

34.01 GENERAL PROVISIONS.

- (1) Intent of Code.

It is the intent of this code to prescribe regulations consistent with nationally recognized standards for the safeguarding to a reasonable degree of life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life, property and the environment in the use or occupancy of buildings or premises. Compliance with codes and standards of the National Fire Protection Association, the International Code Council, or other approved nationally recognized safety standards, as later referred to or as specified in this code, shall be deemed to be prima facie evidence of compliance with this intent.
- (2) Application of Code.
 - (a) The provisions of this code shall apply equally to new and existing conditions except that existing conditions not in strict compliance with the terms of this code shall be permitted to continue where the exceptions do not constitute a distinct hazard to life or property in the opinion of the Chief.
 - (b) Nothing contained in this code shall be construed as applying to the transportation of any article or thing shipped under the jurisdiction of and in compliance with the regulations prescribed by the U. S. Department of Transportation (DOT), or as applying to the military forces of the United States.
 - (c) This code applies to each building and premises, public or privately owned and public thoroughfares located within the City of Madison.
- (3) Authority of the Chief.

The Chief has the authority to administer and enforce this code. The Chief may delegate any or all his or her authority under this code to such subordinates in the Fire Department as s/he may designate and the actions of such authorized subordinates shall be construed as valid actions of the Chief.
- (4) Authority to Enter Premises.
 - (a) The Chief may, at reasonable hours, request permission of the owner or occupant to enter any building or premises for the purpose of making any inspection or investigation, which, under the provisions of this code, he or she may deem necessary to be made.
 - (b) The Chief may obtain a search warrant under Wisconsin Statutes, Sections 968.10, 968.12, 66.122 when necessary in his/her opinion for the purpose of making an inspection or investigation of any building or premises where the owner or occupant has refused admission.
 - (c) No person, having been duly informed of the existence of a search warrant to search the premises owned or occupied by that person, shall refuse to permit such search to be made. Each day, or part thereof, during which such refusal continues, shall be deemed to be a separate violation.
- (5) Inspection of Buildings and Premises.

It shall be the duty of the Chief to inspect all buildings and premises, except the interiors of dwelling units, as often as may be necessary for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, endanger life from fire, or any violations of the provisions or intent of this code and of any other ordinance affecting the fire hazard.
- (6) Plan Review. Pursuant to the provisions of ss. Comm 61.70 and Comm 61.71, Wis. Adm. Code, the Chief may seek approval from the Wisconsin Department of Commerce, or seek an appointment as an agent of the Wisconsin Department of Commerce, for the purposes of conducting plans review and inspections of all fire protection systems. All persons installing, erecting, and/or modifying any fire alarm system or any fire suppression system within the

City of Madison including any system subject to plan review under ch. Comm 61, Wis. Adm. Code prior to the commencement of any such work, shall submit such plans to the Chief for review and approval, irrespective of whether such person(s) intends to submit such plans to any other lawful approving authority.

(7) Issuance of Orders.

(a) Order to Eliminate Dangerous or Hazardous Conditions. Whenever the Chief shall find in any building or upon any premises dangerous or hazardous conditions or materials as follows, s/he shall order such dangerous conditions or materials to be removed or remedied:

1. Dangerous or unlawful amounts of flammable, combustible or explosive or otherwise hazardous materials;
2. Hazardous conditions arising from defective or improperly installed equipment for handling or using flammable, combustible or explosive or otherwise hazardous materials;
3. Dangerous accumulations of rubbish, waste material, boxes, shavings, vegetation or other highly combustible materials;
4. Accumulations of dust or waste material in air conditioning or ventilating systems or of grease in kitchen hoods or other exhaust ducts or inadequate clearances to unprotected combustible materials from hoods, grease extractors, and ducts;
5. Obstructions to or on fire escapes, designated access openings in exterior walls for Fire Department use, stairs, passageways, doors or windows, liable to interfere with the operations of the Fire Department or egress of occupants in case of fire;
6. Any building or other structure which, for want of repairs, lack of adequate exit facilities, automatic or other fire alarm apparatus or fire extinguishing equipment, or by reason of age or dilapidated condition, or from any other cause, creates a hazardous condition.

(b) Order Requiring Replacement of Fire Prevention, Detection or Suppression System Due to Recurring Violations. Whenever the Chief shall find in any building or upon any premises during any three consecutive inspections or reinspections a fire prevention, detection or suppression system which is defective, inoperative, improperly maintained or improperly operated, the Chief may order the following remedies:

1. If the system includes one or more exit light(s) which have not been illuminated during inspections the Chief may order that all of the exit lights in such premises be equipped with self-illuminating lights or lights equipped with light emitting diodes (LED);
2. If the system includes one or more self-closing fire door(s) any of which have been found to have been held open with non-approved hold open devices during inspections the Chief may order that all of the fire doors in such premises be equipped with an automatic closing device as that term is defined in s. Comm 51.01(17)(a), Wis. Adm. Code, as that section existed on June 30, 2002;
3. If the system includes one or more battery operated smoke detector(s) which have been inoperative during inspections the Chief may order that the premises be equipped with smoke detectors hardwired into the premises electrical service;
4. If the system includes emergency exit doors which, during hours of occupancy, have been found to be secured or locked with bolts, bars, chains, padlocks or locking devices other than the primary door lock the Chief may order the removal of such bolts, bars, chains, padlocks or additional locking devices and the Chief may further order that all emergency exit doors within the premises be equipped with panic door release hardware;

5. This subsection shall not be construed as a limitation upon the powers of the Chief to issue orders for corrections of violations under Subsection (7)(a) above nor shall this subsection be construed as a limitation upon any of the powers of the Chief under any other applicable provision of the Madison General Ordinances, Wisconsin Administrative Codes, or the Wisconsin State Statutes.
- (c) Corrective Action. Whenever the Chief may find a violation of this code, Wisconsin State Statutes, or the Wisconsin Administrative Codes, the Chief may order corrective action to cause the violation to be eliminated.
- (d) Fees for Reinspections.
 1. Any person who shall fail or neglect to comply with any lawful order of the Chief issued pursuant to the provisions of this Chapter may be assessed fifty dollars (\$50.00) per inspection for compliance inspections in excess of one.
 2. The Chief shall keep an accurate account of all unpaid inspection fees incurred for reinspection services rendered and report the same to the City comptroller, who shall annually prepare a statement of these special charges at each lot or parcel of land and report the same to the City Clerk, and the amount therein charged to each lot or parcel of land shall be by said Clerk entered in the tax roll as a special charge against said lot or parcel of land, and the same shall be collected in all respects like other special charges upon real estate as provided in Sec. 66.0703 of the Wisconsin State Statutes.
- (8) Service of Orders.
 - (a) The service of written orders for the correction of violations of this code or for the replacement of fire prevention, detection or suppression systems shall be made upon the owner, occupant or other person responsible for the conditions, either by delivering a copy of same to any person in charge of the premises, or by mailing such orders to the owner or other responsible person. This subdivision shall in no way preclude the Chief from issuing oral orders in such other manner, as the Chief deems appropriate under the circumstances.
 - (b) If buildings or other premises are owned by one person and occupied by another the orders issued in connection with the enforcing of this code shall apply to the occupant thereof as well as the owner, except where the rules or orders require the making of additions to or changes in the premises themselves, such as would immediately become fixtures upon real estate and be the property of the owner of the premises, and in such cases the rules or orders shall affect the owner and not the occupant unless it is otherwise agreed between the owner and the occupant.
 - (c) Receipt of such orders by the owner or occupant is sufficient notice to effect compliance with the order.
- (9) Liability For Damages.

This Code shall not be construed to hold the City of Madison or its employees responsible for any damage to persons or property by reason of the inspection or reinspection authorized herein or failure to inspect or reinspect or the permit issued as herein provided or by reason of the approval or disapproval of any plans or equipment authorized herein.
- (10) Board of Building Code, Fire Code and Licensing Appeals.

The Board of Building Code, Fire Code and Licensing Appeals, as established in Sec. 29.18 of the Madison General Ordinances, shall act upon appeals from the decision of the Chief in respect to the provisions of this code and to advise the Chief on any matters regarding this code on which the Chief may request its opinion.

- (11) Appeals.
Whenever the Chief shall disapprove an application or refuse to grant a permit, approval, or certificate applied for, or revoke a permit, approval or certificate, or when it is claimed that the provisions of the Code have been misconstrued or wrongly interpreted, the person affected may appeal from the decision of the Chief to the Board within fifteen (15) days from the date of the decision appealed and upon payment of fifty dollars (\$50) payable to the City of Madison. The Board may, by majority vote, uphold, overrule or modify the action of the Chief. Thenceforth, further action sought from any decision rendered by the Board must be to a Court of Law and only one appeal from the decision of the Chief is allowed.
- (12) Modifications.
The Board shall have power to modify any of the provisions of this Code upon application in writing by the owner or lessee, or his/her duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the Code, provided that the spirit of the Code shall be observed, public safety secure, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Board thereon shall be entered upon the records of the Board and a signed copy shall be furnished the applicant.
- (13) Approvals.
(a) Devices and materials required by this Code to be subject to the approval of the Chief shall be approved only as they are suitable for their intended use and provide adequately for safeguarding the lives and safety of the public and for reasonable safety to property.
(b) The Chief may base his/her approvals for the design, construction, use, operation and maintenance for devices, materials and systems not covered in the State of Wisconsin or City of Madison codes on any applicable nationally recognized standards or published listings of nationally recognized testing laboratories, and on request shall state the basis for his/her decision.
- (14) Adoption by Reference: State and National Codes.
The most current edition and any subsequent editions of the following are adopted by reference and made a part hereof, as if fully set forth herein:
(a) The International Fire Code, and referenced codes and standards, published by the International Fire Code Council, 5202 Leesburg Pike, Suite 708, Falls Church Virginia 22041-3401, except as amended by this Chapter.
(b) The following Wisconsin Administrative Code Chapters:
Comm 5 – Credentials
Comm 7 – Explosive Materials
Comm 9 – Manufacture of Fireworks
Comm 10 – Flammable and Combustible Liquids
Comm 14 – Fire Prevention
Comm 16 – Electrical
Comm 18 – Elevators
Comm 28 – Smoke Detectors
Comm 40 – Gas Systems
Comm 43 – Anhydrous Ammonia
Comm 50-64 – Building and Heating, Ventilation and Air Conditioning (built prior to July 1, 2002)
Comm 61-65 – Wisconsin Commercial Building (built on or after July 1, 2002)
Comm 66 – Uniform Multifamily Dwellings (built prior to July 1, 2002)
Comm 70 – Historic Buildings
Comm 75-79 – Existing Buildings
Comm 81-87 - Plumbing

- (c) In case of a conflict between any provisions of this Chapter, the Wisconsin Administrative Code or the International Fire Code, the code containing the strictest provisions shall apply.
 - (d) A copy of the Codes and Standards incorporated by reference shall be kept at all times and available for inspection during reasonable hours in the office of the Chief.
- (15) Penalties.
- (a) Any person violating any of the provisions of this Code for which a penalty is not otherwise specified shall upon conviction be subject to a forfeiture of not less than ten dollars (\$10) nor more than two hundred dollars (\$200). Every day or fraction thereof during which any person fails or neglects to observe and comply with any provisions of this chapter shall constitute a separate violation.
 - (b) Any person who does not comply with any lawful order of the Chief issued pursuant to the provisions of this Code shall be in violation of this Code, and every day or fraction thereof during which such person fails or neglects to comply with such order shall constitute a separate offense.
- (16) Repeal of Conflicting Ordinances.
- All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance or of the Code hereby adopted are hereby repealed.
- (17) Validity.
- The Common Council of the City of Madison hereby declares that should any section, paragraph, sentence, or word of this ordinance or of the Code hereby adopted be declared for any reason to be invalid, it is the intent of said Common Council that it would have passed all other portions of this ordinance independent of the elimination herefrom of any such portion as may be declared invalid.
- (18) Miscellaneous Inspection Fees.
- (a) Inspections outside of normal work hours (Monday through Friday, 7:00a.m. to 5:00p.m.) whether required or requested shall be subject to the fees in this section. Inspections outside of normal work hours to verify compliance with permitted activities, which are conducted outside of normal work hours, shall be subject to the fees listed in this section. When fire inspection personnel are required as standby personnel for events or emergencies, the owner shall pay for personnel time in accordance with this section.
 - (b) Inspection fee - \$60.00 per hour.
 - (c) The Chief shall keep an accurate account of all unpaid fees incurred for inspection services rendered and report the same to the City Comptroller, who shall annually prepare a statement of these special charges at each lot or parcel of land and report the same to the City Clerk, and the amount therein charged to each lot or parcel of land shall be by said Clerk entered in the tax roll as a special charge against said lot or parcel of land, and the same shall be collected in all respects like other special charges upon real estate as provided in Sec. 66.0703 of the Wisconsin State Statutes.