Ohio | Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Regina Henshaw, Ohio Board of Building Standards

FROM: Caleb White, Business Advocate

DATE: May 17, 2023

RE: **CSI Review – Ohio Plumbing Code Update (OAC 4101:3-1-01, 4101:3-2-01, 4101:3-3-01, 4101:3-4-01, 4101:3-5-01, 4101:3-6-01, 4101:3-7-01, 4101:3-8-014101:3-9-01, 4101:3-10-01, 4101:3-12-01, 4101:3-13-01, 4101:3-14-01, and 4101:3-15-01)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Board as provided for in ORC 107.54.

Analysis

This rule package consists of fifteen new rules and fifteen rescinded rules proposed by the Ohio Board of Building Standards (Board) as a part of the statutory five-year review process. This rule package was submitted to the CSI Office on April 21, 2023, and the public comment period was held open through May 10, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI office on April 21, 2023.

Ohio Administrative Code (OAC) 4101:3-1-01 through 4101:3-15-01 contain the rules which comprise the entirety of the Ohio Plumbing Code (OPC). The fifteen current rules are to be rescinded and replaced by fifteen rules with the same numbers. These new rules adopt the 2021 edition of the International Plumbing Code (IPC) as promulgated by the International Code Council (ICC) by reference and modify it with Ohio specific amendments contained in the rules. Currently OAC 4101:3 contains duplicate language to the model code language contained in the IPC. The proposed rules will eliminate this duplicative language by generally adopting chapters two through fifteen of the IPC by reference and instead will only list the provisions in the model code the Board is deleting, modifying, or replacing. Once the rules are adopted, the Board will integrate both the IPC and the

modifications made in the proposed rules to a cohesive document. The Board is not adopting the provisions contained in chapter one of the IPC. OAC 4101:3-1-01 will instead replace references of the IPC with the OPC and replace language such as the term "permit" with "approval" to be more consistent with the terms and phrases contained in the OAC and ORC. The proposed rules will also not be adopting chapters thirteen and fourteen of the IPC, as these chapters outline the rules regarding non-potable water systems and subsurface greywater soil absorption both of which are regulated by the Ohio Department of Health (ODH).

During early stakeholder feedback, on March 2, 2023, the Board sent a notice via email to all agency stakeholders informing them of a scheduled stakeholder meeting on March 22, 2023. The notice contained a summary of the proposed rules, background information, and other resources and informed the stakeholders that if they could not attend in person, they could submit their questions and comments via email. Attending in-person were representatives from Summit County, the Ohio Building Association, the City of Lakewood, Tuscarawas County, the ICC, the State Fire Marshall, Changing Spaces Ohio, the Delaware City Board of Developmental Disabilities, the Delaware County Board of Developmental Disabilities, the Ohio Facilities Construction Commission, and MA Design. The Board also had twelve individual stakeholders join the meeting virtually. Dayton and Montgomery County Public Health commented that by adopting section 915.1 of the IPC and allowing a food waste disposer to discharge into a combination wase and vent system, the disposer will take up more of the volume inside of the pipe and allow for less air to vent the plumbing system, adding that this could cause many problems. The Board responded that the American Society of Plumbing Engineers have researched this issue and demonstrated that the system will still work when a food waste disposer discharged into a combination waste and vent system and elected to not make changes to the proposed rules. Dayton and Montgomery County Public Health also commented that not allowing the food waste disposal to connect to the grease interceptor by adopting section 1003.2 of the 2018 IPC would be a mistake and proposed having a solid interceptor to separate the discharge before connecting to the grease interceptor. The Board responded that in this setup, food particles could block the flow of small openings and baffles within the hydromechanical grease interceptor. Additionally due to the small size of hydromechanical grease interceptors, the manufacturers of this type of interceptor state that food particles from a disposal should not be discharged into a hydromechanical interceptor. The Board elected not to make the suggested change. The City of Columbus Department of Building and Zoning Services commented that IPC chapters thirteen and fourteen should be adopted by reference as well as it would be more appropriate for non-potable water systems and subsurface greywater soil absorption to be regulated under the plumbing code rather than the ODH. The Board did not make the suggested change.

Six comments were received during the CSI public comment period from the Kent City Health Department, Franklin County Public Health, Moody Nolan Architecture firm, HEAPY, and the City of Columbus. Franklin County Public Health and the Kent City Health Department commented that

the Board should adopt the language contained in the IPC regarding direct connections for commercial pots, pans, and utensil sinks. This change would prohibit direct connections from these sinks to the sanitary drainage systems as the hydromechanical grease interceptors contained in these systems are a breeding ground for bacteria and are seen as a health hazard, with many local health departments already banning connections of this type. The Board responded that allowing this type of connection does cause a reduction in protection and made the recommended change in response to the comments. HEAPY recommended clarifying an exception for standpipe access requirements, which the Board adopted, as well as a new requirement that standpipes not be installed below floor level, which the Board did not adopt due to concerns about restricting design flexibility unnecessarily. Moody Nolan Architecture thanked the Board for retaining a provision allowing water dispensers in lieu of drinking fountains, based on client feedback that the former option is often more sanitary. The City of Columbus recommended several changes, most of which were not adopted due to statutory limitations on the Board's authority, though the Board did make a few minor changes for clarification purposes.

The business community impacted by the rules consists of building owners, design professionals, contractors, and building departments. The adverse impacts created by the rules include obtaining the updated rules of the OPC, becoming familiar with the changes to the rules through research and training, and the increased cost of construction due to the changes that require different construction methods, materials, and products or the increased stringency of construction standards. Due to the variance that is allowed in building designs, it is difficult to determine the change in design cost as a dollar amount due to the rule changes. However, when a petition to the ICC to amend the model code is submitted, an estimated cost impact due to the proposed change is included. The Board states that the adverse impacts to business are justified as the increased costs associated with the rule changes impact life, safety, and accessibility provisions of the code. Additionally, the Board notes that some of the changes included in the rule package also reduce the cost of construction, offer regulatory alternatives, and will recognize new technologies and materials.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Board should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.