

## BOARD OF APPEALS

April 7, 2016

Members Present: Chairperson Wayne Larson, Harold Thompsen, Jeff Furstenau, and Dave Obermiller.

Members Absent: Joel Davy and Terry Welle.

Others Present: Bruce Taralson, Ryan Erickson, Christine Rose, and Gretchen Morlan.

Chairperson Larson called the meeting to order. Mr. Furstenau moved to approve the minutes of the March 17, 2016 meeting and Mr. Thompsen seconded the motion. All members present voted aye and the motion was declared carried.

Mr. Taralson presented the 2015 International Existing Building Code (IEBC), all chapters, to the Board.

Mr. Taralson stated that the City of Fargo has adopted the IEBC since 2000, and from what he has observed, it has rarely been used. The 2012 International Building Code (IBC), included Chapter 34 entitled “*Existing Buildings*”, which was used for guidance on existing buildings. The 2015 IBC, which is currently under review and up for adoption, eliminated Chapter 34 in its entirety; the IEBC will now be used for all existing buildings. Mr. Taralson stated that he recommends adding an **AMENDMENT** to allow the use of Chapter 34 in the 2012 IBC until the IEBC is officially adopted.

**Section [A] 101.4.7 Existing buildings.** The provisions of the *International Existing Building Code* shall apply to matters governing the *repair, alteration*, change of occupancy, *addition* to and relocation of existing buildings.

**The following is an excerpt from the IEBC titled “Effective Use” of the IEBC:**

The International Existing Building Code is a model code in the International Code family of codes intended to provide alternative approaches to remodeling, repair or alteration of existing buildings. A large number of existing buildings and structures do not comply with the current building code requirements for new construction. Although many of these buildings are potentially salvageable, rehabilitation is often cost-prohibitive because compliance with all the requirements for new construction could require extensive changes that go well beyond the value of the building or the original scope of the rehabilitation. At the same time, it is necessary to regulate construction in existing buildings that undergo additions, alterations, renovations, extensive repairs or change of occupancy. Such activity represents an opportunity to ensure that new construction complies with the current building codes and that existing conditions are maintained, at a minimum, to their current level of compliance or are improved as required to meet basic safety levels. To accomplish this objective, and to make the rehabilitation process easier, this code allows for options for controlled departure from full compliance with the International Codes dealing with new construction, while maintaining basic levels for fire prevention, structural and life safety features of the rehabilitated building.

This code provides three main options for a designer in dealing with rehabilitation of existing buildings. These are laid out in Section 301:

**Option 1:** Work for alteration, repair, change of occupancy, addition or relocation of all existing buildings shall be done in accordance with the *Prescriptive Compliance Method* given in Chapter 4. It should be noted that this same method was previously provided in Chapter 34 of the International Building Code.

**Option 2:** Work for alteration, repair, change of occupancy, addition or relocation of all existing buildings shall be done in accordance with the *Work Area Compliance Method* given in Chapters 5 through 13. Part of option 2 is classifying what type of work is being done and complying with the appropriate sections.

**Option 3:** Work for alteration, repair, change of occupancy, addition or relocation of all existing buildings shall be done in accordance with the *Performance Compliance Method* given in Chapter 14. It should be noted that this option was also previously provided in Chapter 34 of the International Building Code.

Under limited circumstances, a building alteration can be made to comply with the laws under which the building was originally built, as long as there has been no substantial structural damage and there will be limited structural alteration.

### **General changes**

1. The word *stair* or *stairs* has been revised in many locations to read *stairway* or *stairways*.
2. Some changes on seismic issues will not be addressed due to no seismic requirements in our area.

### **Chapter 1 Scope and Administration.**

**Section 101.1** Staff recommends keeping an existing local **AMENDMENT** to read ‘These regulations shall be known as the *Existing Building Code* of the City of Fargo hereinafter referred to as “this code”.

**Section 101.2** Staff recommends adding a local **AMENDMENT** to provide an exception that will allow the use of the IBC 2012, Chapter 34 as an alternative to the use of IEBC 2015 for existing buildings.

**Section 104.8** Staff recommends keeping an existing local **AMENDMENT** to read; **Section 104.8 Liability.** The code official, ..., or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or the city be held as assuming any such liability by reason of the inspection authorized by this code or any permits or certificates issued under this code.

**Section 105.2** Staff recommends keeping an existing local **AMENDMENT** to add additional items to this section for exempt from permit: Add: #7. Re-roofing.

### **Chapter 2 Definitions.**

**Section 201.3** Staff recommends keeping an existing local **AMENDMENT** to read as follows: **Section 201.3 Terms defined in other codes.** Where terms are not defined in this code and are defined in the other *International Codes*, such terms shall have the meanings ascribed to them in those codes. Wherever the term “International Plumbing Code” and/or the “International Private Sewage Disposal Code” is used it shall mean the North Dakota State Plumbing Code. Wherever the term “ICC Electrical Code” is used it shall mean the National Electric Code together with the North Dakota State Wiring Standards. Wherever the term “Flood Hazard Area” is used, it shall mean the Fargo Flood Plain Management ordinance together with the Flood Proofing Code of the city of Fargo, North Dakota.

**Section 202 Revised definitions:** Change of Occupancy and Historic Buildings.

**Section 202 New definitions:** Relocatable building, Repair, Reroofing, Roof cover, Roof repair, and Roof replacement.”

## **Chapter 3 Provisions for all compliance methods.**

**Section 301.1** This section describes the three methods of compliance:

**Section 301.1.1. Prescriptive.** Must comply with Chapter 4 of the code *Prescriptive Compliance Method*.

**Section 301.1.2. Work area compliance method.** This method requires compliance with Chapters 5 through 13.

**Section 301.1.3. Performance compliance method.** This method requires compliance with Chapter 14. This method allows alternative compliance due to rating different systems within the building.

**Section 302 New section;** New section with some sections from previous Section 301. Includes general guidelines for all alterations, repairs, additions, relocation of structures and changes of occupancy.

**Section 302.3 New section;** Existing Materials. Existing materials may remain in use unless the building official determines them to be unsafe.

**Section 302.4 New section;** Replacement materials. Replacement materials generally must comply with the code for new construction, as long as no unsafe condition is created.

**Section 302.5 New section;** Occupancy and Use. Gives general guidance on application of IBC Chapter 3 to determine occupancy and use.

## **Chapter 4 Prescriptive compliance method.**

**Section 402.4 Clarified;** Added verbiage to clarify compliance with IBC 1613.

**Section 403.4 Clarified;** Added verbiage to clarify compliance with IBC 1613.

**Section 403.11 Addition;** Added section on refuge areas in existing buildings. Three subsections for smoke compartments, ambulatory care, and horizontal exits provide information that capacity of refuge areas must be maintained.

**Section 406 Revision;** Revised title to reflect that this section covers glass replacement and window replacement.

**Section 406.2 Addition;** Added section on replacement of window control devices.

**Section 406.3 Addition;** Added section on replacement of emergency escape and rescue openings (windows).

**Section 407.1 Clarification;** Clarified when a building use or occupancy is changed and is required to comply with the IBC.

**Section 407.1.1 Addition;** Added section to clarify when a building use changes inside an occupancy classification. Example: Clinical use is listed as a “B” occupancy. If the clinic takes on an ambulatory care use, the new use would be required to comply with the requirements for an ambulatory care facility even though the business use or B occupancy classification has not changed.

**Section 407.4 Clarification;** Clarified when an alternative method of compliance can be used for structural requirements.

**Section 408.1 Clarification;** Clarified when compliance with this section is required for historic buildings. Generally separated the previous version into two paragraphs and rewritten.

**Section 408.2 Addition;** Added section for historic buildings and when life safety issues create a need to comply with this code. This text was previously written into Section 408.1.

**Section 410.7 Clarification;** Revised word from ‘or’ to ‘and’, requiring both toilets and drinking fountains to remodeled areas containing primary function areas.

**Section 410.8.10 Revision;** Added additional requirements for signage requirements to be added to inaccessible toilet rooms when there are new accessible toilet rooms added.

**Section 410.8.14 Addition;** Added new section on requirements for amusement rides when they structural or operational characteristics are changed or altered.

### **Chapter 5 Classification of Work.**

No significant changes to this section. This section lists which sections require compliance when using the *Work Area Method* called out in Section 301.1.2.

### **Chapter 6 Repairs.**

No significant changes to this section.

### **Chapter 7 Alterations - Level 1.**

**Section 702.4 Addition;** Added section on window opening control devices. This section generally mirrors the IBC, but relates to when windows are replaced in certain situations.

**Section 702.5 Addition;** Added section on emergency escape and rescue openings. This section generally mirrors the IBC for egress windows, but relates to when windows are replaced in certain situations.

**Section 705.1.9 Revision;** Provided additional requirements for signage requirements to be added to inaccessible toilet rooms when there are new accessible toilet rooms added.

**Section 706 Addition;** Added section on reroofing.

### **Chapter 8 Alterations - Level 2.**

**Section 803.3 Deletion and Revision;** Deleted previous sections titled *Smoke Barriers, Compartmentation, Fire Resistance Rating, and Associated Exceptions*. Added section titled *Smoke Compartments*. This appears to be a correction to delete information that was previously in the IBC. Now the new section provides criteria when new smoke compartments are required to be added in a remodel to an existing I-2 occupancy and then directs to the appropriate sections of the IBC.

**Section 803.6 Addition;** Added section on fire resistance ratings in existing buildings. This section provides for use of an added fire sprinkler system in reducing the fire resistance ratings of building elements, such as the IBC allows.

**Section 805.4.5 Addition;** Added section on emergency power source in Group I-3. Provides requirements for manual emergency release of power operated doors in existing I-3 occupancies, with exceptions.

**Section 805.10 Addition;** Added section on refuge areas in existing buildings. Provides guidance on group I-2, I-3, ambulatory care facilities and horizontal exits refuge areas. Generally sending you to the current IBC section to calculate the required area, which must be maintained and not reduced.

**Section 807.5 Revision;** Revised this section to read in the exception format generally used in the international codes.

## **Chapter 9 Alterations - Level 3.**

**Section 902.2 Revision;** Revised section to clarify which occupancies are required to comply and clarified boiler exceptions.

**Section 902.2.1 Deletion;** Deleted section on emergency controls for boilers and furnaces.

**Section 904.1 Revision;** Previously read 'provided in all work areas' and now reads 'provided in work areas'. This will clarify, in a high rise building, that only the work area affected by the change that requires a sprinkler system would be required to have it installed and not all work areas.

**Section 904.1.1 Revision;** Deleted the requirement in a high rise building that if the work area was over 50% of the floor area, then a sprinkler system would be required to be installed in the work area. Now reads "all work areas".

**Section 904.1.3 (46) Addition;** Added section on *Upholstered Furniture or Mattresses*. Three conditions that would require a sprinkler system are added here that mirror what the IBC 903.2 requires.

**Section 904.2 (46) Revision;** Revised to refer to the correct sections in the IBC.

**Section 906.2 (46) Addition;** Added an exception for the requirement of updating to type B units that were given a certificate of occupancy prior to March 15, 1991 (Federal Fair Housing Act).

## **Chapter 10 Change of Occupancy.**

The next three revisions/clarifications provide guidance on what to do when a change of use, change of occupancy or change of a group inside an occupancy classification occurs.

**Section 1001.2 Clarification;** Changed title and clarified when a change of use or a change in occupancy (not a change in a group inside a use or occupancy) requires a certificate of occupancy.

**Section 1001.2.1 Revision;** Revised title of section and to provide guidance on change of use. This gets complicated as it is not really an official code term. It would mean you could have two different 'uses' that were both called an A-3 occupancy. A community room changes to a dance hall or an art gallery changes to a lecture hall. There could be code implications when the occupancy does not change.

**Section 1001.2.2 Revision;** Revised title of section and to provide guidance on change of occupancy classification or group.

**Section 1004.1 Clarification;** Clarified when a different fire protection system threshold requires compliance with Chapter 9 of the IBC.

**Section 1012.1.1.1 Revision;** Now refers to IBC Chapter 9 for fire protection systems thresholds when determining fire protection requirements in existing buildings undergoing a change of occupancy and the change occurs in a portion of an existing building that **does NOT** have a fire barrier separation.

**Section 1012.1.1.2 Revision;** Now refers to IBC Chapter 9 for fire protection systems thresholds when determining fire protection requirements in existing buildings undergoing a change of occupancy and the change occurs in a portion of an existing building that **does** have a fire barrier separation.

**Section 1012.2.1 Revision;** Now refers to IBC Chapter 9 for fire sprinkler system thresholds when determining fire sprinkler requirements in existing buildings undergoing a change of occupancy.

**Section 1012.2.2 Revision;** Now refers to IBC Chapter 9 for fire protection system thresholds when determining fire alarm system requirements in existing buildings undergoing a change of occupancy.

**Section 1012.5.1., exc. Revision;** Revised exception to now allow reductions in fire resistance ratings of high rise buildings as allowed in the IBC.

## **Chapter 11 Additions.**

**Section 1103.3 Revision;** Revised and clarified Exception 2. Now provides guidance when lateral load carrying structural elements are allowed to use the 10% allowance exception.

## **Chapter 12 Historic Buildings.**

**Section 1204.1.1 Clarification;** Clarified when an accessible route is required to an accessible entrance on a site.

## **Chapter 13 Relocated or Moved Buildings.**

**Section 1301.2** Staff recommends keeping an existing local **AMENDMENT** to read as follows: Conformance. Buildings to be moved within this jurisdiction shall comply with provisions of this Chapter. Buildings to be moved into this jurisdiction shall comply with the provisions of the International Codes for new buildings and shall be certified as to that compliance by an agency approved by the code official. ~~The building shall be safe for human occupancy as determined by the International Fire Code and the International Property Maintenance Code. Any repair, alteration, or change of occupancy undertaken within the moved structure shall comply with the requirements of this code applicable to the work being performed. Any field fabricated elements shall comply with the requirements of the International Building Code or the International Residential Code as applicable.~~

## **Chapter 14 Performance Compliance Alternatives.**

**Section 1401.2** Staff recommends keeping an existing local **AMENDMENT** to read as follows: **Applicability.** Structures existing prior to ~~{DATE TO BE INSERTED BY THE JURISDICTION. NOTE: IT IS RECOMMENDED THAT THIS DATE COINCIDE WITH THE EFFECTIVE DATE OF BUILDING CODES WITHIN THE JURISDICTION}~~ 1952, in which there is work involving additions, alterations or changes of occupancy shall be made to conform...

**Section 1401.6 Modification;** revised to add qualifying occupancies allowed in the evaluation process.

**Section 1401.6.1 Modification;** revised to add number of stories to be included in the determination of height.

**Sections 1401.6.2 & 1401.6.2.1 Revision;** revised determination of building area and formula for allowable area.

**Section 1401.6.4 Revision;** Added requirement for I-2 occupancy in evaluation of sleeping room separation walls.

**Section 1401.6.8 Revision;** Added requirement for I-2 occupancy in evaluation of automatic fire detection.

**Section 1401.6.17 Revision;** Added requirement for I-2 occupancy in evaluation of automatic sprinklers.

**Section 1401.6.20 Addition;** Added section to evaluate smoke compartments in existing buildings.

**Section 1401.6.21 Addition;** Added section to evaluate the ability of patients, their concentration and ratio to attendants in I-2 occupancies.

Mr. Taralson noted that there is a worksheet on Page 75 of the IEBC that summarizes the use of Chapter 14. Mr. Fursteneau inquired at what point a building becomes an existing building. Mr. Taralson responded that once a Certificate of Occupancy is issued, a building becomes an existing building.

## **Chapter 15 Construction Safeguards.**

No significant changes.

There being no further business, the meeting was adjourned.

Respectfully Submitted,

Bruce Taralson  
Acting Board Secretary