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City of Rochester
City Administrator's Office

Memo

To: Mayor and City Council

From: Stevan E. Kvenvold SEK

Date: March 27, 2003

Subject: Adoption of New State Building Code

The State of Minnesota has adopted a new Building Code effective March 31, 2003. The City Council of Rochester is required to adopt and administer this new building code.

The City Council does not have the authority to amend the building code. There are some options available for the City to adopt or not to adopt.

The most controversial of these options requires the installation of fire sprinklers referred to as Chapter 1306. Further details about the optional chapter 1306 are contained in the attached memos from Ron Boose and Dave Kapler.

The Fire Department is recommending that the City Council adopt the least restrictive of the fire sprinkler optional provisions (alternate 1306, Subpart 3, Option 2). While this is the least restrictive of the fire sprinkler provisions offered, these fire sprinkler requirements would be more restrictive than currently administered by the City. For instance, alternate 1306, subpart 3, option 2 would reduce the square footage requiring fire sprinkler systems in new buildings or additions from 5,000 sq. ft. to 2,000 sq. ft., and would require fire sprinkler systems in some townhome applications, parking ramps, and aircraft hangars.

The City of Rochester has long been a leader in the requirement of fire sprinkler systems. The installation of fire sprinkler systems does help suppress fires and may hold down the public expenses of providing fire fighting services.

Developers and builders may want to provide the Council with some input prior to making any decision on whether to adopt the optional chapter 1306. I recommend that you request such input by a certain date and establish a tentative date by which you would make a decision on the optional code.

We also need to provide the Council with some additional information on the timing for the adoption of the new building code and any optional codes. If possible, it may be preferable to hold off the adoption of the new building code until a decision is arrived at for the adoption of optional chapter 1306. I hope to have additional information on the recommended implementation at Monday's C.O.W. meeting.

Enclosures

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City of Rochester
Building Safety Department

Memo

To: Steve Kvenvold

From: Ron Boose

Date: March 25, 2003

Subject: New State Building Code

The State has adopted a new Building Code through the rules making process. The model code that is used as a base document is revised every three years. The State Building Codes and Standards Division then analyzes the changes to each edition and recommends amendments to address specific conditions in our state. For the past 50 years or more there have been three different model code organizations in this country, each publishing their own model code. In 1994 the three organizations signed an agreement to cooperate in the publication of a single set of construction codes. That goal was accomplished with the publication of the 2000 International Building Code and other related International Codes. This past fall, the three organizations went a step further and voted to merge in to one organization, the International Code Council. The merger is currently under way and should be completed in a month or two.

The consolidation of three model codes into one resulted in a dramatically higher number of changes then typically encountered in the past when updated editions were adopted. This has in turn dramatically slowed the adoption process at the state level. The code has completed the rules making process and the final rules were published in the March 24th edition of the State Register, making them effective March 31st. The City of Rochester now needs to pass an ordinance adopting the new State Building Code. We do not have authority to amend the code at the local level, however; there are some options built into the code that must be selected by Council. Those options are the appendix chapter for grading activities, special fire protection systems, and a schedule of fees. The most controversial options regard the installation of fire sprinkler systems and are contained in Chapter 1306.

The International Building Code contains thresholds for the installation of fire sprinkler systems for all types of buildings. There are a large number of variables and trade offs involved in determining whether or not a specific building must install sprinklers such as, number of stories, type of construction materials, proximity to property lines, and the use of the building. Chapter 1306 sets thresholds for sprinkler installations that are much simpler to determine and much more restrictive than those contained in the model code document. Each jurisdiction adopting the State Building Code has the option of adopting Chapter 1306 or following the provisions of the International Building code for the installation of sprinklers. The City of Rochester has adopted Chapter 1306 under the current State Building Code, however; there are a number of significant changes to this chapter in the new code.

If a jurisdiction elects to adopt 1306 there are further options within the chapter that must be selected. Each option must be selected without amendment. The first option is whether to apply the chapter provisions to existing and new buildings (subpart 2), or new buildings only (subpart 3). Subpart 2 requires the installation of sprinklers retroactively to existing buildings when an addition is constructed or the occupancy classification changes. This requirement applies to the entire building and not just the addition. Subpart 3 would only require the installation of sprinklers in new buildings, additions to existing buildings, and buildings in which the occupancy classification changes. The current 1306 does not contain this option and is applicable to existing and new buildings as in the new subpart 2.

The new 1306 contains a further option relating to the threshold at which townhomes would be required to be sprinkled. The model code treats townhouses as separate, though attached, buildings and applies the sprinkler requirement thresholds to each unit. The proposed 1306 contains two options regarding townhouses but both of them disregard the fire separation walls and treat all attached units as one building for determining sprinkler requirements. Option 1 requires sprinklers when the gross square footage of the building exceeds 8,500 square feet or there are dwelling units or guest rooms on three or more floors. Option 2 requires sprinklers when the building contains more than 16 dwelling units or is three or more stories in height. Option 2 mirrors the model code requirement for apartment buildings.

The general provisions of this chapter have also changed. The current threshold for a typical office building is 8,500 square feet or three or more stories. The new threshold would be 2,000 square feet. Similarly the current threshold for a mercantile occupancy is 5,000 square feet and would also be reduced to 2,000 square feet. Language in the chapter regarding certain storage occupancies, specifically open parking garages and airplane hangars, has been altered and clarified. The current language is vague and contradictory to the point that we were able to

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argue that the sprinkler requirements were not intended to apply to these buildings. The State Building Code staff agreed with our argument and sprinklers were not required in the recently constructed Mayo parking ramp on Third Avenue NW and the T-hangars at the airport. The new language invalidates our previous argument and, in response to a letter submitted by the Rochester Fire Department, the State has rendered the opinion that it is now intended to apply to these buildings.

Another optional provision is the appendix chapter on grading. Rochester has adopted these provisions in the past and the changes contained in the new appendix chapter have virtually no effect on current specifications for grading plans and permits. Public Works staff has reviewed the new chapter and strongly recommend its adoption in order to continue current practices. There is one notable difference between the two codes that we must address. The old grading chapter contained a fee chart for grading permits and the new chapter does not. Therefore, we will need to adopt a fee chart for grading permits in our ordinance even if we simply re-adopt the current fees.

Local jurisdictions also have the authority to establish their own fee schedules for all permits and plan reviews. The State Building Code does require that "fees established by the municipality must be by ordinance and must be fair, reasonable, and proportionate to the actual cost of the service for which the fee is imposed." Rochester has not adjusted building permit fees for over ten years. Based on information from a survey of metro area suburbs, our fees for a $100,000 house are about 1/3 the amount of those for many metro jurisdictions and about ½ the amount that would be charged by the State fee schedule. An in depth discussion of building permit fees can be delayed to a later date, however; I am proposing some minor changes to our fee schedule at this time to clarify re-inspection fees and provide a fee for residential footing and foundation permits. I have explained these proposed changes in greater detail in a separate memo.

While the full discussion of fees can be delayed, the decisions on adoption of Chapter 1306 and the grading appendix chapter need to be made soon as they will effect many pending projects and the development community is anxious to know in which direction to proceed.

City of Rochester
Building Safety Department

Memo

To: Stevan Kvenvold

From: Ron Boose RB

Date: March 25, 2003

Subject: Proposed Revisions to Building Permit Fees

The proposed revisions to our building permit fee schedule do not alter the basic formulas for calculating fees but are needed to update code section references and add some fee amounts for services that are currently being provided for free or well below cost.

Subdivision 6 is new to the Rochester fee schedule. Items 1 through 4 are contained in both the Uniform Building Code and the State Building Code (SBC) but item 5 is not in either document. Following is a brief explanation of each item and why it is needed.

1. We occasionally get requests to perform inspections late at night or on weekends. Such requests are infrequent and generally involve a commercial electrical service upgrade where the existing service must be removed for a new service to be installed. Businesses prefer to have this work performed at night or on a weekend to avoid interrupting business activity and are willing to pay their electricians, RPU, and our inspectors additional compensation for the service. Our collective bargaining agreement with the inspectors' association requires us to pay an inspector for a minimum of two hours at time and a half if they are called in after hours.

2. This fee is imposed when the permit holder schedules an inspection and the relevant work is not ready for inspection or corrections that had been previously ordered have not been made. The fee is not to be applied the first time an inspection is failed. The fee is intended to serve as a deterrent to contractors who repeatedly schedule inspections for work that is not complete, taking inspectors away from work that is ready.

3. This is just a catchall to cover requests for services that we have not anticipated and are not covered by a permit.

4. Most commercial projects go through some changes between the time the original permit application is submitted and the completion of the project. These are not a big concern and we would not be assessing fees for a small number of minor revisions. However, some projects go through so many changes that the finished project barely resembles the original plan. These projects consume a disproportionate amount of staff time for the original plan review fee and should be assessed additional fees.

5. We currently issue footing and foundation permits for one and two-family dwellings over the counter for no charge. This service consumes staff time that could be better used reviewing full plans. We have reduced and held our turn around time on these plans to about two weeks for the last year. We estimate that 90 to 95% of all applicants currently request a foundation permit although many of them are not used, as the full permit is ready before the footings are installed. The fee is intended to greatly reduce the demand for this service and free up staff time to review full permit applications. If we do fall behind by more than two weeks, we will offer the foundation permit for no charge.

Subd. 6. Other Inspections and Fees

1. Inspections outside of normal business hours (minimum charge -- two hours)	$45.00 per hour
2. Re-inspection fees	$45.00 per hour
3. Inspections for which no fee is specifically indicated (minimum charge – one-half hour)	$45.00 per hour
4. Additional plan review required by changes, additions or revisions to plans	$45.00 per hour
5. Footing/foundation permits for one and two-family dwellings	
Within ten (10) business days of application	$100.00
If initial plan review is not completed within ten (10) business days of application	no charge

ROCHESTER

Minnesota

BUILDING SAFETY DEPARTMENT
2122 Campus Drive S.E., Suite 300
Rochester, MN 55904-4744
(507) 281-6133
FAX (507) 287-2240
www.rochestermn.gov

March 24, 2003

TO: Architects, Engineers, Designers, and General Contractors

RE: **Adoption of the 2003 Minnesota State Building Code**

The Minnesota Rules amending and adopting the 2000 edition of some of the International Codes have completed the approval process and will become effective on March 31, 2003. The new and revised chapters are:

Chapter 1300. Code Administration

Chapter 1301. Building Official Certification

Chapter 1303. Minnesota Provisions

Chapter 1305. International Building Code

Chapter 1306. Special Fire Protection Systems (Optional)

Chapter 1309. International Residential Code

Chapter 1311. Guidelines for the Rehabilitation of Existing Buildings

Chapter 7510. Minnesota Fire Code

The full text of each of these chapters can be viewed and downloaded at http://www.admin.state.mn.us/buildingcodes/rules/rules.html. Chapter 1306 is optional and must be adopted by ordinance if the City Council elects to continue its use in Rochester. Therefore we will continue to use the provisions currently in place for special fire protection systems until an ordinance can be adopted. We anticipate the ordinance adoption process to be completed by the end of April. All other chapters will be effective on March 31st, 2003.

This item is scheduled for discussion at the Committee Of The Whole meeting on March 31st at 4:15 PM in Room 104 of City Hall.

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Department of Administration
Proposed Permanent Rules Relating to State Building Code
SPECIAL FIRE PROTECTION SYSTEMS

1306.0010 GENERAL.

This chapter authorizes optional provisions for the installation of on-premises fire suppression systems that may be adopted by a municipality in addition to the State Building Code. If the municipality adopts them, the sprinkler system requirements of this chapter become part of the State Building Code and are applicable throughout the municipality. This chapter, if adopted, must be adopted without amendment.

1306.0020 MUNICIPAL OPTION.

Subpart 1. **Requirement.** The sprinkler system requirements of this chapter, if adopted, must be adopted with the selection of either subpart 2 or 3, without amendment.

Subp. 2. **Existing and new buildings.** Automatic sprinkler systems for new buildings, buildings increased in total floor area (including the existing building), or buildings in which the occupancy classification has changed, must be installed and maintained in operational condition within the structure. The requirements of this subpart apply to structures that fall within the occupancy classifications established in part 1306.0030, items A to E.

Exceptions:

1. The floor area of minor additions that do not increase the occupant load do not have to be figured into the square footage for occupancy classifications established in part 1306.0030, items A to E.
2. The existing portion of R-2 apartment occupancies, attached R-3 occupancies, and attached townhomes are not required to be sprinklered under this chapter.

Subp. 3. **New buildings.** Automatic sprinkler systems for new buildings, additions to existing buildings, or buildings in which the occupancy classification has changed must be installed and maintained in operational condition within the structure. The requirements of this subpart apply to structures that fall within the occupancy classifications established in part 1306.0030, items A to E.

Exception: The floor area of minor additions that do not increase the occupant load do not have to be figured into the square footage for occupancy classifications established in part 1306.0030, items A to E.

1306.0030 REQUIREMENTS.

For purposes of this chapter, area separation, fire barriers, or fire walls do not establish separate buildings. Gross square footage (gsf) means the floor area as defined in the International Building Code. The floor area requirements established in items A to E are based on the gross square footage of the entire building and establish thresholds for these requirements. The following occupancy groups must comply with sprinkler requirements of this chapter, unless specified otherwise:

A. Group A-1, A-2, A-3, and A-4 occupancies;

B. Group B, F, M, and S occupancies with 2,000 or more gross square feet of floor area or with three or more stories in height;

C. Group E occupancies with 2,000 or more gross square feet of floor area or with two or more stories in height;

D. Group E day care occupancies with an occupant load of 30 or more;

E. Optional occupancy group-municipality may choose option 1 or option 2.

1. Group R-1 and R-2 occupancies with 8,500 or more gross square feet of floor area or dwelling units or guestrooms on

three or more floors; and attached R-3 occupancies and attached townhouses built to the International Residential Code with 8,500 or more gross square feet of floor area. All floors, basements, and garages are included in this floor area threshold.

2. Attached R-3 occupancies and attached townhouses built to the International Residential Code with more than 16 dwelling units or more than three stories in height.

1306.0040 STANDARD.

Automatic sprinkler systems must comply with the applicable standard referenced in the State Building Code. If a public water supply is not available, an alternate on-site source of water may be used if it meets the approval of the building official and fire chief. If an adequate alternate water supply sufficient for hose stream requirements is provided or available, the building official and fire chief may permit the water supply requirements for the hose stream demands to be modified.

1306.0050 SUBSTITUTE CONSTRUCTION.

The installation of an automatic sprinkler system, as required by this chapter, does not preclude the substitution of one-hour fire-resistive construction as permitted by the International Building Code, Table 601, footnote d.

1306.0060 EXEMPTION.

The building official, with the concurrence of the fire official, may waive the requirements of this chapter if the application of water has been demonstrated to constitute a serious life, fire, or environmental hazard, or if the building does not have an adequate water supply and the building is surrounded by public ways or yards more than 60 feet wide on all sides.

1306.0070 REPORTING.

A municipality must submit a copy of the ordinance adopting this chapter to the Department of Administration, Building Codes and Standards Division, within 15 days of its adoption.

REPEALER. Minnesota Rules, part 1306.0100, is repealed.

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Admin MINNESOTA Department of Administration

December 23, 2002

The Honorable Kathleen Sheehy
Administrative Law Judge
Office of Administrative Hearings
100 Washington Square, Suite 1700
Minneapolis, Minnesota 55401-2138

Re: In the Matter of the Proposed Rules Pertaining to Minnesota Rules, chapter 1306, Special Fire Protection Systems (optional)
OAH Docket # 6-0210-15112-1

Dear Judge Sheehy:

This letter contains the preliminary responses of the Department of Administration's Building Codes and Standards Division pre-hearing comments, hearing testimony, and post-hearing comments made in this matter.

I. The Department has met its burden to show that the proposed rules are needed and reasonable.

Minnesota Statutes, section 14.14 subdivision 2, requires the Department to "make an affirmative presentation of facts establishing the need and reasonableness of the proposed rules..." In making its affirmative presentation, the Department must show that its action has a rational basis. See G. Beck, M. Gossman, and L. Nehl-Trueman, Minnesota Administrative Procedure 325 (1998).

The affirmative presentation of the Department is contained in its Statement of Need and Reasonableness (SONAR). The Department is relying on its Statement to establish the need for and reasonableness of the proposed rules. The Department's evidence clearly meets the rational basis standard and compels one to conclude that the proposed rules of the Department of Administration's Building Codes and Standards Division are needed and reasonable.

II. The Department of Administration's Building Codes and Standards Division has responded to the comments made and issues raised during the hearing and comment period. The Division contacted by fax all individuals but three who provided a fax number in their requests/comments a notice of hearing three days prior to the date of the hearing. The three individuals whom the Division attempted to fax did not have a functional fax machine at the time the faxes were sent, but those same individuals were also mailed a Notice of Hearing to ensure they had been contacted by the Division. The Division also sent a Notice of Hearing by U.S. Mail to all individuals that requested a hearing or commented on the rule three days prior to the date of the hearing.

Building Codes and Standards Division, 408 Metro Square Building, 121 7th Place East, St. Paul, MN 55101-2181
Voice: 651.296.4639; Fax: 651,297.1973; TTY: 1.800.627.3529 and ask for 296.9929

The proposed Department of Administration's Building Codes and Standards Division's rules governing Minnesota Rules, chapter 1305, the Adoption of the International Building Code (IBC) generated a great deal of interest as evidenced by the attendance at the public hearing and the written submissions made since the hearing. Many comments were made and many issues were raised during this time. The Department's response follows each comment or issue.

General comments: The Minnesota State Building Code was established to create one set of standards for new construction when a community chooses to adopt a code. In 1983, the fire service needed an optional chapter to address local needs. This optional chapter can be adopted to help balance fire fighting personnel needs, equipment needs, new or additional fire stations, and to help keep the local communities' insurance rating a reasonable rate, which affects all citizens in all communities.

Comment One: Pam Weaver, Builders Association of Minnesota and Ed VonThoma, Centex Homes, both commented that the sprinklering requirement for R-2's with 8,500 or more square feet.

Response: The 1306 committee discussed thresholds for attached townhomes and attached R-3 occupancies. The option within an option was the compromise established by the Building Codes and Standards Division.

The 8.500 square foot option is consistent with the previous 1306 rules. The only change was to add the attached townhouses or attached R-3 occupancies based on the fact the buildings look and act like apartment buildings or hotels under fire conditions. Currently, in the Uniform Building Code, an unlimited number of attached townhomes could be built with sprinklers.

The 16-unit option was added based on the current Uniform Building Code or the International Building Code, which requires a 16-unit apartment to be sprinklered. The 16-unit threshold relates to the size of the building and to the fact that these look and act alike under fire conditions.

Comment Two: Ms. Weaver, Builders Association of Minnesota, commented that there are inconsistencies in a portion of the rule. She questioned why you would not require a fire alarm system but them require a sprinkler system.

Response: The fire alarm system functions to notify the occupants to evacuate the building, but a sprinkler system helps control and extinguish the fire and help save the building. Each individual unit still requires a smoke detection system, but an alarm system is not required unless the unit is 16 units or more.

Comment Three: Ms. Weaver stated that there is no fire-related data that support the addition of the 8,500 square foot threshold requirement for townhomes.

Response: The threshold for attached units is based on the requirements for buildings that house apartments, hotels, or attached units that look and act the same, and require fire sprinkler protection.

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Comment Four: Ms. Weaver and Mr. VonThoma both commented that by adopting this rule, the Department will not work toward a reduction of construction costs. Ms. Weaver also commented that the cost of adding sprinklers amounts to an additional $2.24 per square foot in townhomes and this type of housing has become an entry level product for first-time home buyers.

Response: Costs have been discussed ranging from $1.00 to $2.24 per square foot, depending upon the sizes of the units. Total costs of development should be reduced if all units are sprinklered. The costs for streets, hydrants, and access roads are reduced as a result of installing sprinklers.

Comment Five: Ms. Weaver and Mr. VonThoma commented that allowing an option within an option is poor public policy and will lead to less standardization of enforcement, which in turn increases the costs of compliance for builders.

Response: the option within an option was a compromise by the Building Codes and Standards Division because the Builder Association of Minnesota did not agree with the 8,500 square foot requirement for attached units.

Comment Six: Ms. Weaver stated that there are other reasons that the number of residential fires is at an all time low, including better fire suppression materials being used, public relations messages disseminated about bad smoking habits, and encouraging homeowners to maintain working smoke detectors. Ms. Weaver also stated that there is no reason for the State to maintain different standards of fire protection from municipality to municipality.

Response: This concern relates back to the local jurisdictions' capability to fight and control fires in their community. Without 1306, local jurisdictions would be required to add more staff, equipment, and fire standards to maintain a certain level of fire protection for their community.

Comment Seven: Mr. VonThoma stated that he disagreed with the concept that there is a problem with fire migrating from roof to roof. Mr. VonThoma believes that dwelling units are protected with fire protection assemblies and there are not different requirements from the UBC to the IBC or the IRC.

Response: The Department does believe that fire migrating from roof to roof is a problem. In attached units, the adjoining walls may improve fire resistance, but roof lines still remain continuous and provide very little barrier to the spread of fire.

Comment Eight: Mr. VonThoma stated that municipalities that have not adopted 1306 are requiring more sprinklers and there is inconsistent enforcement among municipalities that have adopted 1306.

Response: Inconsistent application of 1306, or any code for that matter, needs to be reported to the Building Codes and Standards Division. Our Division has dealt with such inconsistencies when addressed in the early stages in the development of a project. Too often, these inconsistencies are reported after a project is completed, too late to correct.

Comment Nine: Mr. VonThoma stated that there is a double-negative in 1306.0050 that is confusing and opposite interpretations have arisen.

Response: The intent of 1306.0050 is to reconfirm to local code officials that adoption of 1306 would still permit the substitution for 1-hour construction as permitted in the IBC, Table 601, footnote d. This section was added a number of years ago because local code officials were misinterpreting this provision because it was not specifically stated in the previous 1306 rules. However, the Department believes it would be reasonable to change the language to read as follows:

On page 3, lines 11 and 12 of the approved rules:

Change from "does not preclude" to "would still allow".

The Department believes this change would clarify any confusion and would not be a substantial change to the rule.

Comment Ten: Mr. VonThoma indicated that sprinklering garages that are unconditioned have problems and the fixes are expensive and dangerous.

Response: Current sprinkler options for attached units would not require the garages to be sprinklered using the NFPA 13D System. However, when the builder chooses the option of a whole building sprinkler system for costs over ease of installation, the system may change, which would then require sprinklering of the garages.

Comment Eleven: Mr. VonThoma stated that developers and builders can't fit all service equipment (electrical, sewer and sprinkler) in one place on the building. There are also aesthetic considerations imposed on the builder by municipalities.

Response: These issues relate to alternates proposed by the builder to combine systems. Also local authorities may impose aesthetic requirements on all structures in their jurisdiction, so it is not a specific to home builder issue, but is an issue all of the construction industry may have to contend with.

Comment Twelve: In a letter to Judge Sheehy received by the Department on December 23, Mr. R. Vance Swisher, Rochester Fire Department, requested the Department provide a clarification regarding the application of Chapter 1306 to S-4 and S-5 Occupancies (open parking garages and aircraft hangers).

Response: The 1306 committee recommendation was to include all S occupancies in the 2,000 square foot threshold for the proposed rule. Nyle Zikmund (Fire Chief) reported on limited response to lowering the threshold to 2,000 square feet for all occupancies, however most thought the 2,000 square foot limit was reasonable when jurisdictions had the choice of application of 1306 to new buildings only.

Public comments provided by all witnesses testifying after Ms. Weaver and Mr. VonThoma (witnesses 3-12) were all in support of adopting the proposed chapter 1306 and provided most of the counter-arguments to those provided by Ms. Weaver and Mr. VonThoma.

In summary, the Department believes it is proposing a set of rules that could be adopted by local jurisdictions as an optional provision. This optional provision is required to be processed through a public hearing at the local level to ensure there is opportunity for that immediate community to respond to the adoption at that level.

The Department has addressed the numerous concerns raised during the hearing and comment period. The Department has shown the rules to be needed and reasonable. Adoption of these rules should be recommended.

Respectfully submitted,

Tom Joachim, Director
Building Codes and Standards Division
Department of Administration

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ROCHESTER FIRE DEPT.

The hand to reach for...
DAVID A. KAPLER
Fire Chief

December 20, 2002

Honorable Judge Kathleen Sheely
Minnesota Office of Administration Hearings
100 Washington Square, Suite 100
100 Washington Avenue South
Minneapolis, MN 55401

Re: Minnesota Building Code, Chapter 1306
Special Fire Suppression Systems

Your Honor:

In July of 2001, the City of Rochester requested clarification from the State Building Code and Standards Division regarding the application of Chapter 1306 to S-4 and S-5 Occupancies (Open Parking Garages and Aircraft Hangers). In their response to the City of Rochester, it was stated that the intent of the rulemaking process for 1306 was not to include S-4 and S-5 Occupancies even though the code language clearly included these occupancies.

I am concerned that this issue has not been clarified in the proposed language of the new Chapter 1306. I believe that the issue should be corrected since it will be difficult to make a stance that it was not the intent in the rulemaking process to include these types of structures when they have had a chance to correct the issue.

I would like to see this issue resolved prior to the adoption of Chapter 1306, as it will create problems for the adoption and use of this chapter in the City of Rochester. Please review the attached documents for information regarding this issue.

Thank you for you time and consideration. If I may be of any assistance, please feel free to contact me with questions or concerns.

Sincerely

R. Vance Swisher, Fire Protection Specialist
Rochester Fire Department

201 4th Street SE, Room 10 - Rochester, MN 55904-3726 - (507) 285-8072 - FAX (507 280-4721

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ROCHESTER

Minnesota

July 11, 2001

BUILDING SAFETY DEPARTMENT
2122 Campus Drive S.E., Suite 300
Rochester, MN 55904-4744
(507) 281-6133
FAX (507) 287-2240

Scott McLellan
Plan Review Supervisor
Building Code and Standards Division
408 Metro Square Building
St. Paul, MN 55101

RE: Interpretation of 1306 as it applies to S-4 and S-5 Occupancies

Dear Scott,

We are requesting a written interpretation from your office on the above issue. The City of Rochester has adopted Chapter 1306 with item 8a. Item 8 and 8a both set sprinkler requirements for "group M mercantile, S storage, and F factory occupancies." A reading of this item alone would seem to indicate that it applies to all divisions of M, S, and F occupancies however, items 5 and 6 bring that conclusion into question by specifically addressing S-3 occupancies and seemingly creating either a redundancy with item 8a or a conflict with item 8.

If items 8 and 8a are intended to include all divisions of S occupancies and a jurisdiction adopts item 8, items 5 and 6 then establishes a less restrictive threshold for the installation of sprinklers in S-3 service stations or parking garages than the general requirement in item 8. Section 101.3 of the UBC states that "where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable." Therefore, this could be interpreted to require an S-4 open parking garage of 2,000 square feet to be sprinkled while not requiring a sprinkler system in an S-3 service station or enclosed parking garage of the same size. That situation defies logic. However, if a jurisdiction adopts item 8a, item 5 does establish a more restrictive standard for S-3 service stations but item 6 then becomes redundant by establishing the same standard for S-3 parking garages as 8a.

Telephone conversations between our offices have speculated that items 8 and 8a of chapter 1306 were not intended to include S-4 and S-5 occupancies. This appears to us to be the most logical interpretation of this chapter and we are requesting written confirmation of this conclusion.

Sincerely,

Ron Boose

Ron Boose
Director of Building Safety/Building Official

Cc: Randy Johnson
Lyle Felsch
Vance Swisher

Admin MINNESOTA Department of Administration

July 13, 2001

Mr. Ron Boose
Director of Building Safety/Building Official
Building Safety Department
2122 Campus Drive S.E., Suite 300
Rochester, MN 55904-4744

Subject: Our response to your request regarding the intended scope of Minnesota Rule Chapter 1306 items 8 & 8a relating to "S storage" occupancies

Dear Mr. Boose,

We concur with your conclusion that the intent of items 8 and 8a is to regulate only S-1 and S-2 occupancies. In addition to the rationale you offered regarding S-3 service stations and S-3 parking garages already being regulated in items 5 & 6, the reference in items 8 and 8a is to "S storage". Divisions 1 and 2 of the Uniform Building Code are the only of the "S" divisions that specifically refer to "storage". In addition, it was not our intent in the rulemaking process that converted the old occupancy classifications, to include any more than was addressed in the previous editions of the code where items 8 & 8a were referred to as retail, warehouse, or manufacturing. "Warehouse" equates to today's "S" occupancies and could have only qualified previously as a B-2 (S-1) or B-4 (S-2) occupancy. We hope this information is helpful.

BUILDING CODES & STANDARDS DIVISION
Sincerely,

Scott D. McLellan, Supervisor
Plan Review & Regional Services

8 PROVIDED FROM THE FIRE DEPT.

SBC Section1306: Supporting and Historical Data

History and Background

1968 – City of Rochester Adopted the 1967 Ed. of the Uniform Building Code and amended Chapter 38 with a local Automatic Sprinkler Ordinance No. 1455 which required Automatic Fire Protection in Fire Zones 1 and 2 for new buildings and buildings undergoing renovation down to 10000 – 15,000 sq. ft. (depending on occupancy) and buildings more than 3 stories in height. Zones 1 and 2 are high value areas mostly in the downtown area. New buildings in other areas of the city are required to be sprinkled when they exceed 20,000 sq. ft or more than 75 feet in height.

"By building automatic fire protection into all high value and life safety occupancies, the burden of higher cost public fire protection can be kept in line as population increases, land area expands, traffic congestion increases. Hence Fire protection will supplement, but not displace, public fire protection and serve a public purpose" Fire Chief Orville Mertz 1968

1968 – "Construction began on 677,000 sq ft. Apache Mall shopping center which will house up to 70 tenants. Apache Mall will become the first structure to be provided with automatic fire sprinklers under the new ordinance and one of the largest sprinklered shopping malls in Minnesota." National Automatic Sprinkler Association July August 1986

1972 --ISO Rating was changed from Class 4 to Class 3.
- State Building Code adopted 1970 ed. of UBC, superceding building codes of all municipalities.

1975– City of Rochester successfully lobbied the state legislature to include "Special Provisions for the City of Rochester" amending the appropriate sections of the newly proposed State Building Code to reflect the lower sprinkler threshold requirements applicable to newly constructed buildings in the City of Rochester only.

This was necessary because the new state wide State Building Code would be a "minimum-maximum" code and could not be further amended at the local level. This meant that in order for the City of Rochester to maintain the higher standard for sprinklers, the local ordinance had to be included in the new State Building Code.

1984 – City of Rochester unsuccessfully attempts to lobby the State Building Codes Division to amend the newly proposed 1988 State Building Code optional Appendix E Automatic Fire Suppression Systems to change the proposed minimum from 2000 sq. ft. to 5,000. The City of Rochester did not include the new Appendix E in the adoption of the 1988 Building Code.

The Rochester Area Chamber of Commerce established a citizen's committee to study Appendix E and provided the following findings in a January 6, 1984 letter to Stevan Kvenvold, City Administrator:

1. "Safety to life must be a prime interest of our city and needs to be supported in the building codes.

2. Statistics show that many businesses which suffer a major fire loss never reopen in spite of proper insurance. This results in a loss to our economic base as well as tax base.

3. The more sprinklered property in a city, the less public fire protection needed. As sprinkler requirement on new construction will therefore, slow the increase in cost for expanding the fire departments to protect the new growth."

1991 – Ordinance 50 amended to include Appendix Chapter 38 with options (c) 8a, which first reduced the sprinkler threshold down to 5,000 Square feet for both new and existing buildings at the time of building additions that increased the floor area or change of occupancy.

1993 – State Building Code adopted 1991 ed. of UBC, including an optional Section 1306 - Special Provisions for Fire Protection Systems. The City of Rochester adopted Section 1306 effective January 1, 1994.

The new Section 1306 effectively lowered the sprinkler threshold down to 5,000 sq. ft. for most buildings except schools, offices and residential buildings over 8,500 sq. ft.

2002 – State Building Code Division proposed adoption of the 2000 ed. of the International Building Code with state amendments including a new Section 1306 with lowered threshold and options outlined in the attached matrix.

SBC Section 1305-1700 - **Special Provisions for the City of Rochester** is **deleted** from the proposed State Building Code because it is redundant with Section 1306 currently adopted by the City of Rochester.

PROPOSAL

Fire Department recommended action: Adopt Optional Section 1306, Supbart 3, Option 2. - New buildings and building additions with floor area greater than ~~5000~~ 2000 sq. ft. and attached R-3 and town homes with more than 16 dwelling units or 3 or more stories in height.

JUSTIFICATION

There have been no Rochester businesses displaced as a result of a fire in a sprinklered building since the "Special" Rochester Amendments were added in 1978. In the same time many fires have occurred in non-sprinklered buildings in Rochester all of which displaced at least one business, 12 of which are listed below.

Nelson Tire	Happy Warrior	Zodiac Restaurant
Miracle Mile	Lantern Lounge	Clothing Care Cleaners
Lawler Furniture	Peking Lounge	Leaf Guard
Downtown Apts.	Firestone Tire	Econo Cleaning Service

- Fires in residential structures account for the majority of fire injuries and deaths. There were 41 fire deaths in Minnesota residences last year, 87% of a total 47.

- **Lowered thresholds for fire sprinkler installations works to decrease the number and size of buildings requiring larger fire response**. Fires in unsprinklered buildings require more time and greater effort to control.

- **The fire protection for the City of Rochester has been built around the higher standard or lower threshold for sprinkler installation**. To change direction at this time will risk loss of fire protection rating of 3, which we have had for over 30 years and which will impact the fire insurance costs of all commercial businesses, whether they are sprinklered or not.

- **Reduced Fire Department budget increases over the years, have been due largely to the large amount of sprinklered buildings within the city.** Lowering of the sprinkler threshold may be more easily accepted by property owners, than the alternative in terms of higher taxes and higher insurance rates.

- **The industry trend is toward more sprinkler protection,** not less. Rochester has been a national leader.

- **The initial installation costs of sprinklers in commercial buildings will be paid back in 3 to 5 years** in reduced insurance costs. The owner's cost to insure buildings with sprinklers is significantly lower than that of buildings without sprinklers.

* Insurance for a commercial mercantile building of ordinary construction, with a value of $500,000 are estimated to cost about:

With sprinklers**	- $.12 per $100 valuation or $600
Without sprinklers	- $.30 - $.40 per $100 valuation or $1500 - $2000

*source: CO Brown Agency – Tim Tucker (applies to the structure only)

** All sprinkler systems in commercial businesses with more than 20 heads, are required to be monitored

- **The alternative 1306 Subpart 3 option that applies to new construction only** would allow a scenario where an owner of a 10,000 sq. ft. non-sprinklered building would be required to provide a new water underground water supply to the building at an average cost of $6,000, just to sprinkle a 2500 sq. ft. addition, while not sprinkling the existing portion. Cost effectiveness of sprinklers only improves with increases in building size.

(March 13, 2003)

Existing 1306 Requirements	Proposed 1306 Requirements Subpart 2, Option 1	Alternate 1306 Requirements Subpart 2, Option 2	Alternate 1306 Requirements Subpart 3, Option 1	Alternate 1306 Requirements Subpart 3, Option2
New Buildings, Buildings increased in Floor Area (new and existing area), and Occupancy Classification Change.	New Buildings, Buildings increased in Floor Area (new and existing area), and Occupancy Classification Change	New Buildings, Buildings increased in Floor Area (new and existing area), and Occupancy Classification Change	New Buildings, Buildings increased in Floor Area *(new area only)*, and Occupancy Classification Change	New Buildings, Buildings increased in Floor Area *(new area only)*, and Occupancy Classification Change
All Group A-1	All Group A-1, A-2, A-3, and A-4	All Group A-1, A-2, A-3, and A-4	All Group A-1, A-2, A-3, and A-4	All Group A-1, A-2, A-3, and A-4
Group A-2 with an occupant load of 300 or more				
All Group A2.1				
Group A-3 with an occupant load of 300 or more				
S-3 Service Stations greater than 3,000 sqft.	B, M, S, and F occupancies greater than *2,000 sqft or 3 or more stories*	B, M, S, and F occupancies greater than *2,000 sqft or 3 or more stories*	B, M, S, and F occupancies greater than *2,000 sqft or 3 or more stories*	B, M, S, and F occupancies greater than *2,000 sqft or 3 or more stories*
S-3 Parking Garages greater than 5,000 sqft.				
B occupancies greater than 8,500 sqft.				
M, S, and F occupancies greater than 5,000 sqft.				
E-1 and E-2 occupancies greater than 8,500 sqft.	Group E occupancies with *2,000 sqft or 2 or more stories*	Group E occupancies with *2,000 sqft or 2 or more stories.*	Group E occupancies with *2,000 sqft or 2 or more stories.*	Group E occupancies with *2,000 sqft or 2 or more stories.*
E-3 occupancies with an occupant load of 30 or more.	Group E Day Care with an occupant load of 30 or more	Group E Day Care with an occupant load of 30 or more	Group E Day Care with an occupant load of 30 or more	Group E Day Care with an occupant load of 30 or more
R-1 occupancies greater than 8,500 sqft or greater than 3 floors.	Group R-1 and R-2 greater than 8,500 sqft or 3 or more stories. *Attached group R-3 and town homes greater than 8,500 sqft.*	*Attached R-3 and town homes with 16 dwelling units or 3 or more stories*	Group R-1 and R-2 greater than 8,500 sqft or 3 or more stories. *Attached group R-3 and town homes greater than 8,500 sqft.*	*Attached R-3 and town homes with 16 dwelling units or 3 or more stories*