

INDIANA FIRE PREVENTION AND BUILDING SAFETY COMMISSION

Tuesday, August 10, 2021
By Electronic Mail

Steve Sorah
Petitioner
Wayne County, Indiana Building Commission
401 East Main Street
Richmond, IN 47374
permits@co.wayne.in.us

Re: Petition for Administrative Review – Written Interpretation of the Indiana State Building Commissioner – Interpretation No. CEB-2021-28-2020 IRC TR404.1.1(1)a

Dear Mr. Sorah:

The Indiana Fire Prevention and Building Safety Commission (Commission) is in receipt of your electronically-filed petition for administrative review of the Written Interpretation of the Indiana State Building Commissioner – Interpretation No. CEB-2021-28-2020 IRC TR404.1.1(1)a, submitted on Tuesday, August 10, 2021. Pursuant to the requirements of Indiana Code § 4-21.5-3-7, your petition for administrative review is hereby granted by the Commission.

Your petition will now be forwarded to the Indiana Office on Administrative Law Proceedings (OALP) to be assigned to the Commission's administrative law judge. OALP or the judge will contact you directly to make arrangements for further proceedings. Should you have any questions, you may contact the Indiana Department of Homeland Security's deputy general counsel assigned to this matter, Justin Guedel, at jguedel@dhs.in.gov or (317) 234-9515.

Sincerely,



Douglas J. Boyle, Director
Indiana Fire Prevention and Building Safety Commission
Indiana Department of Homeland Security
Indiana Government Center South, Room E-208
302 W. Washington Street
Indianapolis, IN 46204
dboyle@dhs.in.gov

Enclosure

cc: Craig E. Burgess, Indiana State Building Commissioner – Respondent (by electronic mail)
Justin K. Guedel, Indiana Department of Homeland Security Deputy General Counsel – Legal Counsel for the Respondent (by electronic mail)
Bryston Sprecher, Administrative Assistant of the Indiana Fire Prevention and Building Safety Commission (by electronic mail)

From: noreply@formstack.com
To: [DHS Legal Mailbox](#)
Subject: Petition for Review
Date: Tuesday, August 10, 2021 2:25:09 PM
Attachments: [68379161_Written Interpretation.pdf](#)
[68380022_foundation photos.pdf](#)
[68380035_code section.pdf](#)

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Formstack Submission For: [petition for review](#)

Submitted at 08/10/21 2:21 PM

Individual Name:	Steve Sorah
Business Name :	Wayne County Indiana Building Commission
Phone Number:	(765) 973-9297
Email Address:	permits@co.wayne.in.us
Mailing Address:	401 East Main Street Richmond, IN 47374
Are you represented by an attorney?:	No
Attorney Name:	
Firm:	

Phone Number:	
Email Address:	
Mailing Address:	
Order Number:	
Facility Device Boiler ID:	
Date Order Received:	Jul 26, 2021
How did you receive the Order? :	Email
Entity Issuing Order:	Indiana Department of Homeland Security
Entity Name:	
Upload Order:	View File
Was this order specifically directed to you?:	Yes
Explain:	This was an interpretation of a local builder's claim disputing our building inspector inspection failure
Explain:	
Have you been aggrieved or	

adversely affected by the order?:

Yes

Explain:

The interpretation does not accurately depict the "on ground" scenario.

Explain:

If the order was not specifically directed to you and you have not been aggrieved or adversely affected by the order, are you entitled to review under some other law? :

What law?:

I request review of the entire order described above:

Yes

If you are not requesting review of the entire order, what is the scope of your request?:

I request a stay of effectiveness:

Yes

The petitioner, Fred Harvey, did not accurately

What is the basis of your challenge? :

describe the issue. In the written interpretation narrative , last paragraph, note that the author states "above-ground masonry installation". Mr. Harvey's petition narrative leads you to believe the weep holes were above ground. They are not as you can see in the attached photos. Rather than using Table R404.1.1(1) foot note a, we used Section R404.1.1 foot note 1. It reads in part, Design Required. Concrete or masonry foundations walls shall be designed in accordance with accepted engineering practice where either of the following conditions exists: (1) Walls are subject to hydrostatic pressure from ground water. If we had allowed Mr. Harvey to install weep holes below ground in the manner in which he installed them, the weep holes would have allowed the water to not only drain from but also into the ground beneath the slab. Accepted engineering practice generally call for drain tiles inside and outside the foundation wall in the case of slab on grade stem wall foundation weep holes. Both drains would need to drain to daylight. The key words of the Section R404.1.1 is "Design Required" as the code does not specifically address what Mr. Harvey was attempting to do. We asked him to have an engineer design the drainage system that he wanted but he refused.

What is your desired outcome? :

Rescind the written interpretation as it was based on incomplete information.

Additional information in support of my request:

Additional Attachments:

[View File](#)

Additional Attachments:

[View File](#)

Additional Attachments:

Formstack, 11671 Lantern Road, Suite 300, Fishers, IN 46038



WRITTEN INTERPRETATION
OF THE
STATE BUILDING COMMISSIONER

Interpretation #: CEB-2021-28-2020 IRC-TR404.1.1(1)a

Pursuant to Indiana Code § 22-13-5-2, the attached written interpretation is issued. This interpretation is binding upon Jim Harvey, the *interested person* as defined in Indiana Code § 22-13-5-1, and Wayne County.

REVIEW RIGHTS

This order is effective upon service. If you desire **informal review** of this order, complete the informal review form located at <https://www.in.gov/dhs/4149.htm> within 15 days. Following receipt of this form, the **Department** may modify or reverse the order, however, a request for informal review does not extend the deadline for filing a petition for review with the Fire Prevention and Building Safety Commission (Commission). If you have any questions regarding this order, you may contact that Department at (317) 232-2222.

If you desire a formal **administrative review** of this order by the **Commission**, you must comply with the requirements of Indiana Code § 4-21.5-3-7 and file a written petition for review within 15 days of the date this order was served, however, this period is extended to 18 days if service is made by mail. Your petition for review must state facts demonstrating that you are: (1) a person to whom the order is specifically directed; (2) aggrieved or adversely affected by the order; or (3) entitled to review under any law. You may submit your petition by the following methods:

U.S. MAIL OR PERSONAL SERVICE

Fire Prevention and Building Safety Commission
c/o Legal Counsel
302 W. Washington Street, Rm. E208
Indianapolis, IN 46204

ONLINE

By completing the form at
<https://www.in.gov/dhs/4148.htm>

If you comply with the above requirements, your petition will be granted and will be assigned to an administrative law judge for review. If a petition for review is not timely filed, then this order will become final. For additional information about the administrative review process, visit the following link <https://www.in.gov/dhs/appeals.htm>.

Craig E. Burgess
State Building Commissioner

7.26.2021

Date



WRITTEN INTERPRETATION
OF THE
STATE BUILDING COMMISSIONER

Interpretation #: CEB-2021-28-2020 IRC TR404.1.1(1)a

Building or Fire Safety Law Interpreted

675 IAC 14-4.4 2020 Indiana Residential Code, Table R404.1.1(1) PLAIN MASONRY FOUNDATION WALLS, Footnote a. Mortar shall be Type M or S and masonry shall be laid in running bond. UngROUTED hollow masonry units are permitted except where otherwise indicated.

Issue

Whether the running bond requirement in Footnote “a” for Table R404.1.1(1) of the 2020 *Indiana Residential Code* (IRC) prohibits the use or installation of weepholes in masonry foundation walls.

Interpretation of the State Building Commissioner

No. The running bond requirement in Footnote “a” for Table R404.1.1(1) of the 2020 IRC does not prohibit the use or installation of weepholes in masonry foundation walls.

Rationale

Footnote “a” for Table R404.1.1(1) of the 2020 IRC provides three specific characteristics for masonry foundation walls: first is a requirement that the masonry utilize either Type M or Type S mortar; second is a requirement that the masonry units be laid in a running bond pattern; and the third is a stipulation that the units’ cores may be ungrouted in specific conditions.

The interpretation request is focused on the running bond requirement of the footnote, as the local official’s citation used that requirement as the basis for a prohibition on weepholes in a foundation wall. However, none of the three requirements in the footnote prohibit weepholes. Neither of the two allowable mortar types is inconsistent with the use of weepholes, and the other two requirements are irrelevant to their use. “Running bond” is simply one of many patterns used in laying up masonry units to form a wall. Nothing about a running bond pattern prohibits weepholes or is inconsistent with their use. If it prohibited weepholes, it would be problematic for the overwhelming majority of above-ground masonry installations which are laid in running bond while simultaneously requiring weepholes in specific locations. And finally, the permitting of ungrouted cores in certain conditions bears no relation to weepholes. Cores and joints, the latter being where weepholes are located, are different from one another.







R403.3.1 Foundations adjoining frost-protected shallow foundations. Foundations that adjoin frost-protected shallow foundations shall be protected from frost in accordance with Section R403.1.4.

R403.3.1.1 Attachment to unheated slab-on-ground structure. Vertical wall insulation and horizontal insulation of frost-protected shallow foundations that adjoin a slab-on-ground foundation that does not have a monthly mean temperature maintained at not less than 64°F (18°C) shall be in accordance with Figure R403.3(3) and Table R403.3(1). Vertical wall insulation shall extend between the frost-protected shallow foundation and the adjoining slab foundation. Required horizontal insulation shall be continuous under the adjoining slab foundation and through any foundation walls adjoining the frost-protected shallow foundation. Where insulation passes through a foundation wall, it shall be either of a type complying with this section and having bearing capacity equal to or greater than the structural loads imposed by the building, or the building shall be designed and constructed using beams, lintels, cantilevers or other means of transferring building loads such that the structural loads of the building do not bear on the insulation.

R403.3.1.2 Attachment to heated structure. Where a frost-protected shallow foundation abuts a structure that has a monthly mean temperature maintained at not less than 64°F (18°C), horizontal insulation and vertical wall insulation shall not be required between the frost-protected shallow foundation and the adjoining structure. Where the frost-protected shallow foundation abuts the heated structure, the horizontal insulation and vertical wall insulation shall extend along the adjoining foundation in accordance with Figure R403.3(4) a distance of not less than Dimension A in Table R403.3(1).

Exception: Where the frost-protected shallow foundation abuts the heated structure to form an inside corner, vertical insulation extending along the adjoining foundation is not required.

R403.3.2 Protection of horizontal insulation below ground. Horizontal insulation placed less than 12 inches (305 mm) below the ground surface or that portion of horizontal insulation extending outward more than 24 inches (610 mm) from the foundation edge shall be protected against damage by use of a concrete slab or asphalt paving on the ground surface directly above the insulation or by cementitious board, plywood rated for below-ground use, or other *approved* materials placed below ground, directly above the top surface of the insulation.

R403.3.3 Drainage. Final *grade* shall be sloped in accordance with Section R401.3. In other than Group I Soils, as detailed in Table R405.1, gravel or crushed stone beneath horizontal insulation below ground shall drain to daylight or into an *approved* sewer system.

R403.3.4 Termite protection. The use of foam plastic in areas of "very heavy" termite infestation probability shall be in accordance with Section R318.4.

R403.4 Footings for precast concrete foundations. Footings for precast concrete foundations shall comply with Section R403.4.

R403.4.1 Crushed stone footings. Clean crushed stone shall be free from organic, clayey or silty soils. Crushed stone shall be angular in nature and meet ASTM C33, with the maximum size stone not to exceed 1/2 inch (12.7 mm) and the minimum stone size not to be smaller than 1/16 inch (1.6 mm). Crushed stone footings for precast foundations shall be installed in accordance with Figure R403.4(1) and Table R403.4. Crushed stone footings shall be consolidated using a vibratory plate in not greater than 8-inch (203 mm) lifts. Crushed stone footings shall be limited to Seismic Design Categories A, B and C.

R403.4.2 Concrete footings. Concrete footings shall be installed in accordance with Section R403.1 and Figure R403.4(2).

SECTION R404 FOUNDATION AND RETAINING WALLS

R404.1 Concrete and masonry foundation walls. Concrete foundation walls shall be selected and constructed in accordance with the provisions of Section R404.1.3. Masonry foundation walls shall be selected and constructed in accordance with the provisions of Section R404.1.2.

R404.1.1 Design required. Concrete or masonry foundation walls shall be designed in accordance with accepted engineering practice where either of the following conditions exists:

1. Walls are subject to hydrostatic pressure from ground water.
2. Walls supporting more than 48 inches (1219 mm) of unbalanced backfill that do not have permanent lateral support at the top or bottom.

R404.1.2 Design of masonry foundation walls. Masonry foundation walls shall be designed and constructed in accordance with the provisions of this section or in accordance with the provisions of TMS 402. Where TMS 402 or the provisions of this section are used to design masonry foundation walls, project drawings, typical details and specifications are not required to bear the seal of the architect or engineer responsible for design, unless otherwise required by the state law of the jurisdiction having authority.

R404.1.2.1 Masonry foundation walls. Concrete masonry and clay masonry foundation walls shall be constructed as set forth in Table R404.1.1(1), R404.1.1(2), R404.1.1(3) or R404.1.1(4) and shall comply with applicable provisions of Section R606. In buildings assigned to Seismic Design Categories D₀, D₁ and D₂, concrete masonry and clay masonry foundation walls shall also comply with Section R404.1.4.1. Rubble stone masonry foundation walls shall be constructed in accordance with Sections R404.1.8 and R606.4.2. Rubble stone masonry walls shall not be used in Seismic Design Categories D₀, D₁ and D₂.