

# INTERNATIONAL FIRE CODE<sup>®</sup>



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## COMMENTARY

# 2003

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## PREFACE

The principal purpose of the Commentary is to provide a basic volume of knowledge and facts relating to building construction as it pertains to the regulations set forth in the 2003 *International Fire Code*. The person who is serious about effectively designing, constructing and regulating buildings and structures will find the Commentary to be a reliable data source and reference to almost all components of the built environment.

As a follow-up to the *International Fire Code*, we offer a companion document, the *International Fire Code Commentary*. The basic appeal of the Commentary is thus: it provides in a small package and at reasonable cost thorough coverage of many issues likely to be dealt with when using the *International Fire Code* — and then supplements that coverage with historical and technical background. Reference lists, information sources and bibliographies are also included.

Throughout all of this, strenuous effort has been made to keep the vast quantity of material accessible and its method of presentation useful. With a comprehensive yet concise summary of each section, the Commentary provides a convenient reference for regulations applicable to the construction of buildings and structures. In the chapters that follow, discussions focus on the full meaning and implications of the code text. Guidelines suggest the most effective method of application, and the consequences of not adhering to the code text. Illustrations are provided to aid understanding; they do not necessarily illustrate the only methods of achieving code compliance.

The format of the Commentary includes the full text of each section, table and figure in the code, followed immediately by the commentary applicable to that text. At the time of printing, the Commentary reflects the most up-to-date text of the 2003 *International Fire Code*. As stated in the preface to the *International Fire Code*, the content of sections in the code which begin with a letter designation (i.e., Section 307) are maintained by another code development committee. Each section's narrative includes a statement of its objective and intent, and usually includes a discussion about why the requirement commands the conditions set forth. Code text and commentary text are easily distinguished from each other. All code text is shown as it appears in the *International Fire Code*, and all commentary is indented below the code text and begins with the symbol ❖.

Readers should note that the Commentary is to be used in conjunction with the *International Fire Code* and not as a substitute for the code. The Commentary is advisory only; the code official alone possesses the authority and responsibility for interpreting the code.

Comments and recommendations are encouraged, for through your input, we can improve future editions. Please direct your comments to the Codes and Standards Development Department at the Chicago District Office.

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# Chapter 1: Administration

## General Comments

This chapter addresses the administration and enforcement of the code. The objectives and mandate for enforcement are beyond the scope of this chapter. Before adopting the code, a state or local government must establish and designate an agency having staff trained to administer and enforce the code. The administrative relationships, designation of the enforcement authority (fire code official), funding, training and certification of inspectors and scope of the enforcement program are determined by the adopting body.

Management personnel generally perform functions such as planning, organizing, directing, controlling, analyzing and budgeting. Though the code administrator's duties may include all of these functions, this chapter takes a much narrower view of the code administrative function, dealing mainly with technical and legal areas. Fire prevention code administration must be considered in the context of a complex environment containing political, social, economic, technical and legal dimensions. Enforcement, too, is a broad, all-inclusive term that includes a range of activities aimed at identifying and eliminating hazards; in this case, hazards causing or contributing to a fire or impairing life safety.

Four functions are commonly associated with enforcement: inspecting, detecting, notifying and reporting [see Figure 1(1)]. Chapter 1 serves as the basis for administering a code enforcement program consisting of these functions. This chapter describes the technical and legal requirements associated with administering a code en-

forcement program to achieve these functions. The examination of these concepts specifically provides a better understanding of the fire code official's authority, duties and liabilities.

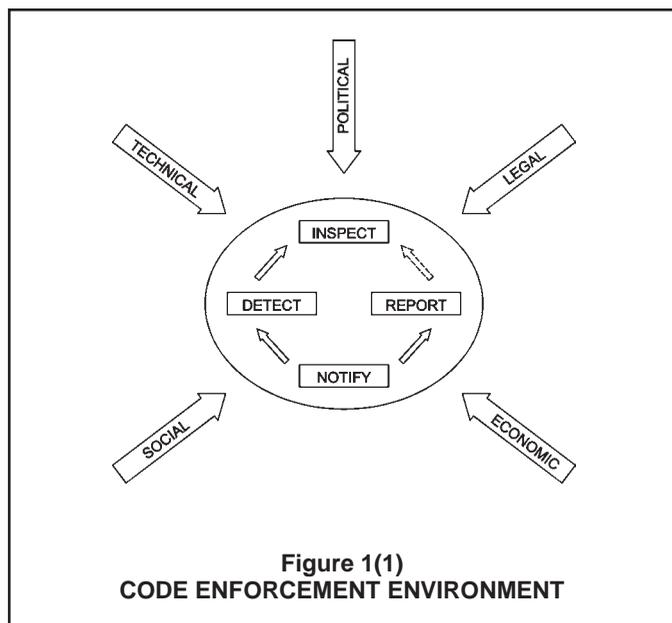
Two main duties of the fire code official are administration and enforcement. In administration, the following concepts are most important:

## Code Administrative Environment

Many administrative or management functions are not addressed in the code. Before provisions of this document can be of any use, many basic questions must be answered. Jurisdictions adopting a code enforcement program are using discretionary powers to fulfill a community need. The need in the community must be clearly identified, the program mission clearly established and the most appropriate delivery system selected. To address the technical and legal demands of the code administrative environment, the code assumes that jurisdictions adopting the document are interested in protecting the health, safety and welfare of its citizens from the effects of fires and explosions. Additionally, the code assumes that these jurisdictions are authorized to use the police power of the state to receive these benefits. Finally, the code assigns principal responsibility for enforcing this document to the department or agency (fire department or fire prevention bureau) most frequently available to perform this mission.

The particular objectives and social or political mandate of a code enforcement program are not considered in the context of this document. These items, however, are often cited as the most frustrating problems faced by code administrators. Code enforcers often complain of being overwhelmed by demands for leniency or special consideration based on the economic, social or political effects of their decisions.

As stated, this chapter establishes ground rules for enforcing the code; however, these ground rules are only the technical and legal requirements binding both fire code officials and the general public. For guidance on the political, social and economic considerations associated with code enforcement activities, adopting authorities must turn elsewhere; however, none of this is intended to imply that these considerations are absent from the code process. To the contrary, by establishing these requirements as "minimums," the membership has, through a democratic process of public hearings and debate, attempted to weigh these considerations carefully when deliberating, modifying and adopting the provisions appearing in this document (voting members are fire code officials representing jurisdictions). In the end, each jurisdiction must give careful consideration to how these re-



quirements should be adopted, who should be responsible for enforcing them, how this personnel should be trained, how the operation will be financed and when and how to modify or change operations if necessary. These considerations deserve careful, thorough public attention before a decision is made to adopt and enforce the code.

### Scope and Applicability of the Code

The code applies to all structures and premises, both new and existing, in all matters related to occupancy and maintenance for the protection of lives and property from fire. Conditions possibly causing or contributing to the start or spread of fire or protection of life from hazards incident to occupancy and maintenance are regulated as follows:

**Retroactivity:** Because the code applies to both new and existing structures and premises, the existing building provisions may be considered retroactive. Existing structures and premises built in compliance with the codes and standards in effect at the time of their original construction or alteration are not exempt from code compliance.

**Other codes and standards:** The code relies heavily on other codes and standards to specify a means of complying with its provisions, including the *International Building Code*® (IBC®), the *International Mechanical Code*® (IMC®), the *International Fuel Gas Code*® (IFGC®) and the standards referenced in the text. Additionally, other federal, state and local codes and ordinances may establish certain requirements related to fire protection and life safety. Code requirements are intended to complement other regulations. When conflicts arise between code provisions and the referenced standards, the code provisions apply. Where a standard provides additional technical detail or guidance beyond that provided in the related code text, the fire code official must use judgement when applying these provisions to prevent conflicts with the code provisions. If a conflict arises, it is the fire code official's duty to determine which provisions secure the code's intent. When a conflict between codes or other legal action causes a portion of this document to be "struck down," such action is not intended to invalidate the remaining code provisions. The severability of code provisions, however, does not imply that these same provisions should be considered or applied outside of their context as a part of the code.

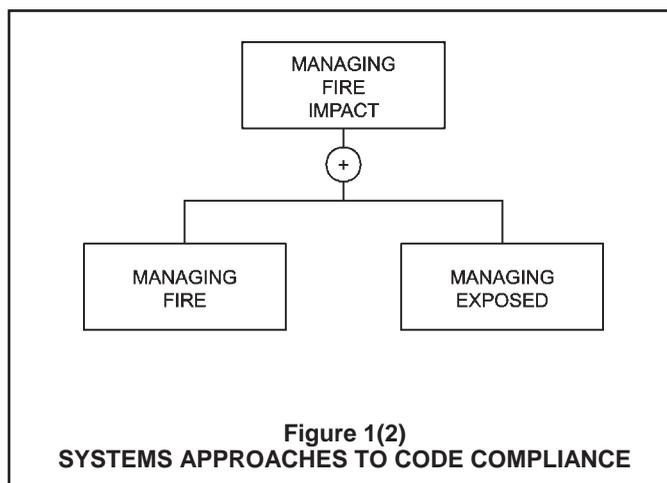
### Fire Code Official's Judgement

The code relies heavily not only on other codes and standards but also on the judgement and experience of the fire code official.

**Approval:** The code details occupancy and maintenance requirements; however, it relies heavily on performance criteria, as opposed to detailed specifications, to accomplish this task. The fire code official, therefore, must exercise judgement when approving or permitting operations, processes and procedures required by the

code. Proof of compliance may include certification or labeling by independent testing laboratories; however, regardless of the conclusions of these external agencies and authorities, the fire code official remains the sole judge of what fulfills the intent of the code. This becomes particularly important when the fire code official is asked to evaluate equivalent methods and materials. Piles of data may be impressive, but they may be meaningless when considered in the context of the code's intent. Data in support of alternative methods and materials must demonstrate not only compliance with the code's intent but also relevance to the issues at hand. Evidence, such as a label or an independent laboratory test report, may be used inappropriately to support an application for recognition of equivalency. The fire code official must evaluate all submitted evidence to make sure it applies to its intended use, as well as to the code's intent. In an increasingly technical and litigious society, learning how to make such decisions and judgements may be the biggest challenge facing fire code officials. Relying on strict interpretations of intent or the "letter" of the code may be the conservative way, but conservative approaches may simply increase the social and political pressures confronting fire code officials. Computers have become desktop fixtures in today's professional offices. Decision aids taking advantage of contemporary computer technology have become increasingly popular as well. These models permit designers to quickly and easily evaluate the relationships and performance of a variety of complex variables.

Another model that does not rely on a computer is NFPA 550 [see Figure 1(2)]. This model requires little training to use or understand and is an all-inclusive representation of the variables contributing to fire safety. The model may, therefore, serve as a useful tool for qualitatively evaluating the contribution of various approaches to an overall fire-safety system. Once equivalent alternative methods have been identified using the Fire Safety Concepts Tree, (see "General Comments" in Chapter 3) quantitative (cost/benefit) analyses may be applied. These decision aids permit a designer to propose more innovative and creative responses to complex problems. Fire code officials must begin to recognize, use and interpret these tools and data to maintain effective protection.



### Fire Code Officials and Liability

Like all professionals, fire code officials are subject to legal action. The two most common legal actions that may be pursued against fire code officials are breach of contract lawsuits and tort claims. Tort claims, by far, are the most common lawsuits. These lawsuits allege that some damage, injury or harm (a tort) resulted from the actions of the fire code official. A successful tort claim must prove that the plaintiff was injured or harmed; that the fire code official had a legal duty or obligation to perform with respect to the plaintiff and that the cause of the plaintiff's injury was the fire code official's actions or inactions while performing these duties.

The Law of Torts includes the following:

*The tort:* Damages arising from the acts of fire code officials fall into two broad categories; property and personal [see Figure 1(3)]. Property torts involve the control, use, operation or ownership of personal and real property by private individuals. Personal torts involve physical, verbal or written assaults on the character, person, psyche or privacy of individuals. Such assaults or invasions may involve actual contact or threat of harm. For example, fire code officials' acts of commission may restrain business or trade activity, while acts of omission may fail to recognize that hazards need to be corrected, thus resulting in life or property losses.

Property Trespass Conversion Nuisance	Personal Assault and Battery False Arrest or Imprisonment Defamation, Slander and Libel
--	--

Source: Rosenbauer, D.L., *Introduction to Fire Protection Law*.

**Figure 1(3)**  
**TYPES OF TORTS**

Two actions dominate lawsuits filed against enforcement authorities: Most lawsuits either allege improper acts by the fire code official (acts of commission) or failure to fulfill specified or implied legal obligations (acts of omission). In the former, plaintiffs usually seek temporary or permanent relief from a fire code official's decision. In these actions, plaintiffs usually allege improper interpretation or application of the code or its intent. Other lawsuits usually allege failure to exercise a reasonable standard of care in the performance of duties of the fire code official. In either type of lawsuit, and often in the case of omissions, plaintiffs seek compensatory and even punitive damages. Infringements on constitutional protections may be, though occurring infrequently, the basis for lawsuits against fire code officials. Common constitutional issues raised in lawsuits against fire code officials include violations of the Fourth Amendment's protection against unreasonable searches and seizures, the Sixth Amendment's due process protections and the Fourteenth Amendment's equal protection provisions. First

Amendment rights guaranteed under the freedom of association protections may be raised in cases involving public assembly occupancies, especially churches.

*Condition of negligence:* To prevail in a tort claim action, a plaintiff must demonstrate negligence on the part of the defendant. Negligence may be simple—a failure to exercise reasonable or adequate care when performing assigned duties (commonly known as misfeasance)—or it may be gross—represented by wanton, willful, reckless or malicious disregard for public safety. Criminal activities, including dereliction (nonfeasance) or the failure to perform required assigned duties, may be cause for claims of gross negligence. Likewise, malfeasance, the willful or malicious violation of a legal duty, may constitute grossly negligent behavior. The following three elements must be proven to sustain a claim of negligence: the defendant had a duty to act, the defendant failed to exercise the required standard of care in the performance of that duty and, as a result of that failure, damage or harm was incurred by the plaintiff.

*Duty to act:* The code establishes few duties of the fire code official. Instead, it places greatest emphasis on the responsibility of structure or premises owners and operators to perform their duties with adequate regard for public health, safety and welfare. The duties owed the public by the fire code official fall under the following categories: approvals, enforcement, personnel, inspections, investigations, reports and record keeping. Other duties may be assumed by fire code officials through the performance of their official duties. Recently, some courts have ruled that failure to perform timely reinspections or exhaust legal remedies against violators in fire code cases creates a special relationship between the fire code official and the occupants of properties in violation of the code, especially when the occupants do not own the property and are not responsible for code compliance. Some court rulings have even implied that conducting inspections not otherwise required by the code constitutes an ultra vires (beyond the authority of) liability. Fire code officials should consult their jurisdiction's legal counsel to determine how these decisions, the jurisdiction's enforcement policies and the code provisions combined affect their enforcement program and jurisdictional and personal liabilities.

*Standard of care:* Taken together, the fire code official's duties are the basis for determining his or her standard of care. When assessing whether fire code officials have met this standard, judges and juries must determine whether he or she performed the required duties as a reasonable, comparably trained and experienced fire code official. Failure to meet the appropriate standard of care may be classified in three ways: nonfeasance, misfeasance and malfeasance. Nonfeasance is the failure to perform a required duty. Improper performance of a required duty constitutes misfeasance, and malicious or willful violation of a required duty is malfeasance. Of the three, misfeasance or simple negligence is the most common cause of action. The code and most tort claims either hold the government immune from specific claims of misfeasance or severely limit damage awards in such cases.

For all purposes, sovereign immunity—the doctrine inherited from British common law mandating that “the King can do no wrong” — is obsolete. Similarly, courts in many states have abandoned the public duty doctrine, which states that a duty to all is a duty to no one. Holding that most code provisions and governmental regulations secure benefits for select groups, some state courts recognize that specific enforcement activities secure greater benefits for some members of the public than others. Such judicial reasoning holds that the inspector’s duty applies to the individual who may be injured as a result of failure to detect a hazard or diligently pursue compliance. Moreover, this duty may include acts of omission, such as failure to perform required inspections. With courts today recognizing only limited immunity for government officials, fire code officials must become more aware of their duties and liabilities. Though tort claim acts limit damage awards, they still permit lawsuits to proceed against governmental officials and agencies to determine their responsibility for negligent acts. Claims of gross negligence arising from nonfeasance or malfeasance are less common than misfeasance actions but are predictably harder to defend. The code provides no relief from liability where the fire code official either fails to perform a required duty or acts ultra vires; that is, beyond his or her authority. The jurisdiction is generally immune from claims when its agents perform acts beyond the scope of their authority, unless such acts were implicitly endorsed by the government (explicit endorsement may constitute a discretionary governmental act and, similarly, immunize the government). Nonfeasance is considered a criminal offense in many jurisdictions. An employee’s dereliction of duty exempts the jurisdiction from immunity under most circumstances, unless the employee’s failure to perform was the direct result of explicit instructions from governmental superiors, however, the employee may be held criminally liable.

In addition to the Law of Torts, the following have an impact on fire code officials and liability:

**Awards:** Lawsuits may seek declarative judgements in favor of the plaintiff—injunctive relief or monetary awards. Monetary awards fall into four categories: nominal, special, compensatory and punitive. The first purpose of monetary awards should be to the claimant or plaintiff for real losses. This is the purpose of compensatory and special damages. Compensatory awards reimburse the claimant or plaintiff for the direct costs resulting from the defendant’s negligence or carelessness. Many times, a plaintiff will also seek additional compensation for the indirect results of the defendant’s acts. Such special damage claims may result in additional compensation beyond that provided by compensatory damages. Punitive awards are intended to punish the defendant for the misdeed and discourage future unlawful activity by the defendant. These awards are often held up as examples to the community as a whole and are a way to discourage unlawful activities by others. Nominal damage awards serve

to assign blame in intentional tort cases when the facts of the case do not merit a substantial settlement.

**Protection:** The best protection against a lawsuit is professional conduct and preparation; that is, training, education and research. Lawsuits filed against public officials have become commonplace and are probably inevitable. In 1983, H. M. Markman suggested six rules to manage legal liability [see Figure 1(4)].

- **You cannot prevent someone from filing a lawsuit against you.**
- **Do not take the lawsuit personally.**
- **Understand your risk exposure or exposures.**
- **Be professional.**
- **You are not an insurer.**
- **Do not make stupid mistakes.**

**Figure 1(4)**  
**MARKMAN'S SIX RULES**

Though no single rule should be considered more important than another, the last one is perhaps the best to remember. Everyone makes mistakes, so strive to learn from the mistakes rather than repeat them. Nonetheless, every mistake may be potential exposure. Acting professionally helps minimize exposure to error, especially when training and common sense are encouraged. Using common sense, exercising reasonable care and acting professionally are no insurance against a lawsuit, but they all may provide considerable protection in the event a lawsuit is filed. No matter how hard everyone tries, someone may sue. When a lawsuit is filed, the most important things to remember are not to take it personally and not to forget the other five rules.

### **Enforcement**

The enforcement duty of the fire code official’s position is composed of four distinct functions: inspection, detection, notification and reporting. All four functions define phases in the enforcement process duties of fire code officials.

During the code enforcement process, structures or premises requiring inspections are identified. Inspectors are assigned and inspections are performed. During these inspections, any code violations found are usually noted. Then, the owner or occupant is verbally advised or notified that the deficiencies noted are code violations. To promote code compliance, the inspector may suggest remedial actions that may be taken to establish compliance. Finally, a written violation notice serving as further notice to the owner or occupant is issued. The written notice also serves as a permanent record or report of the inspection.

## Inspection

Inspections are careful examinations of plans or premises for the presence of fire and life safety hazards. Upon observing a hazardous condition, the fire code official begins a process directed at correcting the situation. This may be accomplished by removing or eliminating the hazardous condition or providing some countermeasure designed to lessen its effects on the property, occupants or neighbors. In the case of inspections, care should imply a systematic method that keeps the inspection process in a proper perspective and recognizes that code enforcement is limited to legal and technical means of pursuing fire safety. Achieving fire safety objectives means using a balanced approach composed of some elements seeking to prevent ignitions and others attempting to control fire effects. Fire safety objectives are not defined by the code but rather by the users. Each jurisdiction must establish what risks and costs are reasonable while pursuing fire safety.

There may be as many different methods of conducting inspections as there are inspectors, and no single method is necessarily the correct one; however, each method probably has some strong and weak points. The following three approaches can form the basis for any number of different inspection techniques:

*Outside to inside:* Beginning outside is not only logical but necessary. Inspectors too often neglect hazards and clues outside the building that suggest significant danger to the occupants. An inspector must ask the following question: "Do the things I see outside match those I see inside?" For example:

- Do doors identified as exits inside actually discharge outside to acceptable refuge areas or the public way?
- Are trash receptacles or other obstructions outside located so the effectiveness of exits is not reduced, or do receptacles alone pose a fire hazard?
- Does the site permit sufficient access for fire-fighter rescue operations and fire suppression?

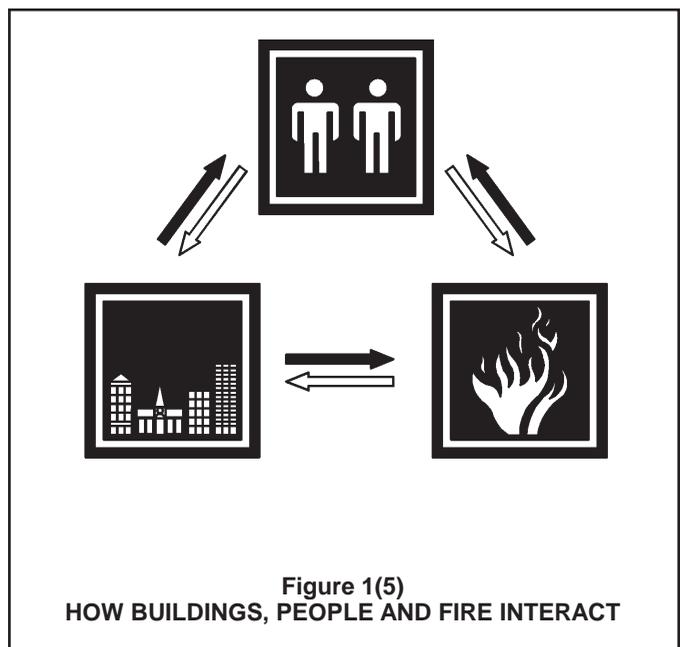
*Top to bottom:* Once inside a structure, deciding where to start is more than a matter of preference. By beginning at the top, an inspector's job becomes easier so that any violations are searched for in all areas. One question inspectors may ask is: "If completeness is the principal criterion, why not start at the bottom and work up?" The answer to this question is that walking down stairs is easier than walking up stairs. This easier path of travel allows the inspector to concentrate more completely on the inspection itself. After performing many inspections, there will not be a need for additional exercise obtained from beginning at the bottom.

*General to specific:* Without constructing a detailed inspection framework, many fire code officials find it helpful to move from the general to the specific when evaluating occupancies and hazards. This helps keep the whole problem in focus while preserving attention to detail. The inspector can focus on a specific problem without losing sight of the "big picture."

## Detection

Systematic inspection procedures, like those described, should aid in the detection of code violations. By keeping the premises, processes or objectives in clear focus, the inspector keeps the task in context. A systematic inspection process implies not only organization but an understanding of the whole process. Achieving fire safety objectives means understanding how structures, premises, occupants and fire interact [see Figure 1(5)]. To keep the system in balance and prevent uncontrolled fires means understanding how people use structures and premises to achieve useful and productive purposes.

In such a context, a fire hazard is anything that either fails to prevent an uncontrolled fire or permits a fire to spread unchecked. Similarly, hazardous conditions are those preventing occupants from escaping or fire fighters from entering a structure and premises to control a fire.



## Notification

Inspection programs cannot identify and abate all hazards. Code enforcement alone cannot secure absolute protection for people and property. Furthermore, many code requirements maintain or reinforce features not intended to prevent a fire but rather minimize a fire's effects should one occur. Every inspection program, therefore, should consider the benefits of educating building owners and occupants about the hazards endangering their lives and property. Not only do such efforts help secure compliance with code requirements but they are likely to secure long-term commitments to fire safety as well. Another equally apt metaphor describes the fire prevention process as the "Three E's:" engineering, education and enforcement. A balanced approach comprised of these three elements can be an especially effective way of achieving desired fire safety objectives.

### Reporting

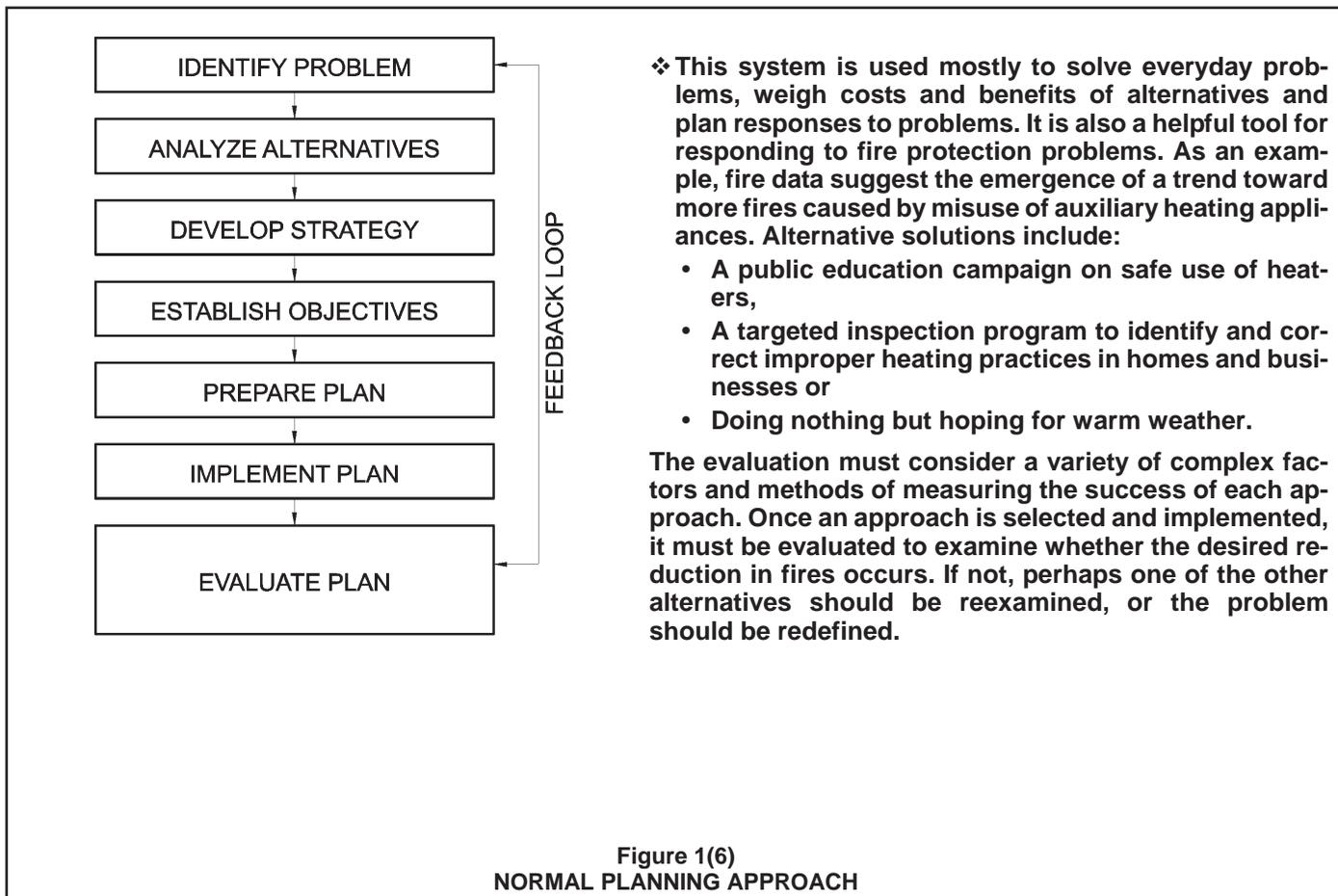
The first three elements of the code enforcement process are directed at identifying and eliminating hazards at their source. Reporting is intended to help document and reinforce the lessons learned from the previous three phases. The words, "If it's not written down, it didn't happen!" reinforce the message that reporting is just as important as any of the other three elements of the code enforcement system. Few people enjoy paperwork. Without documentation, however, prosecuting an effective code enforcement program becomes nearly impossible. Accurate, concise and timely records are essential for both legal and historical reasons. Documenting the inspection and violation history of a particular premises or owner is essential when prosecuting criminal actions under the code provisions.

Figure 1(6) illustrates a systems approach using data generated by fire incidents and inspections to direct code enforcement, public education activities or code development. This approach is equivalent to the one typically used to make ordinary decisions about problems with many competing solutions, plan for the future and consider the cost and benefits of these decisions.

Understanding the code administration process and the environment influencing it allows the fire code official to be more effective. Adhering to the provisions of Chapter 1 not only minimizes the fire code official's liability, but also provides an effective code enforcement program. Just as owners and occupants have obligations under the code, so does the fire code official. Following these procedures enables him or her to identify and respond to the community's needs; thus reducing the community's fire risk.

### Purpose

Chapter 1 establishes provisions to make sure that code administration and enforcement is reasonable, appropriate and fair. This chapter outlines the duties and powers of the fire code official; the scope of the fire code official's authority to enforce the code; the applicability of the document and proofs of compliance; the means of securing compliance with its provisions and procedures for protecting due process rights of applicants, owners, occupants and others affected by the code provisions and the enforcement activities of the fire code official.



## SECTION 101 GENERAL

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

❖ 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. This will make the code applicable to the local jurisdiction. See page v of the code for a sample ordinance for adoption.

**101.2 Scope.** This code establishes regulations affecting or relating to structures, processes, premises and safeguards regarding:

1. The hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices;
2. Conditions hazardous to life, property or public welfare in the occupancy of structures or premises;
3. Fire hazards in the structure or on the premises from occupancy or operation;
4. Matters related to the construction, extension, repair, alteration or removal of fire suppression or alarm systems.

❖ The code does not attempt to achieve perfection by requiring every conceivable or available safeguard for every structure, premises or operation within 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, including loss statistics, relative hazard and the economic and social impact. The code is maintained through the use of a democratic code change process so that everyone affected by these minimum requirements has an equal opportunity to present their concern, both for and against any of the requirements.

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

❖ The code has several appendices, which provide additional information regarding the provisions in the code and additional regulations that are available for adoption if desired by the adopting jurisdiction. If the jurisdiction decides to include any of the appendices as part of the code, each of the appendices to be adopted must be specifically listed in the adoption ordinance for the code. A sample adoption ordinance is on page v of the code.

**101.3 Intent.** The purpose of this code is to establish the minimum requirements consistent with nationally recognized good practice for providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures and premises and to provide safety to fire fighters and emergency responders during emergency operations.

❖ 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 spread of a fire. The intent of the code is to regulate conditions related to the health, safety and welfare of the public; the fire fighters and other emergency responders called upon to conduct emergency operations in or on any building, structure or premises. Note that the code requirements are a minimum (see commentary, Section 101.2 for a discussion on minimum requirements).

**101.4 Severability.** If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

❖ All sections of the code not invalidated by legal action remain in effect. While a dispute over a particular issue (such as hazardous materials quantity limitation) may have caused litigation that resulted in the provision being found unconstitutional, the remainder of the code is still applicable.

**101.5 Validity.** In the event any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions hereof, which are determined to be legal; and it shall be presumed that this code would have been adopted without such illegal or invalid parts or provisions.

❖ 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. Such changes that are necessary to preserve and protect the enforcement authority of the jurisdiction and the public should be instituted through legislative action as soon as practical. Additionally, the International Code Council® (ICC®) offices should be advised of court actions invalidating any code provisions. For the same reason local officials must evaluate the effects of court decisions, the influence of court decisions on the remainder of the code must be evaluated for national impact as well.

## SECTION 102 APPLICABILITY

**102.1 Construction and design provisions.** The construction and design provisions of this code shall apply to:

1. Structures, facilities and conditions arising after the adoption of this code.
2. Existing structures, facilities and conditions not legally in existence at the time of adoption of this code.
3. Existing structures, facilities and conditions when identified in specific sections of this code.

**4. Existing structures, facilities and conditions which, in the opinion of the code official, constitute a distinct hazard to life or property.**

❖ This section establishes the scope of application of the code provisions that regulate construction and design.

Item 1 specifies that the code requirements apply to new construction that occurs following the adoption of the code.

Item 2 means that the 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 those sections in the code that specifically target existing structures, facilities and conditions for retroactive application of certain code requirements ( for example, Sections 505.1, 701.4, 806.1, 903.6 and 1010.1, among others).

Item 4 generally requires the fire code official to determine that a “distinct hazard to life or property” exists prior to enforcing a 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. In cases where enforcement would result in substantial expense to the property owner, such a determination of hazard must be supported by adequate evidence that would be defensible in a court of law. This is true when a building has remained in compliance with the edition of the code under which it was originally constructed.

**102.2 Administrative, operational and maintenance provisions. The administrative, operational and maintenance provisions of this code shall apply to:**

- 1. Conditions and operations arising after the adoption of this code.**
- 2. Existing conditions and operations.**

❖ 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. For example, a dry-cleaning operation that existed when the code was adopted or one that began after the code was adopted would be required to meet the requirements in Chapter 12 regarding dry cleaning.

**[EB] 102.3 Change of use or occupancy. The provisions of the *International Existing Building Code* shall apply to all buildings undergoing a change of occupancy.**

❖ A change in occupancy in an existing structure may change the level of inherent hazards that the code was initially intended to address.

Regardless of whether the change is to an occupancy considered to be more or less hazardous, this section applies the provisions of the *International Existing Building Code*<sup>®</sup> (IEBC<sup>™</sup>) to the structure with the new

occupancy to match the specific requirements of the code to the specific hazards of the new occupancy.

**102.4 Application of building code. The design and construction of new structures shall comply with the *International Building Code*. Repairs, alterations and additions to existing structures shall comply with the *International Existing 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*<sup>®</sup>. When existing buildings change, are altered or increased in area or when compliance with the code requires alterations, additions or modifications, the IEBC regulations and the appropriate fire code official's authority must prevail. This makes it essential that the fire code officials responsible for enforcing the building, existing building and fire codes establish a sound working relationship. Communication is essential to achieve compliance with the fire code official's orders.

**[EB] 102.5 Historic buildings. The construction, alteration, repair, enlargement, restoration, relocation or movement of existing buildings or structures that are designated as historic buildings when such buildings or structures do not constitute a distinct hazard to life or property shall be in accordance with the provisions of the *International Existing Building Code*.**

❖ 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).

As long as the building is not a distinct hazard to life or property, the provisions of the IEBC are to be used for the operations listed in this section of the code.

**102.6 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 45 and such codes and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between the provisions of this code and the referenced standards, the provisions of this code shall apply.**

❖ The application of referenced standards is limited to those portions of the standards that are specifically identified. The code is intended to be in harmony with the referenced standards. If conflicts occur because of scope or purpose, the code text governs.

For example, Section 903.3.1.1.1 includes a list of ex-

emptions from the NFPA 13 requirements; those which override the requirements in NFPA 13.

**102.7 Subjects not regulated by this code. Where no applicable standards or requirements are set forth in this code, or are contained within other laws, codes, regulations, ordinances or bylaws adopted by the jurisdiction, compliance with applicable standards of the National Fire Protection Association or other nationally recognized fire safety standards, as approved, shall be deemed as prima facie evidence of compliance with the intent of this code. Nothing herein shall derogate from the authority of the fire code official to determine compliance with codes or standards for those activities or installations within the code official's jurisdiction or responsibility.**

❖ 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 standard can be approved by the fire code official.

**102.8 Matters not provided for. Requirements that are essential for the public safety of an existing or proposed activity, building or structure, or for the safety of the occupants thereof, which are not specifically provided for by this code shall be determined by the fire code official.**

❖ 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 judgement 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.

**102.9 Conflicting provisions. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.**

❖ This section deals with provisions on the same topic that could be different in technical content. In this instance, the specific provision, which is the one having the narrower scope of application, is to govern.

### SECTION 103 DEPARTMENT OF FIRE PREVENTION

**103.1 General. The department of fire prevention is established within the jurisdiction under the direction of the fire code official. The function of the department shall be the implementation, administration and enforcement of the provisions of this code.**

❖ 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.

**103.2 Appointment. The fire code official shall be appointed by the chief appointing authority of the jurisdiction; and the fire code official shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority.**

❖ A fire code official's independence is essential so that public safety decisions are not based on political, economic or social expediencies. This is not to say that social, political and economic considerations should not weigh in 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.

**103.3 Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the fire code official shall have the authority to appoint a deputy fire code official, other related technical officers, inspectors and other employees.**

❖ 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.

**103.4 Liability. The fire code official, officer or employee charged with the enforcement of this code, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties.**

❖ The fire code official must not be held liable for reasonable and lawful actions taken in accordance with the code. The responsibility of the fire code official in this re-

gard is subject to local, state and federal laws that may supersede this provision. Furthermore, this section establishes that fire code officials or subordinates must not be liable for costs in any legal action in response to the performance of lawful duties. Section 103.4.1 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 supporting the action.

**103.4.1 Legal defense.** Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The fire code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code; and any officer of the department of fire prevention, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

❖ Section 103.4 establishes that fire code officials or subordinates must not be liable for costs in any legal action 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 AND RESPONSIBILITIES

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

❖ 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.

**104.2 Applications and permits.** The fire code official is authorized to receive applications, review construction documents and issue permits for construction regulated by this code, issue permits for operations regulated by this code, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code.

❖ 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.

**104.3 Right of entry.** Whenever it is necessary to make an inspection to enforce the provisions of this code, or whenever the fire code official has reasonable cause to believe that there exists in a building or upon any premises any conditions or violations of this code which make the building or premises unsafe, dangerous or hazardous, the fire code official shall have the authority to enter the building or premises at all reasonable times to inspect or to perform the duties imposed upon the fire code official by this code. If such building or premises is occupied, the fire code official shall present credentials to the occupant and request entry. If such building or premises is unoccupied, the fire code official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the fire code official has recourse to every remedy provided by law to secure entry.

❖ 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 105.2.2. 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.

**104.3.1 Warrant.** When the fire code official has first obtained a proper inspection warrant or other remedy provided by law to secure entry, an owner or occupant or person having charge, care or control of the building or premises shall not fail or neglect, after proper request is made as herein provided, to permit entry therein by the fire code official for the purpose of inspection and examination pursuant to this code.

❖ Very simply, the requirements in this section specify that when the fire code official has obtained a warrant to inspect the property, the owner or occupant is to allow the fire code official entry to do the inspection (see commentary, Section 104.3).

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

❖ 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.

**104.5 Notices and orders. The fire code official is authorized to issue such notices or orders as are required to affect compliance with this code in accordance with Sections 109.1 and 109.2.**

❖ 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.

**104.6 Official records. The fire code official shall keep official records as required by Sections 104.6.1 through 104.6.4. Such official records shall be retained for not less than five years or for as long as the structure or activity to which such records relate remains in existence, unless otherwise provided by other regulations.**

❖ 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 five years, whichever is longer.

**104.6.1 Approvals. A record of approvals shall be maintained by the fire code official and shall be available for public inspection during business hours in accordance with applicable laws.**

❖ Records of prior approvals may be needed to determine the status of an existing operation or could be needed for future validation of a specific condition.

**104.6.2 Inspections. The fire code official shall keep a record of each inspection made, including notices and orders issued, showing the findings and disposition of each.**

❖ 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.

**104.6.3 Fire records. The fire department shall keep a record of fires occurring within its jurisdiction and of facts concerning the same, including statistics as to the extent of such fires and the damage caused thereby, together with other information as required by the fire code official.**

❖ 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.

**104.6.4 Administrative. Application for modification, alternative methods or materials and the final decision of the fire code official shall be in writing and shall be officially recorded in the permanent records of the fire code official.**

❖ 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.

**104.7 Approved materials and equipment. All materials, equipment and devices approved by the fire code official shall be constructed and installed in accordance with such approval.**

❖ The code is a compilation of criteria with which materials, equipment, devices and systems must comply to be 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 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 analysis—not simply taken from a sales brochure.

**104.7.1 Material and equipment reuse. Materials, equipment and devices shall not be reused or reinstalled unless such elements have been reconditioned, tested and placed in good and proper working condition and approved.**

❖ Used materials, equipment and devices are considered to have completed their life span; however, adequate substitutes are occasionally not available for existing items that have become obsolete but still serve a useful and practical purpose. In such cases, existing used equipment should be approved, provided the application is consistent with the purpose for which the equipment was designed, the function is the same as the "new" item, if one were available, and the intended use

can be demonstrated as not compromising the public's safety.

**104.7.2 Technical assistance.** To determine the acceptability of technologies, processes, products, facilities, materials and uses attending the design, operation or use of a building or premises subject to inspection by the fire code official, the fire code official is authorized to require the owner or agent to provide, without charge to the jurisdiction, a technical opinion and report. The opinion and report shall be prepared by a qualified engineer, specialist, laboratory or fire safety specialty organization acceptable to the fire code official and shall analyze the fire safety properties of the design, operation or use of the building or premises and the facilities and appurtenances situated thereon, to recommend necessary changes. The fire code official is authorized to require design submittals to be prepared by, and bear the stamp of, a registered design professional.

❖ No one person has the technical knowledge to evaluate all of the various operations and uses from a safety standpoint. This section provides the code official the authority to require the owner 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

**104.8 Modifications.** Whenever there are practical difficulties involved in carrying out the provisions of this code, the fire code official shall have the authority to grant modifications for individual cases, provided the fire code official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the files of the department of fire prevention.

❖ 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.

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

❖ 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.

The fire code official has the authority to recognize alternative and equivalent methods and materials, provided they maintain the level of protection required by the code. One of the most frequent criticisms of codes is that their provisions apply too broadly to classes of occupancies and, therefore, are incapable of recognizing the inherent dissimilarities within occupancy groups. While some criticism may be justified, it is the fire code official's duty to evaluate scrupulously the conditions in each case, as well as judge whether the intent of the code (to provide the minimum acceptable level of protection to life and property) is met. Fire code officials should, therefore, be prepared to use decision aids, the appeal process and outside experts as needed to show that code requirements are met.

**104.10 Fire investigations.** The fire code official, the fire department or other responsible authority shall have the authority to investigate the cause, origin and circumstances of any fire, explosion or other hazardous condition. Information that could be related to trade secrets or processes shall not be made part of the public record except as directed by a court of law.

❖ The prompt and thorough investigation of fires is important for many reasons, not the least of which is the identification of incendiary fires and prosecution of arsonists. In such cases, the duty of the fire 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 pre-

vent fires, how their effects can be lessened and how persons behave once fires occur. The valuable lessons learned from past tragedies have forged a relationship among the various code organizations across the country.

**104.10.1 Assistance from other agencies. Police and other enforcement agencies shall have authority to render necessary assistance in the investigation of fires when requested to do so.**

- ❖ 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.

**104.11 Authority at fires and other emergencies. The fire chief or officer of the fire department in charge at the scene of a fire or other emergency involving the protection of life or property or any part thereof, shall have the authority to direct such operation as necessary to extinguish or control any fire, perform any rescue operation, investigate the existence of suspected or reported fires, gas leaks or other hazardous conditions or situations, or take any other action necessary in the reasonable performance of duty. In the exercise of such power, the fire chief is authorized to prohibit any person, vehicle, vessel or thing from approaching the scene and is authorized to remove, or cause to be removed or kept away from the scene, any vehicle, vessel or thing which could impede or interfere with the operations of the fire department and, in the judgment of the fire chief, any person not actually and usefully employed in the extinguishing of such fire or in the preservation of property in the vicinity thereof.**

- ❖ 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 is allowed to be at the site so that emergency operations are not hampered.

**104.11.1 Barricades. The fire chief or officer of the fire department in charge at the scene of an emergency is authorized to place ropes, guards, barricades or other obstructions across any street, alley, place or private property in the vicinity of such operation so as to prevent accidents or interference with the lawful efforts of the fire department to manage and control the situation and to handle fire apparatus.**

- ❖ 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.

**104.11.2 Obstructing operations. No person shall obstruct the operations of the fire department in connection with extinguishment or control of any fire, or actions relative to other emergencies, or disobey any lawful command of the**

**fire chief or officer of the fire department in charge of the emergency, or any part thereof, or any lawful order of a police officer assisting the fire department.**

- ❖ This section requires that the 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.

**104.11.3 Systems and devices. No person shall render a system or device inoperative during an emergency unless by direction of the fire chief or fire department official in charge of the incident.**

- ❖ 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. Permits shall be in accordance with Section 105.**

- ❖ This section includes the regulations covering permits including a comprehensive list of the kinds of activities that require permits.

**105.1.1 Permits required. Permits required by this code shall be obtained from the fire code official. Permit fees, if any, shall be paid prior to issuance of the permit. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire code official.**

- ❖ Establishing permit fees is an important political and economic consideration in the code administration environment. A reasonable fee structure should be both fair and collectible. Permit fees may be grouped with other governmental and nontax revenues under various headings, including "impact fees." To the extent that establishments required to obtain a permit represent a higher-than-normal community hazard, this designation may be appropriate. Nontax charges have become increasingly popular methods of financing governmental programs because of recent tax reforms. Separate from the question of fees, this section also requires the permit holder to keep a copy of the permit on the premises at all times and available for inspection. Unless stipulated in the adopting legislation, a permit need not be conspicuously displayed on the premises to meet this requirement but need only be produced on demand.

**105.1.2 Types of permits. There shall be two types of permits as follows:**

**1. Operational permit.** An operational permit allows the applicant to conduct an operation or a business for which a permit is required by Section 105.6 for either:

- 1.1. A prescribed period.
- 1.2. Until renewed or revoked.

**2. Construction permit.** A construction permit allows the applicant to install or modify systems and equipment for which a permit is required by Section 105.7.

❖ The types of activities that require an operational permit are listed in Section 105.6. Construction activities that require a permit are listed in Section 105.7.

**105.1.3 Permits for the same location.** When more than one permit is required for the same location, the fire code official is authorized to consolidate such permits into a single permit provided that each provision is listed in the permit.

❖ The code allows permits for a number of activities to be included on a single permit in order to decrease the paperwork for all concerned. In this instance, the permit must list in detail the activities that are covered by the combined permit.

**105.2 Application.** Application for a permit required by this code shall be made to the fire code official in such form and detail as prescribed by the fire code official. Applications for permits shall be accompanied by such plans as prescribed by the fire code official.

❖ Applications provided by the jurisdiction should be complete, concise and relevant. Though the burden of proof is on the applicant to supply all necessary information to determine compliance with the code provisions, it is the fire code official's duty to request sufficient information to make a reasonable and informed judgement prior to approving a permit.

**105.2.1 Refusal to issue permit.** If the application for a permit describes a use that does not conform to the requirements of this code and other pertinent laws and ordinances, the fire code official shall not issue a permit, but shall return the application to the applicant with the refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reasons for refusal.

❖ This section directs the fire code official not to issue a permit if the application describes a use that does not conform to the requirements of the code. Note that this direction is not advisory. The fire code official would be in violation of the code if a permit were issued in such circumstances.

**105.2.2 Inspection authorized.** Before a new operational permit is approved, the fire code official is authorized to inspect the receptacles, vehicles, buildings, devices, premises, storage spaces or areas to be used to determine compliance with this code or any operational constraints required.

❖ The inspections described in this section are necessary for the fire code official to determine that the application for an operational permit complies with the code prior to

issuing that permit. Operations may not proceed without an operational permit.

**105.2.3 Time limitation of application.** An application for a permit for any proposed work or operation shall be deemed to have been abandoned six months after the date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except that the fire code official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each if there is reasonable cause.

❖ Permit applications lingering indefinitely in an incomplete condition can be an administrative nuisance to the fire code official, while also overburdening the filing system. This section establishes six months as the time limit for the permit applicant to provide the fire code official with sufficient information to evaluate the application and take appropriate action. Six months should normally be more than enough time for an applicant to satisfy code requirements for submittal of construction documents and all other required information.

There may be circumstances, however, that could cause an application to age beyond six months prior to permit issuance, such as awaiting issuance of a report by a quality assurance agency. If the fire code official is satisfied that every effort is being made by the applicant to pursue the application, an extension of time would be acceptable.

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

❖ While the fire code official has the duty to take all necessary and prudent actions to determine the applicant's compliance with the code, the evaluation must be completed promptly. Once the fire code official's review of the application is complete, either a permit will be issued or a written disapproval notice will be given. The disapproval notice must outline the reasons for rejection and should include a list of applicable code sections with which the applicant must comply to obtain approval.

**105.3 Conditions of a permit.** A permit shall constitute permission to maintain, store or handle materials; or to conduct processes which produce conditions hazardous to life or property; or to install equipment utilized in connection with such activities; or to install or modify any fire protection system or equipment or any other construction, equipment installation or modification in accordance with the provisions of this code where a permit is required by Section 105.6 or

**105.7. Such permission shall not be construed as authority to violate, cancel or set aside any of the provisions of this code or other applicable regulations or laws of the jurisdiction.**

❖ In effect, a permit is a contract or covenant between the jurisdiction and the applicant, allowing the applicant to operate, perform, conduct or direct a hazardous operation, process or occupancy. As with all contracts, the terms remain binding for a finite period. This process allows continual review of the applicant's compliance with the contract's terms. Failure to meet the terms of the contract may result in the applicant's forfeiture of the right to conduct or operate the process, operation or occupancy, and subsequently the fire code official may revoke the permit without further notice.

**105.3.1 Expiration. An operational permit shall remain in effect until reissued, renewed, or revoked or for such a period of time as specified in the permit. Construction permits shall automatically become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Before such work recommences, a new permit shall be first obtained and the fee to recommence work, if any, shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original construction documents for such work, and provided further that such suspension or abandonment has not exceeded one year. Permits are not transferable and any change in occupancy, operation, tenancy or ownership shall require that a new permit be issued.**

❖ A construction permit is invalid when 180 days go by without any of the authorized work being done. The permit holder should be notified in writing that the permit is invalid, including the reasons why.

Permits are neither transferable nor assignable because they are agreements between two specific parties: the fire code official, who is acting for the jurisdiction, and the applicant. Any changes amending the application or terms of the original agreement will require a new application and permit approval.

**105.3.2 Extensions. A permittee holding an unexpired permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to be commenced within the time required by this section for good and satisfactory reasons. The fire code official is authorized to grant, in writing, one or more extensions of the time period of a permit for periods of not more than 90 days each. Such extensions shall be requested by the permit holder in writing and justifiable cause demonstrated.**

❖ The significant issue in this section is that an extension of time is to be granted when justifiable cause is demonstrated by the permit applicant. For example, a construction permit might be granted for certain equipment installation, but the equipment might not be received at

the site until after the installation permit expired. To get a time extension, the applicant is to submit a request in writing to the fire code official, including a written explanation of why the work did not proceed within the permit time frame.

**105.3.3 Occupancy prohibited before approval. The building or structure shall not be occupied prior to the fire code official issuing a permit that indicates that applicable provisions of this code have been met.**

❖ The owner of an existing structure may request that the fire code official issue a certificate of occupancy for a structure, provided that there are no pending violations. A final inspection is usually done to verify that the work covered by the permit has been completed in accordance with the code.

**105.3.4 Conditional permits. Where permits are required and upon the request of a permit applicant, the fire code official is authorized to issue a conditional permit to occupy the premises or portion thereof before the entire work or operations on the premises is completed, provided that such portion or portions will be occupied safely prior to full completion or installation of equipment and operations without endangering life or public welfare. The fire code official shall notify the permit applicant in writing of any limitations or restrictions necessary to keep the permit area safe. The holder of a conditional permit shall proceed only to the point for which approval has been given, at the permit holder's own risk and without assurance that approval for the occupancy or the utilization of the entire premises, equipment or operations will be granted.**

❖ The fire code official is allowed to issue a conditional permit prior to the completion of all work. Such a permit is to be issued only when the building or structure is available for safe occupancy prior to full completion. The permit is intended to acknowledge that some building features may not be completed even though the building is safe for occupancy.

**105.3.5 Posting the permit. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire code official.**

❖ Note that this section does not require that the permit be posted, but it is to be kept on the site at all times for inspection by the fire code official.

**105.3.6 Compliance with code. The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the fire code official from requiring the correction of errors in the construction documents and other data. Any addition to or alteration of approved construction documents shall be ap-**

proved in advance by the fire code official, as evidenced by the issuance of a new or amended permit.

- ❖ This section includes an important principle regarding construction documents. The fire code official has the authority to require that errors in construction be corrected, even if the construction is based on documents that were part of the applicant's submittal for a construction permit. Thus, the code requirements are not set aside by approved drawings that may include noncomplying items of construction. Any changes amending the application or construction of the original agreement will require a new application and permit approval.

**105.3.7 Information on the permit. The fire code official shall issue all permits required by this code on an approved form furnished for that purpose. The permit shall contain a general description of the operation or occupancy and its location and any other information required by the fire code official. Issued permits shall bear the signature of the fire code official or other approved legal authorization.**

- ❖ This section describes the form of the permit and requires that it be either signed by the fire code official or otherwise reflect the legal authorization of the jurisdiction. In many jurisdictions, permits are electronically generated and do not require a traditional signature.

**105.4 Construction documents. Construction documents shall be in accordance with this section.**

- ❖ This section states the scope of the sections covering construction documents.

**105.4.1 Submittals. Construction documents shall be submitted in one or more sets and in such form and detail as required by the fire code official. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed.**

- ❖ A detailed description of the work for which an application is made must be submitted in the form and detail required by the fire code official.

Construction documents are to be prepared by a registered design professional when required by state laws that are in effect in the jurisdiction. States have professional registration laws that specify the type of construction work that is to be designed by a registered design professional. The code relies on these state laws to determine when a design professional is required.

The requirement for the preparation of construction documents and the submittal of calculations is specified by the code in several chapters. For example, Section 901.2 specifies that construction documents and calculations are to be submitted for fire protection systems when required by the fire code official.

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

- ❖ Construction documents are not sketches. They are comprehensive drawings, drawn to scale, that provide the details to verify that the work will comply with the code. The permit applicant must be familiar with the code requirements to prepare construction documents that meet code requirements. If the applicant is not familiar with the code, the construction documents will most likely not have sufficient detail to determine compliance and, thus, not be satisfactory as the basis for a permit.

**105.4.3 Applicant responsibility. It shall be the responsibility of the applicant to ensure that the construction documents include all of the fire protection requirements and the shop drawings are complete and in compliance with the applicable codes and standards.**

- ❖ This requirement is similar to the one in Section 901.2 regarding construction documents for fire protection systems.

The requirement in this section regarding shop drawings applies to all types of shop drawings, not just those for fire protection systems. The permit applicant is responsible for the review of the shop drawings, not the fire code official. The permit applicant is also responsible for seeing that the work on the job site complies with the code. Since a lot of the construction work is done in accordance with shop drawings, the applicant should review those drawings for code compliance to make sure field construction complies with the code.

**105.4.4 Approved documents. Construction documents approved by the fire code official are approved with the intent that such construction documents comply in all respects with this code. Review and approval by the fire code official shall not relieve the applicant of the responsibility of compliance with this code.**

- ❖ The applicant is responsible for making sure that construction complies with the code. If approved drawings include errors that do not comply with the code, the fire code official still has the authority to require that the errors be corrected. Thus, it is important that the permit applicant be familiar with the code requirements to prevent preparation of construction documents that do not meet the code.

**105.4.5 Corrected documents. Where field conditions necessitate any substantial change from the approved construc-**

tion documents, the fire code official shall have the authority to require the corrected construction documents to be submitted for approval.

- ❖ It is important that the construction documents include a record of revisions to the construction so that they truly represent the as-built condition. These records are also useful to the permit applicant for future alterations or additions to the facility.

**105.4.6 Retention of construction documents.** One set of construction documents shall be retained by the fire code official until final approval of the work covered therein. One set of approved construction documents shall be returned to the applicant, and said set shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.

- ❖ It is important that a complete, current set of construction documents be kept on the job site at all times. Another set of construction documents is to be kept by the fire code official until final approval of the completed work. The construction documents are part of the official records of the department and should be kept in accordance with Section 104.6.

**105.5 Revocation.** The fire code official is authorized to revoke a permit issued under the provisions of this code when it is found by inspection or otherwise that there has been a false statement or misrepresentation as to the material facts in the application or construction documents on which the permit or approval was based including, but not limited to, any one of the following:

1. The permit is used for a location or establishment other than that for which it was issued.
2. The permit is used for a condition or activity other than that listed in the permit.
3. Conditions and limitations set forth in the permit have been violated.
4. There have been any false statements or misrepresentations as to the material fact in the application for permit or plans submitted or a condition of the permit.
5. The permit is used by a different person or firm than the name for which it was issued.
6. The permittee failed, refused or neglected to comply with orders or notices duly served in accordance with the provisions of this code within the time provided therein.
7. The permit was issued in error or in violation of an ordinance, regulation or this code.

- ❖ The fire code official must revoke all permits shown to be based, all or in part, on any false statement or misinterpretation of fact. An applicant may subsequently re-apply for a permit.

The code specifies seven specific conditions that allow the fire code official to revoke a permit.

**105.6 Required operational permits.** The fire code official is authorized to issue operational permits for the operations set forth in Sections 105.6.1 through 105.6.47.

- ❖ Sections 105.6.1 through 105.6.47 list the conditions requiring operational permits. Many of the items are stated in general terms. The fire code official is to determine whether a specific operation in question is a significant hazard that requires a permit.

The referenced sections of the code indicated in the commentary to Sections 105.6.1 through 105.6.47 are not intended to be all of the requirements that would apply to the operation, but only the unique requirements for that particular operation.

**105.6.1 Aerosol products.** An operational permit is required to manufacture, store or handle an aggregate quantity of Level 2 or Level 3 aerosol products in excess of 500 pounds (227 kg) net weight.

- ❖ See Chapter 28 for code requirements covering aerosol products (see commentary, Section 105.6).

**105.6.2 Amusement buildings.** An operational permit is required to operate a special amusement building.

- ❖ For requirements that apply to special amusement buildings see Sections 202, 907.2.11 and 903.2.15 and Section 411 of the IBC. (see commentary, Section 105.6).

**105.6.3 Aviation facilities.** An operational permit is required to use a Group H or Group S occupancy for aircraft servicing or repair and aircraft fuel-servicing vehicles. Additional permits required by other sections of this code include, but are not limited to, hot work, hazardous materials and flammable or combustible finishes.

- ❖ See Chapter 11 for aviation facility requirements (see commentary, Section 105.6).

**105.6.4 Carnivals and fairs.** An operational permit is required to conduct a carnival or fair.

- ❖ See Section 2401.3 for carnival requirements (see commentary, Section 105.6).

**105.6.5 Battery systems.** A permit is required to install stationary lead-acid battery systems having a liquid capacity of more than 50 gallons (189 L).

- ❖ See Sections 608 and 602.1 for battery system requirements (see commentary, Section 105.6).

**105.6.6 Cellulose nitrate film.** An operational permit is required to store, handle or use cellulose nitrate film in a Group A occupancy.

- ❖ Although cellulose nitrate film is no longer in general use, there are a small number of locations in which this type of film is archived or restored for historical purposes. This section applies to those few locations (see Section 306 for cellulose nitrate film requirements).

**105.6.7 Combustible dust-producing operations.** An operational permit is required to operate a grain elevator, flour starch mill, feed mill, or a plant pulverizing aluminum, coal, cocoa, magnesium, spices or sugar, or other operations producing combustible dusts as defined in Chapter 2.

❖ See Chapter 13 for combustible dust-producing operations (see commentary, Section 105.6).

**105.6.8 Combustible fibers.** An operational permit is required for the storage and handling of combustible fibers in quantities greater than 100 cubic feet (2.8 m<sup>3</sup>).

**Exception:** A permit is not required for agricultural storage.

❖ See Chapter 29 for combustible fiber requirements. The exception is for agricultural storage facilities where the hazard to persons is minimal (see Section 105.6).

**105.6.9 Compressed gases.** An operational permit is required for the storage, use or handling at normal temperature and pressure (NTP) of compressed gases in excess of the amounts listed in Table 105.6.9.

**Exception:** Vehicles equipped for and using compressed gas as a fuel for propelling the vehicle.

❖ See Chapter 30 for compressed gas requirements. The exception exempts vehicles equipped for compressed gas, since the code requirements for compressed gases do not apply to them.

**TABLE 105.6.9  
PERMIT AMOUNTS FOR COMPRESSED GASES**

TYPE OF GAS	AMOUNT (cubic feet at NTP)
Corrosive	200
Flammable (except cryogenic fluids and liquefied petroleum gases)	200
Highly toxic	Any Amount
Inert and simple asphyxiant	6,000
Oxidizing (including oxygen)	504
Toxic	Any Amount

For SI: 1 cubic foot = 0.02832 m<sup>3</sup>.

❖ When the use of indicated compressed gases exceed the amounts indicated in Table 105.6.9, an operational permit is required. The quantities in the table are at normal temperature and pressure (NTP) (see Chapter 30 for compressed gas requirements).

**105.6.10 Covered mall buildings.** An operational permit is required for:

1. The placement of retail fixtures and displays, concession equipment, displays of highly combustible goods and similar items in the mall.
2. The display of liquid- or gas-fired equipment in the mall.
3. The use of open-flame or flame-producing equipment in the mall.

❖ The listed operations in a covered mall building require an operational permit, since they involve a significant hazard to the occupants. See Section 308 for open-flame regulations (see Section 105.6).

**105.6.11 Cryogenic fluids.** An operational permit is required to produce, store, transport on site, use, handle or dispense cryogenic fluids in excess of the amounts listed in Table 105.6.11.

**Exception:** Permits are not required for vehicles equipped for and using cryogenic fluids as a fuel for propelling the vehicle or for refrigerating the lading.

❖ See Chapter 32 for requirements regarding cryogenic fluids. The exception exempts vehicles using cryogenic fluids, since the code requirements do not apply to them.

**TABLE 105.6.11  
PERMIT AMOUNTS FOR CRYOGENIC FLUIDS**

TYPE OF CRYOGENIC FLUID	INSIDE BUILDING (gallons)	OUTSIDE BUILDING (gallons)
Flammable	More than 1	60
Inert	60	500
Oxidizing (includes oxygen)	10	50
Physical or health hazard not indicated above	Any Amount	Any Amount

For SI: 1 gallon = 3.785 L.

❖ Where cryogenic fluids are used in excess of the amounts shown in the table, an operational permit is required. The listed amounts are significantly different inside or outside of a building, since the hazard is greatly reduced if a leak occurs outdoors.

**105.6.12 Cutting and welding.** An operational permit is required to conduct cutting or welding operations within the jurisdiction.

❖ See Chapter 26 for welding requirements (see commentary, Section 105.6).

**105.6.13 Dry cleaning plants.** An operational permit is required to engage in the business of dry cleaning or to change to a more hazardous cleaning solvent used in existing dry cleaning equipment.

❖ See Chapter 12 for dry-cleaning regulations (see commentary, Section 105.6).

**105.6.14 Exhibits and trade shows.** An operational permit is required to operate exhibits and trade shows.

❖ The primary concern is to identify hazardous materials and highly flammable materials that could be involved in an exhibit or booth (see commentary, Section 105.6).

**105.6.15 Explosives.** An operational permit is required for the manufacture, storage, handling, sale or use of any quantity of explosive, explosive material, fireworks, or pyrotechnic special effects within the scope of Chapter 33.

❖ See Chapter 33 for requirements for explosives and fireworks (see commentary, Section 105.6).

**105.6.16 Fire hydrants and valves.** An operational permit is required to use or operate fire hydrants or valves intended for fire suppression purposes which are installed on water systems and accessible to a fire apparatus access road that is open to or generally used by the public.

**Exception:** A permit is not required for authorized employees of the water company that supplies the system or the fire department to use or operate fire hydrants or valves.

❖ An operational permit is required for persons other than authorized employees of the water company or the fire department to operate fire hydrants or valves. This restriction is intended to make sure that the use will not result in a lack of water supply and pressure that may be needed for fire-fighting purposes. The exception allows water company employees or the fire department to use fire hydrants or valves without a permit. Such use is common in order to flush out the piping periodically. When fire departments or fire districts interact with water districts, they should communicate the need for the fire department to use the hydrants and valves for nonemergency situations, such as training. A notification procedure is needed to let the water district know of this planned use.

**105.6.17 Flammable and combustible liquids.** An operational permit is required:

1. To use or operate a pipeline for the transportation within facilities of flammable or combustible liquids. This requirement shall not apply to the off-site transportation in pipelines regulated by the Department of Transportation (DOTn) nor does it apply to piping systems.
2. To store, handle or use Class I liquids in excess of 5 gallons (19 L) in a building or in excess of 10 gallons (37.9 L) outside of a building, except that a permit is not required for the following:
  - 2.1. The storage or use of Class I liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant, unless such storage, in the opinion of the code official, would cause an unsafe condition.
  - 2.2. The storage or use of paints, oils, varnishes or similar flammable mixtures when such liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days.

3. To store, handle or use Class II or Class IIIA liquids in excess of 25 gallons (95 L) in a building or in excess of 60 gallons (227 L) outside a building, except for fuel oil used in connection with oil-burning equipment.
4. To remove Class I or Class II liquids from an underground storage tank used for fueling motor vehicles by any means other than the approved, stationary on-site pumps normally used for dispensing purposes.
5. To operate tank vehicles, equipment, tanks, plants, terminals, wells, fuel-dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used.
6. To place temporarily out of service (for more than 90 days) an underground, protected above-ground or above-ground flammable or combustible liquid tank.
7. To change the type of contents stored in a flammable or combustible liquid tank to a material which poses a greater hazard than that for which the tank was designed and constructed.
8. To manufacture, process, blend or refine flammable or combustible liquids.
9. To engage in the dispensing of liquid fuels into the fuel tanks of motor vehicles at commercial, industrial, governmental or manufacturing establishments.
10. To utilize a site for the dispensing of liquid fuels from tank vehicles into the fuel tanks of motor vehicles at commercial, industrial, governmental or manufacturing establishments.

❖ See Chapter 34 for regulations regarding flammable and combustible liquids (see commentary, Section 105.6).

**105.6.18 Floor finishing.** An operational permit is required for floor finishing or surfacing operations exceeding 350 square feet (33 m<sup>2</sup>) using Class I or Class II liquids.

❖ The concern of this section is the proper use and handling of Class I or Class II liquids that are used in the floor finishing process. If such liquids are not used, an operational permit is not required for floor finishing.

**105.6.19 Fruit and crop ripening.** An operational permit is required to operate a fruit-, or crop-ripening facility or conduct a fruit-ripening process using ethylene gas.

❖ See Chapter 16 for regulations for fruit and crop ripening processes where ethylene gas is used (see commentary, Section 105.6).

**TABLE 105.6.21  
PERMIT AMOUNTS FOR HAZARDOUS MATERIALS**

TYPE OF MATERIAL	AMOUNT
<b>Combustible liquids</b>	See Section 105.6.17
<b>Corrosive materials</b> Gases Liquids Solids	See Section 105.6.9 55 gallons 1000 pounds
<b>Explosive materials</b>	See Section 105.6.15
<b>Flammable materials</b> Gases Liquids Solids	See Section 105.6.9 See Section 105.6.17 100 pounds
<b>Highly toxic materials</b> Gases Liquids Solids	See Section 105.6.9 Any Amount Any Amount
<b>Oxidizing materials</b> Gases Liquids Class 4 Class 3 Class 2 Class 1 Solids Class 4 Class 3 Class 2 Class 1	See Section 105.6.9  Any Amount 1 gallon 10 gallons 55 gallons  Any Amount 10 pounds 100 pounds 500 pounds
<b>Organic peroxides</b> Liquids Class I Class II Class III Class IV Class V Solids Class I Class II Class III Class IV Class V	Any Amount Any Amount 1 gallon 2 gallons No Permit Required  Any Amount Any Amount 10 pounds 20 pounds No Permit Required
<b>Pyrophoric materials</b> Gases Liquids Solids	See Section 105.6.9 Any Amount Any Amount
<b>Toxic materials</b> Gases Liquids Solids	See Section 105.6.9 10 gallons 100 pounds

(continued)

**TABLE 105.6.21—continued  
PERMIT AMOUNTS FOR HAZARDOUS MATERIALS**

TYPE OF MATERIAL	AMOUNT
<b>Unstable (reactive) materials</b> <b>Liquids</b> Class 4 Class 3 Class 2 Class 1 <b>Solids</b> Class 4 Class 3 Class 2 Class 1	Any Amount Any Amount 5 gallons 10 gallons Any Amount Any Amount 50 pounds 100 pounds
<b>Water-reactive Materials</b> <b>Liquids</b> Class 3 Class 2 Class 1 <b>Solids</b> Class 3 Class 2 Class 1	Any Amount 5 gallons 55 gallons Any Amount 50 pounds 500 pounds

For SI: 1 gallon = 3.785 L, 1 pound = 0.454 kg.

**105.6.20 Fumigation and thermal insecticidal fogging.** An operational permit is required to operate a business of fumigation or thermal insecticidal fogging and to maintain a room, vault or chamber in which a toxic or flammable fumigant is used.

❖ See Chapter 17 for fumigation and thermal insecticidal fogging regulations within structures (see commentary, Section 105.6).

**105.6.21 Hazardous materials.** An operational permit is required to store, transport on site, dispense, use or handle hazardous materials in excess of the amounts listed in Table 105.6.21.

❖ See Chapter 27 for the general provisions regarding hazardous materials. Also see Chapters 28 through 44 for regulations regarding a specific hazardous material (see commentary, Section 105.6).

TABLE 105.6.21. See page 1-20.

❖ Where the amounts of hazardous materials in the table are exceeded, an operational permit is required. This applies to the storage, transportation on site, dispensing, use or handling of the hazardous materials that are listed in the table.

**105.6.22 HPM facilities.** An operational permit is required to store, handle or use hazardous production materials.

❖ See Chapter 18 for the regulations regarding semiconductor fabrication facilities (see commentary, Section 105.6).

**105.6.23 High-piled storage.** An operational permit is required to use a building or portion thereof as a high-piled storage area exceeding 500 square feet (46 m<sup>2</sup>).

❖ See Chapter 23 for high-piled storage provisions (see commentary, Section 105.6).

**105.6.24 Hot work operations.** An operational permit is required for hot work including, but not limited to:

1. Public exhibitions and demonstrations where hot work is conducted.
2. Use of portable hot work equipment inside a structure.  
Exception: Work that is conducted under a construction permit.
3. Fixed-site hot work equipment such as welding booths.
4. Hot work conducted within a hazardous fire area.
5. Application of roof coverings with the use of an open-flame device.
6. When approved, the fire code official shall issue a permit to carry out a Hot Work Program. This program allows approved personnel to regulate their facility's hot work operations. The approved personnel shall be trained in the fire safety aspects denoted in this chapter and shall be responsible for issuing permits requiring compliance with the requirements found in Chapter 26. These permits shall be issued only to their employees or hot work operations under their supervision.

❖ See Chapter 26 for hot work regulations. The exception to Item 2 in this section recognizes that work done under a construction permit is already covered by that permit

so an operations permit is not required (see commentary Section 105.6).

**105.6.25 Industrial ovens. An operational permit is required for operation of industrial ovens regulated by Chapter 21.**

❖ See Chapter 21 for regulations regarding industrial ovens (see commentary, Section 105.6).

**105.6.26 Lumber yards and woodworking plants. An operational permit is required for the storage or processing of lumber exceeding 100,000 board feet (8,333 ft<sup>3</sup>) (236 m<sup>3</sup>).**

❖ See Chapter 19 for provisions for lumber yards and woodworking plants (see commentary, Section 105.6).

**105.6.27 Liquid- or gas-fueled vehicles or equipment in assembly buildings. An operational permit is required to display, operate or demonstrate liquid- or gas-fueled vehicles or equipment in assembly buildings.**

❖ See Section 314.4 for requirements regarding liquid- or gas-fueled vehicles inside buildings (see commentary, Section 105.6).

**105.6.28 LP-gas. An operational permit is required for:**

**1. Storage and use of LP-gas.**

**Exception: A permit is not required for individual containers with a 500-gallon (1893 L) water capacity or less serving occupancies in Group R-3.**

**2. Operation of cargo tankers that transport LP-gas.**

❖ See Chapter 38 for liquefied petroleum gas regulations. The exception to Item 1 in this section exempts small tanks commonly found for residential service. Item 2 covers cargo tankers, since they transport LP gas onto premises covered by the code and, therefore, represent a potential hazard.

**105.6.29 Magnesium. An operational permit is required to melt, cast, heat treat or grind more than 10 pounds (4.54 kg) of magnesium.**

❖ See Section 3606 for the code requirements for magnesium (see commentary, Section 105.6).

**105.6.30 Miscellaneous combustible storage. An operational permit is required to store in any building or upon any premises in excess of 2,500 cubic feet (71 m<sup>3</sup>) gross volume of combustible empty packing cases, boxes, barrels or similar containers, rubber tires, rubber, cork or similar combustible material.**

❖ See Section 315 for requirements for miscellaneous combustible material storage (see commentary, Section 105.6).

**105.6.31 Open burning. An operational permit is required for the kindling or maintaining of an open fire or a fire on any public street, alley, road, or other public or private ground. Instructions and stipulations of the permit shall be adhered to.**

**Exception: Recreational fires.**

❖ See Section 307 for open burning provisions. Section 302.1 includes the definition of "Open burning." The exception exempts recreational fires, which are defined in Section 302.1.

**105.6.32 Open flames and torches. An operational permit is required to remove paint with a torch; or to use a torch or open-flame device in a hazardous fire area.**

❖ See Section 308 for regulations regarding open flames (see commentary, Section 105.6).

**105.6.33 Open flames and candles. An operational permit is required to use open flames or candles in connection with assembly areas, dining areas of restaurants or drinking establishments.**

❖ See Section 308 for regulations regarding open flames (see commentary, Section 105.6).

**105.6.34 Organic coatings. An operational permit is required for any organic-coating manufacturing operation producing more than 1 gallon (4 L) of an organic coating in one day.**

❖ The manufacture of organic coatings is addressed in Chapter 20 (see commentary, Section 105.6).

**105.6.35 Places of assembly. An operational permit is required to operate a place of assembly.**

❖ Because of the higher occupant loads found in Group A occupancies, they justify an increased level of scrutiny, such as is provided through the permit process.

**105.6.36 Private fire hydrants. An operational permit is required for the removal from service, use or operation of private fire hydrants.**

**Exception: A permit is not required for private industry with trained maintenance personnel, private fire brigade or fire departments to maintain, test and use private hydrants.**

❖ The purpose of an operational permit for the removal of private fire hydrants is to see that adequate fire hydrants are maintained for use during a fire. The exception allows testing and use of private fire hydrants by trained private industry personnel without an operational permit.

**105.6.37 Pyrotechnic special effects material. An operational permit is required for use and handling of pyrotechnic special effects material.**

❖ See Chapter 33 for fireworks regulations. The definition of "Pyrotechnic special-effect material" is listed in Section 3302 (see commentary, Section 105.6).

**105.6.38 Pyroxylin plastics. An operational permit is required for storage or handling of more than 25 pounds (11 kg) of cellulose nitrate (pyroxylin) plastics and for the as-**

sembly or manufacture of articles involving pyroxylin plastics.

- ❖ See Chapter 42 for requirements regarding pyroxylin (cellulose nitrate) plastics (see commentary, Section 105.6).

**105.6.39 Refrigeration equipment. An operational permit is required to operate a mechanical refrigeration unit or system regulated by Chapter 6.**

- ❖ See Section 606 for mechanical refrigeration regulations (see commentary, Section 105.6).

**105.6.40 Repair garages and motor fuel-dispensing facilities. An operational permit is required for operation of repair garages and automotive, marine and fleet motor fuel-dispensing facilities.**

- ❖ See Chapter 22 for requirements for motor fuel-dispensing facilities and repair garages (see commentary, Section 105.6).

**105.6.41 Rooftop heliports. An operational permit is required for the operation of a rooftop heliport.**

- ❖ See Chapter 11 for aviation facility requirements. Section 1107 contains helistop and heliport requirements (see commentary, Section 105.6).

**105.6.42 Spraying or dipping. An operational permit is required to conduct a spraying or dipping operation utilizing flammable or combustible liquids or the application of combustible powders regulated by Chapter 15.**

- ❖ See Chapter 15 for flammable finish requirements. Section 1504 contains the spray finishing provisions, Section 1505 addresses dipping operations and Section 1507 includes powder coating regulations (see commentary, Section 105.6).

**105.6.43 Storage of scrap tires and tire byproducts. An operational permit is required to establish, conduct or maintain storage of scrap tires and tire byproducts that exceeds 2,500 cubic feet (71 m<sup>3</sup>) of total volume of scrap tires and for indoor storage of tires and tire byproducts.**

- ❖ See Chapter 25 for regulations regarding tire rebuilding and tire storage (see Section 105.6).

**105.6.44 Temporary membrane structures, tents and canopies. An operational permit is required to operate an air-supported temporary membrane structure or a tent having an area in excess of 200 square feet (19 m<sup>2</sup>), or a canopy in excess of 400 square feet (37 m<sup>2</sup>).**

**Exceptions:**

- 1. Tents used exclusively for recreational camping purposes.**
- 2. Fabric canopies open on all sides which comply with all of the following:**
  - 2.1. Individual canopies having a maximum size of 700 square feet (65 m<sup>2</sup>).**

**2.2. The aggregate area of multiple canopies placed side by side without a fire break clearance of not less than 12 feet (3658 mm) shall not exceed 700 square feet (65 m<sup>2</sup>) total.**

**2.3. A minimum clearance of 12 feet (3658 mm) to structures and other tents shall be provided.**

- ❖ See Chapter 24 for requirements for tents and other membrane structures. The first exception in this section exempts recreational camping tents, since they are small, temporary and have few occupants. The second exception exempts relatively small tents that are very low hazard, since they are spaced at least 12 feet (3658 mm) apart.

**105.6.45 Tire-rebuilding plants. An operational permit is required for the operation and maintenance of a tire-rebuilding plant.**

- ❖ See Chapter 25 for regulations regarding tire rebuilding operations (see commentary, Section 105.6).

**105.6.46 Waste handling. An operational permit is required for the operation of wrecking yards, junk yards and waste material-handling facilities.**

- ❖ See Section 315 for miscellaneous combustible materials storage requirements, Section 2704 for provisions regarding the storage of hazardous materials and Section 1908 for provisions regarding yard waste and recycling facilities (see commentary, Section 105.6).

**105.6.47 Wood products. An operational permit is required to store chips, hogged material, lumber or plywood in excess of 200 cubic feet (6 m<sup>3</sup>).**

- ❖ See Section 1908 for requirements regarding the storage and handling of wood chips, hogged material, fines, compost and raw product in association with yard waste and recycling facilities (see commentary, Section 105.6).

**105.7 Required construction permits. The fire code official is authorized to issue construction permits for work as set forth in Sections 105.7.1 through 105.7.12.**

- ❖ This section addresses conditions requiring a construction permit (see Section 105.6). Generally, a construction permit is required when a safety-related system or hazardous material storage is installed or an existing system or facility is modified. Other sections of the code may also apply.

In some cases, the requirements in Sections 105.7.1 through 105.7.12 are stated in only general terms. In these instances, the fire code official is to evaluate the scope of work involved for the modification or installation and determine whether a construction permit is required for the specific project.

**105.7.1 Automatic fire-extinguishing systems. A construction permit is required for installation of or modification to an automatic fire-extinguishing system. Mainte-**

ance performed in accordance with this code is not considered a modification and does not require a permit.

❖ See Chapter 9 for fire protection system requirements. A construction permit is required for the installation or modification of an automatic fire-extinguishing system so that the work can be verified to meet the code requirements, since the system is obviously safety related (see commentary, Section 105.7).

**105.7.2 Compressed gases.** When the compressed gases in use or storage exceed the amounts listed in Table 105.6.9, a construction permit is required to install, repair damage to, abandon, remove, place temporarily out of service, or close or substantially modify a compressed gas system.

Exceptions:

1. Routine maintenance.
2. For emergency repair work performed on an emergency basis, application for permit shall be made within two working days of commencement of work.

The permit applicant shall apply for approval to close storage, use or handling facilities at least 30 days prior to the termination of the storage, use or handling of compressed or liquefied gases. Such application shall include any change or alteration of the facility closure plan filed pursuant to Section 2701.6.3. The 30-day period is not applicable when approved based on special circumstances requiring such waiver.

❖ See Chapter 30 for the requirements for compressed gas systems. Where the volume of the compressed gas presents a significant health hazard and the quantity exceeds the allowed amounts in Table 105.6.9, a permit is needed to trigger construction document submittal, document review and inspections of the work on the system. The exceptions address the need for an exemption for maintenance work and to allow emergency work to proceed immediately.

**105.7.3 Fire alarm and detection systems and related equipment.** A construction permit is required for installation or modification to fire alarm and detection systems and related equipment. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

❖ See Section 907 for fire alarm and detection requirements. A construction permit is required for installation or modification of these systems since they are obviously safety related. A permit is not required for maintenance when no modifications are made to the systems (see commentary, Section 105.7).

**105.7.4 Fire pumps and related equipment.** A construction permit is required for installation of or modification to fire pumps and related fuel tanks, jockey pumps, controllers, and generators. Maintenance performed in accordance with

this code is not considered a modification and does not require a permit.

❖ See Section 913 for requirements regarding fire pumps. A construction permit is required for modification or installation of equipment that is necessary to serve the sprinkler or standpipe system. This construction work must be monitored since these are safety related systems (see commentary, Section 105.7).

**105.7.5 Flammable and combustible liquids.** A construction permit is required:

1. To repair or modify a pipeline for the transportation of flammable or combustible liquids.
2. To install, construct or alter tank vehicles, equipment, tanks, plants, terminals, wells, fuel-dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used.
3. To install, alter, remove, abandon or otherwise dispose of a flammable or combustible liquid tank.

❖ See Chapter 34 for provisions for flammable and combustible liquids. The intent of this section is to require a construction permit for any of the three activities listed, since flammable and combustible liquids are a significant hazard (see commentary, Section 105.7).

**105.7.6 Hazardous materials.** A construction permit is required to install, repair damage to, abandon, remove, place temporarily out of service, or close or substantially modify a storage facility or other area regulated by Chapter 27 when the hazardous materials in use or storage exceed the amounts listed in Table 105.6.21.

Exceptions:

1. Routine maintenance.
2. For emergency repair work performed on an emergency basis, application for permit shall be made within two working days of commencement of work.

❖ A construction permit is needed for hazardous-material-related construction to ensure submittal of construction documents, document review and inspection of the work for code compliance. The exceptions provide exemptions for maintenance work and allow emergency work to proceed immediately, provided the permit application is submitted within two working days of starting the job.

**105.7.7 Industrial ovens.** A construction permit is required for installation of industrial ovens covered by Chapter 21.

Exceptions:

1. Routine maintenance.
2. For repair work performed on an emergency basis, application for permit shall be made within two working days of commencement of work.

❖ A construction permit is required for industrial oven installation so that the requirements in Chapter 21 of the code for industrial ovens can be verified. The exceptions provide exemptions for maintenance work and allow emergency work to proceed immediately, provided the permit is applied for within two working days after work begins.

**105.7.8 LP-gas. A construction permit is required for installation of or modification to an LP-gas system.**

❖ See Chapter 38 for the requirements for liquefied petroleum gas storage, handling and transportation (see commentary, Section 105.7).

**105.7.9 Private fire hydrants. A construction permit is required for the installation or modification of private fire hydrants.**

❖ A construction permit is needed for the installation or modification of private fire hydrants so that they remain in service for fire protection purposes. The water flow rate and pressure capability need to be maintained.

**105.7.10 Spraying or dipping. A construction permit is required to install or modify a spray room, dip tank or booth.**

❖ See Chapter 15 for flammable finish requirements. The spray finishing requirements are in Section 1504, while dipping operations regulations are in Section 1505 (see commentary, Section 105.7).

**105.7.11 Standpipe systems. A construction permit is required for the installation, modification, or removal from service of a standpipe system. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.**

❖ See Section 905 for standpipe system requirements. Construction permits are required for standpipe systems because they are safety-related fire protection systems. Ordinary maintenance that does not involve modifications to the system does not require a construction permit.

**105.7.12 Temporary membrane structures, tents and canopies. A construction permit is required to erect an air-supported temporary membrane structure or a tent having an area in excess of 200 square feet (19 m<sup>2</sup>), or a canopy in excess of 400 square feet (37 m<sup>2</sup>).**

**Exceptions:**

1. Tents used exclusively for recreational camping purposes.
2. Funeral tents and curtains or extensions attached thereto, when used for funeral services.
3. Fabric canopies and awnings open on all sides which comply with all of the following:
  - 3.1. Individual canopies shall have a maximum size of 700 square feet (65 m<sup>2</sup>).

**3.2. The aggregate area of multiple canopies placed side by side without a fire break clearance of not less than 12 feet (3658 mm) shall not exceed 700 square feet (65 m<sup>2</sup>) total.**

**3.3. A minimum clearance of 12 feet (3658 mm) to structures and other tents shall be maintained.**

❖ See Chapter 24 for requirements regarding tents and other membrane structures. The exceptions are for tents where the hazard is very low. They provide needed exemptions for tents used for recreational camping and funerals. Relatively small fabric canopies and awnings that are open on all sides and are located a minimum of 12 feet (3658 mm) apart are also exempt.

## SECTION 106 INSPECTIONS

**106.1 Inspection authority. The fire code official is authorized to enter and examine any building, structure, marine vessel, vehicle or premises in accordance with Section 104.3 for the purpose of enforcing this code.**

❖ 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.

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.

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 provi-

sions 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 items or information is sought; its relevance to the case against the individual subject; how knowledge of the relevance of the information or items sought was obtained and how the evidence sought will be used. In all such cases, the right to privacy must always be weighed against the right of the 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.

**106.2 Inspections.** The fire code official is authorized to conduct such inspections as are deemed necessary to determine the extent of compliance with the provisions of this code and to approve reports of inspection by approved agencies or individuals. All reports of such inspections shall be prepared and submitted in writing for review and approval. Inspection reports shall be certified by a responsible officer of such approved agency or by the responsible individual. The fire code official is authorized to engage such expert opinion as deemed necessary to report upon unusual, detailed or complex technical issues subject to the approval of the governing body.

❖ This section establishes the fire code official's duty to inspect every building, structure or premises of the jurisdiction to verify that the requirements of the code are met. This section does not, however, establish the frequency of inspections. The code does not presume to interpret each jurisdiction's political, social and economic priorities. Every jurisdiction is likely to establish different inspection priorities and frequencies based on 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 involved if a fire occurs. In brief, each community determines and assumes its own acceptable risk level. This is not to say, however, that every segment of each community will agree on such determination.

**106.3 Concealed work.** Whenever any installation subject to inspection prior to use is covered or concealed without having first been inspected, the fire code official shall have the

**authority to require that such work be exposed for inspection.**

❖ This section addresses the procedure that is available to the fire code official for inspection of concealed work. In many jurisdictions, the contractor of a construction project is to contact the local inspection department when work is completed but still exposed to allow inspection. If the work that requires inspection is covered up before the inspection takes place, the fire code official has the authority to require removal of the construction that conceals the item to be inspected. Obviously this can be a timely and expensive procedure that can be eliminated by good communication and cooperation between the contractor and the inspection department of the jurisdiction.

## SECTION 107 MAINTENANCE

**107.1 Maintenance of safeguards.** Whenever or wherever any device, equipment, system, condition, arrangement, level of protection, or any other feature is required for compliance with the provisions of this code, or otherwise installed, such device, equipment, system, condition, arrangement, level of protection, or other feature shall thereafter be continuously maintained in accordance with this code and applicable referenced standards.

❖ 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 the party 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; and
- The owner expects profitability after incurring the additional expense of complying with the code.

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 in-

stalled" 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.

**107.2 Testing and operation. Equipment requiring periodic testing or operation to ensure maintenance shall be tested or operated as specified in this code.**

- ❖ 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.

**107.2.1 Test and inspection records. Required test and inspection records shall be available to the fire code official at all times or such records as the fire code official designates shall be filed with the fire code official.**

- ❖ 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.

**107.2.2 Reinspection and testing. Where any work or installation does not pass an initial test or inspection, the necessary corrections shall be made so as to achieve compliance with this code. The work or installation shall then be resubmitted to the fire code official for inspection and testing.**

- ❖ This section simply requires that an installation be of such quality that it will pass any tests or inspections required by the code. For example, if a fire alarm system did not pass the installation test upon completion of the system, the system is to be reworked until it passes the test.

**107.3 Supervision. Maintenance and testing shall be under the supervision of a responsible person who shall ensure that such maintenance and testing are conducted at specified intervals in accordance with this code.**

- ❖ Maintenance supervision is needed to verify that the testing and general supervision is done regularly. Section 901.6 states code requirements regarding testing and maintenance of the fire protection systems.

**107.4 Rendering equipment inoperable. Portable or fixed fire-extinguishing systems or devices and fire-warning systems shall not be rendered inoperative or inaccessible except as necessary during emergencies, maintenance, repairs, alterations, drills or prescribed testing.**

- ❖ If fire protection systems are going to be effective when needed, they must be in good operating condition. This section specifies those circumstances when they are al-

lowed to be temporarily out of service. See Section 901.6 for code requirements regarding testing and maintenance of the fire protection systems.

**107.5 Owner/occupant responsibility. Correction and abatement of violations of this code shall be the responsibility of the owner. If an occupant creates, or allows to be created, hazardous conditions in violation of this code, the occupant shall be held responsible for the abatement of such hazardous conditions.**

- ❖ Hazards related to use and occupancy, and not those related to fixed equipment or installations, fall within the scope of the occupant's responsibility. Owners, 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 constitutes an owner's, rather than an occupant's, responsibility is whether or not the issue involves fixed equipment installations or if the structure is separate from those items related to occupancy. The owner is usually responsible for the physical maintenance of the building or structure and its utilities and appurtenances (that is, building services and systems).

**107.6 Overcrowding. Overcrowding or admittance of any person beyond the approved capacity of a building or a portion thereof shall not be allowed. The fire code official, upon finding any overcrowding conditions or obstructions in aisles, passageways or other means of egress, or upon finding any condition which constitutes a life safety hazard, shall be authorized to cause the event to be stopped until such condition or obstruction is corrected.**

- ❖ The key to enforcing this provision successfully is good judgement. 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 in order to limit 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 108 BOARD OF APPEALS

**108.1 Board of appeals established.** In order to hear and decide appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The fire code official shall be an ex officio member of said board but shall have no vote on any matter before the board. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the fire code official.

❖ This section provides an objective forum for settling disputes regarding the application or interpretation of the 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.

**108.2 Limitations on authority.** An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent method of protection or safety is proposed. The board shall have no authority to waive requirements of this code.

❖ This section states the scope of the issues that are to be addressed by the board of appeals and limits their 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.

**108.3 Qualifications.** The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to hazards of fire, explosions, hazardous conditions or fire protection systems and are not employees of the jurisdiction.

❖ It is important that the decisions of the appeals board are based purely on the technical merits involved in an appeal; it is not the place for policy or political deliberations. The members of the appeals board are, therefore, expected to have experience in 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 appeals board members and can be adopted by jurisdictions desiring that level of expertise (see commentary, Appendix A).

## SECTION 109 VIOLATIONS

**109.1 Unlawful acts.** It shall be unlawful for a person, firm or corporation to erect, construct, alter, repair, remove, demolish or utilize a building, occupancy, premises or system regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

❖ Section 109 establishes that compliance with the code is required, and what measures are to be taken for noncompliance.

**109.2 Notice of violation.** When the fire code official finds a building, premises, vehicle, storage facility or outdoor area that is in violation of this code, the fire code official is authorized to prepare a written notice of violation describing the

- Personal to violator.
- Personal to party at premises.
- Certified mail with return receipt.
- First-class mail with certificate of mailing.
- Posting at the premises.

**Figure 109.2.1  
SERVICE METHODS**

**conditions deemed unsafe and, when compliance is not immediate, specifying a time for reinspection.**

❖ 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 occupant 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, what must be done to correct the violation and when the work must be completed. 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 he or she should provide a space for the owner, agent or occupant's 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.

**109.2.1 Service.** A notice of violation issued pursuant to this code shall be served upon the owner, operator, occupant, or other person responsible for the condition or violation, either by personal service, mail, or by delivering the same to, and leaving it with, some person of responsibility upon the premises. For unattended or abandoned locations, a copy of such notice of violation shall be posted on the premises in a conspicuous place at or near the entrance to such premises and the notice of violation shall be mailed by certified mail with return receipt requested or a certificate of mailing, to the last known address of the owner, occupant or both.

❖ Service methods are listed by order or preference. Personal service of the owner at the premises cited, followed by the agent and occupant, with a signature acknowledging receipt, is the first and best method of legal service. 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 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 a 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 (see Figure 109.2.1).

**109.2.2 Compliance with orders and notices.** A notice of violation issued or served as provided by this code shall be complied with by the owner, operator, occupant or other person responsible for the condition or violation to which the notice of violation pertains.

❖ 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 109 for what is to be done if this does not occur.

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

❖ The duty to pursue legal remedies through judicial due process is established by this section. Local prosecutors and fire code officials should establish poli-

cies covering the following issues regarding judicial due process proceedings:

- Length of compliance period for representative violations;
- Quality or quantity of progress toward compliance warranting an extension or representing reasonable intent to comply;
- Whether court filings should be sought during the appeal application period;
- Rules for obtaining arrest warrants for code violations; and
- Rules for obtaining administrative and criminal search warrants.

The cooperation of the police department and other law enforcement agencies should be coordinated in advance. When necessary to enforce the code provisions, arrangements should be made to have police or other law enforcement personnel make arrests for code violations or ignoring the lawful orders of the fire code official.

**109.2.4 Unauthorized tampering. Signs, tags or seals posted or affixed by the fire code official shall not be mutilated, destroyed or tampered with or removed without authorization from the fire code official.**

❖ 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 fire code official remaining in place.

**109.3 Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a [SPECIFY OFFENSE], punishable by a fine of not more than [AMOUNT] dollars or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.**

❖ Penalties for violating code provisions must be established in adopting legislation. The specification of the offense, the dollar amount for the fine and the maximum number of days of imprisonment are to be specific in the adopting ordinance of the jurisdiction. See page v in the front of the code for details.

The code does not establish penalties for violations. The jurisdiction's judicial and legislative bodies should work with the fire code official to establish reasonable and equitable penalties for violators. The penalties set for individual violations should be representative of the severity of the act committed and the culpability of the violator. Once served with a violation notice, the violator becomes guilty of a separate offense for each day the violation continues to exist; however, most prosecutors and courts are reluctant to impose this penalty for days during the compliance period.

Many violators wrongly assume that the Seventh

Amendment of the U.S. Constitution, which offers protection against double jeopardy, exempts them from compliance once they have paid or served their sentence for a previous fire code violation. This is certainly not the case. Most courts reinforce the compliance requirement in such cases by making compliance a condition for completing the sentence. Failure to comply with the judge's order mandating compliance may result in a contempt of court charge.

**109.3.1 Abatement of violation. In addition to the imposition of the penalties herein described, the fire code official is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.**

❖ Even though the person who violated the code has paid a fine and whatever other sentence that may be imposed for the jurisdiction under Section 109.3, 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 non-compliance prior to the occupancy of the building.

## SECTION 110 UNSAFE BUILDINGS

**110.1 General. If during the inspection of a premises, a building or structure or any building system, in whole or in part, constitutes a clear and inimical threat to human life, safety or health, the fire code official shall issue such notice or orders to remove or remedy the conditions as shall be deemed necessary in accordance with this section and shall refer the building to the building department for any repairs, alterations, remodeling, removing or demolition required.**

❖ The fire code official is required to order the correction or abatement of specific hazardous conditions. The conditions listed in Section 110.1.1 represent many of the most common hazardous conditions encountered. Specific requirements supporting each of these objectives are found throughout the code.

**110.1.1 Unsafe conditions. Structures or existing equipment that are or hereafter become unsafe or deficient because of inadequate means of egress or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. A vacant structure which is not secured against unauthorized entry as required by Section 311 shall be deemed unsafe.**

❖ The fire code official is required to report unsafe buildings to the building official to secure abatement of un-

safe 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. Jurisdictions should consult legal counsel and adopt appropriate guidelines before engaging in a nuisance abatement program.

**110.1.2 Structural hazards. When an apparent structural hazard is caused by the faulty installation, operation or malfunction of any of the items or devices governed by this code, the fire code official shall immediately notify the building code official in accordance with Section 110.1.**

❖ 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.

**110.2 Evacuation. The fire code official or the fire department official in charge of an incident shall be authorized to order the immediate evacuation of any occupied building deemed unsafe when such building has hazardous conditions that present imminent danger to building occupants. Persons so notified shall immediately leave the structure or premises and shall not enter or re-enter until authorized to do so by the fire code official or the fire department official in charge of the incident.**

❖ 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.

**110.3 Summary abatement. Where conditions exist that are deemed hazardous to life and property, the fire code official or fire department official in charge of the incident is authorized to abate summarily such hazardous conditions that are in violation of this code.**

❖ As indicated in the commentary to Section 110.1.1, the fire code official is authorized to seek abatement action by the building department and bill the owner for the 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 110.4.

ADMINISTRATION

**110.4 Abatement.** The owner, operator, or occupant of a building or premises deemed unsafe by the fire code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

- ❖ 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, operator or occupant should take abatement measures to correct the unsafe condition. If this is not done promptly, however, 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 110.1.1 and 110.3.

immediate measures should be taken to correct the work at issue.

**111.4 Failure to comply.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars.

## SECTION 111 STOP WORK ORDER

**111.1 Order.** Whenever the fire code official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the fire code official is authorized to issue a stop work 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.

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

- ❖ 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.

**111.3 Emergencies.** Where an emergency exists, the fire code official shall not be required to give a written notice prior to stopping the work.

- ❖ 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,

❖ 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. See the sample ordinance for the adoption of the code on page v in the front of the code for details.

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# Chapter 2: Definitions

## General Comments

All terms defined in the code are listed alphabetically in Chapter 2. The actual definitions of the terms are located as follows:

Where a term is used in more than one chapter, its definition appears in Chapter 2.

Where a term is unique or primarily pertains to a single chapter, its definition appears within that chapter. In many chapters, the second section is devoted to definitions. For example, definitions applicable to means of egress are found in Section 1002.

## Purpose

Codes by their very nature are technical documents. Literally every word, term and punctuation mark can add to

or change the meaning of the intended result. If a definition is specific to a certain chapter of the code, only a reference to the definition will be noted in the alphabetical listing of the term in this chapter.

Furthermore, the code, with its broad scope of applicability, includes terms that have a different meaning than the generally accepted meaning of the term. Additionally, these terms can have multiple meanings depending on the context or discipline in which they are being used.

For these reasons, maintaining a consensus on the specific meaning of terms contained in the code is essential. Chapter 2 performs this function by stating clearly what specific terms mean for the purpose of the code.

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## SECTION 201 GENERAL

**201.1 Scope.** Unless otherwise expressly stated, the following words and terms shall, for the purposes of this code, have the meanings shown in this chapter.

❖ This section contains the definitions for application of the code. As noted, when the definition is specific to a certain chapter within the code, the term is listed with a reference to the chapter where it is applied. If a term is used generally within the code, the term is defined in Chapter 2.

**201.2 Interchangeability.** Words used in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

❖ While the definitions are to be taken literally, gender and tense are to be considered interchangeable.

**201.3 Terms defined in other codes.** Where terms are not defined in this code and are defined in the *International Building Code*, *International Fuel Gas Code*, *International Mechanical Code* or *International Plumbing Code*, such terms shall have the meanings ascribed to them as in those codes.

❖ This section states that when a term is not defined in the code but is defined in another volume of the *Internation-*

*ional Code Family*<sup>®</sup>, the meaning found in those codes can be used. This adds consistency to the application of the codes.

**201.4 Terms not defined.** Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies. *Webster's Third New International Dictionary of the English Language, Unabridged*, shall be considered as providing ordinarily accepted meanings.

❖ Another resource for defining words or terms not defined within the code or other *International Codes*<sup>®</sup> is simply their "ordinarily accepted meaning." With some words, a dictionary definition may be sufficient, if the definition is applied within an appropriate context. Not all dictionaries, however, define words the same and not all parts of this country apply the same meanings to all words. The dictionary referenced in this section provides a standardized resource for defining terms and establishing "ordinarily accepted" meanings of words, thus reducing the likelihood of inconsistent enforcement of the code.

Some terms used throughout the code may not be defined in Chapter 2 or in a dictionary. In those cases, the user should first turn to the definitions contained in the referenced standards (see Chapter 45) and then to published textbooks on the subject in question.