Procedure for Observation of Unsafe Conditions or Serious Hazards Independent of the Approved Documents

*Serious Hazard: A hazard of considerable consequence to safety or health ... [and] of certain or probable consequence...(Definition from the Ohio Building Code, see attached commentary for further explanation.)*

- When an inspector, in the course of performing an inspection, observes a condition which may be considered a *Serious Hazard* they shall:
  - Communicate said condition to the owner or the owner’s on-site representative.
  - Report the findings immediately to the Chief Building Official by way of their recognized chain of command.
  - Complete the customary Non-Conformance Document.
  - Complete the inspection, including all photographs, in accordance with the established *Site Inspection Process* and *Inspection Right of Entry*.

- The Building Inspection Supervisor for the pertinent section shall:
  - Evaluate the Non-Conformance document and assess the condition against the defined criteria of *Serious Hazard* in the Ohio Building Code.
  - If the condition does rise to the level of a *Serious Hazard* as defined in Code:
    - Prepare a succinct synopsis of the previously identified condition.
    - Forward to the Chief Building Official a copy of the Non-Conformance Document and synopsis for consideration.

- The Chief Building Official shall make an assessment of the identified condition. This assessment will determine if the condition:
  - Constitutes a *Serious Hazard* in accordance with the defined criteria; or
  - The condition does not meet the minimum necessary criteria for a determination of a *Serious Hazard*.

- The Chief Building Official will notify the Building Compliance Section Supervisor by e-mail when a determination has been made that the condition constitutes a *Serious Hazard*.

- The Building Compliance Section shall:
  - Immediately communicate with the building owner or on-site representative through one of the established BCS processes.
  - When found to be necessary, a site inspection will be performed, to ensure that the condition in question has been temporarily abated. This site inspection can be completed either via a consultation inspection or a permit.
  - Create building orders, as required, through the established BCS processes.
  - Provide all enforcement actions through the established BCS processes to gain compliance.

- The Assistant Chief Building Official shall notify the applicable Case Manager via email when drawings have been submitted for approval. The assigned plans examiner and case manager shall communicate to ensure complete understanding of the substance of the building order. All plan examination shall include verification that the defined *Serious Hazard* is fully addressed.
**Serious hazard:** *A hazard of considerable consequence to safety or health through the design, location, construction, or equipment of a building, or the condition thereof, which hazard has been established through experience to be of certain or probable consequence, or which can be determined to be, or which is obviously such a hazard.* *(Ohio Building Code Section 202)*

**Ohio Board of Building Standards Commentary:**

Of all the terms that must be understood, perhaps this definition is the most important. Within its boundaries lie the authority to cause repairs and modification to even those structures that may otherwise be exempts from the jurisdiction of the codes. It is only when distinct and real serious hazards exists that the building official has the authority to issue orders for existing buildings. (refer to 102.7)

Three concepts, therefore, lie at the core of this definition.

1. The declaration of a condition as a serious hazard must be founded in fact not conjecture. This hazard must not simply be of consequence (a result of an action, process; outcome, effect) but be of considerable (noteworthy, a large amount or number) consequence. Then, as such, it can be examined for its impact upon the publics’ safety or health.

2. The hazard must be established through experience. This expression carries the implication that there is some history associated with the particular circumstance being evaluated. A primary method for establishing and recording experience with hazardous conditions is via statistics and data. As the building official becomes familiar with the causes and history of life losses, injury, and property loss data the better the decisions that will be made when ascertaining serious hazard conditions.

3. The hazard must be “of certain or probable consequence.” This phrase has a key importance in determining the validity of a declaration of serious hazard, especially if any order issued by the building official finds its way to court. The difference between “possible” and “probable” is enormous and any claim of serious hazard based upon possible consequences is especially weak and subject to question. A claim of serious hazard based upon probable consequences is superior and based in fact and data.

The difference is that what is possible is anything that can be or is capable of being. “Possible” consequences are unlimited, open to the imagination, or anything that possibly could exist. This is hardly the ground for practical enforcement of construction codes since it is possible that everything could happen that is possible to happen whether or not it has ever happened. Buildings would be subject to unending compliance with unending requirements based solely upon the creative imagination of the building official.

“Probable” consequences are those that are likely to occur, can reasonably (but not absolutely) be expected on the basis of evidence. Stated another way, “probable” applies to what appears to be reasonable on the basis of evidence or logic but is not certain or proved. “Possible” applies to what is not probable but what can conceivably exist or occur. Even the term “likely” implies less credibility that “probable.”

Given these important distinctions, citations for serious hazards must be based upon the best evidence and information and not be based upon an arbitrary determination along the lines of, “If I say it is a serious hazard, it is.” or “Since it doesn’t comply with the new code requirements, I’m calling it a serious hazard.” Enforcement must be solidly based upon fact, understanding of risk factors, and knowing the intent of the codes and the law. If, in fact, something is declared a serious hazard, the enforcement official must be prepared to take action in all and every case within the official’s jurisdiction wherever that condition exists.