

## Building Code Gap

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Over the past several years, many municipalities have replaced the former BOCA code with the International Building Code (“IBC”). In fact, statute 10 M.R.S.A. § 9702 mandates that any municipality adopting a building code after July 30, 2004 is required to adopt the IBC.

**If your municipality has adopted the IBC, be aware that a significant piece of the old BOCA Code is missing from the IBC. Specifically, the “emergency measures” section is missing, which had allowed the code enforcement officer to post a building against any further occupancy when it is in danger of imminent failure or collapse.**

Unlike the previous BOCA Code, which applied to both new and existing structures, the IBC applies only to new construction. There is a separate companion code, the “International Existing Building Code,” that applies to existing buildings. That code does contain a section on emergency measures (essentially identical to what was previously in the BOCA Code). Presumably, the International Code Council assumed that any community adopting the IBC would also adopt the International Existing Building Code.

10 M.R.S.A. § 9702, does not require municipalities to adopt the International Existing Building Code when they adopt the IBC, however. We recently encountered a situation where a town adopted the IBC, but did not adopt the Existing Building Code. Faced with a commercial structure in danger of catastrophic failure, the code enforcement officer went to the IBC to find the procedures for posting the structure, and discovered that there are none.

**If your community has adopted the IBC but not the International Existing Building Code, you should work to remedy the situation before an emergency arises.** One solution would be to adopt the International Existing Building Code as a companion to the IBC, which would require buying another code from the International Code Council. Another solution would be to incorporate the emergency provisions from the old BOCA Code into the IBC by amending the ordinance you used to adopt the IBC in the first place.

If you would like help with either of those options, please feel free to contact any of the attorneys in our municipal department.

*For assistance with any of these options, or for more information, call any member of Bernstein Shur’s Municipal Practice Group or contact Christopher L. Vaniotis at 207 228-7205 or [cvaniotis@bernsteinshur.com](mailto:cvaniotis@bernsteinshur.com).*