



OHIO BOARD OF BUILDING STANDARDS

COMMENTARY OBC CHAPTER 1 - ADMINISTRATION



January 2015

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COMMENTARY

OBC CHAPTER 1 - ADMINISTRATION

INTRODUCTION:

In 1973, the Ohio Building Officials Association (OBOA) requested the Board of Building Standards to adopt a national model code in place of the Ohio Building Code (OBC). The OBC had originally been developed by the Board in conjunction with several professors at Case Western University and the University of Akron in the 1950's. OBOA made this request because the Board had not continued to update the building code since 1971. After receiving the request, the Board decided that it would explore having the Building Construction Laboratory at Ohio State University update the existing code.

In 1976, there was a change in administrations. OBOA again requested the Board to adopt one of the national model building codes. The Board instructed staff to compare the ICBO uniform code, the BOCA national code, and the SBCCI southern standard code. In 1977, the Board held a series of open hearings (hearings open to the public, but not mandated by the Ohio Administrative Procedures Act) to get input from the building construction industry and from the code enforcement agencies. In 1978, the Board decided to use the BOCA National Building and Mechanical Model Codes. Staff changed those sections of the basic model codes that conflicted with the Ohio Revised Code (statutory law) to bring it into compliance with the General Assembly's legislation. Rule filings were then done in accordance with Sections 119.03 and 119.04, Ohio Revised Code, and a public hearing was held. After public hearing, the Board adopted the Ohio Basic Building Codes, based upon the BOCA model codes, on September 29, 1978. The Board set an effective date of July 1, 1979, for the OBBC.

The July 1, 1979, effective date was set to allow the building construction industry, design professionals, and enforcement agencies to familiarize and educate themselves concerning the code. The Board also made several major changes to the original adoption in May and June, 1979, as a result of industry input. The enforcement agency at the state level (Ohio has a dual enforcement system; i.e., local governments have the option of being certified to enforce the state code and, if they don't, a state agency does the enforcement) allowed plans to be submitted between July 1, 1979, and September 30, 1979, under either OBC (the outgoing code) or under OBBC, the new code. This allowed for a smooth transition.

Since that time the Ohio Board of Building Standards has adopted building code requirements based upon BOCA and ICC model code documents that were modified to be consistent with Ohio law. The adoption history for the codes is shown in the table below.

KEY:

The code text of Chapter One is shown in bold text and the commentary text is usually located below the code text and is italicized and boxed as shown below:

101.2 Scope. The provisions of the Ohio Building Code shall apply to

↑
Code Text

This provision requires one copy of the approved construction documents to

↑
Commentary Text

CODE ADOPTION HISTORY:

BBS CODE ADOPTION HISTORY

Effective Date:	Code	OBBC & OMC Based Upon:
1 July 1979	Building Mechanical	1978 BOCA - 7th Edition 1978 BOCA - 3rd Edition
1 January 1981	Supplement	1980 BOCA
1 July 1982	Building Mechanical	1981 BOCA - 8th Edition and 1982 Supplement 1981 BOCA - 4th Edition and 1982 Supplement
1 March 1985	Building Mechanical	1984 BOCA - 9th Edition 1984 - 5th Edition
1 March 1986	Supplement	1985 BOCA
January 1989	Building Mechanical	1987 BOCA - 10th Edition 1987BOCA - 6th Edition
1 September 1992	Building Mechanical	1990 BOCA - 11th Edition 1990 BOCA - 7th Edition
1 July 1995	Building Mechanical	1993 BOCA -12th Edition 1993 BOCA - 8th Edition
1 March 1998	Building Mechanical Plumbing	1996 BOCA - 13th Edition 1996 IMC - 1st Edition 1995 IPC - 1st Printing
1 January 2002	Building Mechanical Plumbing	2000 IBC – 1 st Edition and March 2001 Supplement and ICC Errata 2000 IMC – 1 st Edition and March 2001 Supplement and ICC Errata 2000 IPC – 1 st Edition and March 2001 Supplement and ICC Errata
1 March 2005	Building Mechanical Plumbing	2003 IBC – 1 st Printing and ICC Errata 2003 IMC – 2 nd Printing and ICC Errata 2003 IPC – 2 nd Printing and ICC Errata
1 July 2007	Building Mechanical Plumbing	2006 IBC – 1 st Printing and ICC Errata 2006 IMC – 1 st Printing and ICC Errata 2006 IPC – 1 st Printing and ICC Errata
1 November 2011	Building Mechanical Plumbing	2009 IBC – 1 st Printing and ICC Errata 2009 IMC – 1 st Printing and ICC Errata 2009 IPC – 1 st Printing and ICC Errata

During the years of work on building department and personnel certification, education and training, and code development, any guidance on the intent of the “Ohioized” provisions board had never existed. This document is intended to take steps in filling that void.

As a commentary on the administrative chapter of the Ohio Building Code, the Board of Building Standards and Board staff has attempted to put together, in one place, information that will assist the enforcement and user communities in improving their understanding of the intent of the provision of the Ohio requirements. Future work will expand this document into those other areas of the codes where, because changes to the model code language have been needed in Ohio, the intent cannot be learned from the model code commentary documents.

Concurrent with the update of the Ohio codes, the Board has modified the administrative chapter to more clearly communicate the duties and responsibilities of certified entities as well as inform code users of the intent of the code and its enforcement procedures. This was done to make the code easier for users to navigate, to make it easier for users to understand the code enforcement procedures, and to explain the duties and responsibilities of all the participants in the code compliance process.

OBC KEY WORDS:

It is our hope and intent that this information - one aspect of the Board's work to fulfill its responsibilities in law as described in Section 101.3 below - will be useful to the code user. These words and their definitions are a critical part of developing an understanding of the purpose, intent, and philosophy of code enforcement in Ohio.

Agricultural building. A structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public (see "agricultural purposes," section 101.2, and section 312 of this code).

Agricultural purposes: Includes agriculture, farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, ornamental horticulture, olericulture, pomiculture, animal and poultry husbandry, etc.

The previous two definitions assist in determining those structures, along with one-, two-, or three-family dwellings, that are exempted from the jurisdiction of the OBC pursuant to ORC 3781.06. Refer to 101.2 below.

Apiculture – beekeeping; Viticulture – grape-growing; Floriculture – flower-growing; Olericulture – vegetable-growing; Pomiculture – fruit-growing

Building official: The superintendent of the division of industrial compliance of the Ohio department of commerce or the person appointed by the superintendent to enforce the OBC in that division, or the designated authority charged with the administration and enforcement of this code, approved by the Board of Building Standards in accordance with section 103 of the OBC, in a municipal corporation, township or county having a building department, certified by the board of building standards pursuant to section 3781.10 of the revised code, or the health commissioner or his authorized representative in health districts, whichever one has jurisdiction.

In certified municipal building departments it is relatively easy to determine the identity of the building official. In certified township or county building departments, however, there is an unusual complication that must be understood because of its impact on the issuance of plan approvals, inspections, and certificates of occupancy.

While certified municipal building departments have the right to employ plumbing inspectors, certified township and county building departments do not. Plumbing plan review, approval, and inspections are the jurisdiction of the county health district. The plumbing inspector employed by the county or city Board of health has exclusive jurisdiction to enforce the provisions of the plumbing code. Unlike plan review under the building and mechanical parts of the building code, the plumbing inspector of the county Board of health does plan review as well as inspections. Appeals of any orders are heard solely by the Ohio Board of Building Appeals pursuant to Sections 3781.031 and 3781.19, Revised Code.

There are 156 plumbing inspectors employed by 81 certified municipal building departments and 87 plumbing inspectors employed by 39 health districts in Ohio.

Building service equipment: Equipment, materials, devices, and systems integrated into a building which provide air conditioning, fire protection, lighting, electricity, sanitation, water, space heating, ventilation and other media such as gases and fluids for use within a building. Processing equipment is not part of the building service equipment. Building service equipment begins from the utility supply/connection point through point of use but does not include processing equipment.

Building services piping. All piping systems and their component parts that are part of a building system and that promote the safe, sanitary, and energy efficient occupancy of a building. Building services piping includes, but is not limited to, cold and hot potable water distribution for plumbing fixtures; sanitary lines from plumbing fixtures; nonflammable medical gas systems; medical oxygen systems; medical vacuum systems; fire protection piping systems and compressed air in dry systems; refrigeration, chilled water, condenser and cooling tower water, brine, and water/antifreeze systems; steam, steam condensate, and hot water piping systems; and fuel oil piping and fuel gas piping for heating, cooling, and cooking applications.

The construction codes in Ohio were authorized to protect public health and safety by establishing standards for buildings. This can only be accomplished by assessing the risks inherent in the type of construction, how the building is to be occupied, and its size. To manage these risks, the codes establish levels of safety for these risk factors and put in place building equipment and systems to manage the associated risks. These systems and equipment include all the systems integrated into the building such as air conditioning, fire protection, lighting, electrical distribution, sanitation, transportation, egress, water supply, space heating, ventilation, and other systems for use within a building. Because of the interrelation of these systems in managing risks, no one system should be seen as independent of the others. The ascertainment of compliance with the codes by the building department of the design, approval, installation, inspection, and testing of these systems is an important part of code enforcement. A proper

understanding of the terms Building Service Equipment and Building Services Piping will provide a clear understanding of the extent of the jurisdiction of the building, mechanical, and plumbing codes.

Construction documents: Written, graphic and pictorial documents prepared or assembled for describing the design, location and physical characteristics of the elements of a project necessary for obtaining plan approval in accordance with section 106.

Dwelling: A structure consisting exclusively of three or fewer dwelling units, with or without garages or accessory spaces, used, intended, or designed to be used, for living purposes.

Fire prevention: The preventative measures which provide for the safe conduct and operation of hazardous processes, storage of combustible and flammable materials, conducting of fire drills and the maintenance of fire protection, detection and extinguishing service equipment and good housekeeping conditions. Refer to Sections 101.4.4 and 104.1(1) below.

Industrialized unit: As used herein means an assembly of materials or products manufactured in such a manner that its structural, plumbing, electrical, environmental control, or fire protection elements or components are concealed and are not readily accessible for inspection at the site of its intended use, without disassembly, damage, or destruction.

Minor repair: The reconstruction or renewal of any part of an existing building for the purpose of its maintenance when the work has limited impact on access, safety or health. Minor repairs do not include the cutting away of any wall, partition or portions of walls, the removal or cutting of any structural beam or load bearing support, or the removal or change of any required element of accessibility, means of egress, or rearrangement of parts of a structure affecting the egress requirements. Minor repairs do not include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

Minor repair is an often-misused term assigned to work that should clearly be described via construction documents, submitted to a certified building department for review and approval, and subject to inspections. The term is here defined in both the positive and in the negative. By stating what minor repair is not, the definition virtually creates a checklist for determining when work is subject to the Ohio's construction codes. As defined, if the work involves:

- 1. The cutting away of any wall, partition or portions of walls,*
- 2. The removal or cutting of any structural beam or load bearing support,*
- 3. The removal or change of any required element of accessibility,*
- 4. The removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements,*
- 5. The addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping,*
- 6. The addition to, alteration of, replacement or relocation of any electric wiring,*
- 7. The addition to, alteration of, replacement or relocation of any mechanical, or*
- 8. Work affecting public health or general safety,*

it is not minor in nature and is subject to the code the requirements for document submission, approval, and inspections. True minor repair does have a minor impact on access, safety, or health.

Power piping. Piping systems and their component parts that are not building services piping systems, and that may be installed within electric power generating stations, industrial and institutional plants, utility geothermal heating systems, and central and district heating and cooling systems. Power piping includes, but is not limited to, piping used in the distribution of plant and process steam at boiler pressures greater than fifteen pounds per square inch gauge, high temperature water piping from high pressure and high temperature boilers, power boiler steam condensate piping, high pressure and high temperature water condensate piping, and compressed air and hydraulic piping upstream of the first stop valve off a system distribution header.

Process piping. Piping systems and their component parts that are not building services or power piping systems and that may be installed in petroleum refineries; chemical, pharmaceutical, textile, paper, semiconductor, and cryogenic plants; and related processing plants and terminals.

Safe. As applied to a building, means free from danger or hazard to the life, safety, health or welfare of persons occupying or frequenting it, or of the public, and from danger of settlement, movement, disintegration, or collapse, whether such danger arises from the method or materials of its construction or from equipment installed therein, for the purpose of lighting, heating, the transmission or utilization of electric current, or from its location or otherwise.

Sanitary: As applied to a building, means free from danger or hazard to the health of persons occupying or frequenting it or to that of the public, if such danger arises from the method or materials of its construction or from any equipment installed therein for the purpose of lighting, heating, ventilating, or plumbing.

Both of the definitions for Safe and Sanitary are found as a part of Ohio's codified law. Ohio Revised Code section 3781.06(C)(7) and (8) specify what these terms mean for Ohio's citizens. As such, these definitions form the foundation upon which the codes are developed, upon which code enforcement is structured, and form the outline of that enforcement responsibility. In making these determinations, whether a structure is safe and sanitary, the overriding common goal is to guard the public by ensuring that the public in general and the occupants of the built environment specifically are free from danger or hazard to their life, safety, health or welfare. While an immense task, it is one that has been evidenced as successful in the real statistics that report our effectiveness in safeguarding the public. This duty has been matched with state-of-the-art construction standards developed with national expertise and enforced by a group of trained professionals working together in the public's interest.

Serious hazard: A hazard of considerable consequence to safety or health through the design, location, construction, or equipment of a building, or the condition thereof, which hazard has been established through experience to be of certain or probable consequence, or which can be determined to be, or which is obviously such a hazard.

Of all the terms that must be understood, perhaps this definition is the most important. Within its boundaries lie the authority to cause repairs and modification to even those structures that may otherwise be exempt from the jurisdiction of the codes. It is only when distinct and real serious hazards exist that the building official has the authority to issue orders for existing buildings. (refer to 102.7)

Three concepts, therefore, lie at the core of this definition.

1. The declaration of a condition as a serious hazard must be founded in fact not conjecture. This hazard must not simply be of consequence (a result of an action, process; outcome, effect) but be of considerable (noteworthy, a large amount or number) consequence. Then, as such, it can be examined for its impact upon the public's safety or health.
2. The hazard must be established through experience. This expression carries the implication that there is some history associated with the particular circumstance being evaluated. A primary method for establishing and recording experience with hazardous conditions is via statistics and data. As the building official becomes familiar with the causes and history of life losses, injury, and property loss data the better the decisions that will be made when ascertaining serious hazard conditions.
3. The hazard must be "of certain or probable consequence." This phrase has a key importance in determining the validity of a declaration of serious hazard, especially if any order issued by the building official finds its way to court. The difference between "possible" and "probable" is enormous and any claim of serious hazard based upon possible consequences is especially weak and subject to question. A claim of serious hazard based upon probable consequences is superior and based in fact and data.

The difference is that what is possible is anything that can be or is capable of being. "Possible" consequences are unlimited, open to the imagination, or anything that possibly could exist. This is hardly the ground for practical enforcement of construction codes since it is possible that everything could happen that is possible to happen whether or not it has ever happened. Buildings would be subject to unending compliance with unending requirements based solely upon the creative imagination of the building official.

"Probable" consequences are those that are likely to occur, can reasonably (but not absolutely) be expected on the basis of evidence.

Stated another way, "probable" applies to what appears to be reasonable on the basis of evidence or logic but is not certain or proved. "Possible" applies to what is not probable but what can conceivably exist or occur. Even the term "likely" implies less credibility than "probable."

Given these important distinctions, citations for serious hazards must be based upon the best evidence and information and not be based upon an arbitrary determination along the lines of, "If I say it is a serious hazard, it is." or "Since it doesn't comply with the new code requirements, I'm calling it a serious hazard." Enforcement must be solidly based upon fact, understanding of risk factors, and knowing the intent of the codes and the law. If, in fact, something is declared a serious hazard, the enforcement official must be prepared to take action in all and every case within the official's jurisdiction wherever that condition exists.

SECTION 101 GENERAL.

101.1 Title. Chapters 4101:1-1 to 4101:1-35 of the Administrative Code shall be designated as the “Ohio Building Code” for which the designation “OBC” may be substituted. The “International Building Code 2009, first printing, Chapters 2 to 35,” as published by the “International Code Council, Inc.” is used as the basis of this document and is incorporated fully except as modified herein. References in these chapters to “this code” or to the “building code” in other sections of the Administrative Code shall mean the “Ohio Building Code.”

The sections of the Ohio Administrative Code referenced are those sections (4101:1-01 through 4101:1-35) which are officially titled the “Ohio Building Code” or “OBC”. The section describes the specific title, edition, printing, and chapters of the model code that is used as the basis for the OBC. These are rules of the administrative agency (BBS) that have been filed pursuant to sections 111.15, 4141.14, 5703.14, or Chapter 119 of the Ohio Revised Code. The base code documents adopted are as indicated - the 2006 International Building Code model code document AND the errata (typographical, editorial modifications) released by the International Code Council (ICC). Various parts of the base document were then deleted or amended to be made consistent with Ohio law and, together with the ICC published errata, became the OBC

101.2 Scope. The provisions of the “Ohio Building Code”, the “Ohio Mechanical Code”, and the “Ohio Plumbing Code” shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures. As provided in division (B) of section 3791.04 of the Revised Code, no plans or specifications shall be approved or inspection approval given unless the building represented by those plans or specifications would, if constructed, repaired, erected, or equipped according to those plans or specifications, comply with Chapters 3781. and 3791. of the Revised Code and any rules adopted by the board. An owner may exceed the requirements of the “Ohio Building Code” in compliance with section 102.9.

The rules of the BBS apply to more than just the structure of a building. This language mirrors the duties outlined in the introduction to ORC section 3781.10 making it clear that the Board has been given the responsibility to adopt construction standards, equipment installation standards, materials standards, and other safety and sanitation standards. These standards deal not only with new construction but also with the repair, alteration and maintenance of the types of buildings prescribed in ORC section 3781.06. To date, ORC section 3781.06 requires that these adopted standards apply to all building types except one-, two-, three-family dwellings, as well as agricultural buildings not used in retail trade. As indicated in this section, the OBC, and thus by extension the certified building official of a certified building department, has jurisdiction for new construction (construction, building service equipment, use and occupancy, location, and appurtenant structures) as well as construction in existing structures (alteration, movement, enlargement, replacement, repair, maintenance, use and occupancy, removal, and demolition) and appurtenant structures. Stated in the positive and negative, the ORC makes it clear that a building and its equipment and systems are within the jurisdiction of the OBC. Another part of a building department’s jurisdiction that is frequently questioned is dealing with non-required systems, those systems that are installed even though they are not required by the codes. Often, owners decide to install building service equipment that is not required to be installed because a licensing agency may require them, there may be a benefit in insurance premiums, an internal policy that establishes their use, or for other reasons outside the requirements of the codes. When a non-required system is installed, because it is not required, the building department must be careful exercise its authority properly in enforcing the code requirements. A primary example is seen in sprinkler systems. Often, owners install these systems even though they are not required. Here the code is specific. The exception to Section 901.2 states that systems installed for partial or complete protection are permitted to be installed provided that the partial or complete system is installed in a manner complying with the requirements of the code. In other words, where any non-required system is installed, that partial or complete system must be installed in a code compliant way. Because they are not required to be installed, that part of a system that is installed is a benefit, but that part that is installed needs to be installed in a code compliant manner to the extent of the installation. There are, however, several categories outside the jurisdiction of the OBC and thus, by extension, the jurisdiction of a certified building official of a certified building department. Everything built is not within the jurisdiction of the construction codes. These categories include such things as landscape bridges and stairs, parking lot lighting, wastewater treatment tanks and ponds, and other categories for which other agencies have jurisdiction. The reasons for the lack of jurisdiction include constitutional issues, federal and state preemption, Ohio law, and other factors that make the following sections necessary.

Exceptions:

1. This code applies to detached one-, two-, and three-family dwellings and structures accessory to those dwellings, only to the extent indicated in section 310 of this code;

The Legislature decided, when providing for the adoption of building codes in law, that one-, two-, and three-family structures would be exempt from the requirements of the OBC. Consequently, 3781.06 ORC states that these dwellings were not within the scope of the OBC but that the Board of Building Standards must adopt a separate residential building code for use in Ohio. Because of this ORC limitation, the OBC is amended to reflect this Ohio provision. Section 310 lists several conditions which, if met, allow the use of the Ohio Residential Code in lieu of the non-residential code. Further, there are certain residential structures without independent means of egress that would then fall within the scope of the OBC.

2. Buildings owned by and used for a function of the United States government;

This exception contains two parts, a test of ownership and a test of use. The federal preemption (Article VI, Clause 2 of the U.S. Constitution) also applies to buildings owned by and used for a U.S. Government function. The courts have held that the Federal Government has exclusive control of these facilities and is exempt from local and state jurisdiction when it owns and uses the facility for a function of the Federal Government.

A different situation arises, however, when an individual owns a building into which a function of the Federal Government will locate. In a 1988 California Appeals Court Decision, *Carlie Smith vs. County of Santa Barbara*, (BBS FaxBack document number 617) it was held that the plaintiff would not be reimbursed for permit and inspection fees because the building was not owned by the Federal Government (U.S. Forest Service) and was within the jurisdiction of the county building department. We have seen this situation occur in Ohio when the U.S. Postal Service leases space in privately owned buildings. While it may be suggested that these Post Office facilities are government functions, the buildings remain privately owned buildings and are subject to the OBC for any alterations, tenant improvements, modifications, additions, etc.

3. Buildings or structures which are incident to the use for agricultural purposes of the land on which said buildings or structures are located, provided such buildings or structures are not used in the business of retail trade; for the purposes of this section, a building or structure is not considered used in the business of retail trade if fifty per cent or more of the gross income received from sales of products in the building or structure by the owner or operator is from sales of products produced or raised in a normal crop year on farms owned or operated by the seller (see sections 3781.06 and 3781.061 of the Revised Code);

This section was modified in 1991 because of a revised code change (ORC \approx 3781.06) that was supported by several agricultural lobbying groups to exclude greenhouses and other agri-businesses from being required to comply with the OBC. "Agricultural building" is defined in the OBC as "A structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public (see "agricultural purposes," section 101.2, and section 312 of this code)". "Agricultural purposes" is defined broadly by the ORC as: "agriculture, farming, dairying, pasturage, apiculture (bee keeping), horticulture (flowers, fruits, vegetables, and shrubs in gardens or orchards), floriculture (decorative flowering plants), viticulture (cultivation of grapes), ornamental horticulture, olericulture (cultivation of vegetable crops), pomiculture (cultivation of fruit crops), and animal and poultry husbandry" (notes in parenthesis are added). These purposes must be a description of the land on which the building or structure is located and these buildings or structures cannot be used in the business of retail trade.

The test for "retail trade" has several parts and the law does not clearly give the responsibility for examining them to any particular agency. To determine if retail trade is conducted, two items must be examined. The first is gross income – but no direction is given as to how it is verified. The second item is the percentage of that gross income that is derived from the sales in these buildings or structures of products raised or produced in a normal crop year on farms owned or operated by the seller. That percentage must be fifty percent or greater to exempt the buildings or structures from having to comply with the OBC. Less than fifty percent would indicate that retail trade is conducted in the buildings or structures and therefore the buildings or structures would be subject to compliance with the OBC.

Also, Revised Code section 3781.061 specifically states that whenever a township zoning inspector issues a zoning certificate declaring a specific building or structure is to be used in agriculture, it is exempt.

EXAMPLES:

1. An owner wants to build a pole barn facility that will board horses, will store tack, provide riding lessons, and includes a riding arena with bleacher seating for shows and competition.
2. A nursery owner wants to open greenhouse facilities for consumer purchases of plants, vegetables, shrubs, etc.
3. What started as a small roadside stand in the summer has become a larger seasonal sales point for farm produce and a larger facility is contemplated.
4. A farmer begins selling hay and straw to the public from a barn on the farmer's property.

In each of these examples the building official should ask several questions before deciding whether these building are within the scope of the OBC. The first item to research is the zoning of the land on which a structure is located. If the township zoning official has granted the building a zoning certificate declaring that it is to be used in agriculture, it is exempt from the OBC. If there is no clear zoning action, the next check must be the percentage of gross income that is from the sale of "products raised or produced in a normal crop year on farms owned or operated by the seller". If it is over fifty percent (no explanation on making this determination is given in the law), the building is exempt from the OBC.

The agricultural use exemption embodied in RC 3781.06 does not extend to a structure used for agricultural purposes located in an urban area; the use of the land, not the structure, is controlling. *Boehm v Waltz*, No. 6-87-10 (3d Dist Ct App, Hardin, 9-27-89).

A charter county government may, to the extent authorized by the terms of its charter, regulate the construction of agricultural buildings not used in retail trade and may require the owners of such buildings to submit plans and to obtain plan approvals prior to construction; such regulation is not in conflict with any provision of RC 3781.06. OAG 89-025.

4. Agricultural labor camps;

The Public Health Council in the Department of Health has been given authority in law to regulate the licensing, location, layout, construction, approval of plans, sanitation, safety, operation, use, and maintenance of agricultural labor camps. Given this rather exclusive jurisdiction, local building departments do not have authority to enforce the OBC in agricultural labor camps.

5. Type A or Type B family day-care homes, except for the inspection required for licensure by the "Ohio Department of Jobs and Family Services (ODJFS)". This required inspection shall be conducted by the certified building department having jurisdiction or the division of industrial compliance and labor in accordance with the inspection checklist found on the board of building standard's website.

These types of day-care homes are defined in Chapter 2 of the OBC as:

HOME, TYPE A FAMILY DAY-CARE. A home where the administrator permanently resides and where care is provided for seven to twelve children under six years of age or four to twelve children when at least four are under two years of age.

Licensure is required of these homes by the Ohio Department of Job and Family Services when at least one of the children cared for is not a sibling of the others and the home is not the permanent residence of the children. These homes are also referred to as Type A Homes and Type A Child Care and are exempt from the rules of the board. Also see Chapter 5104. of the Revised Code

HOME, TYPE B FAMILY DAY-CARE. A home where the administrator permanently resides and where care is provided for one to six children under six years of age with no more than three children under two years of age when at least one of the children cared for is not a sibling of the others and the home is not the permanent residence of the children. These homes are also referred to as Type B Homes and Type B Child Care and are exempt from the rules of the board. Also see Chapter 5104. of the Revised Code.

6. Buildings or structures which are designed, constructed, and maintained in accordance with federal standards and regulations and are used primarily for federal and state military purposes where the U.S. secretary of defense, pursuant to 10 U.S.C. Sections 18233(A)(1) and 18237, has acquired by purchase, lease, or transfer, and constructs, expands, rehabilitates, or corrects and equips, such buildings or structures as he determines to be necessary to carry out the purposes of Chapter 1803 of the U.S.C.

Paragraph 6 was originally added because the Ohio National Guard petitioned the Board to recognize the Federal Preemption of construction financed by the Department of Defense (DOD). The DOD leases all armories or airfields of the National Guard for twenty-five years when they provide money for the construction. DOD was concerned because they have their own building code standards that comply with their standards. The rule has been in effect since 1984.

7. Manufactured homes constructed under "24 CFR Part 3280," "Manufactured Home Construction and Safety Standards" and within the scope of the rules adopted by the Ohio Manufactured Home Commission.

Manufactured homes, sometimes called "HUD" homes, used only as single-family dwellings are the jurisdiction of the federal government and are constructed exclusively to the federal construction and safety standards and no state or political subdivision may establish other standards for their construction.

The Manufactured Housing program is a national program established to protect the health and safety of the owners of manufactured (mobile) homes. Under the program HUD issues, monitors, and enforces Federal manufactured home construction and safety standards. The intent of the program is to: reduce personal injuries, deaths, property damage, insurance costs, and to improve the quality and durability of manufactured homes. The standards preempt State and local laws that are not identical to the Federal standards. HUD may enforce the standards directly or by various States that have established State Administrative Agencies (SAAs) in order to participate in the program. HUD has the authority to inspect factories and obtain records needed to enforce the standards. If a manufactured home does not conform to Federal

standards, the manufacturer may be required to notify the consumer. If the home contains a defect that presents an unreasonable risk of injury or death, the manufacturer may be required to correct the defect.

Under the program, State or third-party agencies are established to check and approve designs and calculations used in the construction of manufactured homes. Other State or third-party agencies certify and inspect each manufacturing plant to assure construction in compliance with the standards and with approved designs. HUD's monitoring contractor acts as a repository for design packages submitted to HUD under the regulations and reviews a percentage of the approved designs to assure compliance. HUD's contractor also monitors the State or third-party inspection agencies to assure adequate performance.

The Act gives HUD broad investigatory authority to conduct inspections, issue subpoenas and issue orders. HUD may bring administrative actions against manufacturers or inspection agencies for violations of the Act or regulations. The Act also provides for injunctive actions in Federal court and civil money penalties and criminal sanctions.

Manufactured homes (formerly known as a mobile home) are built to the Manufactured Home Construction and Safety Standards (HUD Code) and display a red certification label on the exterior of each transportable section. Manufactured homes are built in the controlled environment of a manufacturing plant and are transported in one or more sections on a permanent chassis.

Legal Authority: The National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq.; 24 CFR Part 3280 and Part 3282; Chapter 4701, ORC.

In 2000, the U. S. Congress enacted legislation that required every manufactured home placement to be done in accordance with standards adopted by the Department of Housing and Urban Development. In addition, the Act required a dispute resolution program to be in place to deal with consumer complaints about either the construction of the manufactured home or arising from its placement. The states were given the option of either creating their own inspection program for the placement of units or having HUD do the enforcement inspections. In addition, the states were authorized to establish their own dispute resolution program.

The Ohio General Assembly enacted Chapter 4781 of the Ohio Revised Code to create the Ohio Manufactured Homes Commission. The Commission was authorized to adopt placement standards and to create a dispute resolution program which was done by January 1, 2007. The Commission also was given authority to certify local building departments and third party agencies to inspect the placement of all manufactured homes in Ohio. Questions concerning the enforcement of the Ohio Manufactured Homes Commission should be directed to that agency.

8. Sewerage systems, treatment works, and disposal systems (including the tanks, piping, and process equipment associated with these systems) regulated by the legislative authority of a municipal corporation or the governing board of a county or special district owning or operating a publicly owned treatment works or sewerage system as stated in division (A) of section 6111.032 of the Revised Code.
9. Building sewer piping.
10. Amusement rides and portable electric generators and wiring supplying carnival and amusement park rides regulated by the Ohio Department of Agriculture pursuant to sections 1711.50 to 1711.57 of the Revised Code.
11. Structures directly related to the operation of a generating plant or major utility facilities regulated by the power siting board. As a condition of the power siting board's approval, the building department may be requested to review and inspect these structures for compliance with the rules of the board of building standards. However, the building department has no enforcement authority.

Board staff held several meetings with various state agencies to clarify the boundaries of their jurisdiction and their interface with the OBC. After meeting with the PUCO Power Siting Board, the understanding reached at the meeting was that the intent of the Siting Board is:

- All utility buildings other than the structure containing the actual generating equipment – sheds, machine shops, storage buildings, office buildings, guard shacks, etc. – are within the jurisdiction of the OBC and must be approved and inspected as normally processed.
- While the structure containing the actual generating equipment is not within the scope of 3781. and 3791. ORC, the Power Siting Board (PSB) includes in its Conditions of Certificate for major utility facilities language intended to require compliance with building, mechanical, plumbing, boiler, pressure vessel requirements. This requirement is made through the PSB's authority in 4906. ORC.
- Building departments should therefore see construction documents, requests for inspection, and issuance of occupancy certificates for major utility facilities because utilities must comply with the PSB's Conditions of Certificate issued for each approved facility. This construction document submission, then, is not a requirement of 3781. or 3791. ORC but the action of utilities complying with Power Siting Board plan approval requirements authorized in 4906 ORC.

101.2.1 Appendices. The content of the appendices to the Administrative Code is not adopted material but is approved by the board of building standards (BBS) and provided as a reference for code users.

Appendices to the code are included to provide additional information to code users but which have not been assigned a rule number nor have been adopted pursuant to the ORC rule making process as an official part of the OBC or OMC.

OBC:

Appendix E – Describes energy compliance alternatives, alternate prescriptive packages, default tables, and suggested details.

Appendix O – Lists the agencies authorized in Ohio to provide testing and inspection services to ascertain compliance with the codes' referenced standards. Each agency is authorized to provide testing services for specific standards. Because an agency is listed does not mean that it can perform all evaluations. It is the responsibility of the building official to confirm that the agency is authorized to perform a particular evaluation.

Appendix P – Lists the agencies authorized in Ohio to evaluate and accredit testing labs listed in Appendix O to perform specific tests.

Appendix Z – Lists all certified municipal, township, and county building departments, their addresses, their telephone/fax numbers, if there are any contract jurisdictions for which services are provided, the agency responsible for plumbing systems if other than the department, and any exceptions to the department's certification for which they are not certified to exercise enforcement authority.

OMC:

Appendix A – A series of figures, notes, and systems for combustion air openings and chimney penetrations.

Appendix B – Recommended mechanical permit fees

Appendix C – A matrix describing several piping systems and information to assist in determining the applicable standard or code which applies to the installation.

101.3 Intent. The purpose of this code is to establish uniform minimum requirements for the erection, construction, repair, alteration, and maintenance of buildings, including construction of industrialized units. Such requirements shall relate to the conservation of energy, safety, and sanitation of buildings for their intended use and occupancy with consideration for the following:

Here the rules outline the "why" of the OBC. Why is the Board of Building Standards to adopt rules governing the construction, erection, repair, alteration, and maintenance of buildings in Ohio? The "why" gives perhaps the best insight into the Legislature's intent in establishing the Board of Building Standards and the OBC.

Confusion has sometimes occurred in the minds of well-intended people over the past several years when it has come to the phrase "uniform minimum standards and requirements". Home rule, an issue of authority conferred by the Ohio constitution, is usually the beginning point in most discussions on this subject. The Middleburg Heights case, decided by the Ohio Supreme Court in December of 1992, states clearly that the issue of home rule was not a part of that case. The decision clearly states that, "no question is raised in this appeal concerning the city's constitutionally conferred home-rule authority." We begin our commentary on this section, therefore agreeing with the court, by stating that the discussions on building codes and their uniform enforcement is not an issue of home-rule but rather of the proper exercise of police powers. These police powers are conferred by the state through the constitution to authorized administrative agencies; in this case certified building departments.

The next important fact is that the standards and rules adopted are not "bare bones" minimums scarcely safe enough for those occupying structures designed in conformance with the requirements. These rules and standards incorporate considerations for the conservation of energy, the safety, and the sanitation of buildings subject to these requirements and the rules consider these factors as they apply to the intended use and the intended occupancy of all types of structures.

1. Performance. Establish such requirements, in terms of performance objectives for the use intended.

The Board is charged with formulating its rules and standards in such a way that compliance is accomplished by meeting performance objectives. A performance approach gives owners the most flexibility in complying with the OBC. Whether a procedure, material, or method can perform properly for the intended use, and therefore comply with the OBC, becomes the primary objective of the Board's code development work.

2. Extent of use. Permit to the fullest extent feasible, the use of materials and technical methods, devices, and improvements which tend to reduce the cost of construction without affecting minimum requirements for the health, safety, and security of the occupants of buildings without preferential treatment of types or classes of materials or products or methods of construction.

Another factor of most discussions on this subject is the question, "For whom are the codes written?" Do they exist as a tool for controlling development, directing land use, maintaining property values, or favoring one material, method, or constituency over others? The answer is clearly, "No." There is always a cost to owners and occupants of buildings for code compliance. The Board must establish rules and standards but they must balance both cost and safety consciousness. New cost saving processes, methods, and materials must be permitted yet they must be permitted while not affecting the health, safety, and security of occupants and users of buildings. The builders/owners of buildings must

meet the requirements set forth by the OBC while the Board assures that the rules and standards are fair, reasonable, cost-effective, and secure the health, safety, and security of those who will occupy the built environment. There is no room for preferential treatment of certain types or classes of materials or products or methods of construction.

3. Standardization. To encourage, so far as may be practicable, the standardization of construction practices, methods, equipment, material and techniques, including methods employed to produce industrialized units.

The rules of the board and proceedings shall be liberally construed in order to promote its purpose. When the building official finds that the proposed design is a reasonable interpretation of the provisions of this code, it shall be approved. Materials, equipment and devices approved by the building official pursuant to section 114 shall be constructed and installed in accordance with such approval.

The text of the OBC cannot possibly cover, in written form, all the possible conditions a building official may find in the day-to-day operation of a building department. Therefore, the code gives the building official some discretion for making decisions about unusual conditions. The building official is not however given a free hand to grant variances or deviate whimsically from the intent of the OBC. In fact, the OBC ties the building official into the process by referring the official to the purpose of the OBC. The building official must promote the purpose of the code and make reasonable – factual, justifiable, documented, rational, sound, sensible – interpretations of the provisions of the code. Liberal interpretation should never be used as a method to approve or sign off on non-compliant work. If, however, the building official is asked for the approval of a device, material, or assembly for which there are no performance standards referenced in Chapter 35 of the OBC, the official should direct the party requesting the approval to the appropriate product approval process outlined in OBC section 118 below. This process will produce a product approval for the company's, firm's, or individual's device, material, or assembly.

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

This section of the Ohio Administrative Code (OAC) states the “what” of the OBC; “What is it that is adopted as the Ohio Building Code?” Because the codes contain cross-references to one another, it is necessary to clearly state this interdependence. Many references are made from the building code to the mechanical, plumbing, fire prevention, elevator, and other codes and rules adopted by the Board.

101.4.1 Mechanical. Chapters 4101:2-1 to 4101:2-15 of the Administrative Code, designated as the “Ohio Mechanical Code,” shall apply to the installation, alterations, repairs, and replacement of mechanical systems, including equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators, and other energy-related systems.

The scope of the mechanical code applies to new (installation) and existing (alterations, repairs, and replacement) construction of a building's permanently installed mechanical equipment and systems, fixtures, and fittings. These HVAC, incinerator, and other energy-related systems are some of the main energy using systems in a building. These requirements are often referenced from the building and plumbing codes.

101.4.2 Plumbing. Chapters 4101:3-1 to 4101:3-13 of the Administrative Code, designated as the “Ohio Plumbing Code,” shall apply to the installation, alterations, repairs and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewerage system and all aspects of a medical gas system.

The scope of the plumbing code applies to new (installation) and existing (alterations, repairs, and replacement) construction of a building's plumbing equipment and systems, fixtures, and fittings. These systems are connected to the potable water system, waste system, or storms system piping. These requirements are often referenced from the building and mechanical codes.

101.4.3 Elevator. The provisions of the “Ohio Elevator Code” (Chapters 4101:5-1 to 4101:5-3 of the Administrative Code) shall apply to the design, construction, repair, alteration and maintenance of elevators and other lifting devices as listed and defined therein.

The scope of the elevator code applies to new (design, construction) and existing (alterations, repairs, and maintenance) building elevator equipment. These systems and other lifts are the buildings main vertical lifting devices. These requirements are often referenced from the building and mechanical codes. The provisions are enforced by the state's elevator section in the Division of Industrial Compliance except for two cities, Cleveland and Cincinnati, where their own certified elevator inspection personnel are charged with enforcement.

LULA:

LULA is an abbreviation for "Limited Use Limited Application," it is an elevator that is limited in capacity, limited in speed, limited in rise, and limited in platform size. A LULA elevator is defined in ASME A17.1b as "... a power passenger elevator where the use and application is limited in size, capacity, speed, and rise, intended principally to provide vertical transportation for people with physical disabilities."

The Ohio Elevator Division is responsible for the inspection of these types of elevators. They differ from wheelchair lifts in that they are permitted to penetrate a floor and are required to meet a much more stringent code. These devices are elevators, and the applicable requirements of OBC Chapter 30, "Elevators," apply. Both wheelchair lifts and LULA elevators are prohibited from transporting freight.

LULA elevators were added to the ASME A17.1 elevator code on August 1, 1996. They are addressed in Part XXV of the code, which can be obtained by contacting ASME at 1-800-THE-ASME.

As with all elevators, LULA elevators must comply with ADAAG requirements. ADAAG Section 4.10.9, "Floor Plan of Elevator Cars," requires the "... floor area of elevator cars shall provide space for wheelchair users to enter the car, maneuver within reach of controls, and exit from the car." Figure 22 of the ADAAG shows examples of acceptable elevator configurations, and indicates in the example figure that the smallest dimensions are 51" x 68" (24 square feet) inside the car. LULA elevators, at 18 square feet maximum permitted area, are smaller than the examples in the ADAAG.

Because LULA elevators meet the performance requirements of ADAAG section 4.10.9, in that their design is specifically for use by the handicapped, they comply with ADAAG requirements. Building officials need not send LULA elevators to an appeals board for failure to comply with this provision of the ADAAG.

COMMON VIOLATIONS ON NEW INSTALLATIONS

(Because local building departments - except for Cleveland and Cincinnati - do not review or inspect elevators, the following information is provided for other code users.)

This special information is provided as a courtesy by the State's Elevator Section to assist industry personnel by listing the most common violations seen in the field. It is suggested that constructors, contractors, and architects have a current set of applicable codes and standards. The three most common are:

The ASME A17.1 Elevator Code
The Ohio Building Code
The NFPA-70 National Electric Code

If you have further questions, call the Elevator Section at 614-644-2244

IN THE MACHINE ROOM:

- All non-elevator related piping is prohibited from entering or impacting the room.
- Electrical disconnects must be lockable and properly located. The preferred location of a disconnect is near the door strike side of the machine room door. All disconnects must be fused or utilize a non-self resetting circuit breaker. A lockable 110 V disconnect is also required to be located in the machine room serving the car lighting. A ground fault circuit interrupt (GFCI) is required to be in the machine room. GFCI protected outlets are also required in the pit area and on the car-top.
- Proper electrical clearances are to be provided in front of the controller and disconnect. Machine room doors cannot swing into the clearance area.
- Sprinklers may serve a machine room via a branch line, but they may not pass through the machine room. Shut-off valves are no longer required to be installed.
- All hydraulic machine rooms must have a manual shut-off valve for the oil-supply line located in the machine room.
- Machine rooms are to be fire rated according to the building code.
- The machine room door is to be self-closing and self-locking. The door will always require a key to be opened from the outside, but is always able to be opened from the inside without a key.
- Machine rooms are to be vented by mechanical or natural means.
- The headroom in a machine room is to be at least 7 feet. This is measured from any overhead obstruction.
- Machine rooms are to be properly lighted so all controls and machinery are well illuminated. The light switch is to be located in the machine room and placed near the machine room doorjamb.
- An "ABC" type fire extinguisher is required to be located in the room.
- Holes around piping and structures in the machine room are to be properly filled to maintain a fire rated enclosure.
- All electrical equipment, controllers, and machines are to be properly grounded. All conduit is to be properly secured and routed in a manner to provide all required running and working clearances, as well as being protected from physical damage.

IN THE HOISTWAY

- All offsets greater than two inches are to be tapered to 75 degrees or greater.
- All holes in the enclosure are to be filled to maintain the fire rating of the hoistway. The hoistway is to have the fire rating specified in the building code.

- Venting for the hoistway directly to the outside air is to be provided according to the building code. The vent should be placed on the sidewall of the hoistway at the upper end of the enclosure. The vent is to be protected from the elements. A typical vent is not less than 3 ½ percent of the cross-sectional area of the hoistway.
- Sprinklers provided in the hoistway are not to interfere with the required headroom or the moving equipment. Shut-off valves are not required to be installed. Only branch lines are permitted to serve the hoistway and the line may not serve more than one level.
- Overhead working clearances must be provided in the upper end of the hoistway. When the elevator is at extreme travel, a minimum of a 42-inch refuge area is to be provided. A minimum of 24 inches is required over the cross head for traction elevator. Beams are not to interfere with these clearances.

IN THE PIT AREA:

- A pit ladder is required with a handrail at least 42 inches above the landing. The ladder is to be non-combustible and located near the jamb side of the hoistway door.
- A pit stop switch is to be located adjacent to the pit ladder and above the landing in order to be accessible before stepping onto the pit ladder. A second pit stop switch is required when the pit exceeds 6'-7" in depth. A light for the pit is to be located so as to provide adequate lighting for the area. The switch is to be near the stop switch. The light is to be guarded. A ground fault circuit interrupt (GFCI) protected outlet is also required in the pit area.
- Sumps with pumps or floor drains are required for all elevators. The sump hole in the pit area is to be provided with a metal cover. All sump pumps are to discharge the fluid outside of the hoistway. A check-valve is to be installed in the sump discharge line.
- Pits are to be constructed to prevent any ground water from entering the pit at any time. All footing and building drains are prohibited from being connected to the pit sump pump.

OPERATIONS AND MISCELLANEOUS ITEMS:

- Two-way 24-hour voice communication is to be provided from the elevator car to a location that can take action. Refer to the OBC accessibility guidelines for additional requirements.
- Smoke detectors must be properly located in the enclosed elevator lobbies and machine rooms. Smoke detectors are required in the hoistway when a sprinkler head is located in the hoistway. The detector must be activated by smoke and not heat. Smoke detectors and/or smoke detector systems are not to be self-resetting. Other smoke detectors, flow switches, and other devices in the building other than the elevator smoke detectors are prohibited from activating fire service recall. All smoke detectors must be physically hard wired to the elevator controller.
- All glass used in construction of the car enclosure or the hoistway enclosure must be laminated. The laminated glass must be marked with the proper ASME Z97 laminated glass etching.
- Access to and from the roof and machine room must be by the means of a stairway. When access is over a sloping roof or a roof with vertical obstructions, a walkway must be provided. Access must be safe and convenient. It is prohibited to allow access to a machine room to non-authorized personnel. Doors which allow passage through a machine room to gain access to a roof area or other building equipment are prohibited.
- Entrance frames installed in drywall hoistways must be properly installed to maintain a proper fire rating.
- Materials used on floor and walls of an elevator car enclosure must adhere to the flame spread and smoke density requirements of the elevator code.
- All elevator controllers are required to be "UL" or "CSA" labeled as to conforming to the requirements of ASME A17.5.
- Once an elevator has received a certificate of operation and is placed into service, a key for the elevator equipment room is required to be maintained on the premises and be accessible at all times. An emergency door release key and a fire service key must also be available. A monthly fire service operation testing log book is required to be maintained.
- A State of Ohio field inspector must inspect an elevator and a temporary or permanent certificate of operation must be issued before an elevator may be used for any purpose. No person or company, including a contractor, owner, tenant, or elevator company, may use the elevator to haul construction materials, furniture, or personnel not directly related to the installation and construction of the elevator unless permitted by issuance of a temporary certificate of operation.

101.4.4 Fire prevention. The provisions of the "Ohio Fire Code" (Chapters 1301:7-1 to 1301:7-7 of the Administrative Code) shall apply to the preventive measures which provide for fire-safe conduct and operations in buildings and includes the maintenance of fire-detection, fire alarm, and fire extinguishing equipment and systems, exit facilities, opening protectives, safety devices, good housekeeping practices and fire drills.

Because the scope of the building, mechanical, and plumbing codes apply to new (installation) and existing (alterations, repairs, and replacement) construction of a building's equipment and systems, fixtures, and fittings, there needs to be some long term observation to assure that the originally approved building equipment and systems maintain the same level of safety as originally approved and installed. This need has been addressed in Ohio Law by the use and enforcement of the

Ohio Fire Code that is promulgated by the Ohio Fire Marshal. Unfortunately, the model codes which are used as the base document for the Ohio codes have blurred the lines of enforcement jurisdiction by cross referencing the fire code in the model building, mechanical, and plumbing codes and vice versa making it difficult to discern who has enforcement authority. The intent of the Ohio law is that the building official having jurisdiction will enforce the building code, mechanical code, plumbing code, and the fire prevention code, where referenced through these codes, for all new construction, alterations, and additions. The fire local fire official or fire safety inspector certified by the Ohio Department of Public Safety will enforce the fire prevention code as it relates to maintenance of existing systems. The fire prevention code should be enforced only to the extent of maintaining existing systems in accordance with the original approval issued by the building official.

101.4.5 Boiler. The provisions of the “Ohio Boiler and Pressure Vessel Rules” (Chapters 4101:4-1 to 4101:4-10 of the Administrative Code) shall apply to the design, construction, repair, alteration and maintenance of boilers and unfired pressure vessels as listed and defined therein.

The scope of the boiler code applies to new (design, construction) and existing (alterations, repairs, and replacement) building boilers. These requirements are referenced from the building, mechanical, and plumbing codes.

The Boiler Branch of the Operations and Maintenance section of the Division of Industrial Compliance enforces the provisions of Ohio’s boiler code.

The State boiler inspectors inspect the boilers, the boiler controls, the relief valves, and the drain valves. All other components of a boiler system such as the supply piping, feed water piping, condensate piping, etc. are inspected by the building inspector or the mechanical inspector of a certified building department.

SECTION 102 APPLICABILITY AND JURISDICTIONAL AUTHORITY.

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

One of the more recent changes to the OBC illustrates the specifics of a conflict between special and general provision in the OBC. The intent is that specific requirements supercede general requirements. For example, new language has been added to section 415 of Chapter 4 of the OBC. In section 415.8.4 it is clear that all new use group H-3 consumer fireworks facilities are limited in size to 5,000 square feet. This special limitation is less than the height and area limitations of Table 503 for H-3 uses. In the case of new H-3 consumer fireworks facilities, the 5,000 square foot limitation would apply to all such new consumer fireworks facilities because it is a specific requirement even though the general classification of H-3 uses are permitted to be sized within the framework of Table 503.

102.2 Other laws. The provisions of this code shall not be deemed to nullify any provisions of state or federal law. Municipal corporations may make further and additional regulations, not in conflict with Chapters 3781. and 3791. of the Revised Code or with the rules of the board of building standards. However approval by the board of building standards of any fixture, device, material, system, assembly or product of a manufacturing process, or method or manner of construction or installation shall constitute approval for their use anywhere in Ohio.

Confusion has also occurred in determining to what extent municipal corporations may make additions or alterations to the Ohio Building Code.

The Ohio Revised Code (ORC), in section 3781.01, specifies that municipalities may make further and additional regulations not in conflict with the rules and regulations of the Board of Building Standards. The conflict "test" was established in Village of Struthers vs. Sokol, 108 Ohio St. 263 (1923). The Sokol test is stated correctly as: **"A conflict exists when the local ordinance permits or licenses that which the statute forbids and prohibits, or when the statute permits or licenses that which the local ordinance forbids and prohibits."**

Therefore, the answer to the question of the degree to which changes can be made is answered in the court's definition of a conflict. Many cities have addressed issues in their local ordinances without creating a conflict. Municipalities have established subsidence (landslide prevention) requirements, surface water and gutter/downspout sizing requirements based upon local rainfall data, snow loading requirements, demolition requirements, wind loading requirements, foundation requirements for frost depth, establishment of fees, determining inspection schedules that are not in conflict with the rules of the Board – the OBC.

102.3 Other rules. As provided in division (B) of section 3781.11 of the Revised Code, the rules of the board of building standards shall supersede and govern any order, standard, or rule of the division of the fire marshal or industrial compliance in the department of commerce, and the department of health and of counties and townships, in all cases where such orders, standards or rules are in conflict with the rules of the board of building standards, except that rules adopted and orders issued by the fire marshal pursuant to Chapter 3743. of the Revised Code prevail in the event of a conflict.

After specifying above that the rules adopted by the Board of Building Standards apply to all buildings except one-, two-, three-family dwellings, and agricultural buildings not used in retail trade, the ORC and the OAC establish a hierarchical order to prevent conflict in rules, standards, and orders. They specify that the rules adopted by the Board of Building Standards shall supercede and govern when the Department of Commerce, Division of the State Fire Marshal, division of Industrial Compliance, the Department of Health, or any county or township seek to adopt any rule, standard, or issue an order in conflict with any Board rule. Similarly, any rules adopted or orders issued by the fire marshal that deal with fireworks supercede those of any other agency. This is a very practical way to prevent overlapping and possibly conflicting enforcement of administrative rules, standards, and orders.

The rules of the board of building standards adopted pursuant to section 3781.10 of the Revised Code shall govern any rule or standards adopted by the board pursuant to sections 4104.02 and 4105.011 of the Revised Code.

These are the Boiler and Elevator provisions and contain references to standards that may contain requirements that conflict with language in the OBC, OMC, and OPC and the intent is to make it clear that these codes will supercede the boiler and elevator standards.

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

102.5 Referenced codes and standards. When a reference is made within the building, mechanical, or plumbing codes to a federal statutory provision, an industry consensus standard, or any other technical publication, the specific date and title of

the publication as well as the name and address of the promulgating agency are listed in Chapter 35 of the building code, Chapter 15 of the mechanical code, and Chapter 13 of the plumbing code.

The codes and standards referenced in the building, mechanical, and plumbing codes shall be considered part of the requirements of these codes as though the text were printed in this code, to the prescribed extent of each such reference. Where differences occur between provisions of these codes and the referenced standards, the provisions of these codes shall apply.

These words lay out some very important code concepts that impact code enforcement. First, standards are often structured in such a way that they contain internal references to other standards. Given this structure, some attempt to maintain that these internal references give license to apply those other standards that are not referenced in the codes but are referenced internally in a standard referenced in the codes. This “daisy chaining” of standards is addressed in this section. That is why the precise phrase “to the proscribed extent of each such reference” is used.

If a code section references a standard listed in OBC Chapter 35, OMC Chapter 15, or OPC Chapter 13 and the standard itself references another standard not listed in these chapters, the reader uses that internally referenced standard only to the extent necessary to obtain the information that makes it possible to use the standard referenced by the codes. One cannot make the argument that because a referenced standard contains a reference to other standards, that those other standards may now be enforced.

Second, the OBC is used throughout this chapter and as such it contains references to the OMC and the OPC. These codes are considered a part of the OBC due to these references to the proscribed extent of each such reference.

An important principle of code enforcement is that of the relationship between the code text and language found in referenced standards. In general terms, the OBC indicates what the code requirements are and the referenced standards explain how to meet the code requirements. The size of the OBC would grow to an unmanageable level if all the language in the referenced standards was reproduced in the OBC itself. Instead, the important referenced standards language is referred to in the text of the OBC. The standards themselves are listed alphabetically in Chapter 35 and indicate where in the code text the standard is referenced. There are times, however, when compliance language in the OBC is different than the language in a referenced standard. When this occurs, it is important to recognize that the language of the OBC always supercedes that of the referenced standards. It is not a matter of applying the most restrictive requirement or choosing between options or additional requirements. The language of the OBC always supercedes that of the referenced standards.

Some provisions of the OBC directly modify the requirements of the standard being referenced. For example, Section 1908 revises various sections of ACI 318. Other sections limit the use of a standard to certain chapters only. Section 1909 permits only chapter 22 of ACI 318 to be applied.

102.6 Partial invalidity. 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 thereof, and it shall be presumed that this code would have been adopted without such illegal or invalid parts or provisions.

This language is a typical declaration found in most codes and contracts. It simply means that if a particular provision were to be set aside as illegal or invalid, other provisions of the code would be preserved and therefore still applicable.

102.7 Existing structures. The provisions of Chapter 34 shall control the alteration, repair, addition, and change of occupancy of any existing structure.

This section finds its origin in the “vested rights” doctrine that prohibits the retroactive application of building codes. The assumption is that, once approved, the owner has rights that are vested, fixed, settled, or not contingent upon future approvals. The Attorney General has also issued an opinion (84-037, 24 June 1987) on this subject (BBS Document Catalogue document number 631). The Ohio Revised Code speaks to this point in relationship to the OBC. Section 3781.12 creates the right of individuals to petition the Board to amend, adopt, or annul a rule or regulation – i.e. a part of the OBC. Given this opportunity to change the OBC, provision was also made for how any new or modified rules would affect buildings built before those amendments, adoptions, or annulments were made. 3781.12 states that “No such rule, regulation, amendment or annulment shall apply to any building, the plans or drawings, specifications, and data of which have been approved prior to the time such rule, regulation, amendment, or annulment takes effect.” Clearly, there is no retroactivity permitted for existing buildings when the code has been modified. The owner has vested rights at this point that cannot be removed because the OBC subsequently changed. The initial submission was a good faith effort to comply with the OBC effective at the time and the authority having jurisdiction, in its granting an approval, acknowledged that compliance.

What follows are what are essentially two types of existing structures; one a “brick and mortar” structure that has existed for the time period described and one a “paper” structure or one that has not yet been built or completed. Both have conditions that must be observed.

The occupancy of any structure currently existing on the date of adoption of this code shall be permitted to continue without change provided there are no orders of the building official pending, no evidence of fraud, or no serious safety or sanitation hazard. When requested, such approvals shall be in the form of a “Certificate of Occupancy for an Existing Building” in accordance with section 111.2.

Because of the “vested rights” doctrine that prohibits the retroactive application of building codes, the assumption is that once a building or structure is approved, the owner has rights that are vested, fixed, settled, or not contingent upon future approvals. This translates into a condition in which a structure has been used in a particular fashion. If there are no outstanding orders of the building department and there are no serious hazards, the building and its occupancy have a right to exist. Therefore, the building official must:

- 1. Ascertain whether there are any outstanding building department orders or violations of law outstanding.*
- 2. Establish that the building is safe and sanitary – i.e. no serious hazards. Causing inspections to be made by appropriate building department inspection personnel does this. The inspections are not to require full compliance with the currently adopted building code but, because this is an existing structure, to determine whether any serious hazards exist which must be eliminated.*

Buildings constructed in accordance with plans which have been approved prior to the effective date of this code are existing buildings.

The ORC requires plans to be submitted to certified departments by owners before beginning any construction, erection, or manufacture of any building to which the OBC is applicable by requiring:

“When any plans are approved by the department having jurisdiction, the structure and every particular thereof represented by those plans and disclosed therein shall, in the absence of fraud or a serious safety or sanitation hazard, be conclusively presumed to comply with Chapters 3781. and 3791. of the Revised Code and any rule issued pursuant thereto, if constructed, altered, or repaired in accordance with those plans and any such rule in effect at the time of approval.”

Although a technicality and seldom seen, once construction documents have been deemed to comply with the currently adopted construction regulations (OBC, OMC, OPC, etc.) and approval has been certified, the owner has a right to build to those approved construction documents. Even if updated construction regulations were subsequently adopted for enforcement in Ohio (i.e. update of the code happens), the owner could build in accordance with those previously approved construction document (the limits of OBC 105.2 through 105.4 apply). ORC section 3791.04 also includes language dealing with the retroactivity issue.

102.8 Temporary Structures. The building official is authorized to issue approvals for temporary structures. Such approvals shall be in the form of a “Certificate of Occupancy for a Temporary Building” in accordance with section 111.1. 6. This section does not apply to time-limited occupancies in existing structures. See section 111.1.5 for time-limited occupancies.

102.8.2 Conformance. Temporary structures shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare. Temporary tents and membrane structures shall also comply with the applicable provisions in section 3102.

Even if temporary construction is permitted, it must meet these requirements to insure that the public can safely occupy the structure. Construction documents must be submitted, reviewed, and inspected for compliance with the OBC with respect to the structural, fire safety, means of egress, light, ventilation, and sanitary requirements of the OBC.

102.8.3 Termination of approval. The building official is authorized to terminate approval for a temporary structure and to order the temporary structure to be discontinued if conditions of the approval have been violated or the structure or occupancy poses an immediate hazard to the public or occupants of the structure.

102.9 Non-required work. Any component, building element, equipment, system or portion thereof not required by this code shall be permitted to be installed as a partial or complete system provided that it is constructed or installed in accordance with this code to the extent of the installation.

Another part of a building department’s jurisdiction that is frequently questioned is dealing with non-required systems, those systems that are installed even though they are not required by the codes. Often, owners decide to install building service equipment that is not required to be installed because a licensing agency may require them, there may be a benefit in insurance premiums, an internal policy that establishes their use, or for other reasons outside the requirements of the codes. When a non-required system is installed, because it is not required, the building department must be careful exercise its authority properly in enforcing the code requirements. A primary example is seen in sprinkler systems. Often, owners install these systems even though they are not required. Here the code is specific. The exception to Section 901.2

states that systems installed for partial or complete protection are permitted to be installed provided that the partial or complete system is installed in a manner complying with the requirements of the code.

In other words, where any non-required system is installed, that partial or complete system must be installed in a code compliant way. Because they are not required to be installed, that part of a system that is installed is a benefit, but that part that is installed needs to be installed in a code compliant manner to the extent of the installation.

There are, however, several categories outside the jurisdiction of the OBC and thus, by extension, the jurisdiction of a certified building official of a certified building department. Everything built is not within the jurisdiction of the construction codes. These categories include such things as landscape bridges and stairs, parking lot lighting, wastewater treatment tanks and ponds, and other categories for which other agencies have jurisdiction. The reasons for the lack of jurisdiction include constitutional issues, federal and state preemption, Ohio law, and other factors that make the following sections necessary.

102.10 Work exempt from approval. Approval shall not be required for the following:

Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed one hundred twenty square feet (11.15 m²) and playground structures.
2. Fences not over six feet (1829 mm) high.
3. Oil derricks.
4. Retaining walls which are not over four feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids.
5. Water tanks supported directly upon grade if the capacity does not exceed five thousand gallons (18 927 L) and the ratio of height to diameter or width does not exceed two to one.
6. Sidewalks and driveways not more than thirty inches (762 mm) above grade and not over any basement or story below and which are not part of an accessible route.
7. Finishes not regulated by this code, decorating, or other work defined as maintenance or minor repair.
8. Temporary motion picture, television and theater stage sets and scenery.
9. Window awnings supported by an exterior wall of Group R-3.
10. Tents and membrane structures exempted in section 3102.1.1.

Electrical:

1. Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.
2. Electrical equipment used for radio and television transmissions except equipment and wiring for power supply, and the installations of towers and antennas.
3. The installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.
4. Electrical wiring, devices, appliances, apparatus or equipment operating at less than twenty-five volts and not capable of supplying more than fifty watts of energy, unless specifically addressed in this code.
5. Process equipment and the associated wiring on the load side of the power disconnect to the equipment.

Gas:

1. Portable heating appliances;
2. Replacement of any part that does not alter approval of equipment or make such equipment unsafe.
3. Gas distribution piping owned and maintained by public or municipal utilities and located upstream of the point of delivery.

Mechanical:

1. Portable heating appliances;
2. Portable ventilation equipment;
3. Portable cooling units;
4. Replacement of any part which does not alter its approval or make it unsafe;
5. Portable evaporative cooler;
6. Process equipment and the associated piping. For combination building services/process or power piping systems, the power or process piping located downstream of the control valve which separates the process from the building services piping is exempt from approval.
7. Heating and cooling distribution piping installed and maintained by public or municipal utilities.

Plumbing:

1. The repair of leaks in drains, water, soil, waste or vent pipe; provided, however, that if any concealed trap, drain-pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and an approval shall be obtained and inspection made as provided in this code.

2. **The clearance of stoppages or the repair of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.**
3. **Process equipment and the associated piping. For combination building services/process or power piping systems, the power or process piping located downstream of the control valve which separates the process from the building services piping is exempt from approval.**

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

102.10.2 Minor repairs. Minor repairs to structures may be made without application or notice to the building official. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

Minor repairs, being just that – minor and repairs – are always necessary to permit owners to comply with the code requirement to maintain and repair their structures and that all equipment, systems, devices, and safeguards be maintained in good working order (3401.2 and 3401.2.1). The reasonable work to maintain a structure as it was approved should not be confused with altering a structure in ways that modify or compromise the equipment, systems, devices, and safeguards through which the occupancy risk is managed and upon which the risk management depends.

*Maintenance is the work necessary to keep in a state of good repair or upkeep. Minor repairs are defined in Chapter 34 and are not arbitrary but also convey that the work is to maintain or sustain a structure’s safeguards. Minor repairs do **not** include:*

- *The cuttings away of any wall, partition, or portion of a wall or partition,*
- *The removal or cutting of any structural beam or bearing support,*
- *The removal or change of any required means of egress,*
- *The rearrangement of parts of a structure affecting the exit requirements,*
- *An addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical system,*
- *Other work affecting public health or general safety*

102.11 Building department jurisdictional limitations. A municipal, township, or county building department that has been certified by the board of building standards, pursuant to section 103.2, shall enforce provisions of the rules of the board and of Chapters 3781. and 3791. of the Revised Code, relating to construction, arrangement, and the erection of buildings or parts thereof as defined in the rules of the board in accordance with the certification except as follows:

The Building Official has the responsibility to enforce all of the provision of the OBC not the Plan Examiner or field inspection personnel. This enforcement responsibility includes all buildings and all of their parts. Refer to section OBC 104.2.1.

1. **Fire.** The state fire marshal or fire chief of municipal corporations or townships, having fire departments, shall enforce all provisions of the rules of the board relating to fire prevention.

To understand the intent of this rule, the definitions of fire prevention and fire protection are critical. The difference is crucial in determining who may have jurisdiction.

Chapter Two definitions:

“Fire prevention - the preventive measures which provide for fire-safe conduct and operations in buildings and includes the maintenance of fire-detection, fire-alarm, and fire-extinguishing equipment and systems, exit facilities, opening protectives, safety devices, good housekeeping practices and fire drills.”

“Fire protection - the provision of construction safeguards and exit facilities; and the installation of fire alarm, fire-detecting and fire-extinguishing service equipment to reduce the fire risk, including the risk involved in the spread of fire by exterior exposure to and from adjoining buildings and structures.”

The fire protection enforcement duties of the Building Official involve the construction of safeguards and exit facilities and the installation of fire alarm, fire detecting, fire-extinguishing equipment, and other building service equipment. The fire marshal or Fire Safety Inspector of political subdivisions enforces all provisions of the OBC relating to fire prevention.

Building departments have always been encouraged to work with the fire service to receive their comments on the fire systems of a building in order that fire service observations can be included on any correction letter issued. Building departments can also have fire service personnel accompany the building inspectors on inspections and tests of these systems in accordance with the referenced building code standards. The “provision of construction safeguards and exit facilities; and the installation of fire alarm, fire-detecting and fire-extinguishing service equipment to reduce the fire risk”,

however, are the responsibility of the building official and this responsibility cannot be transferred to another administrative entity.

Fire Protection inspectors, like other certified inspection personnel, are responsible to assure what has been approved during plan review actually is built. (Refer to 104.2.3.4.2)

- 2. Health. The department of health, or the boards of health of city or general health districts, the division of industrial compliance of the department of commerce, or the departments of building inspection of municipal corporations, townships, or counties shall enforce such provisions relating to sanitary construction.**

Certified municipal building departments can be (and usually are) certified to perform inspections of plumbing systems but they may also rely upon the plumbing inspectors of a county board of health/health district to perform these inspections. County and township building departments, however, cannot be certified to perform plumbing system inspections (except under special conditions outlined in the law) but the law charges the plumbing inspectors of a county board of health or general health district to do this enforcement.

For plumbing inspections in county and township building departments, a special set of circumstances occurs when the plumbing inspectors of a county board of health or general health district inspect plumbing systems as required by law. Because there are in effect two entities involved in the project review and inspection (one for plumbing system and one for the other building equipment and systems) there are essentially two building officials involved. It is therefore necessary to have two signatures on any occupancy certificate issued when there is split jurisdiction on a project. By referring to the definition of building official in chapter two of the OBC, it is clear that the health commissioner of a health district is defined as a building official when the commissioner has jurisdiction for plumbing system review and inspection.

Care must be taken not to ignore that the plumbing system approval and special conditions must be approved and included in the issuance of an occupancy certificate. A county or township building department (and possibly a municipal department not certified for plumbing using health district plumbing inspectors) must not ignore these systems when issuing an occupancy certificate and therefore must communicate with and be communicated to by the commissioner of a health district doing plumbing system review and inspection.

- 3. Sewerage and drainage system. In accordance with Section 3781.03 of the Revised Code, the department of the city engineer, in cities having such departments, the boards of health of health districts, or the sewer purveyor, as appropriate, shall have complete supervision and regulation of the entire sewerage and drainage system of the jurisdiction, including the building sewer and all laterals draining into the street sewers. Such department or agency shall have control and supervision of the installation and construction of all drains and sewers that become a part of the sewerage system of the jurisdiction and shall issue all the necessary permits and licenses for the construction and installation of all building sewers and of all other lateral drains that empty into the main sewers. Such department or agency shall keep a permanent record of the installation and location of every drain and sewerage system of the city.**

The jurisdiction for municipal sewerage and drainage systems should be absolutely clear. It is outside the provisions of the OBC. If the personnel of a certified building department have also been given the responsibility for these building sewers via local ordinance, they should enforce them under that ordinance and not mix the enforcement of the OBC and the local ordinance. This same principle applies to any local ordinance. It should include enforcement provisions as well as an appeals mechanism. Building code enforcement authority should not be mixed with local ordinance enforcement even though the same personnel may be involved. When personnel "change hats" and move from enforcing the OBC to enforcing local ordinances, their line of authority flows from different sources. Mixing these lines of enforcement authority may negate one or all if improperly carried out.

- 4. Power Generation. Structures directly related to the operation of a generating plant or major utility facilities regulated by the power siting board. As a condition of the power siting board's approval, the building department may be requested to review and inspect these structures for compliance with the rules of the board of building standards. However, the building department has no enforcement authority.**

The Ohio Power Siting Board (OPSB) is responsible for reviewing and approving plans for the construction of new energy facilities in Ohio. Before any company can build a new power plant, wind farm, electric transmission line, gas pipeline, or other major energy facility, the OPSB assures that it benefits Ohio's citizens, promotes the state's economic interests, and protects the environment and land use. Before construction can begin on any "major utility facility" or "economically significant wind farm" within the state of Ohio, a Certificate of Environmental Compatibility and Public Need must be obtained from the Ohio Power Siting Board.

As mentioned in the commentary in Section 102.2 above, the Siting Board's Certificate of Environmental Compatibility and Public Need includes conditions that the structures be built according to Ohio's construction codes. The intent is that:

- *All utility buildings other than the structure containing the actual generating equipment – sheds, machine shops, storage buildings, office buildings, guard shacks, etc. – are within the jurisdiction of the OBC and must be approved and inspected as normally processed.*

- While the structure containing the actual generating equipment is not within the scope of 3781. and 3791. ORC, the OPSB includes in its Conditions of Certificate for major utility facilities language intended to require compliance with building, mechanical, plumbing, boiler, pressure vessel requirements. This requirement is made through the OPSB's authority in 4906. ORC.
- Building departments should therefore see construction documents, requests for inspection, and issuance of certificates of occupancy for major utility facilities because utilities must comply with the OPSB's Conditions of Certificate issued for each approved facility. This construction document submission, then, is not a requirement of 3781. or 3791. ORC but the action of utilities complying with OPSB's plan approval requirements authorized in 4906 ORC.

5. State Projects. Certification does not confer any jurisdiction to a certified building department to regulate :

5.1 The construction of buildings by the state of Ohio or on land owned by the state of Ohio including, but is not limited to, its agencies, authorities, boards, commissions, administrative departments, instrumentalities, community or technical college districts, but does not include other political subdivisions.

Exception: Local school district building projects funded by the Ohio school facilities commission in accordance with Chapter 3318. of the Revised Code where the local certified building department is authorized by the board to regulate construction of school facilities.

5.2 Park districts created pursuant to Chapter 1545. of the Revised Code.

As a principle of common law, the sovereign is not subject to regulation by the subordinate. The state is not subject to regulation by a county, township, or municipality in much the same was that the federal government is not regulated by a state. Ohio has maintained that principle when it requires state projects (built by or on land owned by the state) to be processed through the state's building department (Bureau of Construction Compliance) rather than through local certified building departments. (Refer to Web Catalogue documents 634, 635, and 636 for Ohio Attorney General opinions on this subject.)

The Board further clarified this language after a 9 February 2001 public hearing indicating that school projects receiving some funding from the Ohio School Facilities Commission which are located within the jurisdiction of a political subdivision's certified building department would not be handled by the state's building department. These school projects would be handled by the local certified building department. The department must, of course, be certified for the project's occupancy type(s). This clarification was done because the funds provided by OSFC did not transfer ownership to the state.

5.3 The construction of buildings or structures within the scope of the building code on the premises of, and directly related to the operation of, natural gas liquids fractionation or natural gas processing facilities.

Note: The lands owned by Miami university in the city of Oxford and Oxford township in Butler County and leased to private individuals or corporations under the land rent provisions of the Act of February 17, 1809, as set forth at 7 Ohio laws 184, are subject to local certified building department jurisdiction and are exempt from these provisions.

As a historical oddity, an old law created a special condition that is an exception to this section. Soon after Ohio became a state in 1803, a federal law was passed (the Act of February 17, 1809) which granted land to two Ohio universities; a land grant of one township was given to Ohio University and one to Miami University. Ohio University eventually sold the land to endow the university but Miami University maintained ownership and leased the land to individual owners in perpetuity for one dollar a year. When certification regulations were enacted, this area had a longstanding relationship with the local jurisdictions for construction approval and, given that the university owned the land, local leaseholders would have had to apply for plan approval with the state. To allow them to have access to the local certified building department as would be the case in other parts of the state, since this situation was created over two hundred years ago, well before construction regulation, the projects in the township were granted an exception to this rule.

SECTION 103 CERTIFIED BUILDING DEPARTMENTS, PERSONNEL, & APPEALS BOARDS.

Refer to division 4101:7 of the Administrative Code for existing relocated building department, building department personnel, and boards of building appeals certification requirements.

*Because the rules describing how building department, individuals, and boards of building appeals is out of place in a chapter of the building code dealing with building department administration. Therefore the rules formerly located in section 103 of OBC Chapter 1 were moved to a new Ohio Administrative Code division; OAC 4101:7. These rules are published separately and are posted on the Board's web page at: <http://www.com.ohio.gov/dico/bbs.aspx> **or** under division 4101:7 at the LAWriter web site at: <http://codes.ohio.gov/oac>.*

SECTION 104 DUTIES AND RESPONSIBILITIES.

104.1 General. Personnel of building departments and local boards of appeals that have been certified by the board of building standards, pursuant to section 103, shall be responsible for performing the duties described in this section.

104.2 Building department personnel duties and responsibilities. Municipal, township, or county, building departments certified by the board shall have personnel qualified to perform the enforcement duties and responsibilities described in this section.

104.2.1 Building official. The building official is responsible for the enforcement of the rules of the board and of Chapters 3781. and 3791. of the Revised Code relating to the construction, arrangement, and the erection of buildings or parts thereof. All building officials shall conduct themselves in a professional, courteous, impartial, responsive, and cooperative manner. The building official shall render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall be in compliance with the intent and purpose of this code. Building officials shall be responsible to assure that a system is in place to track and audit all projects, to assure that all building department personnel perform their duties in accordance with this section, and for the overall administration of a building department as follows:

This section recognizes the building official's authority to interpret the code while requiring that any interpretation must be based upon sound reasoning and informed judgment. There are many sources of information to assist the building official in making sound decisions.

These sources include several published model code documents such as: commentaries, published interpretations, code change books that include code change justifications, hearing rosters, and final hearing reports. The Board of Building Standards also offers several building official support documents such as: BBSMemos, this Chapter One Commentary, hearing drafts, Ohio court cases and legal opinions, Board continuing education training materials, and recommended forms and checklists. Many of the Board's materials are now available to everyone 24/7 on the internet (<http://www.com.ohio.gov/dico/BBS.aspx>). The model code and Board of Building Standards staffs are available to answer questions and assist in answering code questions. There are other documents available to Ohio's building officials in the form of code requirements study guides, code requirements encyclopedia, and the Ohio Administrative Code and the Ohio Revised Code themselves

*This section is **not** included to provide the building official a license to grant ad hoc variances to code requirements. It does offer the intent of decision making by building officials; decisions they are required to make daily in the execution of their duties.*

104.2.1.1 Applications and plan approvals. The building official shall receive applications, require or cause the submitted construction documents to be examined, ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this code, and shall issue plan approvals for the construction, erection, alteration, demolition, and moving of buildings and structures.

104.2.1.1.1 Plan examination by the building official. When the building department does not have in its full-time employ a certified master plans examiner, the certified building official shall examine construction documents to determine compliance with the rules of the board if the registered design professional elects to submit construction documents that contain a written certification by the registered design professional indicating conformance with the requirements of the rules of the board and Chapters 3781. and 3791. of the Revised Code.

When the original legislation requiring certification and continuing education of building department personnel (H.B. 300) became effective in September 1984, a provision was added to allow building departments time to find and hire qualified personnel. Because plan examiners were required to be Ohio registered design professionals, Mahoning County requested the insertion of language that made it possible for jurisdictions which had not yet hired a full-time plan examiner to have another interim option for plan review. The language required that construction documents be reviewed by the building official only if a written certification was made by the architect or engineer of record stating that the construction documents complied with all provision of the OBC and Ohio Revised Code chapters 3781 and 3791. This written certification was not simply the registered design professional's seal on the documents but a written notarized statement. This certification is not something a building official can require as a condition of a plan approval but is clearly an option for the design professional.

This section IS NOT, however, a mechanism to allow building departments to circumvent plan review by a certified plans examiner. It is not a mechanism that should be used today by building officials to enable them to perform plans examination, for which they are not certified, in lieu of a certified plans examiner. Again, it was placed in the law when it was initially adopted to allow time after the bill became effective during which building departments could find and hire qualified plans examination personnel.

The language clearly indicates that plan examination cannot be avoided. A thorough plan review must be performed and this type of review must be preceded by a written certification from the registered design professional stating that the construction documents comply with all provision of the OBC and the law. The Board has investigated and proposed decertification of building officials who have improperly tried to require design professionals to certify construction documents as a condition of approval in an attempt to bypass the normal plan review process.

104.2.1.2 Orders. The building official shall issue all orders in accordance with section 109 to ensure compliance with this code.

104.2.1.3 Inspections. If the plans for the erection, construction, repair, alteration, relocating, or equipment of a building are subject to inspection by the building official, under section 108, the building official shall cause to be made such inspections, investigations, and determinations as are necessary to determine whether or not the work which has been performed and the installations which have been made are in conformity with the approved construction documents.

Even though special inspections are shown as an exception, the special inspector must be a qualified person of demonstrated competence, to the satisfaction of the building official, as required under section 1704.1.

Exception: Special inspections required under section 1704.

104.2.1.4 Department records. The building official shall keep official records of applications received, certificate of plan approval issued, notices and orders issued, certificate of occupancy, and other such records required by the rules of the Board of Building Standards. Such information shall be retained in the official permanent record for each project. One set of approved construction documents shall be retained by the building official for a period of not less than one hundred eighty days from date of completion of the permitted work, or as required by document retention regulations.

Retention schedules are to be set in accordance with Ohio law. The schedules for construction documents, plan approval certifications, and other department records are to be established by the records commissions of each political subdivision. Section 149.39 ORC, creates a city records commission which will establish records retention schedules for every agency within the municipal corporation. Likewise, Section 149.38 ORC, statutorily mandates that counties shall establish records retention schedules for every county agency.

Building departments should assist their records commission in establishing records retention schedules for all documents including construction documents, approvals, orders, and certificates of occupancy. The Board of Building Standards recommends that construction documents should be retained for a minimum of two years after a certificate of occupancy is issued.

A related issue is that of public records; what are and what are not. The Ohio Attorney General's office has issued an opinion (OAG 93-010; also available as document #614 on the BBS FaxBack Service or the BBS Web Catalogue.) which states that construction documents submitted to a certified building department, while in the possession of the department, are public records within the meaning of Section 149.43 OAC. As such, this determination requires that building departments make those documents available for inspection to any persons at all reasonable times during regular business hours and, upon request, make copies available at cost within a reasonable period of time.

104.2.1.5 Department reports. The building official shall be responsible for the submission of reports and any requested special information to the board of building standards as required in section 103.2.6. Failure to submit these reports in a timely manner as required by rule or by special request or inquiry of the board of building standards may be grounds for board action as described in section 103.3.10.

One of the often overlooked duties of the building official is the submission of various reports to the Board. In the past, the code did not make it clear that this was a duty of the building official and failure to perform could result in a real potential for decertification. These reports are important communication tools and assure that the building department is operating as it assured the Board it would when it sought certification. Consequently, many departments have been lax or negligent in the submission of three percent and one percent assessment reports, yearly operational reports, personnel reports (e.g. OBC Section 103.2.6), and other requested reports and information.

104.2.2 Plans Examiners. A plans examiner is responsible for the examination of construction documents in accordance with section 107, within the limits of their certification, to determine compliance with the rules of the board. All plan examiners shall effectively communicate the results of their plan review to the owner or the owner's representative and the building official. A plans examiner shall conduct themselves in a professional, courteous, impartial, responsive, and cooperative manner.

104.2.2.1 Master plans examiner. A master plan examiner is responsible for the examination of all types of construction documents to determine compliance with the rules of the Board, except when the building official examines the construction documents pursuant to section 104.2.1.1.1.

104.2.2.1.1 Master plans examiner trainee. A master plans examiner trainee is responsible for the examination of all types of construction documents to determine compliance with the rules of the board under the direct supervision of an individual holding a master plans examiner certification.

104.2.2.1.2 Electrical plans examiner. An electrical plans examiner is responsible for the examination of construction documents related to electrical systems to determine compliance with the rules of the board.

If the department does not have in its employ or under contract persons holding the electrical plans examiner certification, then the examination of the construction documents for compliance with the electrical provisions of the code shall be done by the master plans examiner.

104.2.2.1.3 Plumbing plans examiner. A plumbing plans examiner is responsible for the examination of construction documents related to plumbing systems to determine compliance with the rules of the board.

If the department does not have in its employ or under contract persons holding the plumbing plans examiner certification, then the examination of the construction documents for compliance with the plumbing provisions of the code shall be done by the master plans examiner.

104.2.2.1.4 Mechanical plans examiner. A mechanical plans examiner is responsible for the examination of construction documents related to heating, ventilating, and air conditioning (“HVAC”) systems and the associated refrigeration, fuel gas, and heating piping to determine compliance with the rules of the board.

If the department does not have in its employ or under contract persons holding the mechanical plans examiner certification, then the examination of the construction documents for compliance with the mechanical provisions of the code shall be done by the master plans examiner.

104.2.3 Inspectors. An inspector is responsible for performing inspections and determining that work, for which they are certified to make inspections, is performed in compliance with the approved construction documents. All inspectors shall inspect the work to the extent of the approval given when construction documents were approved by the building official and for which the inspection was requested. All inspectors shall effectively communicate the results of their inspections as required by section 108 and shall conduct themselves in a professional, courteous, impartial, responsive, and cooperative manner.

104.2.3.1 Building inspector. A building inspector is responsible to determine compliance with the approved construction documents in accordance with section 108.

A building inspector trainee is designated to determine compliance with approved construction documents, in accordance with section 108, under the direct supervision of an individual holding a building inspector certification.

104.2.3.2 Plumbing inspector. A plumbing inspector is responsible to determine plumbing system compliance with approved construction documents in accordance with section 108.

A plumbing inspector trainee is designated to determine plumbing system compliance with approved construction documents, in accordance with section 108, under the direct supervision of an individual holding a plumbing inspector certification.

104.2.3.3 Electrical safety inspector. An electrical safety inspector is responsible to determine electrical systems compliance with approved construction documents in accordance with section 108.

An electrical safety inspector trainee is designated to determine electrical systems compliance with approved construction documents, in accordance with section 108, under the direct supervision of an individual holding an electrical safety inspector certification.

104.2.3.4 Elective inspectors. Building departments may elect to employ inspectors designated as responsible for determining that work, for which they are certified, to make inspections is performed in compliance with approved construction documents.

104.2.3.4.1 Mechanical inspector. A mechanical inspector is responsible to determine compliance with the approved construction documents for heating, ventilating and air conditioning (HVAC) systems, and the associated refrigeration, fuel gas, and heating piping systems in accordance with section 108.

If the department does not have in its employ or under contract persons holding the mechanical inspector certification, then the enforcement of the mechanical provisions shall be done by the building inspector;

A mechanical inspector trainee is designated to determine compliance with the approved construction documents for heating, ventilating and air conditioning (HVAC) systems, and the associated refrigeration, fuel

gas, and heating piping systems, in accordance with section 108, under the direct supervision of an individual holding a mechanical inspector certification.

104.2.3.4.2 Fire protection inspector. A fire protection inspector is responsible to determine compliance with approved construction documents for fire protection systems (automatic sprinkler systems, alternative automatic fire-extinguishing systems, standpipe systems, fire alarm and detection systems, and fire pumps) in accordance with section 108.

If the department does not have in its employ or under contract persons holding the fire protection inspector certification, then the enforcement of the fire protection provisions shall be done by the building inspector.

104.2.3.4.3 Medical gas piping inspector. A medical gas piping inspector is responsible to determine compliance with approved construction documents for non-flammable medical gas, medical oxygen, and medical vacuum systems in accordance with section 108.

If the department does not have in its employ or under contract persons holding a medical gas piping inspector certification, then all enforcement of medical gas piping systems shall be deferred to either of the following: the local health district when that district requests to enforce those piping systems and the district has employed or hired under contract a person holding the medical gas piping inspector certification; or the superintendent of the division of industrial compliance in the department of commerce.

104.2.4 Liability. Liability of certified building department personnel for any tortious act will be determined by Ohio courts to the applicable provisions of Chapter 2744. of the Revised Code.

The Board receives many inquiries about the tort liability of building department personnel. Until 1983, building department personnel were protected by the legal doctrine of sovereign immunity for political subdivisions and their personnel. In 1984, the Supreme Court decided the case of O'Brien v. Egelhoff, 9 Ohio St3d 209. The court held that building officials and their governmental entities may be held responsible for the negligent actions of their employees (building official) once the decision has been made to engage in a certain activity (building code enforcement). Within a year of the Egelhoff decision, the General Assembly enacted Revised Code Chapter 2744, Political Subdivision Tort Liability. Basically, Chapter 2744 was designed to restore a limited form of tort immunity to political subdivisions and their personnel, especially if they were engaging in a governmental function.

Specifically, Chapter 2744 lists a number of activities performed by local governments that are considered to be governmental powers. In section 2744.01(C) (2) (p), the legislature defined "the provision or non-provision of inspection services of all types including, but not limited to, inspections in connection with building, zoning, sanitation, fire, plumbing, and electrical codes, and the taking of actions in connection with those types of codes, including, but not limited to, the approval of plans for the construction of buildings or structures and the issuance or revocation of building permits or stop work orders in connection with buildings or structures" as governmental functions. Also, section 2744.01 provided that the employee could be a full time or part time employee, but he could not be "an independent contractor." To be protected by Chapter 2744, the employee's action or failure to act that gave rise to the cause of action under tort law had to be within the discretion of the employee with respect to policy-making, planning, or enforcement powers before the protection of the statute could be invoked. Hence, the employee enjoyed tort immunity unless one of the following existed: 1) his acts or omissions were manifestly outside the scope of his employment or official responsibilities; 2) his acts or omissions were with malicious purpose, in bad faith, or in a wanton or reckless manner; or 3) liability is expressly imposed upon the employee by a section of the Revised Code. Thus, under all circumstances where the building department employee is acting within the scope of his enforcement duties, Chapter 2744 applies.

If an employee is sued, the statute provides that the political subdivision has the responsibility to defend the employee or to compensate him for his legal expenses if he prevails in the action (See paragraph (C) of section 2744.06). The law also provides that any action must be commenced within two years after the cause of action arose or the statute of limitations has run.

If an employee acts within the scope of his or her job duties, the employee has the protection of Chapter 2744, Revised Code, and is unlikely to be successfully sued in a tort action.

104.3 Certified boards of building appeals duties and responsibilities. Before performing its duties, a jurisdiction wishing to establish a local board of building appeals shall receive certification by the board of building standards as required in section 103.14.

104.3.1 Powers, local boards of building appeals. Certified municipal and county boards of building appeals shall hear and decide the adjudication hearings referred to in section 109.1 within the jurisdiction of and arising from orders of the local building official in the enforcement of Chapters 3781. and 3791. of the Revised Code and rules adopted thereunder. The orders may be reversed or modified by the board if it finds:

The basis for granting variances to the building, mechanical, or plumbing codes after the hearing is limited to the following three findings of the appeals board. Properly certified appeals boards have the authority to grant variances from

both the codes (Ohio Administrative Code provisions) as well as from requirements in the law (Ohio Revised Code provisions) if there is evidence that an order meets one of the following criterion.

1. **The order contrary to such laws or rules;**
2. **The order contrary to a fair interpretation or application thereof; or**
3. **That a variance from the provisions of such laws or rules, in a specific case, will not be contrary to the public interest where literal enforcement of such provisions will result in unnecessary hardship.**

Once the request for a hearing is made the procedure is relatively simple. The adjudication order should include specific code cites which accompany the violations and other information including a statement describing the owner's right to appeal within thirty days of the mailing of the order and the address to which to send the fee and request for an appeal hearing. Once on the agenda for a hearing, the owner should be notified of the time, place, and date of the hearing. The owner may be represented by counsel, present arguments or contentions orally or in writing, and present evidence and examine witnesses appearing for or against him.

104.3.2 State board of building appeals. The Ohio board of building appeals shall conduct the adjudication hearings in political subdivisions without certified boards or without contracts with certified boards.

Requests for an appeal hearing should be sent to:

Ohio Board of Building Appeals
6606 Tussing Road
P.O. Box 4009
Reynoldsburg, Ohio 43068-9009

For information on times and places of Ohio Board of Building Appeals hearings call the Board office at:
(614) 644-2616

104.3.3 Materials. A certified board of building appeals may not prohibit the use of materials or assemblages authorized for statewide use by the board of building standards pursuant to section 3781.12 of the Revised Code.

104.4 Violation of duties. Any person affected by the improper actions of any building department, building official, plans examiner, inspector, fire protection system designer, or local board of building appeals certified by the board of building standards may file a written complaint with the board. Complaints will be processed by the board in accordance with the procedures outlined in the applicable certification rule found in division 4101:7 of the Administrative Code.

While always the right of an individual affected by the actions of administrative agencies or their employees, and since the certification rules have been moved to OAC 4101:7, the language stating the right to file a complaint with the Board is here explicitly stated in the code. Now it is clear that anyone affected by the improper actions of these certified agencies or employees can file a complaint with the Board as outlined in OAC Section 4101:7.

SECTION 105 APPROVALS.

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

This requirement is based upon section 3791.04 of the Revised Code which states that, "Before entering into a contract for or beginning the construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable, including all industrialized units, the owner thereof shall, in addition to any other submission of plans or drawings, specifications, and data required by law, submit the plans or drawings, specifications, and data prepared for the construction, erection, and equipment thereof, or the alteration thereof or addition thereto, which plans or drawings, and specifications shall indicate thereon the portions that have been approved pursuant to section 3781.12 of the Revised Code, for which no further approval shall be required, to the municipal, township, or county building department having jurisdiction if such department has been certified as provided in division (E) of section 3781.10 of the Revised Code, and if there is no certified municipal, township, or county building department, to the superintendent of the division of industrial compliance, for approval.

No owner shall proceed with the construction, erection alteration, or equipment of any such building until such plans or drawings, specifications, and data have been so approved, or the industrialized unit inspected at the point of origin. No plans or specifications shall be approved or inspection approval given unless the building represented thereby would, if constructed, repaired, erected, or equipped according to the same, comply with Chapters 3781. and 3791. of the Revised Code and any rule made under such chapters."

This Revised Code section provides the legal framework upon which the assurance of public health and safety is based. It thereby provides the "window" of time during which the certified building department must perform its construction document review leading to plan approval.

105.1.1 Nonconformance approval. When construction documents are submitted which do not conform with the requirements of the rules of the board, such documents may be approved by the building official provided such nonconformance is not considered to result in a serious hazard and the owner or owner's representative subsequently submits revised construction documents showing evidence of compliance with the applicable provisions of the rules of the board. In the event such construction documents are not received within thirty days, the building official shall issue an adjudication order revoking the plan approval.

*The Building Official may approve constructions documents which do not entirely conform to the OBC **as long as** any area of non-conformance **does not constitute a serious hazard and** the owner or owner's representative submits revised construction documents or other information missing in the original plan review to bring the construction documents into compliance with the OBC. This additional information must still be provided to demonstrate compliance with applicable provision of the OBC. The discretionary authority to issue a plan approval prior to receiving all information cannot be exercised by the building official to circumvent the owner's obligation under the law to submit construction documents which must comply with the requirements of the OBC. The situation created by allowing information to be submitted later cannot create a condition considered a serious hazard and the information must still be submitted and reviewed for compliance. This information must be received within a period of time not to exceed thirty days. Finally, if not received by the certified building department within thirty days of the initial approval, the Building Official is required to revoke the approval using the provisions of section 105 to issue an adjudication order.*

*The determination of whether a structure or component presents a serious hazard is not a subjective exercise. ORC section 3781.06 first defines what "safe" and "sanitary" which are mirrored in OBC Chapter 2, which offers definitions of "safe", "sanitary", **and** "serious hazard":*

***Safe:** as applied to a building, means free from danger or hazard to the life, safety, health or welfare of persons occupying or frequenting it, or of the public, and from danger of settlement, movement, disintegration, or collapse, whether such danger arises from the method or materials of its construction or from equipment installed therein, for the purpose of lighting, heating, the transmission or utilization of electric current, or from its location or otherwise.*

***Sanitary:** as applied to a building, means free from danger or hazard to the health of persons occupying or frequenting it or to that of the public, if such danger arises from the method or materials of its construction or from any equipment installed therein for the purpose of lighting, heating, ventilating, or plumbing.*

Serious hazard: a hazard of considerable consequence to safety or health through the design, location, construction, or equipment of a building, or the condition thereof, which hazard has been established through experience to be of certain or probable consequence, or which can be determined to be, or which is obviously such a hazard.

*A serious hazard is "a hazard of considerable consequence to safety or health through the design, location, construction, or equipment of a building". The first phrase clearly makes a distinction between a problem that could be construed as having a consequence and one having considerable consequence. These hazards must be **established** (proved, demonstrated) **through experience** (history, data, loss statistics, evidence, etc.) to be of **certain or probable consequence** (sure, inevitable, unquestionable, certain; **not** a hazard that could **possibly** exist under hypothetical conditions), can be **determined** (to establish conclusively after investigation) to be, or which is **obviously** (plain, evident) a serious hazard.*

*In the context of this type of construction document approval, a building official **may** grant this type of approval when conditioned upon receiving complete, code-complying documentation from the owner. However, this option can only be used when the nonconformance, which prohibited the building official from granting a full approval, does **not** involve a serious hazard as defined in the law and the OBC.*

105.1.2 Conditional approval. When construction documents are submitted which cannot be approved under the other provisions of this rule, the building official, may at the request of the owner or owner's representative, issue a conditional plan approval when an objection to any portion of the construction documents results from conflicting interpretations of the code, or compliance requires only minor modifications to the building design or construction. No conditional approval shall be issued where the objection is to the application of specific technical requirements of the code or correction of the objection would cause extensive changes in the building design or construction. A conditional approval is a conditional license to proceed with construction or materials up to the point where construction or materials objected to by the agency are to be incorporated into the building. The conditions objected to shall be in writing from the building official which shall be an adjudication order denying the issuance of a license and may be appealed in accordance with section 3781.19 of the Revised Code. In the absence of fraud or a serious safety or sanitation hazard, all items previously examined shall be conclusively presumed to comply with Chapters 3781. and 3791. of the Revised Code and the rules of the board. Reexamination of the construction documents shall be limited to those items in the adjudication order. A conditional plan approval is not a phased plan approval.

*This section outlines another option for plan approval which the Building Official has discretionary authority to grant but only **if it is requested** by the owner or owner's representative. This plan approval option is used for those cases that cannot be approved under sections 105.1.1, 105.1.4, or 105.1.5. It is for those issues about which there is a legitimate disagreement over interpretation of the code. In other words, the specific disagreement over interpretation cannot deal with an issue that is specifically addressed in or is a specific technical requirement of the OBC.*

Because a full approval cannot be granted until the interpretation question is clarified, a project could be delayed. This option allows construction to begin and proceed up to the point in the project where the issue of objection or disagreement must become part of the work. The assumption is that the issue will be handled as an adjudication order, that it will be appealed to the board of building appeals having jurisdiction, and that it will be resolved before construction reaches the point at which the item or information must be incorporated into the work

Further direction is also included in the subparagraph to make it specifically clear that once the objection has been resolved, only the information resubmitted in response to the resolution of the building department's objection and adjudication order can be reexamined by the building official's plan examiner. This prevents reexamination of the entire set of construction documents given that the construction documents had received conditional plan approval and only a portion was the cause of the objection. When the objection is resolved through the appeal process, the solution may require plan review of the proposed solution. Such plan review is restricted to the resubmitted documents, if any, and not any previously reviewed portion of the project because they are conclusively presumed to comply with the OBC.

105.1.3 Previous approvals. This code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful approval has previously been issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within one year of the approval of construction documents. One extension shall be granted for an additional year if requested by the owner at least ten days in advance of the expiration of the approval and upon payment of any fee not to exceed one hundred dollars. If, after the start of construction, work is delayed or suspended for more than six months, the approval is invalid. Two extensions shall be granted for six months if requested by the owner at least ten days in advance of the expiration of the approval and upon payment of any fee for each extension not to exceed one hundred dollars.

This section of makes clear that once a plan approval is no longer valid (a long delay or pause in construction without proper extension requests) the owner must resubmit construction documents to the department for review and approval. If the OBC is updated or modified during the delay, that previous plan approval becomes invalid. The plan review must be performed using the OBC in effect at the time of the resubmission. The owner cannot claim that the project should be reviewed under a previous version of the OBC that was in effect at the time of the original plan approval. There may or may not be modification required to the construction documents as a result of the resubmission and plan review.

105.1.4 Phased approval. The building official shall issue an approval for the construction of foundations or any other part of a building, structure, or building service equipment before the construction documents for the whole building, structure or building service equipment have been submitted, provided that adequate information and detailed statements have been filed complying with applicable requirements of this code. The holder of such approval for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that an approval for the entire structure will be granted. Such approvals shall be issued for various stages in the sequence of construction provided that all information and data required by the code for that portion of the building or structure has been submitted. The holder of a phased plan approval may proceed only to the point for which approval has been given.

A fourth plan approval option is described in this paragraph as a phased or partial approval. The language makes it clear that this type of plan approval is compulsory and not discretionary. A partial plan approval is given for a discrete part, component, or phase of a project. If the building official agrees that a project can be approved in phases, each portion or phase may receive a separate approval. That approved portion or component can then be constructed (assuming all other jurisdictional approvals have been granted) up to the point at which the unapproved construction is to be incorporated into the work. Once approval is received for another portion or component of the work, it can be incorporated into the project. Receiving approval on any one portion or phase does not guarantee further approvals of future submittals or that work can proceed beyond the scope of the phase or portion approved.

105.1.5 Annual approval. In lieu of an individual approval for each alteration to an existing electrical, gas, mechanical, plumbing, or piping installation, the building official may issue an annual approval upon application to any person, firm or corporation regularly employing individuals holding the related board certification in the building, structure or on the premises owned or operated by the applicant for the approval.

105.1.5.1 Annual approval records. The person to whom an annual approval is issued shall keep a detailed record of alterations made under such annual approval. The building official shall have access to such records at all times or such records shall be filed with the building official as designated. These records shall include the applicable construction documents in accordance with section 106.1.

Formerly a provision in section 4101:1-1-27-03 for electrical inspections, the annual approval process was expanded to include electrical, gas, mechanical, or plumbing systems. The intent was to provide flexibility for large manufacturing facilities, auto production plants, large apartment complexes, or other places where regular equipment changes are necessary yet provide a mechanism to assure that the work is code compliant, maintain accountability, and allow for independent verification.

105.2 Validity of approval. The construction, erection, and alteration of a building, and any addition thereto, and the equipment and maintenance thereof, shall conform to required plans which have been approved by the building official, except for minor deviations which do not involve a violation of the rules of the board. In the absence of fraud or a serious safety or sanitation hazard, any structure built in accordance with approved plans shall be conclusively presumed to comply with Chapters 3781. and 3791. of the Revised Code and the rules of the board.

Conformity to the approved construction documents, the "plans", is a fundamental requirement of the enforcement process and applies to new construction, additions to existing structures, building equipment, and building maintenance. Maintenance must be done to keep a building as it was originally approved. Any building so constructed, added to, equipped, and maintained (according to the approved "plans") is conclusively (settled, final, decisively) presumed (constituting reasonable evidence, accepted) to comply with the revised code and the OBC. This language mirrors that found in 3791.04(D) of the ORC.

Exception: Industrialized units shall be constructed to conform to the plans approved by the board.

Because the intent of the industrialized unit (IU) regulations is to permit them to be used anywhere in Ohio, a system was developed to assure that IUs were built conform to the OBC. This process is described in section 113 of the OBC and 3781.10, 3781.102, 3781.11 ORC. Because the construction documents are approved prior to shipping into Ohio and are, by definition, of closed construction, all IUs must have construction documents submitted to the Board for review and approval. This is true for all IUs, even one-, two-, and three-family units. Unlike site built one-, two-, and three-family dwellings, IUs are not exempt from this plan review and inspection process.

105.3 Expiration. The approval of plans or drawings and specifications or data in accordance with this rule is invalid if construction, erection, alteration, or other work upon the building has not commenced within twelve months of the approval of the plans or drawings and specifications.

Receiving plan approvals from a certified building department is not the end of the process; more realistically it is simply the end of the beginning of the process. Besides the required inspections and issuance of a certificate of occupancy, there is a building department responsibility between plan approval and start of construction. If a plan approval (full, conditional, partial, etc.) is granted, there are several “clocks” that start ticking, one for start of construction and one for delays in construction. Both time periods have an impact on the plan approval.

One extension shall be granted for an additional twelve-month period if requested by the owner at least ten days in advance of the expiration of the approval and upon payment of a fee not to exceed one hundred dollars.

If construction does not begin within one year after the approval, the owner has, in effect, invalidated the plan approval. It is a violation of the OBC and the ORC (3791.04) to begin construction without a valid plan approval. An owner may request that the plan approval be considered valid for an additional year if the request is made at least ten days before the original year of approval has elapsed. The responsibility for tracking this one-year time period, the expiration deadline, the deadline for extension lies clearly with the building department. The development and implementation of administrative systems to monitor these deadlines are the responsibility of the building official. Because continued requests for extension could bring the unbuilt project close to overlapping the regular cycle of code updates, the code does not permit the granting of more than one extension.

105.4 Extension. If in the course of construction, work is delayed or suspended for more than six months, the approval of plans or drawings and specifications or data is invalid. Two extensions shall be granted for six months each if requested by the owner at least ten days in advance of the expiration of the approval and upon payment of a fee for each extension of not more than one hundred dollars.

The second important time period for a construction project is the measurement of the length of any delay in or suspension of construction once work on a project has begun. If a delay occurs during the construction of a project or if construction is suspended for more than six months, the owner has invalidated the plan approval. It is the building department, as the administrative enforcement agency, that has the responsibility to track the delays or suspensions and enforce these code provisions. Similar to delays in the start of construction, an owner may request that the plan approval be considered valid for an additional six months if the request is made at least ten days before the original approval has elapsed due to suspensions of construction activity. Two such extensions are available to an owner.

105.5 Certificate of plan approval. After plans have been approved in accordance with section 107, the building official shall furnish the owner/applicant a certificate of plan approval.

The approval of construction documents by the building official, outlined in Section 107, is accomplished as specified here. Once any correction items have been addressed, corrected, or appealed, the building official **shall** furnish the owner of the work for which documents were approved a certificate of plan approval. This instrument indicates, within the scope of the OBC, that the owner has a right to perform the work that has been approved.

105.5.1 Content. The form of the certificate shall be as prescribed by the building official and shall show the serial number of the certificate, the address at which the building or equipment under consideration is or is to be located, the name and address of the owner, the signature of the building official who issued the certificate, and such other information as is necessary to facilitate and ensure the proper enforcement of the rules of the board.

The building official is responsible for prescribing this certificate’s form but it must contain the following information:

- An identification, application, or tracking number – it is the building official’s responsibility to set up and maintain a project tracking system within the building department to monitor projects
- Address of the project site at which the work will be done – facilitate inspection scheduling, issuance of orders, project history and outstanding order research, etc.
- Identification of the owner and owner’s address – Ohio law (3791.04 ORC) is addressed to the owner and not a tenant, renter, contractor, architect, engineer, or other party.
- Certificate issuer identification – another tracking item is the identification of the building official or designee issuing the certificate of plan approval.
- Other information as deemed necessary by the building official.

The intent is to remove as much complexity from the enforcement process as possible yet assure that adequate information is provided to the enforcement agency for proper enforcement of the OBC.

105.5.2 Duplicate issued upon request. Upon application by the owner, the building official shall issue a duplicate certificate of plan approval to replace a lost or destroyed original.

SECTION 106 CONSTRUCTION DOCUMENTS.

The importance of this section of the OAC cannot be emphasized strongly enough. The quality of the information submitted provides the only substantive tool for clearly communicating the intent and the extent of the proposed work. Without this information, a department cannot fulfill its duty to assure that the built environment is safe and sanitary. The building department is not certified to provide design-consulting services to the public in lieu of the submission of adequate constructions; it is to enforce, on behalf of citizens, regulations that assure safety. This rule actually contains a list of items that are to be included in construction document submission to be deemed adequate.

106.1 Submittal documents. Construction documents, statement of special inspections required and other data shall be submitted in two or more sets with each application for an approval. Before beginning the construction of any building for which construction documents are required under section 105, the owner or the owner's representative shall submit construction documents to the building official for approval. When construction documents have been found to be in compliance with the rules of the board of building standards in accordance with section 107 by a certified building department, that determination of compliance shall be deemed sufficient to obtain approval for construction pursuant to section 105.2 and the building official shall issue the certificate of plan approval. Construction documents for the installation of industrialized units shall be submitted to the building official for approval in accordance with the provisions of section 106.1.2(1).

This requirement permits one copy of the approved construction documents to be held by the certified building department and one to be placed at the construction site (section 106.3.1). If there is a need for additional sets for wider departmental distribution or other reasons, a certified building department has the authority to request them under ORC 3791.04(D). Likewise, if the owner needs additional approved sets of construction documents, the building department should, when provided by the owner, endorse any additional sets in the same manner as the sets mentioned in this section.

This rule is drawn from rule section 101.2 and prohibits any building, including a building's equipment or appurtenances, which are covered by the OBC from being completed without complying with the OBC. It is important to note that the building includes its building service equipment such as plumbing, electrical, mechanical, fire protection, and other components.

This rule reflects the requirement in the Ohio Revised Code that before work begins, construction documents must be submitted to a building official in whose jurisdiction the work will be done. This submission must receive approval prior to beginning the proposed work. Even the fieldwork necessary for IUs must be approved prior to initiating the work. The reference to ORC 3781.12 is to assure that the portion of an existing building not being altered or added to does not have to comply with current code provisions if it is not being modified or changed or is not a serious hazard. ORC 3781.12 is one of the places in law stating that code cannot be enforced retroactively. It is this section of the law that specifies how petitions are to be submitted to change the code. Because the code can be updated or modified over time, the law controls the effect of new provisions on existing buildings by stating:

"Any such rule or regulation or amendment or annulment thereof shall not take effect until a date fixed by the board and stated therein. No such rule, regulation, amendment or annulment shall apply to any building the plans or drawings, specifications, and data of which have been approved prior to the time such rule, regulation, amendment, or annulment takes effect."

This language thereby protects building owners from having to perpetually make changes to their buildings because of code changes after their building project is completed. When an owner has, in good faith, complied with the codes in effect when work was done, the law recognizes the validity of the building approval. This protection applies as long as the building is maintained consistent with its approval and with no serious hazards present; there can be no denying the use of this tangible asset.

Exception: No construction documents need be filed with the division of industrial compliance for site installation of industrialized units used exclusively as one-, two-, or three-family dwellings.

106.1.1 Information on construction documents. Construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the building official. Construction documents, adequate for the scope of the project, shall be coordinated and 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. Construction documents shall include information necessary to determine compliance with the building, mechanical, plumbing, fire, electrical, energy, and fuel gas codes such as:

When the building official receives construction documents for review, they must be:

- Clear: free from confusion or ambiguity
- Coordinated: the construction documents reflect a consistency and congruency of work product among various consultants when dealing with relevant components of a project
- Detailed: marked by careful attention to detail

The language also states that the construction documents must describe the proposed building, any additions or alterations to buildings, and all building equipment. These components are all a required part of the document review process. This description should be adequate for the scope of the project. In other words, not all projects necessarily need every item below but is dependant on the complexity or "scope." The department should receive adequate information to permit a review of the proposed work to permit it to make a determination of compliance with the codes.

1. **Index.** An index of drawings located on the first sheet which shall also include all occupancy classification(s), type(s) of construction, the area in gross square feet for each level, the maximum design occupant load, the structural design loads, and the seismic design category and site class;

In order for a plan examiner to be able to properly ascertain compliance with the OBC, information on the occupancy classification (how a building will be used) and construction type (what it will be built of) are essential. This large scale classifying of the structure must also include those components that have been given special consideration by the designer, especially the structural components. These components must be identified as they are intended to be built consistent with assemblies that have been tested according to referenced standards and which have been shown to provide the desired rating.

Also mentioned above, the maximum occupant load shown on the index is determined by using the table in chapter 10 of the OBC. One occupant is assumed for each unit of area, either gross or net, as listed in table 1004.1.1.

2. **Site plan.** A site plan showing a north orientation arrow, the size and location of new construction and all existing structures on the site, all property and interior lot line locations with setback and side yard dimensions and distances from buildings to lot lines, the locations of the nearest streets, the established street grades, the locations, types and sizes of all utility lines, the location of any fences, and the elevations of all proposed finished grades; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The building official is authorized to waive or modify the requirement for a site plan when the application for approval is for alteration or repair or when otherwise warranted.
 - 2.1 **Buildings or structures located in flood hazard areas.** Construction documents submitted for buildings or structures located in communities with identified flood hazard areas, pursuant to section 1612, shall include the current FEMA "Flood Hazard Boundary Map" (FHBM), "Flood Insurance Rate Map" (FIRM) or "Flood Boundary Floodway Map" (FBFM) for the project location. The required site plan shall include building elevations using the same datum as the related flood hazard map. The owner shall be responsible for the compliance with local flood damage prevention regulations for additional critical elevation information for the project site.
 - 2.2 **Site Accessibility Plan.** Information in plan view and details shall be submitted indicating compliance with the accessibility provisions of this code for the exterior of the building in addition to accessible features of the interior. When applicable, the plans shall include: the exterior accessible route between all facilities required to be connected; ramp locations and elevations along the exterior accessible route; number of and details for the required accessible van and car parking spaces and passenger loading areas; location and detail of required accessibility signage; grade/topographic elevations before and after proposed grading when site impracticality is intended to be applied.
3. **Floor plans.** Building configuration layout drawings with all walls and partitions shown including: plans of full or partial basements and full or partial attics and penthouses, grade elevations at the building perimeter, and references to other details and elevations. Floor plans must show all relevant information such as door swings, stairs and ramps, windows, shafts, all portions of the means of egress, plumbing fixtures, built-in fixtures, special equipment, vertical transportation, etc., and shall be sufficiently dimensioned to describe all relevant

space sizes. Spaces shall be identified by appropriate code appellations (an "auditorium" may not be identified as a "meeting room" if its attributes indicate that it is an auditorium). The construction documents shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces;

4. **Demolition.** In the case of demolition, the floor plan shall identify construction to be demolished and the location, arrangement, and dimensions of existing construction that is to remain.
5. **Roof plan.** Roof outline, overall dimensions and dimensions of setbacks, slope of roof, drainage, reference to other details, roof materials, penetrations through roof, and roof-mounted equipment;
6. **Exterior elevations.** Vertical dimensions, floor-to-floor heights, opening heights, references to other details, floor lines, elevations of major elements, grade lines, foundation lines, material indications and notes, symbols for window schedule, gutters, signs and windows, doors, and all other openings.
7. **Building sections.** Vertical dimensions, elevations of the top of structural components and finish floor lines, materials, footings and foundations, reference to other details, ceiling lines, and major mechanical services.
8. **Exterior building envelope.** The exterior envelope shall be described in sufficient detail to determine compliance with this code and the referenced standards. Details shall be provided which describe flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves, or parapets, means of drainage, water-resistive membrane details around openings, location and type of vapor retarders, window and door U-values, and insulation location and R-values. The supporting documentation shall fully describe the exterior wall system, which was tested, where applicable, as well as the test procedure used.

Fire histories and research have clearly shown that an important threat to occupants is the compromise of the fire resistant elements in a structure when penetrations of rated assemblies are necessary for the installation of building service equipment. The designer of record or the owner must indicate the method in which these penetrations are to be closed and protected to maintain the integrity of the systems installed in a building to manage risks. Again, without this information, a plan examiner cannot complete the construction document review.

9. **Wall Sections.** Face of wall dimensions to other components, vertical dimensions from foundations to parapet relating all elements to top of structural elements, all connection methods, wall, ceiling, floor, foundation, and roof materials and construction details.
10. **Interior elevations.** Vertical dimensions to critical elements, references to other details, openings in walls, wall finishes, built-in items, and locations of switches, thermostats, and other wall-mounted equipment.
11. **Schedules.** Information or tables that describe the room finishes, doors, windows, and door hardware and controls. Wall and floor materials shall be described by cross-hatching (with explanatory key), by notation, or by other clearly understandable method.
12. **Structure.** Complete structural description of the building including size and location of all structural elements and a table of live, wind, snow, and seismic loads used in the design of the building and other data as required to fully describe the structural system.
13. **Fire suppression system.** Areas of protection, fire suppression system occupancy hazard classification, and water supply data.

A significant component of the building service equipment is the suppression system. Its design must be based upon a classification of the specific hazard associated with how the building will be occupied and what fire load is to be introduced. The occupancy hazard classification is a categorizing method for establishing fire loads to which a suppression system must respond. Referenced standard, NFPA-13, describes three hazard classifications: light hazard, ordinary hazard, and extra hazard occupancies. Each describes occupancies with increasing rates of heat release. Ordinary hazard and extra hazard occupancies each have two subcategories: group 1 and group 2, which further refines the classification. To properly design a suppression system in the appropriate occupancy hazard classification, a designer also needs to determine the characteristics of the commodity mix in the fire area (what type of material is being protected by the system). These five classes of commodities, classes I through class IV, are increasingly greater heat output and burning characteristics.

14. **Fire-resistance Ratings.** The fire-resistance ratings of all structural elements as required by this code, data substantiating all required fire-resistance ratings including details showing how penetrations will be made for electrical, mechanical, plumbing, and communication conduits, pipes, and systems, and the materials and methods for maintaining the required structural integrity, fire-resistance rating, and firestopping.
15. **System descriptions.** Complete description of the plumbing, mechanical and electrical systems, including: materials, insulation R-values, general routing and sizes of all piping; location and type of plumbing fixtures and equipment; plumbing schematics and isometrics; materials, insulation R-values, general routing and sizes of all ductwork, vents, and louvers; location and type of heating, ventilation, air conditioning, and other mechanical equipment; location and type of all fire alarm, lighting and power equipment; type and size of all electrical conductors.
16. **Operations.** Information shall be provided regarding operations, the types, quantities, and arrangement of flammable, combustible, or hazardous materials proposed to be produced, used, dispensed, or stored in the

facility; material safety data sheets for hazardous materials produced, used, or stored in the facility, the commodity and arrangement of high piled or rack storage, control areas, etc.

17. **Additional information.** Additional graphic or text information as may be reasonably required by the building official to allow the review of special or extraordinary construction methods or equipment.

106.1.1.1 Fire protection system drawings. Construction documents shall be approved prior to the start of system installation. Related product listing information shall be provided and drawings shall contain all information as required by the installation standards referenced in Chapter 9. The individual and company installing the fire protection systems, who shall be certified by the state fire marshal pursuant to section 3737.65 of the Revised Code, shall be identified on the drawings. In the event that the product listing information is not known or the certified installer is not known at the time of plan examination, conditional plan approval shall be granted subject to subsequent submission of the listing information and the name of the certified installer prior to installation of any part of the fire protection systems.

Often, building departments mistakenly issue full plans approval without the receipt of the completed sprinkler package as a part of the construction documents; shop drawings are submitted later. Unfortunately, this practice provides approval of incomplete construction documents for which nothing additional is technically required. It also could mean that partial, incomplete, or no sprinkler drawings are included as a part of the approved construction documents. This leaves the inspector with no approved document to inspect against for compliance in the field. Inspectors should never direct work in the field but this practice places them in a position that can lead to arbitrary or inconsistent inspections.

106.1.1.2 Special inspections. Where application is made for construction as described in this section, the owner or the registered design professional in responsible charge acting as the owner's agent shall identify those special inspections needed during construction on the types of work listed under section 1704.

106.1.2 Special provisions. The following are special provisions:

1. When construction includes the use of industrialized units or alternative materials, designs and methods of construction or equipment approved by the board, documentation shall be provided to the building official describing how they are to be used. Before these items are installed or used, the following shall be submitted:
 - 1.1 A copy of the construction documents approved by the board; and

The language in item 1.1 requires that the information submitted to the building department include a copy of Board approved construction documents related to any industrialized unit(s) intended to be included in the proposed project. Board approved documents will bear the seal or stamp of the board. The approval represented for the documents the board has approved has time limits. When the code changes, manufacturers are given a prescribed length of time to submit new documents after the code's effective date (usually 6 months). Building department personnel can verify the validity of approved documents by contacting Board staff.

The documents are required to be submitted locally to assure that the unit(s) placed at the site match the approved design and also to assure the building department will have adequate information for site related work, and any limitations of the use of the approved units.

1.2 Details pertaining to on-site interconnection of modules or assemblies.

Exception: When construction includes the use of industrialized units for one-, two-, and three- family dwellings and their accessory structures, the documents shall be provided to the residential building official. If no residential department is certified in a jurisdiction, construction documents for one-, two-, or three-family dwellings comprised of industrialized units are not required to be submitted for approval.

2. Construction documents submitted that include construction of public swimming pools shall include documentation indicating approval of the pool construction documents by the Ohio department of health in accordance with section 3109.1.1 of the "OBC".
3. Construction documents submitted that include alterations or construction of, or additions to buildings where sales, display, storage or manufacture of consumer fireworks, 1.4g or display fireworks, 1.3g shall include documentation indicating that the applicant has received preliminary approval for construction issued by the state fire marshal.
4. The elevation certification provided by a registered surveyor and dry floodproofing certification, when required in section 1612.5 for buildings or structures located in communities with identified flood hazard areas, shall be submitted to the building official.
5. When a certified building department receives an application for plan approval in a jurisdiction in which the local fire official has requested an opportunity to provide input to the certified building department on issues related to fire protection, the building official shall require that the applicant provide a set of relevant construction documents for the local fire official. The building official shall evaluate the local fire official's comments related to fire protection provisions of this code that are received within the timeframe established by the building official and section 3791.04 of the Revised Code prior to issuing the plan approval certification.

The language in item 5 was included in the special provisions section of the OBC with the intent of making several points of building department operation clear. First it has always been and will always be the responsibility of the certified building department and its personnel to perform a complete and thorough review of the submitted construction documents. It has always been the responsibility of the fire safety inspector having jurisdiction to perform inspections to assure that the approved structures are maintained as they were originally approved. Communication between these agencies thus becomes critical to provide the public with adequate assurance of safety in the built environment. Cooperation thus is essential.

Since the Board of Building Standards certifies departments and their personnel, any rules written by the Board only apply to those certified by the Board for enforcement of the codes. Thus, this section directs the building official to cooperate with the fire safety inspector responsible for maintenance inspections. The intent of this direction to cooperate does not mean that the building department is permitted to discontinue the review of various components or systems described in construction documents and turn that responsibility over to another agency not certified or permitted by law to perform that plan examination function. In other words, "cooperation" does not mean that any other local agency or department should perform plan examination for or in lieu of the certified building department. Owners cannot be subject to multiple building construction reviews performed by multiple agencies or departments when the certified building department is required by law to perform this function.

The Board and its staff has always encouraged building officials to communicate and cooperate with other agency or department personnel during the building department's plan review process to benefit from the observations of these other personnel - building, plumbing, electrical, mechanical inspectors; fire safety inspectors, other agency or department professionals, etc. The building official/plan examiner can then review these observations for possible inclusion in any subsequent correction letter produced as a part of the certified building department's plan review process.

6. **Construction documents submitted that include alterations or construction of, or additions to jails, workhouses, or municipal lockups shall include documentation indicating that the applicant has received preliminary approval for construction issued by the Ohio Department of rehabilitation and Corrections.**
7. **When, as a part of work subject to this code, construction includes or relates to the temporary or permanent storage of flammable or combustible liquids, such construction shall be in accordance with the provisions of this code and the fire code.**

106.2 Evidence of responsibility. Required construction documents, when submitted for review as required under section 107, shall bear the identification of the person primarily responsible for their preparation.

On 25 July 2001, an opinion was released by the Attorney General's Office (BBS FaxBack Service document number 352) in response to a request from the State Board of Examiners of Architects (BEA). The issue that the opinion addressed was not whether or when a seal must be present on construction documents prepared by **architects**, but whether the **architect's** seal must be in the correct form and whether building departments must enforce these requirements for **architects**.

The Board's position has consistently been that the form of the seal used by an architect is an enforcement issue for the State Board of Examiners of Architects as an architectural practice question not an issue of compliance with the building code. If the construction documents clearly indicate who authored them, whether the seal was a stamp or an embossed impression over an original signature, the building department should process them for review.

ORC 4703.15 requires that every registered **architect** "shall secure a seal of the design prescribed by the rules of the state board of examiners of architects. Working drawings and specifications prepared by or under supervision of the holder shall be imprinted with this seal." The rules of the BEA further require "application of the architect's embossing seal impression, over the architect's ink signature, to the title or first sheet of bound sets of drawings, to the title page of bound specifications and to other drawings and contract documents required for official filing with building permit agencies."

There are three enforcement paths for this situation:

As described in the opinion, the Board of Building Standards, the state's building department, or certified building departments are given the discretion to determine who, how, and what is reasonable in performing this architect's seal check. Therefore, one approach would be that the opinion really leaves the status quo in place and suggests continuing the practice of notifying the BEA if the form of the seal does not comply with that board's architectural practice requirements if being done now.

The second approach would be to assign someone in the certified building department the task of checking all documents submitted to the department to determine if an **architect** has documents in the set. If so, an **architect's** embossing seal impression over the **architect's** ink signature must be on the title or first sheet of bound sets of drawings and on the title page of bound specifications and other unbound drawings and contract documents. All other sheets produced by the **architect** must be sealed/stamped with a seal in the same form as the embossing seal. Refusing to accept these improperly sealed sheets, produced by the **architect**, is not a code violation but a statement that the drawings are not sealed according to the requirements of the law and must be brought into compliance before these sheets can be received. Other

documents produced by engineers, surveyors, landscape architects, or fire protection system designers must continue to be accepted by certified departments as in the past and are **not** impacted by this opinion.

The last option would also be consistent with the opinion. In this option, after receipt of the construction documents that do not strictly comply with the rules of the BEA, certified building departments should formally notify the BEA of every failure and allow it to take whatever action it needs to take to correct the failure on the part of the **architect** to comply with the BEA's requirements

Given these options, the Board's recommendation for fulfilling the requirements outlined in the A.G. Opinion are #1 or #3. If the form of an architect's stamp/seal does not comply with the rules of the Board of Examiners of Architects, departments could officially notify the registration board and thus flag non-compliance. Certified building departments should then expect the BEA to take action against those architects who do not practice as required.

A simple notice can be used to alert the State BEA when **architects** do not use the proper seal/stamp form. Any questions should be addressed before implementing a policy to deal with this A.G. opinion.

106.2.1 Seal requirements. When it is required that documents be prepared by a registered design professional, the building official shall be authorized to require the owner to engage and designate on the approval application a registered design professional who shall act as the registered design professional in responsible charge. The building official shall be notified in writing by the owner if the registered design professional in responsible charge is changed or is unable to continue to perform the duties. The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building.

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

Construction documents shall bear the seal of a registered design professional pursuant to section 3791.04 of the Revised Code.

Construction documents include the design, location, and physical characteristics of construction. Whenever the preparation of construction documents involves technical analysis (this means design elements of a complex nature, generally requiring computations, evaluations of loads, stresses, etc.), the documents must be sealed by a registered design professional. Based upon technical analysis, the registered design professional specifies the performance of a building or building system necessary to meet the needs of the owner/occupant and the requirements of the OBC.

Exception: The seal of a registered design professional is not required on construction documents for:

There are, however, exceptions to the requirement that construction documents be sealed. Since the November 24, 1995 effective date of HB 231 (the Seal Law), members of the legislature have become increasingly impatient with the way the law was being misapplied by some building officials. Ohio House members involved in the development of this Bill attended special meetings with interested parties in an attempt to eliminate the incorrect application of the law by clarifying the statute's intent. At this meeting, the legislators stated that this bill was not intended to authorize a building department to require a seal on all documents submitted for review to determine compliance with the OBC.

Building officials do not have the right to refuse to accept construction documents that do not have a seal. Once the plan review has started, the building official can then utilize the provisions of this section to determine whether or not a seal is needed. The requirement for a seal becomes one of the many items checked during the normal plan review process. If a seal is required, then this deficiency can go into a correction letter/adjudication order along with other items of noncompliance.

There are cases when documents provide location and descriptions of physical characteristics of the construction independent of technical analysis/design. These documents can be submitted for review without a seal. Cut/spec sheets and listings are obvious examples of documents that can be submitted for review but would not require a seal. The following guidelines shall be used when applying section 106.3.4.1.

1. Buildings or structures classified as one-, two-, or three-family dwellings and accessory structures;

Documents submitted for any 1, 2 or 3 family dwellings including accessory structures such as a garage, greenhouse, shed, etc. not used for commercial purposes are exempt.

2. Energy conservation design for buildings or structures classified as one-, two-, or three-family dwellings;

Energy conservation design documents submitted for any 1, 2 or 3 family dwellings including accessory structures such as a garage, greenhouse, shed, etc. not used for commercial purposes are exempt.

3. Fire protection system designs submitted under the signature of an individual certified in accordance with section 107.4.4;

Documents submitted for fire protection systems containing the signature of an individual certified in accordance with section 105.3.1.4 (A list of these certified fire protection systems designers is available from the BBS) are exempt.

4. Installation of replacement devices, equipment or systems that are equivalent in type and design to the replaced devices, equipment or systems; and

Documents submitted for installation of replacement devices, equipment, or systems that are equivalent in type and design to the replaced devices, equipment, or systems, including new equipment that meets the required performance characteristics of the original equipment. Examples include repair/replacement of structural members (headers, etc.), when the new member has equal or greater load bearing characteristics, and HVAC units providing equivalent or greater efficiency ratings and meeting the original design heating/cooling/electrical loads are exempt.

5. Alterations, construction or repairs to any buildings or structures subject to sections 3781.06 to 3781.18 and 3791.04 of the Revised Code where the building official determines that the proposed work does not involve the technical design analysis of work affecting public health or general safety in the following areas: means of egress, structural, mechanical, electrical, plumbing, or fire protection.

5.1 For the purpose of this exception, technical design analysis is defined as the development of integrated solutions using analytical methods in accordance with established scientific and engineering principles.

Documents submitted for any buildings or structures subject to the OBC where the proposed work does not involve technical analysis/design, would include examples such as:

1. General construction drawings for details of alterations or new construction when the design is already clear or pre-established or where the plans examiner can determine compliance without having to check load calculations, etc. Examples include the location and type of a protected opening in a rated assembly when the rating of the assembly is known, details for installation or relocation of interior partitions when the original design parameters have not been changed.
2. Structural systems that are not modified, where any new load applied to the structural system can be shown to have been accounted for as part of the original design. Examples include: a floor assembly where the load imposed by the new use does not exceed the original design capacity; replacement of one type of rooftop equipment where the weight of the new equipment does not exceed the original design load;
3. PRE-ENGINEERED LISTED/APPROVED equipment drawings or cut sheets that meet the specifications and performance requirements of the code; such as listed commercial range hood.
4. FIRE PROTECTION drawings submitted for the installation of new non-required fire protection systems and alterations to existing systems that can be made without exceeding the capacity of the system do not require the seal of a design professional or signature of a certified fire protection designer for fire protection systems. Examples include extending existing fire alarm systems into additions when the original design limits of the system are not exceeded, or the installation of a single-head limited area sprinkler system in a boiler room.
5. HVAC drawings submitted for the installation of replacement equipment or equipment that constitutes an upgrade for an existing system that does not exceed the system's capacities, or an increase in energy demand because of other alterations. If the original design of the system accounted for the increased load or can be shown to accommodate the new configuration or load, the seal of a design professional is not required.
6. ELECTRICAL drawings which provide sufficient information describing work that does not increase the load on the electrical load center, does not require the seal of a design professional. Adding a circuit to an existing panel or a new sub-panel that does not increase the demand on the original service does not require the seal of a design professional. Temporary construction service does not require the seal of a design professional.
7. PLUMBING drawings describing additional fixtures or other alterations to the system when the system's capacity can be shown to account for such increases/changes.

106.3 Amended construction documents. If substantive changes to the building are contemplated after first document submission, or during construction, those changes must be submitted to the building official for review and approval prior to those changes being executed. The building official may waive this requirement in the instance of an emergency repair, or similar instance.

While many will claim that this requirement seems burdensome, it really is only a matter of having the building official included in the distribution process for proposed changes. Changes to projects are often made after initial plan approval and the changes usually involve a modification of the contract amount or contract time. When these changes are planned, change orders are commonly written and documentation is prepared to seek modification of the contract amount, the contract time, or both.

This section requires that prior to incorporating these changes into the work, the changes anticipated and described in change order documentation must be reviewed and approved by the building official. Otherwise, the inspector has no way of determining whether the work being done is in accordance with the OBC. The inspector is not certified to approve

changes that deviate from the approved construction documents. If changes in the work are seen which do not conform to the approved construction documents, the inspector must notify the owner or owner's representative and the building official. The owner or the owner's designated representative should be informed of their responsibility to submit changes and given a reasonable time to comply. If nothing is submitted, the building official may need to issue an order citing this code section.

Use of good judgment is important because the language does not define "substantive changes". The word "substantive" is defined as things that are substantial, of considerable amount or quantity, actual, essential, having a direct bearing on a matter. Those changes, then, which have a direct bearing on the project and its approval that can effect the approval in a substantial way must be submitted to the building official. For instance, substantial changes could be seen as those that affect the contract time or contract amount and for which change orders are to be written.

By including the building official in the distribution/approval process, the owner ensures that the right to build according to approved construction documents, including the proposed changes, is maintained.

106.4 Alternative materials and methods of construction and equipment. For approval of a device, material or assembly that does not conform to the performance requirements in this code, section 114 shall apply.

The Ohio Revised Code assigns product approval to the Board. section 3781.10(C) of the Ohio Revised Code clearly states that the Board should, "Determine by rule, on its own motion or on application made under sections 3781.12 and 3781.13 of the Revised Code, and after thorough testing and evaluation that any particular fixture, device, material, process of manufacture, manufactured unit or component, method of manufacture, system, or method of construction, complies with performance standards adopted pursuant to section 3781.11 of the Revised Code, having regard to its adaptability for safe and sanitary erection, use, or construction, to that described in any section of the Revised Code, wherever the use of a fixture, device, material, method of manufacture, system, or method of construction which is described in such section of the Revised Code, is permitted by law; and on like application amend or annul any such rule or issue an authorization for the use of a new material or manufactured unit; and no department, officer, board, or commission of the state other than the Board of Building Standards or the Board of Building Appeals shall permit the use of any fixture, device, material, method of manufacture, newly designed product, system, or method of construction at variance with what is described in any rule adopted or authorization issued by the Board of Building Standards or in any section of the Revised Code. Nothing in this section shall be construed as requiring approval, by rule, of plans for an industrialized unit that conforms with the rules adopted by the Board of Building Standards pursuant to section 3781.11 of the Revised Code."

These requirements are specified in section 114 of Chapter One below.

106.5 Alternative engineered design. The design, documentation, inspection, testing and approval of an alternative engineered system shall comply with sections 106.5.1 to 106.5.3 of this rule.

Occasionally situations arise in which a registered design professional proposes a design solution that is not specifically covered in code text or referenced standards. When this occurs, the building official is given guidance on using several steps to assure that the approach provides an adequate level of protection. Complying with this section places some additional responsibility upon the design professional to communicate information adequate to justify the designer's claim of equivalent protection.

106.5.1 Design criteria. An alternative engineered design shall conform to the intent of the provisions of this code and shall provide an equivalent level of quality, strength, effectiveness, fire resistance, durability and safety. Materials, equipment or components shall be designed and installed in accordance with the manufacturer's installation instructions.

The building official must be assured that the alternate engineered design provides an equivalent level of protection and that any materials, equipment, or components are used only as is recommended by the manufacturer. The performance of the alternate design is the measure of its use with respect to providing an equivalent level of quality, strength, effectiveness, fire resistance, durability and safety.

106.5.2 Submittal. The registered design professional shall indicate on the application that the system is an alternative engineered design. The approval and permanent approval records shall indicate that an alternative engineered design was part of the approved installation. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.

When construction documents describing an alternate engineered design are submitted to the building official for plan approval, sufficient information must be provided by the registered design professional to allow the building official to make identification of the design a part of the record and final approval. The building official is also authorized to request additional information to assist in this documentation under special conditions.

106.5.3 Technical data. The registered design professional shall submit sufficient technical data to substantiate the proposed alternative engineered design and to prove that the performance meets the intent of this code.

The substantiation of the alternate design's performance is the responsibility of the design professional. The information required to be submitted must meet three criteria to be permitted for use under this section. It must be sufficient rather than minimal in its documentation, it must be technical in nature, and it must substantiate how compliance that meets the code's intent is proved.

Exception: Approval of alternative materials, products, assemblies and methods of construction in accordance with Section 114.3.2.

SECTION 107 PLAN APPROVAL PROCESS.

107.1 Plan review required. Where the rules of the board are applicable under section 101.2, before a building or addition to a building is constructed or erected, and before a building is altered or relocated, or building equipment is installed, or there is a change of occupancy, or a resubmission of construction documents is required or received, construction documents relating to the work and equipment under consideration shall be prepared in conformity with section 106 and be submitted to the building department for examination and approval.

Construction documents (the description of what work is to be done) are not optional when work contemplated in a building is other than maintenance and minor repair as defined above. Work, other than maintenance or minor repair, potentially changes the building and may require it to manage the risks for the way the building is to be occupied. When a building is issued an occupancy permit, it is assumed that the building will be maintained as it was approved. Modifying the building, its equipment, or systems changes the assumptions under which the building was approved. To maintain the appropriate level of protection built into the building through its equipment and systems, and to manage the risks for the specific occupancy, changes to the building must be evaluated, under the auspices of the building official, by the certified building department and inspections made to be performed to assure the work conforms to the approved construction documents. In this way changes are not made arbitrarily and the public is not exposed to increases in risk because of building modifications.

107.2 Application for plan approval. To obtain a plan approval, the owner or the owner's representative shall first file an application in writing on a form furnished by the building department for that purpose. Such application shall:

1. Identify and describe the work to be covered for which application is made for approval.
2. Describe the land on which the proposed work is to be done, street address or similar description that will readily identify and locate the proposed building or work.
3. Indicate the use and occupancy(ies) for which the proposed work is intended.
4. Be accompanied by construction documents and other information as required in section 106.1.
5. Be signed by the owner, or the owner's authorized agent.
6. Give such other data and information as required by the building official.
7. Identify and clearly indicate whether the project or portion of a project intends to utilize an industrialized unit, as defined in section 113.2.
8. Identify and clearly indicate whether the project or portion of a project intends to utilize an assembly of individually listed or labeled products.

107.2.1 Time limitation of application. The approval of plans under this section is a "license" and the failure to approve such plans as submitted within thirty days after filing or the disapproval of such plans is an "adjudication order denying the issuance of a license" requiring the opportunity for an "adjudication hearing" as provided by sections 119.07 to 119.13 of the Revised Code and as modified by sections 3781.031 and 3781.19 of the Revised Code. In accordance with section 109, an adjudication order denying the issuance of a license shall specify the reasons for such denial.

If construction documents have been reviewed for compliance with the rules of the board, an adjudication order has been issued to the owner and the owner's representative, and the owner has neither exercised the right to

appeal pursuant to section 110 nor resubmitted corrected documents, the application is invalid six months from the date of the issuance of the adjudication order.

Plan approvals are a license to build under Ohio law, however a license to build in and of itself is not permission to build if there are other approvals that are needed in a jurisdiction. There may be other approvals needed prior to receiving permission to build within the boundaries of a political subdivision; the plan approval being only one of them. The building department is given a time period in which it has authority to review and order corrections for compliance with the OBC. This thirty day jurisdictional window is set in ORC 3791.04. In setting the time limit, the legislature determined that the certified building department would not have an unlimited amount of time in which to be involved in the pre-construction review and approval process. It also provided owners with a mechanism to seek relief if either the construction documents were not approved because the building department exceeded the thirty-day time limit. This relief begins with an opportunity to be heard in an adjudication hearing as outlined in sections 119.07 to 119.13 of the ORC. These sections outline the procedure to be used in providing citizens their due process rights. Owners must be notified of their right to appeal a denial of license and be notified of the date, time, and location of the hearing. The hearing must make provision for taking a stenographic record of the proceedings, provide opportunity for evidence review and witness testimony, and permit further appeal if needed. The owner must request an adjudication hearing from the appropriate appeals Board within thirty-days after receiving an adjudication order from a building official of a certified building department. The order must specify where and in what respect the construction documents do not comply with the OBC. If the adjudication hearing is not requested within thirty-days, the owner has, in effect, waived the available administrative remedy and the order becomes enforceable. Failure to give the notices required in these sections of Ohio law in the manner prescribed will invalidate the order issued by a building official. Correctly following the processes when a license is denied will prevent a multitude of problems for the building department and the owner as well as help resolve problems in a timely manner. A new provision included in this section also sets a limit on the time an owner has to respond to a correction letter. This fills in a gap in the review, approval, and inspection process not previously addressed in the code. Once a correction letter has been sent, an owner must take some action to address the correction letter/adjudication order. The owner must respond to the correction letter with construction document changes or request an appeal on some or all of the items listed in the correction letter. Otherwise the project application for plan approval is invalid after six months. This timeframe should be monitored by the building official and appropriate notification should be sent to the owner stating that, since no action was taken to resolve the correction letter items, the plan approval is invalid and construction documents will have to be resubmitted for review if the owner decides to continue with the project. This review would be done under the code in effect at the time of the new application for plan approval.

107.3 Order of plan review. Construction documents submitted for approval shall be examined for compliance with the rules of the board in the order received, unless otherwise consented to by the building owners affected by deferred examination.

Not only must construction documents submitted for approval be examined for compliance with the OBC, but they are also required to be reviewed in the order received. This is to prevent preferential treatment of certain projects, giving priority to certain classes of projects, or causing irregular variations in plan review times based on other factors rather than submission date.

Many departments provide a walk-in review service in which small projects can be reviewed on the spot. Since many owners use this service at different times, depending on the type of project anticipated, there is general consent that this process is acceptable and should not be eliminated. It provides a way for smaller projects to be processed without the delay that would occur if placed in line between larger projects. As long as normal shelf time is not excessive, the walk-in process adds value for the public.

107.4 Review of plans. When construction documents have been submitted to the building department for review and approval the building official shall cause the construction documents to be examined for compliance with the rules of the board by assigning the examination duty to an appropriately certified plans examiner. The plan examiner shall first determine whether the construction documents are adequate as required in section 106. If so, the plan examiner shall examine the construction documents to determine compliance with the rules of the board.

The duty of a certified master plan examiner is to determine or ascertain compliance with the provisions of the OBC for the building official – determine whether the submitted construction documents fulfill the building code requirements. Once this determination or ascertainment is complete, the results should be reported to the building official for communication to the owner. The building official has the legal responsibility for the plan review (104.2.1.1) and for endorsing or stamping such construction documents as approved (107.5.1). While some departments delegate a portion of the responsibility for correspondence, communication, and correction letter formulation to the master plan examiner, the building official is responsible for and ultimately accountable to the Board of Building Standards for the enforcement of the OBC (103.2(1)(2.1), 103.3.1(1)) including plan review.

107.4.1 Inadequate construction documents. If construction documents are determined to be incomplete or inadequate for examination, the plans examiner shall report the findings to the building official. The plan examiner shall examine the construction documents to the extent possible and identify what information from section 106 is missing and needed to complete the required examination. Upon receipt and review of the report, the building official shall proceed as required in section 107.6.

107.4.2 Resubmitted documents. If construction documents are resubmitted in response to an adjudication order, the review for compliance shall be limited to determining that the item of non-compliance, and any work affected, has been corrected and shall not be deemed to authorize another review of unmodified construction documents previously determined to comply.

107.4.3 Sealed construction documents. Construction documents which have been prepared by an Ohio registered design professional who prepared the same as conforming to the requirements of the rules of the board pertaining to design loads, stresses, strength, and stability, or other requirements involving technical analysis, need be examined only to the extent necessary to determine conformity of such construction documents with other requirements of the rules of the board.

This language has its origins in the first 1959 Ohio Building Code as section 1202.20. The wording appeared almost exactly as it exists today in this section. Since plan examiners at that time were not required to be registered design professionals as they are today, plan review of certain elements of a project was not deemed necessary if the construction documents were prepared by an Ohio registered design professional. These elements were delineated as pertaining to design loads, stresses, strength, and stability, or other requirements involving technical analysis. The plan review should be focused on other building code requirements such as egress, setbacks, construction type, fire resistance ratings, height and area, occupancy type, etc.

When the Board of Building Standards adopted its model-code-based Ohio Basic Building Code in 1979, this language was included because the principle was still applicable. Ohio registered design professionals carry the responsibility for the elements of a project pertaining to design loads, stresses, strength, and stability, or other requirements involving technical analysis by virtue of their registration. This allows the certified building department's plan examiners to review the construction documents using these data without having to repeat the work of the designer.

107.4.4 Fire protection system construction documents. Construction documents for fire protection systems authorized to be submitted by individuals certified pursuant to Chapter 4101:7-5 of the Administrative Code shall:

- 1. When submitted under the signature of an individual certified under section 3781.105 of the Revised Code, be processed in the same manner as construction documents submitted under the signature of a registered design professional. Any statistical data, reports, explanations, plan description, or information that would not also be required for a similar submission by a registered design professional need not be submitted by a certified designer.**

When the legislature created this certification process in 1982, it permitted appropriately certified individuals to do work that overlapped the architectural and engineering licensure laws. For a specific type of work (fire protection systems) these individuals may, using their signature and certification number, may design systems and submit construction documents to a certified building department for review and approval.

Effective September 26, 1996, Am. Sub. Senate Bill No. 293 revised section 3781.105 of the Revised Code. The revision expands the scope of the section from automatic sprinkler designer to a fire protection system designer, which includes sprinkler design, fire alarm design, and special hazards system design (CO, Halon, wet chemical, and dry chemical systems). It also requires the Board to certify individuals who pass an examination from the National Institute for Certification in Engineering Technologies (NICET) that demonstrates their knowledge and understanding of the type of fire protection system for which the individual seeks certification. The National Society of Professional Engineers established NICET in 1961. NICET certification programs exist for various construction-related areas; the fire protection engineering technology certification includes subfields of automatic sprinkler system layout, fire alarm systems, and special hazards systems layout. The engineering technician certification has four levels of work elements: Levels I and II cover background technical requirements, Level III requires five years of design experience, Level IV requires 10 years of experience.

The Board drafted rules allowing individuals holding a level III or IV certification to prepare and submit fire protection construction documents to certified building departments in Ohio. NICET certification must be renewed annually; it is not a license, but a condition for obtaining Ohio certification, and the certification does not authorize the use of a stamp or seal.

Rules in Ohio Administrative Code, Chapter 4101:2-87, "Certification of Automatic Sprinkler System Designers", were revised to state the qualifications necessary for three categories of fire protection certification: note that the definition of "special hazards system" will include foam water, halon, halon alternatives, carbon dioxide, dry chemical, and wet

chemical systems. Rule 4101:2-87-04 was completely revised to permit those individuals with NICET Level III or Level IV certification to apply to the state of Ohio for certification in their respective sub-field of fire protection systems design as set forth by the legislature.

2. **If certified by a registered design professional or individual certified under section 3781.105 of the Revised Code as conforming to requirements of the rules of the board pertaining to design loads, stresses, strength, stability, or other requirements involving technical analysis, be examined by the building department official only to the extent necessary to determine conformity of such construction documents with other requirements adopted by the board under Chapters 3781. and 3791. of the Revised Code.**

Because certified fire protection system designers were permitted by law to perform a specialized are of design they were also given the responsibility for their calculations pertaining to design loads, stresses, strength, stability, or other requirements involving technical analysis. Again, it is specified that the certified building department's plan examiners can review the construction documents designed using the data developed by the certified designer without having to repeat the technical analysis presumed the responsibility of the designer. Their plan review need only be performed to the extent necessary to determine conformity of such construction documents with other code requirements. This would include all necessary information describing the system, such as whether all components and system performance criteria are clearly indicated. At inspection, the performance of the system can be verified and, if found deficient, the certified designer should bear the responsibility of making any necessary corrections needed to cause the system to perform as designed.

There are also requirements in other portions of the Ohio Revised Code requiring all individuals installing automatic sprinkler systems to be certified by the state fire marshal. Many times, however, the installer is not known at the time of document submission. If it is suspected, during inspection, that individuals who are not certified installers are installing a fire protection system, the state fire marshal's office can be notified. The building code does not provide the building department with any enforcement responsibility or authority. The written communication should be sent to the marshal's Code Enforcement Bureau.

107.5 Plan review, compliance with rules of the board. If the construction documents are determined to comply with the rules of the board, the plans examiner shall communicate the findings and recommend the conditions and type of approval to the building official.

107.5.1 Building official approval. The building official shall evaluate the plans examiner's recommendations and any communications received from the fire official as described in section 106.1.2. When the construction documents have been determined to conform to the applicable provisions of the rules of the board, the building official shall endorse or stamp such plans as approved and issue the certificate of plan approval in accordance with section 105.5.

The ultimate responsibility for approval of construction documents rests with the Building Official. Whether that responsibility is delegated to another person or whether the Building Official is using a variation of the plan approval process, the Building Official remains responsible for stamping or endorsing construction documents as conforming with the requirements of the OBC for use within the Building Official's jurisdiction. The Building Official must depend upon a certified plan examiner to review documents, ascertain compliance, and report the findings to the Building Official.

*Once approval is possible, the Building Official **shall** proceed with the approval. This is of concern when jurisdictions attempt to require compliance with other ordinances before granting plan approval. As can be seen, this section of the Ohio Administrative Code (and 3791.04 ORC) precludes holding projects "hostage" by denying plan approval until some other requirement is met. A plan approval simply assures the public that the construction documents comply with the OBC and, if built accordingly, the project should be safe and sanitary. Upon receiving a plan approval from a building department, an owner has not necessarily received permission to build. Permission to build sometimes includes obtaining approval from several other agencies, each of which should have clearly defined lines of responsibility and related enforcement mechanisms. Clear delineation of enforcement accomplished without confusing the department jurisdictional boundaries best serves the public. For example, failure to obtain zoning, engineering, water/sewer, or other approvals is not a building code violation and, therefore, the building department is required to issue plan approvals without attempting to enforce other department's requirements by delaying approval of a complying set of construction documents. Failure to obtain a plan approval from the building department is not a zoning, engineering, water/sewer, or other violation and, therefore, those approvals must be given by those departments within the scope of their individual authorizing legislation. Any ordinances should have within them the mechanism for enforcing their respective requirements without having to resort to delaying approval under one department to force an owner to meet the requirements of another department. Once all departments' requirements are met, an owner has permission to build. One solution to these cross-jurisdictional issues is the suggested use, by local jurisdictions, of a document called a "Building Permit" that has all departmental signoffs combined. It is often assumed that a "Building Permit" is something the building department must issue when, in fact, the building department issues a plan approval certification. Therefore, the use of a*

“Building Permit” on which all the departments must memorialize their approval before it is valid reinforces the necessity of multi-agency approvals. Before an owner has permission to build, the signoffs must be obtained from all required agencies. A building department can give its required plan approval when construction documents have been found to comply with the OBC before another agency grants its approval and vice versa. Being able to give each departmental approval when its requirements are met, avoiding the delay caused by the requirements of another agency, eliminates the possibility of procedural illegality in enforcing legitimate local regulations that are intended to protect the public.

107.5.2 Posting. The certificate of plan approval shall be posted in a conspicuous location on the site. The owner and the contractor shall preserve and keep the certificate posted until the final inspections have been completed.

While this document is often called the building permit, this rule speaks to posting the certificate of plan approval. Posting indicates that the project is being processed as required by law and is under the jurisdiction of a certified building department. Often, this posted document is the on-site sign-off record of inspections. In this case the owner and the contractor are both named and given the responsibility to assure that the certificate is kept posted at the site. Should a certificate of plan approval be lost, the owner must make a written request for a replacement certificate. Because inspection records should also be reported by the inspector, recorded, and tracked by the building department, replacement of an on-site posted certificate of plan approval should not be complicated. Once all inspections are completed, the project moves to the next enforcement phase.

107.6 Plan review, items of noncompliance. When the construction documents are examined and items of noncompliance with the rules of the board are found by the plan examiner, the building official shall proceed as required in either section 107.6.1 or 107.6.2.

107.6.1 Process for items of non-compliance.

1. Item(s) of non-compliance shall be communicated to the owner or the owner’s representative and offer the following options:
 - 1.1. The owner will revise the drawings and resubmit to the department.
 - 1.2 The items of noncompliance will not be brought into compliance and will be referred to the building official as indicated in item 4 below.
2. The owner or the owner’s representative shall indicate which option (item 1 above) will be exercised
3. Notations of the communication shall be made on a plan review record. The notations shall include the plan examiner’s name, the date of the communication with the owner or the owner’s representative, the observed items of noncompliance, the code citation related to the item(s) of noncompliance, the action necessary to correct the item(s) of noncompliance, the option chosen by the owner or the owner’s representative, the name of the person communicated with, and the estimated dates of compliance and resubmission, if applicable.
4. If the owner or the owner’s representative indicates that the work will not be brought into compliance with the rules of the board or requests an adjudication order, the plan examiner shall report to the building official in accordance with section 107.6.2.

107.6.2 Building official determination of noncompliance. The building official shall evaluate the plans examiner’s report and any reports received from the fire official as described in section 106.1.2 and render a final determination as to whether the items of non-compliance are to be communicated to the owner in the form of an adjudication order complying with section 109. The building official shall also determine whether any approvals are possible, and issue the appropriate approval as described in section 105.

107.7 Approved construction document sets. One set of approved construction documents shall be kept by the building official. The other set(s) shall be returned to the applicant, kept at the work site, along with manufacturers’ installation instructions and product information, and shall be available for use by the inspector.

*This provision requires one copy of the approved construction documents to be held by the certified building department and one for the construction site for the use of the **building official**. This specific mention of the building official is consistent with section 104.2.1.3, in which the project is subject to inspection by the building official. This of course does not mean that the building official should perform all inspections without the appropriate certification, but rather that the responsibility for assuring inspections occur resides with the building official. It is the building official’s responsibility to assure that inspections occur and that are performed in a manner that assures that the construction matches the approved construction documents. These construction documents are maintained at the site by the owner for the inspection of the work as required of the building official and accomplished by his or her certified inspection personnel as directed in section 108.2. Inspections at the site cannot be performed if there are no approved documents with which to compare the work being performed.*

One of the first items checked at the site by an inspector is the presence of construction documents approved by the certified building department. If modifications to the work are being performed for which there are no approved documents, the building official and owner should be notified that section 106 has been violated. The building official

may need to take action if the owner cannot provide adequate documentation to permit proper review and approval of the change.

SECTION 108 INSPECTIONS PROCESS.

One of the more important functions in the code enforcement process is the inspection process. All other reviews and approvals mean nothing if the work is not constructed in conformance with the approved construction documents. The process followed for the inspection of construction is deliberate and affords all involved parties their rights while making each responsible to perform lawfully.

108.1 General. After construction documents have been approved, construction or work may proceed in accordance with the approved documents. Construction or work for which an approval is required shall be subject to inspection by the building official. It shall be the duty of the owner or the owner's duly authorized representative to notify the building department when work is ready for inspection. Access to and means for inspection of such work shall be provided for any inspections that are required by this code.

While the responsibility for requesting inspections clearly rests with the owner or the owner's representative, the building official should be aware that there is a need to track the project from plan approval certification (section 107.5.1) because the approval has a time limit specified. Also, there is a time limit on the amount of time work can stop.

Section 105.3 is clear that if construction has not begun within a year from the approval date, the construction documents should be resubmitted to the certified department for approval. An owner can request an extension for an additional year but there is a limit on how long an approval is valid.

In a similar manner, section 105.4 states that if work stops for more than six months the construction document approval is invalid. It should be clear, therefore, that if an owner does not request an inspection within the first year after an approval is granted or if inspections are not requested for a period of more than six months, the building official must be able to flag the passage of those critical time periods.

While the request for inspections is the duty of the owner, the notice to the owner that delays have made the plan approval invalid can only be made if the building official has set up a mechanism to track the projects that have been or are being processed.

It shall be the duty of the owner or the owner's authorized representative to cause the work to remain accessible and exposed for inspection purposes. Such construction or work shall remain accessible and exposed for inspection purposes until the work has been inspected to verify compliance with the approved construction documents, but failure of the inspectors to inspect the work within four days, exclusive of Saturdays, Sundays, and legal holidays, after the work is ready for inspection, allows the work to proceed.

Subsequent work is allowed to proceed only to the point of the next required inspection.

Construction is subject to inspection but it subject to the inspection by the building official. Under Ohio law, the building official is responsible for the enforcement of the construction requirements. The plan examiners and inspectors are the building official's experts, eyes, and ears to assist in carrying out the building official's enforcement duties.

Once the work begins and inspections are requested from the building department, the building official is responsible to send the appropriate inspectors to perform the requested inspections. Inspectors can, according to this section, expect the work to remain open or visible since most inspections are visual in nature. The certified building department, when applying for certification, and the building official by inference, has agreed to staff the department to a level that provides timely response to inspection requests. The department however does not have the ability to hold a project "hostage" by failing to respond to requests for inspection in a timely manner. As specified in this section, the work can continue if inspections have not been done within 96 hours (excluding certain days) after the request is made. Most departments maintain a 48-hour turn-around time on inspections and thus would be operating within this timeframe.

The question of covering work after the allowed inspection delivery time is not met is somewhat difficult to sort out. Much work can continue without covering work for which an inspection was previously called but which was not performed in the specified timeframe. If at all possible, the uninspected work should be left open while the rest of the work proceeds. Our recommendation has consistently been that, if this is absolutely impossible to wait and the department has, after another contact, been unable to provide the necessary inspection, the owner should photograph or adequately document that the uncovered work for which inspections were not performed complied with the code. Further, if no work is begun within one year after plan approval, the plan approval is invalid (refer to section 105.3). A failure to request inspections (including final inspections) for a twelve-month period after plan approval should be a red flag to the building official that the project will lose its plan approval. Again, it can be correctly assumed that no work is being done if no inspections have been called for. It is the building official's responsibility to develop and maintain some system to flag such projects. It is then the building official's duty to cause inspections to be made to ascertain the conditions at the site and issue appropriate orders.

108.2 Required inspections. At the time that the certificate of plan approval is issued, the building official shall provide, to the owner or the owner's representative, a list of all required inspections for each project. The required inspection list shall be created from the applicable inspections set forth in sections 108.2.1 to 108.2.14. The building official, upon notification from the owner or the owner's agent that the work is ready for inspection, shall cause the inspections set forth in the required inspection list to be made by an appropriately certified inspector in accordance with the approved construction documents.

The rules of the Board also require (refer to section 108.1) the owner or the owner's duly authorized agent to notify the building official when work is ready for inspection. If the owner fails to make appropriate notification, the building official should include a citation of this requirement in any order issued.

Listed below are some, but obviously not all, of the basic inspections that should be performed for work subject to the Ohio construction codes.

108.2.1 Lot line markers required. Before any work is started in the construction of a building or an addition to a building to which the rules of the board are applicable under section 101.2, all boundary lines shall be clearly marked at their intersections with permanent markers or with markers which are offset at a distance which is of record with the owner.

While this may be a rather obscure inspection requirement, there is no greater service the building department can provide than to assure the building is located within the boundaries of the owner's property. Most lending institutions require a survey as a condition of the construction loan yet the translation to and maintenance of that information on the site often does not happen.

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

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

108.2.4 Lowest floor elevation. The elevation certification required in section 1612.5 shall be submitted to the building official.

This language is incorporated by ICC as proposed by FEMA to incorporate flood insurance requirements into the building code. The elevation certification, which is prepared by a surveyor, is to establish the elevation of the lowest floor. This elevation is critical to compliance and if there is enclosed space below this floor, ASCE 24 requirements will apply. This elevation information should verify what was provided as a part of the construction document package submitted for approval pursuant to section 106.1.1(2.1). The local FEMA floodplain administrator will require a separate as-built lowest floor elevation certification as a part of meeting the floodplain administrator's responsibilities. The certification required in this section should not be seen as that program requirement but is an inspection tool for determining construction document code compliance.

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

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

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

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

108.2.8 Energy efficiency inspections. Inspections shall be made to determine compliance with Chapter 13 of the "OBC" and shall include, but not be limited to, inspections for: envelope insulation "R" and "U" value, fenestration "U" value, duct system "R" value, infiltration air barriers, caulking/sealing of openings in envelope and ductwork, and "HVAC" and water heating equipment efficiency.

108.2.9 Building services equipment inspections. Inspections shall be made of all building services equipment to ensure that it has been installed in accordance with the approved construction documents, the equipment listings, and the manufacturer's installation instructions. Inspections shall include but not be limited to inspections for the following systems and their associated components: mechanical heating and ventilating systems, mechanical exhaust systems, plumbing systems, fire protection systems, and electrical systems.

108.2.10 Other inspections. In addition to the inspections specified above, the building official is authorized to cause to be made or require other inspections of any construction work to be made to ascertain compliance with the provisions of this code.

Where applications are submitted for projects of unusual magnitude of construction, the building official may require inspections or full-time project representation by a registered design professional or inspection agency. This inspector/project representative shall keep daily records and submit reports as required by the building official.

Exception:

Where the building official requires full-time project inspection, the installation of a fire protection system may be inspected by a person certified under section 3781.105 of the Revised Code. The person shall be certified in the appropriate subfield of fire protection systems being inspected – automatic sprinkler, fire alarm, or special hazards systems design.

The building official is often faced with projects the size and complexity of which tend to tax the ability of the department's staff to offer timely review and inspection services given all the work within a jurisdiction. The department, therefore, has the authority to require inspection of such projects with provisions for the keeping of records and reports for review by the building official.

108.2.11 Special inspections. For special inspections, see section 1704.

108.2.12 Final inspection. The final inspection shall be made after all work required by the plan approval is completed.

108.2.13 Industrialized unit inspections. Approved industrialized units and the on-site construction to complete the installation of the industrialized units shall be inspected. Such inspections shall include:

1. Connection to on-site construction, interconnection of modules, connection to utilities. The inspections and conducting of required tests shall not require the destruction or disassembly of any factory-constructed component authorized by the board.
2. Inspection of the unit for damage resulting from transportation, improper protection of exposed parts from inclement weather or other causes. Damage shall be repaired as required by the building official to comply with the applicable provisions of the rules of the board;
3. Inspection of the unit to determine if it is marked by an insignia furnished by the board; and
4. Inspect the unit to determine if the floor plan, exterior elevations, and exposed details are in conformance with the plans approved by the board.

108.3 Inspection agencies. The building official is authorized to accept reports of approved inspection agencies, provided such agencies are approved in accordance with the rules of the board of building standards.

For further information on approved inspection agencies, refer to section 114 OBC below.

108.4 Right of entry. The building official, or the building official's designee, is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that credentials are presented to the occupant and that entry is requested and obtained. Where permission to enter has not been obtained, is denied, or the building official has probable cause to believe that there exists in a structure or upon a premises a condition which is a serious hazard the building official shall have recourse to the remedies provided by law to secure entry.

Probable Cause is usually defined as "Reasonable cause; having more evidence for than against. A reasonable ground for belief in the existence of facts warranting the proceedings complained of. An apparent state of facts found to exist upon reasonable inquiry which would induce a reasonably intelligent and prudent man to believe...that a cause of action existed."

Probable cause is the existence of circumstances that would lead a reasonable person to believe that there is more evidence favoring suspicion than evidence against such suspicion. Mere suspicion or belief, without any supporting facts is not sufficient grounds for taking action.

A fire safety report, photographs, eyewitness reports, or first hand observations could be grounds for a probable cause based administrative search warrant request.

108.5 Inspections, compliance with construction documents. When an inspector from the department having jurisdiction finds that completed work is in accordance with the approved construction documents, the inspector shall communicate the

findings to the owner's on-site representative and shall make a note of the satisfactory inspection on an on-site inspection record and in the inspector's log, and communicate their findings to the building official. The building official, after review of the findings, shall issue the certificate of occupancy in accordance with section 111.

108.6 Inspections, observation of violations, unsafe conditions, or serious hazards. When an inspector from the department having jurisdiction finds that any work in connection with the location, erection, construction, repair, alteration, moving, or equipment of a building is contrary to the approved construction documents for the same, the building official shall proceed as required in either section 108.6.1 or 108.7.

108.6.1 Process for work contrary to approved construction documents.

1. Communicate the nature of the differences to the owner or the owner's on-site representative and offer the following options
 - 1.1 The owner will bring the item of noncompliance into compliance,
 - 1.2 The owner will revise the drawings and resubmit to the department,
 - 1.3 The items of noncompliance will not be brought into compliance and will be referred to the building official as indicated in item 4 below.
2. The owner or the owner's on-site representative shall indicate which option (item 1 above) will be exercised
3. Notations on the on-site inspection record and in the inspector's log shall be made. The notations shall include the inspector's name, the date of the inspection, the type of inspection, the observed items of noncompliance, the option chosen by the owner or the owner's on-site representative, the name of the person communicated with, and the estimated dates of compliance and follow-up inspections, if applicable.
4. If the owner or the owner's on-site representative indicates that the work will not be brought into compliance with the approved construction documents, the inspector shall submit a report to the building official for the final determination of noncompliance in accordance with section 108.7.

108.6.2 Observation of violations not shown on plans. If an inspector, in the course of performing the assigned or requested inspections, observes a code violation that was either shown incorrectly or not adequately addressed or detailed in the approved construction documents, the inspector shall communicate the finding to the building official so that the building official can make a determination of whether the code violation is of such significance to warrant communicating the finding to the owner or the owner's representative as a recommended change.

108.6.3 Observation of unsafe conditions or serious hazards. If an inspector, in the course of performing the assigned or requested inspections, observes an unsafe condition or a serious hazard, the inspector shall communicate that condition to the owner or the owner's on-site representative and shall report the findings immediately to the building official so that the building official can make a final determination of whether the violation constitutes a serious hazard which requires the issuance of an adjudication order as required in section 109.

108.6.4 Industrialized units, observations of noncompliance. When an inspector from the department having jurisdiction finds that an industrialized unit has been constructed contrary to the plans approved by the board, the inspector shall report the nonconformance to the building official. The building official shall notify the board of all violations of section 108.2.13. The board or its designee and the building official shall determine the corrective action to be taken before the building is approved to be occupied.

Inspections are a fundamental part of the enforcement process of a certified local building department. Without effective inspections, the process whereby the public is assured that a building is safe and sanitary breaks down. The best plan review and approval is meaningless unless inspectors audit the construction process to assure what was approved actually gets built. As often happens for many reasons, when an inspector arrives at a construction site, the construction may be found to differ from the approved construction documents. At this point in the process, what the inspector does next can impact the project negatively or positively.

This section lays out steps that the inspector must take to determine, inform, and report. If each of these steps is done correctly, professionally, and quickly, the inspection process can be beneficial to the building official in enforcing the codes and the owner.

First, the inspector must review the construction to determine if it is being performed in compliance with the approval. In other words, is what was approved actually being built? If it is, then the inspection has confirmed that the "license" the owner received at plan approval is still valid. However, if the review of the construction reveals that the work is NOT being performed in compliance with the approval, the inspector has a duty to take action in very specific ways. This process could be described as follows:

1. Since a "license" - the plan approval - issued by the building official does not authorize construction that is not approved or that differs with the approved construction documents, the inspector must do something specific - communicate. The inspector must notify the owner or owner's designated representative of the discrepancy. Usually there has been a change order, a contract modification, or an addendum that was issued that was created, was priced by the contractor, and approved by the owner but was never sent to the building department for review and approval.

If the owner or owner's designated representative is notified, the appropriate documentation is submitted to the building department, it is reviewed, approved, and made a part of the "license," the owner can incorporate that work into the project because it is now approved. Subsequent inspections can continue to determine that the further work complies with the department's approval.

2. If, however, the inspector reviews the construction and determines that it is NOT being performed in compliance with the approval (in other words, what was approved is NOT being built), the inspector must again do something specific – communicate. The implication here is that an owner cannot bring work into compliance or refuse to bring work into compliance if not told of any discrepancies between the actual work and the construction documents. The inspector must notify the owner or owner's designated representative of any discrepancy. If however, the owner or owner's designated representative refuses to bring the work or equipment into conformity with the approved construction documents, the inspector should not argue, should not direct work in the field, or should not perform a plan review in the field. The inspector is responsible to make a written report to the Building Official once the inspector finds that the work does not conform to the approved construction documents and the owner refuses to bring it into compliance. The inspector's report must describe where and in what respect the work or equipment does not conform to the approved construction documents. The report can also include any other information the inspector determines is advisable.

Once this is done, inspectors have completed their required duties and the Building Official must decide on a course of action. The Building Official must determine whether there is a need to issue any orders to the owner or owner's representative requiring some correction be made to bring the work into compliance with the approved construction documents, cite appropriate code violations or requirements, determine a reasonable time during which the owner must comply, or describe the owner's right to appeal.

Following these steps will assure that changes are identified, approvals are quickly and correctly processed when possible, and if difficulties are encountered, they are handled in a manner that will assure that any legal action necessary will have a positive outcome.

108.7 Building official determination of noncompliance. The building official shall evaluate the inspector's report and render a final determination as to whether the items of non-compliance are to be communicated to the owner in the form of an adjudication order complying with section 109. The building official shall also determine whether any approvals are possible.

108.8 Acceptance, performance, and operational testing. Acceptance, performance, and operational testing shall be conducted as required in the applicable code or referenced standard. Advanced notice of the test schedule shall be given to the building official. The building official may require that the tests be conducted in the presence of the building official or certified inspector. Testing and inspection records shall be made available to the building official or inspector, upon request, at all times during the fabrication of the systems and the erection of the building.

Perhaps one of the most misunderstood parts of the final approval process is the method the certified building department should use to document the proper operation of the building service equipment (refer to OBC Chapter 2 for definition of "building service equipment").

This section makes it clear that acceptance, performance, and operational testing must be done. The wording is precise, however, in stating that this testing must be done "as required in the applicable code or referenced standard". No certified building department personnel has the duty or responsibility to perform this testing but the code requires that 1) advance notice of the testing schedule must be given to the building official, 2) testing must be conducted in one of two ways. Either the tests should be performed in the presence of the building official or the specified inspection records must be made available to the building official as needed during the performance of the work. The certificates/records required in the standards must still be completed whether or not the tests are performed in the presence of the code official.

Building departments should not assume responsibility for the operation of building service equipment by performing 100% equipment tests using their own personnel. By so doing, departments are also compromising the methodology specified in standards for the installation and testing of building service equipment. Misunderstanding the appropriate lines of responsibility can have serious consequences. This liability for testing was never intended to be borne by the building department or its personnel and referenced standards are designed to make those who should assume this responsibility responsible for the installation and testing. The prime examples of this misunderstanding are the installation of alarm and suppression systems. The appropriate standards (NFPA 72 – alarms; and NFPA 13, 13R, and 13D – suppression systems) contain some very important documentation that building departments have not, as the standards mandate, required to be completed and submitted.

NFPA 72 contains documents that must be submitted to the certified building department. The first form, entitled "Fire Alarm System Record of Completion", is found in NFPA 72, Section 1-6. The standard requires the submission of a report that documents the type of system installed, the names and signatures of the installers, the location of the owner's record drawings and reports, the confirmation of the performance and completion of all required acceptance tests, details of the wiring and components of the system. NFPA 72 also requires that the owner complete and maintain annual inspection and testing forms for the maintenance of these systems (NFPA 72, Section 7-5). Together these documents place responsibility for the installation, testing, and operation of these systems squarely where it belongs – on the installer and

the owner. Building departments should not assume this liability by, in effect, becoming the de facto testing agency by performing tests of the system contrary to the standards.

NFAP 13 requires the submission of two documents, the "Contractor's Material and Test Certificate for Aboveground Piping" and the "Contractor's Material and Test Certificate for Underground Piping". The standard requires the installing contractor to notify the building official of the time and date of the testing, to perform all required tests, and to complete and sign the appropriate contractor's material and test certificates. Thus the building department receives assurance that proper accountability is maintained and that a record is created of the system and its proper operation. These same types of forms are required to be submitted for NFPA 13R systems.

108.8.1 **New, altered, extended or repaired systems.** New systems and parts of existing systems, which have been altered, extended, renovated or repaired, shall be tested as prescribed herein to disclose leaks and defects.

108.8.2 **Apparatus, material and labor for tests.** Apparatus, material and labor required for testing a system or part thereof shall be furnished by the owner or the owner's representative. Required tests shall be conducted by and at the expense of the owner or the owner's representative.

108.8.3 **Reinspection and testing.** Where any work or installation does not pass an initial test or inspection, the inspector shall proceed as outlined in section 108.6.

SECTION 109 ORDERS, VIOLATIONS, AND UNSAFE BUILDINGS.

Perhaps one of the more important responsibilities of the building official as well as one of the areas not clearly understood is the issuance of orders for violations. There is a definite process required to remain within the boundaries of the law; to provide due process rights to owners and to assure the public that the built environment is safe and sanitary. The adjudication process is simply one of preserving citizens' rights to obtain a fair "judgment" of a disputed issue.

109.1 Adjudication orders, required. When the building official denies any approval or takes action in response to findings of non-compliance, such action shall be initiated by issuing an adjudication order, prior to seeking any remedy, civil or criminal. Every adjudication order shall:

Before any action is taken, therefore, a legal document must be issued to the owner that clearly cites to the administrative code (building, mechanical, or plumbing code section) and explains what it is that is in violation.

ADJUDICATION ORDERS:

KEY ELEMENTS

Get Correction Letters issued in a timely manner or that becomes a failure to approve:

- Failure to approve within 30 days of application date is an automatic adjudication order.

Adjudication orders:

- Orders of the building official (plan rejection, violations, refusal to approve, stopping work, etc.) must be placed into an adjudication order and contain the following:
- The name and address of the owner and project address
- A clear indication of the law and/or code sections involved
- An indication of what action, changes, procedures would be necessary to resolve the issue or otherwise comply.
- A description of the procedure for appeal and their right to an appeal hearing if requested within 30 days of the order. Include references to their right to representation, written and oral arguments, evidence for and against, witnesses for and against, whom to contact and where, etc.
- An adjudication order number
- The signature of the building official

1. Clearly identify the section of law or rules violated;

These citations must be to the codes or to the Ohio Revised Code (the nature) and must clearly explain what it is about the work (the cause) that is in violation. All citizens have a right to know what the charge is before availing themselves of any process to seek relief. These legal principles are consistent with both the Ohio and the U.S. Constitution (Ohio – "In any trial, in any court, the party accused shall be allowed to ... demand the nature and cause of the accusation against him, and to have a copy thereof..."; U.S. – "Amendment VI: In all criminal prosecutions, the accused shall enjoy the right ... to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him...").

1.1 Clearly identify, in a contrasting and obviously marked manner, all violations related to accessibility.

2. Specifically indicate which detail, installation, site preparation, material, appliance, device, addition, alteration to structures, construction documents, assemblages or procedures are necessary to change to comply with the order;

2.1 When issued to stop work, the order shall also clearly indicate the specific work that is required to cease, when the work must cease and the conditions under which the cited work will be permitted to resume. The order to stop work shall be given to the owner of the property involved, to the owner's agent and the person doing the work.

The text above specifies that it is the building official's responsibility to issue orders, including those to stop work. The implication of this section is that the way the building official determines that dangerous or unsafe work is present is through communication with the building official's field staff (refer to section 108.6). The order to stop work must be specific in stating what work must be stopped; a general stopping of all work on a site is almost never an option for the building official. Orders to stop work cannot be seen as a vehicle to "shut a project down" unless, in the extremely rare

condition, every individual is at risk and all work being done on a project can be shown to be done in a dangerous or unsafe manner.

3. Include notice of the procedure for appeal and right to a hearing if requested within thirty days of the mailing of the order. The order shall also indicate that, at the hearing, the owner may be represented by counsel, present arguments or contentions orally or in writing, and present evidence and examine witnesses appearing for or against the owner;
 - 3.1 Any hearing(s) scheduled for accessibility issues shall cause the building official or the appeals board to notify a local advocate organization for people with disabilities of the scheduled hearing. When a local advocate organization is not available, a state organization representing people with disabilities, such as the Governor's Council on People with Disabilities shall be notified;
4. Specify a reasonable period of time in which to bring the item(s) on the order into compliance;
5. Include the signature of the building official;
6. The order shall be sent by certified mail, return receipt requested, to the owner and any individual designated as a representative or agent by the owner in such matters.

109.2 Response to orders. The person receiving an order shall exercise their right to appeal within 30 days of the mailing of the order, comply with the order, or otherwise be released from the order by the building official.

109.3 Prosecution and penalties. When an owner fails to comply with section 109.2, the owner may be prosecuted and is subject to a fine of not more than five hundred dollars as provided for in section 3791.04 of the Revised Code.

109.3.1 Unlawful continuance. Failure to cease work after receipt of an order to stop work is hereby declared a public nuisance.

109.4 Unsafe buildings. Structures or existing equipment that are unsafe or unsanitary due to inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life, shall be deemed a serious hazard. Where a building is found to be a serious hazard, such hazard shall be eliminated or the building shall be vacated, and where such building, when vacated, remains a serious hazard, it shall be razed.

109.4.1 Orders, injunction proceedings. Where the building official finds that a building is a serious hazard and the owner of such building fails, in the time specified in an order from the building official, to eliminate such hazard, or to vacate or raze the building, the building official shall proceed under section 3781.15 of the Revised Code.

Section 3781.15, R. C. provides a legal means for a building department to stop the use of a building that is found to be a public nuisance. The building department, through its prosecutor's office, would file an injunction action in the court of common pleas having jurisdiction where the building is located. The building department would have the burden of proof to show that the building is unsafe and dangerous. If the burden of proof is met at the hearing, the court should grant an injunction restraining the owner from using the building for any purpose until repairs are made to restore the building to a safe condition. If the owner fails to correct the condition, the prosecutor's office may follow up by asking the court to issue a demolition order after the appropriate hearing. Following the hearing, the court may order the building demolished at the owner expense.

Local hazard abatement or nuisance abatement ordinances may provide the best approach to resolving problems because they may not have built into them the same timeframes that a building department order does (issue order, 30 day appeal period, if no appeal requesting a court order). Local order may even have mechanisms for ordering the repair in a timely manner, back charging for a repairs, or demolition.

109.4.2 Restoration. Where the structure or equipment is determined to be unsafe by the building official, it is permitted to be restored to a safe condition. To the extent that repairs, alterations or additions are intended to be made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions or change of occupancy shall comply with Chapter 34 and this chapter.

SECTION 110 APPEALS.

110.1 Hearing and right of appeal, local board of building appeals. Adjudication hearings shall be in accordance with sections 119.09 to 119.13 of the Revised Code, as required by section 3781.031 of the Revised Code, and the following:

Because of their importance in creation of the record for potential court action, adjudication hearings must be conducted as required by section 3781.031 of the Revised Code that deals with the issuance of adjudication orders and stop work orders. Section 3781.031 requires a stenographic record to be made of the proceedings. Additionally, all of the requirements of Chapter 119, ORC must be provided to the applicant. It is important that the local appeals board operate as outlined below.

1. Requests for hearing shall be within thirty days of the mailing date of an adjudication order. The local board shall schedule a hearing and notify the party. If the hearing concerns section 3781.111 of the Revised Code or rules adopted thereunder, reasonable notice of time, date, place, and subject of the hearing shall be given to any local organization composed of or representing persons with disabilities, as defined in section 3781.111 of the Revised Code, or if there is no local organization, then to any statewide organization composed of or representing persons with disabilities.
 - 1.1 For purposes of conducting adjudication hearings, the local board may require attendance of witnesses, production of records and papers, and may take depositions of witnesses in accordance with section 119.09 of the Revised Code.
 - 1.2 Testimony shall be under oath and, as outlined in section 109.1, a stenographic or mechanical record of testimony and other evidence submitted shall be taken at the expense of the local board of building appeals.
 - 1.3 The local board may postpone or continue any adjudication hearing on its own motion or upon the application of any party.
 - 1.4 The board shall keep a full and complete record of all proceedings which shall be open to public inspection.
2. The Board shall render its decision within thirty days after the hearing.
3. Following the hearing, an order shall be entered on its journal, and the local board shall serve by certified mail, return receipt requested, upon the party affected thereby, a certified copy of the order and a statement of the time and method by which an appeal may be perfected. A copy of the order shall be mailed to the attorney or other representatives of record representing the party.
4. Any municipal or county officer, official municipal or county board, or person who was a party to the hearing before the municipal or county board of building appeals, may apply to the state board of building appeals for a de novo hearing, or may appeal to the court of common pleas of the county in which he is a resident or in which the premises affected by such order is located.

A "de novo" hearing is simply the legal name for a new, fresh, or second hearing dealing with the entire case in the same manner as the original hearing as well as a review of the original hearing. The parties have a statutory right to call new witnesses and present new evidence at the de novo hearing.

5. In addition, when the adjudication hearing concerns section 3781.111 of the Revised Code, or any rule made thereunder, any local organization composed of or representing persons with disabilities, or if no local organization exists, then any statewide organization representing persons with disabilities may file appeals as indicated in paragraph 4. of this section.
6. Application for a de novo hearing before the state board shall be made no later than thirty days after the municipal or county board renders its decision.

*If an owner disagrees with the decision of the local Board of Appeals and chooses not to comply but decides to appeal further, the owner must choose one of two options available within thirty days of the decision of the local Board of Appeals. Either the appeal moves directly to the local Court of Common Pleas for presentation as a civil court case or the owner may request a de novo hearing before the state Board of Building Appeals. An owner does **not** have the option of bypassing the local Board of Appeals and proceeding directly to the state Board of Building Appeals. The case **must** be heard locally first and then proceed either to court or to the state Board of Building Appeals.*

SECTION 111 CERTIFICATE OF OCCUPANCY.

111.1 Approval required to occupy. No building or structure, in whole or in part, shall be used or occupied until the building official has issued an approval in the form of a certificate of occupancy. The certificate of occupancy shall indicate the conditions under which the building shall be used. The building owner shall only use the structure in compliance with the certificate of occupancy and any stated conditions. The structure and all approved building service equipment shall be maintained in accordance with the approval. When a building or structure is entitled thereto, the building official shall issue a certificate of occupancy provided there are not violations of law or orders of the building official pending or as permitted in this section.

111.1.1 New buildings. A building or structure erected shall not be used or occupied, in whole or in part, until the certificate of occupancy has been issued by the building official. Occupancy of spaces within a building which are unaffected by the work shall be allowed to continue if the building official determines the existing spaces can be occupied safely until the completion of the alteration.

The first conditions for the issuance of a certificate of occupancy are that construction is completed and all inspections have been made. This phase of code enforcement, issuance of the certificate of occupancy, records pertinent information about the completed project. New buildings cannot be occupied until the certificate of occupancy has been issued by the building official. Time-limited or Partial occupancies are permitted as provided in section 111.1.

111.1.2 Building alterations or additions. A building or structure enlarged, extended or altered, in whole or in part, shall not be occupied or used until a certificate of occupancy has been issued. Occupancy of spaces within a building which are unaffected by the work of alteration shall be allowed to continue if the building official determines the existing spaces can be occupied safely until the completion of the alteration.

Additions or alteration to existing buildings also trigger the requirement for a certificate of occupancy to be issued. This requirement also applies to the condition in which the construction of the alteration did not preclude the continued use of the existing portion of the structure. A certificate of occupancy must be issued for the existing occupancy within thirty days of completion of the work. As discussed above (because a certificate of occupancy is a snapshot of the building as it was approved for occupancy at a specific point in time) when a building has been modified a new "snapshot" must be taken. Thus, a new certificate of occupancy must be issued to establish the new configuration of the structure and any conditions of occupancy as outlined below.

111.1.3 Change in occupancy. Changes in occupancy of an existing structure shall not be made except as specified in Chapter 34. A building or structure hereafter changed, in whole or in part, from one occupancy to another shall not be occupied for the new occupancy until the certificate of occupancy has been issued by the building official reflecting such changed portions. Existing occupancy of spaces within the building which are unaffected by the change of occupancy and any related alterations shall be allowed to continue if the building official determines the existing spaces can be occupied safely until the completion of the alterations.

Even if there is no addition or alteration made to an existing structure, changes of occupancy could trigger code requirements that would necessitate modifications be made to the building equipment and systems. Even if no modifications are required by the change of occupancy, if the new occupancy does not match any existing certificate of occupancy it must be reissued to reflect the new occupancy. This requirement applies even if only a portion of the structure contains a change in occupancy. Again, when a building has been modified a new "snapshot" must be taken; this is accomplished by issuing a new or updated certificate of occupancy for the structure. If, however, the only change is that of a change of tenant and the occupancy has not changed and no alterations have been made, the certificate of occupancy for building or structure remains valid and does not need to be reissued.

111.1.4 Partial occupancy. Upon the request of the owner or owner's representative, a building official shall issue a certificate of occupancy before the completion of the entire work, provided that the building official determines that the space can be safely occupied prior to full completion of the building, structure, or portion without endangering life

or public welfare. The certificate shall indicate the extent of the areas approved for occupancy and any time limits for completion of the work.

Often, when a project or part of a project nears completion, owners wish to occupy a portion of the project that is finished or nearly finished. Because building equipment and systems are often not fully operational or installation is partial, primary consideration must be given to assuring the safety of the occupants. If a portion of a ground floor, a discreet part or wing of a building, a specific room or rooms, or some other section or zone of a building which provides adequate safety for the occupants, occupancy can be permitted. Considerations could include the presence of fire watch personnel, enabling portions of building equipment or systems, alternate or temporary provisions for protection, or other means of assuring safety.

111.1.5 Time-limited occupancy. A building or structure hereafter changed in part from one occupancy to another for a limited time may receive a certificate of occupancy reflecting that time-limited occupancy provided:

- 1. There are no violations of law or orders of the building official pending;**
- 2. It is established after inspection and investigation that the proposed use is not deemed to endanger public safety and welfare safely;**
- 3. The building official has approved the use for an alternative purpose on a temporary basis;**
- 4. The building official has issued a certificate of occupancy indicating any special conditions under which the building or part of the building can be used for the alternative purpose within the time limit specified.**

The building official has the latitude to permit time-limited or partial occupancy of a building or structure or some portion. The occupancy, however, is permitted if it is possible to assure that the building's occupants can do so safely without being endangered.

*The language does not require building officials to allow time-limited occupancy; it only states the building official **may** issue a time-limited certificate of occupancy. This language is permissive to allow the building official some latitude when evaluating the methods to be used to assure safe occupancy. If the building official feels that adequate provisions can be made to permit safe occupancy the time-limited certificate of occupancy can be issued. The content of the certificate should comply with section 111.3 below.*

The occupancy must be issued as time-limited and it is the building official's responsibility to track the issuance of a time-limited certificate of occupancy. No owner should be able to request a time-limited certificate of occupancy, continue the project to completion, and then occupy the work without final inspections and without receiving a final certificate of occupancy.

111.1.6 Temporary structures occupancy. A building intended to be erected, placed and used for a period of time not to exceed one hundred eighty days that has been determined by the building official to be in compliance with section 102.8 shall be issued a "Certificate of Occupancy for Temporary Structures." The building official is authorized to grant extensions for demonstrated cause.

111.2 Existing buildings. Upon written request from the owner of an existing building or structure, the building official shall issue a certificate of occupancy, provided there are not violations of law or orders of the building official pending, and it is established after inspection and investigation that the alleged occupancy of the building or structure has previously existed. This code shall not require the removal, alteration or abandonment of, or prevent the continuance of, the occupancy of a lawfully existing building or structure, unless such use is deemed to endanger public safety and welfare.

The certificate of occupancy is arguably the most important component of the building code enforcement system. It is primarily a communication document as well as an archival document. It facilitates communication between the owner, the building department, the fire department, licensing agencies, lending agencies, and other governmental and non-governmental agencies.

It is a communication document in the sense that it communicates the assumptions and conditions under which the structure is to be occupied in a safe and sanitary manner; it is a "snapshot" of the building as it was approved for occupancy at a specific point in time. As the building is modified over time, the certificate of occupancy should be updated or reissued to accurately reflect the changes and again function as the official record of the building as it was approved for occupancy.

Further, the certificate of occupancy is the official record of the entire building and not a tenant space by tenant space record. In other words, the certificate of occupancy should be a record of how the entire building is approved for occupancy by the owner. If four of ten tenant spaces are vacant in a structure, the certificate of occupancy should show that spaces one through four are vacant. As these four tenant spaces are filled and the work is reviewed and inspected, a new certificate of occupancy should be issued to show the changes in the structure as they are completed. Issuing some form of amendment to the original certificate of occupancy or reissuing an updated certificate of occupancy can be done to show any building/tenant changes. Following completion of the work, the tenant and the owner may receive a copy of any amended or reissued certificate of occupancy to keep as record of compliance. When inspections are made, the certificate of occupancy will reflect the building's configuration. Certificates of occupancy issued to tenants or multiple

certificates of occupancy issued within the same structure serves only to confuse and complicate the process since no single "picture" exists of the structure's changes.

This rule is made up of two parts: sections 111.1 and 111.2, explaining the circumstances under which a certificate of occupancy is to be issued, and section 111.3, describing what must be contained in the certificate of occupancy.

111.3 Certificate issued. The certificate shall certify compliance with the provisions of this code, Chapters 3781. and 3791. of the Revised Code, and the purpose for which the building or structure may be used in its several parts. The certificate of occupancy shall contain the following:

Important phrases in this section can effect enforcement of this section especially since building officials frequently are asked to delay issuing a certificate of occupancy until the project has met a local ordinance (zoning, street and sewer, contractor licensing, etc.) other than compliance with the building code. The rule is clear that when the structure is entitled to receive a certificate of occupancy the building official must issue it. Enforcement of local ordinances should be through processes that are a part of the ordinances themselves.

In other words, enforcement of ordinance "A" can not be done by refusing to process a project further under ordinance "B" and which complies with the requirements of ordinance "B" until it meets requirements of ordinances "A". Ordinance "A" must have its enforcement mechanism spelled out in order that enforcement can proceed under ordinance "A" along an independent line. This assures that violations can clearly be defined, appeals rights guaranteed, and due process protected.

The certificate of occupancy must also be issued after all inspections are completed. This again reinforces that building code compliance assures the owner that the safety and sanitation provisions have been met and the building can be safely occupied. An owner may have other local issues and ordinances to which the project may be subject that may prevent the owner from occupying the project but the building code has been satisfied.

The certificate of occupancy must be issued if, along with the completion of all inspections, all code related orders of the building official are resolved. Resolution is either through modifications to bring the work into compliance with the approved construction documents, correcting a serious hazard, or receiving a favorable decision from the appeals process. Again, an owner may have other local issues and ordinances to which the project may be subject that may prevent the owner from occupying the project but the building code has been complied with and the certificate of occupancy can be issued.

- 1. The plan approval application number.**
- 2. The address.**
- 3. A description of that portion of the structure for which the certificate is issued.**
- 4. The signature of all building officials having jurisdiction. When more than one building official has jurisdiction for a building (when the certification of the building department is limited for such systems as plumbing or piping systems) each shall sign the certificate of occupancy with an indication of the scope of their individual approvals.**
- 5. The edition of the code under which the plan approval was issued.**

Section 101.1 makes clear which Ohio Administrative Code sections make up the OBC as well which version of the model codes have been used as its basis (title, printing, and edition). The effective date of this rule can be used as the edition of the OBC with which the project complied. Currently the (1 July 2009) edition of the OBC based upon the (2009) ICC model code documents is effective in Ohio.

- 6. The use and occupancy, in accordance with the provisions of Chapter 3.**

To facilitate communication between the owner, the building department, the fire department, licensing agencies, lending agencies, and other governmental and non-governmental agencies, this information is very important. No one should have to guess about the approved occupancy of a building that has been granted a certificate of occupancy.

- 7. The type of construction as defined in Chapter 6.**

Because this is a communication document, one of the primary pieces of information is the classification of what the building is made of, i.e., its construction type. Because height and area parameters, fire protection features, egress requirements, etc. are determined in relation to construction type and occupancy classification, this information must be recorded on the certificate of occupancy.

- 8. The design occupant load.**
- 9. If an automatic sprinkler system is provided, whether the sprinkler system is required.**

Because there is some latitude given in the building code for installations of non-required systems, it is important to make clear on the Certificate of Occupancy whether the system, if a system is present in a structure, is a required one or is a non-required system. The building official has some latitude with non-required systems including suppression systems.

10. The hazard classification or storage configuration, including aisle widths, for which the automatic sprinkler system is designed.

When fire protection systems are present in a structure, the system has been designed with some assumptions made about the type and configuration of the commodity being protected. To facilitate communication between all of the agencies involved in the work, knowing this information helps assure that the system is kept operational and that there is no change in risk because the material being protected has changed. Changes that could exceed the system's designed ability to provide protection must be redesigned, reviewed, and approved for the new commodity.

11. The automatic sprinkler and standpipe system demand at the base of the riser.

Another critical piece of information is the water demand of sprinkler and standpipe systems. These systems must be reliable and able to meet the demand should the systems be needed in an emergency. The riser is the above ground piping connected to the water supply and must be supplied with and have the capacity to provide an adequate water flow to the sprinkler or standpipe system. Water supplies can be effected by corrosion, interior buildup of deposits, changes in use of the water supply by other buildings, etc. that can change the water supply. Flow testing should be done regularly to assure that a water flow within the design parameters is maintained. To facilitate testing and to assure that the design water flow is maintained, the system demand must be included on the certificate of occupancy.

12. Any special stipulations and conditions of the plan approval including any variances granted to the requirements of this code.

To make certain that all pertinent information is communicated on the certificate of occupancy, the building official should also include any other special information or conditions of the occupancy that he or she feels must be recorded. Information such as variances that were granted prior to final occupancy, limits on the uses or occupancies of certain spaces, floors, or areas of the building all make the conditions upon which the owner has agreed occupancy is conditioned. As other enforcement agencies exercise their administrative or licensing duties, variations from the information on certificate of occupancy constitute, in effect, the owner's changing the risk factors with which the building equipment and systems were designed to deal. The owner has voided the certificate of occupancy by making these changes if the plan review and inspection processes did not result in an updated certificate of occupancy that reflected changes in the building, whether changes to the building equipment and systems or to building occupancies.

111.4 Validity of a certificate of occupancy. The certificate of occupancy represents an approval that is valid only when the building or structure is used as approved and certifies conformance with applicable provisions of the "Ohio Building Code" and Chapters 3781. and 3791. of the Revised Code. The approval is conditioned upon the building systems and equipment being maintained and tested in accordance with the approval, the Ohio Building Code, and applicable equipment and systems schedules.

The certificate of occupancy is the building department's instrument for communicating that the work complies with the provision of law dealing with construction. These provisions are generally found in Chapters 3781. and 3791. of Title 37 of the Ohio Revised Code. A clear statement of compliance with the law shows the project has met the requirements spelled out there in law.

111.5 Connection of service utilities. No connections shall be made from a utility, source of energy, fuel or power to any building or system that is regulated by this code for which a plan approval and inspections are required, until approved by the building official.

111.6 Temporary connection. The building official shall approve the temporary connection of the building or system to the utility source of energy, fuel or power.

SECTION 112 CHANGES TO THE CODE.

112.1 Changes, board of building standards. The board may, on its own motion, in accordance with section 3781.10 of the Revised Code adopt, amend, or rescind rules through the administrative rule process.

112.2 Changes, applications for. Any person may apply to the board to adopt, amend, or rescind rules of the board. The application for rule change shall be on forms and in format prescribed by the board. Twelve printed copies of the application shall be filed with the secretary of the board.

112.3 Processing applications for changes. When the secretary of the board receives a conforming application for an adoption, amendment, or annulment of a provision of the rules of the board, the secretary shall promptly deliver or mail a copy of the application to each member of the board.

After receiving an application for the adoption, amendment, or annulment of a provision of the rules of the board, the board shall proceed under sections 3781.101 and 3781.12 of the Revised Code.

The code change application and instructions are found on the Board's Web-Document document catalogue as document #226. Enter the Board's web address (<http://www.com.ohio.gov/dico/BBS.aspx>) into your browser and click on the Document Catalogue button to find this document.

SECTION 113 INDUSTRIALIZED UNITS.

The industrialized unit program in Ohio requires that the Board of Building Standards must authorize manufacturers of industrialized units (IUs) prior to placement of units in Ohio. This is done by providing the Board with the manufacturer's company information, and applying for approval of the closed construction design/construction documents. Once a manufacturer has registered with the Board, the application is submitted on-line using the Board's website access and the related documents are uploaded for review. Subsequent to approval, the manufacturer is authorized and the units can be constructed in a factory where they are inspected by an individual certified by the Board to assure compliance with the approved documents, and a state insignia is placed in the unit. Then, the units can be shipped and used as approved anywhere in Ohio. The Board-approved documents must be submitted, along with other necessary site related information, to the local certified building department that uses them to assure that the unit(s) is(are) actually constructed and assembled in accordance with the approval.

Once an industrialized unit is legally placed the first time, it ceases to be an industrialized unit. After the initial placement the structure is regulated by the building code the same as any other structure. After first use, if it is moved, it is regulated as any other moved structure.

113.1 Industrialized units. Industrialized units shall be approved by the board in accordance with the provisions in this section.

Exceptions:

- 1. Alternative materials, design and methods of construction and equipment approved by the board in accordance with section 114.2.**
- 2. Construction for which the provisions of section 1704 applies. Where panels or components are constructed to include elements not provided for or accounted for in section 1704, then this section shall apply. (For example, engineered gluelam beams, precast concrete panels or welded steel components that have been constructed offsite with electrical or mechanical components in them so that a detailed inspection of the mechanical or electrical components cannot be done on the site of their intended use would be required to comply with this section.)**
- 3. Foam plastic insulation conforming to the provisions of section 2603. (However, a foam plastic insulation panel that is constructed, listed and labeled in accordance with section 2603, is required to comply with this section if structural, electrical or other components not covered by section 2603 are enclosed within the panel).**
- 4. Materials, devices and products in directories listed in Table 114.3 used for building service equipment systems in accordance with the listing and this code.**

113.2 Definitions.

Closed construction. An assembly of materials or products manufactured in such a manner that its structural, plumbing, electrical, environmental control, or fire protection elements or components are concealed and are not readily accessible for inspection at the site of its erection, without disassembly, damage, or destruction. Closed construction includes assemblies where only one of the components is not accessible for inspection. (For example, an equipment enclosure where all the electrical conductors and components are exposed for inspection and its roof and wall panels have exposed structural members but the floor panel structural members are not exposed, would be required to comply with this section.)

Industrialized units. Industrialized units are prefabricated components comprised of closed construction manufactured at a location remote from the site of intended use and transported to a building site for its subsequent use. Industrialized units are not restricted to housing for one-, two-, and three-family dwellings, but includes all prefabricated forms of building elements and assembled construction units, intended for both structural and service equipment purposes in all buildings of all groups. Prefabricated shop assemblies may be shipped in structurally complete units ready for installation in the building structure or in knock-down and packaged form for assembly at the site.

113.2.1 General terms. Such terms as heart modules or cores, modules, modulars, service cores, prefabs, sectional or sectionalized, panels or panelized construction, and specific terms including "prefabricated-subassembly, -building, -unit, -unit service equipment" shall be considered industrialized units. They may be self-sufficient or interdependent as a unit or group of units and used together or incorporated with standard construction methods to form a completed structural entity.

113.3 Application. The application for approval, including revisions and renewals for existing approvals, shall be submitted to the board together with the fee required in section 113.8 of this chapter. The required information shall be provided as prescribed by the board on its website. Construction documents shall be included in conformity with the applicable provisions of section 106, and shall describe all essential elements of the structure or assembly and details of interconnection of: assemblies; service equipment; electrical wiring; plumbing; mechanical; and any other equipment whether installed at the site or in the manufacturing facility. The design and construction of the units shall be in conformance with the provisions of the Ohio building, mechanical and plumbing codes based on the intended use and/or occupancy type. Industrialized units intended to be used exclusively for one-, two-, or three- family dwellings shall comply with the applicable provisions of the "Residential Code of Ohio for One-, Two-, and Three- Family Dwellings" listed in section 3501.2 or shall meet the provisions of the board's rules applicable to Group R-3. Only the person holding an approval may apply to the board for a revision or renewal of the approval.

113.3.1 Manufacturers with facilities outside Ohio. Each application for manufacturers with manufacturing facilities outside Ohio shall also identify the individual or agency that will be performing in-plant inspections of the units intended for placement in Ohio. The application shall also include a letter from the designated individual or agency indicating that they have a contractual relationship with the manufacturer to perform the inspections. This letter shall include the name(s) and board certification(s) of the individual(s) who will be assigned to perform the inspections.

113.3.2 Manufacturers with facilities in Ohio. Each application for manufacturers with manufacturing facilities in Ohio shall include the same information required in section 113.3.1 or, as an alternative, the manufacturer shall indicate their intention to have the inspections conducted by inspectors designated by the board.

The current process to obtain an authorization to place an industrialized unit in Ohio includes use of the Board's web-based, on-line application and fee payment system and construction document upload and downloading. The process:

- Each new manufacturer of industrialized units (intending to place units in Ohio) must first contact the Board by phone (614/644-2619 or by email (Eplans@com.state.oh.us) and provide company and contact specific information. Board staff will explain the submittal process and provide the manufacturer with a web access ID# and password which enables on-line access to the Board's submittal, fee payment, and document retrieval system.
- The submittal requires uploading an electronic file of detailed construction drawings in PDF format. The content in the documents/drawings must describe all essential elements of the structure or assembly and details of interconnection of: assemblies; service equipment; electrical wiring; plumbing; mechanical; and any other connected equipment. **Do not submit quality control manual or calculations of any kind.** The drawings with details involving technical design analysis for commercial buildings shall be sealed by an Ohio design professional (registered architect or professional engineer). Drawings for 1-, 2- and 3-family dwellings are not required to be sealed, however, you can seal these drawings if you wish.
- A cover letter explaining the structure is always helpful.
- **Payment for application and review:** A non-refundable filing fee of **\$135.00 is required to be paid before the documents will be put in line for review.** The preferred method of payment is by credit card by using the Board's on-line, secured payment system. Check or money orders will be allowed but will increase the time of processing...if this method is used the application/project number must accompany the check which must be made payable to: **Treasurer, State of Ohio.** Any time required for document review in excess of one-hour will be charged at a rate of \$100.00/hour and must be paid prior to approved documents being released.
- Only one model can be submitted in a single application.
- The process is set up to process the documents electronically but in certain extreme cases, we can accept hard copy documents but this will increase the time of processing.

If, under special conditions, must send construction documents for review, mail your plan submission package - including the application/project number - to:

Ohio Board of Building Standards
Industrialized Unit Section
6606 Tussing Road, P.O. Box 4009
Reynoldsburg, Ohio 43068-9009

More information is available on the web at:

<http://www.com.state.oh.us/dic/iu.htm>

113.4 Evaluation. After receipt of the application, the board or such agency designated by the board shall proceed with review of the industrialized unit construction documents and cause such inspections of the manufacturer's quality control processes used to ensure compliance with the rules of the board.

Approved plans are uploaded via the BBS IU web site upon payment of the balance the plan review fees, if any.

113.4.1 Tests. The board shall have the authority to require tests as evidence of compliance. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the board shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the board for the period required for retention of public records.

113.4.2 Plant evaluations. An initial plant evaluation inspection shall be required at each plant of manufacture to observe and ensure that the manufacturer's facilities and quality control program maintains acceptable control of materials and processes used in the manufacture of industrialized units to ensure conformance with the approved construction documents. The plant evaluation inspection shall include all subassembly plants supplying the manufacturer, as the board may deem necessary.

*Manufacturers with fabrication facilities located **outside Ohio are required** to enter into a contractual relationship with an inspection agency to perform in-plant inspections of units intended for location in Ohio.*

*Manufacturers with fabrication facilities **inside Ohio can choose** to have the in-plant inspections of units intended for location in Ohio performed by inspectors designated by the Board, or by an individual or inspection agency.*

When an individual or inspection agency is used, the person(s) who are to perform the inspections are required to be certified by the Ohio Board of Building Standards.

To obtain information pertaining to inspector certifications, call the Board at (614) 644-2613.

113.5 Approval. The board, upon determination of compliance, shall issue an approval to the applicant. Industrialized units approved by the board may be used anywhere in Ohio subject to the conditions for their use and application as indicated in the approval.

113.5.1 Revisions. Any changes to board approved construction documents affecting the conditions listed in the approval shall require a revision of the approval.

113.5.2 Code changes. When any changes to the rules of the board are adopted which affect the use, safety or sanitation of any approved industrialized unit, the holder of the approval shall apply to the board for a revision of the approval. Failure to apply for revision of approvals within the time specified by the board, shall constitute failure to comply with the conditions of the approval.

113.5.3 Revocation of approval. Upon failure of the holder of an approval to comply with the conditions of the approval and this chapter, the board, on its own motion, shall order a hearing in accordance with section 119.03 of the Revised Code to revoke an existing approval.

113.6 Inspections and insignia. Each industrialized unit shall be inspected during each phase of the manufacturing process by inspectors certified by the board or such persons designated by the board until inspections demonstrate that the manufacturer's quality control program is capable of assuring that the industrialized units produced are built in accordance with the construction documents approved by the board. When it has been determined that the manufacturer's quality control program is capable of assuring compliance with the board approved construction documents, at least one phase of construction shall be inspected for each unit by an inspector certified or designated by the board.

Exception: When a manufacturer with manufacturing facilities in Ohio has chosen to have inspections conducted by designees of the board, the inspection frequency shall be based upon the reliability or effectiveness of the manufacturer in maintaining sufficient control of the materials and processes to ensure that the units are constructed in accordance with the approved construction documents.

An insignia shall be obtained from the board for each industrialized unit module to be used within the state of Ohio. The insignia shall be affixed to each unit after a determination is made that the unit is constructed in accordance with the construction documents approved by the board, which shall constitute final approval of the unit.

In addition to the construction documents approved and bearing the seal of the Board, closed construction approved by the Board is identified on-site by an insignia which is affixed to each unit and group of panels. Insignias are affixed after the unit(s) is(are) inspected and determined to be in compliance with the approval. Insignias must be purchased by the manufacturer prior to shipment to the site of intended use.

113.6.1 Increased inspection. When an inspection determines that the quality control program does not sufficiently ensure compliance with the construction documents approved by the board, the certified inspector or person designated by the board shall, by written notification, inform the manufacturer that the inspection frequency will be increased so that each assembly or component affected by the nonconforming item will be inspected. These inspections shall continue until an inspection determines that the manufacturer's control of the materials and processes used is sufficient to ensure that the units are constructed in accordance with the approved construction documents.

113.7 Manufacturer responsibility. The manufacturer shall maintain responsibility over all work completed in the factory until the unit is approved for first occupancy and shall rectify any deviations from the approved construction documents, which are found either in the field or at the place of manufacture. The manufacturer shall submit to the board such periodic reports, notifications and information as required by board procedures.

113.7.1 Document submission to building departments. The manufacturer shall ensure that the construction documents approved by the board are presented to the building official in accordance with section 106.1.2(1) before placing the industrialized unit on site.

Exception: Industrialized units construction documents previously approved by the board and site related construction documents are not required to be submitted to the division of industrial compliance where industrialized units are used exclusively as one-, two, or three family dwellings.

113.7.2 Change in personnel. Whenever there are changes in company name, ownership, subsidiary *status*, address or change in the manufacturer's management personnel who are responsible for making policy concerning quality control, the manufacturer shall immediately notify the board, in writing, and the manufacturing plant(s) affected by the change will be subject to a plant evaluation inspection.

113.8 Fees. All costs associated with industrialized unit approval applications, processing, construction document review, inspections and insignias shall be in accordance with sections 113.8.1 to 113.8.5.

113.8.1 Applications. Each initial application or revision submittal to the board shall be accompanied by a nonrefundable fees, designated by the board to include: application processing fee; one-hour minimum plan review fee; and other costs, when incurred, such as mailing and check processing.

113.8.2 Evaluation of construction documents. All costs of application processing, evaluation of construction documents or other documentation submitted to the board shall be paid by the applicant.

113.8.3 Plant evaluation and inspection costs. All costs of plant evaluations and inspections shall be paid by the manufacturer of the unit including travel, food, lodging, and administrative costs.

113.8.4 Insignias. The fee for insignia for all assembled modular units manufactured for use in the state of Ohio shall be fifty dollars per unit (any preassembled combination of walls to floor, ceilings, roof, and other such components).

The fee for insignia for all panelized units manufactured for use in the state of Ohio shall be one dollar for each twenty square feet of surface area of preassembled individual components (wall, floor, ceiling or roof sections, and other such components) intended to be shipped to the site and attached to other components at the site of intended use.

113.8.5 Tests. Tests required by the board to be performed to determine compliance pursuant to section 113.4.1, shall be conducted at no expense to the board. Costs associated with any required testing or research necessary to provide evidence of compliance shall be the responsibility of the applicant.

For projects that include industrialized units refer to the requirements in OBC Section 106.1.2. For inspection requirements industrialized unit projects refer to the requirements in OBC Section 108.2.14.

SECTION 114 PRODUCTS AND MATERIALS.

114.1 General. Any material, product, assembly or method of construction used in a building or structure shall be approved by the building official. The provisions of this section describe the product approval process intended by the board of building standards in accordance with Section 3781.10 (C) of the Revised Code.

114.2 Definitions. The following words and terms shall, for the purposes of this section, have the meanings shown herein:

Accreditation. The formal recognition of a conformity assessment body's adherence and operation under a documented quality system whereby a third party (Accreditation Body) attests to technical competence and the specific scope of accreditation of the conformity assessment body .

Accreditation body. An authoritative body that is an established, independent, internationally recognized, third-party organization that performs accreditation to ascribe initial recognition and monitors, on an cyclical basis, the competency, integrity, and performance of conformity assessment bodies in accordance with established standards.

Assembly. A preassembled grouping of materials, products and/or components designed to act as a whole. This does not include industrialized units regulated by section 113.

Calibration laboratory. An established, independent, nationally recognized and accredited, third-party organization that regularly provides calibration services such as, but not limited to, tolerance testing to ensure the accuracy of measuring equipment used in construction.

Conformity assessment body. A body that performs conformity assessment services and can be an object of accreditation, such as a testing laboratory, inspection body, product certification body.

Evaluation service. An established, independent, nationally recognized and accredited, third-party conformity assessment body that is accredited as a product certification body and performs technical evaluations of building materials, products, and methods of construction where code requirements are not clear or the innovative products do not have national consensus standards. The evaluation of the product results in the issuance of a research report establishing the code compliance and conditions of its use based upon multiple sources of information including test reports, test data, performance data, or acceptance criteria, and can be approved for installation by the building official in accordance with the rules of the board.

Fabricator inspection agency. An established, independent, nationally recognized and accredited, third-party conformity assessment body regularly engaged in fabrication of construction materials and methods of construction.

Field evaluation body. An established, independent, nationally recognized and accredited, third-party conformity assessment body regularly engaged in furnishing field inspection, observation, testing, or reporting services for construction materials, products, and methods of construction.

Industry trade association certification program. A certification program operated by an established and nationally recognized organization, founded and funded by businesses that operate in a specific industry, where the main focus is to monitor quality assurance among associated members.

Insignia. A mark or label prescribed in accordance with board procedures.

Inspection body. An established, independent, nationally recognized and accredited, third-party conformity assessment body regularly engaged in furnishing inspection, observation, testing, or reporting services for construction materials, products, and methods of construction. Such services include, but are not limited to geotechnical inspections, environmental inspections, mechanical and metallurgical analysis, non-destructive testing and evaluation, chemical analysis, and structural and product testing.

Listing agency. An established, independent, nationally recognized and accredited, third-party conformity assessment body that is accredited as a product certification body and conducts tests on materials, products, or methods of construction to certify products that meet the criteria for compliance with nationally recognized codes and standards. The product certification body allows its insignia of conformity to be placed on a material or product by the manufacturer, identifying that the material or product has been certified by the product certification body. The product certification body maintains a list or directory of all of the materials and products that they have certified and the conditions of their use.

Material. A manufactured form or substance designed to act as a whole.

Method of construction. A procedure or system intended to result in a finished building, structure or portion thereof.

Product. A material or device designed and manufactured to perform a predetermined function. Appliances, assemblies and equipment are also considered products.

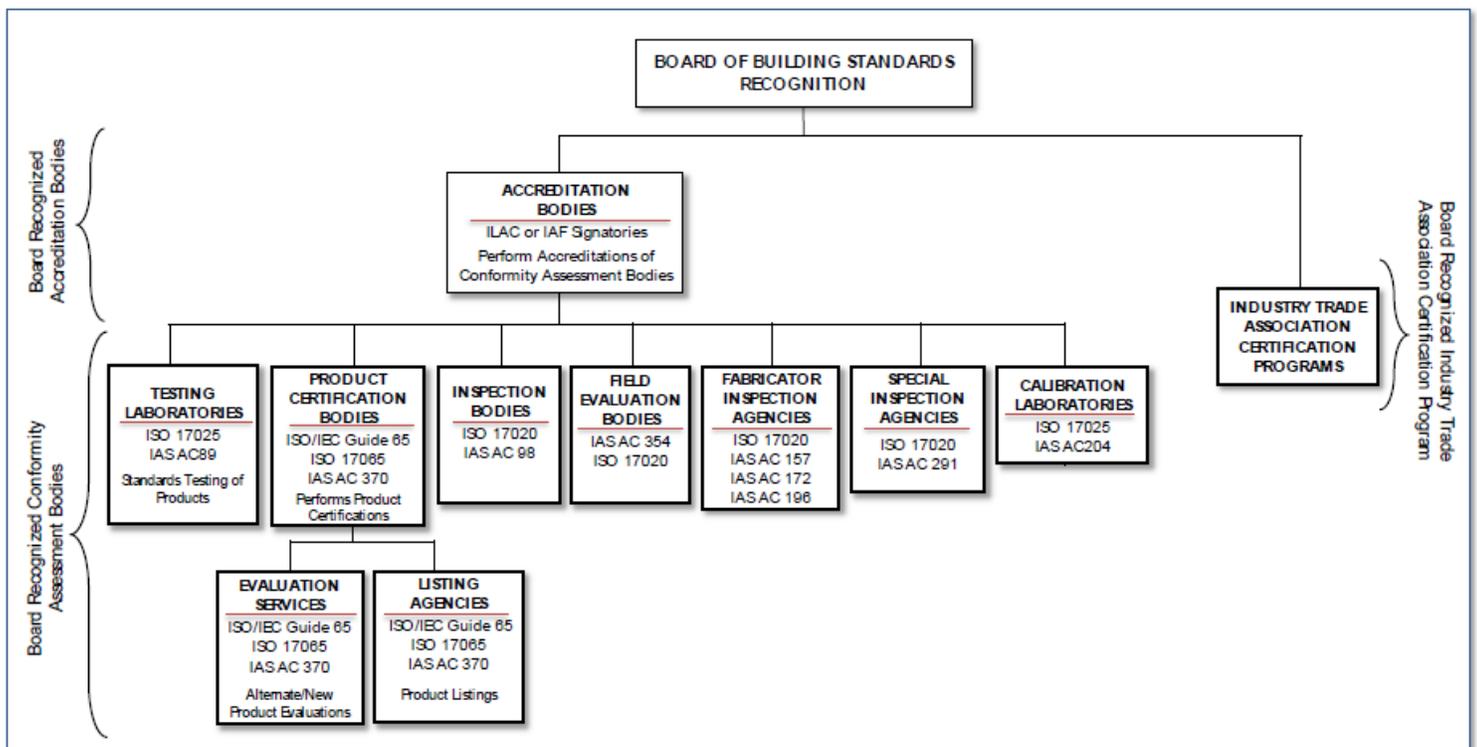
Product certification body. An established, independent, nationally recognized and accredited, third-party conformity assessment body regularly engaged in conducting evaluation services, inspections and tests on materials and products to certify compliance with nationally recognized codes and standards. Product Certification Bodies are sub-classified as either Evaluation Services or Listing Agencies.

Recognition. An acceptance by the board of building standards of an accreditation body, a conformity assessment body, or an industry trade association certification program in accordance with the rules of the board of building standards.

Special inspection agency. An established, independent, nationally recognized and accredited, third-party conformity assessment body regularly engaged in performing special inspections as required by Chapter 17.

Testing laboratory. An established, independent, nationally recognized and accredited, third-party conformity assessment body regularly engaged in conducting tests of materials, products, or methods of construction to determine compliance with a specification or testing standard. The testing laboratory issues a report documenting the test results.

Figure 114.2
ORGANIZATION OF BOARD RECOGNIZED BODIES AND CERTIFICATION PROGRAMS



ILAC – International Laboratory Accreditation Cooperation
 IAF – International Accreditation Forum
 ISO – International Organization for Standardization
 IAS – International Accreditation Service
 IEC – International Electrotechnical Commission

114.3 Building official approval process. The building official shall approve the use of products in accordance with Sections 114.3.1 through 114.3.3.

114.3.1 Materials, products, assemblies and methods of construction prescribed in the code.

114.3.1.1 Testing laboratories. When test reports are required to be submitted or when the rules of the Board require materials, products, assemblies and methods of construction to conform to specific referenced standards, the building official shall verify that the proposed material, product, assembly, and method of construction has been tested by a testing laboratory recognized by the board and published on the list titled “Recognized Conformity Assessment Bodies” found on the board’s website at <http://www.com.ohio.gov/dico/bbs>.

The building official shall verify that the testing laboratory is accredited to perform the specific tests prescribed in the code by verifying the testing laboratory’s “scope of accreditation” found on the testing laboratory’s website.

Exceptions:

1. Acceptance, performance, and operational testing reports submitted in accordance with Section 108.8 are permitted to be prepared and submitted by the individual performing the acceptance, performance, and operational tests. Board recognition is not required for persons conducting acceptance, performance, or operational tests.
2. Special inspection reports submitted in accordance with Section 1704.1.2 are permitted to be prepared and submitted by the special inspector defined in Section 1702.1 and qualified in accordance with Section 1704.1. Board recognition is not required for all special inspectors.

114.3.1.2 Listing agencies. When the rules of the Board require materials, products, assemblies and methods of construction to be marked or listed and labeled in accordance with a specific referenced standard, the building official shall verify that the proposed material, product, assembly, and method of construction has been listed and labeled by a listing agency recognized by the board and published on the list titled “Recognized Conformity Assessment Bodies” found on the board’s website at <http://www.com.ohio.gov/dico/bbs>.

Building officials are authorized to approve listed and labeled materials, products, assemblies and methods of construction after verifying all of the following additional information:

1. The product is listed on the product certification body’s website directory.
2. The listing is current.
3. The product is proposed to be installed/used in accordance with the listing.
4. When used as an assembly, the assembly is proposed to be installed/used in compliance with this code.
5. The extent of the listing does not include in its scope, elements of design, construction or installation otherwise in conflict with the provisions of this code such as fire-resistance and structural design.

114.3.2 Alternative materials, products, assemblies and methods of construction not prescribed in the code. The provisions of this code are not intended to prevent the installation of any material or to prohibit any material, product, assembly or method of construction not specifically prescribed by this code, provided that any such alternative shall have a valid research report or listing from an evaluation service recognized by the board and published on a list titled “Recognized Conformity Assessment Bodies” found on the board’s website at <http://www.com.ohio.gov/dico/bbs>.

The alternative material, product, assembly, or method of construction shall be deemed to be approved provided it complies with the conditions listed in the research report or listing found on the evaluation service’s website.

Exceptions:

1. Alternative materials, products, assemblies, or methods of construction submitted pursuant to section 106.5.
2. Industrialized units shall be approved and constructed in accordance with section 113.1 of this chapter.

This provision explains that building officials must accept valid research reports or valid listings in lieu of the regular Board product approval process. This gives manufacturers an alternative means of showing compliance with the intent of this code provided the proposed material, appliance, equipment, or method of construction strictly complies with the conditions/qualifications listed in the report or listing. It also means that the approval is limited to the code under which it was evaluated. For example, if a report or listing states that an appliance or material was evaluated under the 2006 International Building Code, it is of no use if being incorporated into a project being reviewed under the 2009 OBC. The report must be valid through the time a project is submitted to a certified building department for plan approval.

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

114.4 Process for board-recognition of “Accreditation Bodies,” “Conformity Assessment Bodies,” and “Industry Trade Association Certification Programs.” All accreditation bodies, conformity assessment bodies, and industry trade association certification programs shall be recognized by the board in accordance with division 4101:7 of the Administrative Code.

SECTION 115 CONSTRUCTION DOCUMENTS EXAMINATION AND INSPECTION FEES.

115.1 Certified building department fees. Fees for construction documents submitted to and inspections made by certified building departments shall be in accordance with the locally adopted fee schedule.

*This entire rule establishes the fees **only** for the Bureau of Construction Compliance in the Department of Commerce (the State's building department) and is not binding on any certified building department. Fees charged by certified building departments for plan review and inspection are to be set by the certified jurisdiction as permitted in 3781.102(E) ORC.*

115.2 Division of industrial compliance schedule of fees. The fees for examination and processing of construction documents when required to be submitted to the division of industrial compliance, except medical gas piping systems, shall be in accordance with table 115.2. The filing process for an application for plan approval specified in section 107.2 will not be considered complete until the applicable fees have been paid in accordance with table 115.2.

Although not binding on local certified building departments many departments use the fee schedule established in this section. ORC 3781.102(E), however, gives the authority for setting fees – what fee to charge for which process or whether to charge a fee at all - for certified building departments exclusively to the local jurisdictions.

Exception: Fees for alteration or change of occupancy as determined by the building official shall be based on the actual area affected by the alteration or change of occupancy which may extend beyond the limits of construction.

115.2.1 Additional inspections. The division of industrial compliance may establish a written policy for the maximum number of inspections required by sections 108.2 and 105.1.5 that may be included in the fees set forth in Table 115.2. Inspections in excess of the maximum number established by the division of industrial compliance shall be subject to fee of one hundred fifty dollars per inspection.

115.2.2 Resubmissions. The fees set forth in Table 115.2 shall include one initial plan review and up to two resubmission plan reviews to resolve issues resulting from correction letters. The fee for plan review after the second resubmission shall be of one hundred dollars for each additional resubmission.

115.2.3 Re-stamping. The processing fee for re-stamping additional sets of construction documents after initial plan approval shall be one hundred dollars.

115.2.4 Amended construction documents. The processing fee for amended construction documents submitted to the division of industrial compliance in accordance with section 106.3 shall be two hundred fifty dollars. The fee for plans examination of amended construction documents submitted to the division of industrial compliance in accordance with section 106.3 shall be one hundred dollars per hour for each submission.

115.2.5 Phased plan approval. The fees for plan examination and processing of a phased plan approval request per section 105.1.4 shall be in accordance with table 115.2 and section 115.2.1 for the initial phase submission of each scope of work. The processing fee for plan examination of each subsequent phase of submission shall be two hundred fifty dollars.

Table 115.2

Scope of Work	Processing Fee	Fee for Plans Examination and a minimum of Five Inspections
(1) Structural	\$250.00	\$9.50/100 sq. ft. gross area of each floor level
(2) Mechanical	\$250.00	\$5.75/100 sq. ft. gross area of each floor level
(3) Electrical	\$250.00	\$5.75/100 sq. ft. gross area of each

		floor level
(4) Fire alarm systems	\$250.00	\$5.75 per device
(5) Automatic sprinkler and other firer suppression systems (all suppressed areas)	\$250.00	\$5.75/100 sq. ft. gross area of each floor level
(6) Industrial unit	\$200.00	\$1.75/100 sq. ft. gross area of each floor level

115.3 Medical gas piping systems. The fees for examination and processing of construction documents for medical gas piping systems when required to be submitted to the division of industrial compliance shall be in accordance with table 115.3.

115.3.1 Additional inspections. The division of industrial compliance may establish a written policy for the maximum number of inspections required by sections 104.4 and 105.1 that may be included in the fees set forth in Table 115.3 for medical gas piping systems. Inspections in excess of the maximum number established by the division of industrial compliance shall be subject to a fee of one hundred fifty dollars per inspection.

Table 115.3

Medical Gas Piping System Processing, Plans Examination, and Inspections	Fee (includes a minimum of two inspections)
Processing	\$250.00
Plans Examination	\$250.00
Per room (with outlets) and equipment rooms	\$10.00
Per zone valve assembly	\$25.00
Per system	\$25.00
Per "tie-in"	\$25.00

115.4 Preliminary review. The fee for preliminary construction document examination for the purpose of determining compliance with the provisions of the rules of the board by the division of industrial compliance shall be one hundred thirty dollars per hour.

Preliminary review services are a method of heading off problems early in the process rather than waiting for submission of final construction documents. Because of the importance of clearly understanding the proposed work and having a good working knowledge of the OBC, experienced code enforcement personnel should perform this service. The Division of Industrial Compliance fees are not binding on certified jurisdictions that wish to offer this service.

115.5 Inspection fees. The fee for each inspection, other than those required by section 108.2 and 105.1.5 shall be two hundred twenty-five dollars per inspection. Requests for all inspections shall be in writing to the division of industrial compliance and the fee shall be paid prior to the inspection.

Fees for an application pursuant to section 105.1.5 shall include a processing fee of one hundred fifty dollars. The fee for periodic inspections conducted by the division of industrial compliance shall include the hourly inspection rate and expenses such as food, lodging, and administrative costs. All such fees shall be paid by the holder of an annual approval.

This paragraph outlines some of the fee requirements for annual permits. These permits make it easier for large manufacturing plants or other occupancies to do the needed ongoing work that without the annual permit could require hundreds of permits and inspections. Utilizing the annual permit, work must be tracked and performed by qualified employees but assures follow-up audits of the work by building departments. In this case, the State's building department fees cover the expense of the follow-up inspections during the life of the yearly permit.

115.6.1 Reinspection fee. The fee for each reinspection shall be one hundred fifty dollars. A reinspection shall be required when the inspector must return to inspect work that was not ready or had failed a previous inspection.

When the construction season gets busy, contractors often call in to schedule inspections ahead of time to make sure they get someone to their project before the work is completed. When project schedules are not maintained, inspectors often arrive to make inspections as scheduled but the work is not ready for inspection. This provision allowed some recouping of the expense of scheduled inspection travel for which no inspection is made because the work is not ready.

115.6.2 Related fees. In addition to the fees required by sections 115.2, 115.3 and 115.4, the superintendent of the division of industrial compliance shall collect a fee, on behalf of the board of building standards, of three dollars and twenty-five cents for each application for acceptance and approval of construction documents and for making inspections.

When the legislature approved the BBS Assessment, the assessments charged by the Division of Industrial Compliance were set as flat fees rather than percentages. The assessment collected by the State's building department was not to exceed five dollars and was set by rule at three dollars and twenty-five cents rather than the three percent collected by certified building departments.

The fee shall be deposited by the division of industrial compliance, pursuant to section 121.084 of the Revised Code, to the credit of the board. The superintendent of the division shall report on the amount of the fees collected and deposited to the credit of the board not later than forty-five days following the end of the first full month's collection and then monthly afterward.

These provisions specify how the Division of Industrial Compliance must handle the BBS assessment and how the amount of the funds collected is to be reported to the Board.

115.6.3 Late fee. Any person who fails to pay an inspection fee required for any inspection conducted by the department of commerce pursuant to Chapters 3781. and 3791. of the Revised Code, except for fees charged for the examination and processing of construction documents, within forty-five days after the inspection is conducted shall pay a late payment fee equal to twenty-five per cent of the inspection fee.

Failure to pay required Division of Industrial Compliance fees for inspections will result in a late payment fee of an additional ¼ of the inspection fee listed above.

115.9 Certificate of occupancy. The fee for each certificate of occupancy issued in accordance with section 111 shall be sixty-five-dollars.

115.10 Annual approval for alterations. The fee for each annual approval for an individual applicant issued in accordance with section 105.1.5 shall be six hundred fifty dollars.

115.11 Welding and brazing procedure specification review. The fee for the review of each piping welding and brazing specification submitted in accordance with section 313.5 of the mechanical code and section 315.5 of the plumbing code shall be sixty dollars.

115.12 Welding and brazing procedure qualification record review. The fee for the review of each procedure qualification record submitted in accordance with section 313.5 of the mechanical code and section 315.5 of the plumbing code shall be fifteen dollars.

115.13 Welding and brazing performance qualification review. The fee for the review of each performance qualification submitted in accordance with section 313.5 of the mechanical code and section 315.5 of the plumbing code shall be fifteen dollars.

SECTION 116 BOARD COMMITTEES.

116.1 Meetings.

1. Meeting schedule. No later than December thirty-first of each year, the board shall establish a schedule of the dates, times, and locations of all regular board meetings and meetings of board committees for the following calendar year. Such schedule shall be posted on the board's website: <http://www.com.ohio.gov/dico/bbs>.

2. Meeting location. All meetings of the board shall be held in offices of the Ohio department of commerce, training room #1, 6606 Tussing Rd., Reynoldsburg, Ohio, 43068, unless otherwise designated.

116.2 Notices. Prior to all regular or special meetings of the board, the executive secretary shall distribute the agenda, including meeting date, time, and location, by electronic mail to any person who has requested such information.

116.3 Rules. All rules of the board shall be adopted in accordance with Chapter 119. of the Revised Code.

116.4 Board committees and duties. The board shall have three standing committees.

1. Code committee. The code committee provides general oversight of the board's rule promulgation and code development activities. The committee reviews proposed rule changes and petitions for code changes and shall make recommendations to the board for action.

2. Education committee. The education committee provides general oversight to the board's continuing education program. The committee reviews continuing education course applications submitted for approval pursuant to paragraph (G) of rule 4101:7-3-01 of the Administrative Code and shall make recommendations to the board for action on the applications.

3. Certification committee. The certification committee provides general oversight to the board's personnel and building department certification program. The committee reviews personnel and building department certification applications submitted for approval pursuant to paragraph (G) of rule 4101:7-3-01 of the Administrative Code and shall make recommendations to the board for action on the applications.