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City of Rochester
City Administrator's Office

Memo

To: Mayor and City Council

From: Stevan E. Kvenvold

Date: June 26, 2003

Subject: RCO Chapter 55 Fire Code Update

The new State Building and Fire Codes were both effective April 1, 2003. The City Council has adopted the new building code and is now being requested to adopt the updated fire code.

The changes in the fire code are explained in the attached information prepared by Lyle Felsch.

The City Council now serves as the Fire Code Board of Appeals. The City Attorney's Office has indicated that the International Fire Code does not allow employees of the organization to be members of an Appeals Board and Councilmembers are viewed as employees of the organization. Therefore, the City Council can no longer serve as the Fire Code Board of Appeals.

I have reviewed this matter with Ron Boose and Lyle Felsch. Ron would like to combine his several appeals boards into one board that would handle appeals for the various codes, including the fire code.

I am in agreement with the proposed formation of one appeals board to hear appeals from various codes and I recommend that the City Council instruct the staff to formulate an ordinance which would accomplish this purpose. I have attached an example of an ordinance suggested by Ron Boose that establishes one comprehensive Board of Appeals.

Enclosure

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REQUEST FOR COUNCIL ACTION

MEETING DATE: _____

AGENDA SECTION:	ORIGINATING DEPT: Fire	ITEM NO.
ITEM DESCRIPTION: RCO 55 FIRE PREVENTION CODE		PREPARED BY: Lyle Felsch

Attached are proposed changes to the Rochester Code of Ordinance 55 Fire Prevention Code.

COUNCIL ACTION REQUESTED

Approve changes as proposed.

COUNCIL ACTION: Motion by:_____ Second by:_____ to:

Requested Changes to RCO 55; Fire Prevention Code

The attached draft copy of the Fire Department's proposed changes to RCO 55, that reflect the State of Minnesota's April 1, 2003 adoption of the International Fire Code, 2000 Ed. The bulk of the changes are editorial language to align RCO 55 with new IFC code sections and requirement changes. Fire Department permit fee changes and additions represent the basis for the balance of the changes.

Section 55.01, Subd. 7 – Adds separate cost recovery fee for the actual cost of on-site inspection of new FPE installations and is intended to make efficient use of the inspector's time. Contractors will be urged to be better prepared for final FPE inspections if they are charged a fee for the inspector's time and will make efficient use of time on site.

Subd. 8 - A new section that will allow for "special inspections" to be required by technical experts for FPE installations beyond the capabilities of Fire Department Staff or involving new technology and evaluation of alternative methods.

Section 55.02. Subd.7 – Provides actual prohibition of overcrowding of places of assembly. A detail inadvertently omitted in the 2000 edition of the IFC.

Old Sub. 7, 8, 9 &11 are deleted as redundant with IFC 2000 provisions.

Section 55.02 Subd. 9. – Re-adopts Sections 307.5 and 307.5.1 of the IFC deleted by state amendment and which continues to prohibit LP gas grills and charcoal grills on above grade decks of apartment houses unless they are provided with automatic sprinklers. This is consistent with current fire and housing code requirements.

Section 55.04 – New sentence limiting indoor pyrotechnic displays to sprinkled buildings only. Added as a precaution in view of last years unfortunate tragedy in New Jersey.

Section 55.07 Permits – Amended to increase the annual FD permit fee to $45 and add a fee for businesses that have multiple permits that require additional inspection and record keeping effort.

Section 55.08 Appeals – This Section is in conflict with IFC section 108 which requires Appeals Board to be "qualified by experience and training" and "who are not employees of the jurisdiction." This is similar language to the Building Code and could allow the Building and Fire Code to share a common Board of Appeals.

Subd. 1 - Replaces IFC 108.1 that was deleted by the State Fire Code to address State Fire Marshal Division's appeal process and restores similar language limiting the authority of the Appeals Board that appears in current RCO 55.08.

Section 55.10 – Deleted – New IFC Section 109 spells out the process for correction of fire code violations and is in line with current Rochester Fire Department practices. Sub. Section 109.3 as amended makes all fire code violations a misdemeanor.

New Section 55.10 – Amending IFC Sub. Section 111.4 Failure to Comply – is amend to reference general provisions for fine and penalties as a misdemeanor.

Section 55.11 – Re-Inspection Fee. Is edited to reflect increased cost of inspection and change from "may" to "shall".

Section 55.12 and 55.13 provides for cost recovery charges for malicious false alarms and non-fire fighting standby services.

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ROCHESTER CODE OF ORDINANCES

55. FIRE PREVENTION

55.01. Fire Code. Subdivision 1. The Minnesota State Fire Code, adopted by the State Fire Marshal pursuant to Minnesota Statutes, Section 299F.011, April 1, 2003, Minnesota Rules Chapter 7510.3510 to 7510.3710, Appendix B and C. ~~I-A, I-C, II-A, II-B, II-C, II-F, II-K, II-L, III-A, III-B, IV-A, and VI-D as amended by Chapter 7510.3710~~ of the International Fire Code, 2000 Edition, promulgated by the International Code Council, Inc., are hereby adopted as the fire code for the City of Rochester, except as modified in this code. The aforesaid fire code of the City of Rochester shall be known as and may be cited as the "fire code". Any provision of the fire code to protect life or property in the city which is more restrictive shall prevail over the provisions of the Minnesota State Fire Code.

Subd. 2. In addition to those provisions described in Subdivision 1 hereto, the fire code shall require that the following uses of a building or premises, as otherwise more specifically described in Section 105.6 of the International Fire Code, 2000 Edition, promulgated by the International Fire Code Inc., shall require the following operational permits from the Bureau of Fire Prevention to be prominently displayed on the premises and kept on file in the office of the city clerk for examination and use by the public:

1. Aviation facilities; 105.6.3
2. Miscellaneous combustible storage; 105.6.30
3. Combustible dust producing operations; 105.6.7
4. Combustible fibers; 105.6.8
5. Compressed gases; 105.6.9
6. Cryogens; 105.6.10
7. Cutting and Welding;105.6.12
8. Dry cleaning plants; 105.6.13
9. Exhibits and trade shows; 105.6.14
10. Fireworks displays, public; 3801.1
11. Flammable/combustible liquid storage, use and tank installation; 105.6.17
12. Hazardous materials; 105.6.21 .
13. HPM Facilities; 105.6.22
14. High piled storage;105.6.23
15. Hot-work operations; 105.6.24
16. Liquid petroleum gases; 106.6.28
17. Liquid or gas-fuel vehicles or equipment in assembly buildings; 105.6.27
18. Lumberyards and woodworking plants; 105.6.26
19. Mall, covered; 105.6.10
20. Open burning; 105.6.31
21. Place of assembly; 105.6.34
22. Pyrotechnic special effects; 105.6.36
23. Repair garages; 105.6.39
24. Spraying or dipping operations; 105.6.41

25. Tents, air supported structures, canopies; 105.6.43
26. Tire storage; 105.6.42
27. Tire rebuilding plants; 105.6.44
28. Waste handling; 105.6.45
29. Wood products; 105.6.46

Subd. 3. In addition to those provisions described in Subdivision 1 and 2 the fire code shall require a Special Fire Department Permit be obtained by the installing contractor of all new installations or modifications of automatic sprinkler, fire alarm, automatic chemical extinguishing systems and flammable or combustible liquid tanks within the City of Rochester and/or all such installations which the Rochester Fire Department is responsible for plan review, on site inspection, and approvals.

Subd. 4. All such installations or modifications shall be performed by contractors properly licensed under Minnesota Rule 7512, 7105, State Statute 326.2421 or as required by any other governmental agency. Proof of valid license or certification shall accompany all applications for permit.

Subd. 5. Fees: ~~Special Fire Department~~ Fire Protection Equipment Permit fees. Fees for each permit shall be charged to perform necessary plan reviews ~~and field inspections~~ of affected installations. Permit fees shall be the actual cost of the labor and components of the fire protection system or tank installation project multiplied by ~~.012~~ .015 or a minimum of ~~$25~~ $50. When applying for the permit, the contractor shall pay an estimated fee based on the estimated cost of the project. If the actual cost of the project is greater than the estimated cost, the contractor shall pay any additional fee amount before the final acceptance test. It is the contractor's responsibility to submit all required surcharge fees due to the Commissioner of Public Safety directly to the Commissioner.

Subd. 6. Work Without a Permit: When substantial work on installations subject to this subdivision is determined to have been commenced without benefit of the required Special Fire Department Permit and associated plan review, a special inspection of the site by a fire department inspector, shall be made as determined by the Deputy Chief of Fire Prevention before a permit may be issued for that installation. ~~A special inspection fee of $50.00 shall be charged in addition to the permit fee.~~ A separate fee will be assessed for the project equal to the normal Fire Protection Equipment Permit fee up to a maximum of $150.

Subd. 7 On-site Inspection Fees. A fee will be charged for all required onsite inspections of permitted Fire Protection Equipment (FPE) installations and will be billed to the installing contractor according to the hourly rate in the current employment contract, of the responding Fire Department personnel.

Subd. 8 Special Inspections. Special inspections of Fire Protection System installations may be required by the Deputy Chief of Fire Prevention when necessary to ascertain compliance with the provisions of the fire code and NFPA standards enforced in conjunction with required installations. All special inspections shall be completed prior to Fire Department final inspection, final approval or Certificate of Occupancy issuance. Installing contractors of fire protection equipment are

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responsible to provide documentation of completed required inspections and witnessing of all required tests as performed by an approved and qualified independent inspector or engineer, in accordance with the Building Code Section 109 and Fire Code Section 104.7.2. Qualified inspectors shall meet the minimum qualifications as determined by the Fire Chief.

55.02. Modifications. Subdivision 1. General. The fire code described in Section 55.01 is subject to the modifications contained in this section.

Subd. 2. Jurisdiction. The word "jurisdiction" when used in the fire code shall mean the city of Rochester.

Subd. 3. Corporation Counsel. The term "corporation counsel" when used in the fire code shall mean the city attorney.

Subd. 4. Police Enforcement Assistance. Whenever requested to do so by the Chief of the Fire Department, the Chief of Police shall assign such available police officers as the Chief of Police may deem necessary to assist the fire department in enforcing the provisions of the fire code.

Subd. 5. Police Investigation Assistance. The police department shall assist the fire department in its investigations whenever requested to do so, unless otherwise directed by the Chief of Police.

Subd. 6. Filling Gas Tanks. No person shall fill or partly fill any gasoline tank of any motor vehicle upon any street, alley, or public ground from any gasoline tank wagon, truck, or any moving vehicle used for the sale or transportation of gasoline for commercial purposes.

~~Subd. 7. Obstructing Fire Department. No person shall in any manner obstruct the operation and function of the fire department, nor in any way hinder or delay it on any street.~~

~~Subd. 8. Rubbish on Sidewalks. No boxes, barrels, rubbish, trash, newspaper, excelsior, or other similar material shall be allowed to remain longer than 24 hours in any street, boulevard, sidewalk, or alley.~~

~~Subd. 9. Rubbish Near Buildings. No rubbish, trash, wastepaper, or similar combustible refuse shall be allowed within 150 feet of any building, unless contained within an approved metal container with lid.~~

Subd. 7. Overcrowding. Overcrowding and admittance of persons beyond the approved maximum, posted occupant load capacity, as required by IFC Sec. 1003.2.2.5 for a place of assembly, is prohibited. When overcrowding is determined to have occurred, the Fire Chief is authorized to cause the performance, presentation, spectacle or entertainment to be stopped until such time as the overcrowded condition is corrected.

Subd. ~~10~~ 8. Hydrant Height. All required fire hydrants shall be positioned so the distance from the adjacent grade level is not less than 30" to the top of the hydrant and the 4" outlet shall face the

roadway and/or curb line.

Subd. 9. Open-flame Cooking Devices. IFC Sections 307.5 - 307.5.1 are hereby adopted. Section 307.5 is further amended to read: Charcoal burners and other open flame cooking devices shall not be stored or operated on combustible balconies or within 10 feet of combustible construction. Section 307.5 does not apply to: (A) One and two family dwellings and buildings and decks which are protected by automatic sprinkler systems.

~~Subd.11. Maintenance and Testing of Fire Protection Equipment. For the purpose of IFC Section 901.6, maintenance inspections of fire sprinkler systems, fire alarm systems, fire extinguishers, shall be not less than one year apart. Maintenance of water based systems shall be accomplished in accordance with NFPA Standard 25, 1998 edition of this code, as amended.~~

55.03. Storage of Explosives. The storage of explosives for which a license or the possession of which a permit is required under state law is prohibited within the corporate limits of the city, except for temporary storage or day box, in connection with use for approved blasting operations. Persons conducting blasting operations under a valid permit issued by the Chief of Police or Sheriff.

55.04. Fireworks and Pyrotechnic Displays. Fireworks and pyrotechnic displays shall be limited to those intended specifically for public viewing as permitted pursuant to M.S.S. 624 and ~~Article 78~~ Chapter 33 of the fire code. Indoor pyrotechnic displays are permitted only in buildings protected throughout by an approved automatic fire sprinkler system. Public fireworks and pyrotechnic displays require application to the City Clerks office for approval by the Common Council at a regularly scheduled meeting, prior to conducting the display.

55.05. Storage of Flammable or Combustible Liquids. Subdivision 1. Class I and II Flammable Liquids. ~~The district referred to in Section 7902.2.2.1 of the fire code in which~~ The storage of class I and II flammable liquids in above-ground tanks outside of buildings is prohibited in ~~cludes~~ all parts of the city except those areas zoned M-2 general industrial district pursuant to this code. EXCEPTION: Commercial installations not intended for public use and installed as provided in MSFC Section 5202.4.1.

Subd. ~~3~~ 2. New Bulk Plants. ~~A bulk plant referred to in Section 7904.2.5.4.2 of the fire code in which the construction of~~ New bulk plants for flammable or combustible liquids ~~is~~ are prohibited in ~~cludes~~ all parts of the city except those areas zoned M-2 general industrial district pursuant to this code.

55.06. Bulk Storage of Liquefied Petroleum Gases. ~~The district referred to in NFPA Standard. 58, Section 3-2.2.3 of the fire code in which~~ The storage of liquefied petroleum gases is prohibited in ~~cludes~~ all parts of the city except those areas zoned M-2 general industrial district pursuant to this code.

55.07. Permits. Permits issued under Subd 2 and the fire code shall be valid for the period of one year or such lesser period as is designated in the permit. If the activity or purpose for which a permit is issued is a continuing nature, a new permit shall be obtained annually on or before the

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anniversary date of the permit last issued. A permit fee of ~~$35.00~~ $45.00 for each permitted activity and $10 for each additional permitted activity at the same property, facility or building, shall be charged for each permit, issued, including each annual renewal thereof.

55.08. Appeals. Subdivision 1. ~~The Common Council shall hear and decide appeals of orders, decisions or determinations made by a fire department official concerning the application or interpretation of this code, the suitability of alternative materials, and methods and types of construction. The Common Council shall not waive requirements of the fire code or grant variances to any of its provisions.~~

~~Subd. 1.~~ All requests for appeals shall be made to the Fire Chief, within 30 days of the date of issuance of correction orders by the Fire Prevention Bureau. The Chief shall forward the application for appeal to the Board of Appeals ~~City Administrator's office to schedule a public hearing, to consider the appeal~~ for consideration in accordance with Fire Code Section 108 and 108.2.

Subd. 2. Limitations on Appeals. An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or and equivalent method of protection or safety is proposed. The board shall have no authority to waive requirements of the fire code.

Subd. 3. There is hereby established a Fire Code Board of Appeals that shall consist of five members appointed by the common council. Each member shall be qualified by experience and training to pass on matters pertaining to this code. Initially one member shall be appointed for a term of one year, two members shall be appointed for a term of two years, and two members shall be appointed for three years. Thereafter each member shall be appointed for terms of three years. Each member shall serve for the appointed term and until a successor is appointed and qualified. Three members shall constitute a quorum to transact business. The fire chief or his designee shall be an ex officio non-voting member of the board. The board shall adopt rules of procedure for conducting its business.

55.09. Violations. Any violation of any provision of the fire code or failure to comply therewith, or violation or failure to comply with any order made thereunder, or any building in violation of any specifications or plans submitted and approved thereunder or in violation of any certificate or permit issued to thereunder, and from which no appeal has been taken, or failure to comply with such order as affirmed or modified by the council herein, shall be a separate violation. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and any person responsible for the violation shall correct or remedy such violation or defect within a reasonable time. When not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense. The application of any penalty shall not be held to prevent the enforced removal of prohibited conditions.

~~55.10. Citations For Certain Violations. The Chief of the Fire Department or the Deputy Chief of Fire Prevention, or the authorized agent of either, is authorized to issue a citation to any person, firm, or entity for any alleged violation of the following enumerated provisions of the Rochester Fire Code as adopted under Section 55.01 of this Chapter: Sections 103.4.3.1, 103.4.3.2 103.4.3.3,~~

~~103.4.4 105.8, 902.2.4.1, 1001.5, 1111.2.1, 1109.4.1 1109.4.2, 1109.5, 1203, 1204, 1205, 1206, and 2501.16.3; and any other ordinance, rule, or statute which provides authority or the basis for prosecutions of violations of the said enumerated sections of the Rochester Fire Code~~

55.10. Failure to Comply. Fire Code Sub. "Section 111.4 Failure to Comply" is amended to read, "Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a misdemeanor."

55.11. Re-inspection Fee. When in the course of enforcing a duly issued violation notice, becomes necessary for a Fire Department Inspector to make one or more additional return visits to re-inspect a property, over and above the normal one (1) follow-up inspection to insure correction of a duly cited violation of the fire code, a "re-inspection" fee of ~~$25.00~~ $35.00 ~~may~~ shall be charged to the property/business owner for each additional re-inspection required to obtain compliance. ~~at the discretion of the Chief or Deputy Chief of Fire Prevention~~.

55.12. Fire Response Reimbursement. Persons determined responsible for malicious false alarms resulting in an unnecessary fire department response, will be required to reimburse the fire department for the actual cost of that run, in addition to any court ordered fines or charges. Minimum charges will be the determined by the actual hourly rates, according to the current employment contract, of the responding Fire Department personnel and the following hourly rates for responding apparatus and vehicles used: Chief's Car $40/hr., Engine $55/hr., Aerial $75 /hr., Rescue $40/hr., and Investigation Van $30/hr.

55.13. Fire Department Standby Charges. When required by the fire code or when requested by outside agencies to provide "standby" fire department personnel to perform fire safety, inspection or other fire related duties the Fire Department must charge that agency or business, for the actual cost of providing those standby personnel and vehicles. Minimum charges will be as stated in Section 55.12.

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Kvenvold, Steve

From: Goslee, Dave
Sent: Monday, June 16, 2003 2:53 PM
To: Felsch, Lyle; Kvenvold, Steve
Subject: Fire Code Board of Appeals

Lyle has asked me to answer the question of whether the City Council can act as the Board of Appeals under the International Fire Code that has been adopted as the new state fire code. I have discussed this matter with Terry and we agree that the city council is not qualified to act as the board of appeals.

The IFC identifies two qualifications to serve on this board: 1) qualified by experience and training to pass on matters pertaining to this code; and 2) not employees of the jurisdiction. As to the first qualification, it would be difficult to claim that all members of the council have experience and training in fire code issues. This disqualifies the council as an appropriate body to hear these appeals. As to the second qualification, the City has treated its councilmembers as employees by providing salary, benefits, workmen's comp. coverage, etc. The City would be hard pressed to say that they are not employees for purposes of this provision of the IFC.

The result is that the City should establish this board of appeals at the same time it adopts the ordinance incorporating in the IFC. And creating the board by ordinance is appropriate and is consistent with what the City has done with other similar boards. For example, the provisions of RCO chapter 33 create a Housing Code Board of Appeals, and the provision in RCO chapter 54 create a Heating, Ventilating and Air Conditioning Board of Review. What I would need to know is how you want this board to be set up. Would you want 3, 5 or 7 members; what are their terms; what constitutes a quorum; is the fire chief or his designee an ex officio non-voting member; what are the qualifications for the members, etc. I can put something together for you before the June 30th COW meeting if you'd like and if you provide me with some direction.

Dave Goslee
Deputy City Attorney

Combination Board of Appeals Example

BOARD OF APPEALS:

The board of appeals shall consist of seven (7) members appointed by the city council. All board members must be eligible electors of Rochester but not regular employees of the city. The board shall include at least one licensed electrician, one licensed plumber, one HVAC professional, one representative from the Rochester Area Builders Association, and one building design professional. The remaining members shall be qualified by experiences and training to pass on matters pertaining to building construction. The building official shall be an ex officio member and shall act as secretary to the board, but shall have no vote on any matters before the board.

APPEALS PROCEDURE:

A. Jurisdiction: Any person aggrieved by a decision of the building official or the fire chief with regard to the building code, plumbing code, electrical code, mechanical code, housing code, or fire code may file an appeal to the board of appeals within thirty (30) days of said decision. "Decision" means any decision, determination, direction, notice, finding, or order of the building official or the fire chief.

B. Application: In order to file an appeal, the person must complete a form provided by the city and pay a filing fee. In said application, the person filing the appeal shall state all code provisions applicable to the appeal, attach relevant supporting documentation, and explain the basis for the appeal.

C. Authority: The board of appeals may by majority vote reverse a decision by the building official or the fire chief based on the building code, plumbing code, electrical code, mechanical code, or fire code only if it finds that:

1. There are practical difficulties involved in carrying out the provisions of this code. "Practical difficulties" means that: a) the strict letter of this code is impractical; b) the modification is in conformance with the intent and purpose of this code; and c) such modification does not lessen any fire protection requirements or any degree of structural integrity; or

2. Any material, alternate design or method of construction not specifically prescribed by this code is appropriate. Any material, alternate design or method of construction is appropriate if: a) the proposed design is satisfactory and complies with the provision of this code, and b) the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation; or

3. If the building official or fire chief has incorrectly interpreted a provision of the code; or

4. If the provisions of the code do not fully apply.

D. Hearing: The person shall be advised in writing of the time and place at least three (3) calendar days prior to the hearing. At the hearing, the person shall have an opportunity to be heard.

E. Fees: Fees for filing an appeal shall be set by resolution of the city council.