

2024 Technical Code Changes
International Property Maintenance Code (IPMC)
Web Page Question/Comment Summary
June 4 – July 5, 2024



All question/comments submitted are from the Austin Apartment Association (AAA).

Question/Comment:

102.3 Application of other codes: Repairs, additions, or alterations to a structure, or changes of occupancy must be done in accordance with the provisions and procedures of Title 25 (Land Development Code) (Proposed Additional Language by AAA: and, where applicable, Sections 92.052 and 92.056 of the Texas Property Code.)

AAA Comments: Adding these sections of the Texas Property code should supersede any conflicting provisions pertaining to the process of timing and repairs.

Question/Comment:

103.3 Inspectors. The code official may designate inspectors to assist with enforcement of this code. The code official shall delegate powers and duties to inspectors (Proposed Additional Language by AAA: and shall maintain a comprehensive document encompassing current and consolidated code compliance standards for inspectors' use during inspections. This comprehensive document shall be made readily accessible on the City of Austin's official website.)

AAA Comments: This language has been included to establish a clear and objective consolidated list of code compliance standards for inspectors to follow and for property owners to read and comprehend.

Question/Comment:

105.9 Corrective Action: The code official is authorized to require the owner of the property or other responsible person to take action to correct a violation of this code. If the owner or other responsible person does not take corrective action within a specified time period, the code official may serve notice to the person(s) to appear before the Building and Standards Commission to show cause why the structure or premise should not be ordered repaired, boarded, fenced, vacated, occupants relocated, or demolished.

(Proposed Additional Language by AAA for 105.9 Corrective Action:

If the owner or responsible person is subject to compliance under Texas Property Code Sections 92.052 and 92.056, and the tenant has fulfilled their obligation to report to the landlord, but the required response mechanisms under the law were not met, the code official is authorized to mandate corrective actions to address a violation of this code.

For those governed by Texas Property Code Sections 92.052 and 92.056, the specified minimum timeframe for compliance is as outlined within that section.

For property owners or responsible individuals not subject to Texas Property Code Sections 92.052 and 92.056, the code official may determine an appropriate minimum timeframe for corrective action.

Failure to comply within the stipulated timeframe may result in the code official serving notice to the concerned parties, compelling them to appear before the Building and Standards Commission. At such hearing, the parties must demonstrate just cause as to why the structure or premises should not be ordered to be repaired, boarded, fenced, vacated, occupants relocated, or demolished.)

AAA Comments: This language has been included to clearly differentiate and mandate the timelines and procedures within the Texas Property Code. This includes a tenant's duty to report and a landlord's obligation to comply with state mandates prior to the enforcement of corrective action.

Question/Comment:

111.6 Responsibility of Owner: 111.6 Responsibility of Owner. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner or the owner's authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation. (Proposed Additional Language by AAA: Upon thorough assessment of the circumstantial processes required to bring a property into compliance under new ownership, the code official shall have the authority to grant a reasonable extension of time beyond the period outlined in Title 4, Section 4-14-7 (Business Regulation and Permit Requirements Code). This extension is granted specifically to the new property owner or the person responsible to facilitate full compliance with all applicable regulations. If the property is brought into compliance within the extended timeframe granted by the code official, this section shall supersede the original timeframe stipulated in Title 4 Section 4-14-7 hereby establishing the extended period as the authoritative compliance deadline.)

AAA Comments: This language was included as way to give the Code Official the explicit authority to grant additional time to owners working to bring their newly purchased property into compliance, which will prevent a Repeat Offender Program (ROP) registration.

Question/Comment:

(AAA Suggests Striking the Following Language: 111.1.3 Structure Unsafe for Human Occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public. If the code official finds a structure unsafe, the owner of the property shall provide an action plan for repairs to the code official and provide approved accommodations for the occupants of the structure within two days of notice.)

AAA Comments: Section 111.1.3 is redundant as the city already possesses the authority to revoke a permit if a structure is deemed unsafe. Chapter 92 of the Texas Property Code, Title 25 (Land Development Code), along with other applicable provisions, sets forth comprehensive and effective measures for addressing displaced occupants. Additionally, the Building and Standards Commission has been explicitly authorized to enforce the provisions outlined in section 111.1.3, thereby creating conflicting language with the existing stipulations in Chapter 9 of this code. Moreover, granting subjective enforcement authority to a single code official to remove occupants without first affording the property owner the opportunity to present evidence and testimony regarding the alleged code violations infringes upon due process rights.

Question/Comment:

504.3 Plumbing system hazards. Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, back siphonage, improper installation, deterioration, or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard. (AAA Suggests Striking the following language: If the code official finds a structure unsafe, the owner of the property shall

provide an action plan for repairs to the code official and provide approved accommodations for the occupants of the structure within two days of notice.)

AAA Comments: Granting subjective enforcement authority to a single code official to remove occupants without first affording the property owner the opportunity to present evidence and testimony regarding the alleged code violations infringes upon due process rights.

Question/Comment:

505.4 Water heating facilities. A water heating facility must be properly installed, maintained and capable of providing an adequate amount of water to be drawn at each sink, lavatory, bathtub, shower, and laundry facility at a temperature of not less than 110°F (43°C). (AAA Suggests Striking the Following Language: If the code official finds a structure unsafe, the owner of the property shall provide an action plan for repairs to the code official and provide approved accommodations for the occupants of the structure within two days of notice.)

AAA Comments: Granting subjective enforcement authority to a single code official to remove occupants without first affording the property owner the opportunity to present evidence and testimony regarding the alleged code violations infringes upon due process rights.

Question/Comment:

602.2 Residential occupancies. Heating facilities that are capable of maintaining a room temperature of 68°F (20°C) in habitable spaces, bathrooms, and toilet rooms are required in each dwelling unit. Cooking appliances and unvented fuel-burning space heaters cannot be used to meet or maintain the room temperature required by this section. A portable electric space heater may be used on a temporary basis if used consistent with manufacturer's specifications. Strike: If the code official finds a structure unsafe, the owner of the property shall provide an action plan for repairs to the code official and provide approved accommodations for the occupants of the structure within two days of notice.

(AAA Suggests Striking the Following Language: 604.3 Electrical System hazards. If the code official finds that the electrical system in the structure constitutes a hazard to the occupants or the structure by reason of inadequate service, the owner of the property shall provide an action plan for repairs to the code official and provide approved accommodations for the occupants of the structure within two days of notice.)

Question/Comment:

(AAA Suggests Striking the Following Language: 604.3 Electrical System hazards. If the code official finds that the electrical system in the structure constitutes a hazard to the occupants or the structure by reason of inadequate service, the owner of the property shall provide an action plan for repairs to the code official and provide approved accommodations for the occupants of the structure within two days of notice.)

Question/Comment:

309.1 Infestation. Structures and exterior property areas shall be kept free from insect and rodent infestation. Where insects and rodents are found, immediate action shall be taken to eliminate by approved processes that will not be injurious to human health. After (AAA Suggests Striking the Following Language: pest elimination), (Suggests Adding the following Language: pest control action has been executed), (AAA Suggests Striking the Following Language: proper precautions shall be taken to eliminate insect and rodent harborage) (AAA Suggests Adding the Following Language: and prevent re-infestation prevent insect and rodent harborage re-infestation.)

Question/Comment:

AAA Comments: This comment and concern pertains to the implementation of mandatory composting: once composting is enforced and bins containing food waste are placed in trash chutes, rental units, or outside in the Texas heat, will there be any additional measures or protections implemented to address the resultant issues? Given that composting is now mandated for multifamily properties and is known to attract rodents, the use of the term “elimination” in this context may be challenging to enforce and comply with. The goal is to exterminate all insects and rodents, but this new language gives the code official or inspector the flexibility to determine whether or not the property owner has taken all necessary steps to eliminate infestation surrounding composting bins, etc.

Response:

Staff is evaluating the proposed code language to develop flexibility to address infestation issues with differing environments and contexts.

Question/Comment:

603.7 Cooling Facilities Required. An owner shall: (A).(i) Provide, and maintain, in operating condition, refrigerated air equipment capable of maintaining a room temperature of at least 15 degrees cooler than the outside temperature, but in no event higher than 85° F in each habitable room. (ii). Maintain all air conditioning systems, including air conditioning unit covers, panels, conduits, and disconnects, properly attached, and in operating condition. Proposed Draft (B) The required room temperature shall be measured 3 feet (914mm) above the floor near the center of the room and 2 feet (610mm) inward from the center of each exterior wall. (C) It is a defense to prosecution under this paragraph that at least one habitable room is 85°F, if the outside temperature is over 110°F.

AAA Comments & Questions:

Grandfathering Units: Will units without existing air conditioning systems be grandfathered in? Given that most apartments built in the last 40 years include air conditioning, this regulation would primarily impact much older housing stock. If retrofitting is required, rental costs could increase significantly due to the associated upgrade expenses. This concern extends to single-family homes and smaller properties, where the financial burden on owners could be substantial.

Temperature Compliance: How will the City of Austin measure temperature to ensure compliance with the new regulations?

Repair Timelines: What is the expected timeline for repairing air conditioning units once an issue is reported?

Power Outages: What provisions are there for power outages beyond the control of property owners or managers? Will these situations be taken into account in the enforcement of the new regulations?

Portable A/C Units: How will the city address the limitations of portable air conditioning units in high-rise and mid-rise buildings where windows do not open above the fourth story? Additionally, HVAC work poses significant safety risks if conducted after certain hours, involving high voltage or other hazards.

Compliance Measures: What specific compliance measures will be implemented to enforce this regulation?

Standardized Inspections: Will code compliance inspectors have a clear, objective list of requirements for issuing violations and fines? Members are concerned about potential subjectivity and believe there should be definitive rules and standards to follow. Will fines be standardized?

Notification and Due Process: According to state law and lease contracts, tenants must submit maintenance repair requests to property management. Will properties be subject to fines and code violations if they were never notified of a broken air conditioning unit?

State Pre-emption under HB 2127: Firstly, there are no state requirements mandating air conditioning in rental units. However, the Texas Property Code recognizes that excessive heat constitutes a condition materially affecting the health or safety of an ordinary tenant. Under Section 92.056, landlords are required to repair such conditions within a reasonable timeframe. This period is presumed to be seven days, although this presumption can be rebutted based on factors such as the external temperature, the internal temperature of the apartment, and the availability of necessary parts and materials. Therefore, if air conditioning units are not adequately cooling, there is already a remedy available under existing law.

Response:

Grandfathering Units: Existing units would be required to comply with the proposed code language and provide refrigerated air capable of meeting the standard.

Temperature Compliance: Standard operating procedures will be developed to create consistency and provide clear guidance for compliance.

Repair Timelines: Standard operating procedures will be developed to create consistency and provide clear guidance for compliance.

Power Outages: Standard operating procedures will be developed to create consistency and provide clear guidance for compliance.

Portable A/C Units: Standard operating procedures will be developed to create consistency and provide clear guidance for compliance.

Compliance Measures: Standard operating procedures will be developed to create consistency and provide clear guidance for compliance.

Standardized Inspections: Standard operating procedures will be developed to create consistency and provide clear guidance for compliance. Fines are not assessed directly by inspection staff. These are set by either a third-party hearing officer or the municipal court.

Notification and Due Process: If a property owner fails to remedy a violation after the timeframe for repair provided in the written notice of violation, the city will utilize existing enforcement options as authorized by state law.