



## CITY OF OTHELLO PLANNING COMMISSION

**Regular Meeting  
500 E. Main St.  
September 16, 2019  
6:00 PM**

1. Call to Order - Roll Call
2. Approval of Minutes
  - a. August 19, 2019 Regular Meeting
  - b. August 27, 2019 Special Meeting
3. OMC 14.04 Building Codes – Updates and Corrections – Recommendation to Council
4. Zoning Updates – Status Report

***Next Regular Meeting is Monday, October 21, 2019 at 6:00 P.M. at Othello City Hall***

**City Hall is accessible for persons with disabilities.  
Please let us know if you will need any special accommodations to attend the meeting.**



City of Othello  
Planning Commission  
August 19, 2019  
Jackee Carlson

### **CALL TO ORDER**

Chair Roger Ensz called the meeting to order at 6:03 pm.

### **ROLL CALL**

**Commissioners Present:** Roger Ensz, Chris Dorow, Brian Gentry, Tari Perez

**Absent:** Kevin Gilbert

**Staff:** Community Development Director Anne Henning, Building & Planning Secretary Jackee Carlson,

**Attendees:** Council Member John Lallas & Corey Everett, Bob Carlson, Jesse Dominguez

Quorum Established.

### **APPROVAL OF JULY 15, 2019 PLANNING COMMISSION MEETING MINUTES**

**Commission Action:** The Commissioners voted to accept the minutes from July 15, 2019 M/S Chris Dorow/Brian Gentry

### **ADU PARKING**

Commissioner Ensz would like to revisit what was previously agreed upon, regarding parking for Accessory Dwelling Units. After a brief discussion, the Commission agreed to discuss it further at a later time.

**The Commission carried a motion to vacate the previous recommendation on ADUs. Motion introduced by Chris Dorow. Motion was seconded by Roger Ensz. Vote was 4-0 in favor; motion passed.**

### **ZONING UPDATE REVISIONS – RECOMMENDATION TO COUNCIL**

After meeting with Council for a study session, there were several issues discussed. Ms. Henning put together a list with possible resolutions. The Commission reviewed the following:

1. **Alley Setback (Residential)** – It was brought up that the 0' setback at the alley creates a problem with garbage pickup, as it makes it difficult for the garbage truck to pick up the garbage. The Council would like to see a 5' setback in the back yard whether there is an alley or not. Commissioner Ensz asked what the setback was for commercial zones and Ms. Henning replied it was also 0'. Councilman Corey Everett clarified that the reason it needs to have a setback is that as the garbage can is being picked up, it swings out into an arch after a certain point. Councilman Everett said that after a certain point it clears the fence and if there was a building there it would not clear it. He discussed that the alleys are not all the same width which makes it hard to pick garbage in one area over another. Ms. Henning suggested having a

10' setback from the middle of the alley, so that there is always a 20' alley and it would help address the narrow alleys. The Commission agreed with her suggestion.

2. **Minimum Apartment Size in Commercial** – The Council thought 220 SF is too small of a size for an apartment for local conditions. They wanted feedback on other cities and what they used for a minimum size. After a brief discussion that there is a wide variety among cities, it was agreed that there should be no minimum square footage for an apartment in zoning.
3. **Landscape Installation for Residential** – After looking into it, Ms. Henning stated that a lot of the cities she looked at had the same requirement of 1 year after the C of O. She also talked to Code Enforcement Officer Heather Miller about the enforcement of it, which seemed to be the issue, and Officer Miller stated that she felt like people weren't notified of the requirement or that money seemed to be an issue, as far as being able to complete. After discussing it further, the Commission agreed to leave it as with the requirement of 1 year after C of O.
4. **Length of Time Occupying an RV Park** – The Commission discussed the issue of length of stay at an RV Park. Ms. Henning mentioned addressing the problems from long-term stay, rather than relying on a time limit. Commissioner Roger Ensz brought up that with the long stay, certain people would look for permanent housing in a travel trailer at a low cost, and with that could come paraphernalia and trash. The Commission discussed a few options and would like to see something that states that wheels must be on the RV and tabs must be kept up to date. The Commission agreed to have the allowed use as a Conditional Use Permit in C-3.

#### **SALES LOT – OSCAR GARZA**

Jesse Dominguez spoke on behalf of Oscar Garza who is the owner of the vacant lot next to Johnson's Auto Glass, regarding the possibility of turning it into a display lot for Mountain West Builders who sell hickory barns and are located right outside the City on Moon Road. Mr. Dominguez stated that Mr. Garza would like to lease the property at no cost, so that Mountain West Builders could display several sheds, like a 3-D billboard on the property. He also stated that there would be not sales transactions on that site, that everything would happen at their location outside city limits. Ms. Henning had previously sent Mr. Garza a letter stating that it was not an allowed use in the zone, to have just a display lot and no facilities for employees or parking. At one point it was stated that there could be an office in Johnson's Glass if one was required. The Commission agreed the closest thing to it would be a display like a billboard, which is not an allowed use. They discussed different options but chose to table it to the next meeting.

6. **a) 17.30.030 Table 1: Open Sales Lots /Vehicle Sales Lots** - Ms. Henning's recommendation is that it should be clarified that a building is required in order to have a business. Commissioner Ensz asked if there was a size requirement for the office. Ms. Henning stated that all that it would require was a bathroom with ADA access and an ADA accessible entrance. The Commissioners would like to further discuss this and come back to it at the next meeting.
5. **a) Remove existing 17.05.060.**
  - b) 17.20.030 (c) - Leave as is.**
  - c) 17.20.010- Change the language to mention purpose.**

6. **b) Site Specific Rezone** - Ms. Henning shared her recommendation to add to the Zoning Amendment Chapter a section that talks about what happens with a site-specific rezone, to clarify the process and collect all the information in one chapter.
- c) **OMC 17.92** - Enforcement Chapter - Ms. Henning reviewed the chapter with Code Enforcement. The biggest change was clarifying the duties of the Code Enforcement officer.
- d) **17 .05.060** (Unmentioned Uses)- Delete this section
- 17.05.080** (Duty of Commission) - Multiple things were deleted from being Planning Commission responsibilities. Ms. Henning asked the Commission whether they wanted to delete it altogether or add things to it. The Commission agreed to remove this section.
- e) **17.13.010**- Ms. Henning mentioned that there was an error in the book and was just noting it.
7. **Assessed Value**- It was asked if Zoning affected the assessed valuation. Ms. Henning discussed with a County Appraiser, who stated that it does for vacant property, but if its already developed and if the structure has a reasonable value, then it is going to continue to be assessed as whatever it is.
8. **Zoning Map** - Corrected an error on map to reflect the recommendation of Commission.
11. **Zoning Change** - A request for a zoning change was submitted July 19,2019 for parcel #1529030680219, to decrease the commercial area and increase the residential area from R-3 to R-4 to allow a memory care facility. The Commission discussed the proposed changes. Commissioner Dorow brought up the Vet Clinic nearby and whether there would be any issues as far as noise.
- The Commission carried a motion to change the area which encompasses Terra Gold Farms office from Industrial-1 to Commercial-3 in the upcoming plan, to keep the Broadway Street side C-3 but the remainder of the zoning in that area, 175ft to be changed from R-3 to R-4. Motion introduced by Chris Dorow. Motion was seconded by Brian Gentry. Vote was 4-0 in favor; motion passed.

#### **OTHER BUSINESS:**

Vacant Residential Land - Ms. Henning went through the map and showed the Commission the only vacant land available. She also went through the requirements of an annexation.

Special Meeting -The Commission requested a special meeting to finish the rest of the items and move forward in presenting it to Council. The meeting was scheduled for August 27, 2019 at 6 pm.

**ADJOURNMENT**

Having no other business, the meeting was adjourned at 8:18 pm. Next scheduled meeting is a special meeting Monday, August 27, 2019.

\_\_\_\_\_ Date: \_\_\_\_\_  
Roger Ens, Chair

\_\_\_\_\_ Date: \_\_\_\_\_  
Jackee Carlson, Planning Secretary



City of Othello  
Planning Commission  
Special Meeting August 27, 2019  
Jackee Carlson

### **CALL TO ORDER**

Chair Roger Ensz called the meeting to order at 6:03 pm.

### **ROLL CALL**

**Commissioners Present:** Chris Dorow, Roger Ensz, Brian Gentry, Tari Perez, Kevin Gilbert

**Absent:**

**Staff:** Community Development Director Anne Henning, Building & Planning Secretary Jackee Carlson

**Attendees:**

Quorum Established.

### **ZONING TEXT**

1. **Using Commercial Lots to Display Merchandise** - Ms. Henning looked at other cities and could not find anyone that allowed just a display without an associated business. She gave the Commission a list of the cities she had looked at and stated she did not see a reason to allow it and felt like there were too many potential problems in allowing it. The Commission had a brief discussion, they agreed with the staff recommendation. The Commission supported the letter which had been sent to Oscar Garza about the shed sales business. They were in favor of requiring a building for a business and felt display-only was equivalent to a billboard, which is prohibited.
2. **17.30.030 Vehicle Sales Lot** – Development standards for vehicle sales lot in 17.61 should be referenced in the use table for 17.30.030.

### **ZONING MAP**

3. Ms. Henning stated that at the last meeting, the Council wanted the existing lots to stay R-2 rather than change to R-3, along 4<sup>th</sup> Ave between Fir St. and Olympia St.
4. The Commission discussed the property owned by the School District along Lee Rd. Ms. Henning stated its designated in the Comprehensive Plan as Light Industrial and zoned Open Space Reserve until utilities are ready. In order to zone it for a school, there would need to be a Comprehensive Plan change. After a brief discussion, the Commission supports what is currently in the Comprehensive Plan for that area to remain zoned Industrial.
5. The Commission had previously discussed available vacant residential land. Ms. Henning went over the growth area map with them. Commissioner Dorow thought the Council would be concerned with the proposed zone changes near Kiwanis Park. They discussed the previous changes and agreed they were ready to present them to the Council as is.

6. Alley Setback for Residential – At the last study session, it was noted that a building right at the rear property line impacts use of the alley, Ms. Henning brought up the idea of having a 10' setback from the centerline of the alley and the Commission agreed with her.

The Commission had also asked about fence requirements. Commissioner Enszt stated he would like to see the setback be 10' from centerline of alley. They would like to see this added to the Fence chapter.

7. Minimum Apartment Size in Commercial – Ms. Henning verified the consensus of the Commission was to remove this standard from zoning and just use building codes.
8. Landscape Installation – The Commission decided to leave it as previously recommended, within one year of occupancy for single family development.
9. Occupying RV in an RV Park – The Commissioners had previously determined not to have a designated length of stay, but to use language similar to the City of Quincy, which does not allow permanent occupancy or external appurtenances such as carports or decks. They would also like for the use to return to requiring a conditional use permit, as it currently is, rather than outright permitted as propped in the original draft.
10. City Attorney Recommendations – Ms. Henning stated she added in what was previously discussed.
11. Site-Specific Rezone – Ms. Henning briefly went over the changes previously discussed at the August 19 meeting.
12. Zoning Map – The Commission had previously discussed the request from Terra Gold Farms for zoning changes to parcel #1529030680219, to both decrease the commercial area and increase the residential area, as well as rezone the resulting residential area from R-3 to R-4 to allow a memory care facility. The Police Chief brought up the ammonia issue, whereas you get residential closer to industrial it could create future problems by moving them closer together. After a discussion the Commission agreed to leave it as previously recommended, since ammonia and other industrial hazards impact a large area, while the proposed change in zoning boundary is only 300', so there is little increase in the hazard.

**The Commission carried a motion to propose all the Zoning changes made in the last two meetings to the Council. Motion introduced by Kevin Gilbert. Motion was seconded by Brian Gentry. Vote was 5-0 in favor; motion passed.**

#### **COUNCIL/COMMISSION STUDY SESSION**

The Commission tentatively scheduled the study session for Monday, September 9, 2019 following the regularly scheduled Council Meeting. Ms. Henning will check on the agenda to see if the date works.

#### **ACCESSORY DWELLING UNITS – RECOMMENDATION TO COUNCIL**

The Commission voted to rescind their July 15 recommendation on the Accessory Dwelling Unit ordinance at the August 19 meeting. They wanted to further discuss the ordinance before it was recommended to the Council. They reviewed the ordinance and discussed the following:

**17.63.030 Development Standards**

(f) The Commission would like to see a separate water meter for each residence, rather than having a shared one, as they would if the ADU was entirely contained within the primary residence.

(d) 17.61 Off Street Parking Requirements – 2 off-street spaces for the 1<sup>st</sup> bedroom, 1 on-or off-street space for each additional bedroom. The Commission discussed this and would like to see 2 spaces for the first two bedrooms and 1 additional off-street parking for each additional bedroom after two.

(e) The minimum setback of an ADU from an alley shall be five feet – leave as is.

**Owner Occupancy** – The Commission agreed to once again include the owner occupancy requirement for R-2.

**The Commission carried a motion to propose the changes discussed for the Accessory Dwelling Unit Ordinance to the Council a future study session. Motion introduced by Brian Gentry. Motion was seconded by Chris Dorow. Vote was 5-0 in favor; motion passed.**

**OTHER BUSINESS:**

None

**ADJOURNMENT**

Having no other business, the meeting was adjourned at 7:48 pm. Next regular meeting is Monday, September 16, 2019.

\_\_\_\_\_  
Roger Ensz, Chair

Date: \_\_\_\_\_

\_\_\_\_\_  
Jackee Carlson, Planning Secretary

Date: \_\_\_\_\_



TO: Planning Commission

FROM: Anne Henning, Community Development Director

MEETING: September 16, 2019

SUBJECT: OMC 14.04, Building Codes

The State of Washington adopts Building Codes from the International Code Council, with some state amendments. The State Building Code includes the International Residential Code, Fire Code, Mechanical Code, Energy Code, etc. in addition to the International Building Code. Altogether, these are known as the State Building Code. The City adopts the State codes, with some local amendments, such as replacing the Board of Appeals with the Hearing Examiner. The International Codes are updated every three years. Over time, as sections of the IBC, etc. are added, deleted, and modified, there are some mismatches, both in code numbers and in content. The code adoption sections of OMC 14.04 have not been updated since 2007, so some changes are needed. Most of the changes are in the nature of housekeeping (updating the specific code number cited) but some have policy implications.

#### **Staff Comments**

1. 14.04.020(a)(1): The Sign Design appendix is not needed. Othello has adopted sign regulations into the Municipal Code, and structural elements are regulated by the building code. The Building Inspector recommends adoption of the Patio Cover appendix.
2. 14.04.020(a)(2): The Sewer chapter is not needed. The state excludes IRC Chapters 25 to 43, which are plumbing and electrical chapters. Chapter 30, like the rest of Chapter 24 to 33, is covered by the Uniform Plumbing Code. It is unknown why this chapter was specifically listed in the past. The Building Inspector recommends adoption of the Patio Cover and Home Day Care chapters.
3. 14.04.020(a)(3): Appendices A and I do not need to be adopted by Othello. The State already adopts A, B, and I.
4. 14.04.020(b)(4): The Building Inspector and Code Enforcement Officer recommend that we adopt the International Property Maintenance Code. This would give staff an additional tool for ensuring that all buildings, including dwelling units and commercial structures, are adequately maintained and repaired, before they get to the point of being classified as a dangerous building (which can then be addressed through the adopted Abatement of Dangerous Buildings code). The contents of this code are available for free online at <https://codes.iccsafe.org/content/IPMC2015> and the first section is attached to this staff report.
5. 14.04.030(a) & (c): The building codes allow building permit exemptions for detached accessory structures under 200 SF (commercial) and 120 SF (residential), fences under 7', retaining walls under 4', water tanks on grade under 5000 gallons, and sidewalks and driveways. The OMC section proposed to be deleted currently has the effect of requiring a building permit for all of these structures. Note that it does not eliminate non-building

permits for these items, such as a fence permit for a fence or a ROW permit for a driveway cut.

6. 14.04.030(b): There are building projects that could be under \$500 but for which a building permit should still be required, such as changing a window or door. Without a permit and review, egress could be affected and safety could be compromised.
7. 14.04.030(d): Valuation calculation is addressed in Resolution 2019-06, which sets building permit fees and valuations.
8. 14.04.030(f): Per the Building Inspector, this section is not needed. The existing International Fuel Gas Code provision is sufficient.
9. 14.04.030(g) (formerly (h)): The Building Inspector recommends adding a section to address manufactured accessory structures, such as pre-made sheds.
10. 14.04.030(h) (formerly (i)): This section is proposed to be modified to be consistent with the other existing adopted Appeal sections for the other codes.
11. 14.04.030(k) (formerly l), LPG: The LPG chapter of the 2015 IFC is not Chapter 38, it is Chapter 61 and is adopted by the state so doesn't need to be specifically adopted locally. Therefore, it can be removed from the ordinance.
12. 14.04.030(k) (formerly l), 503.1.3 Similar to the other portions of this section, IFC section 503.1.3 (high piled storage) is excluded by the state amendments, so Adams County Fire Chief recommends that it should be added back in locally.
13. There are currently no changes proposed after 14.04.040; however, the whole chapter is provided for context and review.

#### **Attachments**

- Draft amendments to the Building Codes ordinance, OMC 14.04
- International Property Management Code Chapter 1, Scope and Administration

**Action:** The Planning Commission should review the proposed changes to OMC 14.04. Once the Commission is satisfied with the amendments, they should make a recommendation to the City Council.

## Chapter 14.04

### BUILDING CODES

Sections:

- 14.04.010 Short title.
- 14.04.020 Standard codes adopted.
- 14.04.030 Amendments.
- 14.04.040 Other code amendments.
- 14.04.050 Administration and enforcement official.
- 14.04.060 Compliance required.
- 14.04.070 Unplatted areas.
- 14.04.080 Platting deemed insufficient—When.
- 14.04.090 Violation—Penalty.
- 14.04.100 Fee refunds.
- 14.04.110 Fees.
- 14.04.120 Investigation fees—Work without a permit.

**14.04.010 Short title.**

This chapter shall be known as the building code of the city of Othello. (Ord. 946 § 2 (part), 1995).

**14.04.020 Standard codes adopted.**

(a) Pursuant to Chapters 19.27 and 35A.12 RCW, the State Building Code is established. The following appendices to the State Building Code are adopted for use within the city:

(1) The following International Building Code appendices:

- (A) Appendix A (Employee Qualifications);
- (B) Appendix ~~H (Sign Design)~~ I (Patio Covers); and
- (C) Appendix J (Grading).

(2) The following International Residential Code sections:—

~~Chapter 30 (Sewers), is hereby adopted.~~

(A) Appendix H (Patio Covers); and

(B) Appendix M (Home Day Care).

(3) ~~Appendices A (Water Pipe Size), Appendix E (R.V. Parks), and I (Standards),~~ to the Uniform Plumbing Code, most recent edition.

(4) International Fire Code, Appendices B (Fire Flow), C (Hydrants), and D (Access).

(b) Additionally, the following codes are adopted. Those codes and the State Building Code are to be administered, subject to the modifications and/or amendments set forth in Sections 14.04.030 and 14.04.040:

- (1) The Uniform Code for the Abatement of Dangerous Buildings published by the International Conference of Building Officials, most current edition;
- (2) The Uniform Housing Code published by the International Conference of Building Officials, most current edition;
- (3) The International Existing Building Code published by the International Code Council, most current edition.

(4) The International Property Maintenance Code published by the International Code Council, most current edition.

In case of conflict among the codes enumerated in subsections (b)(1), (2), and (3) of this section, the first named code shall govern over those following. (Ord. 1243 § 1 (part), 2007: Ord. 946 § 2 (part), 1995).

**14.04.030 Amendments.**

The following amendments to the State Building Code are adopted and apply within this jurisdiction:

(a) ~~Sections 105.2.1 through 105.2.5 of the IBC and IRC are not adopted.~~

(b) ~~Sections 105.2(1), of the IBC and the IRC, are amended to read as follows:~~

~~Projects with a total value under \$500.~~

(c) ~~Section 105.2(6) of the IBC and Section 105.2(5) of the IRC are amended to read as follows:~~

~~105.2(6) (IBC) and 105.2(5) (IRC). Sidewalks and driveways more than 13 ft from curb, decks and patios with no roof, retaining walls when not more than 30 inches above finished grade.~~

(d) ~~Sections 108.3, 109.3 of the IBC and 108.3 the IRC, are amended to read as follows:~~

~~109.3/108.3. Building Permit Valuations. The determination of value or valuation under any of the provisions of this code shall be made by the building official. The value to be used in computing the building permit and building plan review fees shall be the total value of all construction work for which the permit is issued, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and any other permanent equipment.~~

(e) ~~Section 112.1~~ 113 of the IBC and Section R112 of the IRC are replaced with the following:

Sec 113/112.1 (a) General. All references to a Board of Appeals in this code are replaced with references to the city's Hearing Examiner. The Hearing Examiner shall hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code. Any request for an appeal shall be accompanied by the required fees for the Hearing Examiner as established in other ordinances of the city. The Hearing Examiner shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official.

~~(f) Section 621.2 of the International Fuel Gas Code is amended to read as follows:~~

~~(a) Prohibited use. Unvented gas appliances shall not be used as the source of comfort heating.~~

(b) Limitations of Authority. The Hearing Examiner shall have no authority relative to interpretation of the administrative provisions of this code nor shall the Hearing Examiner be empowered to waive requirements of this code.

~~(f)(g)~~ There are created new Sections ~~116~~ 117 to the IBC and the IRC to provide as follows:

~~116~~ 117. No person shall move any existing building or structure within or into the City without first obtaining from the Planning Department a relocation permit and a building permit. No person shall effect any demolition of any building or structure or any part thereof which is not exempted by Section 105.2 of the International Building Code without first obtaining from the Planning Department a demolition permit.

~~(g)(h)~~ There are created new Sections ~~117~~ 118 to the IBC and the IRC to provide as follows:

118. Manufactured Structures.

118.1 Manufactured Home or Mobile Home Placement Permit: No person, firm, or corporation as the owner, buyer, or vendor of a manufactured home or as manufactured home park management shall cause or permit any manufactured home to be located, placed or set within the corporate limits of the city without first having secured a proper manufactured home placement permit.

118.2 Manufactured Accessory Structures. Manufactured structures over 120 square feet in Residential Zones and over 200 square feet in Commercial or Industrial Zones shall be required to obtain a building permit. Manufactured accessory structures shall meet building codes and zoning codes. A manufactured accessory structure shall not be used as a dwelling.

~~(h)(i)~~ ~~WAC 51-56-008 adopting~~ Section ~~102.4~~ 107.0 of the Uniform Plumbing Code is replaced with the following new subsection:

102.4 Appeals. All references in this Code to the Board of Appeals shall be deemed to refer to the Hearing Examiner of the City of Othello. The Hearing Examiner shall perform the function of the Board of Appeals. Any request for an appeal shall be accompanied by the required fees for the Hearing Examiner as established in other ordinances of the city. ~~Appeals to the Hearing Examiner shall be processed in accordance with the provisions contained in Section 102.4 of this Code.~~ The Hearing Examiner may adopt rules of procedure for conducting his business. Such rules of procedure shall be available to the public upon request. All decisions shall be in writing and shall be delivered to the appellant as well as to the city. The Hearing Examiner shall have no authority relative to interpretation of the administrative provisions of this code, nor shall the Hearing Examiner be empowered to waive requirements of this code.

~~(i)(i)~~ Notwithstanding any provision of the International Building Code or the International Residential Code to the contrary, a certificate of occupancy must be issued or deemed to have been issued by the building official prior to the use or occupancy of any building, residential, commercial or industrial. The building official may or may not actually issue a certificate of occupancy, but all conditions precedent to the issuance of such a certificate are prerequisites to the occupancy of a structure. The failure to obtain a certificate of occupancy shall be grounds for the termination of all utility services to any structure in violation of this requirement. It shall not be deemed to be compliance with the requirement to obtain a certificate of occupancy to have substantially complied with a building permit or other conditions related to the building, remodeling or occupancy of a structure. The building official shall determine when a structure is eligible to be issued a certificate of occupancy. If a structure owner disputes the building official's decision not to issue a certificate of occupancy, that owner may appeal to the hearing examiner. Such appeal must be in writing and within ten days of the determination of the building official. Any building which is occupied without a certificate of occupancy shall not be permitted to receive city services. The water service shall be terminated. If any occupancy or use continues after termination of the water service, the public works director may terminate the sewer service of the structure by physically disconnecting the lateral from the sewer main. Any costs to reestablish water or sewer service to the building shall be the responsibility of the property owner. The city shall provide notice, oral or written, to any tenant, or if there is no tenant an attempt shall be made to provide notice, oral or written, to the owner prior to termination of water service. Any person who wishes to contest this termination of utility services may appeal to the city administrator. The city administrator, or the administrator's designee, shall conduct a hearing on the matter within three business days.

~~(j)(k)~~ The roof snow load for purposes of the building code is determined to be thirty pounds per square foot. Ice shield is required on all eaves plus two (2) feet up the roof slope when over an exterior wall ~~framed with two by four studs.~~

~~(k)(l)~~ International Fire Code, ~~Chapter 38 (LPG)~~, Sections 503.1.1, 503.1.2, 503.3.2, 503.3, and 503.4 (fire lanes) are adopted and apply in this jurisdiction. A new Section 506.3 of the International Fire Code shall be adopted to read: "An approved key box shall be required for an existing building undergoing a remodel, upgrade, or change of use, that has a fire protection system, fire alarm system, or when deemed necessary by the fire code official."

~~(l)(m)~~ Section ~~109.3~~ 109.4 of the International Fire Code is amended to provide:

~~109.3~~ 109.4 Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a civil infraction, subject to a civil penalty of one thousand dollars. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Ord. 1243 § 1 (part), 2007; Ord. 1157 § 1, 2003; Ord. 999 § 1, 1997; Ord. 946 § 2 (part), 1995).

**14.04.040 Other code amendments.**

The following amendments to the various codes adopted in Section 14.04.020 are adopted and apply within this jurisdiction:

(a) Section 205 of the Uniform Code for the Abatement of Dangerous Buildings is replaced with the following new subsection:

205. All references in this Code to the Board of Appeals shall be deemed to refer to the Hearing Examiner of the City of Othello. The Hearing Examiner shall perform the function of the Board of Appeals. Any request for an appeal shall be accompanied by the required fees for the Hearing Examiner as established in other ordinances of the city. Appeals to the Hearing Examiner shall be processed in accordance with the provisions contained in Section 501 of this Code. The Hearing Examiner may adopt rules of procedure for conducting his business. Such rules of procedure shall be available to the public upon request. All decisions shall be in writing and shall be delivered to the appellant as well as to the city.

(b) Section 701.2 of the Uniform Code for the Abatement of Dangerous Buildings is amended to provide:

701.2 Failure to Obey Order. If, after any order of the building official or board of appeals made pursuant to this code has become final, the person to whom such order is directed, shall fail, neglect or refuse to obey such order, the building official may (i) cause such person to be prosecuted under Section 701.1 or (ii) institute any appropriate action to abate such building as a public nuisance. For purposes of enforcement under (B) (ii) of this section, the abatement provisions of either RCW Chapter 7.48 or RCW Chapter 35.80 may be employed by the city. Any costs incurred by the city in such abatement shall become a lien against the property where the building is located as provided in RCW 35A.60.010.

(c) Section 203(1) of the Uniform Housing Code is replaced with the following new subsection:

203(1). All references in this Code to the Housing Advisory and Appeals Board shall be deemed to refer to the Hearing Examiner of the City of Othello. The Hearing Examiner shall perform the function of the Board of Appeals. Any request for an appeal shall be accompanied by the required fees for the Hearing Examiner as established in other ordinances of the city. Appeals to the Hearing Examiner shall be processed in accordance with the provisions contained in Section 1201 of this Code. The Hearing Examiner may adopt rules of procedure for conducting his business. Such rules of procedure shall be available to the public upon request. All decisions shall be in writing and shall be delivered to the appellant as well as to the city.

(d) Section 108 of the International Fire Code is replaced with the following new subsection:

108. All references in this Code to the Board of Appeals shall be deemed to refer to the Hearing Examiner of the City of Othello. The Hearing Examiner shall perform the function of the Board of Appeals. Any request for an appeal shall be accompanied by the required fees for the Hearing Examiner as established in other ordinances of the city. Appeals to the Hearing

Examiner shall be processed in accordance with the provisions contained in Section 108 of this Code. The Hearing Examiner may adopt rules of procedure for conducting his business. Such rules of procedure shall be available to the public upon request. All decisions shall be in writing and shall be delivered to the appellant as well as to the city.

- (e) Section 109 of the International Mechanical Code is replaced with the following new subsection:

109. All references in this Code to the Board of Appeals shall be deemed to refer to the Hearing Examiner of the City of Othello. The Hearing Examiner shall perform the function of the Board of Appeals. Any request for an appeal shall be accompanied by the required fees for the Hearing Examiner as established in other ordinances of the city. Appeals to the Hearing Examiner shall be processed in accordance with the provisions contained in Section 109 of this Code. The Hearing Examiner may adopt rules of procedure for conducting his business. Such rules of procedure shall be available to the public upon request. All decisions shall be in writing and shall be delivered to the appellant as well as to the city.

- (f) Section 112 of the International Existing Building Code is replaced with the following new subsection:

112. All references in this Code to the Board of Appeals shall be deemed to refer to the Hearing Examiner of the City of Othello. The Hearing Examiner shall perform the function of the Board of Appeals. Any request for an appeal shall be accompanied by the required fees for the Hearing Examiner as established in other ordinances of the city. Appeals to the Hearing Examiner shall be processed in accordance with the provisions contained in Section 112 of this Code. The Hearing Examiner may adopt rules of procedure for conducting his business. Such rules of procedure shall be available to the public upon request. All decisions shall be in writing and shall be delivered to the appellant as well as to the city.

- (g) There is created a new Section ~~1203~~ 1303 of the International Existing Building Code to read as follows:

~~1203.1~~ 1303.1 Except as otherwise provided in this chapter there shall not be issued a relocation permit for any building or structure which is included within any one or more of the following categories:

1. So constructed or in such condition as to constitute a danger of injury or death through collapse of the building, fire, defects, and electrical wiring or other substantial hazard to the persons who occupy or enter said building after relocation;
2. Infested with rats or other vermin, or the wood members of which are infested with rot, decay or insects;
3. So unsanitary or filthy that it would constitute a hazard to the health of the persons who will occupy said building after relocation, or, if not intended for occupancy by human beings, would make it unsuitable for its intended use;
4. In such condition or of a type, character, size or value, and is so inharmonious with other buildings in the neighborhood of the relocation site that placing the building at the proposed relocation site would substantially diminish the value of other property or improvements in the district into which the building is to be relocated;
5. The proposed use of the building is prohibited at the proposed relocation site under any zoning ordinance or other land use ordinance of this city;
6. The building, structure or relocation site does not conform to all applicable provisions of law or ordinance.

~~1203.2~~ 1303.2 Application for Relocation Permit: Every application for a relocation permit shall be in writing upon a form furnished by the Planning Department, and shall set forth such

information as may reasonably be required in order to carry out the purposes of this chapter. Such information may include but is not limited to:

1. A report of a pre-move inspection and investigation of the structure by the Planning Department;
2. Photographs of the building or structure to be moved;
3. Report from a licensed pest control contractor stating the condition of the building as to pest infestation;
4. Report from a registered engineer or architect stating the structural condition of the building and clearly indicating the steps to be taken to preserve/enhance said condition.

~~1203.3~~ 1303.3 Correction of Defects Before Issuance of Permit: If the building or structure to be moved fails to meet any of the standards set forth in this chapter, but it appears to the Building Official that the deficiencies can be corrected, the permits shall be issued only on condition that all deficiencies be corrected prior to the building being moved.

~~1203.4~~ 1303.4 In order to determine any matter regarding relocation of a building or structure, the Building Official may cause any investigation to be made which he/she believes necessary.

~~1203.5~~ 1303.5 Terms and Conditions of Issuance: In granting a relocation permit, the Building Official may impose such terms and conditions as are necessary, in the opinion of the Building Official, to ensure that its relocation will not be materially detrimental or injurious to the public safety or welfare or to the property or improvements in the district to which the building is to be moved, including, but not limited to, changes, alterations, additions or repairs to the building or structure.

~~1203.6~~ 1303.6 Application Fee: The fee for relocation investigation service shall be a one hundred fifty dollar (\$150) base fee, plus twenty-five dollars (\$25) for every ten (10) miles distance, or increment thereof, outside city limits.

1. In the event a building permit is issued for a relocated building, the fees for the building permit and plan review shall be based upon the total value of the building or structure at its relocated site, using the same valuation formula as used for new residential construction.

~~1203.6~~ 1303.7 Expiration: A relocation permit shall expire and become null and void if the moving of the building or structure onto a permanent foundation is not completed within ninety (90) days from the date of issuance of the permit.

~~1203.7~~ 1303.8 Debris and Excavations: It shall be the duty of any person to whom any permit is issued for the demolition or removal of any building or any section or portion of any building pursuant to the provisions of Chapter 14.04, and of any person leasing, owning, or occupying or controlling any lot or parcel of ground from which a building is removed or demolished, to remove all demolition rubble and loose miscellaneous material from such lot or parcel of ground, to properly cap the sanitary sewer connections, and to properly fill or otherwise protect all basements, cellars, septic tanks, wells and other excavations, within thirty (30) days after the house is raised from the foundation.

1. An inspection after the work is completed will be required.

~~1203.8~~ 1303.9 Relocation bond – Required: No relocation permit required by Chapter 14.04 shall be issued by the Planning Department unless the applicant therefore first posts a bond, in a form approved by the City Attorney, executed by the owner of the premises where the building or structure is to be located as principal, and a surety company authorized to do business in the State as surety. The bond shall be in form joint and several, shall name the city



as obligee, and shall be in an amount equal to one hundred fifty percent (150%) of the work required to be done in order to comply with all the conditions of such relocation permit as such cost is established by the Building Official. In lieu of a surety bond, the applicant may post a bond executed by the owner as principal and which is secured by a deposit in cash in the amount specified above with a banking or escrow agent acceptable to the city, and conditioned as required in the case of a surety bond; such a bond as so secured is hereafter called a "cash bond" for the purposes of Chapter 14.04.

~~1203.9~~ 1303.10 Relocation bond – Conditions: Every bond posted pursuant to Chapter 14.04 shall be conditioned as follows:

1. That each and all of the terms and conditions of the relocation permit shall be complied with to the satisfaction of the Building Official;
2. That all of the work required to be done pursuant to the conditions of the relocation permit shall be fully performed and completed within the time limit specified in the relocation permit; or, if no time limit is specified, within ninety (90) days after the date said building is moved to the new location. The time limit herein specified, or the time limit specified in any permit, may be extended for good and sufficient cause by the Building Official. No such extension of time shall be valid unless written, and no such extension shall release any surety upon any bond.

~~1203.10~~ 1303.11 Relocation bond – Default in performance of conditions:

1. Whenever the Building Official finds that a default has occurred in the performance of any term or condition of any permit required by Chapter 14.04, written notice thereof shall be given to the principal and to the surety of the bond. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed by the Building Official to be reasonably necessary for the completion of such work. After receipt of such notice, the surety must, within the time therein specified, either cause the required work to be performed or, failing therein, must pay over to the city the full amount of the approved bond. Upon receipt of such funds, the Building Official shall proceed by such mode as he deems convenient to cause the building or structure to be demolished and to clear, clean and restore the site to a natural condition, but no liability shall be incurred therein other than for the expenditure of the sum in hand therefor.
2. When any default has occurred on the part of the principal under the preceding provisions, the surety shall have the option, in lieu of completing the work required, to demolish the building or structure and to clear, clean and restore the site to a natural condition.

~~1203.11~~ 1303.12 Relocation Bond – Refund of Surplus on Termination: The term of each bond posted pursuant to Chapter 14.04 shall begin upon the date of the posting thereof, and shall end upon completion to the satisfaction of the Building Official of the performance of all the terms and conditions of the relocation permit required by this section and release of the bond by the Building Official. Such completion and release shall be evidenced by a statement thereof signed by the Building Official, a copy of which will be sent to the surety or principal upon request. When a cash bond has been posted, the cash shall be returned to the depositor or his successors or assignees upon the termination of the bond, except any portion thereof that may have been used or deducted as provided elsewhere in Chapter 14.04.

(Ord. 1243 § 1 (part), 2007; Ord. 946 § 2 (part), 1995).

#### **14.04.050 Administration and enforcement official.**

The State Building Code and this code shall be administered and enforced by the building official of the city of Othello. Those portions of the International Fire Code adopted by the State Building Code shall be enforced by the fire chief of the department providing fire suppression services to the city. (Ord. 1243 § 1 (part), 2007; Ord. 946 § 2 (part), 1995).

**14.04.060 Compliance required.**

It is unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure in the city, or cause the same to be done, contrary to or in violation of any of the provisions of the State Building Code or this chapter. (Ord. 946 § 2 (part), 1995).

**14.04.070 Unplatted areas.**

Building permits shall be issued only for structures located within recorded plats except as provided in this chapter.

(a) Building permits may be issued in unplatted areas, only in the following cases:

- (1) Remodeling of an existing building which conforms to the current zoning; and provided further, that notwithstanding the provisions of subsection (b) of this section, the building official may issue a building permit for a remodel which does not increase the size or estimated assessed value of the existing structure by more than five percent and such a building permit may be issued by the building official only once during the lifetime of the structure;
- (2) Construction of a temporary structure; or
- (3) For the construction of buildings on not more than twenty-five percent of the lots designated in an approved preliminary plat subject to proof of fire protection and approved construction drawings. Proof of fire protection of combustible materials shall be established by location of the proposed structure within three hundred feet of an approved fire hydrant and existence of a street of no less than twenty feet in width improved with no less than six inches of gravel base. No building so constructed shall be occupied or be entitled to receive city water, sewer or other utilities until:
  - (A) The plat where the building is located has been fully approved by the city council and filed with the Adams County auditor; and
  - (B) Construction and acceptance by the city of all utilities and improvements to serve the building.

(b) No building permit or other development permit shall be issued for any lot, tract or parcel of land divided in violation of Chapter 58.17 RCW or the platting ordinances and regulations of the city. No building permit or other development permit shall be issued for any unplatted property not otherwise permitted to be issued a building permit unless the city council finds that the public interest will not be adversely affected by the issuance of such a permit. The standards to determine if the public interest will be adversely affected includes but is not limited to consideration of the installation or existence of adequate sewer and water, conformance to lot size requirements, existence of street, sidewalk and curb improvements, all as respects the proposed building site and the surrounding area. The council may condition the issuance of a building permit on unplatted land on the installation or completion of such utility, street and sidewalk improvements as the council upon recommendation of staff shall deem appropriate. The council shall make the grant of the privilege to build on unplatted land personal to the applicant and such privilege shall expire if a building permit is not obtained within thirty days of the adoption of the resolution provided for herein. The council shall only direct the issuance of such a permit by a resolution of the council.

(c) Building permits shall not be issued for any structure located within a preliminary plat except as provided for in this chapter. (Ord. 1114 § 1, 2001: Ord. 946 § 2 (part), 1995).

**14.04.080 Platting deemed insufficient—When.**

Property located within the city which is presently platted and which property was platted without the extension or of provision of city water, city sewer, storm sewer, curb, sidewalk, streets or other improvements through some or all the lots of the plat shall be deemed to be unplatted for purposes of the issuance of any development permit or building permit. Any lot so affected shall be permitted to develop and a building permit will be issued upon the installation of city water, city sewer, storm drains, curbs, sidewalks, streets and other improvements to community standards, including fire protection devices, or upon the posting of security in an amount approved by the city, which is equal to the estimated cost of the extensions and/or improvements remaining to be installed through the lot, in a form acceptable to the city attorney to insure the construction of the required improvements and extensions at

the same time as construction of the building for which the building permit was issued or at the time of the improvement of the affected lot. (Ord. 946 § 2 (part), 1995).

**14.04.090 Violation—Penalty.**

Notwithstanding the provisions of the State Building Code, any person, firm or corporation violating any of the provisions of the State Building Code or this chapter is deemed to have committed a civil infraction punishable by a penalty of one thousand dollars together with all penalties and assessments. (Ord. 946 § 2 (part), 1995).

**14.04.100 Fee refunds.**

The building official may authorize the refunding of:

- (a) One hundred percent of any fee erroneously paid or collected.
- (b) Up to eighty percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.
- (c) Up to eighty percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done. The building official shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than one hundred eighty days after the date of fee payment. (Ord. 1243 § 2 (part), 2007).

**14.04.110 Fees.**

All fees for permits issued pursuant to this chapter shall be established by a resolution of the city council unless otherwise provided for in this code. (Ord. 1243 § 2 (part), 2007).

**14.04.120 Investigation fees—Work without a permit.**

- (a) Investigation. Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.
- (b) Fee. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this code. The minimum investigation fee shall be the same as the minimum fee set forth in the resolution adopting fees for permit issued pursuant to this chapter. This fee is an additional, punitive fee and shall not apply to any permit fee that may subsequently be issued. Payment of the investigative fee does not vest the illegal work with any legitimacy, nor does it establish any right to a permit for continued development of that project. If the work done remains illegal for ninety days after service of the stop work order, it shall be considered hazardous.
- (c) Payment. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law. (Ord. 1243 § 2 (part), 2007).



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# CHAPTER 1

## SCOPE AND ADMINISTRATION

### PART 1 — SCOPE AND APPLICATION

#### SECTION 101 GENERAL

[A] **101.1 Title.** These regulations shall be known as the *International Property Maintenance Code* of [NAME OF JURISDICTION], hereinafter referred to as “this code.”

[A] **101.2 Scope.** The provisions of this code shall apply to all existing residential and nonresidential structures and all existing *premises* and constitute **minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, a reasonable level of safety from fire and other hazards, and for a reasonable level of sanitary maintenance**; the responsibility of *owners*, an owner’s authorized agent, *operators* and *occupants*; the *occupancy* of existing structures and *premises*, and for administration, enforcement and penalties.

[A] **101.3 Intent.** This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued *occupancy* and maintenance of structures and *premises*. **Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.**

[A] **101.4 Severability.** If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

#### SECTION 102 APPLICABILITY

[A] **102.1 General.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

[A] **102.2 Maintenance.** Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or *premises* was constructed, altered or repaired shall be maintained in good working order. No *owner*, owner’s authorized agent, *operator* or *occupant* shall cause any service, facility, equipment or utility that is required under this section to be removed from, shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not

intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the *owner* or the *owner’s* authorized agent shall be responsible for the maintenance of buildings, structures and *premises*.

[A] **102.3 Application of other codes.** Repairs, additions or alterations to a structure, or changes of *occupancy*, shall be done in accordance with the procedures and provisions of the *International Building Code*, *International Existing Building Code*, *International Energy Conservation Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Residential Code*, *International Plumbing Code* and NFPA 70. Nothing in this code shall be construed to cancel, modify or set aside any provision of the *International Zoning Code*.

[A] **102.4 Existing remedies.** The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure that is dangerous, unsafe and insanitary.

[A] **102.5 Workmanship.** Repairs, maintenance work, alterations or installations that are caused directly or indirectly by the enforcement of this code shall be executed and installed in a *workmanlike* manner and installed in accordance with the manufacturer’s instructions.

[A] **102.6 Historic buildings.** The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings where such buildings or structures are judged by the *code official* to be safe and in the public interest of health, safety and welfare.

[A] **102.7 Referenced codes and standards.** The codes and standards referenced in this code shall be those that are listed in Chapter 8 and considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.7.1 and 102.7.2.

**Exception:** Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

[A] **102.7.1 Conflicts.** Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

[A] **102.7.2 Provisions in referenced codes and standards.** Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

[A] **102.8 Requirements not covered by code.** Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the pub-



lic safety, health and general welfare, not specifically covered by this code, shall be determined by the *code official*.

**[A] 102.9 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.

**[A] 102.10 Other laws.** The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

## PART 2 — ADMINISTRATION AND ENFORCEMENT

### SECTION 103 DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION

**[A] 103.1 General.** The department of property maintenance inspection is hereby created and the executive official in charge thereof shall be known as the *code official*.

**[A] 103.2 Appointment.** The *code official* shall be appointed by the chief appointing authority of the jurisdiction.

**[A] 103.3 Deputies.** In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the *code official* shall have the authority to appoint a deputy(s). Such employees shall have powers as delegated by the *code official*.

**[A] 103.4 Liability.** The *code official*, member of the board of appeals 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 civilly or criminally liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties.

**[A] 103.4.1 Legal defense.** Any suit or criminal complaint instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The *code official* or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

**[A] 103.5 Fees.** The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the following schedule.

**[JURISDICTION TO INSERT APPROPRIATE SCHEDULE.]**

### SECTION 104 DUTIES AND POWERS OF THE CODE OFFICIAL

**[A] 104.1 General.** The *code official* is hereby authorized and directed to enforce the provisions of this code. The *code official* shall have the authority to render interpretations of this code and to adopt policies and procedures in order to

clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

**[A] 104.2 Inspections.** The *code official* shall make all of the required inspections, or shall accept reports of inspection by *approved* agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such *approved* agency or by the responsible individual. The *code official* is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

**[A] 104.3 Right of entry.** Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the *code official* has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the *code official* is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such structure or premises is occupied the *code official* shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the *code official* shall first make a reasonable effort to locate the owner, owner's authorized agent or other person having charge or control of the structure or premises and request entry. If entry is refused, the *code official* shall have recourse to the remedies provided by law to secure entry.

**[A] 104.4 Identification.** The *code official* shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

**[A] 104.5 Notices and orders.** The *code official* shall issue all necessary notices or orders to ensure compliance with this code.

**[A] 104.6 Department records.** The *code official* shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

### SECTION 105 APPROVAL

**[A] 105.1 Modifications.** Whenever there are practical difficulties involved in carrying out the provisions of this code, the *code official* shall have the authority to grant modifications for individual cases upon application of the owner or owner's authorized agent, provided the *code official* shall first find that special individual reason makes the strict letter of this code impractical, the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

**[A] 105.2 Alternative materials, methods and equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided



that any such alternative has been *approved*. An alternative material or method of construction shall be *approved* where the *code official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. Where the alternative material, design or method of construction is not *approved*, the *code official* shall respond in writing, stating the reasons the alternative was not *approved*.

**[A] 105.3 Required testing.** Whenever there is insufficient evidence of compliance with the provisions of this code or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the *code official* shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

**[A] 105.3.1 Test methods.** Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *code official* shall be permitted to approve appropriate testing procedures performed by an *approved* agency.

**[A] 105.3.2 Test reports.** Reports of tests shall be retained by the *code official* for the period required for retention of public records.

**[A] 105.4 Used material and equipment.** The use of used materials that meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested where necessary, placed in good and proper working condition and *approved* by the *code official*.

**[A] 105.5 Approved materials and equipment.** Materials, equipment and devices *approved* by the *code official* shall be constructed and installed in accordance with such approval.

**[A] 105.6 Research reports.** Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

## SECTION 106 VIOLATIONS

**[A] 106.1 Unlawful acts.** It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

**[A] 106.2 Notice of violation.** The *code official* shall serve a notice of violation or order in accordance with Section 107.

**[A] 106.3 Prosecution of violation.** Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a *strict liability offense*. If the notice of violation is not complied with, the *code official* shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to

require the removal or termination of the unlawful *occupancy* of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such *premises* shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

**[A] 106.4 Violation penalties.** Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

**[A] 106.5 Abatement of violation.** The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal *occupancy* of a building, structure or *premises*, or to stop an illegal act, conduct, business or utilization of the building, structure or *premises*.

## SECTION 107 NOTICES AND ORDERS

**[A] 107.1 Notice to person responsible.** Whenever the *code official* determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 108.3.

**[A] 107.2 Form.** Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *dwelling unit* or structure into compliance with the provisions of this code.
5. Inform the property *owner* or owner's authorized agent of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 106.3.

**[A] 107.3 Method of service.** Such notice shall be deemed to be properly served if a copy thereof is:

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