



**PUBLIC CODE CHANGE PROPOSAL FORM
FOR PUBLIC PROPOSALS TO THE INTERNATIONAL CODES
2012/2013 CODE DEVELOPMENT CYCLE**

**CLOSING DATES: Group A Codes: January 3, 2012
Group B Codes: January 3, 2013**

See Item 3 of these instructions for additional information concerning Group A and Group B Code Development Committees Responsibilities

1)

Name: Lynn Underwood, CBO. MCP		Date: December 29, 2011	
Jurisdiction/Company: City of Norfolk			
Submitted on Behalf of: Abatement of Dangerous Buildings Ad Hoc committee			
Address: 400 Granby			
City: Norfolk		State: VA	Zip Code: 23510
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2) **Copyright Release:** In accordance with Council Policy #28 Code Development, all Code Change Proposals, Floor Modifications and Public Comments are required to include a copyright release. A copy of the copyright release form is included at the end of this form. Please follow the directions on the form. This form as well as an alternative release form can also be downloaded from the ICC website at www.iccsafe.org. **If you have previously executed the copyright release for this cycle, please check the below:**

_____ 2012/2013 Cycle copyright release on file

3) **Code:** Indicate appropriate International Code(s) associated with this Public Proposal – Please use Acronym:
___IPMC___

If you have also submitted a separate coordination change to another I-Code, please indicate the code:
___n/a___
(See section below for list of names and acronyms for the International Codes).

NOTE: Sections of the International Codes that have a letter designation in brackets in front of them are the responsibility of a different committee than the committee normally responsible for that code. For instance, Section 301.1.4 of the IEBC has a [B] in front of it, meaning that this section is the responsibility of one of the IBC Code Development Committees (in this case, IBC-S). Any proposed changes to Section 301.1.4 will be heard by the IBC-Structural committee.

Therefore, some code change proposals to Group B code text may be due in order to be heard by Group A code development committees, and vice versa. Please go to www.iccsafe.org/responsibilities for detailed information on Group A and Group B Code Development Committee responsibilities.

4) **E-mail address:** Your email address will be published with your code change proposal unless you check here:

5) **Information required:** : Be sure to format your proposal and include all information as indicated below and in the Code Change Proposal Instructions' section on Page 2 of this form.

- 6) **Format:** Proposals should be sent to the office below via regular mail or email. An e-mail submittal is preferred, including an electronic version, in either WordPerfect or Word. The only formatting that is needed is **BOLDING, STRIKEOUT AND UNDERLINING**. Please do not provide additional formatting such as tabs, columns, etc., as this will be done by ICC. **REMOVE TRACKING CHANGES, AUTOMATIC NUMBERING, OR ANY OTHER ADVANCED FORMATTING TOOLS THAT ARE PROVIDED BY WORD, FROM FILES CONTAINING YOUR CODE CHANGE PROPOSAL THAT YOU SEND TO ICC.**

Please use a separate form (see page 3) for each proposal submitted. Note: All code changes received will receive an acknowledgment by approximately two weeks after the code change deadline. Please contact the ICC staff listed below if you have not received an acknowledgment by two weeks after the code change deadline.

Please check here if separate graphic file provided. □ Graphic materials (Graphs, maps, drawings, charts, photographs, etc.) must be submitted as separate electronic files in .CDR, IA, TIF or .JPG format (300 DPI Minimum resolution; 600 DPI or more preferred) even though they may also be embedded in your Word or WordPerfect submittal.

Group A

IBC - International Building Code
IFGC - International Fuel Gas Code
IMC - International Mechanical Code
IPC - International Plumbing Code
IPSDC - International Private Sewage Disposal Code

Group B

IEBC - International Existing Building Code
IECC - International Energy Conservation Code
IFC - International Fire Code
IgCC – International Green Construction Code
ICC PC - ICC Performance Code
IPMC - International Property Maintenance Code
IRC - International Residential Code
ISPSC – International Swimming Pool and Spa Code
IWUIC - International Wildland-Urban Interface Code
IZC - International Zoning Code

Send to:

International Code Council
Chicago District Office
Attn: Dynice Broadnax
4051 West Flossmoor Road
Country Club Hills, IL 60478-5795
Fax: 708/799-0320
codechanges@iccsafe.org

CODE CHANGE PROPOSAL INSTRUCTIONS

Please provide all of the following items in your code change proposal (see form on page 3). Your proposal should be entered on page 3 as a separate file. However, please read the instructions provided below for each part of the code change proposal. The sections identified in parentheses are the applicable sections from CP #28 Code Development. The full procedures can be downloaded from www.iccsafe.org.

PROPOSAL FORMATTING:

Show the proposal (see form on page 3) using ~~strikeout~~, underline format. At the beginning of each section, one of the following instruction lines are also needed:

- Revise as follows
- Add new text as follows
- Delete and substitute as follows

- Delete without substitution

The only formatting that is needed is **BOLDING**, ~~STRIKETHROUGH~~ AND UNDERLINING. Please do not provide additional formatting such as tabs, columns etc. as this will be done by ICC. **DO NOT USE THE TRACKING CHANGES OPTION, AUTOMATIC NUMBERING, OR ANY OTHER ADVANCED FORMATTING TOOLS PROVIDED BY WORD.**

SUPPORTING INFORMATION: (3.3.4 & 3.4)

The following items are required to be included in your proposal (see form on page 3):

1. The proponent shall clearly state the purpose of the proposed code change
2. The proponent shall provide a logical explanation which clearly shows why the current Code provisions are inadequate or overly restrictive, specifies the shortcomings of the current Code provisions and explains how such proposals will improve the Code.
3. The proponent shall substantiate the proposed code change based on technical information and substantiation. A minimum of two copies of all substantiating information shall be submitted.
4. The proponent shall submit a bibliography of any substantiating material submitted with the code change proposal.

REFERENCED STANDARDS: (3.4 & 3.6)

List any new referenced standards that are proposed to be referenced in the code and provide a minimum of two copies. For ICC rules on referenced standards, see Section 3.6 of CP #28. Additional copies will be required for committee members. ICC staff will provide you with a mailing list for the appropriate committees.

COST IMPACT: (3.3.4.6)

The proponent shall indicate one of the following regarding the cost impact of the code change proposal:

- 1) The code change proposal will increase the cost of construction; or
- 2) The code change proposal will not increase the cost of construction.

This information will be included in the published code change proposal.

CODE CHANGE SUBMITTAL EXAMPLE

<p>Code: <u>IBC-12/13</u> 705.1</p> <p>Proponent: John Doe, P.E., Acme Building Corporation, Inc, representing himself</p> <p>Revise as follows:</p> <p>705.1 General. Each portion of a building separated by one or more <u>a</u> fire walls that comply <u>complies</u> with the provisions of this section <u>Section 705</u> shall be considered a separate building.</p> <p>Reason: A fire wall complying with Section 705 establishes the equivalent of separate buildings on either side of the fire wall. This proposal provides text that more succinctly states this purpose of a fire wall.</p> <p>Cost Impact: The code change proposal will not increase the cost of construction.</p> <p>Public Hearing: Committee: AS AM D Assembly: ASF AMF DF</p>
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CODE CHANGE PROPOSAL FORM

(See instructions on page 2)

Code: IPMC -12/13

Code Sections/Tables/Figures Proposed for Revision (3.3.2); Note: *If the proposal is for a new section, indicate (new).*

Proponent: *Name/Company/Representing (3.3.1): (NOTE: DO NOT USE ACRONYMS FOR YOUR COMPANY OR ORGANIZATIONAL NAME)*

Lynn Underwood, Norfolk, VA, representing the ICC Abatement of Dangerous Buildings Ad Hoc Committee.

Revise as follows: Add New Appendix B.

Reason:

The proposed code change would add a new Appendix B to the International Property Maintenance Code (IPMC) to provide an important tool for jurisdictions that need it, but not mandate the provisions for jurisdictions that might not need it. The new proposed Appendix B is titled Provisions for Abatement of Dangerous Buildings.

In 2010, the ICC Board of Directors established an Ad Hoc committee to draft provisions for the abatement of dangerous buildings. The initiative for the committee's work arose due to numerous requests from ICC members whose jurisdictions had formerly adopted the Uniform Code for Abatement of Dangerous Buildings (UCADB), published by the ICC Legacy organization ICBO. The concern was that as jurisdictions adopted ICC codes, this valuable tool for code enforcement officials, that had previously been available, was lost.

There are many jurisdictions where adoption of a full property maintenance code is simply politically untenable. For the code officials in those jurisdictions there remains a pressing need for the proposed document to provide legal authority and guidance to abate distinctly dangerous buildings and conditions. Many such jurisdictions are still using older versions of some abatement documents without good coordination with the adopted I-Codes.

The Ad Hoc committee reviewed and discussed several documents related to the abatement of dangerous buildings, including an internal draft document that had previously been developed by the ICC Hazard Abatement Ad Hoc Committee and the UCADB. The committee then decided to base its work on the UCADB's provisions but revise as needed and include provisions from other documents such as the Hazard Abatement committee work. The provisions were updated, streamlined and revised as needed to be consistent with current ICC practices and format.

This proposal would add a new Appendix B to the IPMC that would be suitable for adoption by jurisdictions that do not have other provisions for abatement of dangerous conditions in buildings and premises providing an important tool. The proposed appendix provides a means for enforcement, as well as procedures that can be used to conduct appeals. The proposal will not affect those jurisdictions that have no need for it

The ICC Ad Hoc Committee for Abatement of Dangerous Buildings consisted of the following members:

Chair Lynn Underwood, CBO, MCP, City of Norfolk, VA;
Vice Chair Steven Rocklin, R.A. Assistant Director, Regional Services, Albany, NY

Members:

James Doody, Consulting Engineer, Calgary, Alberta, Canada
Joe Ehrlich, Senior Building Inspector, St. Paul, MN
Steve Ikkanda, JAS Pacific, VP Research and Code Development, Alhambra, CA (partial attendance)
Wayne R. Jewell, CBO, Building Official, Southfield, MI (partial attendance)
Paul R Klein, CBO, CASp, Chief Building Official, Yuba City, CA (partial attendance)
Paul R. Lopes, Littleton, NH
John H. Mertens, Fire Protection Engineer, Phoenix, AZ
Jim Olk, Building Official, Farmers Branch, TX
Linda Pieczynski, Attorney at Law, Hinsdale, IL
Anne R. vonWeller, Public Services Deputy Director, Murray, UT
Hector Buitrago, Chief of Code Enforcement Bureau, Los Angeles, CA (partial attendance)

Cost Impact: The Proposed code change will not increase the cost of construction.

Public Hearing:	Committee:	AS	AM	D
	Assembly:	ASF	AMF	DF

APPENDIX B

Provisions for Abatement of Dangerous Buildings

The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance

CHAPTER B1

SCOPE AND ADMINISTRATION

SECTION B101

GENERAL

B101.1 Title. These provisions shall be known as the *Provisions for the Abatement of Dangerous Buildings* hereafter will be referred to as “The Abatement Provisions”.

B101.2 Scope. The Abatement Provisions apply to all buildings, or structures or portions of buildings or structures that have been deemed dangerous by the *building official*, which are now in existence or which hereafter become dangerous in this jurisdiction.

B101.3 Intent. The purpose of The Abatement Provisions is to provide for the repair, vacation or demolition of buildings or structures, which from any cause, endanger the life, limb, health, property, safety or welfare of the general public.

The purpose of The Abatement Provisions is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected by or who would benefit from the terms of The Abatement Provisions.

B101.4 Application of other codes. Where determined appropriate by the building official, The Abatement Provisions are applicable in combination with the other codes of the jurisdiction, including, but not limited to, building, fire and property maintenance codes.

SECTION B102 APPLICABILITY

B102.1 General. Where, in any specific case, different sections of The Abatement Provisions specify different 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.

B102.2 Other laws. The Abatement Provisions shall not be deemed to nullify any provisions of local, state or federal law and regulation.

B102.3 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 The Abatement Provisions.

B102.4 Referenced codes and standards. The codes and standards referenced in The Abatement Provisions are considered part of the requirements of The Abatement Provisions to the prescribed extent of each such reference. Where differences occur between The Abatement Provisions and referenced codes and standards, the requirements of The Abatement Provisions shall govern.

B102.5 Partial invalidity. In the event that any part or provision of The Abatement Provisions 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.

B102.7 Existing remedies. The provisions to The Abatement Provisions shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and insanitary.

SECTION B103 CONSTRUCTION IN COMPLIANCE WITH LOCALLY ADOPTED CODES

B103.1 General. Repairs, additions and alterations to buildings and structures shall be done in accordance with the procedures and provisions of the adopted codes of the jurisdiction.

SECTION B104 OWNER RESPONSIBILITY AND TRANSFER OF OWNERSHIP

B104.1 General. The owner of record shall be responsible for correcting all deficiencies in the notice and order, or appealing the notice and order.

B104.2 Transfer of ownership. It shall be unlawful for the owner of any building or structure who has

received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such building or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the building official and shall furnish to the building official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for abating the violation as required by such compliance order or notice of violation.

SECTION B105 DUTIES AND POWERS OF BUILDING OFFICIAL

B105.1 General. The building official is authorized to enforce The Abatement Provisions. The building official shall have the authority to interpret The Abatement Provisions and to adopt policies and procedures to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of The Abatement Provisions.

B105.2 Authority to disconnect service utilities. The building official shall have the authority to order disconnection of any electricity, fuel gas, water, or all other utility service to a building, structure or system where necessary to eliminate an immediate hazard to life or property. The building official shall notify the serving utility and, whenever practical, the owner and occupant of the building, structure or service system prior to taking such action. If not notified prior to disconnection, the owner and occupant of the building, structure or service system shall be notified as soon as practical thereafter.

B105.3 Liability. The building official, member of the board of appeals or employee charged with the enforcement of The Abatement Provisions, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by The Abatement Provisions or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of The Abatement Provisions shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of The Abatement Provisions.

SECTION B106 INSPECTION OF WORK

B106.1 General. Buildings, structures or equipment within the scope of The Abatement Provisions shall be subject to inspection by the building official in accordance with The Abatement Provisions and the inspection provisions of the jurisdiction.

B106.2 Right of entry. Where it is necessary to make an inspection to enforce the provisions of The Abatement Provisions, or whenever the building official has reasonable cause to believe that there exists in a building or upon any premises a condition in violation of The Abatement Provisions which make the building or premises dangerous, the building official is authorized to enter the building or premises at reasonable times to inspect or to perform the duties imposed upon the building official by

The Abatement Provisions. Where such building or premises is occupied, the building official shall present credentials to the occupant and request entry. Where such building or premises is unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

B106.2.1 Warrant. When the building official has first obtained a proper inspection warrant or other remedy provided by law to secure entry, an owner or occupant or person having charge, care or control of the building or premises shall not fail or neglect to permit entry by the building official for the purpose of inspection and examination pursuant to The Abatement Provisions.

SECTION B107

ABATEMENT

B107.1 General. Buildings or portions thereof which are determined after inspection by the building official to be dangerous are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in Section B109.

SECTION B108

IMMINENT DANGER

B108.1 General. When the building official finds that there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of *dangerous equipment*, the building official is authorized and empowered to order and require the occupants to vacate the building or structure.

SECTION B109

NOTICES AND ORDERS OF BUILDING OFFICIAL

B109.1. General. Notices and orders of the building official, and the service of such notices and orders shall comply with the provisions of Sections B109.1.1 through B109.1.5.

B109.1.1 Commencement of proceedings. Whenever the building official has inspected or caused to be inspected any building or structure and determined that such building or structure is dangerous, the building official shall commence proceedings to cause the repair, vacation or demolition of the building or structure.

B109.1.2 Notice and order. The building official shall issue a notice and order to the owner of the building. The notice and order shall be in writing and shall contain the following:

1. The street address and a legal description sufficient for identification of the premises on which the building or structure is located.
2. A statement that the building or structure has been found to be dangerous, with a description of the conditions found to render the building dangerous under the provisions of Section B202.

3. A statement of the action required to be taken as determined by the building official.

3.1. Where the building official has determined that the building or structure is required to be repaired, the order shall require that all required permits be secured therefore and the work physically commenced within such time and completed within such time as the building official shall determine is reasonable under all of the circumstances. Nothing in this section shall be deemed to prohibit vacating and demolishing a building ordered to be repaired. Work shall physically commence within 60 days of the order, or within the number of days set by the order, whichever occurs first.

3.2. Where the building official has determined that the building or structure is required to be vacated, the order shall require that the building or structure shall be vacated within a time certain from the date of the order as determined by the building official to be reasonable. Nothing in this section shall be deemed to prohibit demolishing a building ordered to be vacated.

3.3. Where the building official has determined that the building or structure is required to be demolished, the order shall require that the building be vacated within such time as the building official shall determine is reasonable; that all required permits be secured therefore within 60 days from the date of the order; and that the demolition be completed within such time as the building official shall determine is reasonable.

4. Statements advising that when required repair or demolition work is not commenced within the time specified, the building official is authorized to:

4.1. Order the building vacated and posted to prevent further occupancy until the work is completed, and

4.2. Proceed to cause the work to be done. Where the building official has caused work to be done, the costs of the work shall be charged against the property or its owner.

5. A statement of the right of the jurisdiction to file a lien.

6. Statements advising that:

6.1. Any person having any title or legal interest in the building has the right to appeal from the notice and order or any action of the building official to the board of appeals; and

6.2. Failure to appeal shall constitute a waiver of all rights to an administrative hearing and determination of the matter.

6.3. Appeals shall be in writing as provided in Section B110 and filed with the building official within 20 days from the date of service of such notice and order.

7. In the case of buildings and structures to be vacated or demolished, the building official shall include, in the notice and order, notification specifying the emergency and conditions which necessitate placarding in accordance with Section B109.4.

B109.1.3 Service of notice and order. The notice and order, and any amended or supplemental notice and order, shall be:

1. Served on the owner;
2. Posted on the property;

Where known to the building official or disclosed from official public records, a copy of the notice and order also shall be served on:

1. The holder of any mortgage or deed of trust or other lien or encumbrance of record;
2. The owner or holder of any lease of record; and
3. The holder of any other estate or legal interest of record in or to the building or the land on which it is located.

The failure of the building official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

B109.1.4 Method of service. The notice and order shall be deemed to be properly serviced where a copy thereof is:

1. Delivered personally; or
2. Sent by certified or first-class mail addressed to the last known address; or
3. Delivered by private delivery service with proof of delivery; or
4. When the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

B109.1.5 Proof of service. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the building official. Proof of service by private delivery service shall be in the form usually used by said service in the normal course of business.

B109.2 Recordation of notice and order. Notices and orders shall be recorded according to this section.

B109.2.1 Non-compliance. If compliance is not had with the order within the time specified therein, and no appeal has been properly and timely filed, the building official shall file in the office of the county recorder a certificate describing the property and certifying the following:

1. The building is a *dangerous building*, and

2. The owner has been so notified.

B109.2.2 Compliance. When the corrections ordered have been completed or the building demolished so that it no longer exists as a *dangerous building* on the property described in the certificate, the building official shall file a new certificate with the county recorder certifying that the building has been demolished or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate.

B109.3 Repair, vacation and demolition. Where a *dangerous building* or structure is subject to an order to be repaired, vacated or demolished, the building official shall comply with the following criteria. Where the order follows the conclusion of an appeal, the board of appeals shall follow the same criteria.

1. Where the building is declared a *dangerous building* under The Abatement Provisions, it shall be made to comply with one of the following:

- 1.1. The building shall be repaired in accordance with the adopted building codes of the jurisdiction;
- 1.2. The building shall be demolished either in compliance with an order to demolish, or where the owner chooses to demolish rather than repair the building; or
- 1.3. Where the building does not constitute an immediate danger to the life, limb, property or safety of the public, the building is vacated, secured and maintained against entry.

2. Where the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated.

B109.4. Placard Posting. Properties subject to notice and order shall be posted and placarded in accordance with Sections B109.4.1 through B109.4.4.

B109.4.1 Posting. In addition to the required serving of the notice in B109.1.3, whenever the building official has ordered the vacation or demolition of a building or structure, notice, in the form of placarding, shall be posted at or near the entrances of the building and in one or more conspicuous places in or about the structure affected by such notice.

B109.4.2 Placarding. The posted placard shall be in substantially the following form:

**DO NOT ENTER
UNSAFE TO OCCUPY**

It shall be unlawful to enter or occupy this building, or to remove or deface this notice.

[Name]

Building Official

[Jurisdiction]

For more information please contact...

B109.4.3 Prohibited occupancy and entry. No person shall enter, occupy, or remain in any building placarded by the building official in accordance with Section B109.4. Any person who enters or occupies

a placarded premises or any owner or any person responsible for the premises who allows anyone enter or occupy a placarded premises shall be subject to the penalties provided for in The Abatement Provisions.

Exception: The building official is permitted to allow entry into the structure or premises.

B109.4.4 Placard removal. The building official shall remove the placard whenever the *dangerous conditions* for which the placard was required have been eliminated. Any person who defaces or removes a placard without the approval of the building official shall be subject to the penalties provided for in The Abatement Provisions.

SECTION B110

APPEAL

B110.1 General. Appeals to a notice or order of the building official shall comply with Sections B110.2 through B110.5.

B110.2 Right to appeal. Any person served a notice or order under the provisions of Section B109 has the right to appeal the order or notice to the Board of Appeals.

B110.2.1 Failure to appeal. Failure of any person to file an appeal in accordance with the provisions of Sections B110.5 shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof.

B110.3 Imminent danger. Where the building is an imminent danger to public safety, the building official shall have the authority to direct abatement of the hazard in accordance with Section B108 of The Abatement Provisions prior to the filing of an appeal, or resolution of any filed appeal.

B110.4 Board of appeals established. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretations of The Abatement Provisions, there shall be and is hereby created a board of appeals

B110.4.1 Appointment. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and maintenance. The members shall not be employees of the jurisdiction. The building official shall be an ex officio member and shall act as secretary to said board but shall have no vote on any matter before the board.

B110.4.2 Rules. The board shall adopt rules of procedure for conducting its business. The decisions and findings of the board shall be in writing and provided to the appellant. A copy of each decision and find shall be provided to the building official. Appeals to the board shall be processed in accordance with the provisions contained in Sections B110.5 through B110.6.2 of The Abatement Provisions. Copies of all rules or regulations adopted by the board shall be delivered to the building official, who shall make them freely accessible to the public.

B110.4.3 Limitations of Authority. An application for appeal shall be based on the following:

1. A claim that the true intent of The Abatement Provisions or the rules legally adopted thereunder have been incorrectly interpreted;
2. The provisions of The Abatement Provisions do not fully apply; or
3. An equally good or better form of compliance is proposed.

The board shall have no authority to waive requirements of The Abatement Provisions.

B110.5 Form of appeal. Any person entitled to service under Section B109.1.3 has the right to appeal any notice and order or any action of the building official under The Abatement Provisions by filing at the office of the building official a written appeal on a form provided by the board of appeal.

The appeal shall be filed within 20 days from the date of the service of such order or notice of the building official; provided, however, that if the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property, is ordered vacated and is posted in accordance with Section B109.4, such appeal shall be filed within 10 days from the date of the service of the notice and order of the building official.

B110.6 Processing of appeal. Upon receipt of any appeal filed pursuant to this section, the building official shall present it at the next regular or special meeting of the board of appeals.

B110.6.1 Scheduling of appeal hearing. As soon as practicable after receiving the written appeal, the building official shall review the petition and determine whether the appeal is complete. When determined to be incomplete, the appellant shall be notified as to additional information required, to make the petition complete. When the appeal is determined to be complete, the appeal request shall be processed in accordance with Sections B110.6 and B110.6.2. The hearing date shall not be less than 10 days nor more than 60 days from the date the complete appeal was filed with the building official.

B110.6.2. Notice of appeal hearing. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant by the secretary of the board either, by causing a copy of such notice to be delivered to the appellant personally, or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.

B110.6.3 Scope of hearing. A hearing on appeal shall only consider matters within the scope of The Abatement Provisions. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

B110.6.4 Staying an order under appeal. Except for vacation orders made pursuant to Section B109.4 and imminent danger pursuant to Section B108.1, enforcement of any notice and order of the building official issued under The Abatement Provisions shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

B110.7 Procedure for conduct of appeal hearings. The procedures for conduct of hearing appeals shall be as determined by the jurisdiction. All rules shall be available to appellant in advance of the hearing date. In jurisdictions where rules have not been established, procedures for conduct of hearing appeals provided in Chapter B3 of The Abatement Provisions shall be used.

SECTION B111
ENFORCEMENT OF THE ORDER OF THE BUILDING OFFICIAL
OR THE BOARD OF APPEALS

B111.1 Compliance. After any order of the building official or the board of appeals made pursuant to The Abatement Provisions has become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order.

B111.2 Failure to obey order. Where a person fails to comply with a final order or notice issued by the building official, or issued by the board of appeals subsequent to the resolution of an appeal, the building official is authorized to take appropriate action to abate such building or premises as a public nuisance.

B111.3 Failure to commence work. Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under The Abatement Provisions becomes effective:

1. The building official is authorized to cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice as described in Section B109.4.
2. No person shall occupy any building which has been posted as specified in this section. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the building official have been completed and a certificate of occupancy, as applicable, has been issued.
3. In addition to any other remedy herein provided, the building official is authorized to cause the building or structure to be repaired to the extent necessary to correct the conditions which render the building or structure dangerous as set forth in the notice and order; or, if the notice and order requires demolition, to cause the building or structure to be demolished and the materials, rubble and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in The Abatement Provisions.

B111.4 Extension of time to perform work. The building official is authorized to grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition, provided the building official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The building official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal the notice and order.

B111.5 Interference with repair or demolition work prohibited. It shall be unlawful for any person to obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this jurisdiction or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under The Abatement Provisions; or with any person to whom such building has been lawfully sold pursuant to The Abatement Provisions, whenever such officer, employee, contractor or authorized representative of this jurisdiction, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to The Abatement Provisions, or in performing any

necessary act preliminary to or incidental to such work or authorized or directed pursuant to The Abatement Provisions.

SECTION B112
REPAIR OR DEMOLITION WORK PERFORMED BY THE JURISDICTION

B112.1 Procedure. When any work of repair or demolition is performed by the jurisdiction or at its direction pursuant to The Abatement Provisions, the required work is to be accomplished by the appropriate personnel of this jurisdiction or by private contract under the direction of the office designated by the jurisdiction

Plans and specifications necessary to perform such work shall be prepared according to the following:

1. By the office designated by the jurisdiction, or
2. Where deemed reasonably necessary the jurisdiction employ architectural and engineering assistance on a contract basis.

B112.2 Costs. The jurisdiction shall keep an itemized account of the expense incurred by this jurisdiction in the repair or demolition of any building done pursuant to the provisions of Section B111.3, of The Abatement Provisions. Upon the completion of the work of repair or demolition, an abatement expense report shall be prepared and filed, specifying the work done, the itemized and total cost of the work, a description of the real property on which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to Section B109.1.3.

All costs associated with such work shall be paid by the jurisdiction and shall be recovered by one of the following processes:

1. Apply a special assessment against the property involved,
2. Be made a personal obligation of the property owner, or
3. Be added to the tax roll of the premises, in conformance with applicable laws.

B112.3 Repair and demotion fund. The legislative body of this jurisdiction is authorized to establish a special revolving fund to be designated as the repair and demolition fund. Payment is authorized to be made out of said fund on the demand to defray the costs and expenses which are incurred by this jurisdiction in doing or causing to be done the necessary work of repair or demolition of *dangerous buildings*.

B112.3.1 Maintenance of Fund. The legislative body is authorized at any time to transfer to the repair and demolition fund, out of any money in the general fund of this jurisdiction, such sums as it deems necessary in order to expedite the performance of the work of repair or demolition, and any sum so transferred shall be deemed a loan to the repair and demolition fund and shall be repaid out of the proceeds of the collections hereinafter provided for. All funds collected under the proceedings hereinafter provided for shall be paid to the treasurer of this jurisdiction who shall credit the same to the repair and demolition fund.

B112.2.3 Salvage materials. Where any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

SECTION B113 VIOLATIONS

B113.1 Violation penalties. Any person who violates a provision of The Abatement Provisions or fails to comply with any of the requirements thereof shall be subject to penalties as described by law. It is unlawful and a public nuisance for any person to maintain an unsafe or *dangerous building* or structure. Each and every day that a building or structure is maintained in an unsafe or *dangerous condition* is a new violation of The Abatement Provisions. It is a violation of The Abatement Provisions and unlawful to occupy a building or structure that has been ordered to be vacated.

CHAPTER B2 DEFINITIONS

SECTION B201 GENERAL

B201.1 Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of The Abatement Provisions, have the meanings shown in this chapter.

B201.2 Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

B201.3 Terms defined in other codes. Where terms are not defined in this chapter and are defined in the *International Building Code*, *International Residential Code*, *International Fire Code*, *International Zoning Code*, *International Plumbing Code*, *International Mechanical Code*, *International Fuel Gas Code*, *NFPA 70*, or the adopted building codes of the jurisdiction, such terms shall have the meanings ascribed to them as in those codes.

B201.4 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

SECTION B202 DEFINITIONS

Dangerous building. A *dangerous building* is a building or portion thereof which is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure when described below as *dangerous structures*, having *dangerous equipment*, structures unfit for human occupancy, or having *dangerous conditions*.

Dangerous conditions. Any building, structure or part thereof that has one or more of the conditions or defects described below shall be deemed dangerous. *Dangerous conditions* include but are not limited to the following:

1. Any door, aisle, passageway, stairway, exit or other means of egress component that does not provide adequate access to an exit or sufficient capacity to provide a safe means of egress.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.

4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting loads of one half of that specified by the building code for new buildings or structures or similar construction, purpose and location without exceeding the working stresses permitted in the building code.

5. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.

6. The building or structure, or any portion thereof, is hazardous for its use and occupancy.

7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals, or enables persons to resort to the building or structure for committing an unlawful act.

8. Any building or structure that has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.

9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the building official to be insanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

10. Any building or structure, because of a lack of maintenance of fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the building official to be a threat to life or health.

11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

Dangerous equipment. *Dangerous equipment* includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers, or other equipment which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants.

Dangerous structure. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, damage, unstable foundation or faulty construction is in a condition that partial or complete collapse is possible and is judged to be hazardous.

Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the structure contains a *dangerous condition* or the building official finds that such structure is dangerous due to the degree to which the structure is in disrepair, lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, lacks ventilation, illumination, heating, sanitary facilities or other essential equipment, or the location of the structure constitutes a hazard to the occupants of the structure or to the public.

**CHAPTER B3
PROCEDURES FOR CONDUCT OF APPEAL HEARING**

**SECTION B301
GENERAL**

B301.1 Hearing. The hearing for any appeal case brought to the board of appeals, shall be conducted in one of the following manners:

1. By the board of appeals;
2. By one or more members of the board designated by the board to serve as hearing examiners; or
3. By one or more hearing examiners appointed by the board who are not members of the board.

B301.1.1 Authority. The examiner hearing the case shall exercise all powers relating to the conduct of hearings until it is submitted to the board of appeals for decision.

B301.2 Record. A record of the entire proceedings related to an appeal hearing shall be made. The record shall be retained in the records of the board of appeals in a manner and length of time established by the board.

B301.3 Transcripts. At the request of any party a transcript shall be made of the proceedings. The requesting party shall be responsible for any and all costs of recording the proceeding and producing the transcripts. If a transcript is produced, the transcript shall be made available to all parties upon request and upon payment of any required fee. Where required by written policy of the board, requests for transcripts shall be submitted to the jurisdiction. The jurisdiction is authorized to establish necessary fees, but in no event shall the fees be greater than the costs involved.

B301.4 Continuances. The board of appeals is authorized to grant continuances in the proceedings related to an appeal hearing for good cause shown. Where a hearing has been assigned to a hearing examiner, the examiner is authorized to grant such continuances provided the matter remains before the examiner.

B301.5 Oaths—certification. In any proceedings under this chapter, the board of appeals, or the hearing examiner has the authority to administer oaths and affirmations and to certify to official acts.

B301.6 Reasonable dispatch. The board of appeals and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

B301.7 Timeliness of process. When an appeal has been filed in accordance with Section B110.5, a hearing shall be scheduled within the time period required by Section B110.6.1. The board of appeals shall issue a final decision within 180 calendar days of the date when the appeal was filed. Where agreed to by all parties to the appeal, extensions in deadline for final action by the board are authorized if good cause is shown.

**SECTION B302
FORM OF NOTICE OF HEARING**

B302.1 General. The notice to appellant shall be substantially in the following form. The notice shall include the information specified below as well as additional information determined necessary to provide complete notice.

“You are hereby notified that a hearing will be held before [the board of appeals or name of hearing examiner] at [] on [] day of [], 20[], at the hour [], on the notice and order served on you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with [board of appeals or name of hearing examiner].”

SECTION B303 SUBPOENAS

B303.1 Filing of Affidavit. The board of appeals or hearing examiner is authorized to obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing on the request of a member of the board or on the written demand of any party to the appeal. The issuance and service of such subpoena shall be obtained on the filing of an affidavit therefor which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states the witness has the desired things in possession or under control. A subpoena need not be issued when the affidavit is defective in any particular.

B303.2 Cases referred to hearing examiner. In cases where a hearing is referred to a hearing examiner, all subpoenas shall be obtained through the examiner.

B303.3 Penalties. Any person who refuses, without lawful excuse, to attend any hearing or to produce material evidence which the person possesses or controls as required by any subpoena served on such person as provided for herein shall be guilty of a misdemeanor.

SECTION B304 CONDUCT OF HEARING

B304.1 Rules. The board of appeals shall regulate the course of the hearings, and require the presentation of evidence in such manner and order that is most beneficial to the board. To the extent not inconsistent with The Abatement Provision and to the extent it advances the purposes of The Abatement Provision, practice before the board of appeal shall be guided by prevailing laws and regulations.

B304.2 Oral evidence. Oral evidence shall be taken only on oath or affirmation.

B304.3 Hearsay evidence. Hearsay evidence is permissible for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.

B304.4 Admissibility of evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

B304.5 Exclusion of evidence. Irrelevant and unduly repetitious evidence shall be excluded.

B304.6 Rights of parties. Each party shall have these rights, among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing;
2. To introduce documentary and physical evidence;
3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
4. To impeach any witness regardless of which party first called the witness to testify;
5. To rebut the evidence; and
6. To be represented by anyone who is lawfully permitted to do so.

B304.7 Official notice. The official notice procedure shall be in accordance with Sections B304.7.1 through B304.7.4.

B304.7.1 What may be noticed. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the board or departments and ordinances of the city or rules and regulations of the board.

B304.7.2 Parties to be notified. Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.

B304.7.3 Opportunity to refute. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the board or hearing examiner.

B304.7.4 Inspection of the premises. The board of appeals or the hearing examiner is authorized to inspect any building or premises involved in the appeal during the course of the hearing, provided that:

1. Notice of such inspection shall be given to the parties before the inspection is made,
2. The parties are given an opportunity to be present during the inspection, and
3. The board of appeals or the hearing examiner shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom.

Each party then shall have a right to rebut or explain the matters so stated by the board or hearing examiner.

**SECTION B305
METHOD AND FORM OF DECISION**

B305.1 Hearing before board of appeals. When a contested case is heard before the board of appeals, any member who did not hear the evidence or has not read the entire record of the proceedings shall not vote on or take part in the decision.

B305.2 Hearing before hearing examiner. If a contested case is heard by a hearing examiner alone, the examiner shall, within 30 days from the date the hearing is closed, submit a written report to the board of appeals. The report shall contain a brief summary of the evidence considered and state the examiner's findings, conclusions and recommendations. The report also shall contain a proposed decision in a form that it can be adopted by the board as its decision in the case. All examiner's reports filed with the board shall be matters of public record. A copy of each such report and proposed decision shall be mailed to each party on the date they are filed with the board.

B305.3 Consideration of report by board of appeals —notice. The board of appeals shall fix the time, date and place to consider the hearing examiner's report and proposed decision. Notice thereof shall be mailed to each interested party not less than five days prior to the date fixed, unless it is otherwise stipulated by all parties.

B305.4 Exceptions to report. Not later than two days before the date set to consider the report, any party has the right to file written exceptions to any part or all of the hearing examiner's report and offer an alternative to the proposed decision together with written argument in support of such decision. With permission of the board of appeals, any party has the right to present oral argument to the board.

B305.5 Disposition by the board of appeals. The board of appeals shall take one of the following actions regarding the proposed decision presented by the hearings examiner:

1. Adopt the decision in its entirety;
2. Reject the decision in its entirety; or
3. Modify the proposed decision.

B305.6 Proposed decision not adopted. When the proposed decision is not adopted by the board of appeals as provided in Section B305.5, the board shall either:

1. Decide the case on the entire record before it, with or without taking additional evidence, or
2. Refer the case to the same or another hearing examiner to take additional evidence. Where the case is reassigned to a hearing examiner, the examiner shall prepare a report and proposed decision as provided in Section B305.2 after any additional evidence is submitted. Consideration of such proposed decision by the board shall comply with the provisions of this section.

B305.7 Form of decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, the effective date of the decision, and those items that require compliance. A copy of the decision shall be delivered to the appellant personally or sent by certified mail, postage prepaid, and with a return receipt requested.

Appeal Application Form

Appellant Information:

Name: _____

Address: _____

Telephone Number: _____ Email Address: _____

Property Owner Information:

Name: _____

Address: _____

Telephone Number: _____ Email Address: _____

Order Under Appeal:

List date and details of order under appeal.

_____ Date of Order: _____

Description of Order:

Received from Municipality/Jurisdiction: _____

Name of Official issuing the order: _____

Property Description under APPEAL:

Name of Municipality/Jurisdiction: _____

Roll Number: _____

Legal Description: _____

Address: _____

Type of APPEAL:

Order for Demolition: _____

Order to Vacate Building: _____

Order to Repair Building: _____

Other: _____

Building Occupancy Type:

Examples: Residential - Single Family; Residential - Multi Family; Commercial; Duplex/ Fourplex; Row Housing; Condominium; Walkup Apartment; High-rise Apartment; Townhouse; Other

Reason for Appeal: *(must check one of the following)*. An application for appeal shall be based on ____1) a claim that the true intent of The Abatement Provisions or the rules legally adopted thereunder have been incorrectly interpreted, _____2) the provisions of The Abatement Provisions do not fully apply, or ____3) an equally good or better form of compliance is proposed.

Explain relief sought, why it is claimed that the protested order or action should be reversed, modified or otherwise set aside.

Signature of Appellant/Owner/Authorized representative

Date Appeal Filed/Accepted