



## TEXAS DEPARTMENT OF LICENSING AND REGULATION

### COMPLIANCE DIVISION – INDUSTRIALIZED HOUSING AND BUILDINGS

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## INDUSTRIALIZED HOUSING AND BUILDINGS – BULLETIN #00-001

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### Areas of Authority Belonging to a Municipality – Industrialized Housing

This bulletin deals only with the areas of authority of a municipality for industrialized housing – reference IHB Bulletin #04-001 for the areas of authority of a municipality for industrialized buildings.

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

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

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

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

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

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

code indicates that the municipality is located in an area where the basic wind speed is greater than 90 mph.

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

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

**Sections 1202.251(a), 1202.251(b), and 1202.253(c)(3) of the Texas Occupations Code** gives the municipality the right to enforce local land use and zoning requirements, building setback requirements, side and rear yard requirements, site planning and development and property line requirements, subdivision control, and landscape architectural requirements. These local requirements and regulations and others not in conflict with the IHB law or other State law relating to transportation, erection, installation, or use, shall be reasonably and uniformly applied and enforced the same for all housing – the municipality may not enforce different requirements for industrialized housing except as allowed by **Section 1202.253(c)(3) of the Occupations Code**. A municipality cannot limit an industrialized house to an area zoned for manufactured housing. A municipality cannot bar an industrialized house constructed under Chapter 1202 from being placed inside city limits. A municipality can bar an industrialized house from being placed in an area zoned for business, but cannot bar an industrialized house from being placed in an area zoned residential except as provided in **Section 1202.253(c) of the Occupations Code**.

**Section 1202.253(c)** allows a municipality to adopt regulations that require single-family or duplex industrialized housing to:

- have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is to be located. Value means the taxable value of the industrialized housing and the lot after installation of the house;
- have exterior siding, roofing, roofing pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is to be located; and
- comply with municipal aesthetic standards, square footage, and other site requirements applicable to single-family dwellings;

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

**Section 1202.203 of the Texas Occupations Code** gives the municipality the right to inspect the foundation system and erection and installation of the modules or modular components on the

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

**Department rule 70.70(d)** requires a manufacturer to provide on-site construction documentation that includes the critical load points for attachment of the house to the foundation. **Department rule 70.73** requires a licensed engineer (or architect for one or two family dwellings having one story and total floor area of 5,000 square feet or less) to design and seal the foundation system and unique on-site construction details for each industrialized house. The foundation is required to be suitable for the location where the house or building will be installed. The foundation design and unique on-site details are reviewed by the municipality for conformance to the mandatory building codes – review by a Texas approved design review agency is not required.

**Section 1202.002 of the Texas Occupations Code** defines an industrialized house as one that is erected or installed on a permanent foundation and **Department rule 70.73(a)** requires industrialized housing to be installed on a permanent foundation system. **Department rule 70.10(a)** defines a “permanent foundation system” as one that is designed to meet the applicable mandatory building code adopted under the Texas IHB program. A municipality shall require that an industrialized house be installed on a permanent foundation system. The use of ground anchors is not approved for permanent foundations. Components of a foundation system allowed for use in site built construction must also be allowed for IHB housing. Typically, a “permanent” foundation is one with the following characteristics.

- The foundation and all related construction complies with the requirements of the mandatory building code
- The foundation system is capable of transmitting all design loads imposed by or upon the foundation and the attached building into soil or bedrock without failure
- The structure is attached without the towing hitch, axles, brakes, wheels and other parts of the chassis that only operate during transportation.
- Ventilation and decay details are provided in accordance with code requirements.