

Administration of the Code

INTRODUCTION

This chapter covers the common forms that should be available in Departments of Building Safety for the general administration of the building code in case enforcement becomes necessary at a later date. It outlines the scope of the building code, referenced codes, and the duties and powers of the building official. It gives sample letters and forms dealing with the modification of the code requirements or use of alternative materials or methods. It also has sample forms that can be used when a person appeals the building official's decision.

The most common challenge to enforcement actions is based on the failure to follow the procedures in the local jurisdiction's building code. Too often, building officials or inspectors are not familiar with the technical procedures that must be followed to successfully prosecute a violation of the code or with their own duties and responsibilities. Defendants in court frequently challenge the constitutionality of the building code, its adoption, the authority and expertise of the building official or inspector, the failure to provide due process hearings or notice, and illegal entry onto private property. Following the requirements of the building code and the advice of legal counsel is the best way for the building official or inspector to be successful in enforcing the code and avoiding personal liability.

The building official and building inspector must always keep in mind that the responsible party for a building or structure has a right to due process. This means that a person must be given a meaningful opportunity to be heard if he or she disagrees with a decision of the building official. The International Building Code (IBC) in Section 112 creates the Board of Appeals. Its function is to hear and decide appeals of orders, decisions, or determinations made by the building official in relation to the application and interpretation of the code. (IBC 112.1) The Board of Appeals is supposed to limit the issues at the hearing to whether the true intent of the code or the rules legally adopted thereunder has been incorrectly interpreted, the provisions of the code do not fully apply, or an equally good or better form of construction is proposed. (IBC 112.2) The Board of Appeals has no authority to waive the requirements of the code. (IBC 112.3)

Unlike the International Property Maintenance Code, which clearly states that the right of appeal must appear on every notice of violation, the International Building Code does not contain such a requirement. The building official should check with the legal counsel of the local jurisdiction as to whether it is advisable to put such language in a notice of violation. If the right of appeal must be included because of local law, the following paragraph can be used at the end of the notice of violation or other written decision by the building official:

You have a right to appeal this notice and order by filing a written application for appeal with the Board of Appeals for the *Village of Woodridge*. The application for appeal must be filed within *twenty (20)* days after the day this notice is served upon you. The appeal shall be based on a claim that the true intent of the code or the rules legally adopted thereunder has been incorrectly interpreted, the provisions of the code do not fully apply, or an equally good or better form of construction is proposed.

Because the IBC does not contain such a requirement in the administration section of the code, this language is not included in the sample forms in this book.

Because due process is so important, the building official or inspector is strongly encouraged to seek legal advice when doing anything out of the ordinary, such as revoking a permit or certificate

of occupancy, closing an unsafe structure, or obtaining an administrative search warrant, to make sure that all of the constitutional rights of the responsible party are observed.

IBC 101	General Administration	04
IBC 103	Department of Building Safety	07
IBC 104	Duties and Powers of the Building Official	11
IBC 105	Permits	15
IBC 112	Board of Appeals	18
IBC 113	Violations	22

IBC 101 General Administration

IBC 101.2—Scope

Table 1-1—Scope of the Building Code 05

IBC 101.4—Referenced Codes

Table 1-2—Referenced Codes 06

TABLE 1-1

SCOPE OF THE BUILDING CODE—IBC 101.2

The code applies:

To every building or structure or any appurtenances connected or attached to the buildings or structures, unless exempted by the building code, when there is:

- Construction
- Alteration
- Movement
- Enlargement
- Replacement
- Repair
- Equipment
- Use and occupancy
- Location
- Maintenance
- Removal
- Demolition

The code does not apply to:

- Detached one- and two-family dwellings
 - Multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures
-

TABLE 1-2

REFERENCED CODES—IBC 101.4

The following codes are part of the requirements of the building code:

- ICC Electrical Code IBC 101.4.1
 - International Fuel Gas Code IBC 101.4.2
 - International Mechanical Code IBC 101.4.3
 - International Plumbing Code IBC 101.4.4
 - International Private Sewage Disposal Code IBC 101.4.4
 - International Property Maintenance Code IBC 101.4.5
 - International Fire Code IBC 101.4.6
 - International Energy Conservation Code IBC 101.4.7
-

COMMENT: It is very common for a local jurisdiction to adopt other codes for use with the IBC that are not included in the above list. When the IBC is adopted, reference should be made to those other codes used by the building official. For example, many jurisdictions use the National Electrical Code as promulgated by the National Fire Protection Association. The adopting ordinance needs to make clear that the requirements of that code are included in the requirements of the building code.

IBC 103 Department of Building Safety

IBC 103, 104

Checklist—Administration of the Building
Code 08

IBC 103.2 —Appointment

Sample Form—Appointment of the Building
Official 08

IBC 103.3—Deputies

Sample Form—Appointment of Deputies 09

CHECKLIST

ADMINISTRATION OF THE BUILDING CODE—IBC SECTIONS 103 AND 104

- Was the building code adopted properly?
- Has the building official been properly appointed by the chief appointing authority of the jurisdiction?
- Do the building official and any deputy officials, technical officers, inspectors, plans examiners, and other employees understand the extent of their duties and powers?
- Have they been properly appointed?
- Are records kept in an organized fashion so that someone looking for an important record fifty years from now could find it?
- Should other model codes be adopted to help the building official carry out his or her duties (e.g., International Property Maintenance Code)?
- Are requirements for permits clearly set forth in writing so ordinary citizens can understand them?

SAMPLE FORM

APPOINTMENT OF THE BUILDING OFFICIAL—IBC 103.2

I, *Mayor William Murphy*, the chief appointing authority of the jurisdiction, being the *Village of Woodridge*, do hereby appoint *John Black* as the building official, being the official in charge of the Department of Building Safety.

Date: August 1, 2006



Chief Appointing Authority
Of the *Village of Woodridge*

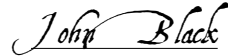
COMMENT: It is important to have these types of forms in the municipality's official records so a case cannot be challenged on the basis that the person had no authority to act.

SAMPLE FORM

APPOINTMENT OF DEPUTIES—IBC 103.3

I, *John Black*, the building official for the *Village of Woodridge*, do hereby appoint *Don Lay* as deputy building official* for the *Village of Woodridge*.

Date: *August 2, 2006*



Building Official

Approved: *Mayor William Murphy*
Chief Appointing Authority

* Or technical officer, inspector, plan examiner, or employee

COMMENT: The building official has the authority to appoint a deputy building official, the related technical officers, inspectors, plan examiners, and other employees, and these employees have the powers delegated to them by the building official. (IBC 103.3) When a defendant has no other defense, attacking the authority of the person doing the inspection may be the only defense remaining. Therefore, it is important to have these types of forms in the municipality's official records for every employee so a case cannot be challenged on the basis that the person had no authority to act. This is a frequent oversight by municipalities.

IBC 104 Duties and Powers of Building Official

Table 1-3—Duties and Powers of
the Building Official 11

IBC 104.10—Modifications

Sample Form—Approval of Request for
Modification of Code 12

IBC 104.11—Alternative Materials, Design, and Methods of Construction and Equipment

Sample Form—Approval of Alternative
Materials, Design, and Methods of
Construction and Equipment 12

IBC 104.11.1—Research Reports

Sample Form—Request for Research
Report 13

IBC 104.11.2—Tests

Sample Form—Request for Tests 14

TABLE 1-3

DUTIES AND POWERS OF THE BUILDING OFFICIAL—SECTION 104

Duty or Power	IBC Section
Enforce the provisions of the building code	104.1
Authority to render interpretations of the building code	104.1
Adopt policies and procedures in order to clarify the application of the building code	104.1
Receive applications	104.2
Review construction documents	104.2
Issue permits for erection, alteration, demolition, and moving of buildings and structures	104.2
Inspect premises for which permits have been issued	104.2
Issue notices or orders to ensure compliance	104.3
Make all required inspections	104.4
Authority to accept reports of inspections by approved agencies or individuals	104.4
Engage expert opinions necessary to report upon unusual technical issues	104.4
Carry proper identification	104.5
Enter structure or premises at reasonable times to inspect or perform duties imposed by the building code	104.6
Keep official records of applications, permits, certificates, fees collected, inspection reports, notices, and orders issued	104.7
Approve alternative materials, designs, and methods of construction and equipment	104.11
Require research reports	104.11.1
Require tests	104.11.2

COMMENT: Sometimes the building official may be challenged as to his or her power to require something, such as requesting a structural engineering report. It is helpful to know where that power comes from in case the building official's power is challenged in court.

SAMPLE FORM

APPROVAL OF REQUEST FOR MODIFICATION OF CODE—IBC 104.10

Name of applicant: _____
Address of applicant: _____
Building permit number: _____
Name of code to be modified: _____ Section number to be modified: _____
Nature of requested modification: _____
Date of review: _____
 Approved Not approved
Date of approval: _____ Date of denial: _____
Signature of Building Official: _____
Comments: _____

SAMPLE FORM

APPROVAL OF ALTERNATIVE MATERIALS, DESIGN, AND METHODS OF CONSTRUCTION AND EQUIPMENT—IBC 104.11

Name of applicant: _____
Address of applicant: _____
Building permit number: _____
Approval requested:
 Alternative material: _____
 Alternative design: _____
 Alternative method of construction: _____
 Alternative equipment _____
Requirements of the code without modification:
 Material: _____ Name of code: _____ Section no.: _____
 Design: _____ Name of code: _____ Section no.: _____
 Method of construction: _____ Name of code _____ Section no.: _____
 Equipment _____ Name of code: _____ Section no.: _____
Date of review: _____
 Approved Not approved
Date of approval: _____ Date of denial: _____
Signature of Building Official: _____
Date of approval: _____
Comments: _____

SAMPLE FORM

REQUEST FOR RESEARCH REPORT—IBC 104.11.1

January 11, 2007

Mr. Mick Edwards
Edward's Sewer Services, Inc.
18 Devon Ave.
Woodridge, IL 60517

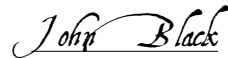
Re: Research Report
Building Permit 06-222
PIN: 02-03-004-004

Dear Mr. Edwards:

In order to determine whether to grant approval for the use of the materials as you have requested, *corrugated stainless steel gas piping*, you must submit supporting data consisting of valid research reports from approved sources pursuant to IBC 104.11.1. Please supply these to me at your earliest convenience so that I may act on your request. No materials may be used prior to approval.

If you have any questions, please contact me.

Very truly yours,

A handwritten signature in cursive script that reads "John Black".

Building Official

SAMPLE FORM

REQUEST FOR TESTS—IBC 104.11.2

January 11, 2007

*Mr. Mick Edwards
Edward's Sewer Services, Inc.
18 Devon Ave.
Woodridge, IL 60517*

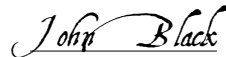
Re: Testing Request
Building Permit 06-222
PIN: 02-03-004-004

Dear *Mr. Edwards*:

Before I can approve your request for the use of the materials* as you have requested, *being used tires filled with concrete as structural elements*, you are required to perform tests at your expense to show that the materials comply with the building code pursuant to IBC 104.11.2. The test method must conform to the building code or other recognized test standards approved by me. The test must be performed by an approved agency. Please supply this information to me at your earliest convenience. No materials* may be used prior to approval.

If you have any questions, please contact me.

Very truly yours,



Building Official

*Or method.

IBC 105 Permits

IBC 105.2—Work Exempt from Permit

Table 1-4—Work Exempt from Permit 16

TABLE 1-4

WORK EXEMPT FROM PERMIT—IBC 105.2

Type of Work	Specific Requirements
Accessory structures	Used as tool and storage sheds, playhouses, and similar uses if floor area does not exceed 120 square feet (11.15 m ²)
Cabinets	None
Carpeting	None
Cases, counters, and partitions (movable)	Not over 5 feet 9 inches (1753 mm) in height
Cooling unit, portable	None
Countertops	None
Electrical equipment for radio and television transmission	But not equipment and wiring for power supply and the installation of towers and antennas
Electrical repairs and maintenance	Minor work, including replacement of lamps or connection of approved portable electrical equipment to approved permanently installed receptacles
Emergency replacement of equipment and emergency repairs	Must submit permit application within the next working business day
Evaporative cooler, portable	None
Fences	Not over 6 feet (1829 mm) high
Gas, replacement of parts	Does not alter approval of equipment or make it unsafe
Heating appliances, portable	None
Leaks in drains, water, soil, waste, or vent pipe; stopping of water, soil, waste, or vent pipe	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, permit required
Mechanical, replacement of parts	Does not alter approval of equipment or make it unsafe
Oil derricks	None
Painting	None
Papering	None
Pipes, valves, or fixtures (clearing of stoppages or the repairing of leaks therein)	Provided such repairs do not involve or require the replacement or rearrangement of valves, pipes, or fixtures
Public service agencies	Installation, alteration, or repair of generation, transmission, distribution, or metering, or other related equipment under the ownership or control of public service agencies established by right
Refrigerator system, self-contained	Containing 10 pounds (4.54 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less
Repairs to structures, ordinary	Does not include 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 addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drainage leader, gas, soil, waster, vent or similar piping, electrical wiring, or mechanical or other work affecting public health or general safety

(Continued)

Type of Work	Specific Requirements
Retaining walls	Not over 4 feet (1219 mm) 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
Sets and scenery	Temporary motion picture, television, or theater stage sets and scenery
Shade cloth structures	For nursery or agricultural purposes and not including service systems
Sidewalks and driveways	No more than 30 inches (762 mm) above grade and not over any basement or story below and which are not part of an accessible route
Swimming pools	Prefabricated and accessory to a Group R-3 occupancy, which are less than 24 inches (610 mm) deep, do not exceed 5,000 gallons (18925 L), and are installed entirely above ground
Swings and other playground equipment	Accessory to detached one- and two-family dwellings
Testing systems, temporary	Required for testing or servicing of electrical equipment
Ventilation equipment, portable	None
Tiling	None
Water closets, removal and reinstallation	Provided repairs to not involve or require the replacement or rearrangement of valves, pipes, or fixtures
Water piping, steam, hot or chilled	Within any heating or cooling equipment regulated by code
Water tanks supported directly on grade	If the capacity does not exceed 5,000 gallons (18,925 L) and the ratio of height to diameter or width does not exceed 2 to 1
Window awnings	Supported by an exterior wall which do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support of Group R-3 as applicable in Section 101.2 and Group U occupancies

IBC 112 Board of Appeals

Checklist—Appeals	19
Sample Form—Denial of Appeal	20
IBC 112.2—Limitations on Authority	
Sample Form—Notice of Appeal	21

CHECKLIST

APPEALS—IBC SECTION 112

- Is there a Board of Appeals for the authority having jurisdiction?
- Do the members of the Board of Appeals meet the criteria set forth in the ordinance?
- Are there rules of procedure adopted by the Board of Appeals to conduct its business?
- Has the appellant filed a notice of appeal within the time set by the ordinance?
- If the notice is late, has the appellant been notified that his/her/its appeal is denied because of the failure to meet the deadline?
- If the notice is timely, has a date been set for hearing that conforms to the time limit set by the ordinance?
- Does the appellant's request conform to the grounds for appeal in Section 112.2 of the building code as follows:
 - The true intent of the code or the rules legally adopted under the building code have been incorrectly interpreted.
 - The provisions of the building code do not fully apply.
 - An equally good or better form of construction is proposed.
- Is there a time limit set for rendering a decision?
- Has notice of the decision been sent to the appellant?

SAMPLE FORM

DENIAL OF APPEAL—IBC SECTION 112

March 9, 2007

*Mr. Mick Edwards
Edward's Sewer Services, Inc.
18 Devon Ave.
Woodridge, IL 60517*

Re: Notice of Appeal
Building Permit 06-222
PIN: 02-03-004-004

Dear *Mr. Edwards*:

The *Village of Woodridge* is in receipt of your notice of appeal filed *March 8, 2007* regarding the building official's decision of *February 1, 2007* about the use of alternative materials,* *used tires filled with concrete as structural elements*, in connection with the above building permit. Pursuant to the *Woodridge Village Code*, a notice of appeal must be filed within 30 days of the decision by the building official. Your appeal is being denied because it was not filed within the 30 days of the building official's decision.

If you have any questions, please contact me.

Very truly yours,

Linda S. Piocynski

Village Attorney

*Or method.

SAMPLE FORM

NOTICE OF APPEAL—IBC 112.2

Name of Appellant: *Edwards Sewer Services, Inc.*

Address of Appellant: *18 Devon Ave.
Woodridge, IL 60517*

Nature of Claim: (check all that apply)

- The true intent of the code or the rules legally adopted under the building code have been incorrectly interpreted.
- The provisions of the building code do not fully apply.
- An equally good or better form of construction is proposed.

Explanation (describe why you believe the Board of Appeals should reverse the decision of the building official):

Supporting documents attached: Yes No

By _____

Date: _____

Hearing date set for: _____

Notice of hearing sent: _____, 20__

COMMENT: A time limit should be adopted by the authority having jurisdiction for appeals so that there is a time within which the appellant must act. If the appellant does not adhere to the deadline set forth in the ordinance by filing a notice of appeal, no appeal should be granted.

IBC 113 Violations

Sample Form—Enforcement Inspection
Record 23

SAMPLE FORM

ENFORCEMENT INSPECTION RECORD—IBC 113

ENFORCEMENT INSPECTION RECORD

Date of Inspection: _____ Time: _____

Location of Property: _____

PIN: _____

Nature of Property: ___ Industrial
 ___ Multi-family Residential
 ___ Commercial
 ___ Vacant Land
 ___ Other

Owner: _____

Individual—D.O.B. _____ D.L. No. _____

Corporation—Corporate No. _____

Address: _____

Registered Agent: _____

Address: _____

Limited Liability Company or Partnership—L.L.C. or L.L.P. No. _____

Address: _____

Registered Agent: _____

Address: _____

Land Trust, Trustee _____

Address: _____

Person with Power of Direction: _____

Address: _____

Beneficiaries: _____

Address: _____

COMMENT: One of the biggest problems the building official or inspector faces when trying to enforce the code is having adequate information to prepare a case against a party if something goes wrong. The usual forms used by building officials and inspectors in routine inspections may not be sufficient if the case has to proceed to court, especially information surrounding ownership and responsibility. Because notice is required before proceeding, it is critical to have enough information so the wrongdoer can be served with notice and court papers. This form is designed to guide the building official or inspector in gathering the information needed by the prosecutor for a successful case.

(Continued)

ENFORCEMENT INSPECTION RECORD—IBC 113 (CONTINUED)

Other _____
Address: _____

Ownership Verified: By Person's Admission
By Title Search
Other (Describe)

Permit Holder: _____

Individual—D.O.B. _____ D.L. No. _____

Corporation—Corporate No. _____
Address: _____

Registered Agent: _____
Address: _____

Limited Liability Company—L.L.C. No. _____
Address: _____

Registered Agent: _____
Address: _____

Land Trust, Trustee _____
Address: _____

Person with Power of Direction: _____
Address: _____

Beneficiaries: _____
Address: _____

Other _____
Address: _____

Occupied Yes No
Occupant(s):

Individual—D.O.B. _____ D.L. No. _____

Corporation—Corporate No. _____
Address: _____

Registered Agent: _____
Address: _____

(Continued)

Limited Liability Company or Partnership—L.L.C. or L.L.P. No. _____

Address: _____

Registered Agent: _____

Address: _____

Other _____

Address: _____

Stop Work Order: Yes No Date: _____

Date Stop Work Order Lifted: _____

Nature of Violation: _____

Inspection Date: _____ Time: _____

Summary of Findings: _____

Name of Violation(s)	Code Section(s) Violated:
----------------------	---------------------------

Photos: Yes No

Video: Yes No

Contact with Owner/Permit Holder: Yes No

Conversation with: _____

Date: _____ Time: _____ Location: _____

If Yes, Summary of Conversation _____

Notice: Date Sent _____ (Attach Copy of Notice)

Method of Service: _____ Personal Service

_____ Certified Mail No. _____

Certified Receipt Received: Yes No

_____ First-Class Mail

Proof of Service: Yes No

_____ Posting of Notice in Conspicuous Place in or about the Structure

Picture: Yes No

Other Inspections or Contacts:

Date: _____ Summary of Findings: _____

New Evidence: _____

Yes No _____

Date: _____ Summary of Findings: _____

(Continued)

ENFORCEMENT INSPECTION RECORD—IBC 113 (CONTINUED)

New Evidence: _____

Yes No _____

Date: _____ Summary of Findings: _____

New Evidence: _____

Yes No _____

Date: _____ Summary of Findings: _____

New Evidence: _____

Yes No _____

Date: _____ Signature of Building Official/Inspector: _____