

**1300.0110 DUTIES AND POWERS OF BUILDING OFFICIAL.**

Subpart 1. **General.** The building official is authorized and directed to enforce the provisions of this code. The building official has the authority to render interpretations of the code and adopt policies and procedures in order to clarify the application of the provisions. The interpretations, policies, and procedures shall comply with the intent and purpose of the code. The policies and procedures shall not have the effect of waiving requirements specifically provided for in the code.

Subp. 2. **Deputies.** According to the prescribed procedures of the municipality and with the concurrence of the appointing authority, the building official may designate a deputy building official and related technical officers, inspectors, plan examiners, and other employees. The employees have the powers delegated by the building official.

Subp. 3. **Applications and permits.** The building official shall receive applications, review construction documents, and issue permits for the erection, alteration, demolition, moving, and repair of buildings and structures, including all other equipment and systems regulated by the code. When requested by a permit applicant, the building official shall meet with the permit applicant prior to the application for a construction permit to discuss plans for the proposed work. The meeting shall be held at a mutually agreeable location. Municipalities may establish a fee for this service.

Subp. 4. **Notices and orders.** The building official shall issue all necessary notices and orders to ensure compliance with the code. Notices and orders shall be in writing unless waived by the permit applicant, contractor, owner, or owner's agent. Notices and orders shall be based on the edition of the code under which the permit has been issued.

Subp. 5. **Inspections.** The building official shall make all of the required inspections or accept reports of inspection by approved agencies or individuals. Results of inspections shall be documented on the job site inspection card and in the official records of the municipality, including type of inspection, date of inspection, identification of the responsible individual making the inspection, and comments regarding approval or disapproval of the inspection. The building official is authorized to engage an expert opinion as deemed necessary to report on any unusual technical issues that arise.

Subp. 6. **Identification.** The building official and deputies shall carry proper identification when inspecting structures or premises in the performance of duties under the code.

Subp. 7. **Right of entry.** If it is necessary to make an inspection to enforce the code or if the building official has reasonable cause to believe that there exists in a structure or upon a premises a condition contrary to or in violation of the code that makes the structure or premises unsafe, dangerous, or hazardous, the building official or designee may enter the structure or premises at reasonable times to inspect or to perform the duties imposed by the code, provided that if the structure or premises is occupied, credentials must be presented to the occupant and entry requested. If the structure or premises is unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

Subp. 8. **Department records.** The building official shall be responsible for official records of the local Department of Building Safety for permit applications received, plans, specifications, surveys, plot plans, plan reviews, permits and certificates issued, reports of inspections, and notices and orders issued by the department. The records shall be kept according to the records management schedule of the municipality required by Minnesota Statutes, section 138.17.

Subp. 9. **Liability.** The building official, member of the Board of Appeals, or employee charged with the enforcement of the code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by the code or other pertinent laws or ordinances, is not rendered personally liable and is 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. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The building official, member of the Board of Appeals, or an employee charged with the enforcement of the code, is not liable for costs in any action, suit, or proceeding that is instituted in pursuance of the provisions of this code.

Subp. 10. **Approved materials and equipment.** Materials, equipment, and devices approved by the building official shall be constructed and installed in the approved manner.

Subp. 11. **Used material and equipment.** The use of used materials that meet the requirements of the code for new materials is permitted. Used equipment and devices shall not be reused unless approved by the building official.

Subp. 12. **Modifications.** If there are practical difficulties involved in carrying out the provisions of the code, the building official may grant modifications for individual cases, upon application by the owner or owner's representative, provided the building official finds that special individual reason makes the strict letter of the code impractical, the modification is in compliance with the intent and purpose of the code, and the modification does not lessen health, life, and fire safety or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the Department of Building Safety.

Subp. 13. **Alternative materials, design, and methods of construction and equipment.** The code is not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by the code, provided that any alternative has been approved. An alternative material, design, or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the code, and that the material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in the code in quality, strength, effectiveness, fire resistance, durability, and safety. The details of any action granting or denying approval of an alternate shall be recorded and entered in the files of the Department of Building Safety. The permit applicant may request written documentation of the denial, including the reasons for the denial.

Subp. 14. **Performance-based fire and life safety design.** The code official may approve performance-based fire and life safety designs if the code official finds that the proposed design

has been conducted by an approved method. Approved performance-based designs are evidence of compliance with the intent of the code. Approvals under this subpart are subject to the approval of the building code official whenever the design involves matters regulated by the building code.

A. Design goals, objectives, and performance criteria shall be approved by the code official before submission of a performance-based design report, calculations, or analysis results. As a minimum, an approved performance-based design shall address the following objectives:

- (1) life safety of occupants;
- (2) firefighter safety;
- (3) property protection;
- (4) continuity of operations; and
- (5) safeguarding of the environment.

B. To determine the acceptability of a performance-based design, the code official may require the owner or agent to provide, without charge to the jurisdiction, a technical opinion and report. The code official may require the technical opinion and report to be prepared by, and bear the stamp of, a licensed design professional.

C. Performance-based designs shall be prepared by, and bear the stamp of, a licensed design professional competent in the area of work. The design professional shall provide written confirmation to the code official before a certificate of occupancy is issued that the performance-based design has been properly implemented, the operation or use of the building is within the limitations of the design, and adequate controls are in place to maintain compliance with the conditions of the design throughout the life of the building.

Subp. 15. **Tests.** If there is insufficient evidence of compliance with the code, or evidence that a material or method does not conform to the requirements of the code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the municipality. Test methods shall be as specified in the code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of the tests shall be retained by the building official.

**Statutory Authority:** *MS s 16B.59; 16B.61; 16B.64; 326B.02; 326B.101; 326B.106; 326B.13*

**History:** *27 SR 1471; 32 SR 5; L 2007 c 140 art 4 s 61; art 13 s 4; 39 SR 91; 44 SR 537*

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