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"It's Not Just A Good Idea—It's The Law!"

December 27, 2013

Melike S. Oncu
Assistant General Counsel
International Code Council
500 New Jersey Avenue, NW, 6th Floor
Washington, DC 20001

Dear Ms. Oncu:

I am in receipt of your **series of communications of December 26** regarding the posting on the Internet Archive of 8 International Code Council publications, including "International Plumbing Code" (2012, 2009 2006, and 2003 editions), "International Residential Code" (2012, 2009, and 2006 editions), and "International Mechanical Code" (2012 edition).

We are responsible for uploading those 8 documents to the "US Public Safety Code" collection on the Internet Archive. We are also responsible for uploading 41 other such documents to the same location. You may find all those documents at the following URL:

<https://archive.org/search.php?query=%22ICC%22%20AND%20collection%3Apublicsafetycode>

In addition, you may find all 49 of these documents on the following location on our own servers:

<https://law.resource.org/pub/us/code/ibr/>

All of these codes have been specifically incorporated by reference and adopted as mandatory laws of general applicability in cities, counties, states and by the United States Government. I refer you to the ICC publication "**International Codes—Adoption by State (October 2013)**" which details the current status of just a few of these incorporations into law. For example, the 2003 edition of the International Residential Code is still mandated by Connecticut, Indiana, and the U.S. Virgin Islands and most other states have mandated this edition in the past. Likewise, the 2006 edition of the IRC is, according to your chart, mandated in Alaska, Arkansas, Colorado, District of Columbia, Hawaii, Kentucky, Minnesota, Montana, Nevada, and New York. The 2009 edition of the IRC is likewise, according to your chart, currently mandated in Arizona, California, Florida, Idaho, Iowa, Louisiana, Maine, Massachusetts, Michigan, Nebraska, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Virginia, West Virginia, Guam, and Puerto Rico. Finally, the 2012 edition of the IRC is currently mandated in Maryland, Mississippi, Rhode Island, South Carolina, Utah, and Wyoming.

Not only have all these standards been incorporated by law, the very purpose of these documents is to become the law. All of these codes begin with a sample ordinance for adoption. For example, the **2009 International Mechanical Code states** the “purpose of the code is to establish the minimum acceptable level of safety and to protect life and property” (IMC 2009, p. v.) and the document begins with a “SAMPLE ORDINANCE FOR ADOPTION OF THE INTERNATIONAL MECHANICAL CODE ORDINANCE NO. _ _ _ _ _” (IMC 2009, p. ix) which urges that “The [GOVERNING BODY] of the [JURISDICTION] does ordain ... each and all of the regulations, provisions, penalties, conditions and terms of said Mechanical Code ... are hereby referred to, adopted, and made a part hereof.”

As these standards have all been incorporated into law, the people in the United States are compelled to obey them. Long-standing precedent of the United States Supreme Court holds that copyright claims cannot prevent citizens from reading and speaking the law. See *Wheaton v. Peters*, **33 U.S. 591** (1834); *Banks v. Manchester*, **128 U.S. 244** (1888).

While the standards drafted by the International Code Council were entitled to copyright protection when issued, once they were incorporated into regulations these standards became the law, and thus have entered the public domain. Chief Judge Edith H. Jones of the 5th Circuit expressed this principle clearly in her opinion in *Veeck v. Southern Building Code Congress*, which concerned a model building code incorporated in the law of two Texas towns:

"The issue in this en banc case is the extent to which a private organization may assert copyright protection for its model codes, after the models have been adopted by a legislative body and become ‘the law.’ Specifically, may a code-writing organization prevent a website operator from posting the text of a model code where the code is identified simply as the building code of a city that enacted the model code as law? Our short answer is that as law, the model codes enter the public domain and are not subject to the copyright holder’s exclusive prerogatives. As model codes, however, the organization’s works retain their protected status." **293 F.3d 791** (5th Cir. 2002) (en banc).

As you can see by looking at the documents in question, a cover sheet has been prepended clearly spelling out the section of the laws that have incorporated by reference each document into law. Please note that we were careful to only publish the specific document incorporated by law. As the specific edition of each document in question is the one required by law and as it has been duly incorporated into law, we respectfully decline to remove these documents.

Sincerely yours,



Digitally signed by Carl
Malamud
DN: cn=Carl Malamud,
o=Public.Resource.Org, ou,
email=carl@media.org,
c=US
Date: 2013.12.27 13:05:06
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Carl Malamud

International Codes-Adoption by State (October 2013)

ICC makes every effort to provide current, accurate code adoption information. Not all jurisdictions notify ICC of code adoptions.
To obtain more detailed information on amendments and changes to adopted codes, please contact the jurisdiction. To submit code adoption information: www.iccsafe.org/adoptions

X = Effective Statewide A = Adopted, but may not yet be effective L = Adopted by Local Governments S = Statewide adoptions with limitations
12= 2012 Edition 09 = 2009 Edition 06 = 2006 Edition 04 = 2004 Edition 03 = 2003 Edition 00 = 2000 Edition

* The title of the 2000 and 2003 IUWIC Code was changed to IWUIC in the 2006 version.

Jurisdiction	IBC	IRC	IFC	IMC	IPC	IPSDC	IFGC	IgCC	IECC	IPMC	IEBC	ISPSC	ICCPC	IUWIC	IZC	ICC 700
Alabama	S09, L	L	S09, L	S09, L	S09, L	L	S09, L		L	L	L		L		L	
Alaska	X09	L06	X09	X09			X09		L06							
Arizona	S09, L	S09, L	S06, L	S09, L	S09, L	S06, L	S09, L	L	S09, L	S06, L	L		L	L	L	L
Arkansas	X06	X06	X06	X09	X06	L	X06		X09	L	L					
California	X09	X09	X09								X09		L			
Colorado	S09, L	S06, L	S06, L	S09, L	X09	L	S09, L		S09, L	L	L		L	L	L	L
Connecticut	X03	X03	X03	X03	X03				X09	L	X03					
Delaware	L	L	L	X09	X12		L		X09	L	L					
District of Columbia	X06	X06	X06	X06	X06		X06		X06	X06	X06					
Florida	X09	X09		X09	X09		X09	X	X09	L09	X09					
Georgia	X06	X06	X06	X06	X06		X06		X09	L06	L06					L
Hawaii	X06	X06, L06							X06							
Idaho	X09	X09	X09	X09	L06		X09		X09		X09					L
Illinois	S09, L	L	S09, L	S09, L	L	L	S09, L		X12	S09, L	S09, L	L12	L	L	L	
Indiana	X06	X03	X06	X06	X06		X06									
Iowa	S09, L	S09, L	X09	S09, L	L	L	L		X09	L	S09, L				L	
Kansas	L	L	S06, L	L	L	L	L		S09, L	L	L					
Kentucky	X06	X06	X06	X06			X06		X09	L						
Louisiana	X09	X09	L	X09			X09		X09,L	L	X09					
Maine	X09	X09							X09		X09					
Maryland	X12	X12		X12	L12	L	L	X	X12	X12	X09					
Massachusetts	X09	X09		X09					X12		X09					
Michigan	X09	X09	L	X09	X09	L	X09		X09	L	X09		L			
Minnesota	X06	X06	X06	X00			X06			L						
Mississippi	S12, L	S12, L	S12, L	S12, L	S12, L	L	S12, L		L	L	S12, L		L			
Missouri	S12,L	S00, L	L	S12, L	S12,L	L	S00		S12	L	L		L	L	L	
Montana	X09	X06	L	X09			X09		X09		X09					
Nebraska	S09, L	S09, L	L	L	L	L	L		S09, L	L	S09, L			L	L	
Nevada	S06, L	S06, L	S06, L	L	L	L	L		S09, L	L	S06, L		L	S09		
New Hampshire	X09	X09	L	X09	X09			L	X09	L	X09					
New Jersey	X09	X09	X06	X09			X09		X09	L						
New Mexico	X09	X09	X03	L	L		L		X09	L	X09					
New York	X06	X06	X06	X06	X06		X06		X09	X06	X06					
North Carolina	X09	X09	X09	X09	X09		X09	X	X09							
North Dakota	S09, L	S09, L	L	S09, L	L		S09, L		S09, L	L	L					
Ohio	X09	A09	X09	X09	X09		X09		X09	L						L
Oklahoma	S09, X	S09, X	S09, X	S09, X	S09, X	L	S09, X		S03, L	S06, L	S09, X		S06, L	L	L	
Oregon	X09	X09	X09	X09			X09	X	X09							
Pennsylvania	X09	X09	X09	X09	X09		X09		X09	L	X09		X09	X09		
Rhode Island	X12	X12		X12	X12		X12, L	X	X12	X12						
South Carolina	X12	X12	X12	X12	X12		X12		X09	L12	L12	L12	L12			
South Dakota	S12, L	L	S09, L	S09, L		L	L		L	L	L		L	L		
Tennessee	S06, L	X09	S06, L	L	L		L		X06	L	L	L12	L	L	L	
Texas	X06	X00	L06	L06	L06	L	L06		X09	L	L06	L12	L	L	L	
Utah	X12	X12	X12, L	X12	X12		X12, L		X12						L06	
Vermont	X12	L			X12				X09							
Virginia	X09	X09	X09	X09	X09		X09		X09	X09	X09					
Washington	X12	X12	X12, L	X12	L12		X12, L	L	X12 L12	L	X12, L		L	L09		
West Virginia	X12	X09		X12	X12		X12		A09	X12	X12					
Wisconsin	X09		L	X09			X09		X09		X09					
Wyoming	X12, L	S12, L	X12, L	X12, L	L	L	X12, L		L	S12,L	S12, L		L			
U.S. Territories	IBC	IRC	IFC	IMC	IPC	IPSDC	IFGC	IgCC	IECC	IPMC	IEBC	ISPSC	ICCPC	IUWIC	IZC	ICC 700
Guam	X09	X09	X09	X09	X09	X09	X09				X09					
Northern Marianas Islands	X09															
Puerto Rico	X09	X09	X09	X09	X09	X09	X09		X09		X09					
U.S. Virgin Islands	X03	X03		X03					X03							