



# OHIO BOARD OF BUILDING STANDARDS

## COMMENTARY RCO CHAPTER 1 - ADMINISTRATION



June 2019



## SECTION 101 GENERAL

**101.1 Title.** Chapters 4101:8-1 to 4101:8-25, 4101:8-29, 4101:8-34, and 4101:8-44 of the Administrative Code are designated as the “Residential Code of Ohio for One-, Two-, and Three-Family Dwellings” for which the designation “RCO” may be substituted. The 2018 edition of the “International Residential Code”, first printing, Chapters 2 through 24, 29, and 44 as published by the “International Code Council, Inc.” is used as the basis of this document as is incorporated fully except as modified in *italic* herein. References in these chapters to “this code”, to the “residential code”, or to the “Residential Code of Ohio” in other sections of the Administrative Code shall mean the “Residential Code of Ohio for One-, Two-, and Three-Family Dwellings”.

*The sections of the Ohio Administrative Code referenced are those sections (4108:1-1 through 4101:8-25, 4101:8-34, and 4101:8-44) which are officially titled the “Residential Code of Ohio for One-, Two-, and Three-Family Dwellings” or “RCO”. The section describes the specific title, edition, printing, and chapters of the model code that is used as the basis for the RCO. 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 2009 International Residential 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 RCO*

**101.2 Scope.** The provisions of the “Residential Code of Ohio for One-, Two-, and Three-Family Dwellings” shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal, and demolition of every one-, two-, or three-family dwelling, any appurtenances connected or attached to such buildings or structures, or any accessory structure incidental to that dwelling house including electrical equipment associated with bodies of water as defined in article 680 of NFPA 70 as referenced in part IX, chapter 44. This code also applies to a one- family, two-family, or three-family dwelling house that is used as a model to promote the sale of a similar dwelling house. No building or its equipment or accessories, to which the rules of the board apply shall be erected, constructed, or installed, except in conformity with the rules of the board.

**This code also applies to such other residential occupancies as referenced and to the extent indicated in section 310 of the “Ohio Building Code” or OBC.**

*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 agricultural buildings not used in retail trade.*

*As indicated in this section, the RCO, and thus by extension the certified residential building official of a certified residential building department, has jurisdiction for new construction (construction, building service equipment, 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 RCO.*

*Another part of a residential 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 there may be a benefit in insurance premiums or for other reasons outside the requirements of the codes. When a non-required system is installed, because it is not required, the residential 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 systems installed for protection are permitted to be installed provided that the system is installed in a manner complying with the requirements of the code.*

*In other words, where any non-required system is installed, that 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 RCO and thus, by extension, the jurisdiction of a certified residential building official of a certified residential building department. Everything built is not within the jurisdiction of the construction codes. These categories include such things as landscape bridges and stairs, 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. Manufactured homes constructed under “24 CFR Part 3280,” “Manufactured Home Construction and Safety Standards” and used as a dwelling or by a park operator to promote the sale/rental of manufactured homes.**

**1.**

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.

Questions concerning the Manufactured Homes should be directed to the Ohio Department of Commerce.

- 2. Multiple single-family dwelling structures more than three stories in height and with more than three dwelling units.**
  - a. The structure of one-, two-, and three-family dwellings which are more than three stories in height shall comply with the structural requirements of the OBC or section 106.5 of this code.**
- 3. Residential buildings attached to occupancies that are within the scope of the OBC shall comply with the requirements of the “OBC”.**
- 4. Buildings or structures containing two or three dwelling units with a shared exit shall comply with the requirements of the “OBC.”**
- 5. 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 is modified because of a revised code change (ORC §3781.06) in 1991 that was supported by several agricultural lobbying groups to exclude greenhouses and other agri-businesses from being required to comply with the rules of the Board. "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 rules of the Board. 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 rules of the Board.

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 residential building official should ask several questions before deciding whether these building are within the scope of the rules of the Board. 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 rules of the Board. 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 rules of the Board.

The agricultural 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.

## **6. 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 ROC in agricultural labor camps.

7. **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 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.

8. **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.*

9. **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.**
10. **Building sewer piping.**
11. **Private water systems (including tanks, foundations, piping, and process equipment associated with these systems) regulated by the Ohio Department of Health in accordance with section 3701.344 of the Revised Code.**
12. **Wind turbines, pumps, site lighting, and flagpoles not connected to building services equipment.**
13. **Fixed or floating docks (including the electrical wiring and lighting systems serving the docks not connected to building services equipment).**
14. **Retaining walls, bridges, walkways or site stairs unless associated with or necessary for the building or the building egress to comply with the rules of the board.**
15. **The applicable provisions of the OBC shall apply when installing components, equipment, and systems for which there are no provisions in this code.**
16. **When buildings regulated by the OBC are permitted to use the construction requirements of this code, such buildings remain within the scope of the OBC.**

**101.3 Intent.** The purpose of this code is to establish uniform requirements for the erection, construction, repair, alteration, and maintenance of residential 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 RCO: “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 RCO.*

*Confusion has sometimes occurred in the minds of well-intended people over the past several years when it has come to the phrase “uniform 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 general laws of Ohio and the proper exercise of police powers. These police powers are conferred by the state through the constitution to authorized administrative agencies to enforce general laws of the state; in this case certified residential 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 residential structures.*

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

rules shall consider the following:

- 1.1 The impact that the state residential building code may have upon the health, safety, and welfare of the public;
- 1.2 The economic reasonableness of the residential building code;
- 1.3 The technical feasibility of the residential building code;
- 1.4 The financial impact that the residential building code may have on the public's ability to purchase affordable housing.

*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 RCO. Whether a procedure, material, or method can perform properly for the intended use, and therefore comply with the RCO, becomes the primary objective of the Board's code development work and considers specific enumerated factors.*

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 some 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 RCO 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.

This code does not prevent a local governing authority from adopting additional regulations governing residential structures if the regulations comply with this section.

- 3.1. A local governing authority shall, and any person may, notify the board of building standards of any regulation the local governing authority adopts related to content within the scope of this code and request that the board of building standards determine whether that regulation conflicts with the state residential building code.

- 3.1.1. Not later than sixty days after receiving a notice to review local regulations for conflict, the board shall determine, based upon a recommendation from the advisory committee, whether the regulation conflicts with the state residential building code and shall notify any person who submitted the notice and the local governing authority that adopted the regulation of the board's determination.

- 3.1.2 If the board determines that a conflict does not exist, the board shall take no further action with regard to the regulation. If the board determines a conflict exists and the regulation is not necessary to protect the health or safety of the persons within the local governing authority's jurisdiction, the regulation is not valid and the local governing authority may not enforce the regulation.

- 3.1.3 If the board determines that a conflict exists and that the regulation is necessary to protect the health or safety of the persons within the local governing authority's jurisdiction, the board shall adopt a rule to incorporate the regulation into the state residential building code. Until the rule becomes a part of the state residential building code, the board shall grant a temporary variance to the local governing authority and any similarly situated local governing authority to which the board determines the temporary variance should apply.

*The text of the RCO establishes a framework, as general law of Ohio, for standardization of practice for the erection, construction, repair, alteration, and maintenance of residential buildings. To assure this standardization, and the benefits that follow from it, a mechanism is incorporated into the code as required by law. In this process a political subdivision or any individual can submit local regulations for a determination of whether the regulation, proposed or adopted, creates or would create an improper conflict with the RCO. The law gives local jurisdictions the authority to adopt regulations effecting residential structures if they are evaluated through this process.*

*The local political subdivision is not however given a free hand to create conflicting requirements or deviate whimsically from the intent of the RCO. If the local regulation is beneficial, it should benefit all Ohio citizens and thus should be incorporated into the RCO. If it is not beneficial and conflicts with the RCO, the law deems that regulation invalid and*

*the local governing authority may not enforce the regulation. This process assures an level of consistency around the state that ultimately benefits Ohio's home owners.*

**101.4 Reasonable application.** The rules of the board and proceedings shall be liberally construed in order to promote its purpose. When the residential 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 officials pursuant to section 114 shall be constructed and installed in accordance with such approval.

*The RCO ties the residential building official into the process by referring the official to the purpose of the OBC. The residential 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 residential building official is asked for the approval of a device, material, or assembly for which there are no performance standards referenced in Chapter 43 of the RCO, the official should direct the party requesting the approval to the appropriate product approval process outlined in RCO section 114 below. This process will produce a product approval for the company's, firm's, or individual's device, material, or assembly.*

**101.5 Jurisdiction without a certified residential building department.** If no municipal, township, or county building department is certified by the Board of Building Standards for residential buildings in accordance with section 3781.10(E) of the Revised Code has jurisdiction, the owner is not required to make submission of construction documents, seek approvals, request inspections, or obtain certificates of occupancy required in this Chapter.

## 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.

*The intent is that specific requirements supersede general requirements. For example, Section 311.7 applies to all stairway types within the purview of the code. Section 311.7.4.1 limits the maximum height of risers to 8¼ inches, thus providing a general requirement for stairway riser height. Section 311.7.9.1 limits risers within a spiral stairway to a maximum height of 9½ inches. This provision is specific to spiral stairways. At first it may appear that these two sections have requirements that are in conflict with one another. However, Sections 311.7.4.1 and 311.7.9.1 are subordinate requirements of Section 311.7. In this case, the specific requirements of Section 311.7.9.1 take precedence over the general requirements of Section 311.7.4.1 in those applications specific to spiral stairways.*

**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 occurred in determining to what extent municipal corporations may make additions or alterations to the RCO. As described in Section 103.3 (3), local ordinances cannot conflict with the RCO or address subject matter addressed in the RCO. 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 and whether the matter is addressed in the RCO. 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 RCO.*

**102.3 Rules of the board.** 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 divisions of state 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 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 supersede 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 supersede 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 standard 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 RCO and the intent is to make it clear that this code will supersede 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.** The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference. When a reference is made within the code 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 44.

Unless specified otherwise in this code, reference to the term “International Residential Code” shall be changed to “residential code”; reference to “International Fire Code” shall be changed to “fire prevention code”; and reference in design and construction provisions to “one-and two-family dwellings” shall be changed to “one-, two-, and three-family dwellings.”

Because the “International Code Council” has placed design and construction information throughout its model code documents, including into the fire prevention code, any referenced code requirements relating to the design, construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal, and demolition of every building or structure within the scope of this code, shall be enforced by the residential building official.

Where differences occur between provisions of this code and referenced standards listed in Chapter 43, the provisions of this code shall apply.

*The code references numerous standards which are listed in RCO Chapter 44. These standards are “extensions” of the code and become part of it to the extent to which they are referenced. A standard is a published technical document that represents an industry consensus on how a material or assembly is to be designed, manufactured, tested or installed in order for a specific level of performance to be obtained. Although the code establishes the minimum quality and performance criteria for a material, installation or method of design, the code relies on the referenced standards to provide the criteria to determine whether a material or method is in compliance with the code provisions.*

*These words in this section 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 RCO Chapter 44 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. This means that only the specific portions of a standard that are cited apply, and the remaining portions of the standard should be considered only as advisory, voluntary and, in some cases, not applicable. One cannot make the argument that because a referenced standard contains a reference to other standards, that those other standards may now be enforced.*

*Another important principle of code enforcement is that of the relationship between the code text and language found in referenced standards. In general terms, the RCO indicates what the code requirements are and the referenced standards explain how to meet the code requirements. The size of the RCO would grow to an unmanageable level if all the language in the referenced standards was reproduced in the RCO itself. Instead, the important referenced standards language is referred to in the text of the RCO. The standards themselves are listed alphabetically in Chapter 43 and indicate where in the code text the standard is referenced.*

*There are times, however, when compliance language in the RCO is different than the language in a referenced standard. When this occurs, it is important to recognize that the language of the RCO always supersedes 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 RCO always supersedes that of the referenced standards.*

*For example, the requirements in Section 703.2 for water-resistive barriers state that the one layer of No. 15 asphalt felt must be free from holes and breaks and comply with ASTM D 226, or any other approved weather-resistant material must be applied over studs or the sheathing of all exterior walls as required by Table 703.4. The referenced standard specification covers asphalt-saturated felts, with or without perforations. It is clear the code does not allow perforations of any kind, simply because the stated code language is “free from holes and breaks.”*

**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 section 113 shall control the alteration, repair, addition, maintenance, 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 Board’s rules. 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 code. Given this opportunity to change the code, 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 code subsequently changed. The initial submission was a good faith effort to comply with the RCO 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 residential 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.**

*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 residential construction regulations 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. an update of the code happens), the owner could build in accordance with those previously approved construction document (the limits of RCO 105.2 through 105.4 apply). ORC section 3791.04 also includes language dealing with the retroactivity issue.*

**102.8 Non-required work.** Any component, building element, equipment, system or portion thereof not required by this code shall be permitted to be installed 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 code. 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 code. 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 language is specific; where any non-required system is installed, that partial or complete system must be installed in a code compliant way. Because it is 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 RCO and thus, by extension, the jurisdiction of a certified residential building official of a certified residential building department. Everything built is not within the jurisdiction of the code. These categories include such things as landscape bridges and stairs, lot lighting, wastewater treatment systems, 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 sub-sections necessary.

**102.8.1 Fire protection systems.** Non-required fire protection systems shall be installed in accordance with Chapter 29 to the extent of the intended installation.

**102.8.2 Elevators and Lifts.** Non-required elevators and platform lifts shall be installed in accordance with Section 321.

**102.9 Temporary Structures.** The residential 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 111.1.5. This section does not apply to time-limited occupancies in existing structures. See section 111.1.4 for time-limited occupancies.

**102.9.1 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.

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 RCO with respect to the structural, means of egress, light, ventilation, and sanitary requirements of the RCO.

**102.9.2 Termination of approval.** The residential 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 use poses an immediate hazard to the public or occupants of the structure.

**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 two hundred square feet (18.58 m<sup>2</sup>) and playground structures.
2. Fences not over six feet (1829 mm) high.
3. 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.
4. 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.
5. 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.
6. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
7. Swings and other playground equipment accessory to a one, two, or three-family dwelling.
8. Window awnings supported by an exterior wall which do not project more than fifty-four inches (1372 mm) from the exterior wall and do not require additional support.
9. Decks not exceeding 200 square feet (18.58 m<sup>2</sup>) in area, that are not more than 30 inches (762mm) above grade at any point, are not attached to a dwelling, and do not serve the exit door required by section 311.2.
10. Above-ground storage tanks as defined in rule 4101:8-2-01 of the Administrative Code and the associated tank foundations.

11. Battery operated smoke or carbon monoxide alarms installed in existing buildings where no construction is taking place.

**Electrical:**

1. Listed cord-and-plug connected temporary decorative lighting.
2. Reinstallation of attachment plug receptacles but not the outlets thereof.
3. Replacement of branch circuit overcurrent devices of the required capacity and type in the same location.
4. Electrical wiring, devices, appliances, apparatus, or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of energy.
5. Repairs and Maintenance: Approval shall not be required for minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.
6. Process equipment and the associated wiring on the load side of the power disconnect to the equipment.
7. Electrical wiring equipment not connected to building services equipment in and adjacent to natural or artificially made bodies of water as defined in Article 682 of NFPA 70 as referenced in Chapter 44.

**Gas:**

1. Portable heating, cooking, or clothes drying appliances;
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
3. Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.
4. Gas distribution piping owned and maintained by public or municipal utilities and located upstream of the point of delivery.
5. Process equipment, including the associated tanks, foundations, and process 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.

**Mechanical:**

1. Portable heating appliances;
2. Portable ventilation equipment;
3. Portable cooling units;
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any part that does not alter approval of equipment or make such equipment unsafe.
6. Portable evaporative cooler.
7. Self-contained refrigeration systems containing ten pounds (4.54 kg) or less of refrigerant or that are actuated by motors of one horsepower (746 W) or less.
8. Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.
9. Heating and cooling distribution piping owned and maintained by public or municipal utilities.
10. Process equipment including the associated tanks, foundations, and process 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.

**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 of more than one fixture or rearrangement of valves, pipes or fixtures.
3. Process equipment including the associated tanks, foundations, and process 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 to residential structures made without application or notice to the residential 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. 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 Repair is defined in Chapter 2 and is not arbitrary but also conveys 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 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 residential 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 residential buildings or parts thereof as defined in the rules of the board in accordance with the certification except as follows:

*The Residential Building Official has the responsibility to enforce all of the provision of the RCO not the residential plans examiner or field inspection personnel. This enforcement responsibility includes alone-, two-, or three family dwellings and all of their parts. Refer to RCO Section 104.2.1.*

**1. Fire. The 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 section, the definitions of fire prevention and fire protection are critical. The difference is crucial in determining who may have jurisdiction.*

*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 Residential Building Official involve the construction of safeguards and exit facilities and the installation of smoke alarm and other related 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, if any, 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 standards. The construction of the safeguards, exit facilities, the installation of smoke alarm and any fire-extinguishing equipment, however, is the responsibility of the building official and this responsibility cannot be transferred to another administrative entity.*

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

*Certified municipal residential 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, potentially, two entities involved in the project review and inspection (one for the 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 RCO, 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 and using health district plumbing inspectors) must not ignore these systems when issuing an occupancy certificate. Therefore the residential building official with jurisdiction must communicate with and be communicated to by the commissioner of a health district doing plumbing system review and inspection before issuing a certificate of occupancy lest the plumbing system corrections, orders, or inspections be left out of consideration. All the systems should be approved, be inspected, and comply before a certificate of occupancy is issued.

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 RCO. If the personnel of a certified residential 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 RCO and the local ordinance. This same principle applies to any local ordinance. The local ordinance should include enforcement provisions, penalties for non-compliance, 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 RCO 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. **Enforcement.** This section does not exempt any officer or department from the obligation of enforcing any provision of the rules of the board.

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

- 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. A certified municipal, township, or county building department may exercise enforcement authority, accept and approve plans and specifications, and make inspections for a park district created pursuant to Chapter 1545. of the Revised Code upon the approval, by resolution, of the board of park commissioners of the park district requesting the department to exercise that authority and conduct those activities.

*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 way 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 rather than through local certified building departments. (Refer to Web Catalogue documents 634, 635, and 636 for Ohio Attorney General opinions on this subject.)*

**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 Ohio 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 RESIDENTIAL BUILDING DEPARTMENTS, PERSONNEL, AND APPEALS BOARDS

**Refer to division 4101:7 of the Ohio 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 are out of place in a chapter of the Building Code dealing with building department administration, these rules were moved. Therefore the rules formerly located in section 103 of RCO Chapter 1 are found in 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 residential building departments that have been certified by the board of building standards, pursuant to rule 4101:7-3-01 of the Administrative Code, shall be responsible for performing the duties described in this section.

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

*Before reviewing the duties and responsibilities of the individual residential building department personnel, the structure of the residential certifications must be clearly understood because they are very different from the non-residential building department personnel's certification duties and responsibilities.*

*Non-residential personnel must hold each individual and appropriate certification in order to perform the specific enforcement duties. No one, for instance, can perform non-residential plan review except an individual certified as a plans examiner. No one in a non-residential building department can perform inspections unless that individual holds the appropriate inspector's certification.*

*The residential certification program, however, is hierarchical and, rather than requiring the individual to hold each individual certification (which individuals can do if they choose), some residential certifications authorize an individual to perform other duties. Again, it must be clear that this is not the case for non-residential personnel certifications.*

*Residential certifications incorporate this difference in part because, when the program was begun, the Board only had four exam modules from which to organize the residential certifications necessary to staff a residential building department. The residential certification program, consequently, was developed linking these modules in combinations or individually for each certification type and, which when combined with the required experience requirements indicated in 103.3.5, would lead to certification. The table below shows the module(s) required for the examination component of each certification that are offered by the two recognized testing agencies. A candidate for certification would choose to complete the appropriate examination modules from either one or the other testing agency.*

| Examination Modules by Testing Agency and by Certification Type |                                                |    |    |    |                      |    |    |    |                                            |    |    |    |                      |    |    |
|-----------------------------------------------------------------|------------------------------------------------|----|----|----|----------------------|----|----|----|--------------------------------------------|----|----|----|----------------------|----|----|
|                                                                 | AVAILABLE NCPCCI EXAMS<br>MODULES <sup>1</sup> |    |    |    |                      |    |    | OR | AVAILABLE ICC EXAM<br>MODULES <sup>2</sup> |    |    |    |                      |    |    |
|                                                                 | 1A                                             | 2A | 4A | 5A | 2A                   | 4A | 5A |    | B1                                         | E1 | M1 | P1 | E1                   | M1 | P1 |
| CERT<br>TYPE                                                    | MANDATORY<br>MODULES                           |    |    |    | Select One<br>Module |    |    |    | MANDATORY<br>MODULES                       |    |    |    | Select One<br>Module |    |    |
| RBO                                                             | 1A                                             |    | 4A |    | 2A                   |    | 5A |    | B1                                         |    | M1 |    | E1                   |    | P1 |
| RPE                                                             | 1A                                             |    |    |    | 2A                   | 4A | 5A |    | B1                                         |    |    |    | E1                   | M1 | P1 |
| RBI                                                             | 1A                                             |    |    |    |                      |    |    |    | B1                                         |    |    |    |                      |    |    |
| RMI                                                             |                                                |    | 4A |    |                      |    |    |    |                                            |    | M1 |    |                      |    |    |
| RPI                                                             |                                                |    |    | 5A |                      |    |    |    |                                            |    |    | P1 |                      |    |    |

**1. NCPCCI:**

1A – Building 1-, 2-Family Dwelling  
2A – Electrical 1-, 2-Family Dwelling  
4A – Mechanical 1-, 2-Family Dwelling  
5A – Plumbing 1-, 2-Family Dwelling

**2. ICC:**

B1 – Residential Building Inspector  
E1 – Residential Electrical Inspector  
M1 – Residential Mechanical Inspector  
P1 – Residential Plumbing Inspector

*After seeing the examination module layout for each residential certification, the explanation of the hierarchical nature of the residential certifications can be better understood. As an example, since residential building officials are required to pass three of the four residential examination modules as a part of their certification, the same modules as residential plans examiners and residential building inspectors, and since the certification is required to have two more years of experience than the others, an individual certified as a residential building official is qualified to perform residential plans examination and residential building inspection duties as well. Likewise, since residential plans examiners are required to pass two of the four residential examination modules as a part of their certification, the same module as residential building inspectors, and since the certification is required to have the same number of years of experience as the residential building inspector, an individual certified as a residential plans examiner is qualified to perform residential building inspection duties as well. (Note: Plumbing and electrical inspector certifications are an exception.)*

The concept was developed to provide the ability for small departments to continue to operate without mandating additional personnel that would be required to be added in a non-hierarchical certification system as well as to work within the limits imposed by the small number of residential certification examination modules available.

**104.2.1 Residential building official.** The residential 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 residential buildings or parts thereof and may perform duties outlined in this section and in sections 104.2.2.1 and 104.2.3.1 below. All residential building officials shall conduct themselves in a professional, courteous, impartial, responsive, and cooperative manner. Residential building officials shall be responsible to assure that a system is in place to track and audit all projects, to assure that all residential building department personnel perform their duties in accordance with this section, and for the overall administration of a residential building department as follows:

*This section recognizes the residential 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 residential 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 residential 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 residential building official a license to grant ad hoc variances to residential code requirements. It does offer the intent of decision making by residential building officials; decisions they are required to make daily in the execution of their duties.*

**104.2.1.1 Applications and plan approvals.** The residential building official shall receive applications, examine 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.

**104.2.1.2 Orders.** The residential 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 residential building official, under section 108, the residential building official shall make such inspections as the building official is authorized to make or 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. The residential building official shall identify any special conditions that would affect the timing of inspections and schedule inspections times mutually agreed upon by the building official and the owner.

**104.2.1.4 Residential department records.** The residential building official shall keep official records of applications received, certificate of plan approvals issued, notices and orders issued, certificates 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 residential construction documents shall be retained by the residential 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 the residential department's document retention regulations.

*Retention schedules are to be set in accordance with Ohio law. The schedules for residential construction documents, plan approval certifications, and other residential 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.

Residential 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 residential 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 residential 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 residential building official shall be responsible for the submission of reports and any requested special information to the board of building standards as required in paragraph (F)(1)-(5) of rule 4101:7-2-01 of the Administrative Code. 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 paragraph (G)(3)(a) of rule 4101:7-2-01 of the Administrative Code.

*One of the often overlooked duties of the residential 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 residential building official and failure to perform could result in a real potential for decertification. These reports are important communication tools and assure that the residential building department is operating as it assured the Board it would when it sought certification. Consequently, many residential departments have been lax or negligent in the submission of three percent and one percent assessment reports, yearly operational reports, personnel reports (e.g. paragraphs (F)(1)-(F)(5) of rule 4101:7-2-01 of the Administrative Code.), and other requested reports and information.*

**104.2.2 Residential plans examiners.** A residential 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 and may perform duties outlined in this section and in section 104.2.3.1 below. All residential plan examiners shall effectively communicate the results of their plan review to the owner or the owner's representative and the residential building official. A residential plans examiner shall conduct themselves in a professional, courteous, impartial, responsive, and cooperative manner.

**104.2.2.1 Residential plans examiner.** A residential plans examiner is responsible for the examination of all types of residential construction documents to determine compliance with the rules of the board.

**104.2.2.1.1 Residential plans examiner trainee.** A residential plans examiner trainee is responsible for the examination of all types of residential construction documents to determine compliance with the rules of the board under the direct supervision of the trainee supervisor as required in paragraph (F)(5)(b) of rule 4101:7-3-01 of the Administrative Code.

**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 residential plans examiner.

**104.2.3 Residential inspectors.** A residential 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 residential construction documents. All residential inspectors shall inspect the work to the extent of the approval given when residential construction documents were approved by the residential building official and for which the inspection was requested. All residential 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 Residential building inspector.** A residential building inspector is responsible to determine compliance with the approved residential construction documents in accordance with section 108.

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

residential building inspector certification.

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

A residential plumbing inspector trainee is designated to determine plumbing system compliance with approved residential construction documents, in accordance with section 108, under the direct supervision of an individual holding a residential 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.** Residential building departments may elect to employ inspectors designated as responsible for making inspections to determine that work is performed in compliance with approved construction documents certified as follows:

**104.2.3.4.1 Residential mechanical inspector.** A residential mechanical inspector is responsible to determine compliance with the approved residential 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 residential department does not have in its employ or under contract persons holding the residential mechanical inspector certification, then the enforcement of the mechanical provisions shall be done by the residential building inspector;

A residential mechanical inspector trainee is designated to determine compliance with the approved residential 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 residential mechanical inspector certification.

**104.2.4 Liability.** Liability of certified residential 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 the Board receives many inquiries about the tort liability of residential 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 residential 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 Violation of duties.** Any person affected by the improper actions of any residential building department, residential building official, residential plans examiner, residential inspector, or fire protection system designer 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.

## 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 residential building or structure, or portion thereof, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, plumbing system, other residential 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 residential building official of a certified residential building department and obtain the required approval.

*This requirement is based upon section 3791.04 of the Revised Code which states that, "Before 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 residential building department must perform its construction document review leading to plan approval.*

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

*The Residential Building Official may approve constructions documents which do not entirely conform to the RCO 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 RCO. This additional information must still be provided to demonstrate compliance with applicable provision of the RCO. The discretionary authority to issue a plan approval prior to receiving all information cannot be exercised by the residential building official to circumvent the owner's obligation under the law to submit construction documents which must comply with the requirements of the RCO. 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 residential building department within thirty days of the initial approval, the Residential 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 RCO 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 residential building official from granting a full approval, does **not** involve a serious hazard as defined in the law and the OBC.

In short, this type of approval allows a Building Official to give an approval with some information that must yet be submitted so that the construction documents are approved “except for...” Unlike a phased approval, this is an approval with an exception and a timeframe for the submission of the omitted information.

**105.1.2 Conditional approval.** When residential construction documents are submitted which cannot be approved under the other provisions of this rule, the residential 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 residential 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 residential 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 residential 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 Residential 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 or 105.1.4. 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 RCO.*

*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 residential building department’s objection and adjudication order can be reexamined by the residential building official’s residential 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 RCO.*

**105.1.3 Previous approvals.** This code shall not require changes in the residential 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 residential 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 residential department for review and approval. If the RCO is updated or modified during the delay, that previous plan approval becomes invalid. The plan review must be performed using the RCO in effect at the time of the resubmission. The owner cannot claim that the project should be reviewed under a previous version of the RCO 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 residential building official shall issue an approval for the residential construction of foundations or any other part of a building, structure, or building service equipment before the residential 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 residential 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. In short, this type of approval allows a Building Official to give an approval for a distinct or discreet part of a project with information on other phases to be submitted in the future so that the construction documents for that phase approved in their entirety with the understanding that no future phase is guaranteed approval without submission and review. Unlike a conditional approval, which is an approval of a project with an "except for" condition, this is an affirmative approval of that entire phase with no guarantee of an affirmative approval of a entire future phase until each is submitted and reviewed.*

**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 residential 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 residential 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.

**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 to conform to the RCO. This process is described in section 106.1.4 of the RCO 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 one-, two-, and three-family IU units.*

**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 residential construction documents.

*Receiving plan approvals from a certified residential 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 residential 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 RCO 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 residential building department. The development and implementation of administrative systems to monitor these deadlines are the responsibility of the residential building official. Because continued requests for extension could bring the un-built 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 residential construction documents 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 residential project or if construction is suspended for more than six months, the owner has invalidated the plan approval. It is the residential 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 residential construction documents have been approved in accordance with section 107, the residential building official shall furnish the owner/applicant a certificate of plan approval.

*The approval of construction documents by the residential building official, outlined in Section 107, is accomplished as specified here. Once any correction items have been addressed, corrected, or appealed, the residential 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 RCO, 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 residential 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 residential 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 residential 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 residential building official's responsibility to set up and maintain a project tracking system within the residential 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 residential building official or designee issuing the certificate of plan approval.
- Other information as deemed necessary by the residential 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 RCO.*

**105.5.2 Duplicate issued upon request.** Upon application by the owner, the residential 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 residential department cannot fulfill its duty to assure that the built environment is safe and sanitary. The residential 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 residential construction document submission to be deemed adequate.*

**106.1 Submittal documents.** Residential construction documents 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 residential building official of a certified residential building department 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 residential building department, that determination of compliance shall be deemed sufficient to obtain approval for construction pursuant to section 105.2 and the residential building official shall issue the certificate of plan approval. Construction documents for the installation of industrialized units shall be submitted to the residential building official for approval in accordance with the provisions of section 106.1.4.

*This requirement permits one copy of the approved residential construction documents to be held by the certified residential building department and one to be placed at the construction site (section 107.7). If there is a need for additional sets for wider departmental distribution or other reasons, a certified residential building department has the authority to request them under ORC 3791.04(D). Likewise, if the owner needs additional approved sets of residential construction documents, the residential 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 RCO from being completed without complying with the RCO. It is important to note that the residential building includes its building service equipment such as plumbing, electrical, mechanical, and other components.*

*This rule reflects the requirement in the Ohio Revised Code that before work begins, construction documents must be submitted to a residential 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 residential 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 residential 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.*

**106.1.1 Professionally prepared construction documents.** Construction documents which have been prepared by a 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 residential construction documents with other requirements of this code.

**106.1.2 Residential fire protection system construction documents.** Residential construction documents for fire protection systems authorized to be submitted by individuals certified pursuant to Chapter 4101:2-87 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.
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 of this Code.

**106.1.3 Information on construction documents.** Residential construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the residential building official. Construction documents 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, adequate for the scope of the project, shall include information necessary to determine compliance with this code.

1. **Index.** An index of drawings located on the first sheet;
2. **Site plan.** A site plan showing a north orientation arrow, the size and location of new residential 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 residential 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 **Residential buildings or structures located in flood hazard areas.** Construction documents submitted for residential 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. The elevation certification and dry flood proofing certification, when required for buildings or structures located in communities with identified flood hazard areas, shall be submitted to the residential building official.
  - 2.2 **Site Accessibility Plan.** For structures of four or more dwellings, 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 any 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.** Complete floor plans, including plans of full or partial basements and full or partial attics. Floor plans must show all relevant information such as door swings, stairs and ramps, windows, shafts, all portions of the means of egress, etc., and shall be sufficiently dimensioned to describe all relevant space sizes. Wall materials shall be described by cross-hatching (with explanatory key), by notation, or by other clearly understandable method. Spaces must be identified by how each space is intended to be used;
4. **Exterior wall envelope.** The exterior envelope shall be described in sufficient detail to determine compliance with this code and the referenced standards. Details or elevations shall be provided which describe floor to floor dimensions, 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.
5. **Sections.** Cross sections, wall sections, details including typical connections as required to fully describe the residential building construction showing wall, ceiling, floor and roof materials. Residential construction

documents shall describe the exterior wall envelope in sufficient detail to determine compliance with this code.

6. **Structure.** Complete structural description of the residential building including size and location of all structural elements used in the design of the residential building and other data as required to fully describe the structural system;
7. **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;

*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 residential plan examiner cannot complete the construction document review.*

8. **System descriptions.** Description of the mechanical, plumbing and electrical systems, including: materials; location and type of fixtures and equipment; materials, and sizes of all ductwork; location and type of heating, ventilation, air conditioning and other mechanical equipment; and all lighting and power equipment;
9. **Accessibility provisions.** When non-required accessibility components are intended to be installed, indicate whether the project will comply with Type A, Type B, Type C (Visitable), or Accessible units in ICC/ANSI A117.1 listed in Chapter 44 as pursuant to Section 320.1.
10. **Additional information.** Additional graphic or text information as may be reasonably required by the residential building official to allow the review of special or extraordinary construction methods or equipment.

**106.1.3.1 Fire protection system drawings.** Construction documents for the fire protection system(s) shall be submitted to indicate conformance with this code and shall be approved prior to the start of system installation.

*When an owner chooses to install a fire protection system in a 1-, 2-, or 3-family dwelling, complete drawings must be included as a part of the construction documents submitted for approval. While a full approval cannot be granted without these documents, making the mistake of granting a full approval without them leaves the inspector with no approved document to inspect against for determining compliance in the field. Inspectors should never direct work in the field because this practice places them in a position that can lead to arbitrary or inconsistent inspections at the least and personal liability at the worst.*

**106.1.3.2 Manufacturer's installation instructions.** Manufacturer's installation instructions, as required by this code, shall be available on the job site at the time of inspection.

**106.1.4 Industrialized units.** 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:

*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, an 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 construction 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 residential 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.*

1. A copy of the construction documents approved by the board; and
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.

#### **1061.4.1. 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 accessory structure 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.)

**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.

For a complete description of the Ohio industrialized unit program refer to OBC Section 113.

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

*It is important to realize that Ohio law prohibits a political subdivision from requiring the seal of a registered design professional on 1-, 2-, or 3-family dwelling construction documents. 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 from any seal requirement. ORC Section 3791.04(A)(2)(b) states that, "No seal is required for any plans, drawings, specifications, or data submitted for approval for any residential buildings, as defined in section 3781.06 of the Revised Code, or erected as industrialized one-, two-, or three-family units or structures within the meaning of "industrialized unit" as defined in section 3781.06 of the Revised Code."*

**106.3 Amended construction documents.** If substantive changes to the residential building are contemplated after first document submission, or during construction, those changes must be submitted to the residential building official for review and approval prior to those changes being executed. The residential 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 residential 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 residential building official. Otherwise, the residential inspector has no way of determining whether the work being done is in accordance with the RCO. The residential inspector is not certified to approve changes that deviate from the approved residential construction documents. If changes in the work are seen which do not conform to the approved construction documents, the*

residential inspector must notify the owner or owner's representative and the residential 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 residential 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 residential 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 residential building official in the distribution/approval process, the owner ensures that the right to build according to approved residential 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 this chapter 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.**

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 residential building official is given guidance on using several steps to assure that the approach provides as adequate level of protection. Complying with this section places some additional responsibility upon a registered design professional to communicate information adequate to justify the 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 residential 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. A 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 residential building official is authorized to require additional construction documents to be prepared by a registered design professional.**

When residential construction documents describing an alternate engineered design are submitted to the residential building official for plan approval, sufficient information must be provided by a registered design professional to allow

*the residential building official to make identification of the design a part of the record and final approval. The residential 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.

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

*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.*



## SECTION 107 PLAN APPROVAL PROCESS

**107.1 Plan review required.** Where the rules of the board are applicable under section 101.2, before a residential building or addition to a residential building is constructed or erected, and before a residential building is altered or relocated, or residential building equipment is installed, or a resubmission of construction documents is required or received, residential construction documents relating to the work and equipment under consideration shall be prepared in conformity with section 106 and be submitted to the residential 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 residential building is other than maintenance and minor repair as defined above. Work, other than maintenance or minor repair, potentially changes the residential 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 its occupancy, changes to the building must be evaluated, under the auspices of the residential building official, by the residential certified building department and inspections made to be performed to assure the work conforms to the approved residential 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 residential 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. Be accompanied by residential construction documents and other information as required in section 106.1.
4. Be signed by the owner, or the owner's authorized agent.
5. Give such other data and information as required by the residential building official.
6. Identify and clearly indicate whether the project or portion of a project intends to utilize an industrialized unit.
7. 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 construction documents under this section is a "license" and the failure to approve such construction documents as submitted within thirty days after filing or the disapproval of such construction documents 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 residential 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 residential 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 residential 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 residential construction documents were not approved because the residential 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 residential building official of a certified residential building department. The order must specify where and in what respect the construction documents do not comply with the RCO. 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 residential building official. Correctly following the processes when a license is denied will prevent a multitude of problems for the residential 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 residential 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 residential 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 residential 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.** Residential 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 residential construction documents submitted for approval be examined for compliance with the RCO 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 residential 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, both the normal plan review "line" and the walk-in "line" review in order of receipt, and the public accepts and is aware of the criteria for either "line", the walk-in process adds value for the public.

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

The duty of a certified residential plan examiner is to determine or ascertain compliance with the provisions of the RCO for the residential building official – determine whether the submitted residential construction documents fulfill the residential building code requirements. Once this determination or ascertainment is complete, the results should be reported to the residential building official for communication to the owner. The residential building official has the legal responsibility for obtaining the plan review (104.2.1.1) and for endorsing or stamping such residential construction documents as approved (107.5.1). While some residential departments delegate a portion of the responsibility for correspondence, communication, and correction letter formulation to the plan examiner, the residential building official is responsible for and ultimately accountable to the Board of Building Standards for the enforcement of the RCO (103.2.2(2.1), 104.2.1) including plan review.

**107.4.1 Inadequate construction documents.** If residential construction documents are determined to be incomplete or inadequate for examination, the residential plans examiner shall report the findings to the residential building official. The residential plans 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 residential building official shall proceed as required in section 107.6.

**107.4.2 Resubmitted documents.** If residential 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.** Residential construction documents, if prepared by an Ohio registered design professional to conform 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 residential building department's residential plan examiners to review the construction documents using these data without having to repeat the work of a design professional if construction documents have been so prepared and sealed.*

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

**107.5.1 Residential building official approval.** The residential building official shall evaluate the residential plans examiner's recommendations. When the residential construction documents have been determined to conform to the applicable provisions of the rules of the board, the residential 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 Residential Building Official. Unlike the non-residential certification process, individuals certified by the Board as residential building officials can perform building inspections and plan reviews. Individuals certified by the Board as plans examiners can perform building inspections. Residential departments do, however, also have to employ or have under contract individuals certified as residential plumbing inspectors or electrical safety inspectors. Whoever performs the plans review or inspections, however, the Residential Building Official remains responsible for the stamping or endorsing construction documents as conforming with the requirements of the RCO for use within the Residential Building Official's jurisdiction.*

*Once approval is possible, the Residential 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 RCO and, if built accordingly, the project should be safe and sanitary. Upon receiving a plan approval from a residential 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 residential building code violation and, therefore, the residential building department is required to issue plan approvals without attempting to enforce other departments' requirements by delaying approval of a complying set of construction documents. Failure to obtain a plan approval from the residential 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 residential building department must issue when, in fact, the residential 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 residential building department can give its required plan approval when construction documents have been found to comply with the RCO 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 residential 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 residential 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 residential construction documents are examined and items of noncompliance with the rules of the board are found, the residential building official shall proceed as required in either section 107.6.1 or section 107.6.2.

**107.6.1 Communication process for items of non-compliance.**

1. Item(s) of non-compliance shall be communicated to the owner or the owner's representative and the following options shall be offered:
  - 1.1 The owner will revise the construction documents and resubmit to the department.
  - 1.2 The items of noncompliance will not be brought into compliance and will be referred to the residential 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 residential plans 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 residential plans examiner shall report to the building official in accordance with section 107.6.2.

**107.6.2 Residential building official determination of noncompliance.** The residential building official shall evaluate the results of the plans examination 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 residential building official shall also determine whether any approvals are possible, and issue the appropriate approval as described in section 105.

**107.7 Approved residential construction document sets.** One set of approved residential construction documents shall be kept by the residential 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 residential inspectors.

This provision requires one copy of the approved construction documents to be held by the certified residential building department and one for the construction site for the use of the **residential building official**. This specific mention of the residential building official is consistent with section 104.2.1.3. It is the residential building official's responsibility to assure that inspections occur and are performed in a manner that assures that the construction matches the approved residential construction documents. These construction documents are maintained at the site by the owner for the inspection of the work as required of the residential building official and accomplished by his or her certified residential 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 residential building department. If modifications to the work are being performed for which there are no

*approved documents, the residential 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 INSPECTION PROCESS.

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

**108.1 General.** After residential 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. It shall be the duty of the owner or the owner's duly authorized representative to notify the residential 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 residential 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 be delayed or 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 residential 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 residential 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 residential 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 by the residential building official. Under Ohio law, the residential building official is responsible for the enforcement of the construction requirements. The residential plan examiners and residential inspectors are the residential building official's experts, eyes, and ears to assist in carrying out the residential building official's enforcement duties.*

*Once the work begins and inspections are requested from the residential 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 residential building department, when applying for certification, and the residential building official by inference, has agreed to staff the department to a level that provides timely response to inspection requests. The residential 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 residential 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 residential 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 residential 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 108.2.12. The residential 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 residential inspector in accordance with the approved residential 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 RCO.*

**108.2.1 Lot line markers required.** Before any work is started in the construction of a residential building or an addition to a residential 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 residential 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 322 shall be submitted to the residential building official.

*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 322. 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 11 and shall include, but not be limited to, inspections for: envelope insulation “R” and “U” values, 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 Testing of residential building service equipment.** Inspections shall be made of all residential 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 residential building official is authorized to make or require other inspections of any residential construction work 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 residential building official is often faced with projects the size and complexity of which tend to tax the ability of the residential department’s staff to offer timely review and inspection services given all the work within a jurisdiction. The residential department, therefore, has the authority to require inspection of such projects with provisions for the keeping of records and reports for review by the residential building official.*

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

**108.2.12 Industrialized unit inspections.** If the project will include the use of industrialized units approved by the board, the residential building official shall cause inspections to be made for on-site construction to complete the installation of the industrialized unit in conformance with the applicable provisions of the rules of the board. 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 residential 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 construction documents approved by the board.

**108.3 Inspection agencies.** The residential 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 RCO below.*

**108.4 Right of entry.** The residential building official, or the residential 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 residential 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 residential building official shall proceed as required in section 109 and shall also 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 residential construction documents.** When an individual certified to make inspections from the residential department having jurisdiction finds that completed work is in accordance with the approved residential construction documents, the certified individual shall communicate the findings to the owner's on-site representative, shall make a note of the satisfactory inspection on an on-site inspection record and in the residential inspector's log, and communicate their findings to the residential building official. The residential 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 individual certified to make inspections from the residential department having jurisdiction finds that any work in connection with the location, erection, construction, repair, alteration, moving, or equipment of a residential building is contrary to the approved residential construction documents for the same, the residential building inspector shall proceed as required in either section 108.6.1 or 108.7.

**108.6.1 Communication 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 construction documents and resubmit to the residential department,
  - 1.3 The items of noncompliance will not be brought into compliance and will be referred to the residential 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 residential inspector's log shall be made. The notations shall include the name of the certified individual authorized to make the inspections, 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 residential construction documents, the individual certified to make inspections shall submit a report to the residential 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 individual certified to make inspections, 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 residential construction documents, the certified individual shall communicate the finding to the residential building official so that the residential 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 individual certified to make inspections, in the course of performing the assigned or requested inspections, observes an unsafe condition or a serious hazard, the certified individual shall communicate that condition to the owner or the owner's on-site representative and shall report the findings immediately to the residential building official so that the residential 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 individual certified to make inspections from the residential department having jurisdiction finds that a residential industrialized unit has been constructed contrary to the residential construction documents approved by the board, the certified individual shall report the nonconformance to the residential building official. The residential building official shall notify

**the board of all violations of section 108.2.13. The board or its designee and the residential building official shall determine the corrective action to be taken before the residential building is approved to be occupied.**

*Inspections are a fundamental part of the enforcement process of a certified local residential 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 residential inspectors audit the construction process to assure what was approved actually gets built. As often happens for many reasons, when a residential inspector arrives at a construction site, the construction may be found to differ from the approved residential 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 residential 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 residential building official in enforcing the codes and the owner.*

*First, the residential 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 residential 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 residential building official does not authorize construction that is not approved or that differs with the approved residential construction documents, the inspector must do something specific - communicate. The residential 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 residential building department for review and approval. If the owner or owner's designated representative is notified, the appropriate documentation is submitted to the residential 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 residential 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 Residential Building Official once the inspector finds that the work does not conform to the approved residential construction documents and the owner refuses to bring it into compliance. The residential 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, residential inspectors have completed their required duties and the Residential Building Official must decide on a course of action. The Residential 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 residential construction documents, cite appropriate code violations or requirements, determine a reasonable time during which the owner must comply, and 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 Residential building official determination of noncompliance.** The residential building official shall evaluate any report of items of noncompliance 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 residential 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 residential building official may require that the tests be conducted in the presence of the building official or certified residential inspector. Testing and inspection records shall be made available to the residential 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 residential building department should use to document the proper operation of the building service equipment (refer to RCO Chapter 2 for definition of “building service equipment”).

This section makes it clear that the building service equipment must be tested. The wording is precise, however, in stating that this equipment must be “tested as required in the applicable code or referenced standard”. No certified residential 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 residential building official, and 2) testing must be conducted in one of two ways. Either the tests should be performed in the presence of the residential building official or the specified inspection records must be made available to the residential 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 residential code official.

Residential 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, residential 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 residential 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 residential 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. Residential 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.

NFPA 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 residential 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 residential 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 made by the owner and shall be conducted 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 residential 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 residential 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 (RCO 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 residential 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 residential building official

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

These citations must be to the code 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, residential 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 residential building official's responsibility to issue orders, including those to stop work. The implication of this section is that the way the residential building official determines that dangerous or unsafe work is present is through communication with the residential 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 residential 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 residential 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;
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 residential building official;
6. The order shall be sent 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 residential 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 residential building is found to be a serious hazard, such hazard shall be eliminated or the residential building shall be vacated, and where such residential building, when vacated, remains a serious hazard, it shall be razed.

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

*Section 3781.15, R. C. provides a legal means for a residential building department to stop the use of a building that is found to be a public nuisance. The residential building department, through its prosecutor's office, would file an injunction action in the court of common pleas having jurisdiction where the residential building is located. The residential 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 residential 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 repair, or demolition.*

**109.4.2 Restoration.** Where the residential structure or equipment is determined to be unsafe by the residential 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 this chapter.

## SECTION 110 APPEALS

**110.1 Hearing and right of appeal, local board of building appeals.** In order to hear and decide appeals of orders, decisions, or determinations made by the residential building official relative to the application of this code, there shall be a local appeals process established within the certified jurisdiction. 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.

*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 in the Ohio Revised Code.*

## SECTION 111 CERTIFICATE OF OCCUPANCY

**111.1 Approval required to occupy.** No residential building or structure, in whole or in part, shall be used or occupied until the residential building official has issued an approval in the form of a certificate of occupancy or certificate of completion in compliance with this section.

**111.1.1 Certificate of occupancy.** The certificate of occupancy shall indicate the conditions under which the residential building shall be used. The building owner shall only use the structure in compliance with the certificate of occupancy and any stated conditions. The residential structure and all approved building service equipment shall be maintained in accordance with the approval.

When a residential building or structure is entitled thereto (constructed according to the approved construction documents, final tests and inspections are completed, and no orders of the building official are outstanding, or as permitted in this section), the residential building official shall issue a certificate of occupancy in a timely manner.

*The certificate of occupancy is arguably the most important component of the residential building code enforcement system. It is primarily a communication document as well as an archival document. It facilitates communication between the owner, the residential 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 residential 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 part of or space in a building. In other words, the certificate of occupancy should be a record of how the entire building is approved for occupancy by the owner. 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 changes. Following completion of the work, 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.*

**111.1.1.1 New residential buildings.** A residential 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 residential building official. Occupancy of spaces within a residential building which are unaffected by the work of work shall be allowed to continue if the residential building official determines the existing spaces can be occupied safely until the completion of the work.

*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 residential buildings cannot be occupied until the certificate of occupancy has been issued by the residential building official. Time-limited or Partial occupancies are permitted as provided in section 111.1.*

**111.1.1.2 Residential building alterations or additions.** A residential 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 residential building official determines the existing spaces can be occupied safely until the completion of the alteration.

*Additions or alteration to existing residential 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 structure 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 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.

**111.1.1.3 Partial occupancy.** Upon the request of the owner or owner's representative, a residential building official shall issue a certificate of occupancy before the completion of the entire work, provided that the residential building official determines that the space can be safely occupied prior to full completion of the residential 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.*

**111.1.4 Time-limited occupancy.** A residential 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 residential building official pending;
2. It is established after inspection and investigation that the proposed use is not deemed to endanger public safety and welfare;
3. The residential building official has approved the use for an alternative purpose on a temporary basis;
4. The residential building official has issued a certificate of occupancy indicating any special conditions under which the building or part of the residential building can be used for the alternative purpose within the time limit specified.

*The residential 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 residential building officials to allow time-limited occupancy; it only states the residential building official **may** issue a time-limited certificate of occupancy. This language is permissive to allow the residential building official some latitude when evaluating the methods to be used to assure safe occupancy. If the residential 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 residential 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.*

**111.1.1.5 Temporary structures occupancy.** A residential 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 residential building official to be in compliance with section 102.9 shall be issued a "Certificate of Occupancy for Temporary Structures." The residential building official is authorized to grant extensions for demonstrated cause.

**111.1.2 Certificate of completion for alterations and repairs.** The certificate of completion for alterations and repairs shall indicate the conditions under which the building shall be used. The building owner shall only use the structure in accordance with the certificate of completion and any stated conditions. The structure and all approved building service equipment shall be maintained in accordance with the approval.

When the work in a building or structure is entitled thereto, the building official shall issue a certificate of completion for the work provided there are not violations of the rules of the board or orders of the building official pending or as permitted in this section. 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.

*The certificate of completion is an additional tool of residential building code enforcement system. It is primarily a communication document as well as an archival document when the re-issue of a certificate of occupancy is not needed since there is no change in the occupancy characteristics of a building as a result of repair or alteration work. It facilitates communication between the owner, the residential 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 alteration or repair is done to assure that it was approved and inspected and was completed in a safe and sanitary manner; it is a "snapshot" of the building at a specific point in time at which the repair or alteration work is satisfactorily completed. As the residential building is altered or repaired over time, the respective certificates of completion should be kept with the original certificate of occupancy to accurately reflect the changes thus functioning as part of the official record of the building as it was approved for occupancy.*

**111.2 Existing residential buildings.** Upon written request from the owner of an existing residential building or structure, the residential building official shall issue a certificate of occupancy, provided there are not violations of law or orders of the residential building official pending, and it is established after inspection and investigation that the alleged occupancy of the residential 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 residential building or structure, unless such use is deemed to endanger public safety and welfare.

**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 residential building or structure may be used in its several parts. The certificate of occupancy or certificate of completion shall contain the following:

*Important phrases in this section can affect enforcement of this section especially since residential 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 residential building code. The rule is clear that when the structure is entitled to receive a certificate of occupancy the residential 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 residential 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 residential 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 residential 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 residential building code has been complied with and the certificate of occupancy can be issued.*

1. **The plan approval application number.**
2. **The name and address of the owner.**
3. **A description of that portion of the structure for which the certificate is issued.**
4. **The signature of all residential building officials having jurisdiction. When more than one residential building official has jurisdiction for a building (when the certification of the residential 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 residential code under which the plan approval was issued.**

*Section 101.1 makes clear which Ohio Administrative Code sections make up the RCO as well which version of the model code has been used as its basis (title, printing, and edition). The effective date of this rule can be used as the edition of the RCO with which the project complied. Currently the 2013 edition of the RCO based upon the 2009 ICC model code documents is effective in Ohio.*

6. **When an automatic sprinkler system is provided, the type and description of the system shall be indicated.**

*Because there is some latitude given in the residential 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*

installed.

**7. 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 residential 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 residential 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 occupancy.*

**111.4 Validity of a certificate of occupancy or certificate of completion.** The certificate represents an approval that is valid only when the residential building or structure is used as approved and certifies conformance with applicable provisions of the “Residential Code of Ohio for One-, Two-, and Three-family Dwellings” 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 “RCO”, and applicable equipment and systems schedules.

*The certificate of occupancy is the residential 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 residential building or system that is regulated by this code for which a plan approval and inspections are required, until approved by the residential building official.

**111.6 Temporary connection.** The residential building official shall approve the temporary connection of the residential 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 adopt, amend, or rescind the rules of the board on its own motion or in response to an application for changes filed pursuant to this section.

**112.2 Changes, application to the board.** 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 Changes, application to the residential construction advisory committee.** In addition to section 112.2, any person may apply to the residential construction advisory committee to recommend to the board that it adopt, amend, or rescind provisions of the RCO. The application for rule change shall be on forms and in format prescribed by the board and directed to the chairperson of the residential construction advisory committee. Twelve printed copies of the application shall be filed with the secretary of the board.

**112.4 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 or to each member of the residential construction advisory committee for a recommendation to the board as appropriate.

After receiving an application for the adoption, amendment, or annulment of a provision of the rules of the board or a recommendation of the residential construction advisory committee, 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 EXISTING BUILDINGS AND STRUCTURES.

**113.1 General.** Provisions within this section shall control the alteration, repair, addition and change of occupancy if existing residential buildings.

**113.2 Maintenance.** Residential buildings, structures and the building equipment shall be maintained in a safe and sanitary condition and in accordance with the condition(s) established in current and any previous plan approvals and certificates of occupancy. Devices or safeguards which are required by this code shall be maintained in conformance with the code edition under which installed. The owner or the owner's designated agent shall be responsible for the maintenance.

The requirements of this chapter shall not provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures without approval of the residential building official.

**113.3 Definitions.** The following terms are defined in Chapter 2:

CHANGE OF OCCUPANCY.

HISTORIC BUILDINGS.

**113.4 Additions and Alterations.** Additions or alterations to residential buildings shall conform with the requirements of the code for new construction and shall be approved by the residential building official. Additions or alterations shall not be made to an existing residential building or structure which will cause the existing residential building or structure to be in violation of any provisions of this code. Portions of the structure not altered and not affected by the alteration are not required to comply with the code requirements for a new structure.

Exception: For residential buildings and structures in flood hazard areas, any additions, alterations or repairs that constitute substantial improvement of the existing structure, shall comply with the flood design requirements for new construction and all aspects of the existing structure shall be brought into compliance with the requirements for new construction for flood design.

**113.5 Replacement of systems, components and materials.** Replacements of an existing system (egress, fire protection, mechanical, plumbing, etc.) and materials or building components not otherwise provided for in this section, shall conform to that required for new construction to the extent of the alteration. The existing systems, materials, or components shall not be required to comply with all of the requirements of this code for new construction except to the extent that they are affected by the alteration. Replacement of existing systems, materials, or components shall not cause them to become unsafe, hazardous, overloaded, or become less effective than when originally installed, constructed, and/or approved.

**113.5.1 Door and window dimensions.** Minor reductions in the clear opening dimensions of replacement doors and windows that result from the use of different materials shall be allowed, whether or not they are permitted by this code.

**113.6 Repairs to systems, components and materials.** Repair of residential building components, systems and materials or building components not otherwise provided for in this section, shall not be required to meet the provisions for new construction, provided such work is done in accordance with the conditions of the existing approval in the same manner and arrangement as was in the existing system, is not less safe than when originally installed and is approved.

**113.7 Changes in occupancy.** A residential building, accessory structure, or space within a residential building shall not change in its use or purpose unless it is made to comply with the requirements of this code for such use and approved by the residential building official. An approval is not required when the code requirements are the same for both uses.

**113.7.1 Use of a residential building for other purposes.** No change of occupancy to uses within the scope of the OBC shall be made to any existing residential building, space within, or accessory structure unless such building is made to comply with the requirements of the OBC for such occupancy and approved by the building official with OBC enforcement authority.

**113.7.2 Type A family day care homes.** A residential building that is intended to be used in whole or in part as a licensed type A family day-care home shall be inspected in accordance with the type A family day-care home checklist (available from the board of building standards). The residential building official shall issue a report of the findings to the Ohio department of jobs and family services.

**113.7.3 Type B family day care homes.** When a residential building that is intended to be used in whole or in part as a type B family day-care home and is required to be licensed, the residential building shall be inspected in accordance with the type B family day-care home checklist (available from the board of building standards). The residential building official shall issue a report of the findings to the Ohio department of jobs and family services.

**113.8 Moved structures.** Residential structures moved shall be safe and sanitary and any repair, alteration, or change in occupancy shall comply with the provisions of this code for new structures. Field work, building location, foundations and foundation connections, wind loads, seismic loads, snow loads, and flood loads, shall comply with the requirements of this code.

The residential building official shall be authorized to inspect, or require inspection at the expense of the owner, the various components of a relocated building to verify that they have not sustained damage. Building service equipment, mechanical, plumbing, and fire protection systems shall be tested to assure that they are in operating condition. Any repairs or alterations required as a result of such inspections shall be approved and completed prior to issuance of the certificate of occupancy.

Buildings previously approved as industrialized units, when moved after first occupancy are to be evaluated for conformance in accordance with this section by the residential building official in the jurisdiction where the building is intended to be relocated.

**113.9 Historic buildings.** The provisions of this code relating to the construction, repair, alteration, addition, restoration and movement of residential structures, and change of occupancy shall not be mandatory for historic buildings where such residential buildings are judged by the residential building official not to constitute a distinct life safety hazard.

**113.10 Used materials and equipment.** The use of used materials which meet the requirements of this code for new materials is permitted. Used equipment, appliances, and devices shall not be reused unless approved by the residential building official.

**113.11 Flood hazard areas.** Within flood hazard areas established, the residential building shall be brought into conformance with section 322.

Exception: Historic buildings.

## 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 subclassified 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.

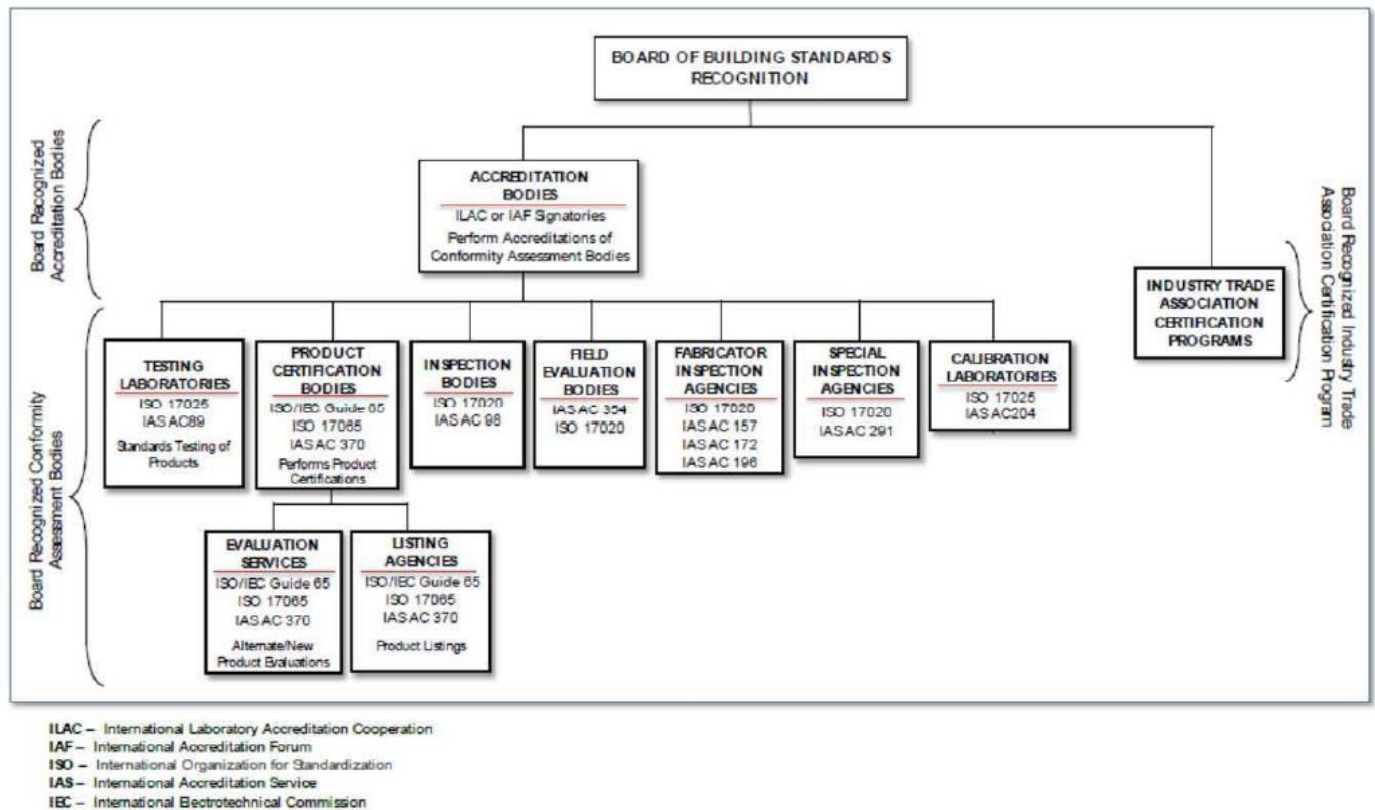


Figure 114.2

## ORGANIZATION OF BOARD RECOGNIZED BODIES AND CERTIFICATION PROGRAMS

**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.

Exception: 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.

**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.

**114.3.2.1 Evaluation Service Reports.** Building officials are authorized to accept evaluation service reports for materials, products, assemblies, and methods of construction from recognized evaluation service agencies after reviewing and verifying all of the following minimum information in the evaluation service report:

1. Identification and description of the product specifically addressed in the report and a description of how the product can be identified;
2. Identification of the specific code provisions to which the product was evaluated as a suitable alternative to the requirements of the code;
3. The product installation requirements;
4. The statement of the conditions and limitations of use of the product; and
5. List the test reports used in the evaluation.

**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 BOARD ORGANIZATION

### **115.1 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.

**115.2 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.

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

**115.4 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.