

# *Understanding and Implementation of Chapter 1 of the IFC*

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# Learning Objectives

- Discuss the history of the International Fire Code
- Describe the positives and negatives in adopting the Fire Code
- Discuss how the Fire Code applies to your municipality

# IFC – Chapter 1

- Section 101 – Scope and General Requirements
- Section 102 – Applicability
- Section 103 – Department of Fire Prevention
- Section 104 – General Authority and Responsibilities
- Section 105 – Permits
- Section 106 – Fees
- Section 107 – Inspections

# IFC – Chapter 1

- Section 108 – Maintenance
- Section 109 – Board of Appeals
- Section 110 – Violations
- Section 111 – Unsafe Buildings
- Section 112 – Stop Work Order
- Section 113 – Service Utilities

# About Chapter 1

- Chapter 1 establishes the limits of applicability of the code and describes how the code is to be applied and enforced.
- Chapter 1 is in two parts: Part 1—General Provisions (Sections 101–102) and Part 2—Administrative Provisions (Sections 103–113). Section 101 identifies which buildings and structures come under its purview and references other I-Codes as applicable.
- This code is intended to be adopted as a legally enforceable document, and it cannot be effective without adequate provisions for its administration and enforcement. The provisions of Chapter 1 establish the authority and duties of the code official appointed by the authority having jurisdiction and also establish the rights and privileges of the design professional, contractor and property owner.
- 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. Chapter 1 is largely concerned with maintaining “due process of law” in enforcing the regulations contained in the body of the code. Only through careful observation of the administrative provisions can the code official reasonably expect to demonstrate that “equal protection under the law” has been provided.

# Section 101 – Scope and General Requirements

- 101.2 Scope –
- This section identifies the jurisdictional applicability in legal terms. The local jurisdiction is to insert its name into this section by including a modification to the code in the adopting ordinance.
- The code does not attempt to achieve perfection by requiring every conceivable or available safeguard for every structure, premises or operation with the scope of the code; rather, the code seeks to establish a minimum acceptable safety level to balance the many factors that must be considered.
- The question is often asked, “Does the code apply only to buildings and facilities, or does it cover vehicles as well?” Though the scope text does not specifically mention vehicles, vehicles are intended to be covered by the terms of “... use of... devices...” and “... occupancy of... structures or premises...” in Items 1 and 2 of the section. It is clear that the code specifically intends to regulate vehicles because, in some cases, there are regulations in the code that are specific to vehicles, such as those in Sections 309, 319, 5706 and 5707. However, in most cases, unless vehicles are specifically mentioned, provisions in the code would not apply to them (see also Section 904.12).

# Section 101 – Scope and General Requirements

- 101.2.1 – Appendices –
- The code has several appendices, which provide additional information regarding the provisions in the code and additional regulations that are available for adoption.
- Each appendices must be specifically adopted.

# Section 101 – Scope and General Requirements

- 101.3 – Intent –
- Code requirements regulate conditions that are likely to cause or contribute to fires or explosions; endanger life or property if a fire occurs or contribute to the fire spread of a fire.
- While the code does serve as a maintenance code for buildings constructed in accordance with the IBC, it has provisions that go far beyond maintenance of construction regulations for buildings.
- The code applies to **ALL** structures within a jurisdiction, including residential occupancies, unless such occupancies are specifically excluded within the text of a particular code section.



# Section 101 – Scope and General Requirements

- 101.4 – Severability –
- All sections of the code not invalidated by legal action remain in effect. While a dispute over a particular issue may have caused litigation that resulted in the provisions being found unconstitutional, the remainder of the code is still applicable.

# Section 101 – Scope and General Requirements

- 101.5 – Validity –
- The code provisions are intended to be construed as severable. If any part of the code is ruled invalid by a court of competent jurisdiction, the remaining sections of the code are intended to stand as though the invalid section never existed.
- Fire code officials and adopting bodies should carefully and promptly evaluate the impact of any such ruling on ongoing enforcement activities and the remaining code provisions.

# Section 102 – Applicability

- 102.1 – Construction and Design Provisions
- This section establishes the scope of application of the code provisions that regulate construction and design. Construction and design requirements include, but are not limited to, the installation of fire protection systems; drainage and secondary containment facilities for hazardous materials; fire-resistive construction and the activities stated in Section 105.7 for which a construction permit is required.
- Item 1 specifies that construction and design code requirements apply to new construction that occurs following the adoption of the code.
- Item 2 means that construction and design code requirements are to apply to existing structures that did not have a certificate of occupancy at the time the code was adopted. An example would be a building that was built when there was no adopted construction code in the jurisdiction.
- Item 3 refers to Chapter 11, “Construction Requirements for Existing Buildings,” which was added in the 2009 edition of the code to assemble in a single location all of the construction and design code requirements that specifically target existing structures, facilities and conditions for retroactive application, which had previously been scattered throughout the code.
- Item 4 generally requires the fire code official to determine that a “distinct hazard to life or property” exists prior to enforcing a construction and design code provision retroactively. Simply claiming that a violation exists because a building does not comply with the most recent edition of the code does not necessarily establish that a hazard actually exists. The fire code official should be prepared to demonstrate, based on evidence or case histories that would be defensible in a court of law, that a distinct hazard exists. This would be especially true where enforcement would result in substantial expense to the property owner or when a building has remained in compliance with the edition of the code under which it was originally constructed.
- Further legal counsel should be consulted prior to the retroactive application of the code in order to establish the defensibility of the fire code official’s determination in a court of law. Also, similar occupancies in the jurisdiction should be treated equally using a written policy to avoid the possibility of charges of selective enforcement.

# Section 102 – Applicability

- 102.2 Administrative, Operational and Maintenance Provisions
- This section specifies that the administrative, operational and maintenance requirements of the code apply to conditions and operations that exist when the code is adopted and new conditions and operations that begin after the code is adopted. Although [Sections 102.1](#) and [102.2](#) are the controlling sections for retroactive application of the code to existing buildings, they do not provide for retroactive code application solely on the basis of a change in ownership or the occupying tenant. If a change in the occupancy group or the character of use occurs, the current edition of the code becomes enforceable. In such cases, [Section 102.3](#) also applies.

# Section 102 – Applicability

- 102.3 Change of Use or Occupancy
- A change of occupancy in an existing structure may change the level of inherent hazards, and a different code section may be applicable to the new occupancy. This section addresses both a change of occupancy from one group to another or a change in the level of use of an occupancy; for example, a Group A-2 restaurant being changed to a nightclub. Another example relative to the code would be a Group S-1 warehouse that is adding high-piled combustible storage or changing the classification to a higher hazard storage commodity.
- This section requires that the building comply with this code and the International Existing Building Code® (IEBC®). Three different options for compliance are provided within the IEBC: the prescriptive method, the work area method or the performance method. In the 2012 IBC, Chapter 34 addressed existing buildings and this code referred to the IBC for change of occupancy. This criterion from Chapter 34 of the IBC was repeated in the IEBC as Chapter 4, Prescriptive Compliance Methods, and Chapter 14 (what is now chapter 13), Performance Compliance Methods. Now this information is only available in the IEBC.
- The exception acknowledges that compliance with this code and the IEBC is not necessary where the proposed use or occupancy would decrease the hazard level; for example, where a Group A-2 nightclub is changed to a Group A-2 restaurant. Note that the IEBC may need to be reviewed due to possible compliance with repair requirements or any alterations that are being addressed. In addition, the IEBC may be administered by another entity, typically the building department.

# Section 102 – Applicability

- 102.4 – Application of Building Code
- The code is the companion fire and life safety maintenance code to the IBC. Maintenance of other building features is governed by other International Codes. When existing buildings change occupancy group or are altered, increased in area or demolished, the IBC provisions must apply. When compliance with the code requires alterations, additions or modifications within the scope of the IBC, the IBC regulations and the building official's authority must prevail. This makes it essential that the code officials responsible for enforcing the building and fire codes establish a sound working relationship. Clear communication is essential to achieve compliance with the respective code officials' orders.

# Section 102 – Applicability

- 102.5 – Application of Residential Code
- This section clarifies the extent to which the International Residential Code® (IRC®) and the code are interrelated and how the provisions of the code apply to the development of one- and two-family dwelling projects built under the IRC.
- The IRC is designed and intended for use as a stand-alone code for the construction of detached one- and two-family dwellings and townhouses not more than three stories in height. As such, the construction of detached one- and two-family dwellings and townhouses is regulated exclusively by the IRC and not subject to the provisions of any other I-Codes other than to the extent specifically referenced. Although the IRC regulates the construction of detached one- and two-family dwellings and townhouse structures, it does not regulate the design and construction of emergency access to and community fire protection for residential developments containing such dwelling structures. Accordingly, where the code is adopted, the design, construction, regulation and maintenance of fire apparatus access roads for servicing such residential developments must comply with the provisions of Section 503 and, if adopted, Appendix D. Also, the design, construction, regulation and maintenance of fire protection water supplies for servicing such residential developments must comply with the provisions of Section 507 and, if adopted, Appendices B and C. These specific requirements of the code are applicable because they include design and construction regulations that provide necessary emergency access and community fire protection for residential developments containing structures that are regulated within the scope of the IRC.

# Section 102 – Applicability

- 102.6 – Historic Buildings
- This section provides a blanket exception from code requirements when the building in question has historic value. The most important criterion for application of this section is that the building must be recognized by a qualified party or agency as having historic significance. Usually this is done by a state or local authority after considerable scrutiny of the historical value of the building. Most, if not all, states have such authorities, as do many local jurisdictions. The agencies with such authority can be located at the state or local government level or through the local chapter of the American Institute of Architects (AIA). This section requires an approved fire protection plan. More specifically, reference is made to Section 1103.1.1, which provides some minimal requirements. Section 1103.1.1 requires a plan to be developed in accordance with NFPA 914. The reference to NFPA 914 provides specific guidance to code officials, design professionals and building owners as to the provisions that are applicable to fire protection plans for historic buildings in order to provide a reasonable level of building and life safety provisions. Note that the IEBC also addresses historic buildings undergoing repairs, alterations and changes of occupancy.



# Section 102 – Applicability

- 102.7 – Referenced Codes and Standards
- The use of referenced codes and standards to cover certain aspects of various occupancies and operations rather than write parallel or competing requirements into the code is a long-standing and successful code development principle. Often, however, questions and potential conflicts in the use of referenced codes and standards can arise, which can lead to inconsistent enforcement of the code. This section establishes the relationship between the code and the codes or standards that it references. A referenced code or standard or portion thereof is to be considered an enforceable extension of the code as if the specified content of the referenced code or standard were included in the body of the code. The extent to which the provisions of a referenced standard may be enforced is limited to those portions of the standard that are specifically identified in the code section that makes the reference. As an example of such limiting references, in regard to Chapter 57, “Flammable and Combustible Liquids,” the question has been posed as to whether the entire referenced standard, NFPA 30, is applicable since it is referenced 30 times in Chapter 57. The answer is no. The applicability of NFPA 30 content would be limited to only the specific content indicated in the code section making the reference. For example, Section 5703.6.2 limits the applicable NFPA 30 content to only Chapter 27 of that document; Section 5704.2.7 limits the applicable NFPA 30 content to only the tank design, fabrication and construction provisions of Chapters 21 and 22 or 23 of that document; and various other code sections, such as Sections 5704.2.7.8 and 5704.2.7.9, limit the reference to specifically enumerated sections of NFPA 30.

# Section 102 – Applicability

- 102.7.1 – Conflicts
- Where a code section referencing a standard contains no content limitation, any applicable provisions of the standard may be applied to the extent that they do not conflict with similar provisions in the code or other I-Codes. See the commentary to [Section 102.7.2](#) for further discussion of conflicting provisions.

# Section 102 – Applicability

- 102.7.2 – Provisions in Referenced Codes and Standards
- This new section expands on the provisions of Section 102.7.1 by making it clear that, even if a referenced standard contains requirements that parallel the code (or the other referenced I-Codes) in the standard's own duly referenced section(s), the provisions of the code (or the other referenced I-Codes) will always take precedence. One of the most common examples of such conflicting provisions is that many referenced standards contain building construction requirements that may differ from the requirements of the IBC, the applicability of which is established in Section 102.4 of the code. In such cases, the IBC would supersede the standard.

# Section 102 – Applicability

- 102.8 – Subjects not Regulated by this Code
- This section provides guidance for situations in which no specific standard is designated in the code or otherwise adopted by the jurisdiction. In this instance, compliance with the requirements of a standard of the NFPA or other nationally recognized standards can be approved by the fire code official.

# Section 102 – Applicability

- 102.9 – Matters not Provided For
- Evolving technology in our society will sometimes result in a situation or circumstance that the code does not cover. The reasonable application of the code to such hazardous, unforeseen conditions is provided in this section. Clearly, such a section is needed, and the fire code official's experience and judgment must be used. The section, however, does not override requirements that may be preferred when the code provides alternative methods. Additionally, the section can be used to implement the general performance-oriented language of the code in specific enforcement situations.

# Section 102 – Applicability

- 102.10 – Conflicting Provisions
- The provisions of this section provide guidance to both fire code officials and other code users on the application of the code when different sections specify different materials, methods of construction or other requirements.

# Section 102 – Applicability

- 102.11 – Other Laws
- Compliance with the requirements of the code does not entail authorization, approval or permission to violate the regulations of other local, state or federal laws. Other laws, ordinances and regulations not regulated or enforced by the fire code official could be in existence and enforced by another authority having jurisdiction over those provisions. Although the requirements may have similar provisions to those of the code, the work must be in conformance with the other regulations.

# Section 102 – Applicability

- 102.12 – Application of References
- There are many instances in the code where a reference is merely a chapter number, section number or, in some cases, a provision not specified by number. In all such situations, these references are to the content of the code and not some other code or publication.



# Section 103 – Department of Fire Prevention

- 103.1 – General
- The traditional enforcement agency for the code is the fire department or fire prevention bureau of a state, county or municipal government. Such agencies usually perform administrative functions and provide public safety services related to fire protection; however, a variety of less-traditional arrangements have also been used to enforce the code, including private corporations, such as fire districts and fire companies employed by a local government to act as its agent; police and other law enforcement agencies; building, housing or zoning authorities; and community and economic development departments. Regardless of who is designated by the legislative or administrative authority to adopt and enforce the code, this section establishes the legal duty of the fire code official to enforce the code.

# Section 103 – Department of Fire Prevention

- 103.2 – Appointment
- A fire code official's independence is essential so that public safety decisions are not based on political, economic or social expediency. This is not to say that social, political and economic considerations should not matter when deciding some code questions, but the interests of public health, safety and welfare must not be compromised to achieve such objectives. Protection of officials from removal from office without cause helps ensure that reasonable and competent professionals will be willing to serve.

# Section 103 – Department of Fire Prevention

- 103.3 – Deputies
- Most jurisdictions require more than one official to enforce the code. With the technical and legal demands on code enforcers increasing, additional personnel will certainly be required in this area to serve adequately the public interest. Though the professional qualifications of fire code officials are not detailed in the code, individuals appointed to code enforcement positions should be technically competent, motivated, well-adapted and possess good written and oral communication skills.
- Many jurisdictions find it helpful, if not essential, to appoint an individual who is second-in-command and who would assume leadership of the organization in the absence of the chief code enforcement official.

# Section 103 – Department of Fire Prevention

- 103.4 – Liability
- The fire code official, other department employees and members of the appeals board are not intended to be held liable, civilly or criminally, for those actions performed in accordance with the code in a reasonable and lawful manner. However, the responsibility of the fire code official in this regard is subject to local, state and federal laws that may supersede this provision. This section further establishes that fire code officials (or subordinates) must not be liable for costs in any legal action instituted in response to the performance of lawful duties. Section 103.4.1 states that those costs are to be borne by the state, county or municipality, as applicable. The best way to be certain that the fire code official's action is a "lawful duty" is always to cite the applicable code section on which the enforcement action is based.

# Section 103 – Department of Fire Prevention

- 103.4.1 – Legal Defense
- Section 103.4 establishes that fire code officials or subordinates must not be liable for costs in any legal action, whether criminal or civil in nature, in response to the performance of lawful duties. This section states that these costs must be borne by the state or municipality. The best way to be certain that the fire code official's action is a lawful duty is to always cite the applicable code section substantiating the action.

# Section 104 – General Authority & Responsibilities

- 104.1 – General
- The duty of the fire code official is to enforce the code. Because the fire code official must also act on all questions related to this responsibility, except as specifically exempted by statutory requirements or elsewhere in the code, the fire code official is the “authority having jurisdiction” for all matters relating to the code and its enforcement.
- This section also gives the fire code official interpretation authority. Note, however, that the interpretations are to be consistent with the intent and purpose of the code and are not allowed to set aside any specific requirement in the code.

# Section 104 – General Authority & Responsibilities

- 104.2 – Applications and Permits
- The fire code official is obligated to receive, review and act on permit applications required by the code as detailed in Section 105. All permitted premises must be inspected either before or after the permit is issued to determine compliance with the code provisions and terms of the permit.

# Section 104 – General Authority & Responsibilities

- 104.3 – Right of Entry
- This section establishes the right of the fire code official to enter the premises to make the permit inspections required by Section 105.2.2. Permit application forms typically include a statement in the certification signed by the applicant (who is the owner or owner's authorized agent) granting the fire code official the authority to enter areas covered by the permit to enforce related code provisions.



# Section 104 – General Authority & Responsibilities

- 104.3.1 – Warrant
- The requirements in this section specify that where the fire code official has obtained a warrant to inspect the property, the owner, owner's authorized agent or occupant is to allow the fire code official entry to do the inspection.

# Section 104 – General Authority & Responsibilities

- 104.4 – Identification
- This section requires the fire code official (including, by definition, all authorized designees) to carry appropriate official identification in the course of conducting the duties of the position. Such official identification may take the form of a badge, an identification card or both and removes any question as to the purpose and authority of the inspector.

# Section 104 – General Authority & Responsibilities

- 104.5 – Notices and Orders
- The fire code official is required to issue orders to abate illegal or hazardous conditions and to pursue correction or abatement of hazardous conditions by issuing legal notices and orders as described by the code. Courts are increasingly ruling that failure to follow up and pursue appropriate legal remedies promptly exposes both the fire code official and the jurisdiction to a liability in tort.

# Section 104 – General Authority & Responsibilities

- 104.6 – Official Records
- In keeping with the need for an efficiently conducted business practice, the fire code official must keep official records. Such documentation provides a valuable resource of information if questions arise throughout the life of the building and its occupants. The code requires that the construction documents be kept until the project is complete or for at least 5 years, whichever is longer.

# Section 104 – General Authority & Responsibilities

- 104.6.1 – Approvals
- Records of prior approvals may be needed to determine the status of an existing operation or for future validation of a specific condition.

# Section 104 – General Authority & Responsibilities

- 104.6.2 – Inspections
- Records of inspections are needed to support the issuance of a certificate of occupancy. The inspection records should document any code violations that were subsequently corrected.

# Section 104 – General Authority & Responsibilities

- 104.6.3 – Fire Records
- Fire records provide a history of the fire experience of a facility and a cumulative record for all of the facilities of a jurisdiction. Fire records support consideration for construction code requirements based on the need to prevent additional fire occurrences.

# Section 104 – General Authority & Responsibilities

- 104.6.4 – Administrative
- The written approval of modifications or alternative materials and methods of construction or operation are needed to support the approval of these items in the future. This file could be used to verify that an existing condition had been previously approved.



# Section 104 – General Authority & Responsibilities

- 104.7 – Approved Materials and Equipment
- The code is a compilation of criteria with which materials, equipment, devices and systems must comply to be acceptable for a particular application. The fire code official has a duty to evaluate such materials, equipment, devices and systems for code compliance and, when compliance is determined, approve them for use. As a result of this approval, the material, equipment, device or system must be constructed and installed in compliance with that approval, and with all the 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 fire code 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 that way. For example, if data to determine code compliance are required, such data should be in the form of test reports or engineering analyses—not simply taken from a sales brochure.

# Section 104 – General Authority & Responsibilities

- 104.7.1 – Materials and Equipment Reuse
- Used materials, equipment and devices are considered to have completed their life span; however, adequate substitutes are occasionally not available for existing items that still serve a useful and practical purpose. In such cases, existing used equipment should be approved, provided that the application is consistent with the purpose for which the equipment was designed; the function is the same as a “new” item, if one were available; and the intended use can be demonstrated as not compromising the public’s safety.

# Section 104 – General Authority & Responsibilities

- 104.7.2 – Technical Assistance
- No one person has the technical knowledge to evaluate all of the various operations and uses from a safety standpoint. This section provides the fire code official the authority to require the owner or owner's authorized agent to provide a technical opinion safety report. The report is to be prepared by parties that have the technical ability to evaluate the design of the facility or the operational process in question. A registered design professional is commonly used for these services. It is critical that the preparer of the report have the proper background and experience for the project since the credibility of the report depends on these qualifications

# Section 104 – General Authority & Responsibilities

- 104.8 – Modifications
- The fire code official may amend or make exceptions to the code as needed to respond to “practical difficulties” in work on new or existing buildings. 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 satisfied. This section is not intended to allow a code provision to be set aside or ignored; 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 a code violation cannot constitute a practical difficulty.
- Comprehensive written records are an essential part of an effective administrative system. Unless clearly written records of the considerations and documentation used in the modification process are created and maintained, subsequent enforcement action cannot be supported.

# Section 104 – General Authority & Responsibilities

- 104.9 – Alternative Materials & Methods of Construction & Equip.
- Performance requirements have replaced detailed specifications to permit ready substitution and integration of new technologies in the marketplace. The code is not intended to restrict or prevent the development or application of new technologies or applications of existing technologies, provided they meet the intent of the code to protect public health, safety and welfare. When new methods or materials are developed, they should be evaluated.

# Section 104 – General Authority & Responsibilities

- 104.9.1 – Research Reports
- When an alternative material or method is proposed for construction, it is incumbent upon the fire code official to determine whether the alternative is, in fact, 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 fire code official finds to be reliable and accurate. The ICC Evaluation Service (ICC-ES) is an example of an agency that provides research reports for alternative materials and methods.

# Section 104 – General Authority & Responsibilities

- 104.9.2 – Tests
- To provide the basis on which the fire code 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 fire code 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.

# Section 104 – General Authority & Responsibilities

- 104.10 – Fire Investigations
- The prompt and thorough investigation of fires is important for many reasons, not the least of which are the identification of incendiary fires and prosecution of arsonists. In such cases, the duty of the fire code official is clear—evidence must be preserved and leads pursued through criminal prosecution, if possible. However, a more important and frequently overlooked aspect of fire investigation is loss analysis. Whether or not the fire code official has jurisdiction to investigate incendiary fires and prosecute arsonists, it is extremely important that the enforcement agency be involved in the process of determining why fires occur, what can be done to prevent fires, how their effects can be lessened and how people behave once fires occur. Such lessons gleaned from past tragedies have influenced the code-development efforts of various organizations across the country. The second sentence recognizes the sensitivity of trade secrets that may be involved. This section cautions that such information not be released unless permitted by the court.



# Section 104 – General Authority & Responsibilities

- 104.10.1 – Assistance from other Agencies
- When needed, the fire code official has the authority to ask for assistance from the police department or other enforcement agencies, such as fire code officials in nearby jurisdictions, to investigate fires.

# Section 104 – General Authority & Responsibilities

- 104.11 – Authority at Fires and other Emergencies
- This section describes the specific conditions of authority that are granted to the fire code official at a fire or other emergencies. The first half of the paragraph simply describes the fire code official's authority to carry out the fire operation at the site. The fire code official also needs to be able to control who and what are allowed to be at the site so that emergency operations are not hampered.

# Section 104 – General Authority & Responsibilities

- 104.11.1 – Barricades
- This section gives the fire code official the authority to control access to the emergency site so that fire-fighting operations can occur without interference. This authority is also addressed in Section 104.11.

# Section 104 – General Authority & Responsibilities

- 104.11.2 – Obstructing Operations
- This section requires that fire department operations not be obstructed and that directions from the fire department official in command at the emergency site be carried out. This is necessary for efficient emergency operations.

# Section 104 – General Authority & Responsibilities

- 104.11.3 – Systems and Devices
- This section is an extension of the requirements in Section 104.11. The fire department official is in complete charge of the fire-fighting operation at the site. No person is to tamper with the equipment needed for the emergency.

# Section 105 - Permits

- 105.1 – General
- This section includes the regulations covering permits, including a comprehensive list of the kinds of activities that require permits.

# PLEASE NOTE:

- ALL construction and alternations, that require a permit under section IFC 105 will fall under the PA UCC.
- The IFC will NOT apply unless the it is referenced in the IBC.

# Section 105 - Permits

- 105.6 – Required Operational Permits
- Sections 105.6.1 through 105.6.50 list the conditions requiring operational permits. Many of the items are stated in general terms, in which case the fire code official is to determine whether a specific operation is a significant hazard that requires a permit.
- These permits are “annual” and fall under “maintenance” and are not under the PA UCC.



# Section 105 - Permits

- 105.7 – Required Construction Permits
- These permits will generally fall under the PA UCC

# Section 106 - Fees

- 106.1 – Fees
- The code anticipates that jurisdictions will establish their own fee schedules. It is the intent that the fees collected by the department for 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.

# Section 106 - Fees

- Again, most construction fees will be covered within your fee schedule under the PA UCC.
- Fees may also apply to IFC Operational Permits. (Annual Permits covered under 105.6)

# Section 107 - Inspections

- 107.1 – Inspection Authority
- The first part of this section establishes the right of the fire code official to enter the premises to make the permit inspections required by [Section 104](#). Permit application forms typically include a statement in the certification signed by the applicant (who is the owner or owner's agent) granting the fire code official the authority to enter areas covered by the permit to enforce code provisions related to the permit.

# Inspection Authority - Continued

- 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 fire code official permission before the interior of the property can be inspected. 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, fire code officials must present proper identification (see Section 104.4) 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 fire code official’s authority. Searches to gather information for the purpose of enforcing other codes, ordinances or regulations are considered unreasonable and are prohibited by the Fourth Amendment to the U.S. Constitution.

# Inspection Authority - Continued

- 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 for 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 (see Section 104), 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 fire code official to prove probable cause in order to gain access upon refusal. This burden of proof is usually more substantial, often requiring the fire code 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 item 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 fire code official to conduct an inspection to determine whether the health, safety or welfare of the public is 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 considered necessary following a refusal.

# Section 107 - Inspections

- 107.2 – Inspections
- This section establishes the fire code official's authority to inspect buildings, structures or premises to verify that the requirements of the code are met or to accept written reports of inspections by an approved agency. The code does not, however, establish the frequency of inspections or even require that inspections be conducted, since the code does not presume to interpret or influence the adopting jurisdiction's political, social and economic priorities. Jurisdictions may establish their inspection priorities and frequencies based on a variety of factors, including the availability of inspection resources; the level of available fire suppression services; the value of premises to the community; or the potential disruption to community services or stability if a fire occurs. In summary, each community determines and assumes its own acceptable risk level.

# Section 108 - Maintenance

- 108.1 – Maintenance of Safeguards
- This section does not identify who is responsible for maintenance because that determination should be made in accordance with the legal documents created between owners and occupants, such as a lease. The owner of a structure or premises, however, is usually primarily responsible for its maintenance, since the owner stands to gain the most from a well-maintained property. One of the underlying assumptions is that maintaining a commercial property in good condition allows the owner to recoup a substantial portion of his or her investment in maintenance. There are three factors that may influence owners to comply with code requirements:
  - Code compliance requires only a small additional investment in the property.
  - The owner has a long-term interest in the property.
  - The owner expects profitability after incurring the additional expense of complying with the code.



# Section 108 – Maintenance

- 108.1 – Maintenance of Safeguards - Continued
- While all these factors represent economic incentives, fire code officials should be equally aware of potential disincentives to compliance, such as assessable value, expiring tax credits or historic, architectural or aesthetic criteria. The fire code official need not belabor the justifications for compliance, but should be prepared to acknowledge the owner's rationalizations for failure to comply.
- This section also emphasizes that any “otherwise installed” system that currently exists must be maintained. For example, an existing fire protection system cannot be removed from a building just because it is not required in new or existing buildings by current codes.

# Section 108 – Maintenance

- 108.2 – Testing and Operations
- This section addresses periodic testing or operation to verify that the equipment can be expected to operate when needed. For example, see Section 901.6 for inspection and testing requirements for fire protection systems.
- Test and inspection records must be available to the fire code official for verification that the tests and inspections required by the code and the referenced standards are in compliance.
- If the fire code official requests, such records must be filed with the jurisdictional office.

# Section 108 – Maintenance

- 108.3 – Recordkeeping
- Recordkeeping of testing, inspections, servicing and other operations and maintenance are critical to the successful application of this code. Proper and consistent recordkeeping will increase the safety to both building occupants and fire fighters. This section also makes it clear that records must be provided to the fire code official upon request and maintained for a period of not less than 3 years unless a different time interval is specified in the code or a referenced standard. Also, the fire code official is authorized to prescribe the form and format of such records. The recordkeeping requirements throughout the code have been specifically coordinated with this section.

# Section 108 – Maintenance

- 108.6 – Overcrowding
- The key to enforcing this provision successfully is good judgment. Rarely is it possible to count accurately the number of people in any given place of public assembly. Usually, the proprietors or operators of such events have no accurate estimate of the crowd size or they are unwilling to provide an estimate. Despite these difficulties, when the number of people is too large to permit aisles and required egress elements to remain clear or at least flow smoothly, remedies must be sought. In many instances, overcrowding can be remedied by simply preventing any more occupants from entering, thus limiting the potential hazard to those occupants already inside. If the fire code official determines that preventing further access will be insufficient in itself, he or she is authorized to order the owner or operator to stop the event until the hazardous condition is abated, the approved occupant load is reestablished and resumption of the event is authorized by the fire code official.

# Section 109 – Board of Appeals

- 109.1 – Board of Appeals Established
- This section provides an objective forum for settling disputes regarding the application or interpretation of code requirements. The board is required to issue a written decision to the appellant who brought the matter before the board and to the fire code official. Note that the fire code official is a nonvoting member of the board. The board of appeals is an effective decision making body that is commonly used when the owner or owner's agent and the fire code official do not agree on a matter relating to the application of the code.

# Section 109 – Board of Appeals

- 109.2 – Limitations of Authority
- This section states the scope of the issues that are to be addressed by the board of appeals and limits its authority to ruling on these issues. Commonly, the issues relate to the applicability of the code or the interpretation of the code to a given situation. The board listens to both the person who filed the appeal and to the fire code official before ruling on the matter.
- This section specifically states that the board does not have the authority to waive code requirements; however, the board has the authority to accept an alternative method of protection or safety if, in its view, it is equivalent to the specific requirement in the code.

# Section 109 – Board of Appeals

- 109.3 – Qualifications
- It is important that the decisions of the board of appeals 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 board of appeals are, therefore, expected to have experience in matters within the scope of the code and must be of the highest character, competence and status in their professions and the community at large. Appendix A of the code provides more detailed qualifications for board of appeals members and can be adopted by jurisdictions desiring that level of expertise (see commentary, Appendix A).

# Section 110 - Violations

- 110.1 – Unlawful Acts
- Section 110 establishes that compliance with the code is required, and what measures are to be taken for noncompliance.



# Section 110 - Violations

- 110.2 – Owner/Occupant Responsibility
- Hazards related to use and occupancy, and not those related to fixed equipment or installations, fall within the scope of the occupants' responsibility. Owners or the owner's authorized agent, however, may become liable if they allow the unlawful operation or continuation of a public nuisance on a property under their control, especially if they knowingly or willfully lease the property in violation of fire, zoning or building regulations.
- The simple rule for determining what is the responsibility of the owner or owner's authorized agents and what is the occupants' responsibility is whether the issue involves fixed equipment installations or if the structure is separate from those items related to occupancy. The owner or owner's authorized agent is usually responsible for the physical maintenance of the building or structure and its utilities and appurtenances (that is, building services and systems).

# Section 110 - Violations

- 110.3 – Notice of Violation
- The fire code official has a duty to supply owners, agents or occupants with a written notice of code violations on the premises under their control. When possible, both the owner and the occupants should be made aware of hazardous conditions. Such notices constitute the first of several steps in the due process procedure. Violation notices must clearly indicate the defect, its location, the code section being violated, what must be done to correct the violation and the date of the reinspection. Owners, agents or occupants should also be supplied with information regarding penalties, permit applications and appeal procedures. The notice or order must be signed by the fire code official who issued it and should provide a space for the owner, agent or occupants' signature to acknowledge receipt of the document. If possible, duplicate or triplicate copies should be prepared, with the original notice issued to the responsible party. Other copies should be maintained by the inspector and the departmental record keeper.

# Section 110 – Violation

- 110.3 – Notice of Violation
  - ✓ Municipal Letter Head/Department Letter Head
  - ✓ Date Issued
  - ✓ Name/s of Responsible Parties
  - ✓ Address of Responsible Parties
  - ✓ Address Where Violations are
  - ✓ Violations – 2018 IFC or 2018 International Fire Code
  - ✓ Boiler Plate Information – Including Penalties
  - ✓ Right to Appeal – Who, What, Where and Time Limit for Appeal
  - ✓ Name, Signature and Contact Information of Issuing Agent

# Section 110 - Violations

- 110.3 – Notice of Violation – Continued
  - ✓ Appeal Form – and any Fees that are Required to Appeal
  - ✓ Entire Code Section that is being Violated
  - ✓ Enforcement Remedies
  - ✓ Inspector Comments
  - ✓ Time Limit for Compliance

# Section 110 – Violations

- 110.3.1 – Service
- Service methods are listed by order or preference. The first and best method is to personally serve the owner, owner's authorized agent or the occupant, in that order, at the premises cited, with a signature acknowledging receipt. The next-most desirable method is service to these same parties in the order indicated at their place of business when it is not the premises cited.
- While post office delivery by ordinary first-class mail is acceptable, most jurisdictions prefer certified mail with return receipt, followed by a certificate of mailing; however, owners or owner's authorized agents familiar with the legal process will often refuse to accept certified mail. As a result, many jurisdictions follow up returned certified mail with a request for a certificate of mailing. A certificate of mailing includes certification by the mail carrier or post office that the item was physically delivered to the address indicated, but does not verify that the addressee actually took possession of the item. The least-desirable method of service is physically posting the premises with the violation notice. When service proves difficult, many jurisdictions pursue the mailing and posting service options simultaneously to exhaust all service methods. Jurisdictions should consult legal counsel about case law regarding legal service in their communities

# Section 110 - Violations

- 110.3.2 – Compliance with Orders and Notes
- The party responsible for the condition that is in noncompliance is required by this section to bring the property into code compliance. See the remainder of Section 110 for what is to be done if this does not occur.

# Section 110 – Violations

- 110.3.3 – Prosecution of Violations
- The duty to pursue legal remedies through judicial due process is established by this section. Local prosecutors and fire code officials should establish policies covering the following issues regarding judicial due process proceedings.

# Section 110 – Violations

- 110.3.4 – Unauthorized Tampering
- This section states that tampering with signs, seals or tags posted at the property is a violation of the code. The safety of occupants may depend on warning signs posted by the fire code official remaining in place.



# Section 110 - Violations

- 110.4 – Penalties
- Penalties for code violations must be established in adopting legislation. The offense, dollar amount for the fine and maximum number of days of imprisonment are to be specific in the adopting ordinance of the jurisdiction.

# Section 110 – Violations

- 110.4.1 – Abatement of Violations
- Even though the person who violated the code has paid any fine and served any sentence that may be imposed for the jurisdiction under Section 110.4, the fire code official has the right to require that the code violation be removed. If the violation is not abated, the fire code official has the right to prevent occupancy until the violation is addressed. Usually, the court will require that the violation be corrected as part of the sentence of noncompliance prior to the occupancy of the building.

# Section 111 – Unsafe Buildings

- 111.1 – General
- The fire code official is required to order the correction or abatement of hazardous conditions within the scope of the code and to refer the building to the building department for those operations that are within the scope of that department. The conditions listed in Section 111.1.1 represent many of the most common hazardous conditions encountered. Specific requirements supporting each of these objectives are found throughout the code.

# Section 111 – Unsafe Buildings

- 111.1.2 – Structural Hazards
- The fire code official is required to report structurally unsafe buildings to the building official to secure abatement of unsafe conditions. Courts have continually upheld the right of states and their authorized subdivisions to abate public nuisances, even by demolition, and bill or assess the property owner through a tax lien for their expenses. However, care must be exercised to maintain compliance with the due process and equal protection doctrines of the Fourth and Fourteenth Amendments of the U.S. Constitution.

# Section 111 – Unsafe Buildings

- 111.2 Evacuation
- The fire code official must immediately order the evacuation of any premises posing a clear and imminent threat to life or property. Building occupants who are warned must comply with the evacuation order without delay. Upon leaving the building, occupants may not reenter until authorization is given by the fire code official. Severe and immediate danger anticipated in this section dictates such extreme measures to protect public health, safety and welfare.

# Section 111 – Unsafe Buildings

- 111.3 – Summary Abatement
- As indicated in the commentary to Section 111.1.1, the fire code official is authorized to seek abatement action by the building department and bill the owner for abatement costs. Obviously, this is an extreme measure and should be done only when the owner, operator or occupant does not take such measures under the requirements of Section 111.4.

# Section 111 – Unsafe Buildings

- 111.4 – Abatement
- This section describes the usual circumstance in which a building has such critical violations that it is declared unsafe by the fire code official. The owner, owner's authorized agent, operator or occupant should take abatement measures to correct the unsafe condition. If this is not done promptly, the fire code official has the authority to directly abate the unsafe conditions and bill the owner for the abatement work in accordance with Sections 111.1.1 and 111.3.

# Section 112 – Stop Work Order

- 112.1 – Order
- The fire code official is authorized to issue a stop work order when the work does not comply with the code. Obviously, this is an extreme and costly measure that should be reserved for situations in which the violation is a serious safety hazard.



# Section 112 – Stop Work Order

- 112.2 – Issuance
- The stop work order is to be in writing and must cite the reason for issuing the order.
- Upon receipt of a violation notice from the fire code official, all construction activities identified in the notice must immediately cease, except as expressly permitted to correct the violation.
- Construction activities that are outside of the scope of the issue involved with the stop work order are not affected and need not stop; thus, the scope of the order must be clearly stated.

# Section 112 – Stop Work Orders

- 112.3 – Emergencies
- This section gives the fire code official the authority to stop the work in dispute immediately when, in his or her opinion, there is an unsafe emergency condition that has been created by the work. The need for the written notice is suspended for this situation so that the work can be stopped immediately. After the work is stopped, immediate measures should be taken to correct the work at issue.

# Section 112 – Stop Work Orders

- 112.4 – Failure to Comply
- The local jurisdiction is to designate the fine that is to apply to any person who continues work that is at issue, other than abatement work. The dollar amounts for the minimum and maximum fines are to be specified in the adopting ordinance.

# Section 113 – Service Utilities

- 113.1 – Authority to Disconnect Service Utilities
- This section authorizes the fire code official to order the disconnection of building utilities that interfere with emergency operations or contribute to a public safety hazard. This section also provides that such an action must be preceded by written notice to the utility and the owner or owner's authorized agent and occupants of the building. When the hazard to the public health, safety or welfare is so imminent as to mandate immediate disconnection, this section makes it clear that the fire code official has the authority and even the obligation to cause disconnection without notice.

QUESTIONS?