

*As well as a live in-person session,
this is also a virtual session*

This Session is being recorded

*Understanding and
Implementation of Chapter 1 of
the IPMC*

James Lucas

Director of Codes Services - Limerick Township

William J. Yeagley

Code Compliance Coordinator/Fire Marshal – Lower Allen Township

Learning Objectives

- Understand the history of the International Property Maintenance Code
- Describe the positives and negatives in adopting the IPMC
- Discuss how the IPMC applies to your municipality

IPMC – Chapter 1

- Section 101 – Scope and General Requirements
- Section 102 – Applicability
- Section 103 – Department of Fire Property Maintenance Inspection
- Section 104 – Duties and Powers of the Code Official
- Section 105 – Approval
- Section 106 – Violations
- Section 107 – Notices and Orders

IPMC – Chapter 1

- Section 108 – Unsafe Structures and Equipment
- Section 109 – Emergency Measures
- Section 110 – Demolition
- Section 111 – Means of Appeal
- Section 112 – Stop Work Order

About Chapter 1

- 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. While it is generally assumed that the administrative and enforcement sections of a code are geared toward the responsibilities of the code official, the provisions also establish the rights and privileges of the design professional, contractor and building owner.
- Chapter 1 establishes the necessary legal basis for enforcement of the code by the authority having jurisdiction. All of the police powers inherent in enforcing minimum standards for the use and maintenance of buildings must follow the line of authority, from the U.S. Constitution to the state to the actual enforcer. Chapter 1 defines the role and responsibilities of the authority having jurisdiction. To protect all parties from an unfair enforcement action, this chapter also sets forth the due process that requires corrective actions to be accomplished in a constitutional manner. Police powers are not unlimited, and this chapter identifies those limitations.

Section 101 – General Requirements

- ***101.2 Scope***
- This section establishes the broad purpose of the code—to protect the public health, safety and welfare in both existing residential and nonresidential structures and on all existing premises.
- Four specific areas are addressed in greater detail in subsequent sections:
 - Establishing minimum maintenance standards for such elements as basic equipment, light, ventilation, heating, sanitation and fire safety.
 - Fixing responsibility among owners, operators and occupants for following the code.
 - Regulating the use of existing structures and premises.
 - Providing for administration, enforcement and penalties.
- These four categories provide communities with the tools to reduce risks created by deteriorated or unsafe buildings and help communities upgrade and maintain other existing structures.

Section 101 – General Requirements

- ***101.3 – Intent***

- The code is intended to provide requirements addressing public health, safety and welfare as they relate to the use and maintenance of existing structures and premises. The code requires existing structures and premises that are not in compliance with the code to be altered or repaired to meet the code. The code requirements are intended to represent the minimum acceptable level of public health and safety. As required in Section 102.3, repairs and alterations must comply with several International Codes[®](I-Codes[®]), including the International Building Code[®](IBC[®]).

Section 101 – General Requirements

- *101.4 – Severability*
- 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 of the code is declared illegal or unconstitutional. This section preserves the legislative action that put the legal provisions in place.

Section 102 – Applicability

- ***102.1 – General***

- Specific requirements of the code override or take precedence over general requirements. 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 mentioned elsewhere in the code.

Section 102 – Applicability

- ***102.2 – Maintenance***

- This section contains general maintenance requirements. The code specifically prohibits the disconnection of any required utilities for an occupied dwelling. This helps to safeguard persons who have a physical condition and are dependent on these systems. Some examples of this include: a person who has to have electricity to power a kidney dialysis machine; a patient who is on an oxygen system full time; and someone with particularly bad allergies who needs to have an air-conditioning system to help filter the air. Any safety system that exists in a building must be maintained. A fire protection or safety system is not to be removed from a building if it is required by the code or a previous regulation or code that was in effect when the building was built. This section also specifies that the owner, the owner's authorized agent, or other person having control of the structure or premises is responsible for maintenance, not the tenants of rental properties.

Section 102 – Applicability

- ***102.3 – Application of other Codes***

- Repairs, additions or alterations are to be done as required by the IBC, International Existing Building Code[®](IEBC[®]), International Energy Conservation Code[®](IECC[®]), International Fire Code[®](IFC[®]), International Fuel Gas Code[®](IFGC[®]), International Mechanical Code[®](IMC[®]), International Residential Code[®](IRC[®]) and the International Plumbing Code[®](IPC[®]). The International Property Maintenance Code[®](IPMC[®]) is not intended to affect any of the requirements in the International Zoning Code[®](IZC[®]).

Section 102 – Applicability

- ***102.4 – Existing Remedies***

- Section 110 establishes one set of criteria and procedures that may be used to demolish dangerous, unsafe or insanitary buildings. This section permits a jurisdiction to continue to use any remedies already adopted for demolishing buildings. In essence, a community may employ several procedures for removing dangerous buildings. It is advisable that one procedure be chosen over another to avoid confusion and errors in processing the demolition.

Section 102 – Applicability

- ***102.5 – Workmanship***

- All repairs, materials, alterations and installations must be executed in a skilled manner that allows the performance intended and anticipated by the code to be achieved, and must meet the criteria of the definition of “Workmanlike” in the code (see the definition of “Workmanlike” in Chapter 2).
- Equipment must comply with the manufacturer’s installation instructions for proper operation and safety.

Section 102 – Applicability

- ***102.6 – Historic Buildings***

- This section provides the code official with the widest flexibility in enforcing the code where the building in question has historic value. This flexibility, however, is not provided without conditions. The most important criterion for application of this section is that the building must be specifically classified as being of historic significance by a qualified party or agent. Usually this is done by a state or local authority after considerable scrutiny of the historic value of the building. Most, if not all, states have such authorities, as do many local jurisdictions. The agencies with such authority typically exist at the state or local government level.

Section 102 – Applicability

- ***102.7 – Referenced Codes and Standards***

- A referenced standard or portion thereof is enforceable to the same extent as if the content of the standard were included in the body of the code. For example, Section 604.2 references NFPA 70 for sizing the electrical main service for a building. The use and application of referenced standards are limited to those portions of the standards that are specifically identified in the code. The code is intended to be in harmony with the referenced standards. If conflicts occur because of scope or purpose, the code text governs. The exception recognizes the rare circumstance of the code requiring or allowing something less restrictive or stringent than the product listing or manufacturer's instructions. If the code conflicts with or deviates from the conditions of the listing, this may or may not mean that the code violated the listing. For example, the listing for an appliance might allow a particular application of an appliance that is expressly prohibited by the code. In this case, the code has not violated the listing, but instead has simply limited the application allowed by the listing. The intent is for the highest level of safety to prevail.

Section 102 – Applicability

- ***102.7.1 – Conflicts***

- 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 longstanding 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.

Section 102 – Applicability

- ***102.7.2 – Provisions in Referenced Codes and Standards***
- Section 102.7.2 expands upon the provisions of Section 102.7.1 by making it clear that, even if a referenced standard references other codes or standards (secondary reference) containing requirements that parallel the code, the provisions of the code will always take precedence. This section provides the policy underpinnings upon which sound code change proposals can be based.

Section 102 – Applicability

- ***102.8 – Requirements not Regulated by this Code***
- Evolving technology in our society will inevitably result in a situation or circumstance in which the code is comparatively silent on an identified hazard. The reasonable application of the code to any hazardous, unforeseen condition is provided for in this section. Clearly such a section and the code official's judicious and reasonable application are needed. The purpose of the section, however, is not to impose requirements that may be preferred over explicit code requirements. Additionally, the section can be utilized to implement the general performance-oriented language of the code to specific enforcement situations.

Section 102 – Applicability

- *102.9 – Application of References*
- In a situation where the code makes 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.

Section 102 – Applicability

- ***102.10 – Other Laws***

- 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 the other law that is still in effect, although the code official may not be responsible for its enforcement.

Section 103 – Department of Property Maintenance Inspection

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

Section 103 – Department of Property Maintenance Inspection

- *103.2 – Appointment*

- This section establishes the code official is appointed and cannot be removed, except for cause subject to a due process review.

Section 103 – Department of Property Maintenance Inspection

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

Section 103 – Department of Property Maintenance Inspection

- *103.4 – Liability*

- The code official is 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 code official in this regard is subject to local, state and federal laws that may supersede this provision.

Section 103 – Department of Property Maintenance Inspection

- *103.4.1 – Legal Defense*

- This section establishes that code officials or subordinates are not liable for costs in any legal action instituted in response to the performance of lawful duties. These costs are to be borne by the jurisdiction. The best way to be certain that the code official's action is a "lawful duty" is to always cite the applicable code section on which the enforcement action is based.

Section 103 – Department of Property Maintenance Inspection

- *103.5 – Fees*

- A published fee schedule must be established for permits and inspections. Ideally, the department should generate revenues that cover operating costs and expenses. The permit fee schedule is an integral part of this process.

Section 104 – Duties and Powers of the Code Official

- ***104.1 – General***

- The duty of the code official is to enforce the code. Because the code official must respond to those who question the requirements of the code related to this responsibility, except as specifically exempted by statutory requirements or elsewhere in the code, he or she is the “authority having jurisdiction” for all matters relating to the code and its enforcement. It is the duty of the code official both to interpret and to determine compliance with the code. Code compliance will not always be easy to determine and will require the judgment and expertise of the code official. In exercising this authority, however, the code official cannot set aside or ignore any provision of the code.

Section 104 – Duties and Powers of the Code Official

- ***104.2 – Inspections***

- The code official or designee is required to make the necessary inspections to determine compliance with the code, or may accept written reports of inspections by an approved agency. The inspection of work in progress or already 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, the code official may approve an inspection agency that, in his or her opinion, possesses the proper qualifications to perform the inspections. When unusual or complex technical issues arise relative to inspections, the code official has the authority to seek the opinion and advice of experts. A technical report from an expert requested by the code official can be used to assist in the approval process.

Section 104 – Duties and Powers of the Code Official

- ***104.3 – Right of Entry***

- This section establishes the right of the code official to enter the premises in order to make the inspections required by Section 104.3. The right to enter structures or premises is limited. First, to protect the right of privacy, the owner or occupant must grant the code 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 code violation exists, access may be unattainable.

Section 104 – Duties and Powers of the Code Official

- ***104.4 – Identification***

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

Section 104 – Duties and Powers of the Code Official

- *104.5 – Notices and Orders*

- An important element of code enforcement is the necessary advisement of deficiencies, which is accomplished through notices and orders. The code official is required to issue orders to abate illegal or unsafe conditions. Section 107 contains additional information for these notices.

Section 104 – Duties and Powers of the Code Official

- ***104.6 – Department Records***

- In keeping with the need for efficient business practices, the code official must keep official records pertaining to fees collected, inspections, notices and orders issued. Such documentation provides a valuable source of information if questions arise throughout the life of the building and its occupancy regarding outstanding preexisting code violations or conditions.

Section 105 - Approval

- **105.1 – General**
- The code official may amend or make exceptions to the code as needed where strict compliance is impractical. Only the code official has the 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. For example, a code official might decide to accept the installation of a sprinkler system throughout the building instead of upgrading certain walls to have a fire-resistance rating. The modification of requirements would be based on the equivalent protection of the sprinkler system to the upgraded walls. 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.
- Filing the details of a modification action is necessary if the reasons for the modification are subject to review. Comprehensive written records are an essential part of an effective administrative system. Unless clearly written records of the considerations and documentation utilized in the modification process are created and maintained, subsequent enforcement action will be difficult to support and will be inconsistent.

Section 105 - Approval

- ***105.2 – Alternative Materials, Design and Methods of Construction and Equipment***
- The code is not intended to inhibit innovative ideas or technological advances. A comprehensive regulatory document cannot envision and then address all future innovations in the industry. As a result, the code must be applicable to and provide a basis for the approval of an increasing number of newly developed, innovative materials, designs, 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 specifically described in the code is not an indication that its use is intended to be prohibited. The code official is expected to apply sound technical judgment 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. The code official is responsible for determining if a requested alternative provides the equivalent level of protection of the public health, safety and welfare, as required by the code. When the code official determines the alternate material, design, method of construction or equipment is not at least equivalent to what the code prescribes for safety, durability, fire-resistance, etc., the code official is required to provide a written response to the submitter.

Section 105 - Approval

- ***105.3 – Required Testing***
- To provide the basis on which the code official can make a decision regarding an alternative material or type of equipment, sufficient technical data, test reports and documentation must be provided for evaluation by the code official. If evidence satisfactory to the code official proves that the alternative equipment, material or construction method is equivalent to that required by the code, he or she is obligated to 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 equipment, materials or methods.

Section 105 - Approval

- ***105.3.1 – Test Methods***

- The code 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 will be issued. The type of information required includes test data in accordance with the referenced standards, evidence of compliance with the referenced standard specifications and design calculations. If no test standard is available, the owner or owner's agent is to propose the test procedures and submit them to the code official for review and approval. For example, ICC Evaluation Service (ICC-ES) has issued evaluation reports that would be particularly useful in providing the code official with the technical basis for evaluation and approval of new and innovative plumbing materials and components. The use of such authoritative and credible research reports can greatly assist the code official by reducing the time-consuming engineering analysis necessary to review materials and products. Failure to adequately substantiate a request for the use of an alternative is a valid reason for the code official to deny a request.

Section 105 - Approval

- ***105.3.2 – Test Reports***

- The testing agency must be approved by the code official. The testing agency should have technical expertise, test equipment and quality assurance to properly conduct and report the necessary testing.

Section 105 - Approval

- ***105.4 – Used Material and Equipment***

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

Section 105 - Approval

- ***105.5 – Approved Materials and Equipment***
- The code is a compilation of criteria with which materials, equipment, devices and systems must comply to be suitable for a particular application. The code 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 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 as such. For example, if data to determine code compliance is required, such data should be in the form of test reports or engineering analysis and not simply taken from a sales brochure.

Section 105 - Approval

- ***105.6 – Research Reports***

- When an alternative material or method is proposed for construction, it is incumbent on the code 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 code official finds to be reliable and accurate. The ICC-ES is an example of an agency that provides research reports for alternative materials and methods.

Section 106 - Violations

- ***106.1 – Unlawful Acts***
- Violations of the code are prohibited. This is the basis for all citations and correction notices with regard to code violations.

Section 106 - Violations

- ***106.2 – Notice of Violation***

- The code official is required to notify the person responsible for violating the code. The section that is allegedly being violated must be cited so that the responsible party can respond to the notice.

Section 106 - Violations

106.3 – Prosecution of Violation

- This section classifies a violation as a “strict liability offense,” which is defined in Section 202; thus, it is not required to prove that the person intended to violate the code or was negligent in doing so. All that is required for conviction is that the notice of violation for correction was properly served and that the person failed to comply. This aids jurisdictions in prosecuting code violators.
- The code official must pursue, through the use of legal counsel of the jurisdiction, legal means to correct the violation.
- Any extensions of time for the violations to be voluntarily corrected must be for a reasonable, bona fide cause or the code 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. The code provides a mechanism for the municipality to recover costs expended on a property through placing a lien on the property. For example, if an unimproved lot had to be mown throughout the summer growing season, the cost of the mowing could be recovered through a lien on the property.

Section 106 - Violations

106.4 – Violation Penalties

- An adopting jurisdiction is permitted to assess penalties for violations of the code. The penalties include monetary fines, as well as possible imprisonment. The severity of the fine or penalty is left for the jurisdiction to establish. The local jurisdiction, through its council and attorney or other administrative authority, will normally designate the range for the dollar amount of fines; however, the judge will determine the actual fine. This encourages support and agreement from all parties when enforcement action is taken. Fines should be large enough to discourage noncompliance with the code, but not so large as to be inappropriate for the violation being charged.
- Each day a violation continues unabated after proper notice has been served is to be deemed a separate offense and may be charged as such. In general, it is better to cite violations daily. This action may expedite a court hearing or cause the owner to correct the violations rather than risk exorbitant fines or imprisonment. Whether to cite violations on a daily basis is a policy decision and should be made in cooperation with the attorney who will prosecute the cases.

Section 106 - Violations

106.5 – Abatement of Violation

- Despite the assessment of a penalty in the form of a fine or imprisonment against a violator, the violation itself must still be corrected. Failure to make the necessary corrections will result in the violator being subject to additional penalties as described in the preceding section.

Section 107 – Notices and Orders

107.1 – Notice to Person Responsible

- Written notice must be given to the person responsible for the property (i.e., occupant) when the code official observes a violation of the code. Where a property is condemned, the person responsible for the property must be informed of the intent to placard and vacate the structure.
- The person responsible must be notified when a building is placarded. This is important because both the person responsible and the owner can be charged with a violation of the code if they fail to vacate the structure.
- It is also important for the code official to keep copies of all written notices issued. If the person responsible for the property or occupants fail to abide by a verbal order, the code official needs something more substantial to pursue enforcement action. If further enforcement procedures are warranted, the code official will need a complete, chronologically written documentation of all notices and orders that have been issued.

Section 107 – Notices and Orders

- **107.2 – Forms**
- The notice required by Section 107.1 must:
 - Be in writing. A verbal notice is unreliable.
 - Clearly identify the property. The address of the property is sufficient when it is readily available. The legal description may be necessary when the address for the property is missing or if the land is vacant and lacks an address.
 - State why the notice is being issued, and identify what part of the code is being violated.
 - Include a correction order, and state what repairs need to be made to bring the property back into compliance with the code.
 - Allow a reasonable time for compliance. This is subjective. A reasonable time must not only include adequate time to allow owners to make repairs, but must also address the risk to the occupants and the public. As an example, if a portion of a building is collapsing, the owner may believe that a reasonable time to correct the damage should be several weeks or even months; however, a collapsing wall creates an immediate danger to the public. The code official should require completion of all repairs within a few days or, in extreme cases, in a matter of hours.
 - Provide the person responsible for the property with a notice of his or her right to seek modification or withdrawal of the order by appealing to a board of appeals in accordance with Section 111.

Section 107 – Notices and Orders

- **107.3 – Method of Service**
- Proper service of all notices is crucial. Improper or inadequate service may make satisfactory pursuit of enforcement impossible. Proper service requires one of the following methods:
 - Personal delivery to the owner or the responsible person designated by the owner. This is the most effective form of service. Usually, personal service is provided by a personal service company (i.e., a third-party agency), the code official or the sheriff's office in the jurisdiction where the person to be served lives.
 - Delivery by certified or registered mail addressed to the owner or the owner's designated agent at the last known address, with a return receipt requested. This is a valid method of service, but sometimes it is not reliable. The owner may refuse to accept or ignore the service if he or she knows the jurisdiction plans to send notices. Also, it may take 10 to 14 days before the code official is notified by the post office that service could not be made. If the notice required the owner or owner's agent to correct something in a short time, the time for compliance may pass before the code official is aware the post office has not made the delivery.
 - If the certified or registered letter is returned as undelivered, posting a copy in an easy-to-see place in or about the structure will suffice. Since the code official must wait until the post office returns undelivered certified letters before they can be posted, this form of service is very time consuming.
- All of the services noted above may be expensive and time consuming. In some communities, the courts may consider service to be valid if the notice was sent to the last known address of the owner or owner's agent by regular postage and the notice was not returned by the post office. This method of service is obviously much cheaper and usually faster than waiting for the return of a certified letter. It must, however, be acceptable to the court system. The jurisdiction's attorney should be consulted to determine that the type of service is legally acceptable, reasonably cost effective and timely.

Section 107 – Notices and Orders

- ***107.4 – 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 the occupants may depend on the warning signs posted by the code official remaining in place.

Section 107 – Notices and Orders

- *107.5 – Penalties*

- This section references Section 106.4, which establishes penalties for violating provisions of the code.

Section 107 – Notices and Orders

- ***107.6 – Transfer of Ownership***

- When a property has a pending violation order, it is unlawful for an owner to sell, transfer, mortgage, lease or otherwise dispose of the property without either following the order or advising the buyer, mortgagee, etc., of the pending violation. The owner must prove that the buyer has received notice of pending violations by providing the code official with a signed, notarized receipt from the new transferee.
- Determining the current owner of a building is a frustrating and difficult activity. To evade code enforcement action, owners will frequently transfer ownership of their property. This provision of the code permits the code official to cite the seller if he or she did not provide the code official with the required notification when the property was transferred; thus, even though the seller may avoid complying with the outstanding violation orders, he or she can still be charged with a violation for failing to provide proof that the transferee was aware of the pending orders.

Section 108 – Unsafe Structures and Equipment

- *108.1 – General*

- This section provides a brief description of conditions where the code official is given the authority to condemn an existing structure or equipment. Where a structure or equipment is “unlawful,” as described in the text of this section, that structure or equipment does not comply with the requirements of the code. The deficiencies are such that an unsafe condition or a condition that is unfit for human occupancy exists.

Section 108 – Unsafe Structures and Equipment

108.1.1 – Unsafe Structures

- Any building that endangers life, health, safety or property is unsafe. A building is considered dangerous if it meets one or more of the following conditions:
 - It lacks adequate protection from fire.
 - It contains unsafe equipment.
 - All or part of the building is likely to collapse.
- Only structures with major defects or life-threatening conditions are considered unsafe. Minor defects, such as an inadequate number of electrical outlets or damaged plaster, do not necessarily create an unsafe structure, even though they are violations of the code.

Section 108 – Unsafe Structures and Equipment

- ***108.1.2 – Unsafe Equipment***

- Equipment may become unsafe when it is a hazard to life, health, property or safety.
- The judgment of the code official is critical in determining when equipment should be deemed unsafe. If uncertain about appropriate enforcement action, he or she should seek additional expertise and advice and, if necessary, err on the side of safety.

Section 108 – Unsafe Structures and Equipment

- ***108.1.3 – Structure Unfit for Human Occupancy***

- A building is unfit for occupancy if it is: unsafe, unlawful, lacking maintenance to a serious degree, in disrepair, insanitary, vermin or rat infested, found to contain filth, lacking essential equipment, or located such that it is hazardous to the occupants or the public.
- The list of reasons for declaring a structure unfit requires subjective judgement. Because the consequences of declaring a structure unfit for occupancy are severe, the code official should carefully and thoroughly document all conditions contributing to that determination.

Section 108 – Unsafe Structures and Equipment

- *108.1.4 – Unlawful Structure*

- An unlawful structure is one that has serious deficiencies such that an unsafe condition or a condition that is unfit for human occupancy exists. An unlawful structure does not mean one where there are criminal activities.

Section 108 – Unsafe Structures and Equipment

- ***108.1.5 – Dangerous Structure or Premises***
- This specific section contains a general list of baseline conditions to evaluate a structure against to determine if its present condition is dangerous. The purpose of this section is to allow a code official to cite specific conditions under which he or she finds a structure to be dangerous. The list of conditions focuses on adequacy of the means of egress, structural, fire resistance, fire protection, and plumbing and ventilation systems.

Section 108 – Unsafe Structures and Equipment

108.2 – Closing of Vacant Structures

- Code officials are granted the authority to condemn, placard and vacate any building that they determine to be unsafe, unlawful or unfit for occupancy. Also, code officials may remove unsafe equipment from use.
- No one is permitted to reoccupy or reuse any building or equipment until the code official has given his or her approval. Unsafe structures, unsafe equipment, buildings that are unfit for human occupancy and unlawful structures are further defined in subsequent sections.
- The ability to condemn and vacate structures is a powerful enforcement tool. It protects occupants from danger and prevents owners from collecting income on their properties. Before condemning or vacating structures, the code official should establish a clearly defined list of violations that warrant such actions. Additionally, it is critical to document all of the violations found in each building to be condemned. When practical, photographs should be taken of violations. Should litigation become necessary, photographs provide powerful documentation.

Section 108 – Unsafe Structures and Equipment

108.2 – Closing of Vacant Structures – Continued

- Open, vacant buildings are an attractive nuisance to children, a potential fire hazard, a harborage for rodents and insects and a potential home for vagrants. Vacant buildings also create a blighting influence within a community.
- The code official is authorized to condemn as unfit those buildings that are vacant and open to trespass but not in danger of collapse. When the owner has been ordered to secure an open building but fails to do so, the code official must secure the structure by contracting with a public or private agent to close up the building.
- The costs for closing buildings are to be charged to the property in the form of a lien. Generally, once a lien has been filed against a property, it must be satisfied before the property can be sold. This section authorizes collection by any other legal resource. It also allows collection by additional methods such as small claims judgements, collection agency actions and personal liens. This enhances the chances of cost recovery.

Section 108 – Unsafe Structures and Equipment

- ***108.2.1 – Authority to Disconnect Service Utilities***
- Disconnecting a service utility from the energy supply is the most radical method of hazard abatement available to the code official and should be reserved for cases in which all other lesser remedies have proven ineffective. Such an action must be preceded by a written notice to the owner and any occupants of the building being ordered to disconnect. Disconnection must be accomplished within the timeframe established by the code official in the written notification. When the hazard to the public health and welfare is so imminent as to mandate immediate disconnection, the code official has the authority and even the obligation to cause disconnection without notice.

Section 108 – Unsafe Structures and Equipment

- ***108.3 – Notices***

- The condemnation notice is required to be posted at the structure, and the owner, the owner's authorized agent or responsible person in charge is to be served notice in accordance with the procedure in Section 107.3, in the form prescribed in Section 107.2. If the notice includes condemned equipment, the notice must also be placed on that equipment.

Section 108 – Unsafe Structures and Equipment

- *108.4 – Placarding*

- If the owner fails to comply with the notice, a placard indicating that the structure is condemned as unfit for human occupancy or use should be posted on the property or equipment. This placard should also show the penalty for illegal occupancy of the building or equipment, and for removing the placard.
- Immediate enforcement action should be pursued when there is an illegal occupancy of a condemned building or equipment. The credibility of the code enforcement program is dependent upon the public's belief that the code will be adequately enforced.
- Any owner, owner's authorized agent, or other responsible party who has failed to comply with a correction order must vacate the property immediately after the time for correction has passed. All occupants should be given reasonable time to find other accommodations.

Section 108 – Unsafe Structures and Equipment

- ***108.4.1 – Placard Removal***

- Only the code official is authorized to remove a condemnation placard. The code official is to remove the placard only when the defect or defects have been corrected as required by the code. Any other person who removes or defaces a placard is in violation of the code and subject to its penalties.

Section 108 – Unsafe Structures and Equipment

- *108.5 – Prohibited Occupancy*

- It is important that any unsafe structure be vacated to help prevent possible injury to or death of its occupants. The code official has the authority to require a condemned building to be vacated. Anyone who continues to occupy a placarded building or equipment and any owner who permits another to occupy a placarded building or equipment are subject to the penalties provided by the code.

Section 108 – Unsafe Structures and Equipment

- ***108.6 – Abatement Methods***

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

Section 108 – Unsafe Structures and Equipment

- *108.7 – Record*

- The code official must file a report on each investigation of unsafe conditions, stating the occupancy of the structure and the nature of the unsafe condition.

Section 109 – Emergency Measures

- *109.1 – Imminent Danger*
- If the code official has determined that failure or collapse of a building or structure is imminent, failure has occurred that results in a continued threat to the remaining structure or adjacent properties or any other unsafe condition as described in this section exists in a structure, he or she is authorized to require the occupants to vacate the premises and to post such buildings or structures as unsafe and not occupiable. Unless authorized by the code official to make repairs, secure or demolish the structure, it is illegal for anyone to enter the building or structure. This will minimize the potential for injury.

Section 109 – Emergency Measures

- *109.2 – Temporary Safeguards*
- This section recognizes the need for immediate and effective action in order to protect the public. This section empowers the code official to cause the necessary work to be done to temporarily minimize the imminent danger without regard for due process. This section has to be viewed critically insofar as the danger of structural failure must be “imminent”; that is, readily apparent and immediate.

Section 109 – Emergency Measures

- ***109.3 – Closing Streets***

- The code official is authorized to temporarily close sidewalks, streets and adjacent structures as needed to provide for the public safety from the unsafe building or structure when an imminent danger exists. Since the code official may not have the direct authority to close sidewalks, streets and other public ways, the agency having such jurisdiction (e.g., the police or highway department) must be notified.

Section 109 – Emergency Measures

- *109.4 – Emergency Repairs*
- The cost of emergency work may have to be initially paid for by the jurisdiction. The important principle here is that the code official must act immediately to protect the public when warranted, leaving the details of costs and owner notification for later.

Section 109 – Emergency Measures

- *109.5 – Costs of Emergency Repairs*
- The cost of emergency repairs is to be paid by the jurisdiction, with subsequent legal action against the owner to recover such costs. This does not preclude, however, reaching an alternative agreement with the owner.

Section 109 – Emergency Measures

- ***109.6 – Hearing***
- Anyone ordered to take an emergency measure or to vacate a structure because of an emergency condition must do so immediately.
- Thereafter, any affected party has the right to appeal the action to the appeals board to determine whether the order should be continued, modified or revoked.
- It is imperative that appeals to an emergency order occur after the hazard has been abated, rather than before, to minimize the risk to the occupants, employees, clients and the public.

Section 110 - Demolition

- ***110.1 – General***

- This section describes conditions where the code official has the authority to order the owner to remove the structure. Conditions where the code official may give the owner the option of repairing the structure or boarding the structure for future repair are also in this section. The code official should carefully document the condition of the structure prior to issuing a demolition order to provide an adequate basis for ordering the owner to remove the structure. Note that Appendix A contains boarding provisions, but must be specifically referenced in the adopting ordinance of the jurisdiction to be mandatory.

Section 110 - Demolition

- ***110.2 – Notices and Orders***

- Before the code official can pursue action to demolish a building in accordance with Section 110.1 or 110.3, it is imperative that all owners and any other persons with a recorded encumbrance on the property be given proper notice of the demolition plans (see Section 107 for notice and order requirements).

Section 110 - Demolition

- ***110.3 – Failure to Comply***

- Where the owner fails to comply with a demolition order, the code official is authorized to take action to have the building razed and removed. The costs are to be charged as a lien against the real estate. To reduce complaints regarding the validity of demolition costs, the code official will obtain competitive bids from several demolition contractors before authorizing any contractor to raze the structure.

Section 110 – Demolition

- ***110.4 – Salvage Materials***

- The governing body may sell any valuables or salvageable materials for the highest price obtainable. The costs of demolition are then to be deducted from any proceeds from the sale of salvage. If a surplus of funds remains, it is to be remitted to the owner with an itemized expense and income account; however, if no surplus remains, this must also be reported.

Section 111 – Means of Appeal

- ***111.1 – Application of Appeal***

- This section allows a person with a material or definitive interest in the decision of the code official to appeal that decision. The aggrieved party may not appeal a code requirement. The appeal process is not intended to waive or set aside a code requirement, but to provide a means of reviewing a code official's decision on an interpretation or application of the code or to approve or reject the equivalency of protection to the code requirement.

Section 111 – Means of Appeal

- ***111.2 – Membership of Board***

- The concept of the board is to provide an objective group of persons who review the matters brought to them and make a collective decision. The members of the board are not to be employees of the jurisdiction and are to have sufficient knowledge and experience to act on the concerns that are heard. A minimum of three board members is specified for a fair and impartial hearing process. Staggered terms are appropriate for uniform changeover such that a minimum number of board members are new each year. The number of members is to be determined by the chief appointing authority.

Section 111 – Means of Appeal

111.2.1 – Alternate Members

111.2.2 – Chairman

111.2.3 – Disqualification of Member

111.2.4 – Secretary

111.2.5 – Compensation of Members

111.3 – Notice of Meeting

111.4 – Open Hearing

111.5 – Postponed Hearing

Section 111 – Means of Appeal

- 111.6 – Board Decision
- 111.6.1 – Records and Copies
- 111.6.2 – Administration
- 111.7 – Court Review
- 111.8 – Stays of Enforcement

Section 112 – Stop Work Order

- ***112.1 – Authority***

- 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 code official.
- Normally, correction notices 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.

Section 112 – Stop Work Order

- ***112.2 – Issuance***
- Upon receipt of a violation notice from the code official, all construction activities identified in the notice must immediately cease, except as expressly permitted to correct the violation.

Section 112 – Stop Work Orders

- ***112.3 – Emergencies***

- This section gives the 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.

QUESTIONS?