



BUILDING CODE BOARD OF APPEALS
MONDAY, DECEMBER 6, 2021 - 6:30 PM
Council Chambers, City Hall or
REMOTE VIA VIRTUAL PLATFORM
LebanonNH.gov/LIVE

-
1. **Call to Order**
 2. **Approval of Minutes**
 - A. November 15, 2021
 3. **Public Hearing Items**
 - A. **One Mechanic Street, LLC, 1 Mechanic Street (Tax Map 91, Lot 264), zoned LD:** An appeal concerning an interpretation of Section 306.1 ("Access") and Section 306.5 ("Equipment and Appliances on Roofs or Elevated Structures") of the International Mechanical Code (IMC) by the Building Code Official. **BCBA2021-01-01A**
 4. **Staff Comments**
 5. **Adjournment**

The order of agenda items is subject to change.

Meetings are open for in-person and remote attendance. Members of the public that wish to attend remotely may do so by going to LebanonNH.gov/Live where you will find instructions on how to enter the meeting. Members of the public will be able to participate and ask questions through the City's virtual platform or by phone. Please note: Should technical difficulties occur during the meeting that disrupts virtual or phone connection(s), the meeting will continue without remote access capabilities.

If you have any questions or would like to view the files for the application identified above, please contact the Planning & Development Department by sending an e-mail to planning@lebanonnh.gov, or by calling 603-448-1457, or by visiting the Planning and Development Office located in City Hall during regular work hours, Monday through Thursday, 7AM to 5PM. The application materials will also be posted to the City's website at LebanonNH.gov/Agendas.

**Agenda
Building Code Board of Appeals
December 6, 2021**

**Agenda Item #2A
Approval of Minutes**

November 15, 2021

DRAFT

LEBANON BUILDING CODE BOARD OF APPEALS
MONDAY, November 15, 2021, 7:00 PM
Council Chambers, City Hall or
Remote Via Virtual Platform
LebanonNH.gov/LIVE

MEMBERS PRESENT: Chair William Koppenheffer, Vice Chair Jennifer Mercer, Dan Nash, Paul McDonough (Alt), Jennifer Barkley (Alt) attended Remotely

MEMBERS ABSENT: Dave Newlove, Jeremy Katz

STAFF PRESENT: Tim Corwin – Senior Planner and Zoning Administrator

1 **1. CALL TO ORDER**

2
3 The meeting was called to order at 7:01 PM by Chair Koppenheffer.

4
5 Mr. McDonough and Ms. Barkley were given voting privileges for this meeting. Ms. Barkley was
6 allowed to participate remotely because it was not reasonable for her to attend. She had direct exposure
7 to Covid and is awaiting test results.

8
9 **2. APPROVAL OF MINUTES**

10
11 **A. November 1, 2021**

12
13 *Mr. Nash MOVED to approve the November 1, 2021, Minutes as presented in the November 15, 2021,*
14 *with amendments.*

15 *Seconded by Vice Chair Mercer.*

16
17 Amendments. Page 3, Line 34; Add ‘Dan Nash stated.’

18 **The Vote on the Motion was approved (4-0-1).*

19 *Chair Koppenheffer abstained.*

20
21 **3. REHEARING REQUEST**

22
23 **A. One Mechanic Street, LLC, 1 Mechanic Street (Tax Map 91, Lot 264), zoned LD:**

24 Request to rehear an appeal concerning an interpretation of Section 306.1 (“Access”) and
25 Section 306.5 (“Equipment and Appliances on Roofs or Elevated Structures”) of the
26 International Mechanical Code (IMC) by the Building Code Official, denied by the Board on
27 November 1, 2021. **BCBA2021-01A**

28
29 The status of rehearing requests is unclear, at best, under NH law. There is no provision or
30 information about how a rehearing for the Board of Appeals should be held. There is a motion from
31 the applicant to rehear and given the state of law the Board can dismiss the request because there is no
32 provision under the statute, they can agree to rehear it, or they can deny the motion. Or the Board
33 could decide to not grant the rehearing and but could decide to reconsider its own decision and that
34 should be done within 30 days.

35
36 Because there is no provision for a rehearing, the statutes are unclear, and the Zoning Board hears
37 appeals regarding the Building Code, the Board determined that it is reasonable to follow the Zoning
38 Board guidelines for appeal. They proceeded to consider the motion for a rehearing.

1 In a Zoning Board rehearing, new evidence is not permitted. The Board determines if their original
2 decision should be upheld, reconsidered, or be reheard. With reconsideration no new evidence is
3 allowed. With a rehearing, it is reopened for additional evidence. In this matter, because
4 interpretation is at stake, some members thought it is reasonable that more education would be
5 appropriate and that would merit a rehearing. Reconsideration is a matter of the Board only, but
6 rehearing does not necessarily mean starting over. The applicant has made points in his request that
7 warrant reconsideration. Mr. Katz has raised arguments in his motion for rehearing and some
8 members believe the Board does not have enough evidence to make a decision. There is reason to
9 consider why the applicant claims discrimination and estoppel. The Chair would like to see the
10 background for those claims. Also, the Chair does not believe the inspectors testimony is completely
11 clear. There could be a limited rehearing focusing the discussion, instead of starting from scratch.
12 Both a rehearing and a reconsideration should be scheduled within 30 days and the timeline should be
13 agreeable to the applicant because the rules are not clear.

14
15 Chair Koppenheffer gave examples of things he would like to know about, such as the use of man
16 trucks for service. The questions the ICC answered had to do with platforms and heights above the
17 ground less than 16 feet. What is the height they are dealing with? Did the ICC misunderstand the
18 questions? And what is the substance of the claims of discrimination? Things need to be sorted out
19 and he strongly urges a limited rehearing. It would need to be readvertised, and that could still be
20 done in time for the meeting the first Monday in December.

21
22 ***Mr. Nash MOVED to grant a rehearing for the regular meeting on Monday, December 6, 2021.***
23 ***Seconded by Chair Koppenheffer.***

24
25 Vice Chair Mercer restated her opinion that this is not a Zoning Board negotiation. It is determining
26 if the written word has been applied properly. It is not an interpretation. It is about determining if it
27 applies and whether that agrees with the building inspectors' determination. It is not whether the
28 building inspectors applied it properly. The Board is independent of the building inspectors. Chair
29 Koppenheffer believes there are facts that are undetermined, and the facts would enter into making a
30 decision.

31
32 The applicant would be asked to incorporate all prior hearing materials into the rehearing and
33 therefore it would be a limited hearing. Everyone is anxious to get this done in a timely manner, so it
34 is suggested that all prior testimony is incorporated.

35
36 ****The Vote on the Motion was approved (4-1).***
37 ***Vice Chair Mercer voted nay.***

38 39 **4. ADJOURNMENT**

40
41 ***Mr. Nash MOVED to adjourn the meeting at 7:25 PM.***
42 ***Seconded by Vice Chair Mercer.***

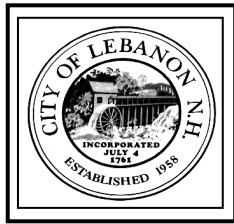
43 ****The Vote on the Motion was unanimously approved (5-0).***

44
45 Respectfully submitted,
46 Linda Billings
47 Recording Secretary

**Agenda
Building Code Board of Appeals
December 6, 2021**

**Agenda Item #3A
Public Hearing Items**

**One Mechanic Street, LLC,
1 Mechanic Street
(Tax Map 91, Lot 264),
zoned LD
BCBA2021-01-01A**



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Building Code Board of Appeals

FROM: Zoning Administrator

RE: One Mechanic Street, LLC, 1 Mechanic Street (Tax Map 91, Lot 264)
Appeal of Building Code Interpretation

DATE: December 1, 2021

HEARING NOTICE

One Mechanic Street, LLC, 1 Mechanic Street (Tax Map 91, Lot 264), zoned LD: An appeal concerning an interpretation of Section 306.1 ("Access") and Section 306.5 ("Equipment and Appliances on Roofs or Elevated Structures") of the International Mechanical Code (IMC) by the Building Code Official. BCBA2021-01

BACKGROUND

The subject appeal was originally heard on October 4, October 18, and November 1, and was denied by the Board. The applicant requested a rehearing which was granted on November 18 with a rehearing scheduled for December 6. Pursuant to the attached e-mail from Jeremy Katz sent on November 30, 2021, the applicant requests that the record of the original hearing is incorporated into the record for the rehearing.¹ Accordingly, attached are all of the materials from the original hearing including staff memos, agenda packets, application submissions, exhibits, and e-mail correspondence shared with the Board. (Note that these materials are available on-line only and will not be included with the hard copies of the Board's agenda packet).

¹ "[When] the board grants the motion for rehearing, an entirely new hearing must be advertised and appropriate notice given to abutters. At the time of the new hearing, all evidence is to be considered and the hearing conducted in the same manner as the original hearing although presumably, in the interest of saving time, the board could accept as part of the record testimony and exhibits introduced at the first hearing." 15 New Hampshire Practice: Land Use Planning and Zoning, Ch. 21, Board of Adjustment Procedure, § 21.18 (LexisNexis Matthew Bender).

Tim Corwin

From: Jeremy Katz <katz95@gmail.com>
Sent: Tuesday, November 30, 2021 12:58 PM
To: Tim Corwin
Subject: [EXTERNAL] BCBA Hearing

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Mr. Corwin

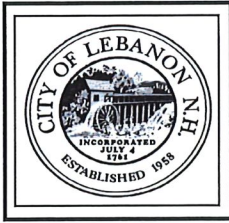
I am following up on your inquiry regarding next Monday's BCBA hearing. I listened in to the rehearing deliberations, and my understanding from the Chair was that it was his preference for the 12/6 hearing to fully incorporate all prior testimony and evidence presented to date. My further understanding was that the Board wanted me available for questioning relative to the matters that I brought up in my filing.

I have no opposition to the Chair's requested approach. As a result, please incorporate all prior presentations, evidence, testimony, and Q&A from the prior hearings into the record for this current hearing. I will plan to attend the BCBA hearing on 12/6 to answer questions from the board. In the event that I have additional information and/or argument to present, I will make it in person at the hearing.

Please let me know if you have any questions or if I have misunderstood anything.

Best,
Jeremy Katz
Manager
One Mechanic Street, LLC

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CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Building Code Board of Appeals

FROM: Zoning Administrator

RE: One Mechanic Street, LLC, 1 Mechanic Street (Tax Map 91, Lot 264)
Appeal of Building Code Interpretation

DATE: September 28, 2021

HEARING NOTICE

One Mechanic Street, LLC, 1 Mechanic Street (Tax Map 91, Lot 264), zoned LD: An appeal concerning an interpretation of Section 306.1 ("Access") and Section 306.5 ("Equipment and Appliances on Roofs or Elevated Structures") of the International Mechanical Code (IMC) by the Building Code Official. BCBA2021-01

BACKGROUND

The applicant has submitted a building permit application (BP2021-083) to renovate the building at 1 Mechanic Street and to change its use from commercial to multi-family residential. As part of the building renovation, the applicant proposes to install heat pumps on the exterior walls of the building.

The applicant's appeal relates to the application of Sections 306.1 and 306.5 of the International Mechanical Code (IMC) to the heat pumps. As set forth in the attached memo prepared by the Building Inspector, dated September 22, 2021, the Building Inspector has determined that:

- Pursuant to Section 306.1, a level working space of not less than 30 in. by 30 in. must be provided for each heat pump; and
- Pursuant to Section 306.5, if the height of the level working space exceeds 16 ft. above finished grade, either a ladder fixed to the building or an interior access will need to be provided in order to access the 30 in. by 30 in. level working spaces.

Copies of Section 306 ("Access and Service Space") of the IMC and Chapter 2 ("Definitions") of the IMC are attached for reference.

On September 10, 2021, the applicant submitted the attached application appealing the Building Inspector's interpretation of Section 306.5 of the IMC. (At the time of the initial filing of the appeal, a written determination had not been made). Following the filing of the appeal, the Building Inspector prepared the attached memo dated September 22, 2021, explaining the Building Inspector's determination with respect to Section 306.5 as well as Section 306.1. The Building Inspector's memo also notes an alternative means of compliance and that this suggestion had previously been discussed on site with the design team.

In response to the Building Inspector's September 22, 2021, memo, the applicant provided a second memo from the applicant's engineer, Daniel W. Dupras, P.E., dated September 28, 2021.

The Zoning Board of Adjustment is authorized by Section 36-13 of the City Code to sit as the Building Code Board of Appeals. Section 36-13 provides as follows:

- A. There is hereby established a Building Code Board of Appeals, and the Zoning Board of Adjustment is designated to act as that Board of Appeals, as provided in RSA 673:1. The Building Code Board of Appeals shall hear and decide appeals of orders, decisions, or determinations made by the Building Inspector or Fire Official relative to the application and interpretation of the State Building Code or State Fire Code as defined in RSA 155-A. These powers are derived from RSA 674:34, and it is intended that the Lebanon Building Code Board of Appeals shall have all such responsibilities and powers as conferred by the law, as it may be amended. Any person aggrieved by a decision of the Building Code Board of Appeals may appeal the decision to the Grafton County Superior Court as provided in RSA 677:16.
- B. Any appeal to the Board of Appeals shall be taken within 30 days from the date of decision of the Building Inspector. The time, notice and manner of hearing before the Board of Appeals shall conform to the same requirements as hearings before the Zoning Board of Adjustment pursuant to RSA 676:5 and Section 801.1 of the Lebanon Zoning Ordinance.

The statutory powers of the Building Code of Appeals are established by RSA 674:34, I, which provides as follows:

The building code board of appeals shall hear and decide appeals of orders, decisions, or determinations made by the building official or fire official relative to the application and interpretation of the state building code or state fire code as defined in RSA 155-A:1. An application for appeal shall be based on a claim that the true intent of the code or the rules adopted thereunder have been incorrectly interpreted, the provisions of the code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of the state building code or the state fire code.

Based on the language of RSA 674:34, I, the Board must determine that the applicant has demonstrated at least one of the following in order to grant the appeal:

1. That the true intent of the code or the rules adopted thereunder have been incorrectly interpreted; or
2. That the provisions of the code do not fully apply; or
3. That an equally good or better form of construction is proposed.

A discussion of the Zoning Board's role as the Building Code Board of Appeals, taken from the NH OSI Zoning Board of Adjustment Handbook (March, 2021), is attached for further reference.

than 10 feet (3048 mm) on center along hip and ridge lines and placed not less than 10 feet (3048 mm) from roof edges and the open sides of walking surfaces.

304.12 Area served. Appliances serving different areas of a building other than where they are installed shall be permanently marked in an *approved* manner that uniquely identifies the *appliance* and the area it serves.

SECTION 305 PIPING SUPPORT

305.1 General. Mechanical system piping shall be supported in accordance with this section.

305.2 Materials. Pipe hangers and supports shall have sufficient strength to withstand all anticipated static and specified dynamic loading conditions associated with the intended use. Pipe hangers and supports that are in direct contact with piping shall be of *approved* materials that are compatible with the piping and that will not promote galvanic action.

305.3 Structural attachment. Hangers and anchors shall be attached to the building construction in an *approved* manner.

305.4 Interval of support. Piping shall be supported at distances not exceeding the spacing specified in Table 305.4, or in accordance with ANSI/MSS SP-58.

305.5 Protection against physical damage. In concealed locations where piping, other than cast-iron or steel, is installed through holes or notches in studs, joists, rafters or similar members less than 1½ inches (38 mm) from the nearest edge of the member, the pipe shall be protected by shield plates. Protective steel shield plates having a minimum thickness of 0.0575 inch (1.463 mm) (No. 16 gage) shall cover the area of the pipe where the member is notched or bored, and shall extend not less than 2 inches (51 mm) above sole plates and below top plates.

SECTION 306 ACCESS AND SERVICE SPACE

306.1 Access. Appliances, controls devices, heat exchangers and HVAC system components that utilize energy shall be accessible for inspection, service, repair and replacement without disabling the function of a fire-resistance-rated assembly or removing permanent construction, other appliances, venting systems or any other piping or ducts not connected to the *appliance* being inspected, serviced, repaired or replaced. A level working space not less than 30 inches deep and 30 inches wide (762 mm by 762 mm) shall be provided in front of the control side to service an *appliance*.

306.1.1 Central furnaces. Central furnaces within compartments or alcoves shall have a minimum working space *clearance* of 3 inches (76 mm) along the sides, back and top with a total width of the enclosing space being not less than 12 inches (305 mm) wider than the furnace. Furnaces having a firebox open to the atmosphere shall have not less than 6 inches (152 mm) working space along the front

TABLE 305.4
PIPING SUPPORT SPACING^a

PIPING MATERIAL	MAXIMUM HORIZONTAL SPACING (feet)	MAXIMUM VERTICAL SPACING (feet)
ABS pipe	4	10 ^c
Aluminum pipe and tubing	10	15
Brass pipe	10	10
Brass tubing, 1¼-inch diameter and smaller	6	10
Brass tubing, 1½-inch diameter and larger	10	10
Cast-iron pipe ^b	5	15
Copper or copper-alloy pipe	12	10
Copper or copper-alloy tubing, 1¼-inch diameter and smaller	6	10
Copper or copper-alloy tubing, 1½-inch diameter and larger	10	10
CPVC pipe or tubing, 1 inch and smaller	3	10 ^c
CPVC pipe or tubing, 1¼-inch and larger	4	10 ^c
Lead pipe	Continuous	4
PB pipe or tubing	2⅔ (32 inches)	4
PE-RT 1 inch and smaller	2⅔ (32 inches)	10 ^c
PE-RT 1¼ inches and larger	4	10 ^c
PEX tubing	2⅔ (32 inches)	10 ^c
Polypropylene (PP) pipe or tubing, 1 inch and smaller	2⅔ (32 inches)	10 ^c
Polypropylene (PP) pipe or tubing, 1¼ inches and larger	4	10 ^c
PVC pipe	4	10 ^c
Steel tubing	8	10
Steel pipe	12	15

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm.

a. See Section 301.18.

b. The maximum horizontal spacing of cast-iron pipe hangers shall be increased to 10 feet where 10-foot lengths of pipe are installed.

c. Mid-story guide.

combustion chamber side. *Combustion* air openings at the rear or side of the compartment shall comply with the requirements of Chapter 7.

Exception: This section shall not apply to replacement appliances installed in existing compartments and alcoves where the working space clearances are in accordance with the *equipment* or *appliance* manufacturer's installation instructions.

306.2 Appliances in rooms. Rooms containing appliances shall be provided with a door and an unobstructed passage-

GENERAL REGULATIONS

way measuring not less than 36 inches (914 mm) wide and 80 inches (2032 mm) high.

Exception: Within a *dwelling unit*, appliances installed in a compartment, alcove, basement or similar space shall be accessed by an opening or door and an unobstructed passageway measuring not less than 24 inches (610 mm) wide and large enough to allow removal of the largest *appliance* in the space, provided that a level service space of not less than 30 inches (762 mm) deep and the height of the *appliance*, but not less than 30 inches (762 mm), is present at the front or service side of the *appliance* with the door open.

306.3 Appliances in attics. Attics containing appliances shall be provided with an opening and unobstructed passageway large enough to allow removal of the largest *appliance*. The passageway shall be not less than 30 inches (762 mm) high and 22 inches (559 mm) wide and not more than 20 feet (6096 mm) in length measured along the centerline of the passageway from the opening to the *appliance*. The passageway shall have continuous solid flooring not less than 24 inches (610 mm) wide. A level service space not less than 30 inches (762 mm) deep and 30 inches (762 mm) wide shall be present at the front or service side of the *appliance*. The clear access opening dimensions shall be not less than 20 inches by 30 inches (508 mm by 762 mm), and large enough to allow removal of the largest *appliance*.

Exceptions:

1. The passageway and level service space are not required where the *appliance* is capable of being serviced and removed through the required opening.
2. Where the passageway is unobstructed and not less than 6 feet (1829 mm) high and 22 inches (559 mm) wide for its entire length, the passageway shall be not greater than 50 feet (15 250 mm) in length.

306.3.1 Electrical requirements. A luminaire controlled by a switch located at the required passageway opening and a receptacle outlet shall be provided at or near the *appliance* location in accordance with NFPA 70.

306.4 Appliances under floors. Underfloor spaces containing appliances shall be provided with an access opening and unobstructed passageway large enough to remove the largest *appliance*. The passageway shall be not less than 30 inches (762 mm) high and 22 inches (559 mm) wide, nor more than 20 feet (6096 mm) in length measured along the centerline of the passageway from the opening to the *appliance*. A level service space not less than 30 inches (762 mm) deep and 30 inches (762 mm) wide shall be present at the front or service side of the *appliance*. If the depth of the passageway or the service space exceeds 12 inches (305 mm) below the adjoining grade, the walls of the passageway shall be lined with concrete or masonry. Such concrete or masonry shall extend not less than 4 inches (102 mm) above the adjoining grade and shall have sufficient lateral-bearing capacity to resist collapse. The clear access opening dimensions shall be not less

than 22 inches by 30 inches (559 mm by 762 mm), and large enough to allow removal of the largest *appliance*.

Exceptions:

1. The passageway is not required where the level service space is present when the access is open and the *appliance* is capable of being serviced and removed through the required opening.
2. Where the passageway is unobstructed and not less than 6 feet high (1929 mm) and 22 inches (559 mm) wide for its entire length, the passageway shall not be limited in length.

306.4.1 Electrical requirements. A luminaire controlled by a switch located at the required passageway opening and a receptacle outlet shall be provided at or near the *appliance* location in accordance with NFPA 70.

306.5 Equipment and appliances on roofs or elevated structures. Where *equipment* requiring access or appliances are located on an elevated structure or the roof of a building such that personnel will have to climb higher than 16 feet (4877 mm) above grade to access such equipment or appliances, an interior or exterior means of access shall be provided. Such access shall not require climbing over obstructions greater than 30 inches (762 mm) in height or walking on roofs having a slope greater than 4 units vertical in 12 units horizontal (33-percent slope). Such access shall not require the use of portable ladders. Where access involves climbing over parapet walls, the height shall be measured to the top of the parapet wall.

Permanent ladders installed to provide the required access shall comply with the following minimum design criteria:

1. The side railing shall extend above the parapet or roof edge not less than 30 inches (762 mm).
2. Ladders shall have rung spacing not to exceed 14 inches (356 mm) on center. The uppermost rung shall be not greater than 24 inches (610 mm) below the upper edge of the roof hatch, roof or parapet, as applicable.
3. Ladders shall have a toe spacing not less than 6 inches (152 mm) deep.
4. There shall be not less than 18 inches (457 mm) between rails.
5. Rungs shall have a diameter not less than 0.75-inch (19 mm) and be capable of withstanding a 300-pound (136.1 kg) load.
6. Ladders over 30 feet (9144 mm) in height shall be provided with offset sections and landings capable of withstanding 100 pounds per square foot (488.2 kg/m²). Landing dimensions shall be not less than 18 inches (457 mm) and not less than the width of the ladder served. A guard rail shall be provided on all open sides of the landing.
7. Climbing clearance. The distance from the centerline of the rungs to the nearest permanent object on the

climbing side of the ladder shall be not less than 30 inches (762 mm) measured perpendicular to the rungs. This distance shall be maintained from the point of ladder access to the bottom of the roof hatch. A minimum clear width of 15 inches (381 mm) shall be provided on both sides of the ladder measured from the midpoint of and parallel with the rungs except where cages or wells are installed.

8. Landing required. The ladder shall be provided with a clear and unobstructed bottom landing area having a minimum dimension of 30 inches (762 mm) by 30 inches (762 mm) centered in front of the ladder.
9. Ladders shall be protected against corrosion by *approved* means.
10. Access to ladders shall be provided at all times.

Catwalks installed to provide the required access shall be not less than 24 inches (610 mm) wide and shall have railings as required for service platforms.

Exception: This section shall not apply to Group R-3 occupancies.

306.5.1 Sloped roofs. Where appliances, *equipment*, fans or other components that require service are installed on a roof having a slope of three units vertical in 12 units horizontal (25-percent slope) or greater and having an edge more than 30 inches (762 mm) above grade at such edge, a level platform shall be provided on each side of the *appliance* or *equipment* to which access is required for service, repair or maintenance. The platform shall be not less than 30 inches (762 mm) in any dimension and shall be provided with guards. The guards shall extend not less than 42 inches (1067 mm) above the platform, shall be constructed so as to prevent the passage of a 21-inch-diameter (533 mm) sphere and shall comply with the loading requirements for guards specified in the *International Building Code*. Access shall not require walking on roofs having a slope greater than four units vertical in 12 units horizontal (33-percent slope). Where access involves obstructions greater than 30 inches (762 mm) in height, such obstructions shall be provided with ladders installed in accordance with Section 306.5 or stairways installed in accordance with the requirements specified in the *International Building Code* in the path of travel to and from appliances, fans or *equipment* requiring service.

306.5.2 Electrical requirements. A receptacle outlet shall be provided at or near the *equipment* location in accordance with NFPA 70.

SECTION 307 CONDENSATE DISPOSAL

307.1 Fuel-burning appliances. Liquid *combustion* by-products of condensing appliances shall be collected and discharged to an *approved* plumbing fixture or disposal area in accordance with the manufacturer's installation instructions. Condensate piping shall be of *approved* corrosion-resistant material and shall not be smaller than the drain connection on the appliance. Such piping shall maintain a minimum hori-

zontal slope in the direction of discharge of not less than one-eighth unit vertical in 12 units horizontal (1-percent slope).

307.2 Evaporators and cooling coils. Condensate drain systems shall be provided for *equipment* and appliances containing evaporators or cooling coils. Condensate drain systems shall be designed, constructed and installed in accordance with Sections 307.2.1 through 307.2.5.

Exception: Evaporators and cooling coils that are designed to operate in sensible cooling only and not support condensation shall not be required to meet the requirements of this section.

307.2.1 Condensate disposal. Condensate from all cooling coils and evaporators shall be conveyed from the drain pan outlet to an *approved* place of disposal. Such piping shall maintain a minimum horizontal slope in the direction of discharge of not less than one-eighth unit vertical in 12 units horizontal (1-percent slope). Condensate shall not discharge into a street, alley or other areas so as to cause a nuisance.

307.2.2 Drain pipe materials and sizes. Components of the condensate disposal system shall be cast iron, galvanized steel, copper, cross-linked polyethylene, polyethylene, ABS, CPVC, PVC, or polypropylene pipe or tubing. Components shall be selected for the pressure and temperature rating of the installation. Joints and connections shall be made in accordance with the applicable provisions of Chapter 7 of the *International Plumbing Code* relative to the material type. Condensate waste and drain line size shall be not less than $\frac{3}{4}$ -inch (19.1 mm) internal diameter and shall not decrease in size from the drain pan connection to the place of condensate disposal. Where the drain pipes from more than one unit are manifolded together for condensate drainage, the pipe or tubing shall be sized in accordance with Table 307.2.2.

TABLE 307.2.2
CONDENSATE DRAIN SIZING

EQUIPMENT CAPACITY	MINIMUM CONDENSATE PIPE DIAMETER
Up to 20 tons of refrigeration	$\frac{3}{4}$ inch
Over 20 tons to 40 tons of refrigeration	1 inch
Over 40 tons to 90 tons of refrigeration	1 $\frac{1}{4}$ inches
Over 90 tons to 125 tons of refrigeration	1 $\frac{1}{2}$ inches
Over 125 tons to 250 tons of refrigeration	2 inches

1 inch = 25.4 mm, 1 ton = 3.517 kW.

307.2.3 Auxiliary and secondary drain systems. In addition to the requirements of Section 307.2.1, where damage to any building components could occur as a result of overflow from the *equipment* primary condensate removal system, one of the following auxiliary protection methods shall be provided for each cooling coil or fuel-fired *appliance* that produces condensate:

1. An auxiliary drain pan with a separate drain shall be provided under the coils on which condensation will occur. The auxiliary pan drain shall discharge to a conspicuous point of disposal to alert occupants in the event of a stoppage of the primary drain. The pan

shall have a minimum depth of $1\frac{1}{2}$ inches (38 mm), shall be not less than 3 inches (76 mm) larger than the unit, or the coil dimensions in width and length and shall be constructed of corrosion-resistant material. Galvanized sheet steel pans shall have a minimum thickness of not less than 0.0236 inch (0.6010 mm) (No. 24 gage). Nonmetallic pans shall have a minimum thickness of not less than 0.0625 inch (1.6 mm).

2. A separate overflow drain line shall be connected to the drain pan provided with the *equipment*. Such overflow drain shall discharge to a conspicuous point of disposal to alert occupants in the event of a stoppage of the primary drain. The overflow drain line shall connect to the drain pan at a higher level than the primary drain connection.
3. An auxiliary drain pan without a separate drain line shall be provided under the coils on which condensate will occur. Such pan shall be equipped with a water-level detection device conforming to UL 508 that will shut off the *equipment* served prior to overflow of the pan. The auxiliary drain pan shall be constructed in accordance with Item 1 of this section.
4. A water-level detection device conforming to UL 508 shall be provided that will shut off the *equipment* served in the event that the primary drain is blocked. The device shall be installed in the primary drain line, the overflow drain line, or in the equipment-supplied drain pan, located at a point higher than the primary drain line connection and below the overflow rim of such pan.

Exception: Fuel-fired appliances that automatically shut down operation in the event of a stoppage in the condensate drainage system.

307.2.3.1 Water-level monitoring devices. On down-flow units and all other coils that do not have a secondary drain or provisions to install a secondary or auxiliary drain pan, a water-level monitoring device shall be installed inside the primary drain pan. This device shall shut off the *equipment* served in the event that the primary drain becomes restricted. Devices installed in the drain line shall not be permitted.

307.2.3.2 Appliance, equipment and insulation in pans. Where appliances, *equipment* or insulation are subject to water damage when auxiliary drain pans fill, that portion of the *appliance*, *equipment* and insulation shall be installed above the rim of the pan. Supports located inside of the pan to support the *appliance* or *equipment* shall be water resistant and *approved*.

307.2.4 Traps. Condensate drains shall be trapped as required by the *equipment* or *appliance* manufacturer.

307.2.4.1 Ductless mini-split system traps. Ductless mini-split equipment that produces condensate shall be provided with an inline check valve located in the drain line, or a trap.

307.2.5 Drain line maintenance. Condensate drain lines shall be configured to permit the clearing of blockages and performance of maintenance without requiring the drain line to be cut.

307.3 Condensate pumps. Condensate pumps located in uninhabitable spaces, such as attics and crawl spaces, shall be connected to the appliance or equipment served such that when the pump fails, the appliance or equipment will be prevented from operating. Pumps shall be installed in accordance with the manufacturers' instructions.

SECTION 308 CLEARANCE REDUCTION

308.1 Scope. This section shall govern the reduction in required *clearances* to combustible materials and combustible assemblies for *chimneys*, vents, kitchen exhaust equipment, mechanical appliances, and mechanical devices and *equipment*.

308.2 Listed appliances and equipment. The reduction of the required *clearances* to combustibles for *listed* and *labeled* appliances and *equipment* shall be in accordance with the requirements of this section except that such clearances shall not be reduced where reduction is specifically prohibited by the terms of the *appliance* or *equipment* listing.

308.3 Protective assembly construction and installation. Reduced *clearance* protective assemblies, including structural and support elements, shall be constructed of noncombustible materials. Spacers utilized to maintain an airspace between the protective assembly and the protected material or assembly shall be noncombustible. Where a space between the protective assembly and protected combustible material or assembly is specified, the same space shall be provided around the edges of the protective assembly and the spacers shall be placed so as to allow air circulation by convection in such space. Protective assemblies shall not be placed less than 1 inch (25 mm) from the mechanical appliances, devices or *equipment*, regardless of the allowable reduced *clearance*.

308.4 Allowable reduction. The reduction of required *clearances* to combustible assemblies or combustible materials shall be based on the utilization of a reduced *clearance* protective assembly in accordance with Section 308.4.1 or 308.4.2.

308.4.1 Labeled assemblies. The allowable *clearance* reduction shall be based on an approved reduced *clearance* protective assembly that is listed and labeled in accordance with UL 1618.

308.4.2 Reduction table. The allowable *clearance* reduction shall be based on one of the methods specified in Table 308.4.2. Where required *clearances* are not listed in Table 308.4.2, the reduced *clearances* shall be determined by linear interpolation between the distances listed in the table. Reduced *clearances* shall not be derived by extrapolation below the range of the table.

308.4.2.1 Solid fuel-burning appliances. The *clearance* reduction methods specified in Table 308.4.2 shall not be utilized to reduce the *clearance* required for

CHAPTER 2

DEFINITIONS

SECTION 201 GENERAL

201.1 Scope. Unless otherwise expressly stated, the following words and terms shall, for the purposes of this code, have the meanings indicated in this chapter.

201.2 Interchangeability. Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the *International Building Code*, *International Fire Code*, *International Fuel Gas Code* or the *International Plumbing Code*, such terms shall have meanings ascribed to them as in those codes.

201.4 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

SECTION 202 GENERAL DEFINITIONS

ABRASIVE MATERIALS. Moderately abrasive particulate in high concentrations, and highly abrasive particulate in moderate and high concentrations, such as alumina, bauxite, iron silicate, sand and slag.

ABSORPTION SYSTEM. A refrigerating system in which refrigerant is pressurized by pumping a chemical solution of refrigerant in absorbent, and then separated by the addition of heat in a generator, condensed (to reject heat), expanded, evaporated (to provide refrigeration), and reabsorbed in an absorber to repeat the cycle; the system may be single or multiple effect, the latter using multiple stages or internally cascaded use of heat to improve efficiency.

ACCESS (TO). That which enables a device, *appliance* or *equipment* to be reached by ready access or by a means that first requires the removal or movement of a panel, door or similar obstruction [see also "Ready access (to)"].

AIR. All air supplied to mechanical *equipment* and appliances for *combustion*, ventilation, cooling and similar purposes. Standard air is air at standard temperature and pressure, namely, 70°F (21°C) and 29.92 inches of mercury (101.3 kPa).

AIR CONDITIONING. The treatment of air so as to control simultaneously the temperature, humidity, cleanness and distribution of the air to meet the requirements of a conditioned space.

AIR-CONDITIONING SYSTEM. A system that consists of heat exchangers, blowers, filters, supply, exhaust and return ducts, and shall include any apparatus installed in connection therewith.

AIR DISPERSION SYSTEM. Any diffuser system designed to both convey air within a room, space or area and diffuse air into that space while operating under positive pressure. Systems are commonly constructed of, but not limited to, fabric or plastic film.

AIR DISTRIBUTION SYSTEM. Any system of ducts, plenums and air-handling *equipment* that circulates air within a space or spaces and includes systems made up of one or more air-handling units.

AIR, EXHAUST. Air being removed from any space, *appliance* or piece of *equipment* and conveyed directly to the atmosphere by means of openings or ducts.

AIR-HANDLING UNIT. A blower or fan used for the purpose of distributing supply air to a room, space or area.

AIR, MAKEUP. Any combination of outdoor and transfer air intended to replace exhaust air and exfiltration.

AIR, OUTDOOR. Ambient air that enters a building through a ventilation system, through intentional openings for natural ventilation, or by infiltration.

AIR, TRANSFER. Air moved from one indoor space to another.

[A] ALTERATION. A change in a mechanical system that involves an extension, addition or change to the arrangement, type or purpose of the original installation.

APPLIANCE. A device or apparatus that is manufactured and designed to utilize energy and for which this code provides specific requirements.

APPLIANCE, EXISTING. Any *appliance* regulated by this code which was legally installed prior to the effective date of this code, or for which a permit to install has been issued.

APPLIANCE TYPE.

High-heat appliance. Any *appliance* in which the products of *combustion* at the point of entrance to the flue under normal operating conditions have a temperature greater than 2,000°F (1093°C).

Low-heat appliance (residential appliance). Any *appliance* in which the products of *combustion* at the point of entrance to the flue under normal operating conditions have a temperature of 1,000°F (538°C) or less.

Medium-heat appliance. Any *appliance* in which the products of *combustion* at the point of entrance to the flue under normal operating conditions have a temperature of more than 1,000°F (538°C), but not greater than 2,000°F (1093°C).

APPLIANCE, VENTED. An *appliance* designed and installed in such a manner that all of the products of *combustion* are conveyed directly from the *appliance* to the outdoor atmosphere through an *approved chimney* or vent system.

[A] APPROVED. Acceptable to the code official.

DEFINITIONS

[A] APPROVED AGENCY. An established and recognized agency that is regularly engaged in conducting tests or furnishing inspection services where such agency has been approved by the code official.

AUTOMATIC BOILER. Any class of boiler that is equipped with the controls and limit devices specified in Chapter 10.

BATHROOM. A room containing a bathtub, shower, spa or similar bathing fixture.

BOILER. A closed heating *appliance* intended to supply hot water or steam for space heating, processing or power purposes. Low-pressure boilers operate at pressures less than or equal to 15 pounds per square inch (psi) (103 kPa) for steam and 160 psi (1103 kPa) for water. High-pressure boilers operate at pressures exceeding those pressures.

BOILER ROOM. A room primarily utilized for the installation of a boiler.

BRAZED JOINT. A gas-tight joint obtained by the joining of metal parts with metallic mixtures or alloys which melt at a temperature above 1,000°F (538°C), but lower than the melting temperature of the parts to be joined.

BRAZING. A metal joining process wherein coalescence is produced by the use of a nonferrous filler metal having a melting point above 1,000°F (538°C), but lower than that of the base metal being joined. The filler material is distributed between the closely fitted surfaces of the joint by capillary attraction.

BREATHING ZONE. The region within an occupied space between planes 3 and 72 inches (76 and 1829 mm) above the floor and more than 2 feet (610 mm) from the walls of the space or from fixed air-conditioning *equipment*.

BTU. Abbreviation for British thermal unit, which is the quantity of heat required to raise the temperature of 1 pound (454 g) of water 1°F (0.56°C) (1 Btu = 1055 J).

[A] BUILDING. Any structure occupied or intended for supporting or sheltering any *occupancy*.

[BF] CEILING RADIATION DAMPER. A *listed* device installed in a ceiling membrane of a fire-resistance-rated floor/ceiling or roof/ceiling assembly to limit automatically the radiative heat transfer through an air inlet/outlet opening.

CHIMNEY. A primarily vertical structure containing one or more flues, for the purpose of carrying gaseous products of *combustion* and air from a fuel-burning *appliance* to the outdoor atmosphere.

Factory-built chimney. A *listed* and *labeled* chimney composed of factory-made components, assembled in the field in accordance with manufacturer's instructions and the conditions of the listing.

Masonry chimney. A field-constructed chimney composed of solid masonry units, bricks, stones or concrete.

Metal chimney. A field-constructed chimney of metal.

CHIMNEY CONNECTOR. A pipe that connects a fuel-burning *appliance* to a chimney.

CLEARANCE. The minimum distance through air measured between the heat-producing surface of the mechanical *appliance*, device or *equipment* and the surface of the combustible material or assembly.

CLOSED COMBUSTION SOLID-FUEL-BURNING APPLIANCE. A heat-producing *appliance* that employs a *combustion* chamber that does not have openings other than the flue collar, fuel charging door and adjustable openings provided to control the amount of *combustion air* that enters the *combustion* chamber.

CLOTHES DRYER. An *appliance* used to dry wet laundry by means of heat.

[A] CODE. These regulations, subsequent amendments thereto, or any emergency rule or regulation that the administrative authority having jurisdiction has lawfully adopted.

[A] CODE OFFICIAL. The officer or other designated authority charged with the administration and enforcement of this code, or a duly authorized representative.

[BF] COMBINATION FIRE/SMOKE DAMPER. A *listed* device installed in ducts and air transfer openings designed to close automatically upon the detection of heat and resist the passage of flame and smoke. The device is installed to operate automatically, be controlled by a smoke detection system, and where required, is capable of being positioned from a fire command center.

COMBUSTIBLE ASSEMBLY. Wall, floor, ceiling or other assembly constructed of one or more component materials that are not defined as noncombustible.

[F] COMBUSTIBLE LIQUID. A liquid having a closed cup flash point at or above 100°F (38°C). Combustible liquids shall be subdivided as follows:

Class II. Liquids having a closed cup flash point at or above 100°F (38°C) and below 140°F (60°C).

Class IIIA. Liquids having a closed cup flash point at or above 140°F (60°C) and below 200°F (93°C).

Class IIIB. Liquids having a closed cup flash point at or above 200°F (93°C).

The category of combustible liquids does not include compressed gases or cryogenic fluids.

COMBUSTIBLE MATERIAL. Any material not defined as noncombustible.

COMBUSTION. In the context of this code, refers to the rapid oxidation of fuel accompanied by the production of heat or heat and light.

COMBUSTION AIR. Air necessary for complete *combustion* of a fuel, including *theoretical air* and excess air.

COMBUSTION CHAMBER. The portion of an *appliance* within which *combustion* occurs.

COMBUSTION PRODUCTS. Constituents resulting from the *combustion* of a fuel with the oxygen of the air, including the inert gases, but excluding excess air.

COMMERCIAL COOKING APPLIANCES. Appliances used in a commercial food service establishment for heating or cooking food and which produce grease vapors, steam,

fumes, smoke or odors that are required to be removed through a local exhaust ventilation system. Such appliances include deep fat fryers; upright broilers; griddles; broilers; steam-jacketed kettles; hot-top ranges; under-fired broilers (charbroilers); ovens; barbecues; rotisseries; and similar appliances. For the purpose of this definition, a food service establishment shall include any building or a portion thereof used for the preparation and serving of food.

COMMERCIAL COOKING RECIRCULATING SYSTEM. Self-contained system consisting of the exhaust hood, the cooking *equipment*, the filters and the fire suppression system. The system is designed to capture cooking vapors and residues generated from commercial cooking *equipment*. The system removes contaminants from the *exhaust air* and recirculates the air to the space from which it was withdrawn.

COMMERCIAL KITCHEN HOODS.

Backshelf hood. A backshelf hood is also referred to as a low-proximity hood, or as a sidewall hood where wall mounted. Its front lower lip is low over the *appliance(s)* and is "set back" from the front of the *appliance(s)*. It is always closed to the rear of the *appliances* by a panel where free-standing, or by a panel or wall where wall mounted, and its height above the cooking surface varies. (This style of hood can be constructed with partial end panels to increase its effectiveness in capturing the effluent generated by the cooking operation).

Double island canopy hood. A double island canopy hood is placed over back-to-back *appliances* or *appliance* lines. It is open on all sides and overhangs both fronts and the sides of the *appliance(s)*. It could have a wall panel between the backs of the *appliances*. (The fact that *exhaust air* is drawn from both sides of the double canopy to meet in the center causes each side of this hood to emulate a wall canopy hood, and thus it functions much the same with or without an actual wall panel between the backs of the *appliances*).

Eyebrow hood. An eyebrow hood is mounted directly to the face of an *appliance*, such as an oven and dishwasher, above the opening(s) or door(s) from which effluent is emitted, extending past the sides and overhanging the front of the opening to capture the effluent.

Pass-over hood. A pass-over hood is a free-standing form of a backshelf hood constructed low enough to pass food over the top.

Single island canopy hood. A single island canopy hood is placed over a single *appliance* or *appliance* line. It is open on all sides and overhangs the front, rear and sides of the *appliance(s)*. A single island canopy is more susceptible to cross drafts and requires a greater *exhaust air* flow than an equivalent sized wall-mounted canopy to capture and contain effluent generated by the cooking operation(s).

Wall canopy hood. A wall canopy exhaust hood is mounted against a wall above a single *appliance* or line of *appliance(s)*, or it could be free-standing with a back panel from the rear of the *appliances* to the hood. It overhangs the front and sides of the *appliance(s)* on all open sides.

The wall acts as a back panel, forcing the *makeup air* to be drawn across the front of the cooking *equipment*, thus increasing the effectiveness of the hood to capture and contain effluent generated by the cooking operation(s).

COMPENSATING HOODS. *Compensating hoods* are those having integral (built-in) *makeup air* supply. The *makeup air* supply for such hoods is generally supplied from: short-circuit flow from inside the hood, air curtain flow from the bottom of the front face, and front face discharge from the outside front wall of the hood. The compensating *makeup air* flow can also be supplied from the rear or side of the hood, or the rear, front or sides of the cooking *equipment*. The *makeup* airflow can be one or a combination of methods.

COMPRESSOR. A specific machine, with or without accessories, for compressing a gas.

COMPRESSOR, POSITIVE DISPLACEMENT. A compressor in which increase in pressure is attained by changing the internal volume of the compression chamber.

COMPRESSOR UNIT. A compressor with its prime mover and accessories.

CONCEALED LOCATION. A location that cannot be accessed without damaging permanent parts of the building structure or finish surface. Spaces above, below or behind readily removable panels or doors shall not be considered as concealed.

CONDENSATE. The liquid that condenses from a gas (including flue gas) caused by a reduction in temperature.

CONDENSER. A heat exchanger designed to liquefy refrigerant vapor by removal of heat.

CONDENSING UNIT. A specific refrigerating machine combination for a given refrigerant, consisting of one or more power-driven compressors, condensers and, where required, liquid receivers, and the regularly furnished accessories.

CONDITIONED SPACE. An area, room or space that is enclosed within the building thermal envelope and that is directly heated or cooled or that is indirectly heated or cooled. Spaces are indirectly heated or cooled where they communicate through openings with conditioned spaces, where they are separated from conditioned spaces by uninsulated walls, floors or ceilings, or where they contain uninsulated ducts, piping or other sources of heating or cooling.

[A] CONSTRUCTION DOCUMENTS. The written, graphic and pictorial documents prepared or assembled for describing the design, location and physical characteristics of the elements of the project necessary for obtaining a building permit. The construction drawings shall be drawn to an appropriate scale.

CONTROL. A manual or automatic device designed to regulate the gas, air, water or electrical supply to, or operation of, a mechanical system.

CONVERSION BURNER. A burner designed to supply gaseous fuel to an *appliance* originally designed to utilize another fuel.

COOKING APPLIANCE. See "Commercial cooking appliances."

DEFINITIONS

DAMPER. A manually or automatically controlled device to regulate draft or the rate of flow of air or *combustion* gases.

Volume damper. A device that, where installed, will restrict, retard or direct the flow of air in a duct, or the products of *combustion* in a heat-producing *appliance*, its vent connector, vent or *chimney* therefrom.

[BS] DESIGN FLOOD ELEVATION. The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard area map. In areas designated as Zone AO, the *design flood elevation* shall be the elevation of the highest existing grade of the building's perimeter plus the depth number, in feet, specified on the flood hazard map. In areas designated as Zone AO where a depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet (610 mm).

DESIGN WORKING PRESSURE. The maximum allowable working pressure for which a specific part of a system is designed.

DIRECT REFRIGERATION SYSTEM. A system in which the evaporator or condenser of the refrigerating system is in direct contact with the air or other substances to be cooled or heated.

DIRECT-VENT APPLIANCES. Appliances that are constructed and installed so that all air for *combustion* is derived from the outdoor atmosphere and all flue gases are discharged to the outdoor atmosphere.

DISCRETE PRODUCT. Products that are noncontinuous, individual, distinct pieces such as, but not limited to, electrical, plumbing and mechanical products and duct straps, duct fittings, duct registers and pipe hangers.

DRAFT. The pressure difference existing between the *appliance* or any component part and the atmosphere, that causes a continuous flow of air and products of *combustion* through the gas passages of the *appliance* to the atmosphere.

Induced draft. The pressure difference created by the action of a fan, blower or ejector, that is located between the *appliance* and the *chimney* or vent termination.

Natural draft. The pressure difference created by a vent or *chimney* because of its height, and the temperature difference between the flue gases and the atmosphere.

DRIP. The container placed at a low point in a system of piping to collect condensate and from which the condensate is removable.

DRY CLEANING SYSTEMS. Dry cleaning plants or systems are classified as follows:

Type I. Those systems using Class I flammable liquid solvents having a flash point below 100°F (38°C).

Type II. Those systems using Class II combustible liquid solvents having a flash point at or above 100°F (38°C) and below 140°F (60°C).

Type III. Those systems using Class III combustible liquid solvents having a flash point at or above 140°F (60°C).

Types IV and V. Those systems using Class IV nonflammable liquid solvents.

DUCT. A tube or conduit utilized for conveying air. The air passages of self-contained systems are not to be construed as air ducts.

DUCT FURNACE. A warm-air furnace normally installed in an air distribution duct to supply warm air for heating. This definition shall apply only to a warm-air heating *appliance* that, for air circulation, depends on a blower not furnished as part of the furnace.

DUCT SYSTEM. A continuous passageway for the transmission of air that, in addition to ducts, includes duct fittings, dampers, plenums, fans and accessory air-handling *equipment* and appliances.

DUCTLESS MINI-SPLIT SYSTEM. A heating and cooling system that is comprised of one or multiple indoor evaporator/air-handling units and an outdoor condensing unit that is connected by refrigerant piping and electrical wiring. A ductless mini-split system is capable of cooling or heating one or more rooms without the use of a traditional ductwork system.

[BG] DWELLING. A building or portion thereof that contains not more than two *dwelling* units.

[BG] DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

ELECTRIC HEATING APPLIANCE. An *appliance* that produces heat energy to create a warm environment by the application of electric power to resistance elements, refrigerant compressors or dissimilar material junctions.

ENERGY RECOVERY VENTILATION SYSTEM. Systems that employ air-to-air heat exchangers to recover energy from or reject energy to *exhaust air* for the purpose of preheating, pre-cooling, humidifying or dehumidifying outdoor *ventilation air* prior to supplying such air to a space, either directly or as part of an HVAC system.

ENVIRONMENTAL AIR. Air that is conveyed to or from occupied areas through ducts which are not part of the heating or air-conditioning system, such as ventilation for human usage, domestic kitchen range exhaust, bathroom exhaust, domestic clothes dryer exhaust and parking garage exhaust.

EQUIPMENT. All piping, ducts, vents, control devices and other components of systems other than appliances which are permanently installed and integrated to provide control of environmental conditions for buildings. This definition shall also include other systems specifically regulated in this code.

EQUIPMENT, EXISTING. Any *equipment* regulated by this code which was legally installed prior to the effective date of this code, or for which a permit to install has been issued.

EVAPORATIVE COOLER. A device used for reducing the sensible heat of air for cooling by the process of evaporation of water into an airstream.

EVAPORATIVE COOLING SYSTEM. The *equipment* and appliances intended or installed for the purpose of environmental cooling by an evaporative cooler from which the conditioned air is distributed through ducts or plenums to the conditioned area.

EVAPORATOR. That part of the system in which liquid refrigerant is vaporized to produce refrigeration.

EXCESS AIR. The amount of air provided in addition to *theoretical air* to achieve complete *combustion* of a fuel, thereby preventing the formation of dangerous products of *combustion*.

EXFILTRATION. Uncontrolled outward air leakage from conditioned spaces through unintentional openings in ceilings, floors and walls to unconditioned spaces or the outdoors caused by pressure differences across these openings resulting from wind, the stack effect created by temperature differences between indoors and outdoors, and imbalances between supply and exhaust airflow rates.

EXHAUST SYSTEM. An assembly of connected ducts, plenums, fittings, registers, grilles and hoods through which air is conducted from the space or spaces and exhausted to the outdoor atmosphere.

EXTRA-HEAVY-DUTY COOKING APPLIANCE.

Extra-heavy-duty cooking appliances are those utilizing open flame combustion of solid fuel at any time.

[BF] FIRE DAMPER. A *listed* device installed in ducts and air transfer openings designed to close automatically upon detection of heat and to restrict the passage of flame. Fire dampers are classified for use in either static systems that will automatically shut down in the event of a fire, or in dynamic systems that continue to operate during a fire. A dynamic fire damper is tested and rated for closure under elevated temperature airflow.

FIREPLACE. An assembly consisting of a hearth and fire chamber of noncombustible material and provided with a *chimney*, for use with solid fuels.

Factory-built fireplace. A *listed* and *labeled* fireplace and *chimney* system composed of factory-made components, and assembled in the field in accordance with manufacturer's instructions and the conditions of the listing.

Masonry fireplace. A field-constructed fireplace composed of solid masonry units, bricks, stones or concrete.

FIREPLACE STOVE. A free-standing chimney-connected solid-fuel-burning heater, designed to be operated with the fire chamber doors in either the open or closed position.

[FG] FLAME SAFEGUARD. A device that will automatically shut off the fuel supply to a main burner or group of burners when the means of ignition of such burners becomes inoperative, and when flame failure occurs on the burner or group of burners.

[BF] FLAME SPREAD INDEX. The numerical value assigned to a material tested in accordance with ASTM E 84 or UL 723.

FLAMMABILITY CLASSIFICATION. Refrigerants shall be assigned to one of the three classes—1, 2 or 3—in accordance with ASHRAE 34. For Classes 2 and 3, the heat of *combustion* shall be calculated assuming that *combustion* products are in the gas phase and in their most stable state.

Class 1. Refrigerants that do not show flame propagation when tested in air at 14.7 psia (101 kPa) and 140°F (60°C).

Class 2. Refrigerants having a lower flammability limit (LFL) of more than 0.00625 pound per cubic foot (0.10 kg/m³) at 140°F (60°C) and 14.7 psia (101 kPa) and a heat of combustion of less than 8169 Btu/lb (19 000 kJ/kg).

Class 3. Refrigerants that are highly flammable, having a LFL of less than or equal to 0.00625 pound per cubic foot (0.10 kg/m³) at 140°F (60°C) and 14.7 psia (101 kPa) or a heat of combustion greater than or equal to 8169 Btu/lb (19 000 kJ/kg).

[F] FLAMMABLE LIQUIDS. Any liquid that has a flash point below 100°F (38°C), and has a vapor pressure not exceeding 40 psia (276 kPa) at 100°F (38°C). Flammable liquids shall be known as Class I liquids and shall be divided into the following classifications:

Class IA. Liquids having a flash point below 73°F (23°C) and a boiling point below 100°F (38°C).

Class IB. Liquids having a flash point below 73°F (23°C) and a boiling point at or above 100°F (38°C).

Class IC. Liquids having a flash point at or above 73°F (23°C) and below 100°F (38°C).

[F] FLAMMABLE VAPOR OR FUMES. Mixtures of gases in air at concentrations equal to or greater than the LFL and less than or equal to the upper flammability limit (UFL).

[F] FLASH POINT. The minimum temperature corrected to a pressure of 14.7 psia (101 kPa) at which the application of a test flame causes the vapors of a portion of the sample to ignite under the conditions specified by the test procedures and apparatus. The flash point of a liquid shall be determined in accordance with ASTM D 56, ASTM D 93 or ASTM D 3278.

FLEXIBLE AIR CONNECTOR. A conduit for transferring air between an air duct or plenum and an air terminal unit or between an air duct or plenum and an air inlet or air outlet. Such conduit is limited in its use, length and location.

FLOOR AREA, NET. The actual occupied area, not including unoccupied accessory areas or thicknesses of walls.

[FG] FLOOR FURNACE. A completely self-contained furnace suspended from the floor of the space being heated, taking air for *combustion* from outside such space and with means for observing flames and lighting the *appliance* from such space.

FLUE. A passageway within a *chimney* or vent through which gaseous *combustion* products pass.

FLUE CONNECTION (BREECHING). A passage for conducting the products of *combustion* from a fuel-fired *appliance* to the vent or *chimney* (see also "*Chimney connector*" and "*Vent connector*").

FLUE GASES. Products of *combustion* and excess air.

FLUE LINER (LINING). A system or material used to form the inside surface of a flue in a *chimney* or vent, for the purpose of protecting the surrounding structure from the effects of *combustion* products and conveying *combustion* products without leakage to the atmosphere.

[FG] FUEL GAS. A natural gas, manufactured gas, liquefied petroleum gas or a mixture of these.

DEFINITIONS

FUEL OIL. Kerosene or any hydrocarbon oil having a flash point not less than 100°F (38°C).

FUEL-OIL PIPING SYSTEM. A closed piping system that connects a combustible liquid from a source of supply to a fuel-oil-burning *appliance*.

FURNACE. A completely self-contained heating unit that is designed to supply heated air to spaces remote from or adjacent to the *appliance* location.

FURNACE ROOM. A room primarily utilized for the installation of fuel-burning, space-heating and water-heating appliances other than boilers (see also "Boiler room").

FUSIBLE PLUG. A device arranged to relieve pressure by operation of a fusible member at a predetermined temperature.

GROUND SOURCE HEAT PUMP LOOP SYSTEM. Piping buried in horizontal or vertical excavations or placed in a body of water for the purpose of transporting heat transfer liquid to and from a heat pump. Included in this definition are closed loop systems in which the liquid is recirculated and open loop systems in which the liquid is drawn from a well or other source.

HAZARDOUS LOCATION. Any location considered to be a fire hazard for flammable vapors, dust, combustible fibers or other highly combustible substances. The location is not necessarily categorized in the *International Building Code* as a high-hazard use group classification.

HEAT EXCHANGER. A device that transfers heat from one medium to another.

HEAT PUMP. A refrigeration system that extracts heat from one substance and transfers it to another portion of the same substance or to a second substance at a higher temperature for a beneficial purpose.

HEAT TRANSFER LIQUID. The operating or thermal storage liquid in a mechanical system, including water or other liquid base, and additives at the concentration present under operating conditions used to move heat from one location to another. Refrigerants are not included as heat transfer liquids.

HEAVY-DUTY COOKING APPLIANCE. Heavy-duty cooking *appliances* include electric under-fired broilers, electric chain (conveyor) broilers, gas under-fired broilers, gas chain (conveyor) broilers, gas open-burner ranges (with or without oven), electric and gas wok ranges, smokers, smoker ovens, and electric and gas over-fired (upright) broilers and salamanders.

HIGH-PROBABILITY SYSTEMS. A refrigeration system in which the basic design or the location of components is such that a leakage of refrigerant from a failed connection, seal or component will enter an *occupancy* classified area, other than the *machinery room*.

HIGH-SIDE PRESSURE. The parts of a refrigerating system subject to condenser pressure.

HOOD. An air intake device used to capture by entrapment, impingement, adhesion or similar means, grease, moisture, heat and similar contaminants before they enter a duct system.

Type I. A kitchen hood for collecting and removing grease vapors and smoke. Such hoods are equipped with a fire suppression system.

Type II. A general kitchen hood for collecting and removing steam, vapor, heat, odors and products of *combustion*.

[FG] HYDROGEN GENERATING APPLIANCE. A self-contained package or factory-matched packages of integrated systems for generating gaseous hydrogen. Hydrogen generating appliances utilize electrolysis, reformation, chemical, or other processes to generate hydrogen.

IGNITION SOURCE. A flame, spark or hot surface capable of igniting flammable vapors or fumes. Such sources include *appliance* burners, burner ignitors and electrical switching devices.

[F] IMMEDIATELY DANGEROUS TO LIFE OR HEALTH (IDLH). The concentration of airborne contaminants that poses a threat of death, immediate or delayed permanent adverse health effects, or effects that could prevent escape from such an environment. This contaminant concentration level is established by the National Institute of Occupational Safety and Health (NIOSH) based on both toxicity and flammability. It is generally expressed in parts per million by volume (ppm v/v) or milligrams per cubic meter (mg/m³).

INDIRECT REFRIGERATION SYSTEM. A system in which a secondary coolant cooled or heated by the refrigerating system is circulated to the air or other substance to be cooled or heated. Indirect systems are distinguished by the following methods of application:

Closed system. A system in which a secondary fluid is either cooled or heated by the refrigerating system and then circulated within a closed circuit in indirect contact with the air or other substance to be cooled or heated.

Double-indirect open-spray system. A system in which the secondary substance for an indirect open-spray system is heated or cooled by an intermediate coolant circulated from a second enclosure.

Open-spray system. A system in which a secondary coolant is cooled or heated by the refrigerating system and then circulated in direct contact with the air or other substance to be cooled or heated.

Vented closed system. A system in which a secondary coolant is cooled or heated by the refrigerating system and then passed through a closed circuit in the air or other substance to be cooled or heated, except that the evaporator or condenser is placed in an open or appropriately vented tank.

INFILTRATION. Uncontrolled inward air leakage to conditioned spaces through unintentional openings in ceilings, floors and walls from unconditioned spaces or the outdoors caused by pressure differences across these openings resulting from wind, the stack effect created by temperature differences between indoors and outdoors, and imbalances between supply and exhaust airflow rates.

INTERLOCK. A device actuated by another device with which it is directly associated, to govern succeeding opera-

tions of the same or allied devices. A circuit in which a given action cannot occur until after one or more other actions have taken place.

JOINT, FLANGED. A joint made by bolting together a pair of flanged ends.

JOINT, FLARED. A metal-to-metal compression joint in which a conical spread is made on the end of a tube that is compressed by a flare nut against a mating flare.

JOINT, PLASTIC ADHESIVE. A joint made in thermoset plastic piping by the use of an adhesive substance which forms a continuous bond between the mating surfaces without dissolving either one of them.

JOINT, PLASTIC HEAT FUSION. A joint made in thermoplastic piping by heating the parts sufficiently to permit fusion of the materials when the parts are pressed together.

JOINT, PLASTIC SOLVENT CEMENT. A joint made in thermoplastic piping by the use of a solvent or solvent cement which forms a continuous bond between the mating surfaces.

JOINT, SOLDERED. A gas-tight joint obtained by the joining of metal parts with metallic mixtures of alloys which melt at temperatures between 400°F (204°C) and 1,000°F (538°C).

JOINT, WELDED. A gas-tight joint obtained by the joining of metal parts in molten state.

[A] LABELED. *Equipment*, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the *equipment*, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LIGHT-DUTY COOKING APPLIANCE. Light-duty cooking *appliances* include gas and electric ovens (including standard, bake, roasting, revolving, retherm, convection, combination convection/steamer, countertop conveyorized baking/finishing, deck and pastry), electric and gas steam-jacketed kettles, electric and gas pasta cookers, electric and gas compartment steamers (both pressure and atmospheric) and electric and gas cheesemelters.

[FG] LIMIT CONTROL. A device responsive to changes in pressure, temperature or level for turning on, shutting off or throttling the gas supply to an *appliance*.

LIMITED CHARGE SYSTEM. A system in which, with the compressor idle, the design pressure will not be exceeded when the refrigerant charge has completely evaporated.

[A] LISTED. *Equipment*, materials, products or services included in a list published by an organization acceptable to the code official and concerned with evaluation of products or services that maintains periodic inspection of production of *listed equipment* or materials or periodic evaluation of services and whose listing states either that the *equipment*, mate-

rial, product or service meets identified standards or has been tested and found suitable for a specified purpose.

LIVING SPACE. Space within a *dwelling unit* utilized for living, sleeping, eating, cooking, bathing, washing and sanitation purposes.

LOWER EXPLOSIVE LIMIT (LEL). See "LFL."

LOWER FLAMMABLE LIMIT (REFRIGERANT) (LFL). The minimum concentration of refrigerant that is capable of propagating a flame through a homogeneous mixture of refrigerant and air.

[F] LOWER FLAMMABLE LIMIT (LFL). The minimum concentration of vapor in air at which propagation of flame will occur in the presence of an ignition source. The LFL is sometimes referred to as LEL or lower explosive limit.

LOW-PRESSURE HOT-WATER-HEATING BOILER. A boiler furnishing hot water at pressures not exceeding 160 psi (1103 kPa) and at temperatures not exceeding 250°F (121°C).

LOW-PRESSURE STEAM-HEATING BOILER. A boiler furnishing steam at pressures not exceeding 15 psi (103 kPa).

LOW-PROBABILITY SYSTEMS. A refrigeration system in which the basic design or the location of components is such that a leakage of refrigerant from a failed connection, seal or component will not enter an occupancy-classified area, other than the *machinery room*.

LOW-SIDE PRESSURE. The parts of a refrigerating system subject to evaporator pressure.

MACHINERY ROOM. A room meeting prescribed safety requirements and in which refrigeration systems or components thereof are located (see Sections 1105 and 1106).

MECHANICAL DRAFT SYSTEM. A venting system designed to remove flue or vent gases by mechanical means, that consists of an induced-draft portion under nonpositive static pressure or a forced-draft portion under positive static pressure.

Forced-draft venting system. A portion of a venting system using a fan or other mechanical means to cause the removal of flue or vent gases under positive static pressure.

Induced-draft venting system. A portion of a venting system using a fan or other mechanical means to cause the removal of flue or vent gases under nonpositive static vent pressure.

Power venting system. A portion of a venting system using a fan or other mechanical means to cause the removal of flue or vent gases under positive static vent pressure.

MECHANICAL EQUIPMENT/APPLIANCE ROOM. A room or space in which nonfuel-fired mechanical *equipment* and *appliances* are located.

DEFINITIONS

MECHANICAL EXHAUST SYSTEM. A system for removing air from a room or space by mechanical means.

MECHANICAL JOINT.

1. A connection between pipes, fittings, or pipes and fittings that is not welded, brazed, caulked, soldered, solvent cemented or heat fused.
2. A general form of gas or liquid-tight connections obtained by the joining of parts through a positive holding mechanical construction such as, but not limited to, flanged, screwed, clamped or flared connections.

MECHANICAL SYSTEM. A system specifically addressed and regulated in this code and composed of components, devices, *appliances* and *equipment*.

MEDIUM-DUTY COOKING APPLIANCE. Medium-duty cooking *appliances* include electric discrete element ranges (with or without oven), electric and gas hot-top ranges, electric and gas griddles, electric and gas double-sided griddles, electric and gas fryers (including open deep fat fryers, donut fryers, kettle fryers and pressure fryers), electric and gas conveyor pizza ovens, electric and gas tilting skillets (braising pans) and electric and gas rotisseries.

MODULAR BOILER. A steam or hot-water-heating assembly consisting of a group of individual boilers called modules intended to be installed as a unit without intervening stop valves. Modules are under one jacket or are individually jacketed. The individual modules shall be limited to a maximum input rating of 400,000 Btu/h (117 228 W) gas, 3 gallons per hour (gph) (11.4 L/h) oil, or 115 kW (electric).

NATURAL DRAFT SYSTEM. A venting system designed to remove flue or vent gases under nonpositive static vent pressure entirely by natural draft.

NATURAL VENTILATION. The movement of air into and out of a space through intentionally provided openings, such as windows and doors, or through nonpowered ventilators.

NET OCCUPIABLE FLOOR AREA. The floor area of an *occupiable space* defined by the inside surfaces of its walls but excluding shafts, column enclosures and other permanently enclosed, inaccessible and unoccupiable areas. Obstructions in the space such as furnishings, display or storage racks and other obstructions, whether temporary or permanent, shall not be deducted from the space area.

NONABRASIVE/ABRASIVE MATERIALS. Nonabrasive particulate in high concentrations, moderately abrasive particulate in low and moderate concentrations, and highly abrasive particulate in low concentrations, such as alfalfa, asphalt, plaster, gypsum and salt.

NONCOMBUSTIBLE MATERIALS. Materials that, when tested in accordance with ASTM E 136, have at least three of four specimens tested meeting all of the following criteria:

1. The recorded temperature of the surface and interior thermocouples shall not at any time during the test rise more than 54°F (30°C) above the furnace temperature at the beginning of the test.
2. There shall not be flaming from the specimen after the first 30 seconds.

3. If the weight loss of the specimen during testing exceeds 50 percent, the recorded temperature of the surface and interior thermocouples shall not at any time during the test rise above the furnace air temperature at the beginning of the test, and there shall not be flaming of the specimen.

[A] OCCUPANCY. The purpose for which a building, or portion thereof, is utilized or occupied.

OCCUPATIONAL EXPOSURE LIMIT (OEL). The time-weighted average (TWA) concentration for a normal eight-hour workday and a 40-hour workweek to which nearly all workers can be repeatedly exposed without adverse effect, based on the OSHA PEL, ACGIH TLV-TWA, AIHA WEEL, or consistent value.

OCCUPIABLE SPACE. An enclosed space intended for human activities, excluding those spaces intended primarily for other purposes, such as storage rooms and *equipment* rooms, that are only intended to be occupied occasionally and for short periods of time.

OFFSET (VENT). A combination of *approved* bends that make two changes in direction bringing one section of the vent out of line but into a line parallel with the other section.

OUTDOOR AIR. Air taken from the outdoors, and therefore not previously circulated through the system.

OUTDOOR OPENING. A door, window, louver or skylight openable to the outdoor atmosphere.

OUTLET. A threaded connection or bolted flange in a piping system to which a gas-burning *appliance* is attached.

PANEL HEATING. A method of radiant space heating in which heat is supplied by large heated areas of room surfaces. The heating element usually consists of warm water piping, warm air ducts, or electrical resistance elements embedded in or located behind ceiling, wall or floor surfaces.

PELLET FUEL-BURNING APPLIANCE. A closed-combustion, vented *appliance* equipped with a fuel-feed mechanism for burning processed pellets of solid fuel of a specified size and composition.

PIPING. Where used in this code, "piping" refers to either pipe or tubing, or both.

Pipe. A rigid conduit of iron, steel, copper, brass or plastic.

Tubing. Semirigid conduit of copper, aluminum, plastic or steel.

PLASTIC, THERMOPLASTIC. A plastic that is capable of being repeatedly softened by increase of temperature and hardened by decrease of temperature.

PLASTIC, THERMOSETTING. A plastic that is capable of being changed into a substantially infusible or insoluble product when cured under application of heat or chemical means.

PLENUM. An enclosed portion of the building structure, other than an *occupiable space* being conditioned, that is designed to allow air movement, and thereby serve as part of an air distribution system.

PORTABLE FUEL CELL APPLIANCE. A fuel cell generator of electricity, which is not fixed in place. A portable fuel cell *appliance* utilizes a cord and plug connection to a grid-isolated load and has an integral fuel supply.

POWER BOILER. See "Boiler."

[A] PREMISES. A lot, plot or parcel of land, including any structure thereon.

PRESS JOINT. A permanent mechanical joint incorporating an elastomeric seal or an elastomeric seal and corrosion-resistant grip ring. The joint is made with a pressing tool and jaw or ring approved by the fitting manufacturer.

PRESSURE, FIELD TEST. A test performed in the field to prove system tightness.

PRESSURE-LIMITING DEVICE. A pressure-responsive mechanism designed to stop automatically the operation of the pressure-imposing element at a predetermined pressure.

PRESSURE RELIEF DEVICE. A pressure-actuated valve or rupture member designed to relieve excessive pressure automatically.

PRESSURE RELIEF VALVE. A pressure-actuated valve held closed by a spring or other means and designed to relieve pressure automatically in excess of the device's setting.

PRESSURE VESSELS. Closed containers, tanks or vessels that are designed to contain liquids or gases, or both, under pressure.

PRESSURE VESSELS—REFRIGERANT. Any refrigerant-containing receptacle in a refrigerating system. This does not include evaporators where each separate section does not exceed 0.5 cubic foot (0.014 m³) of refrigerant-containing volume, regardless of the maximum inside dimensions, evaporator coils, controls, headers, pumps and piping.

PROTECTIVE ASSEMBLY (REDUCED CLEARANCE). Any noncombustible assembly that is *labeled* or constructed in accordance with Table 308.4.2 and is placed between combustible materials or assemblies and mechanical appliances, devices or *equipment*, for the purpose of reducing required airspace clearances. Protective assemblies attached directly to a combustible assembly shall not be considered as part of that combustible assembly.

PURGE. To clear of air, water or other foreign substances.

PUSH-FIT JOINTS. A type of mechanical joint consisting of elastomeric seals and corrosion-resistant tube grippers. Such joints are permanent or removable depending on the design.

QUICK-OPENING VALVE. A valve that opens completely by fast action, either manually or automatically controlled. A valve requiring one-quarter round turn or less is considered to be quick opening.

RADIANT HEATER. A heater designed to transfer heat primarily by direct radiation.

READY ACCESS (TO). That which enables a device, *appliance* or *equipment* to be directly reached, without requiring the removal or movement of any panel, door or similar obstruction [see "Access (to)"].

RECEIVER, LIQUID. A vessel permanently connected to a refrigeration system by inlet and outlet pipes for storage of liquid refrigerant.

RECIRCULATED AIR. Air removed from a conditioned space and intended for reuse as supply air.

RECLAIMED REFRIGERANTS. Refrigerants reprocessed to the same specifications as for new refrigerants by means including distillation. Such refrigerants have been chemically analyzed to verify that the specifications have been met. Reclaiming usually implies the use of processes or procedures that are available only at a reprocessing or manufacturing facility.

RECOVERED REFRIGERANTS. Refrigerants removed from a system in any condition without necessarily testing or processing them.

RECYCLED REFRIGERANTS. Refrigerants from which contaminants have been reduced by oil separation, removal of noncondensable gases, and single or multiple passes through devices that reduce moisture, acidity and particulate matter, such as replaceable core filter driers. These procedures usually are performed at the field job site or in a local service shop.

REFRIGERANT. A substance utilized to produce refrigeration by its expansion or vaporization.

REFRIGERANT SAFETY CLASSIFICATIONS. Groupings that indicate the toxicity and flammability classes in accordance with Section 1103.1. The classification group is made up of a letter (A or B) that indicates the toxicity class, followed by a number (1, 2 or 3) that indicates the flammability class. Refrigerant blends are similarly classified, based on the compositions at their worst cases of fractionation, as separately determined for toxicity and flammability. In some cases, the worst case of fractionation is the original formulation.

Flammability. See "Flammability classification."

Toxicity. See "Toxicity classification."

REFRIGERATED ROOM OR SPACE. A room or space in which an evaporator or brine coil is located for the purpose of reducing or controlling the temperature within the room or space to below 68°F (20°C).

REFRIGERATING SYSTEM. A combination of interconnected refrigerant-containing parts constituting one closed refrigerant circuit in which a refrigerant is circulated for the purpose of extracting heat.

REFRIGERATION CAPACITY RATING. Expressed as 1 horsepower (0.75 kW), 1 ton or 12,000 Btu/h (3.5 kW), shall all mean the same quantity.

REFRIGERATION MACHINERY ROOM. See "*Machinery room.*"

REFRIGERATION SYSTEM, ABSORPTION. A heat-operated, closed-refrigeration cycle in which a secondary fluid (the absorbent) absorbs a primary fluid (the refrigerant) that has been vaporized in the evaporator.

Direct system. A system in which the evaporator is in direct contact with the material or space refrigerated, or is

DEFINITIONS

located in air-circulating passages communicating with such spaces.

Indirect system. A system in which a brine coil cooled by the refrigerant is circulated to the material or space refrigerated, or is utilized to cool the air so circulated. Indirect systems are distinguished by the type or method of application.

REFRIGERATION SYSTEM CLASSIFICATION. Refrigeration systems are classified according to the degree of probability that leaked refrigerant from a failed connection, seal or component will enter an occupied area. The distinction is based on the basic design or location of the components.

REFRIGERATION SYSTEM, MECHANICAL. A combination of interconnected refrigeration-containing parts constituting one closed refrigerant circuit in which a refrigerant is circulated for the purpose of extracting heat and in which a compressor is used for compressing the refrigerant vapor.

REFRIGERATION SYSTEM, SELF-CONTAINED. A complete factory-assembled and tested system that is shipped in one or more sections and that does not have refrigerant-containing parts that are joined in the field by other than companion or block valves.

[A] REGISTERED DESIGN PROFESSIONAL. An individual who is registered or licensed to practice their respective design profession as defined by the statutory requirements of the professional registration laws of the state or jurisdiction in which the project is to be constructed.

RETURN AIR. Air removed from an *approved* conditioned space or location and recirculated or exhausted.

RETURN AIR SYSTEM. An assembly of connected ducts, plenums, fittings, registers and grilles through which air from the space or spaces to be heated or cooled is conducted back to the supply unit (see also "Supply air system").

[FG] ROOM HEATER VENTED. A free-standing heating unit burning solid or liquid fuel for direct heating of the space in and adjacent to that in which the unit is located.

SAFETY VALVE. A valve that relieves pressure in a steam boiler by opening fully at the rated discharge pressure. The valve is of the spring-pop type.

SELF-CONTAINED EQUIPMENT. Complete, factory-assembled and tested, heating, air-conditioning or refrigeration *equipment* installed as a single unit, and having all working parts, complete with motive power, in an enclosed unit of said machinery.

[BF] SHAFT. An enclosed space extending through one or more stories of a building, connecting vertical openings in successive floors, or floors and the roof.

[BF] SHAFT ENCLOSURE. The walls or construction forming the boundaries of a shaft.

[BG] SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a *dwelling unit* are not sleeping units.

[BF] SMOKE DAMPER. A *listed* device installed in ducts and air transfer openings designed to resist the passage of smoke. The device is installed to operate automatically, controlled by a smoke detection system, and where required, is capable of being positioned from a fire command center.

[BF] SMOKE-DEVELOPED INDEX. A numerical value assigned to a material tested in accordance with ASTM E 84.

SOLID FUEL (COOKING APPLICATIONS). Applicable to commercial food service operations only, solid fuel is any bulk material such as hardwood, mesquite, charcoal or briquettes that is combusted to produce heat for cooking operations.

SOURCE CAPTURE SYSTEM. A mechanical exhaust system designed and constructed to capture air contaminants at their source and to exhaust such contaminants to the outdoor atmosphere.

[FG] STATIONARY FUEL CELL POWER PLANT. A self-contained package or factory-matched packages which constitute an automatically operated assembly of integrated systems for generating useful electrical energy and recoverable thermal energy that is permanently connected and fixed in place.

STEAM-HEATING BOILER. A boiler operated at pressures not exceeding 15 psi (103 kPa) for steam.

STOP VALVE. A shutoff valve for controlling the flow of liquid or gases.

[BG] STORY. That portion of a building included between the upper surface of a floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

STRENGTH, ULTIMATE. The highest stress level that the component will tolerate without rupture.

SUPPLY AIR. That air delivered to each or any space supplied by the air distribution system or the total air delivered to all spaces supplied by the air distribution system, which is provided for ventilating, heating, cooling, humidification, dehumidification and other similar purposes.

SUPPLY AIR SYSTEM. An assembly of connected ducts, plenums, fittings, registers and grilles through which air, heated or cooled, is conducted from the supply unit to the space or spaces to be heated or cooled (see also "Return air system").

THEORETICAL AIR. The exact amount of air required to supply oxygen for complete *combustion* of a given quantity of a specific fuel.

THERMAL RESISTANCE (R). A measure of the ability to retard the flow of heat. The *R*-value is the reciprocal of thermal conductance.

[P] THIRD-PARTY CERTIFICATION AGENCY. An approved agency operating a product or material certification system that incorporates initial product testing, assessment and surveillance of a manufacturer's quality control system.

[P] THIRD-PARTY CERTIFIED. Certification obtained by the manufacturer indicating that the function and perfor-

mance characteristics of a product or material have been determined by testing and ongoing surveillance by an approved third-party certification agency. Assertion of certification is in the form of identification in accordance with the requirements of the third-party certification agency.

[P] THIRD-PARTY TESTED. Procedure by which an approved testing laboratory provides documentation that a product, material or system conforms to specified requirements.

TLV-TWA (THRESHOLD LIMIT VALUE-TIME-WEIGHTED AVERAGE). The time-weighted average concentration of a refrigerant or other chemical in air for a normal 8-hour workday and a 40-hour workweek, to which nearly all workers are repeatedly exposed, day after day, without adverse effects, as adopted by the American Conference of Government Industrial Hygienists (ACGIH).

TOILET ROOM. A room containing a water closet and, frequently, a lavatory, but not a bathtub, shower, spa or similar bathing fixture.

TOXICITY CLASSIFICATION. Refrigerants shall be classified for toxicity in one of two classes in accordance with ASHRAE 34:

Class A. Refrigerants that have an occupational exposure limit (OEL) of 400 parts per million (ppm) or greater.

Class B. Refrigerants that have an OEL of less than 400 ppm.

TRANSITION FITTINGS, PLASTIC TO STEEL. An adapter for joining plastic pipe to steel pipe. The purpose of this fitting is to provide a permanent, pressure-tight connection between two materials which cannot be joined directly one to another.

UNIT HEATER. A self-contained *appliance* of the fan type, designed for the delivery of warm air directly into the space in which the *appliance* is located.

VENT. A pipe or other conduit composed of factory-made components, containing a passageway for conveying *combustion* products and air to the atmosphere, *listed* and *labeled* for use with a specific type or class of *appliance*.

Pellet vent. A vent *listed* and *labeled* for use with *listed* pellet-fuel-burning appliances.

Type L vent. A vent *listed* and *labeled* for use with the following:

1. Oil-burning appliances that are *listed* for use with Type L vents.
2. Gas-fired appliances that are *listed* for use with Type B vents.

VENT CONNECTOR. The pipe that connects an *approved* fuel-fired *appliance* to a vent.

VENT DAMPER DEVICE, AUTOMATIC. A device intended for installation in the venting system, in the outlet of an individual automatically operated fuel-burning *appliance* that is designed to open the venting system automatically when the *appliance* is in operation and to close off the venting system automatically when the *appliance* is in a standby or shutdown condition.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

VENTILATION AIR. That portion of supply air that comes from the outside (outdoors), plus any recirculated air that has been treated to maintain the desired quality of air within a designated space.

VENTING SYSTEM. A continuous open passageway from the flue collar of an *appliance* to the outdoor atmosphere for the purpose of removing flue or vent gases. A venting system is usually composed of a vent or a *chimney* and vent connector, if used, assembled to form the open passageway.

WATER HEATER. Any heating *appliance* or *equipment* that heats potable water and supplies such water to the potable hot water distribution system.

ZONE. One *occupiable space* or several occupiable spaces with similar *occupancy* classification (see Table 403.3.1.1), occupant density, zone air distribution effectiveness and zone primary airflow rate per unit area.

ordered. Thus the business had not been discontinued. The Court said “a store owner cannot guarantee that customers will purchase merchandise.”

THE ZBA ACTING AS THE BUILDING CODE BOARD OF APPEALS

State and Local Building Codes

If a municipality adopts a building code, they must provide for the position of a building inspector and establish a building code board of appeals (BCBA). The BCBA could be the zoning board of adjustment or the board of selectmen if there is no ZBA.

RSA 673:1 Establishment of Local Land Use Boards

- V. Every building code adopted by a local legislative body shall include provisions for the establishment of the position of a building inspector, who shall issue building permits, and for the establishment of a building code board of appeals. If no provision is made to establish a separate building code board of appeals, the ordinance shall designate the zoning board of adjustment to act as the building code board of appeals. If there is no zoning board of adjustment, the board of selectmen shall serve as the building code board of appeals.

RSA 673:3 Zoning Board of Adjustment and Building Code Board of Appeals

- IV. The building code board of appeals shall consist of 3 or 5 members who shall be appointed in a manner prescribed by the local legislative body; provided, however, that an elected zoning board of adjustment may act as the building code board of appeals pursuant to RSA 673:1, V. Each member of the board shall be a resident of the municipality in order to be appointed.

Ideally there will be a separate BCBA; however, if the building code does not designate a separate BCBA and the code designates the ZBA by default to fill that role, it becomes another duty of the board of adjustment.

Any person aggrieved by a decision of the building inspector dealing with the building code may appeal to the BCBA. If the ZBA is the BCBA, then they assume these statutory powers. The statute gives little guidance or standards to help the board consider an application but does allow the board to “vary” how any provision is applied to a particular case when, in their opinion, the enforcement of the specific provision would do “manifest injustice and would be contrary to the spirit and purpose of the building code and the public interest.”

It is recommended that if the ZBA is faced with an appeal of a decision of the building inspector relative to the building code, they handle the appeal as they would an appeal from an administrative decision. The plaintiff should complete the appeal from an administrative decision application form and include a copy of the written decision of the building inspector citing the exact portions of the building code that are in question and how the project does, or does not, comply with the building code.

RSA 674:34 Powers of Building Code Board of Appeals

The building code board of appeals shall hear and decide appeals of orders, decisions, or determinations made by the building official or fire official relative to the application and interpretation of the state building code or state fire code as defined in RSA 155-A:1. An application for appeal shall be based on a claim that the true intent of the code or the rules adopted thereunder have been incorrectly interpreted, the provisions of the code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of the state building code or the state fire code.

The state building code (SBC) is a collection of nationally recognized codes adopted by reference.

1 Mechanic Street
Proposed location of heat pumps
9/22/2021

Section 306.1
Access and service space

Appliances, controls, devices, heat exchangers and HVAC components that utilize energy shall be accessible for inspection, service, repair and replacement without disabling the function of a fire-resistance rated assembly or removing permanent construction, other appliances, venting systems or any other piping or ducts non connected to the appliance being serviced, inspected or repaired or replaced.
A level working space of not less than 30" wide and 30" deep shall be provided in front of the control side to service an appliance.

We are requesting a level surface space for servicing heatpumps.
There are no listed exceptions for 306.1 for appliance work surfaces.

If the level working space exceeds the 16' above finish grade than you will need to meet the requirements of 306.5 where a fixed ladder to the building or an interior access would be required to get to the work platform.

306.5
Equipment and appliances on roofs or elevated structures.

Where equipment requiring access or appliances are located on an elevated structure or the roof of the buildings such that personal will have to climb higher than 16' above grade to access such equipment or appliances, an interior or exterior means of access shall be provided.

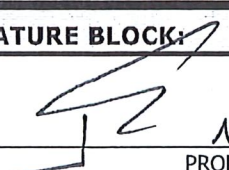
Such access shall not require climbing over obstructions greater than 30" in height or walking on roofs having a slope greater than 4 units vertical and 12 units horizontal. Such access shall not require the use of portable ladders. Where access involves climbing over parapet walls, the height shall be measured to the top of the parapet wall.

9/10/2021

We met on site with the design team and proposed dropping the units to be serviceable from the first-floor roof canopy for a work surface with a guard rail for fall protection.
Refer to 304.11 Guards.

**CITY OF LEBANON
APPLICATION FOR**

SPECIAL EXCEPTION	☐	☐	SITE PLAN REVIEW
VARIANCE	☐	☐	SUBDIVISION
MOTION FOR REHEARING	☐	☐	LOT LINE ADJUSTMENT
APPEAL OF AN ADMIN. DECISION	☐	☒	OTHER (BUILDING CODE APPEAL)

PROPERTY OWNER (APPLICANT):			
NAME: ONE MECHANIC STREET, LLC		TEL #: 603 653 8281	
MAILING ADDRESS: PO Box 1320 LEBANON NH 03766			
E-MAIL ADDRESS: KATZ95@GMAIL.COM			
CO-APPLICANT, AGENT, OR LESSEE:			
NAME:		TEL #:	
MAILING ADDRESS:			
E-MAIL ADDRESS:			
PROJECT LOCATION:			
TAX MAP #:	91	LOT #:	264
PLOT #:		ZONE:	LD
STREET ADDRESS OF PROJECT: 1 MECHANIC STREET			
IS THIS PROPERTY LOCATED IN THE:			
WETLANDS		☐ YES ☒ NO	HISTORIC DISTRICT
FLOOD PLAIN		☐ YES ☒ NO	☐ YES ☒ NO
SCOPE OF PROJECT:			
APPEAL OF BUILDING CODE OFFICER DECISION			
RE ACCESS / PLACEMENT OF HEAT PUMPS			
TYPE OF OCCUPANCY:			
EXISTING	☐ VACANT	☐ ONE FAMILY	☐ TWO FAMILY
PROPOSED	☐ VACANT	☐ ONE FAMILY	☐ TWO FAMILY
	☐ MULTI-FAMILY	☒ COMMERCIAL	☐ INDUSTRIAL
IF USE IS COMMERCIAL OR INDUSTRIAL , PLEASE NOTE SPECIFIC USE:			
SIGNATURE BLOCK:			
 MANAGER PROPERTY OWNER		DATE: 9/17/21	
NOTE: IF, AS OWNER, YOU WISH TO DESIGNATE AN AGENT TO ACT ON YOUR BEHALF, PLEASE READ THE FOLLOWING AND SIGN BELOW: I hereby designate the person listed above as my agent for the purpose of procuring the necessary local permits for the proposed work as described herein. Representations made by my agent may be accepted as though made by me personally, and I understand that I am bound by any official decision made on the basis of such representation.			
		DATE:	
PROPERTY OWNER			

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #	FEE - \$ AMOUNT	DATE PAID	VOUCHER #
9/20/21	91/264	BCBA2021-	\$142.80	9/23/21	18424

01

\$4.28 owed

(12/07/07)

BUILDING CODE BOARD OF APPEALS SUPPORT STATEMENT

Article III, Section 36-13 Building Code Board of Appeals.

- A. There is hereby established a Building Code Board of Appeals, and the Zoning Board of Adjustment is designated to act as that Board of Appeals, as provided in RSA 673:1. The Building Code Board of Appeals shall have the power, upon an appeal filed with it by any person aggrieved by a decision of the Code Official dealing with this Building Code, to vary the application of any provision of the Building Code to any particular case, when in its opinion, the enforcement of the Building Code would do manifest injustice and be contrary to the spirit and purpose of the Building Code and the public interest. These powers are from RSA 674:34, and it is intended that the Lebanon Building Code Board of Appeals shall have such powers as conferred by law. Any person aggrieved by a decision of the Building Code Board of Appeals may appeal the decision to the Grafton County Superior Court as provided in RSA 677:16.
- B. Any appeal to the Board of Appeals shall be taken within 15 days from the date of decision of the Code Official. The time, notice and manner of hearing before the Board of Appeals shall conform to the same requirements as the hearing before the Zoning Board of Adjustment, except that no notice will be given to abutters.

Name of Property Owner: ONE MECHANIC STREET, LLC

Location of subject Property: 1 MECHANIC STREET

This appeal is submitted because the Code Official, on this date 9/10/21, denied my application for a building permit and/or a modification of a specific requirement of the building code. I have attached documentation in support of my appeal.



9 Washington Street
Rutland, Vermont 05701
802-855-8091
www.EngineeringVermont.com

September 3, 2021
ESVT Project No. 20255

City of Lebanon
City Hall
51 N Park Street
Lebanon NH 03766

Attn: Brad Shaw and Calvin Hunnewell, City of Lebanon Building Inspectors
Re: 1 Mechanic Street, Lebanon, NH
Access to Wall Mounted Heat Pump Units

Brad and Calvin,

Doug Sonsalla from Studio Nexus Architects has informed me that there is a concern related to access of the exterior wall mounted heat pumps at the above project.

In IMC Section 306.5, the code requirement permits portable ladders for access to equipment located on a roof of buildings or on elevated structures when the vertical distance that must be climbed is not more than 16 feet above grade. For climbs exceeding 16 feet in height, a permanent fixed ladder attached to the building or some other approved permanent means of access is required.

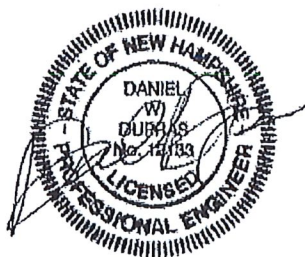
I have attached an IMC document explaining the access and platform requirements for reference.

Because this project does not require climbing a ladder greater than 16 we believe that an access platform and permanent ladder is not required and that a portable ladder may be used for compliance with the code.

Please let me know if you have any questions or concerns.

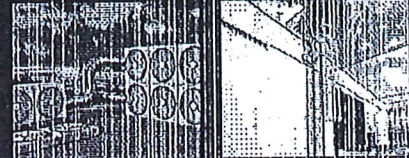
Respectfully,
Engineering Services of Vermont

Daniel W. Dupras, P.E.
Mechanical Engineer, Principal



CodeNotes™

Worker Safety on Roofs and Elevated Structures Based on the 2015 International Mechanical Code®



The 2015 International Mechanical Code (IMC®) addresses the safety of occupants in buildings, and provides for protection for service and inspection personnel. Where equipment requiring access and appliances are installed on roofs and elevated structures, safety for workers performing maintenance is a top concern. In IMC Section 306.5, the code requirement permits portable ladders for access to equipment located on a roof of buildings or on **elevated structures** when the vertical distance that must be climbed is not more than 16 feet above grade. For climbs exceeding 16 feet in height, a permanent fixed ladder attached to the building or some other approved permanent means of access is required. The height of a parapet is always included in the measurement. Such access shall not require climbing over obstructions greater than 30 inches (762 mm) in height or walking on roofs having a slope greater than 4 units vertical in 12 units horizontal (33 percent slope). A permanent approved means of access, such as a fixed permanent ladder, is not required for Group R-3 occupancies. Figure 1 illustrates the minimum design criteria required by Section 306.5. These specific dimensions were developed from OSHA

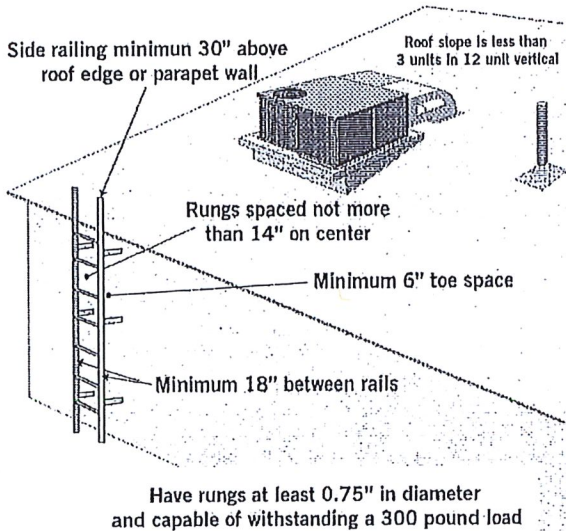


Figure 1 Access and Service Space

requirements. In addition to width, rung, and toe space dimension requirements, ladder side rails are required to extend above the parapet or roof surface at least 30 inches (762 mm) to provide a safe transition from the ladder to the roof for service personnel.

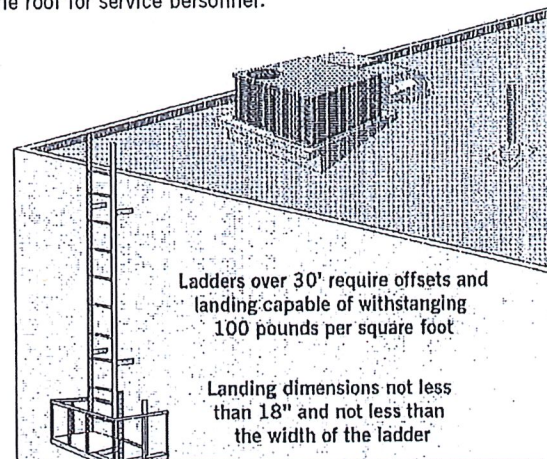


Figure 2 Landing Requirements

As noted in Figure 2, fixed permanent ladders more than 30 feet (9144 mm) in height have additional requirements including offset sections and landings with guards. The landings must be capable of withstanding a load of 100 pounds per square foot (488.2 kg/m²) and have minimum dimensions not less than 18 inches and the width of the ladder.

Sloped roofs present a challenge for maintenance and service personnel in both traveling to an appliance and performing work at the appliance location. Section 306.5.1 of the IMC addresses this situation. Low slope roofs with a pitch of less than 3:12 (25-percent slope) are considered sufficiently flat to provide a safe walking and working surface. A roof with a slope of 25 percent slope to 33 percent slope is fairly easy to walk across without toe holds or safety devices, but these slopes require a level working surface at the appliance for safety of personnel and a means to prevent tools from sliding. The level work platform requires a 42 inch (1067 mm) high guard to prevent workers from stepping off the platform and possibly falling off the roof (see Figure 3).

Roof slopes greater than 33 percent are not considered to provide a reasonable level of safety for service personnel traveling to an appliance location, and another means of access is required in this case. On sloped roofs, where there is an obstruction greater than 30 inches (762 mm) in height in the path of travel to an appliance, fan or equipment requiring service, installation of a permanent ladder or a set of stairs in compliance with the *International Building Code*[®] is required.

A receptacle outlet at or near the equipment location as required by Section 306.5.2 is more than a worker's convenience requirement. The receptacle outlet not only accommodates power tools, drop lights and diagnostic equipment but negates the need for extension cords which could be hazardous to service personnel.

Guards are to be provided where various components that require service and roof hatch openings are located within 10 feet (3048 mm) of a roof edge or open side of a walkway service and such edge or open side is located more than 30 inches (762 mm) above the floor, roof, or grade below.

(See Section 304.11) The guard shall extend not less than 30 inches (762 mm) beyond each end of components that require service. The guard is to serve as a warning and as a protective barrier, and must be not less than 42 inches (1067 mm) above the elevated surface adjacent to the guard. The guard rails must be constructed to resist the imposed loading conditions and must be constructed to prevent passage of a 21-inch (533 mm) sphere (see Figure 4). There is an exception that allows anchorage-connectors devices to be installed at specific intervals and locations that allows service personnel to use safety harnesses and lines as part of a fall-arresting system in lieu of guards. This new exception is aimed at sloped roofs where such safety systems are typically utilized, but would apply to flat roofs as well, even though there would be no ridge and hip lines. Fall arrest/restraint anchorage connector devices shall comply with ANSI/ASSE Z 359.1 and must be affixed for use during the entire lifetime of the roof covering. The devices are required to be reevaluated for possible replacement when the entire roof covering is replaced.

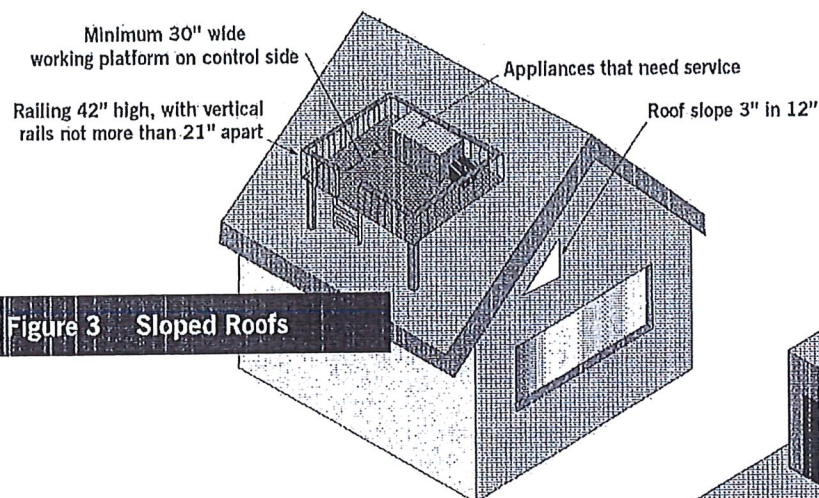


Figure 3 Sloped Roofs

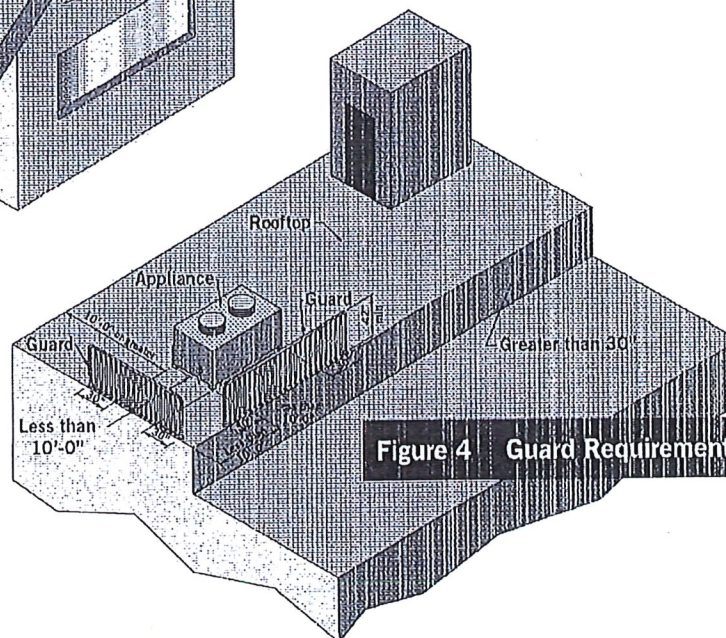


Figure 4 Guard Requirements



Please contact the International Code Council to order the *International Mechanical Code, IMC Code and Commentary* or other code support publications.

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(422-7233)





9 Washington Street
Rutland, Vermont 05701
802-855-8091
www.EngineeringVermont.com

September 28, 2021
ESVT Project No. 20255

City of Lebanon
City Hall
51 N Park Street
Lebanon NH 03766

Attn: Tim Corwin, City of Lebanon Senior Planner
Re: 1 Mechanic Street, Lebanon, NH
Access to Wall Mounted Heat Pump Units

Tim,

With reference to the memo on the heat pumps at 1 Mechanics street, I offer the following

My interpretation of 306.5 is to allow portable ladder access to equipment for service so long as the distance climbed is not more than 16 feet.

306.1 states:

“Appliances, controls devices, heat exchangers and HVAC system components that utilize energy shall be accessible for inspection, service, repair and replacement without disabling the function of a fire-resistance-rated assembly or removing permanent construction, other appliances, venting systems or any other piping or ducts not connected to the appliance being inspected, serviced, repaired or replaced. A level working space not less than 30 inches deep and 30 inches wide (762 mm by 762 mm) shall be provided in front of the control side to service an appliance.”

In my opinion the heat pumps mounted on the wall does not require a 30"x30' level working surface as this specifically applies to appliances. The heat pumps are not appliance as defined by the 2015 IMC. The following are the definitions in the code:

APPLIANCE. A device or apparatus that is manufactured and designed to utilize energy and for which this code provides specific requirements.

APPLIANCE, EXISTING. Any appliance regulated by this code which was legally installed prior to the effective date of this code, or for which a permit to install has been issued.

APPLIANCE TYPE. High-heat appliance. Any appliance in which the products of combustion at the point of entrance to the flue under normal operating conditions have a temperature greater than 2,000°F (1093°C).

Low-heat appliance (residential appliance). Any appliance in which the products of combustion at the point of entrance to the flue under normal operating conditions have a temperature of 1,000°F (538°C) or less.

Medium-heat appliance. Any appliance in which the products of combustion at the point of entrance to the flue under normal operating conditions have a temperature of more than 1,000°F (538°C), but not greater than 2,000°F (1093°C).

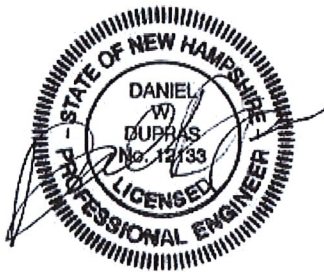
APPLIANCE, VENTED. An appliance designed and installed in such a manner that all of the products of combustion are conveyed directly from the appliance to the outdoor atmosphere through an approved chimney or vent system.

Please let me know if you have any questions or concerns.

Respectfully,
Engineering Services of Vermont



Daniel W. Dupras, P.E.
Mechanical Engineer, Principal









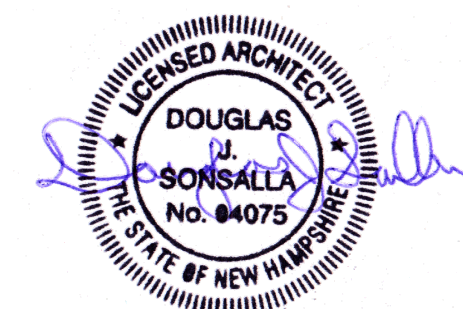
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1 MECHANIC STREET APARTMENTS

Issued For:
SITE PLAN REVIEW



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Issue Date: January 29 2021

Revisions		
No.	Description	Date

EXTERIOR ELEVATIONS

Project No.: 1922

G-7
SHEET 7 OF 10

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④ WEST ELEVATION Copy 1
3/16" = 1'-0"



③ NORTH ELEVATION Copy 1
3/16" = 1'-0"



② SOUTH ELEVATION Copy 1
3/16" = 1'-0"



① EAST ELEVATION Copy 1
3/16" = 1'-0"

Tim Corwin

From: Jeremy Katz <katz95@gmail.com>
Sent: Friday, October 15, 2021 11:42 AM
To: Tim Corwin
Subject: [EXTERNAL] Monday meeting

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Mr. Corwin

Thanks for reaching out to me regarding Monday's appeals meeting.

My understanding of the procedural status is that the meeting was continued with the hearing still open to allow 2 extra weeks for some additional information and that information has not been received. Although I am sympathetic to the fact that elements of those third party requests have not yet been received, I would prefer that the meeting happen as scheduled on Monday night. Essentially, waiting on third parties who have no obligation to submit by any timeline, and whose comments are substantially hearsay (whether they favor the applicant or not is irrelevant), could hamstring my entire project for an indefinite period of time which would be patently unfair.

This is especially problematic considering my testimony that is memorialized on page 3, lines 9-11 of the proposed minutes. We have open building penetrations, made in good faith on the basis of a code-reviewed (and City approved) plan and pursuant to a licensed engineer charged with making a design that complies with all applicable codes. Construction season is ending and this issue is bottlenecking progress.

I would like to appear on Monday evening and speak to any remaining items that can bring this to a conclusion so that I don't have a stranded asset exposed to the elements through the winter season. Also, I'd also ask the board to consider the following:

1) legal opinion. My understanding is that the Board requested a legal opinion from the City Attorney as to whether they should implement the clear language of the code or whether they should instead rely on the generic statement of intent of the code - and that this has not had a response yet. There are three possible solutions to this. First, the City Attorney can be invited to present (either telephonically or in person) their opinion - and the Board can determine whether this is appropriate to do in open session or non-public. Second, the City can rely on the substantial New Hampshire guidebooks that have addressed this question (i.e. Loughlin's Planning and Zoning Practice and Procedure). Third, the City can extract some of the extensive case law where the New Hampshire Supreme Court has opined on matters such as this.

Put another way, there may be very good reasons why the City Attorney can't respond in 2 weeks, but those same reasons might mean the City Attorney can't respond for a year. I do not believe that this creates an insurmountable issue for the Board that they can not work around on Monday.

2) Code Opinion

I understand that a request for the opinion of the code interpretation has been submitted and no response has been received. Not only do I not believe that this should delay a result, I furthermore believe that this request is inadmissible (if it supports me or not, at the very least not without presenting the writer to testify and be examined) and any delay or reliance on this is procedurally defective.

If the New Hampshire legislature wanted the writers of the code to be the party to interpret it and where appeals can be sent to, they would have written the law to say that. Then, I could have received a disagreeable interpretation, sent it to the Code writers, gotten an opinion and never would have to show up at the Board. It is the equivalent of taking a zoning administrative appeal and saying "let's get the opinion of the town voters on what this means."

At relatively substantial expense, I procured an expert who provided expert testimony and appeared (after working hours) to present that testimony and make himself available for cross-examination. That expert testified that the design complies with the code and that the applicant's code interpretation is correct. There is no competing expert, and there is reason to believe that the presented expert is anything but qualified and credible. Again, New Hampshire practice and procedure (along with relevant case law) is mature on this issue and that expert testimony should be dispositive.

3) Issues have narrowed.

At the hearing, the City testified that the side of a building is not "a roof or elevated structure." Relative to the appeal of 306.5 this dispositively resolves the issue, since that section exclusively addresses roofs and elevated structures. Since there is no factual dispute from either side that no "elevated structure" is implicated, the Board should be able to give immediate relief by granting the appeal relative to 306.5.

I'm glad to discuss in more detail.

best
Jeremy

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Tim Corwin

From: Jason Toves <jtoves@ICCSafe.ORG>
Sent: Wednesday, October 13, 2021 8:42 AM
To: Tim Corwin
Cc: David Brooks; Calvin Hunnewell
Subject: RE: [EXTERNAL] 2018 IMC Sections 306.1 & 306.5

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Mr. Corwin,

I have added Q3 per your response. I will send the response back to you as quickly as possible.

Q1: Does Section 306.1 require a level working space not less than 30 inches deep and 30 inches wide (762 mm by 762 mm) be provided in front of the control side of a heat pump condensing unit that is mounted on the exterior wall of a building when the distance that service personnel would have to climb is not greater than 16 feet?

Q2: Does Section 306.5 require a permanent means of access be provided to service a heat pump condensing unit that is mounted on the exterior wall and the distance that service personnel would have to climb is not greater than 16 feet?

Q3: How is the distance that service personnel would have to climb determined?

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Jason C. Toves
Senior Technical Staff (IFGC and M-IRC Secretariat)
Architectural & Engineering Services
Technical Services
International Code Council, Inc.
Birmingham District Office
900 Montclair Road
Birmingham, AL 35213-1206
888-ICC-SAFE (5734 remote extension)

One Touch Numbers below
(888) 422-7233,, 5734 (remote extension)
jtoves@iccsafe.org
www.iccsafe.org

From: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Sent: Tuesday, October 12, 2021 9:51 PM
To: Jason Toves <jtoves@ICCSafe.ORG>
Cc: David Brooks <David.Brooks@lebanonnh.gov>; Calvin Hunnewell <Calvin.Hunnewell@lebanonnh.gov>
Subject: RE: [EXTERNAL] 2018 IMC Sections 306.1 & 306.5

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Thank you Jason. I think these are good, but we're also asking how to interpret "the distance that service personnel would have to climb". Is "the distance that service personnel would have to climb" measured from the ground to where the service personnel's feet are located on a ladder? Or is "the distance that service personnel would have to climb" measured from where the unit is located?

Also, please note that the heat pump condensing units will be mounted at least 18 ft. from the ground.

Thanks again, Tim

TIM CORWIN, AICP

SENIOR PLANNER
CITY OF LEBANON
51 NO. PARK STREET
LEBANON, NH 03766
(PH.) 603.448.1457, EXT.6127
(FAX) 603.442.6141
TIM.CORWIN@LEBANONNH.GOV
WWW.LEBANONNH.GOV



NEW CITY HALL HOURS:
MON-THU: 7:00AM - 5:00PM
FRI: CLOSED

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From: Jason Toves <jtoves@ICCSafe.ORG>
Sent: Tuesday, October 12, 2021 1:41 PM
To: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Subject: RE: [EXTERNAL] 2018 IMC Sections 306.1 & 306.5

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Mr. Corwin,

I believe I understand your questions. I can answer your inquiry with the following two questions. Please let me know if the following will work or revise them as necessary.

Q1: Does Section 306.1 require a level working space not less than 30 inches deep and 30 inches wide (762 mm by 762 mm) be provided in front of the control side of a heat pump condensing unit that is mounted on the exterior wall of a building when the distance that service personnel would have to climb is not greater than 16 feet?

Q2: Does Section 306.5 require a permanent means of access be provided to service a heat pump condensing unit that is mounted on the exterior wall and the distance that service personnel would have to climb is not greater than 16 feet?

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Jason C. Toves
Senior Technical Staff (IFGC and M-IRC Secretariat)
Architectural & Engineering Services
Technical Services
International Code Council, Inc.
Birmingham District Office
900 Montclair Road
Birmingham, AL 35213-1206
888-ICC-SAFE (5734 remote extension)

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jtoves@iccsafe.org
www.iccsafe.org

From: Jason Toves
Sent: Tuesday, October 12, 2021 12:01 PM
To: Tim Corwin <Tim.Corwin@lebanonnh.gov>; Chris Reeves <creeves@iccsafe.org>
Cc: Calvin Hunnewell <Calvin.Hunnewell@lebanonnh.gov>
Subject: RE: [EXTERNAL] 2018 IMC Sections 306.1 & 306.5

Mr. Corwin,

I received the correction. I am looking over your question now.

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Code opinions issued by ICC staff are based on ICC-published codes and do not include local, state or federal codes, policies or amendments. This opinion is based on the information which you have provided. We have made no independent effort to verify the accuracy of this information nor have we conducted a review beyond the scope of your question. This opinion does not imply approval of an equivalency, specific product, specific design, or specific installation and cannot be published in any form implying such approval by the International Code Council. As this opinion is only advisory, the

final decision is the responsibility of the designated authority charged with the administration and enforcement of this code.

Jason C. Toves
Senior Technical Staff (IFGC and M-IRC Secretariat)
Architectural & Engineering Services
Technical Services
International Code Council, Inc.
Birmingham District Office
900 Montclair Road
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From: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Sent: Tuesday, October 12, 2021 11:56 AM
To: Chris Reeves <creeves@iccsafe.org>
Cc: Jason Toves <jtoves@ICCSafe.ORG>; Calvin Hunnewell <Calvin.Hunnewell@lebanonnh.gov>
Subject: RE: [EXTERNAL] 2018 IMC Sections 306.1 & 306.5

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Chris – thank you. Just one point of clarification – we’re working with the **2015 IMC**, not the 2018 IMC. -Tim

TIM CORWIN, AICP

SENIOR PLANNER
CITY OF LEBANON

From: Chris Reeves <creeves@iccsafe.org>
Sent: Tuesday, October 12, 2021 12:29 PM
To: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Cc: Jason Toves <jtoves@ICCSafe.ORG>; Chris Reeves <creeves@iccsafe.org>
Subject: [EXTERNAL] 2018 IMC Sections 306.1 & 306.5

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Tim Corwin,

I have forwarded your code opinion request to Jason Toves. Typical turn-around time for a written response is about 5 working days.

While not clearly indicated, the **appropriate code year is assumed to be the 2018 IMC**. Confirmation is required.

Please let me know if you have any questions.

Christopher R. Reeves, P.E.
Director, Architectural & Engineering Services

International Code Council, Inc.
Central Regional Office
888-ICC-SAFE (422-7233), x4309
creeves@iccsafe.org

From: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Sent: Tuesday, October 12, 2021 9:24 AM
To: Chris Reeves <creeves@iccsafe.org>
Cc: Calvin Hunnewell <Calvin.Hunnewell@lebanonnh.gov>
Subject: Code Opinion - IMC 306.1 & 306.5

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Hi Chris –

I tried submitting the following request on-line, but I keep receiving a “you have been blocked” message.

I am writing in regards to an appeal that has been filed with the Lebanon, NH Building Code Board of Appeals challenging an interpretation made by the Lebanon Building Inspectors with respect to Sections 306.1 and 306.5 of the International Mechanical Code (IMC). Attached is a copy of the appeal materials including the Building Inspectors' written determination.

The appeal involves the installation of certain apparatus to the exterior of a building in Lebanon (which is currently being renovated from a commercial building to a multi-family building) and whether that apparatus requires installation of a 30 in by 30 in level working space (Section 306.1 of the IMC) and whether for maintenance purposes the apparatus can be accessed by a ladder or if instead a permanent means of access needs to be provided (Section 306.5 of the IMC).

Included in the attached are photos showing examples of the apparatus installed on another building in an unspecified location. Also included is a plan sheet from the building permit application submitted for the renovation which depicts the apparatus in question (which are collectively circled in red on the plan sheet – a notation added by staff). In addition to circling the apparatus in question, staff also added notes in red indicating the size of the apparatus and the distance from what we think (but are not sure) is the ground.

The Board has asked staff to contact the ICC for an opinion with respect to the following:

1. The applicant states that the apparatus proposed to be hung on the exterior of the wall are “heat pumps”, or “mini-splits”. Assuming that the apparatus proposed to be hung on the exterior wall of the building at 1 Mechanic Street are “heat pumps” as defined in Chapter 2 of the IMC:
 - a. Are the apparatus proposed to be hung on the exterior wall of the building at 1 Mechanic Street also considered to be appliances, as that term is defined in Chapter 2?
 - b. If not, do the apparatus proposed to be hung on the exterior wall of the building at 1 Mechanic Street constitute any of the other three things identified in the first sentence of Section 306.1? i.e. are they a “control device” or “heat exchanger” or “HVAC system component”?
 - c. If so, are those three things (“control device”/“heat exchanger”/“HVAC system component”) also considered to be appliances?

- d. Does the last sentence of Section 306.1 (requiring a 30 in x 30 in level working space) apply to the apparatus proposed to be hung on the exterior wall of the building at 1 Mechanic Street?

2. With respect to Section 306.5:

- a. Does Section 306.5 apply to things that are affixed to the side of a building? In other words, does the side of a building constitute an “elevated structure”?
- b. If so, how is the 16 ft. measured?

Thank you very much for your assistance. If you have any questions or need additional information, please let us know. -
Tim

TIM CORWIN, AICP

SENIOR PLANNER

CITY OF LEBANON

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(FAX) 603.442.6141

TIM.CORWIN@LEBANONNH.GOV

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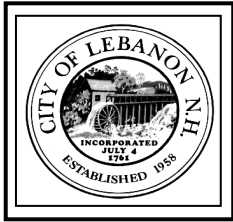
FRI: CLOSED

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CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Building Code Board of Appeals

FROM: Zoning Administrator

RE: One Mechanic Street, LLC, 1 Mechanic Street (Tax Map 91, Lot 264)
Appeal of Building Code Interpretation – *continued from October 18, 2021*

DATE: October 27, 2021

HEARING NOTICE

One Mechanic Street, LLC, 1 Mechanic Street (Tax Map 91, Lot 264), zoned LD: An appeal concerning an interpretation of Section 306.1 ("Access") and Section 306.5 ("Equipment and Appliances on Roofs or Elevated Structures") of the International Mechanical Code (IMC) by the Building Code Official. BCBA2021-01

STAFF COMMENTS

Attached please find the following:

- Staff correspondence with the International Code Council (ICC) regarding Sections 306.1 and 306.5 of the IMC.
- A memo from the Building Inspectors commenting on the ICC's answers to the questions posed by staff regarding Sections 306.1 and Section 306.5 of the IMC.

Note that pursuant to the Board's discussion at the October 4th hearing, staff has also asked the City's legal counsel the following question: *"Where the Board is asked to interpret a provision of the IMC that is vague or unclear, shall the Board take into account how the provision has been interpreted in the past by the Building Inspector to understand the meaning and intent of the provision, or shall the Board only consider the written words of the provision?"* We expect to receive a response prior to the November 1st hearing and will release to the Board and to the applicant (subject to authorization from the City Manager's office).

cc: One Mechanic Street, LLC (via e-mail)

Tim Corwin

From: Tim Corwin
Sent: Tuesday, October 26, 2021 1:40 PM
To: Jason Toves
Cc: Chris Reeves; David Brooks; Calvin Hunnewell; Brad Shaw
Subject: RE: [EXTERNAL] 2018 IMC Sections 306.1 & 306.5

Thank you Jason. Yes, "is a heat pump condenser unit an appliance" is the question we asked you via e-mail yesterday morning. We asked this again during our phone call with you yesterday afternoon and you answered "yes". -Tim

TIM CORWIN, AICP

SENIOR PLANNER
CITY OF LEBANON

From: Jason Toves <jtoves@ICCSafe.ORG>
Sent: Tuesday, October 26, 2021 1:30 PM
To: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Cc: Chris Reeves <creeves@iccsafe.org>
Subject: RE: [EXTERNAL] 2018 IMC Sections 306.1 & 306.5

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Mr. Corwin,

I received your e-mail. I will send you the response as soon as possible. Note that it may take up to five business days to receive a response, because all email questions must have at least two persons look at them, one who writes the response and at least one other person who reviews it, for quality control. Note that the response will be for the following question.

Q: Is a heat pump condenser unit an appliance?

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Jason C. Toves
Senior Technical Staff (IFGC and M-IRC Secretariat)
Architectural & Engineering Services
Technical Services

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From: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Sent: Tuesday, October 26, 2021 12:19 PM
To: Jason Toves <jtoves@ICCSafe.ORG>
Cc: Chris Reeves <creeves@iccsafe.org>; Calvin Hunnewell <Calvin.Hunnewell@lebanonnh.gov>; Brad Shaw <Brad.Shaw@lebanonnh.gov>; David Brooks <David.Brooks@lebanonnh.gov>
Subject: RE: [EXTERNAL] 2018 IMC Sections 306.1 & 306.5

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Jason –

Thank you for speaking with me and Brad Shaw yesterday afternoon. We do have one follow up question. In my e-mail sent yesterday morning, I had asked whether a Mitsubishi 9000 heat pump condenser unit is an “appliance”. During our call, I believe you agreed without hesitation that a heat pump condenser unit is an “appliance”. For the benefit of our Building Code Board of Appeals and the appellant, can you confirm with a reply to this e-mail that it is ICC’s position that a heat pump condenser unit is an “appliance”?

Thank you again for your time and assistance. We greatly appreciate it. -Tim

TIM CORWIN, AICP
SENIOR PLANNER
CITY OF LEBANON

From: Jason Toves <jtoves@ICCSafe.ORG>
Sent: Monday, October 25, 2021 4:36 PM
To: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Cc: Chris Reeves <creeves@iccsafe.org>
Subject: RE: [EXTERNAL] 2018 IMC Sections 306.1 & 306.5

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Mr. Corwin,

At this time we will close out this email submission. Please let us know if there is anything else with which we may help you in the future.

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From: Jason Toves
Sent: Monday, October 25, 2021 12:54 PM
To: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Cc: Chris Reeves <creeves@iccsafe.org>; David Brooks <David.Brooks@lebanonnh.gov>; Calvin Hunnewell <Calvin.Hunnewell@lebanonnh.gov>; Brad Shaw <Brad.Shaw@lebanonnh.gov>
Subject: RE: [EXTERNAL] 2018 IMC Sections 306.1 & 306.5

Mr. Corwin,

I was out of the office this morning. I have meetings until 2:00 p.m. central time. I will call you as soon as I can.

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From: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Sent: Monday, October 25, 2021 9:50 AM
To: Jason Toves <jtoves@ICCSafe.ORG>
Cc: Chris Reeves <creeves@iccsafe.org>; David Brooks <David.Brooks@lebanonnh.gov>; Calvin Hunnewell <Calvin.Hunnewell@lebanonnh.gov>; Brad Shaw <Brad.Shaw@lebanonnh.gov>
Subject: RE: [EXTERNAL] 2018 IMC Sections 306.1 & 306.5

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Hi Jason –

We left you a voice mail earlier and would like to speak with you today, if possible, for further clarification. In the meantime though, we have two follow up questions regarding Section 306.1 of the IMC:

- 1) Is a Mitsubishi 9000 heat pump condenser unit an appliance?
- 2) If a level working space of 30 in. by 30 in. is not required for “elevated appliances”, to what or for what does the 30 in. by 30 in. level working space requirement apply?

TIM CORWIN, AICP

SENIOR PLANNER
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From: Jason Toves <jtoves@ICCSafe.ORG>
Sent: Wednesday, October 20, 2021 8:50 PM
To: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Cc: Chris Reeves <creeves@iccsafe.org>
Subject: RE: [EXTERNAL] 2018 IMC Sections 306.1 & 306.5

Mr. Corwin,

Following are the responses to your questions.

October 20, 2021

RE: 15 IMC 306.1 and 306.5

Q1: Does Section 306.1 require a level working space not less than 30 inches deep and 30 inches wide (762 mm by 762 mm) be provided in front of the control side of a heat pump condensing unit that is mounted on the exterior wall of a building when the distance that service personnel would have to climb is not greater than 16 feet?

A1: No, Section 306.1 requires a level surface in front of appliances, but this provision is intended to apply to the orientation of the appliance with respect to obstructions and not necessarily to a level surface (a platform) for elevated appliances. The code is silent on the issue of level surfaces for elevated appliances, with the exception of when a level platform is required for sloped roofs per Section 306.5.1. For instance, the code does not require a level surface (a platform) for unit heaters mounted near the roof in the high bay area of a warehouse.

Q2: Does Section 306.5 require a permanent means of access be provided to service a heat pump condensing unit that is mounted on the exterior wall and the distance that service personnel would have to climb is not greater than 16 feet?

A2: No, Section 306.5 only requires a permanent means of access to be provided when the service personnel would be required to climb greater than 16 feet to an elevated structure or a roof surface. For instance, the code would not require a permanent means of access of a wall mounted exhaust fan, even if it is located more than 16 feet above the finished grade below.

Q3: How is the distance that service personnel would have to climb determined?

A3: The distance that personnel must climb to determine the applicability of the permanent means of access provision of Section 306.5 is determined by the path of travel from finished grade up to the equipment in question, provided they are on an elevated platform or roof. See A2.

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Jason C. Toves
Senior Technical Staff (IFGC and M-IRC Secretariat)

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From: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Sent: Wednesday, October 13, 2021 8:15 AM
To: Jason Toves <jtoves@ICCSafe.ORG>
Subject: RE: [EXTERNAL] 2018 IMC Sections 306.1 & 306.5

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Thank you Jason, much appreciated.

TIM CORWIN, AICP

SENIOR PLANNER
CITY OF LEBANON

From: Jason Toves <jtoves@ICCSafe.ORG>
Sent: Wednesday, October 13, 2021 8:42 AM
To: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Cc: David Brooks <David.Brooks@lebanonnh.gov>; Calvin Hunnewell <Calvin.Hunnewell@lebanonnh.gov>
Subject: RE: [EXTERNAL] 2018 IMC Sections 306.1 & 306.5

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Mr. Corwin,

I have added Q3 per your response. I will send the response back to you as quickly as possible.

Q1: Does Section 306.1 require a level working space not less than 30 inches deep and 30 inches wide (762 mm by 762 mm) be provided in front of the control side of a heat pump condensing unit that is mounted on the exterior wall of a building when the distance that service personnel would have to climb is not greater than 16 feet?

Q2: Does Section 306.5 require a permanent means of access be provided to service a heat pump condensing unit that is mounted on the exterior wall and the distance that service personnel would have to climb is not greater than 16 feet?

Q3: How is the distance that service personnel would have to climb determined?

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Jason C. Toves

Senior Technical Staff (IFGC and M-IRC Secretariat)

Architectural & Engineering Services

Technical Services

International Code Council, Inc.

Birmingham District Office

900 Montclair Road

Birmingham, AL 35213-1206

888-ICC-SAFE (5734 remote extension)

One Touch Numbers below

(888) 422-7233,, 5734 (remote extension)

jtoves@iccsafe.org

www.iccsafe.org

From: Tim Corwin <Tim.Corwin@lebanonnh.gov>

Sent: Tuesday, October 12, 2021 9:51 PM

To: Jason Toves <jtoves@ICCSafe.ORG>

Cc: David Brooks <David.Brooks@lebanonnh.gov>; Calvin Hunnewell <Calvin.Hunnewell@lebanonnh.gov>

Subject: RE: [EXTERNAL] 2018 IMC Sections 306.1 & 306.5

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Thank you Jason. I think these are good, but we're also asking how to interpret "the distance that service personnel would have to climb". Is "the distance that service personnel would have to climb" measured from the ground to where the service personnel's feet are located on a ladder? Or is "the distance that service personnel would have to climb" measured from where the unit is located?

Also, please note that the heat pump condensing units will be mounted at least 18 ft. from the ground.

Thanks again, Tim

TIM CORWIN, AICP

SENIOR PLANNER

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From: Jason Toves <jtoves@ICCSafe.ORG>
Sent: Tuesday, October 12, 2021 1:41 PM
To: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Subject: RE: [EXTERNAL] 2018 IMC Sections 306.1 & 306.5

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Mr. Corwin,

I believe I understand your questions. I can answer your inquiry with the following two questions. Please let me know if the following will work or revise them as necessary.

Q1: Does Section 306.1 require a level working space not less than 30 inches deep and 30 inches wide (762 mm by 762 mm) be provided in front of the control side of a heat pump condensing unit that is mounted on the exterior wall of a building when the distance that service personnel would have to climb is not greater than 16 feet?

Q2: Does Section 306.5 require a permanent means of access be provided to service a heat pump condensing unit that is mounted on the exterior wall and the distance that service personnel would have to climb is not greater than 16 feet?

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Jason C. Toves
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From: Jason Toves
Sent: Tuesday, October 12, 2021 12:01 PM
To: Tim Corwin <Tim.Corwin@lebanonnh.gov>; Chris Reeves <creeves@iccsafe.org>
Cc: Calvin Hunnewell <Calvin.Hunnewell@lebanonnh.gov>
Subject: RE: [EXTERNAL] 2018 IMC Sections 306.1 & 306.5

Mr. Corwin,

I received the correction. I am looking over your question now.

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jtoves@iccsafe.org
www.iccsafe.org

From: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Sent: Tuesday, October 12, 2021 11:56 AM
To: Chris Reeves <creeves@iccsafe.org>
Cc: Jason Toves <jtoves@ICCSafe.ORG>; Calvin Hunnewell <Calvin.Hunnewell@lebanonnh.gov>
Subject: RE: [EXTERNAL] 2018 IMC Sections 306.1 & 306.5

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Chris – thank you. Just one point of clarification – we’re working with the **2015 IMC**, not the 2018 IMC. -Tim

TIM CORWIN, AICP
SENIOR PLANNER
CITY OF LEBANON

From: Chris Reeves <creeves@iccsafe.org>
Sent: Tuesday, October 12, 2021 12:29 PM
To: Tim Corwin <Tim.Corwin@lebanonnh.gov>
Cc: Jason Toves <jtoves@ICCSafe.ORG>; Chris Reeves <creeves@iccsafe.org>
Subject: [EXTERNAL] 2018 IMC Sections 306.1 & 306.5

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Tim Corwin,

I have forwarded your code opinion request to Jason Toves. Typical turn-around time for a written response is about 5 working days.

While not clearly indicated, the **appropriate code year is assumed to be the 2018 IMC**. Confirmation is required.

Please let me know if you have any questions.

Christopher R. Reeves, P.E.

Director, Architectural & Engineering Services

International Code Council, Inc.

Central Regional Office

888-ICC-SAFE (422-7233), x4309

creeves@iccsafe.org

From: Tim Corwin <Tim.Corwin@lebanonnh.gov>

Sent: Tuesday, October 12, 2021 9:24 AM

To: Chris Reeves <creeves@iccsafe.org>

Cc: Calvin Hunnewell <Calvin.Hunnewell@lebanonnh.gov>

Subject: Code Opinion - IMC 306.1 & 306.5

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Hi Chris –

I tried submitting the following request on-line, but I keep receiving a “you have been blocked” message.

I am writing in regards to an appeal that has been filed with the Lebanon, NH Building Code Board of Appeals challenging an interpretation made by the Lebanon Building Inspectors with respect to Sections 306.1 and 306.5 of the International Mechanical Code (IMC). Attached is a copy of the appeal materials including the Building Inspectors' written determination.

The appeal involves the installation of certain apparatus to the exterior of a building in Lebanon (which is currently being renovated from a commercial building to a multi-family building) and whether that apparatus requires installation of a 30 in by 30 in level working space (Section 306.1 of the IMC) and whether for maintenance purposes the apparatus can be accessed by a ladder or if instead a permanent means of access needs to be provided (Section 306.5 of the IMC).

Included in the attached are photos showing examples of the apparatus installed on another building in an unspecified location. Also included is a plan sheet from the building permit application submitted for the renovation which depicts the apparatus in question (which are collectively circled in red on the plan sheet – a notation added by staff). In addition

to circling the apparatus in question, staff also added notes in red indicating the size of the apparatus and the distance from what we think (but are not sure) is the ground.

The Board has asked staff to contact the ICC for an opinion with respect to the following:

1. The applicant states that the apparatus proposed to be hung on the exterior of the wall are “heat pumps”, or “mini-splits”. Assuming that the apparatus proposed to be hung on the exterior wall of the building at 1 Mechanic Street are “heat pumps” as defined in Chapter 2 of the IMC:

- a. Are the apparatus proposed to be hung on the exterior wall of the building at 1 Mechanic Street also considered to be appliances, as that term is defined in Chapter 2?
- b. If not, do the apparatus proposed to be hung on the exterior wall of the building at 1 Mechanic Street constitute any of the other three things identified in the first sentence of Section 306.1? i.e. are they a “control device” or “heat exchanger” or “HVAC system component”?
- c. If so, are those three things (“control device”/“heat exchanger”/“HVAC system component”) also considered to be appliances?
- d. Does the last sentence of Section 306.1 (requiring a 30 in x 30 in level working space) apply to the apparatus proposed to be hung on the exterior wall of the building at 1 Mechanic Street?

2. With respect to Section 306.5:

- a. Does Section 306.5 apply to things that are affixed to the side of a building? In other words, does the side of a building constitute an “elevated structure”?
- b. If so, how is the 16 ft. measured?

Thank you very much for your assistance. If you have any questions or need additional information, please let us know. -
Tim

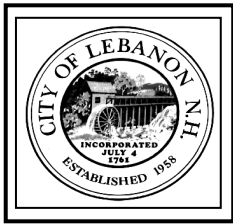
TIM CORWIN, AICP

SENIOR PLANNER
CITY OF LEBANON
51 NO. PARK STREET
LEBANON, NH 03766
(PH.) 603.448.1457, EXT.6127
(FAX) 603.442.6141
TIM.CORWIN@LEBANONNH.GOV
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NEW CITY HALL HOURS:
MON-THU: 7:00AM - 5:00PM
FRI: CLOSED

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CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Building Code Board of Appeals

FROM: Building Inspectors

RE: One Mechanic Street, LLC, 1 Mechanic Street (Tax Map 91, Lot 264)
Appeal of Building Code Interpretation

DATE: October 26, 2021

The purpose of this memo is to provide the Building Code Board of Appeals with the Building Inspectors' comments on the e-mail from Jason Toves of the International Code Council (ICC) sent to the Zoning Administrator on October 20, 2021, regarding Sections 306.1 and 306.5 of the International Mechanical Code (IMC).

QUESTION 1

Does Section 306.1 require a level working space not less than 30 inches deep and 30 inches wide (762 mm by 762 mm) be provided in front of the control side of a heat pump condensing unit that is mounted on the exterior wall of a building when the distance that service personnel would have to climb is not greater than 16 feet?

ICC answer: "No, Section 306.1 requires a level surface in front of appliances, but this provision is intended to apply to the orientation of the appliance with respect to obstructions and not necessarily to a level surface (a platform) for elevated appliances. The code is silent on the issue of level surfaces for elevated appliances, with the exception of when a level platform is required for sloped roofs per Section 306.5.1. For instance, the code does not require a level surface (a platform) for unit heaters mounted near the roof in the high bay area of a warehouse."

Building Inspectors' comment: We find the ICC's response to Question #1 to be confusing and inconsistent with the plain language of Section 306.1. We do not agree that Section 306.1 is silent as to elevated appliances since Section 306.1 applies generally to all appliances and not a specific class or subset of appliances. Per Section 306.1 of the IMC, all appliances – including the heat pump condensing units in question - must provide a "level working space of not less than 30 inches wide by 30 inches deep" in order to service the appliance. There are no exceptions.

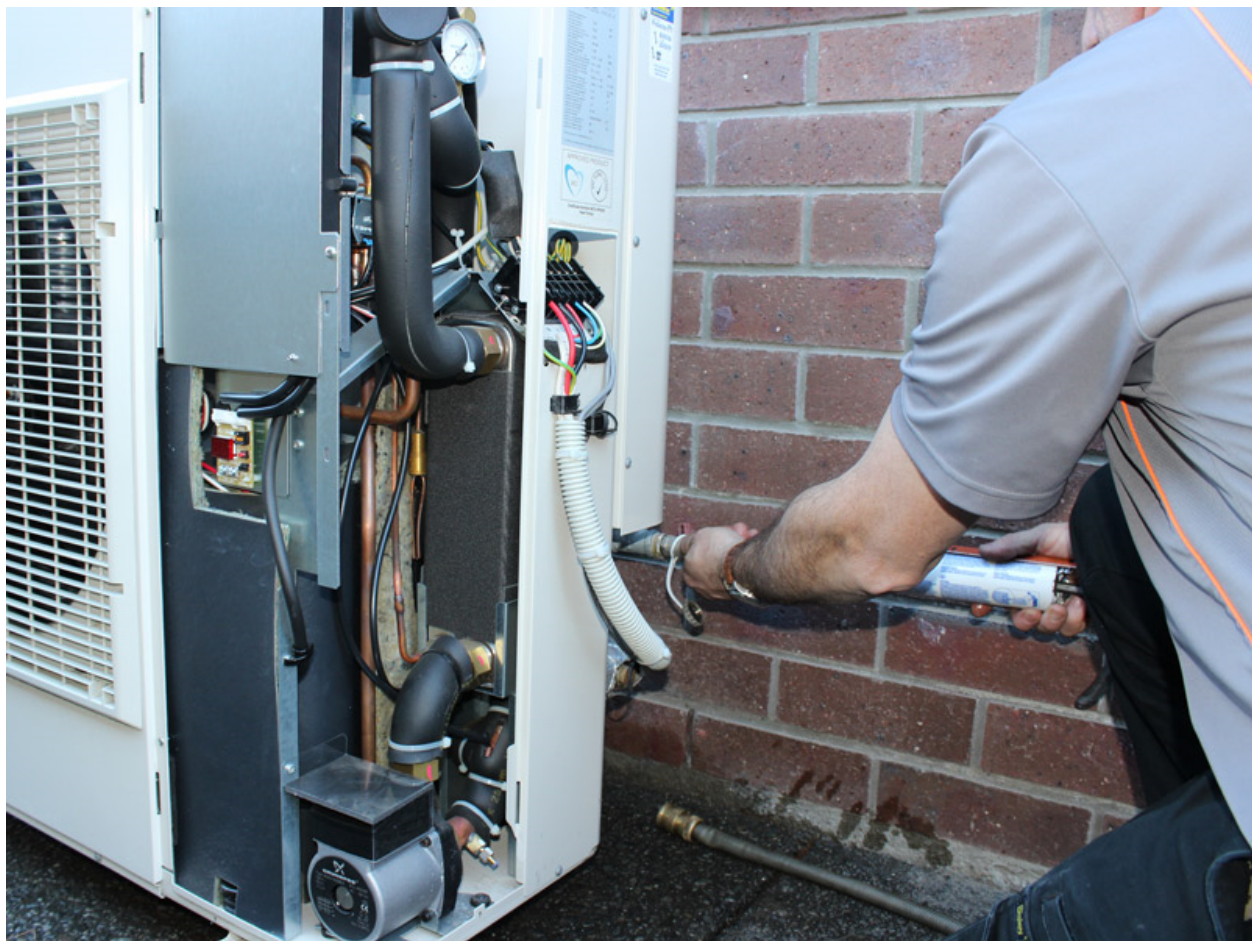
The heat pump condenser units are "appliances" (and, therefore, are subject to the "level working space" requirement). The ICC's response specifically refers to the units as "elevated appliances," and on October 25, 2021, Building Inspector Brad Shaw and Zoning Administrator Tim Corwin spoke with Mr. Toves by phone who confirmed that a heat pump condenser unit is in fact an "appliance". Moreover, the appellant's engineer agreed at the October 4th hearing that these units are "appliances".

For these reasons, it remains our position that a "level working space of not less than 30 inches wide by 30 inches deep" must be provided for each heat pump condenser unit proposed to be installed on the exterior wall of the building at 1 Mechanic Street.

We note that the purpose of Section 306.1 is to ensure that appliances which require servicing can be accessed safely. It does so by requiring a level working space in front of the control side of the appliance and an obstruction-free area between the level working space and the appliance being serviced. Here, no level working space has been provided other than the ground, and the path of travel from the ground to the appliances is obstructed by a 3 ½ foot canopy that extends across the width of the building between the first and second floors (an architectural feature that we do not believe the ICC was aware of when drafting their response). As a result, it is our view that the appliances in question cannot be safely accessed and do not satisfy the purpose and intent of Section 306.1.

Although Section 306.1 does not specify any minimum required distance between the appliance to be served and the level working space, Section 102.9 of the IMC ("Requirements not covered by this code") provides that, "[r]equirements necessary [...] for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the code official." Pursuant to Section 102.9, it is our determination that a level working space must be provided in a location to provide for the safe access to and maintenance of the appliances. The applicant will need to provide the Building Inspectors with plans showing the proposed locations of the level working spaces for the heat pump condenser units so that we can verify they will be positioned to ensure safe access, in accordance with the intent and purpose of Section 306.1.

By way of background, please note that there are numerous instructional videos that can be found on-line which show how to maintain and service heat pump condenser units. Even the most basic maintenance requires the use of multiple tools and the removal of panels. For example, below is a photo of a heat pump being maintained:



SOURCE: <https://www.centralheating.co.nz/blog/5-benefits-to-servicing-your-heating-system/>

More involved maintenance may require additional equipment utilizing gauges, hoses, and tanks. An example of what this could look like is shown in the screenshot below of an instructional video available on-line at https://www.youtube.com/watch?v=cLuS0_6i9GI (titled “Installing & Testing a Mitsubishi Ductless Mini-Split in a Tiny House”).

:



QUESTION 2

Does Section 306.5 require a permanent means of access be provided to service a heat pump condensing unit that is mounted on the exterior wall and the distance that service personnel would have to climb is not greater than 16 feet?

ICC answer: “No, Section 306.5 only requires a permanent means of access to be provided when the service personnel would be required to climb greater than 16 feet to an elevated structure or a roof surface. For instance, the code would not require a permanent means of access of a wall mounted exhaust fan, even if it is located more than 16 feet above the finished grade below.”

Building Inspectors’ comment: Section 306.5 allows the use of portable ladders for servicing units 16 ft. or less. However, the units in question are located above 16 feet. Even though Section 306.5 only refers to units located on roof tops and elevated structures and is silent with respect to wall-mounted apparatus, pursuant to the authority given to code officials per Section 102.9 (referenced above), it is in our determination that utilizing a portable ladder to service a wall-mounted appliance is a hazardous and unsafe practice. This is especially the case where the path of travel is obstructed. As noted above, the overhang above the first-floor apartments constitutes an obstruction to the heat pump condenser units. More specifically, the overhang will prohibit the proper placement of an extension ladder, causing it to stand at an angle that is unsafe.

The applicant should provide the Building Inspectors with a plan as to how the units will be accessed for servicing that is consistent with the spirit and intent of Section 306.5. The plan could include one of the following options which were previously discussed with the applicant (note that although neither option meets the precise requirements of the Code, we do believe these would be safer options and would meet the spirit and intent of the Code):

1. Lower the units onto the first-floor overhang so that they can be serviced from the roof by using tie down supports at each unit to attach to a harness worn by the service person (i.e. utilize permanent fall arrest/restraint anchors to protect personnel from the hazard of falls).

OR

2. Raise the unit up to just below the windows so that they could potentially be serviced from within the unit itself, and include permanent fall arrest/restraint anchors to protect personnel from the hazard of falls.

QUESTION 3

How is the distance that service personnel would have to climb determined?

ICC answer: "The distance that personnel must climb to determine the applicability of the permanent means of access provision of Section 306.5 is determined by the path of travel from finished grade up to the equipment in question, provided they are on an elevated platform or roof. See A2."

Building Inspectors' comment: The purpose of Section 306.5 is to help ensure the safety of maintenance and inspection personnel. Negotiating lengthy extension ladders to gain access to appliances or equipment for maintenance is dangerous for personnel often carrying, tools, part and diagnostic equipment. (IMC 2015 Commentary, Section 306.5)













9 Washington Street
Rutland, Vermont 05701
802-855-8091
www.EngineeringVermont.com

October 28, 2021
ESVT Project No. 20255

City of Lebanon
City Hall
51 N Park Street
Lebanon NH 03766

Attn: Tim Corwin, City of Lebanon Senior Planner
Re: 1 Mechanic Street, Lebanon, NH
Access to Wall Mounted Heat Pump Units

Tim,

I have reviewed the October 20, 2021 correspondence from Mr. Jason Toves of the International Code Council, including the presented questions and answers and I concur with the code interpretations.

Please let me know if you have any questions or concerns.

Respectfully,
Engineering Services of Vermont

Daniel W. Dupras, P.E.
Mechanical Engineer, Principal



[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Mr. Corwin,

Following are the responses to your questions.

October 20, 2021

RE: 15 IMC 306.1 and 306.5

Q1: Does Section 306.1 require a level working space not less than 30 inches deep and 30 inches wide (762 mm by 762 mm) be provided in front of the control side of a heat pump condensing unit that is mounted on the exterior wall of a building when the distance that service personnel would have to climb is not greater than 16 feet?

A1: No, Section 306.1 requires a level surface in front of appliances, but this provision is intended to apply to the orientation of the appliance with respect to obstructions and not necessarily to a level surface (a platform) for elevated appliances. The code is silent on the issue of level surfaces for elevated appliances, with the exception of when a level platform is required for sloped roofs per Section 306.5.1. For instance, the code does not require a level surface (a platform) for unit heaters mounted near the roof in the high bay area of a warehouse.

Q2: Does Section 306.5 require a permanent means of access be provided to service a heat pump condensing unit that is mounted on the exterior wall and the distance that service personnel would have to climb is not greater than 16 feet?

A2: No, Section 306.5 only requires a permanent means of access to be provided when the service personnel would be required to climb greater than 16 feet to an elevated structure or a roof surface. For instance, the code would not require a permanent means of access of a wall mounted exhaust fan, even if it is located more than 16 feet above the finished grade below.

Q3: How is the distance that service personnel would have to climb determined?

A3: The distance that personnel must climb to determine the applicability of the permanent means of access provision of Section 306.5 is determined by the path of travel from finished grade up to the equipment in question, provided they are on an elevated platform or roof. See A2.

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Code opinions issued by ICC staff are based on ICC-published codes and do not include local, state or federal codes, policies or amendments. This opinion is based on the information which you have provided. We have made no independent effort to verify the accuracy of this information nor have we conducted a review beyond the scope of your question. This opinion does not imply approval of an equivalency, specific product, specific design, or specific installation and cannot be published in any form implying such approval by the International Code Council. As this opinion is only advisory, the final decision is the responsibility of the designated authority charged with the administration and enforcement of this code.

Jason C. Toves
Senior Technical Staff (IFGC and M-IRC Secretariat)

Tim Corwin

From: C. Christine Fillmore <CFillmore@dwmlaw.com>
Sent: Monday, November 1, 2021 12:18 PM
To: Tim Corwin
Subject: [EXTERNAL] BCBA Appeal

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

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Hello Tim,

I am responding to Question #1 as requested:

1. Where the Board is asked to interpret a provision of the IMC that is vague or unclear, shall the Board take into account how the provision has been interpreted in the past by the Building Inspector to understand the meaning and intent of the provision, or shall the Board only consider the written words of the provision?

I believe the correct approach is to consider the language of the provision as written in the context of the overall regulatory scheme, and only to consider past interpretation of the provision (“administrative gloss”) if it is truly ambiguous.

General rules of statutory construction in New Hampshire apply equally to building codes, zoning ordinances and other regulatory provisions. See, e.g., Town of Carroll v. Rines, 164 N.H. 523 (2013). Courts interpret statutes, ordinances and codes by first examining the language of the code, and, where possible, ascribing the “plain and ordinary meaning of the words used” considering all of the provisions as a whole. E.g., NH Center for Public Interest Journalism v. NH Dep’t of Justice, 173 N.H. 648 (2020). When the language of a provision is clear on its face, its meaning is not subject to modification. Courts will neither consider what the drafters might have said, nor add words that the drafters did not see fit to include. Id.

Administrative gloss is a rule of statutory construction which is applied to an ambiguous provision when those responsible for its implementation have interpreted it in a consistent manner and have applied it to similarly situated applicants over a period of years without legislative interference. If an administrative gloss is found to have been placed upon a clause, the implementing agency may not change its de facto policy in the absence of legislative action, because to do so would, presumably, violate legislative intent. In re Kalar, 162 N.H. 314, 322 (2011). However, if the provision is not ambiguous, no administrative gloss can be applied. Carroll v. Rines, 164 N.H. 523, 527 (2013).

In other words, the ZBA should first consider the words of the Code. The specific provision at issue should be considered in the context of the Code as a whole, not viewed in isolation. If there are multiple provisions that are relevant here (definitions, other sections that use the same words, sections that would not make sense if the words were interpreted in isolation in the provision at issue, etc.), those sections should all be considered together to see if there is a way to interpret them consistently that makes sense. And the words that are used

should be given their plain and ordinary meaning (in the context of any definitions in the Code, of course). If the meaning of the provision can be determined from that analysis, that should be where the analysis ends. However, if the provision is still ambiguous at that point, then the ZBA could possibly consider whether the City has interpreted this provision in any particular way, consistently over a period of years, without any change being made in the language of the provision itself.

Should this matter be appealed, I note that the same standards of regulatory construction will apply at the trial court/HAB level and the Supreme Court level. If a court on appeal finds that the provisions are not actually ambiguous, they will disregard administrative gloss (even if the ZBA happened to rely upon it) and base their decision on the language of the Code.

I hope this information is helpful.

Regards,
Christine

C. Christine Fillmore

Attorney

603.792.7417 Direct

CFillmore@dwmlaw.com

670 N. Commercial Street, Suite 207, Manchester, NH 03101

800.727.1941 | 603.716.2899 Fax | dwmlaw.com



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**CITY OF LEBANON
APPLICATION FOR**

SPECIAL EXCEPTION	☐	☐	SITE PLAN REVIEW
VARIANCE	☐	☐	SUBDIVISION
MOTION FOR REHEARING	☒	☐	LOT LINE ADJUSTMENT
APPEAL OF AN ADMIN. DECISION	☐	☐	CONDITIONAL USE PERMIT
☐ OTHER <u>BUILDING CODE APPEAL</u>			

PROPERTY OWNER (APPLICANT):

NAME: ONE MECHANIC STREET, LLC TEL.#: 603 657 8281
 MAILING ADDRESS: PO Box 1325 Lebanon NH 03766
 E-MAIL ADDRESS: KATZ 95@GMAIL.COM

CO-APPLICANT, AGENT, OR LESSEE:

NAME: _____ TEL.#: _____
 MAILING ADDRESS: _____
 E-MAIL ADDRESS: _____

PROJECT LOCATION:

TAX MAP #: 91 LOT#: 264 PLOT #: _____ ZONE: CD
 STREET ADDRESS OF PROJECT: 1 MECHANIC STREET
 IS THIS PROPERTY LOCATED IN THE: **WETLANDS** ☐ YES ☒ NO **HISTORIC DISTRICT** ☐ YES ☒ NO
FLOOD PLAIN ☐ YES ☒ NO

SCOPE OF PROJECT:

REHEARING REQUEST

TYPE OF OCCUPANCY:

EXISTING ☐ VACANT ☐ ONE FAMILY ☐ TWO FAMILY ☐ MULTI-FAMILY ☐ COMMERCIAL ☐ INDUSTRIAL
 PROPOSED ☐ VACANT ☐ ONE FAMILY ☐ TWO FAMILY ☒ MULTI-FAMILY ☐ COMMERCIAL ☐ INDUSTRIAL
 IF USE IS COMMERCIAL OR INDUSTRIAL, PLEASE NOTE SPECIFIC
 USE: _____

SIGNATURE BLOCK:

FOR PLANNING BOARD APPLICATIONS ONLY: I, the undersigned, hereby submit this application on the date noted below with the knowledge and understanding that the Planning Board shall determine if the submitted application is complete according to its regulations at its next regularly scheduled meeting on _____, 20____, unless I personally request, in writing, that the Board delay its determination of completeness to a later date.

PROPERTY OWNER: _____ DATE: _____

NOTE: IF, AS OWNER, YOU WISH TO DESIGNATE AN AGENT TO ACT ON YOUR BEHALF, PLEASE READ THE FOLLOWING AND SIGN BELOW: I hereby designate the person listed above as my agent for the purpose of procuring the necessary local permits for the proposed work as described herein. Representations made by my agent may be accepted as though made by me personally, and I understand that I am bound by any official decision made on the basis of such representation.

PROPERTY OWNER: [Signature] mmc DATE: 11/9/11

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #	FEE - \$ AMOUNT	DATE PAID	VOUCHER #

Draft Motion

Tim Corwin <Tim.Corwin@lebanonnh.gov>
To: Jeremy Katz <katz95@gmail.com>

Fri, Nov 5, 2021 at 9:54 AM

Hi Jeremy – I receive the draft motion this morning from Linda Billings:

Mr. Newlove MOVED On October 4, 2021, October 18, 2021, and November 1, 2021, at duly-noticed meetings of the Lebanon Building Code Board of Appeals, there appeared Jeremy Katz on behalf of One Mechanic Street, LLC, regarding 1 Mechanic Street (Tax Map 91, Lot 264), zoned LD: An appeal concerning an interpretation of Section 306.1 ("Access") and Section 306.5 ("Equipment and Appliances on Roofs or Elevated Structures") of the International Mechanical Code (IMC) by the Building Code Official. BCBA2021-01

I. FINDINGS OF FACT

Based on testimony given, application materials presented, and supporting documents submitted, the Lebanon Building Code Board of Appeals makes the following findings of fact:

1. The applicant has submitted a building permit application (BP2021-083) to renovate the building at 1 Mechanic Street and to change its use from commercial to multi-family residential. As part of the building renovation, the applicant proposes to install heat pumps on the exterior walls of the building.
2. The applicant's appeal relates to the application of Sections 306.1 and 306.5 of the International Mechanical Code (IMC) to the heat pumps. As set forth in a memo prepared by the Lebanon Building Inspector, dated September 22, 2021, the Building Inspector has determined that:
 - Pursuant to Section 306.1, a level working space of not less than 30 in. by 30 in. must be provided for each heat pump; and
 - Pursuant to Section 306.5, if the height of the level working space exceeds 16 ft. above finished grade, either a ladder fixed to the building, or an interior access will need to be provided in order to access the 30 in. by 30 in. level working spaces.
3. On September 10, 2021, the applicant submitted an application to the Building Code Board of Appeals appealing the Building Inspector's verbal interpretation of Section 306.5 of the IMC.
4. Following the filing of the appeal, the Building Inspector prepared a memo dated September 22, 2021, explaining the Building Inspector's determination with respect to Section 306.5 as well as Section 306.1. The Building Inspector's memo also notes an alternative means of compliance and that this suggestion had previously been discussed on site with the design team.

5. In response to the Building Inspector's September 22, 2021 memo, the applicant provided a second memo from the applicant's engineer, Daniel W. Dupras, P.E., dated September 28, 2021.

6. The following materials were provided to the Board as part of the November 1, 2021 agenda packet:
- Staff correspondence with the International Code Council (ICC) regarding Sections 306.1 and 306.5 of the IMC.
 - A memo from the Building Inspectors commenting on the ICC's answers to the questions posed by staff regarding Sections 306.1 and Section 306.5 of the IMC.

In response, the applicant provided a third memo from the applicant's engineer, Daniel W. Dupras, P.E., dated October 28, 2021, a copy of which was provided to the Board prior to the November 1st hearing.

7. An e-mail from the City's legal counsel sent on October 29, 2021, was provided to the Board prior to the November 1st hearing.

II. CONCLUSIONS OF LAW

-

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Board concludes the following:

1. That the true intent of the code of the rules adopted hereunder have been correctly interpreted.
2. That the provisions of the code fully apply.

III. DECISION

Now therefore be it resolved, the Lebanon Building Code Board of Appeals, on this **1st day of November, 2021**, hereby **DENIES** the appeal, as set forth above and per testimony and materials submitted, and per the following conditions:

Seconded by Mr. McDonough.

**The Vote on the Motion was approved (3-2).*

-

Tim Corwin, AICP

SENIOR PLANNER

CITY OF LEBANON

51 NO. PARK STREET

LEBANON, NH 03766

(PH.) 603.448.1457, EXT.6127

Rehearing and/or summary reversal of the appeal denial and subsequent granting of Applicant's appeal is appropriate because the November 1, 2021 Decision in Case BCBA2021-01 is unreasonable or unlawful.

Uncontradicted testimony was presented to the Board as follows:

i) That the proposed installation was designed and professionally stamped by a licensed mechanical engineer with substantial experience installing the proposed configuration, and said designs were certified to comply with all codes.

ii) That the Lebanon Code Inspector performed a code review and issued a building permit based upon the plans in (i), above - thereby approving the installation.

iii) That Applicant's engineer considered the installation methodology to be normal and ordinary, and has designed and overseen the installation of many configurations of this sort in the past.

iv) That Applicant's engineer has substantial training and knowledge in this area and was qualified to provide expert testimony.

v) That Applicant initiated construction in good faith based upon its reliance on the permit review and issuance, and has vested rights to continue its deployment.

vi) That the Codes Officer conceded that a wall of a building was not a "roof" or "elevated structure" under Section 306.5 of the code.

vii) That multiple heat pump installations exist within the City of Lebanon that have not been subject to the imposition of 306.1 and 306.5.

viii) That the Code Officer testified that it was his opinion that Sections 306.1 and 306.5 can be read by reasonable people who can come to completely contradictory conclusions - and that the Code Officer's conclusion contradicted the ICC.

Applicant contended that Sections 306.1 and 306.5 of the International Mechanical Code are inapplicable to the installation.

Applicant's engineer provided written testimony, stamped with his license as a professional engineer in the State of New Hampshire. Applicant's engineer was offered for direct examination and cross examination, which both the Board and the adverse party had the opportunity to pursue. The Board did not dispute the qualifications or the credibility of this expert witness.

At the close of the hearing on October 4, 2021 the Board asked staff from the Planning and Zoning Department to request a formal ruling from the International Code Council (ICC) regarding the applicability of Sections 306.1 and 306.5 to the proposed installation.

At the October 18, 2021 hearing, the Board had not received a response from the ICC. Based upon the lack of response from the ICC, the Board voted to continue the hearing until November 1.

The ICC responded prior to the November 1 hearing. It ruled that Sections 306.1 and 306.5 are inapplicable to the proposed installation. Neither party objected to its inclusion in the record and the Board admitted it as evidence. The ICC's opinion was solicited by the Board because of the Board's belief in its unique and specific expertise in the matter. The Board did not dispute the qualifications or the credibility of the ICC.

As a result, the record shows uncontradicted expert opinion that 306.1 and 306.5 do not apply. This is inclusive of the expert entity that the Board, on its own motion, solicited. The record contains factual testimony that both parties testified that the wall of a building is not a "roof" or an "elevated structure."

As a result, the decision of this Board is in error for the following reasons:

- 1- The Board's decision is unreasonable or unlawful because it ignored the expert testimony (including from the Board's own solicitation of expert opinion from the International Code Council) that 306.1 and 306.5 were inapplicable to the proposed installation and there is no legitimate support in the record or the decision for a denial of the appeal.
- 2- The Board's decision is unreasonable or unlawful because it blatantly chose to ignore expert advice even though it was completely uncontradicted. The record is devoid of facts that support the Board's Decision and the opinion is nothing more than a plainly unsubstantiated conclusory opinion.
- 3- The Board's decision is arbitrary and capricious.
- 4- The Board's decision is unreasonable or unlawful in that it improperly interprets the language of Sections 306.1 and 306.5 of the Code, as well as the stated intent of the Code as testified by the ICC at the request of the Board.
- 5- The Board's decision is not reasonably based upon the record in the proceeding.
- 6- The Board's decision is unreasonable or unlawful because it makes finding of facts that were never introduced into the record and are not true. Specifically

Finding of Fact 1 states that the applicant has "submitted" a building permit "application" where the applicant "proposes" to install heat pumps on the exterior walls of the building.

This is found nowhere in the certified record. Furthermore, the proper status is that the permit has been "issued" more than 150 days prior to the appeal. See attached "City of Lebanon Permit Report."

The review and approval of the Code Officer as a precondition of permit issuance was ignored by the Board, and the Board also failed to consider Applicant's claims of detrimental reliance and municipal estoppel.

7- The Board's decision was unreasonable or unlawful when it found that 306.1 and 306.5 of the IMC "fully apply" when the Board solicited and accepted into the record ICC testimony that these sections do not apply.

8- The Board's decision was unreasonable or unlawful when it found that the true intent of 306.1 and 306.5 was correctly interpreted when the Board solicited and accepted into the record ICC testimony a contrary interpretation of the Code.

9- The Board's decision was unreasonable or unlawful because it abdicated its obligation to interpret the language of the code and instead impose its personal preferences to the installation.

10- The Board's decision was unreasonable or unlawful because it singles Applicant out for different treatment within the City versus other installations of heat pumps that did not have 306.1 and 306.5 imposed upon them.

11- The Board's decision was unreasonable or unlawful because it renders the Code unconstitutionally vague or imposes an ambiguous regulatory scheme that subjects itself to arbitrary interpretation and/or enforcement.

12- The Board's decision was unreasonable or unlawful because it produces patently absurd and impracticable results.

13- The Board's decision was unreasonable or unlawful because it denies Applicant enjoyment of substantive property rights that were vested when it performed substantial construction in good faith reliance on the City's code review and subsequent permit issuance.

City of Lebanon

Permit Report

From: 2021-01-01T00:00:00 To: 2021-11-04T00:00:00

03/01/2021	2021-075	Alteration	21 TECHNOLOGY DRIVE LP	21 TECHNOLOGY DR	145-1	\$20,000.00	Permit Issued	\$205.00
03/01/2021	2021-076	Alteration	SAWICKI RESIDENCE	7 WINTER ST	77-92	\$22,500.00	Permit Issued	\$220.00
03/01/2021	2021-078	Alteration	Craig Morton	77 WELLINGTON CIR	119-54	\$50,000.00	Permit Issued	\$394.00
04/07/2021	2021-079	Alteration		1 MEDICAL CENTER DR	10-8	\$1,101,100.00	Permit Issued	\$8,208.59
03/15/2021	2021-080	Sign-Wall Mounted	HANNAH'S ALLURE SALON/SPA, LLC	74 MECHANIC ST	106-57	\$400.00	Permit Issued	\$37.00
03/01/2021	2021-081	Mechanical	MILES, JANICE M TRUSTEE MILES, JANICE M REV TRST	15 TENLEY DR	102-28	\$7,800.00	Permit Issued	\$128.00
03/11/2021	2021-082	Mechanical	THORLEY/CULVER RESIDENCE	1 TENLEY DR	87-151	\$10,334.00	Permit Issued	\$144.00
04/05/2021	2021-083	Alteration	1 MECHANIC ST, LLC	1 MECHANIC ST	91-264	\$1,154,000.00	Permit Issued	\$8,597.40
03/01/2021	2021-084	Demolish	EDWARDS PROPERTIES	30 LITTLE HEATER RD	78-61	\$15,000.00	Permit Issued	\$173.00
03/01/2021	2021-085	Demolish	EDWARDS PROPERTIES	1 FOCHAVE	78-49	\$15,000.00	Permit Issued	\$173.00
03/01/2021	2021-086	Demolish	EDWARD PROPERTIES	10 PERSHING ST	78-58	\$15,000.00	Permit Issued	\$173.00