 Approval required.** Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.

- ❖ This section establishes that work cannot progress beyond the point of a required inspection without the building official's approval. Upon making the inspection, the building official must either approve the completed work or notify the permit holder or other responsible party of that which does not comply with the code. Approvals and notices of noncompliance must be in writing, as required by Section 104.4, to avoid any misunderstanding as to what is required. Any item not approved cannot be concealed until it has been corrected and approved by the building official.

## SECTION 110 CERTIFICATE OF OCCUPANCY

**110.1 Use and occupancy.** No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

- ❖ This section establishes that a new building or structure cannot be occupied until a certificate of occupancy is issued by the building official, which reflects the conclusion of the work allowed by the building permit. Also, no change in occupancy of an existing building is permitted without first obtaining a certificate of occupancy for the new use.

The tool that the building official uses to control the uses and occupancies of various buildings and structures within the jurisdiction is the certificate of occupancy. It is unlawful to use or occupy a building or structure unless a certificate of occupancy has been issued. Its issuance does not relieve the building owner from the responsibility for correcting any code violation that may exist.

**110.2 Certificate issued.** After the building official inspects the building or structure and finds no violations of the provisions of this code or other laws that are enforced by the department of building safety, the building official shall issue a certificate of occupancy that contains the following:

1. The building permit number.
  2. The address of the structure.
  3. The name and address of the owner.
  4. A description of that portion of the structure for which the certificate is issued.
  5. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
  6. The name of the building official.
  7. The edition of the code under which the permit was issued.
  8. The use and occupancy, in accordance with the provisions of Chapter 3.
  9. The type of construction as defined in Chapter 6.
  10. The design occupant load.
  11. If an automatic sprinkler system is provided, whether the sprinkler system is required.
  12. Any special stipulations and conditions of the building permit.
- ❖ The building official is required to issue a certificate of occupancy after a successful final inspection has been completed and all deficiencies and violations have been

resolved. This section lists the information that must be included on the certificate. This information is useful to both the building official and the owner because it indicates the criteria under which the structure was evaluated and approved at the time the certificate was issued. This is important when applying Chapter 34 to existing buildings.

**110.3 Temporary occupancy.** The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid.

- ❖ The building official is permitted to issue a temporary certificate of occupancy for all or a portion of a building prior to the completion of all work. Such certification is to be issued only when the building or portion in question can be safely occupied prior to full completion. The certification is intended to acknowledge that some building features may not be completed even though the building is safe for occupancy, or that a portion of the building can be safely occupied while work continues in another area. This provision precludes the occupancy of a building or structure that does not contain all of the required fire protection systems and means of egress. Temporary certificates should be issued only when incidental construction remains, such as site work and interior work that is not regulated by the code and exterior decoration not necessary to the integrity of the building envelope. The building official should view the issuance of a temporary certificate of occupancy as substantial an act as the issuance of the final certificate. Indeed, the issuance of a temporary certificate of occupancy offers a greater potential for conflict because once the building or structure is occupied, it is very difficult to remove the occupants through legal means. The certificate must specify the time period for which it is valid.

**110.4 Revocation.** The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

- ❖ The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, on the basis of incorrect information supplied or where it is determined that the building or structure or portion thereof is in violation of any ordinance, regulation or any of the provisions of this code.

This section is needed to give the building official the authority to revoke a certificate of occupancy for the reasons indicated in the code text. The building official may also suspend the certificate of occupancy until all of the code violations are corrected.

## SECTION 111 SERVICE UTILITIES

**111.1 Connection of service utilities.** No person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this code for which a permit is required, until released by the building official.

- ❖ This section establishes the authority of the building official to approve utility connections to a building for items such as water, sewer, electricity, gas and steam, and to require their disconnection when hazardous conditions or emergencies exist.

The approval of the building official is required before a connection can be made from a utility to a building system that is regulated by the code, including those referenced in Section 101.4. This includes utilities supplying water, sewer, electricity, gas and steam services. For the protection of building occupants, including workers, such systems must have had final inspection approvals, except as allowed by Section 111.2 for temporary connections.

**111.2 Temporary connection.** The building official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power.

- ❖ The building official is permitted to issue temporary authorization to make connections to the public utility system prior to the completion of all work. This acknowledges that, because of seasonal limitations, time constraints or the need for testing or partial operation of equipment, some building systems may be safely connected even though the building is not suitable for final occupancy. The temporary connection and utilization of connected equipment should be approved when the requesting permit holder has demonstrated to the building official's satisfaction that public health, safety and welfare will not be endangered.

**111.3 Authority to disconnect service utilities.** The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the codes referenced in case of emergency where necessary to eliminate an immediate hazard to life or property. The building official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

- ❖ Disconnection of one or more of a building's utility services is the most radical method of hazard abatement available to the building official and should be reserved for cases in which all other lesser remedies have proven ineffective. Such an action must be preceded by written notice to the utility and the owner and occupants of the building. Disconnection must be accomplished within the time frame established by the building official in the notice. When the hazard to the public health, safety or

welfare is so imminent as to mandate immediate disconnection, the building official has the authority and even the obligation to cause disconnection without notice. In such cases, the owner or occupants must be given written notice as soon as possible.

## SECTION 112 BOARD OF APPEALS

**112.1 General.** In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business.

- ❖ This section provides an aggrieved party with a material interest in the decision of the building official a process to appeal such a decision before a board of appeals. This provides a forum, other than the court of jurisdiction, in which to review the building official's actions.

This section literally allows any person to appeal a decision of the building official. In practice, this section has been interpreted to permit appeals only by those aggrieved parties with a material or definitive interest in the decision of the building official. An aggrieved party may not appeal a code requirement per se. The intent of the appeal process is not to waive or set aside a code requirement; rather it is intended to provide a means of reviewing a building official's decision on an interpretation or application of the code or to review the equivalency of protection to the code requirements. The members of the appeals board are appointed by the "governing body" of the jurisdiction, typically a council or administrator, such as a mayor or city manager, and remain members until removed from office. The board must establish procedures for electing a chairperson, scheduling and conducting meetings and administration. Note that Appendix B contains complete, detailed requirements for creating an appeals board, including number of members, qualifications and administrative procedures. Jurisdictions desiring to utilize these requirements must include Appendix B in their adopting ordinance.

**112.2 Limitations on authority.** An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.

- ❖ This section establishes the grounds for an appeal, which claims that the building official has misinterpreted or misapplied a code provision. The board is not allowed to set aside any of the technical requirements of the code; however, it is allowed to consider alternative methods of compliance with the technical requirements (see Section 104.11).



**112.3 Qualifications.** The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.

- ❖ It is important that the decisions of the appeals board are based purely on the technical merits involved in an appeal. It is not the place for policy or political deliberations. The members of the appeals board are, therefore, expected to have experience in building construction matters. Appendix B provides more detailed qualifications for appeals board members and can be adopted by jurisdictions desiring that level of expertise.

## SECTION 113 VIOLATIONS

**113.1 Unlawful acts.** It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

- ❖ Violations of the code are prohibited, and form the basis for all citations and correction notices.

**113.2 Notice of violation.** The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

- ❖ The building official is required to notify the person responsible for the erection or use of a building found to be in violation of the code. The section that is allegedly being violated must be cited so that the responsible party can respond to the notice.

**113.3 Prosecution of violation.** If the notice of violation is not complied with promptly, the building official is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

- ❖ The building official must pursue, through the use of legal counsel of the jurisdiction, legal means to correct the violation. This is not optional.

Any extensions of time so that the violations may be corrected voluntarily must be for a reasonable, bona fide cause or the building official may be subject to criticism for "arbitrary and capricious" actions. In general, it is better to have a standard time limitation for correction of violations. Departures from this standard must be for a clear and reasonable purpose, usually stated in writing by the violator.

**113.4 Violation penalties.** Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law.

- ❖ Penalties for violating provisions of the code are typically contained in state law, particularly if the code is adopted at that level, and the building department must follow those procedures. If there is no such procedure already in effect, one must be established with the aid of legal counsel.

## SECTION 114 STOP WORK ORDER

**114.1 Authority.** Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the building official is authorized to issue a stop work order.

- ❖ This section provides for the suspension of work for which a permit was issued, pending the removal or correction of a severe violation or unsafe condition identified by the building official.

Normally, correction notices, issued in accordance with Section 109.6, are used to inform the permit holder of code violations. Stop work orders are issued when enforcement can be accomplished no other way or when a dangerous condition exists.

**114.2 Issuance.** The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

- ❖ Upon receipt of a violation notice from the building official, all construction activities identified in the notice must immediately cease, except as expressly permitted to correct the violation.

**114.3 Unlawful continuance.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

- ❖ This section states that the work in violation must terminate and that all other work, except that which is necessary to correct the violation or unsafe condition, must cease as well. As determined by the municipality or state, a penalty may be assessed for failure to comply with this section.

## SECTION 115 UNSAFE STRUCTURES AND EQUIPMENT

**115.1 Conditions.** Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the building official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

❖ This section describes the responsibility of the building official to investigate reports of unsafe structures and equipment and provides criteria for such determination.

Unsafe structures are defined as buildings or structures that are insanitary, deficient in light and ventilation or adequate exit facilities, constitute a fire hazard or are otherwise dangerous to human life.

This section establishes that unsafe buildings can result from illegal or improper occupancies. For example, prima facie evidence of an unsafe structure is an unsecured (open at door or window) vacant building. All unsafe buildings must either be demolished or made safe and secure as deemed appropriate by the building official.

**115.2 Record.** The building official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

❖ The building official must file a report on each investigation of unsafe conditions, stating the occupancy of the structure and the nature of the unsafe condition. This report provides the basis for the notice described in Section 115.3.

**115.3 Notice.** If an unsafe condition is found, the building official shall serve on the owner, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the building official acceptance or rejection of the terms of the order.

❖ When a building or structure is deemed unsafe, the building official is required to notify the owner or agent of the building as the first step in correcting the problem. Such notice must describe the necessary repairs and improvements to correct the deficiency or must require the unsafe building or structure to be demolished in a specified time in order to provide for public health, safety and welfare. Additionally, such notice requires the immediate response of the owner or agent. If the owner or agent is not available, public notice of such declaration should suffice for the purposes of complying with this section (see Section 115.4). The building official

may also determine that immediate work is necessary to correct an unsafe condition and seek a lien against the building or structure to compensate the municipality for the cost of remedial action.

**115.4 Method of service.** Such notice shall be deemed properly served if a copy thereof is (a) delivered to the owner personally; (b) sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested; or (c) delivered in any other manner as prescribed by local law. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

❖ The notice must be delivered personally to the owner. If the owner or agent cannot be located, additional procedures are established, including posting the unsafe notice on the premises in question. Such action may be considered the equivalent of personal notice; however, it may or may not be deemed by the courts as representing a "good faith" effort to notify. In addition to complying with this section, therefore, public notice through the use of newspapers and other postings in a prominent location at the government center should be used.

**115.5 Restoration.** The structure or equipment determined to be unsafe by the building official is permitted to be restored to a safe condition. To the extent that repairs, alterations or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions or change of occupancy shall comply with the requirements of Section 105.2.2 and Chapter 34.

❖ This section provides that unsafe structures may be restored to a safe condition. This means that the cause of the unsafe structure notice can be abated without the structure being required to comply fully with the provisions for new construction. Any work done to eliminate the unsafe condition, as well as any change in occupancy that may occur, must comply with the code.

### Bibliography

The following resource materials are referenced in this chapter or are relevant to the subject matter addressed in this chapter.

*Legal Aspects of Code Administration.* Country Club Hills, IL: International Code Council, 2002.

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