



Law and Ordinance Upgrade

Welcome to Lexington's *Law and Ordinance Upgrade* podcast. *Law and Ordinance Upgrade* is Lexington's latest endorsement applicable to the Lexington property policy. It allows insureds to rebuild covered damaged property to the latest International Building Code even if that code has not yet been adopted by the regulating jurisdiction.

Our *Law and Ordinance Upgrade* podcast features Jim Emerson, Lexington's property division's chief engineer and part of the Chartis Global Loss Prevention team. Jim will be discussing the International Code Council, including the International Building Code and International Existing Building Code, as well as how *Law and Ordinance Upgrade* coverage differs from traditional law and ordinance or DIC coverage.

Jim, could you give us a brief overview of the International Code Council, who they are, what they do and how they came about?

The International Code Council is a membership association dedicated to building safety and fire prevention. The council develops codes used to construct residential and commercial buildings, including homes and schools, through a consensus process. Most U.S. cities, counties and states that adopt codes choose the International Codes developed by the International Code Council.

The International Code Council, known as the ICC, was established in 1994 as a nonprofit organization dedicated to developing a single set of comprehensive and coordinated national model construction codes. The founders of the ICC are Building Officials and Code Administrators International, Inc., known as BOCA; the International Conference of Building Officials, known as ICBO; and the Southern Building Code Congress International, Inc., known as SBCCI. Since the early part of the last century, these nonprofit organizations developed the three separate sets of model codes used throughout the United States. Although regional code development has been effective and responsive to our country's needs, the time came for a single set of codes. The nation's three model code groups responded by creating the International Code Council and by developing codes without regional limitations, including the International Building Code, or IBC, and International Existing Building Code, or IEBC.

The IBC and IEBC reference well recognized codes and standards including the National Fire Protection Association (NFPA), American Society Civil Engineers (ASCE), American Society of Testing Materials (ASTM), National Electric Code (NEC), International Fire Code, and Fuel Gas Code, along with many others. These have been the staples of construction design and specification for many years and the IBC and IEBC ensure continuity and flow between all of these that are referenced.

The IBC governs a building or portion of a building that has not been previously occupied or used for its intended purpose. The IEBC governs the repair, alteration, change of occupancy, addition or relocation of an existing structure. The ICC also publishes codes focusing on energy

conservation, fire, fuel gas, mechanical, performance, plumbing, private sewage disposal, property maintenance, residential, wildland urban interface and zoning.

How do jurisdictions adopt the codes and how do jurisdiction adoptions lag behind the publications?

States and individual jurisdictions at the municipal level, including cities and counties, can adopt the IBC and the IEBC, along with the other individual codes in this family, in whole or in part, with amendments. That means that the jurisdiction can tailor its adoption to what makes sense for its area. There is much consideration during this process. The state adoption process does weigh the advantages and disadvantages of adopting new codes. States make an effort to understand the downstream ramifications of IBC and IEBC code adoption.

Let's start with how the decision to adopt a version of the IBC is made. It is good for a jurisdiction to remain with one version for an extended period. This gives jurisdictions and code compliance personnel, including fire service, plumbing, electrical and mechanical designers and contractors time to become acclimated to and remain knowledgeable about the codes for an extended period.

This allows designers, architects and the code enforcement communities time to work together, learn the adopted version and be productive. This helps the end user, because construction costs and timing are more predictable. Change orders are reduced and expectations are better managed.

However, over time in-force codes can become outdated. New versions of the IBC and IEBC become available for adoption every three years. This process creates natural gaps between the latest published versions and those in force.

Manufacturers of building products and components need time to adjust to newly adopted versions of codes. They can put their efforts into understanding which states and geographic areas are working under which version, and that helps them produce products and components with wider appeal. Therefore, a 'lag' isn't always a bad thing.

The ICC publishes codes on a three year review and updating cycle. This cycle helps ensure continuous improvements. It also allows jurisdictions to review the latest version of a code and to learn what is different from what they already have in place before making the decision to proceed. However, this cycle can result in a lag between a jurisdiction's adoption of a code and the latest published version of a code. For example, the IBC has published its 2009 version, but many states still have the 2003 or 2006 versions adopted.

How does traditional law and ordinance coverage respond?

Traditional law and ordinance coverage is provided by the "demolition and increased cost of construction" provision. It is also known as DICC or difference in conditions coverage. This provision extends coverage for the enforcement of any law, ordinance, governmental directive or standard that is in effect on the date of loss, which regulates the construction, repair or use and occupancy of insured property that sustains direct physical loss or damage from a peril covered by the policy.

Independent adjusters generally work with a building consultant and, in many cases, an engineering code expert to verify the requirements that were in effect on the date of loss, so

that insurer reimburses the insured for these increased costs when the repair or replacement is made in order to bring the rebuilt property into compliance.

The codes and standards adopted at the time of a covered loss by the jurisdiction in which the property is located govern the adjustment of standard law and ordinance coverage. This can produce a wide range of gaps between the level of existing condition and the level of required restoration. Standard law and ordinance coverage helps insureds restore damaged property according to the laws and ordinances at the time of the loss, but not to any newer codes and standards published by the ICC. This is common for virtually all carriers today.

For example, if a loss occurred today in a state that has adopted the 2006 IBC, traditional law and ordinance coverage would extend coverage, up to the law and ordinance limit, to rebuild in accordance with the 2006 IBC even though the 2009 IBC has been published. Since it has not been adopted by the state in which the loss occurred, coverage would not extend to the 2009 IBC.

How does *Law and Ordinance Upgrade* coverage respond and how does the upgrade option result in a better property?

To follow on the previous example, if that same loss occurred, but the policy holder had purchased the *Law and Ordinance Upgrade* endorsement, the property would be rebuilt, up to the policy limit, in accordance with the 2009 IBC even though it has not yet been adopted by the state in which the loss occurred.

Change is happening all around us. Codes and standards are no different. Getting back to normal operations quickly after a loss occurs is everyone's goal. Wise risk managers are looking to their insurers to help turning adversity into an opportunity. It's just good business.

If the property and therefore the enterprise can benefit from using the latest published version of a code, why should the property owner be restrained by the jurisdiction's lag behind the latest published recommendations?

Under Lexington's *Law and Ordinance Upgrade* endorsement, the 2009 IBC and IEBC would be the latest version available for reference, since the 2012 set has not yet been published. Insureds are always advised to work with Lexington's claims representatives to keep all costs properly accounted in order to ease the adjustment process for both sides. Being able to distinguish costs above and beyond traditional law and ordinance coverage, but applicable under the latest published version of the IBC and IEBC is the key element of this new endorsement.

Can you describe some existing risk management and loss prevention techniques?

Loss prevention engineering is always evolving and staying in tune with the latest developments of codes and standards regarding construction and fire protection systems.

Incorporating a restoration philosophy into one's risk management program, such as ensuring that the latest fire protection, electrical, plumbing and mechanical components and the latest structural considerations are in place, is in the best interest of the insured to reduce future potential for loss. *Law and Ordinance Upgrade* helps insureds overcome in a difficult situation by becoming the most resilient it can, following a covered loss. This is to lessen the likelihood and severity of future potential losses. It fuses the farthest engineering horizon with the most recently published codes and standards within an insurance product.

Coverage for this risk is available through *Law and Ordinance Upgrade*. Enterprise continuity is served by following the restoration philosophy I just described embedded in an organization that also has a cutting-edge insurance solution like *Law and Ordinance Upgrade* as a part of its insurance program.

Law and Ordinance Upgrade provides the option to rebuild to a newer standard than simply maintaining compliance with currently adopted laws and ordinances. It allows for the law and ordinance limit to be used toward the upgrade instead of just toward compliance with potentially out of date laws and ordinances.

Flexibility during the restoration process is a key element. Being able to choose from elements of the latest publication of the IBC or IEBC during restoration allows the owner assurance that they are using the best available technology.

Besides the direct benefit of being able to utilize the latest published versions of the IBC and IEBC for restoration following a loss, there are indirect benefits as well. Having an increased array of options for claims resolution may reduce claim settlement time, expenses and most importantly, time to restore normal operations to an Insured's enterprise.

The insurance industry has been reticent to consider restoration beyond traditional law and ordinance coverage. *Law and Ordinance Upgrade* is yet another example of Lexington's forward-thinking commitment to the evolving needs of our clients. The *Law and Ordinance Upgrade* endorsement adds to our already robust property policy and allows Insureds the opportunity to rebuild with the most resilient of options.

Jim, thank you for sharing your expertise on Lexington's new *Law and Ordinance Upgrade* endorsement.

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