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**COMPLIANCE DIVISION – INDUSTRIALIZED HOUSING AND BUILDINGS**

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**INDUSTRIALIZED HOUSING AND BUILDINGS – BULLETIN #04-001**

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**Areas of Authority Belonging to a Municipality – Industrialized Buildings**

This bulletin deals only with the areas of authority of a municipality for industrialized buildings – reference IHB Bulletin #00-001 for the areas of authority of a municipality for industrialized housing.

The Occupations Code, Chapter 1202, Industrialized Housing and Buildings, defines the areas of authority belonging to a municipality. Department rules 70.62 and 70.73 further define the areas of authority pertaining to site inspections.

Disagreements that cannot be resolved between the local officials and the industrialized builder (retailer/installer) shall be referred to the Department. Disagreements that cannot be resolved by the Department shall be presented to the Texas Industrialized Building Code Council. The decisions, actions, and interpretations of the Council are binding on the Department, third-party inspectors, design review agencies, manufacturers, and municipalities and other local political subdivisions.

**Section 1202.151(b) of the Occupations Code** requires that industrialized buildings installed within the jurisdiction of a municipality be constructed to meet the National Electrical Code and the applicable code group for that municipality. With the merger of the International Conference of Building Officials (ICBO) and the Southern Building Code Congress (SBCCI) into the International Code Council (ICC) there is only one code group, the International Codes. The International Codes are published by the International Code Council and are the latest editions of the Uniform Codes (published by ICBO) and the Standard Codes (published by SBCCI).

The International Codes have been adopted by the Texas Industrialized Building Code Council (Council) in accordance with **Section 1202.152 of the Occupations Code**. This section requires the Council to adopt new code editions in place of those originally adopted by the law if the Council determines that the use of the new code editions are in the public interest and consistent with the purposes of the law. The International Codes were first adopted by the Council as the replacement codes for both of the original codes groups in February 2002 (adopted as the replacement codes for parts of the Uniform Code group in February 2000). The applicable mandatory building codes for construction of new industrialized buildings are the International Building Code, the International Mechanical Code, the International Plumbing Code, the International Fuel Gas Code, the International Energy Conservation Code, and the National Electrical Code. The applicable edition of these codes can be found in Department Rules 70.100 and 70.101.

**Section 1202.252(a)(1) of the Occupations Code** gives the municipality the right to require and review, for compliance with the mandatory building codes, a complete set of design plans, specifications, and calculations marked with the stamp of the council for each installation within its corporate limits. The municipality may refuse to issue a permit if a review of the plans and specifications indicates any items that do not meet the mandatory building codes in effect at the time of construction of the industrialized building. The municipality may require correction of these items, and inspection of the corrections, as a condition for granting a permit. The municipality is not required to accept an industrialized building that does not meet the mandatory building codes in effect at the time of construction.

**Section 1202.153 of the Occupations Code** does not allow a municipality to require or enforce any local amendments to the mandatory building codes adopted by the Council. However, the municipality may make sure that the load conditions described in the plans and specifications meet the minimum loads for the area in which the unit is installed. For example, a municipality does not have to accept a unit that was designed to meet a 90 mph wind speed if the basic wind speed map in the code indicates that the municipality is located in an area where the basic wind speed is greater than 90 mph.

**Section 1202.252(a)(2) of the Occupations Code** gives the municipality the right to require that all applicable local permits and licenses are obtained before any construction begins on a building site. Contractors, electricians, and other workmen on the construction site must be licensed in accordance with the requirements of the municipality in which the industrialized building will be installed and with applicable state requirements. Department rules require that the person responsible for retailing and installing the industrialized buildings is registered with the Department as an industrialized builder.

**Section 1202.252(a)(3) of the Occupations Code** gives the municipality the right to require that all modules or modular components have an approved decal or insignia attached. IHB Bulletin #97-001 gives a description of the decals and insignia used to certify compliance with the Texas IHB law. Each separate module or modular component must have a decal or insignia attached. The location of the decal or insignia on the module or modular component must be shown on the floor plan or cover page of the approved plans. Only manufacturers that have met the requirements of the State can buy decals or insignia (Department rule 70.77). The manufacturer certifies that the module or modular component was constructed and inspected in accordance with the law and rules governing industrialized housing and buildings by attaching the decal or insignia. The control of the decals and insignia remains with the Department.

**Section 1202.1535(a) of the Occupations Code** states that a building meets a new mandatory building code or an amendment to the mandatory building code adopted by the Council if:

1. the building has an approved decal or insignia attached indicating compliance with the mandatory building codes; and
2. the building has not been altered or modified from its original construction.

A municipality may not require that these buildings meet either the current mandatory building code or building code amendment adopted by the Council or the local building code. A building that has not been maintained shall be considered altered.

**Section 1202.1535(b) of the Occupations Code** requires alterations of industrialized buildings that have an approved decal or insignia attached to be in compliance with the current mandatory building code or building code amendment adopted by the Council. A recertified unit shall have an alteration decal attached indicating compliance with the mandatory building code in accordance with Department rules 70.74 and 70.102. A building that does not conform to the original approved construction documents shall be considered altered if it has not been recertified. A municipality is not required to accept an altered industrialized building that has not been recertified.

**Section 1202.251(a) of the Occupations Code** gives the municipality the right to enforce local land use and zoning requirements, building setback requirements, side and rear yard requirements, site planning and development and property line requirements, subdivision control, and landscape architectural requirements. These local requirements and regulations and others not in conflict with the IHB law or other State law relating to transportation, erection, installation, or use, shall be reasonably and uniformly applied and enforced the same for all buildings – the municipality may not enforce different requirements for industrialized buildings. A municipality cannot limit an industrialized building to an area zoned for manufactured buildings. A municipality cannot bar an industrialized building constructed under Chapter 1202 from being placed inside city limits. A municipality can bar an industrialized building from being placed in an area zoned residential.

**Section 1202.252(a)(4) of the Occupations Code** gives the municipality the right to set procedures for inspection of the erection and installation of any industrialized building located within their jurisdiction to assure compliance with the mandatory building codes and the approved plans and specifications. These procedures may require final inspections and tests before occupancy and may require correction of code violations identified by the tests or discovered during inspections.

**Section 1202.203 of the Texas Occupations Code** gives the municipality the right to inspect the foundation system and erection and installation of the modules or modular components on the foundation system to make sure that they meet the mandatory building codes and approved plans and specifications. All construction performed on site shall be inspected by the municipal inspectors in accordance with their inspection procedures. The municipality may require repair of any items damaged during transportation on the module or modular component to be installed. The municipality may require correction of code (mandatory building codes identified in Department rules 70.100 and 70.101) violations identified on the module or modular component during the site inspections. The municipality may require correction of items that do not meet the approved plans and specifications. Construction uncovered during repairs of violations may be inspected to make sure that they meet the mandatory building codes and approved plans. The municipality cannot require removal of permanent components or construction to inspect hidden portions of the construction to make sure it meets the mandatory building codes (Department Rule 70.73, destructive disassembly). Inspection of anything visible on a module or modular component is allowed. Nondestructive disassembly (opening access panels, cover plates, etc) is allowed during inspection.

**Department rule 70.70(d)** requires a manufacturer to supply on-site construction documentation that includes the critical load points for attachment of the building to the foundation. **Department rules 70.70(e) and 70.70(f)** require a licensed engineer (or architect for buildings having one story and total floor area of 5,000 square feet or less) to design and seal the foundation system and unique on-site construction details for each industrialized building. The foundation is required to be suitable for the location where the building will be installed. The foundation design and unique on-site details are reviewed by the municipality for compliance to the mandatory building codes – review by a Texas approved design review agency is not required.

**Department rule 70.10(a)** defines a “permanent foundation system” as one that is designed to meet the mandatory building codes adopted under the Texas IHB program. A permanent foundation system shall not include ground anchors. Components of a foundation system allowed for use in site built construction must also be allowed for industrialized buildings.

The Council has decided that municipalities may allow the installation of an industrialized building on a temporary foundation system. A temporary foundation system typically uses tie downs and ground anchors similar to the foundation systems used for manufactured housing and may be adequate where a building is to be placed at a temporary location. The documents, plans, and specifications for a temporary foundation system shall include the following.

- A soil investigation report prepared by a qualified engineer, or, if the exact location is unknown, a description of the soil type for which the system is suitable.
- Structural calculations and related plans prepared by a professional engineer or architect.
- Specifications for adequate corrosion protection for the anchors and related tie-down system.
- The plans and specifications must clearly show that the system is designed for the temporary location of the structure.