2019 BOMA Building Code Update

Mark Krueger, Brian Tognetti, and Wayne Jewell
Who are we?

Mark R. Krueger, PE
Wiss, Janney, Elstner Associates, Inc. (WJE)
30700 Telegraph Road, Suite 3580
Bingham Farms, MI 48025
(248) 593-0900, mkrueger@wje.com

Brian J. Tognetti, RA, CCCA, NCARB
Wiss, Janney, Elstner Associates, Inc. (WJE)
30700 Telegraph Road, Suite 3580
Bingham Farms, MI 48025
(248) 593-0900, btognetti@wje.com

Wayne R. Jewell, CBO, CBCA
WRJ Associates, LLC
PO Box 1406
Brighton, MI 48116
(810) 623-9234, wrjassociates@comcast.net
Here are the questions we plan to answer

- Why should you care about building codes?
- Where do the building codes come from?
- Recent code win for BOMA Metro Detroit
- How do construction codes affect my day-to-day property management?
- How can you become involved in building code development?
Why should I care about building codes?

- Potential benefits outweigh the costs. Every year there are hundreds of code changes submitted, and BOMA helps avoid costs by defeating burdensome and unnecessary proposals.
- Code officials are now able to vote remotely. BOMA needs to educate this community on the reasons for our priorities and positions.
- BOMA is the only active and robust commercial real estate advocate. If you don’t do it, who will?
- State code changes allow for local BOMA input and advocacy.
Where do the building codes come from?
Model building codes **developed** through consensus by the International Code Council (ICC). The electrical code is a similar process through NFPA.

- 3 year development cycle for model codes
- BOMA International influences this process

- State of Michigan **adopts** the model codes
  - **One set** of construction codes (building, residential, rehab, plumbing, mechanical, electrical, energy) apply **throughout the state**
  - Updated ‘about’ every 3 years to coincide with the model code updates (exception is residential)
  - BOMA of Metro Detroit can influence this process!
<table>
<thead>
<tr>
<th>Code</th>
<th>Effective Date</th>
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<tbody>
<tr>
<td><strong>Electrical Code</strong></td>
<td>Current (2017): January 4, 2019</td>
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<td>Next: 2022</td>
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<td><strong>Mechanical Code</strong></td>
<td>Current (2015): April 12, 2017</td>
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<td>Next: Early 2020</td>
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<td><strong>Plumbing Code</strong></td>
<td>Current (2015): April 20, 2017</td>
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<td>Next: Early 2020</td>
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<tr>
<td><strong>Building Code</strong></td>
<td>Current (2015): April 20, 2017</td>
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<td>Next: Early 2020</td>
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<td>Next: ??? (mid 2020?)</td>
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<tr>
<td><strong>Commercial Energy Code</strong></td>
<td>Current (2015 IECC + 2013 ASHRAE 90.1):</td>
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<td>September 20, 2017</td>
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<td>Next: ??? (late 2020?)</td>
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The nationally accepted 20 percent cap on spending for accessibility improvements was not included in the 2015 Michigan Rehabilitation Code for Existing Buildings.

Wayne Jewell and Brian Tognetti testified at a State Senate hearing on November 29, 2018.


Public Act 478 passed and took effect on March 27, 2019. “The costs of providing the accessible route are not required to exceed 20% of the total costs of the alterations affecting the area of primary function.”

Copies are available up front, in case your local official is unaware.
How do **construction codes** affect my day-to-day property management?

(maintenance/repairs, tenant buildouts, other)
Options for Code Compliance?

- Think differently...
- The requirements for existing structures (formerly Chapter 34) have been removed from the 2015 Michigan Building Code.
- All existing construction requirements are now in the 2015 Michigan Rehabilitation Code for Existing Buildings.

New Building “Code World”
MBC

Existing Building “Code World”
MRCEB
Options for Code Compliance?

- **New Commercial Buildings:** *No* options
  - MBC

- **Existing Commercial Buildings:** *Four* options
  - MBC
  - MRCEB (prescriptive method)
  - **MRCEB (work area method)**
  - MRCEB (performance method)
Cascading Philosophy

- The more you ‘change’ the existing conditions, the more upgrades required...

  - **Repairs:** Typically are performed to maintain the integrity of something, therefore, no substantial risk is created since the previously accepted condition is simply being restored or otherwise ‘maintained’

  - **Alterations:** Depending on the amount of ‘change’, little to substantial risk can be created by the ‘change’ due to the new conditions that did not previously exist.

  - **Change of Occupancy:** Substantial risk can be created by changing the level of activity or use of a space since what may have been safe previously, may not be true anymore
MRCEB - General Info

- **Section 101.3 Intent**
  - The intent of the MRCEB is “...to provide **flexibility** to permit the use of **alternative approaches** to achieve compliance with minimum requirements to safeguard the public health, safety and welfare insofar as they are affected by the **repair, alteration, change of occupancy, addition and relocation** of existing buildings.”
Example projects:

- Maintenance & repairs
- Tenant build-outs (alterations – minor v major)
- Tenant build-outs (change of occupancy)
- Additions
MRCEB – Maintenance & Repairs

▪ **Main Philosophy:**
  ▪ Recreate conditions that existed prior to damage to maintain same use, purpose, function and configuration
  ▪ Don’t make the building less conforming than it was prior to the work (i.e., at a minimum, maintain the level of protections provided)
  ▪ Can use like materials or new materials per MBC

▪ **Summary:**
  ▪ **No** ‘changes’ required for 1) fire protection, 2) means of egress, 3) accessibility and 4) energy
  ▪ **Very little** ‘change’ required for MEP
  ▪ **Could have significant** ‘change’ required to structure (SSD)
Auto-dealership built in 1976
Two-stories, 20,000+/- sqft footprint
Fire on 2nd floor in July 2014
**Fire damage:** 2nd flr, limited 1st flr, roof’g
**Soot/smoke damage:** 1st floor areas
Developed ‘repair’ drawings based, in part, on Ch. 6 “Repairs”
MRCEB – Alterations

- **Main Philosophy:**
  - Builds upon requirements for ‘repairs’, with a targeted approach focused on the project’s ‘work areas’ (reconfigured spaces).
  - All new construction elements, components, systems and spaces to comply with MBC
  - Cascading requirements for ‘minor’ (Level 1) v ‘major’ (Levels 2 or 3) alterations

- **Summary for ‘Minor’ (Level 1) Alterations:**
  - Some changes for Energy and Accessibility (update only what you touch); all else same as ‘repairs’.
Summary for ‘Major’ Alterations (Levels 2 or 3):

- **Some** ‘change’ may be required to improve vertical openings and passive fire control systems (add fire-rated enclosures, add guards, improve finish ratings)
- **Some** ‘change’ may be required to add fire protection (sprinkler and/or and fire alarm systems)
- **Some** ‘change’ may be required to improve means of egress systems (add exits, add or manipulate doors, modify corridor openings and dead-ends, improve egress lighting/signage, improve handrail/guard conditions in stairways)
- **Some more extensive** ‘change’ for accessibility beyond ‘work area’ (improve entrance, improve or add toilet room, potentially add accessible route – primary function trigger)
Summary for ‘Major’ Alterations (Levels 2 or 3):

- **Some** ‘change’ may be required to the structural systems (gravity and lateral) and design generally needs to comply with MBC req’s

- **Some more extensive** ‘change’ for MEP (changing existing wiring for ‘A’, ‘H’ and ‘I’ uses, OCPDs and additional outlets for most ‘R’ uses, CFM and exhaust req’s for mechanics, add plumbing fixtures if occupant load increased by 20 percent)

- **Required** ‘change’ for energy req’s (what touched)
Church built in late 1950s
- Two-stories, 14,500+/- sq ft footprint
- Fire during mechanical upgrade in Oct 2013
- **Fire damage:** roof/attic, 2nd/1st floor portions
- **Soot/smoke/water damage:** remaining areas
- Congregation wanted to ‘change’ things (i.e., increase kitchen size, increase gymnasium, add/relocate office space)
- Ch. 8 “Alteration Level 2” was appropriate and worked with Pastor to ‘limit’ extent of changes **to avoid** Alteration Level 3 reqs
How does **Energy**, **Fire**, and **ADA** fit into this?
What about Energy?

- In a **repair** project per MRCEB, no requirements, but...
  - If work involves **roofing replacement**, the MRCEB considers this work task an Alteration Level 1, as such, the energy code will require higher R-values **[more insulation]**.
  - If **replacing windows**, plan to upgrade U-Factor & SHGC.
- For **alteration** projects per MRCEB:
  - The IECC & ASHRAE 90.1 have similar ‘relief’ provisions exempting ceilings, walls and floors from new R-values provided **exposed cavities are “filled with insulation”**.
  - If building has conventional attic, recommend you **plan to meet the higher R-values for attic floors**.
What about Fire Code?

- The Fire Code is not universal throughout the state like the construction codes, it is mostly IFC in Michigan, but may be NFPA.
- Relative to design and construction, the Fire Code is subordinate to the MBC and MRCEB, with rare exceptions.
- Fire Code requirements (i.e., NFPA 25) apply primarily to maintenance and occupancy.
  - Typically require one to ‘maintain’ the integrity and continuity of the existing, constructed conditions
  - Should not require one to ‘change’ what is constructed...
What about Fire Code?

- **If all ICC** (i.e., IBC, IEBC and IFC), *pretty well coordinated*, nothing too significant not already covered by MRCEB provisions, **except**:
  - **Fire alarm system ‘replacement’** *may* be required **if main control unit panel replaced**.
  - **If replacing**, plan for **full system upgraded** to new requirements (i.e., audible notification, visible notification, etc.).
  - May have **smoke alarm upgrades**; note there are exceptions for interconnection and hard wiring, depending on conditions.
What about Fire Code?

- The fire code becoming an “existing building code”
What about ADA?

- The MBC and MRCEB have accessibility requirements and when performing construction to existing buildings, you must comply with the MBC or MRCEB.

- The DOJ’s 2010 ADA Standards are not part of the Code, it is enacted separately by Federal Law, regardless if construction occurring or not. Per ADA:
  - If the building is considered a “public accommodation” (Title III), the owner’s obligation to comply with ADA was just as applicable before the current construction due to Title III’s “barrier removal” provisions.
  - Similar provisions for Title II buildings (i.e., government)
What about ADA?

- For **Repair** projects, the MRCEB **does not require** any further work relative to handicap accessibility **(however ‘alterations’ do...)**

- **Caution:** ADA has its own definitions...

- Alteration as defined by ADA [emphasis added]:
  - “...a **change**...that **affects or could affect** the **usability** of the building or facility or portion thereof.”
  - “Alterations include, but are not limited to, **remodeling, renovation, rehabilitation, reconstruction**, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions.”
What about ADA?

- If our MRCEB repair or alteration project involves a ‘primary function area’, ADA will require [upgrades] to improve the path of travel to the space even when the MRCEB doesn’t.

- The extent of the ADA upgrade is cost-based; up to 20% of the cost of the ‘alteration’ work within the space. To apply this:
  - Identify what activities, if any, within the primary function space would be considered ‘alterations’ per ADA.
  - Tally up the cost of those activities, and 20% of that total must be allocated to upgrade the path of travel to the space.

- Update: Michigan did not have the 20% cap for alterations until BOMA Metro Detroit’s recent efforts, now we do!
How do codes affect my day-to-day property management?

It’s time for your questions, concerns, or issues.
BOMA Impact on Upcoming 2021 ICC Construction Codes

- BOMA International represents the interests of BOMA members throughout the code cycle
  - Thousands of proposed code changes
  - Thousands of public comments
  - Days and days of code hearings
  - Positions on main issues available at BOMA.org
How can you become involved in building code and regulatory changes?
Two Shots at Affecting Change

Codes Advocacy

During ICC Development
- Assist BOMA International

During Adoption
- State Ad-Hoc Code Review Committee
- Public Comments
Interested in a BOMA Detroit Code Committee?

• Create and maintain active participation in codes advocacy from BOMA membership
• Increase the name recognition of BOMA with the codes development bodies and local code officials
• Influence development of construction codes at the national level, and implementation of construction codes at the state level
• Assist members with code official over-reach issues

Let Janet know if you are interested!
Questions?

**Mark Krueger**
(248) 594-0144, mkrueger@wje.com

**Brian Tognetti**
(248) 594-0143, btognetti@wje.com

Wiss, Janney, Elstner Associates, Inc.
30700 Telegraph Road, Suite 3580
Bingham Farms, MI 48025
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**Wayne Jewell**
(810) 623-9234, wrjassociates@comcast.net
WRJ Associates, LLC
PO Box 1406
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