

Chapter 1: Scope and Administration

General Comments

This chapter contains provisions for the scope and application (Part 1), and the enforcement and administration (Part 2) 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. Part 1, Scope and Application, includes Sections 101 and 102 that specifically address the scope and application of the code. Section 101 addresses the scope of the code as it applies to existing structures undergoing repairs, alterations, change of occupancy and additions or relocation. Section 102 establishes the applicability of the code and addresses existing structures. Part 2, Administration and Enforcement, includes the balance of the provisions of Chapter 1, which are related to the administration and enforcement of the provisions of the code. Section 103 establishes the department of building safety and the appointment of department personnel. Section 104 outlines the duties and authority of the code official with regard to permits, inspections and right of entry. It also establishes the authority of the code official to approve alternative materials, used materials and modifications. Section 105 states when permits are required and establishes the procedures for the review of applications and the issuance of permits. Section 106 describes the information that must be included on the submittal documents submitted with the application. Section 107 authorizes the code official to issue permits for temporary structures and uses. Section 108 establishes requirements for a fee schedule. Section 109 includes the inspection duties of the code official or an inspection agency that has been approved by the code official. Provisions for the issuance of certificates of occupancy are detailed in Section 110. Section 111 gives the code official the authority to approve utility connections. Section 112 establishes the board of appeals and the criteria for making applications for appeal. Administrative provisions for violations are addressed in Section 113, including provisions for unlawful acts, violation notices, prosecution and penalties. Section 114 describes procedures for stop work orders. Section 115 establishes the criteria for unsafe structures and equipment, and the procedures to be followed by the code official for abatement and for notification to the responsible party. Section 116 describes the emergency measures that address structures in danger of collapse. Section 117 authorizes the code official to have structures demolished that are dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy. Each state's building code enabling legislation, which is grounded within the police power of the state, is the source of all authority to enact building codes. In terms of how it is used, police

power is the power of the state to legislate for the general welfare of its citizens. This power enables passage of such laws as building codes. If the state legislature has limited this power in any way, the municipality may not exceed these limitations. While the municipality may not further delegate its police power (e.g., by delegating the burden of determining code compliance to the building owner, contractor or architect), it may turn over the administration of the building code to a municipal official, such as a code official, provided that sufficient criteria are given to the code official to establish clearly the basis for decisions as to whether or not a proposed building conforms to the code.

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

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

Purpose

The code, as with any other code, is intended to be adopted as a legally enforceable document to safeguard health, safety, property and public welfare. A code cannot be effective without adequate provisions for its administration and enforcement. The code official charged with the administration and enforcement of building regulations has a great responsibility and with this responsibility comes authority. No matter how detailed the code may be, the code official must, to some extent, exercise his or her own judgment in determining code compli-

ance. The code official has the responsibility to establish that the homes in which the citizens of the community reside and the buildings in which they work are designed and constructed to be structurally stable, with adequate means of egress, light and ventilation, and to provide a minimum acceptable level of protection to life and property from fire.

A large number of existing buildings and structures do not comply with the current building code requirements for new construction. Although many of these buildings are potentially salvageable, rehabilitation is often cost prohibitive because they may not be able to comply with all the requirements for new construction. At the same

time, it is necessary to regulate construction in existing buildings that undergo additions, alterations, renovations, extensive repairs or change of occupancy. Such activity represents an opportunity to ensure that new construction complies with the current building codes and that existing conditions are maintained, at a minimum, to their current level of compliance or are improved as required. To accomplish this objective, and to make the rehabilitation process easier, this chapter allows for a controlled departure from full compliance with the technical codes, without compromising the minimum standards for the fire prevention and life safety features of the rehabilitated building.

PART 1—SCOPE AND APPLICATION

SECTION 101 GENERAL

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

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

101.2 Scope. The provisions of the *International Existing Building Code* shall apply to the *repair, alteration, change of occupancy, addition* and relocation of *existing buildings*.

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

101.3 Intent. The intent of this code is to provide flexibility to permit the use of alternative approaches to achieve compliance with minimum requirements to safeguard the public health, safety and welfare insofar as they are affected by the *repair, alteration, change of occupancy, addition* and relocation of *existing buildings*.

❖ The intent of the code is to set forth regulations that establish the minimum acceptable level to safeguard public health, safety and welfare. The intent becomes important in the application of sections such as Sections 102, 104.11 and 113, as well as any enforcement-oriented interpretive action or judgment. Like any code, the written text is subject to interpretation.

Interpretations should not be affected by economics or the potential impact on any party. The only considerations should be the protection of public health, safety and welfare.

101.4 Applicability. This code shall apply to the *repair, alteration, change of occupancy, addition* and relocation of all *existing buildings*, regardless of occupancy, subject to the criteria of Sections 101.4.1 and 101.4.2.

❖ All existing structures must comply with the provisions of the code when undergoing repair, alteration, change of occupancy, addition and relocation, subject to the criteria in Sections 101.4.1 and 101.4.2. Sections 101.4.1 and 101.4.2 contain provisions that are significantly different, based on whether or not the building has been previously occupied. Basically, if the building has not been previously occupied, it must comply with the requirements for new construction. This also applies to buildings undergoing alterations or additions.

101.4.1 Buildings not previously occupied. A building or portion of a building that has not been previously occupied or used for its intended purpose in accordance with the laws in existence at the time of its completion shall comply with the provisions of the *International Building Code* or *International Residential Code*, as applicable, for new construction or with any current permit for such occupancy.

❖ This section requires that all buildings that have not been previously occupied must comply with the *International Building Code*® (IBC®) or the *International Residential Code*® (IRC®). It also applies to any building that may have been completed and not occupied and used for its intended purpose. The building remains a new structure in terms of code compliance until such a time as it is occupied in whole or in part.

101.4.2 Buildings previously occupied. The legal occupancy of any building existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, the *International Fire Code*, or the *International Property Maintenance Code*, or as is deemed

necessary by the *code official* for the general safety and welfare of the occupants and the public.

- ❖ This section allows for buildings that were legally occupied in part or in whole at the time the code was adopted to continue. There is a maintenance concern that is addressed by the requirement that the building comply with either the IFC or the *International Property Maintenance Code*[®] (IPMC[®]). These codes ensure that life safety systems, such as means of egress pathways and fire protection systems, are kept in place and able to protect the life and safety of the inhabitants of these existing structures.

101.5 Compliance methods. The *repair, alteration, change of occupancy, addition* or relocation of all *existing buildings* shall comply with one of the methods listed in Sections 101.5.1 through 101.5.3 as selected by the applicant. Application of a method shall be the sole basis for assessing the compliance of work performed under a single permit unless otherwise approved by the *code official*. Sections 101.5.1 through 101.5.3 shall not be applied in combination with each other. Where this code requires consideration of the seismic-force-resisting system of an *existing building* subject to *repair, alteration, change of occupancy, addition* or relocation of *existing buildings*, the seismic evaluation and design shall be based on Section 101.5.4 regardless of which compliance method is used.

Exception: Subject to the approval of the *code official, alterations* complying with the laws in existence at the time the building or the affected portion of the building was built shall be considered in compliance with the provisions of this code unless the building is undergoing more than a limited structural *alteration* as defined in Section 807.4.3. New structural members added as part of the *alteration* shall comply with the *International Building Code*. *Alterations of existing buildings in flood hazard areas* shall comply with Section 601.3.

- ❖ This section explains the options available to a designer or owner when dealing with construction related to existing buildings: prescriptive compliance method (see Section 101.5.1), work area compliance method (see Section 101.5.2) and performance compliance method (see Section 101.5.3). This section also provides procedures for the evaluation and design of seismic-force-resisting systems of existing buildings where consideration of seismic forces is required by the code by referencing Section 101.5.4.

There is one alternative to using these three compliance methods that allows for compliance with the laws in existence at the time the structure was originally built, unless the building has sustained substantial structural damage or is undergoing more than a limited structural alteration. Repairs and alterations in flood hazard areas have additional requirements to the laws in existence at the time the structure was originally built.

101.5.1 Prescriptive compliance method. *Repairs, alterations, additions* and changes of occupancy complying with Chapter 3 of this code in buildings complying with the *International*

Fire Code shall be considered in compliance with the provisions of this code.

- ❖ This section allows compliance in accordance with Chapter 3 of the code. This chapter is a duplication of Chapter 34, of Sections 3401 through 3409, of the IBC. There are also provisions from the other *International Codes*[®] (I-Codes[®]) dealing with system installations (electrical, energy, fuel gas, mechanical and plumbing) that have been duplicated in the code as well. These provisions are intended to prescribe specific minimum requirements for construction related to existing buildings, including additions, alterations, repairs, fire escapes, glass replacement, change of occupancy, historic buildings, moved structures and accessibility.

101.5.2 Work area compliance method. *Repairs, alterations, additions, changes in occupancy and relocated buildings* complying with the applicable requirements of Chapters 4 through 12 of this code shall be considered in compliance with the provisions of this code.

- ❖ This section allows compliance in accordance with Chapters 4 through 12 of the code. These chapters contain provisions that are based on a proportional approach to compliance where upgrades are triggered by the type and extent of the work.

101.5.3 Performance compliance method. *Repairs, alterations, additions, changes in occupancy and relocated buildings* complying with Chapter 13 of this code shall be considered in compliance with the provisions of this code.

- ❖ This section allows compliance in accordance with Chapter 13 of the code. This chapter is a duplication of Chapter 34, Section 3410 of the IBC. This chapter provides for evaluating a building based on fire safety, means of egress and general safety.

101.5.4 Evaluation and design procedures. The seismic evaluation and design shall be based on the procedures specified in the *International Building Code*, ASCE 31 or ASCE 41. The procedures contained in Appendix A of this code shall be permitted to be used as specified in Section 101.5.4.2.

- ❖ This section lists the documents that contain the provisions to be used for the seismic evaluation of an existing building, as well as the design of any needed repairs. Since the scope of these documents varies considerably, the following are brief descriptions.

***International Building Code*[®] (IBC[®])**

The IBC is a comprehensive model building code with seismic provisions that are based, for the most part, on the National Earthquake Hazards Reduction Program's (NEHRP) *Recommended Provisions for Seismic Regulations for New Buildings and Other Structures*. The requirements are intended to minimize the hazard to life for all buildings, increase the expected performance of higher occupancy buildings as compared to ordinary buildings, and improve the capability of essential facilities to function during and after an