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Code/Section	2018 IBC Section 104.1 & Amended Section 104.10.3		
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Issue:

Guidelines are needed to assist with the determination of what should be included as part of a code modification submittal and when a code modification is likely approvable.

Criteria

One code modification topic per application. A code modification shall meet two thresholds:

1. Demonstrate the impracticality of the strict letter of the code for the special individual reason. The expense of complying with a code section or correcting a code violation is not acceptable as an impracticality argument and such rationale will result in a denial.
2. Provide equivalent compliance meeting the intent and purpose of the code. Modifications shall not lessen health, accessibility, structural or fire and life safety requirements.

Prior to submitting for a code modification

Discuss the proposed submittal with:

- the plan reviewer or inspector and
- the appropriate technical lead or supervisor.

Answer the following questions for each code section desired to be modified:

1. What is the code section and requirement?
2. What is the intent of the code? (Consider providing current/previous/future code and commentary excerpts, model code change proposals, model code change committee and hearing rationale and results, model code committee or staff interpretations, technical standards and commentary, and/or technical articles to provide a complete overview.)
3. What special individual reason makes strict code compliance impractical? (Please provide figures, sketches, reports, or other material to describe the project specific conditions.)
4. What is the proposed modification? (Describe what words or entire sections of the code are desired to be modified and what design features are proposed to offset these provisions.)
5. How does the proposed modification comply with the intent and purpose of the code while not lessening the health, accessibility, life and fire safety, or structural requirements?

IBC References:

[A] 104.1 General. The *building official* is hereby authorized and directed to enforce the provisions of this code. The *building official* shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

Commentary to [A] 104.1 General.

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

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

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

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

Commentary to [A] 104.10 Modifications.

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