



Issue Date	July 07, 2014
Code/Section	2018 IBC Section 104.1 & Amended Section 104.10.3
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Issue:

Guidelines are needed to assist customers and staff with the determination of when a code modification is warranted. The answers to the following six questions assist in determining if a code modification is needed and is likely to be approved based on the code required criteria for a modification. The answers to these questions will save time as they provide the information required by the Administrative Review, Interpretation, Modification, or Appeal application as well as provide an outline for staff response.

Please consider and respond to the following questions **for each code section** for which you are seeking a modification.

1. What is the applicable code section reference and requirement?
2. What is the intent of the code? (Please use current code and commentary excerpts, ICC interpretations, previous/future code and commentary excerpts, and/or technical articles to provide a complete overview.)
3. What project specific hardships make strict code compliance impractical? (See IBC [A] 104.10.3 Modifications.) (Please provide diagrams, figures, sketches, reports, or other supporting material to describe the project specific conditions.)
4. How does the proposed modification comply with the intent and purpose of the code? (See IBC [A] 104.10.3 Modifications.)
5. How does the proposed modification meet or exceed the health, accessibility, life and fire safety, or structural requirements of the code? (See IBC [A] 104.10.3 Modifications.)
6. Did you discuss your proposed solution with your field inspector or your project plan reviewer and project team leader? What was the outcome? Does the City of Phoenix technical lead support this modification?

IBC References:

[A] 104.1 General. The *building official* is hereby authorized and directed to enforce the provisions of this code. The *building 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.

Commentary to [A] 104.1 General.

*The duty of the building official is to enforce the code, and he or she is the “authority having jurisdiction” for all matters relating to the code and its enforcement. It is the duty of the building official to interpret the code and to determine compliance. Code compliance will not always be easy to determine and will require judgment and expertise, particularly when enforcing the provisions of Sections 104.10 and 104.11. **In exercising this authority, however, the building official cannot set aside or ignore any provision of the code.***

[A] 104.10.3 Modifications. Wherever there are practical difficulties involved in carrying out the provisions of this code, the *building official* shall have the authority to grant modifications for individual cases, upon application of the owner or owner’s representative, provided the *building official* shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements.

Requests for modification of a code requirement shall be made in writing on a form provided by the Planning & Development Department, and shall be accompanied by a non-refundable fee as set forth in Appendix A.2 of the Phoenix City Code. The applicant is responsible for providing all information, calculations or other data necessary to document or substantiate each request. The building official may approve, approve with stipulations, or deny the application based upon the substantiating data submitted and the building official's determination that the modification results in substantial compliance with the intent of this code. In deciding each case, the building official may consider or require alternate methods or systems to be used in compensation for the particular code provision to be modified.

The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

Commentary to [A] 104.10 Modifications.

*The building official may amend or make exceptions to the code as needed **where strict compliance is impractical.** Only the building official has authority to grant modifications. Consideration of a particular difficulty is to be based on the application of the owner and a demonstration that the intent of the code is accomplished. **This section is not intended to permit setting aside or ignoring a code provision; rather, it is intended to provide acceptance of equivalent protection.** Such modifications do not, however, extend to actions that are necessary to correct violations of the code. **In other words, a code violation or the expense of correcting one cannot constitute a practical difficulty.***