

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

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ADMINISTRATIVE
HEARINGS

In the Matter of the Proposed Adoption
of Rules of the State Department of
Public Safety Governing Amendments
to the Uniform Fire Code.

STATEMENT OF NEED AND REASONABLENESS

The above captioned rules are amendments to existing rules of the State Department of Public Safety. The above captioned rules were originally adopted October 3, 1975.

The need to amend the Minnesota Uniform Fire Code arises because of substantial amendments made to the model Uniform Fire Code and the National Fire Codes issued by the National Fire Protection Association which are adopted by reference in the Minnesota Code. These codes have been researched and drafted by their respective national bodies of experts. They are updated, expanded and amended periodically by knowledgeable fire and building officials, architects, engineers and officials from the various industries to which the code pertains, who possess the expertise necessary to produce a code that will achieve that degree of safety from fire which can reasonably be required to protect life and property. The model code changes are made in order to keep the Uniform Fire Code and the National Fire Codes abreast of recent technological advances, including newly developed and new applications of existing products and materials, and the latest state of the art in building design, construction and use. Changes are also made to provide for clarification of existing code provisions and to delete obsolete and ineffective provisions. Through ongoing studies of actual fire incidents, factors causing fires or contributing to its spread and factors causing deaths or injuries are identified. The Uniform Fire Code and National Fire Codes are then updated to compensate for these factors.

The model Uniform Fire Code and the National Fire Codes are addressed to correct problems which occur nationwide. They are designed to give considerable flexibility to cities or states adopting them. Many provisions in the model codes address the worst possible situation under the worst possible set of circumstances which could occur in any variety of geographical or environmental surroundings. The proposed Minnesota Uniform Fire Code establishes minimum uniform rules for the State of Minnesota by adopting the entire model code and making minor amendments to it in order to make it uniquely applicable to the needs of and circumstances in Minnesota.

Many amendments throughout these rules are made to conform to the State Building Code. The intent is to correlate the provisions of the fire code to the building code so that there is no conflict between them. The intent of the Western Fire Chiefs' Association and the International Conference of Building Officials, who promulgated both model codes, was that the building code (containing standards for new construction) and the fire code (containing maintenance standards for existing structures) correlate and be

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compatible. It is further intended to provide a total package of codes (i.e., Uniform Fire, Building, Plumbing, Mechanical and Electrical Codes) which will give all jurisdictions adopting these codes a complete and comprehensive program of codes that are compatible with each other.

In the following paragraphs the need for and reasonableness of each substantive rule is set out.

The following MCAR rules contain amendments to the 1982 Uniform Fire Code which are the same as amendments made by the corresponding FireMar rule to the 1973 Uniform Fire Code. The MCAR rules amend the 1982 Uniform Fire Code in the same way as the existing FireMar rules amend the existing 1973 Uniform Fire Code.

11 MCAR S 1.5106	FireMAR 33(a)
11 MCAR S 1.5107	FireMar 33(b)
11 MCAR S 1.5108	FireMar 33(c)
11 MCAR S 1.5109	FireMar 33(d)
11 MCAR S 1.5110	FireMar 33(e)
11 MCAR S 1.5111(a)	FireMar 33(h)
11 MCAR S 1.5113	FireMar 33(n)
11 MCAR S 1.5125	FireMar 42(c)
11 MCAR S 1.5130	FireMar 48(b)
11 MCAR S 1.5132	FireMar 48(d)
11 MCAR S 1.5133	FireMar 48(e)
11 MCAR S 1.5134	FireMar 48(g)
11 MCAR S 1.5136	FireMar 40(a)
11 MCAR S 1.5139	FireMar 37(a)
11 MCAR S 1.5140	FireMar 37(b)
11 MCAR S 1.5141	FireMar 37(c)
11 MCAR S 1.5142	FireMar 37(d)
11 MCAR S 1.5146	FireMar 39(a)
11 MCAR S 1.5147	FireMar 41
11 MCAR S 1.5150	FireMar 44(k)5
11 MCAR S 1.5151	FireMar 45(a)
11 MCAR S 1.5152	FireMar 45(b)

11 MCAR 1.5103. The 1982 edition of the model Uniform Fire Code is adopted to replace the existing 1973 edition. This is the latest version available of this model code and it contains many provisions which were added as amendments to the 1973 code at the time of its adoption. The entire code is adopted with the exception of amendments contained in subsequent rules. The general need for those amendments is to make the Uniform Fire Code a state code applicable to Minnesota and to the Minnesota State Fire Marshal.

11 MCAR 1.5104. This section merely cites the name of the code as it will be used in the State of Minnesota.

11 MCAR 1.5105. This new paragraph deletes all references to the Uniform Fire Code Standards since these rules adopt the National Fire Codes in their place. The Uniform Fire Code Standards are similar to the National Fire Codes in that both supplementary codes are designed and intended to be used for specific, unique facilities and situations. The National Fire Codes are the preferred choice since they were adopted as supplementary

codes in 1975, they are widely accepted in Minnesota and thousands of existing facilities have been inspected to their requirements. (See 11 MCAR 1.5114.) The requirements in the Uniform Fire Code Standards are based on provisions found in the National Fire Codes but are not as comprehensive nor as widely used as the National Fire Codes.

11 MCAR1.5111. The amendment in subparagraph (b) of this section makes police department assistance in fire investigations discretionary rather than mandatory. This allows the local fire department to perform its fire investigations as required in subparagraph (a), while leaving the decision of police involvement up to the discretion of the fire department. Only in certain situations, such as suspected arson, is police involvement necessary. In most cases fire cause can be determined and the fire investigation completed without involving already overburdened police agencies.

11 MCAR1.5112. Minor wording amendments are made to clarify that orders or notices of violations may be made by regular rather than certified or registered mail. This change is made for the convenience of the authority enforcing the code since considerable cost savings are realized, and for the person being served the orders who must bear the inconvenience of reporting to the post office when certified or registered mail is used.

11 MCAR1.5114. Adoption of the Uniform Fire Code Standards as part of the Uniform Fire Code is deleted and in their place the 1982 National Fire Codes are adopted. This amendment merely updates to the most recent edition of the National Fire Codes. The National Fire Codes have been a part of the Minnesota Uniform Fire Code since its adoption in 1975. They are nationally recognized standards and are far more comprehensive than the Uniform Fire Code Standards. The National Fire Codes are a compilation of the codes, standards, recommended practices and manuals developed by the National Fire Protection Association to promote and provide reasonable safeguards against loss of life and property by fire. (See 11 MCAR 1.5105.)

11 MCAR1.5115. The existing Article 4 of the Uniform Fire Code lists over 40 activities for which permits or certificates are required. It is neither needed nor reasonable for the State to mandate this upon all jurisdictions since it may or may not be locally needed nor desired for individual local jurisdictions to issue permits for any of these activities. Their local needs will dictate their actions and their local ordinances may or may not require such permits. The State Fire Marshal does not have the personnel, funds or other resources necessary to issue and regulate such permits.

11 MCAR1.5116 - 1.5124. Various definitions are added and others are retained or amended to provide for applicability to the State of Minnesota, its laws and other related codes already adopted, including the State Building Code. The definitions of "building code" and "state fire marshal" are carried forward from the code presently in existence. A definition of "authority having jurisdiction" is added because this term is used in the National Fire Codes being adopted by reference. It specifies who has authority to enforce the code or to allow alternative arrangements that will secure fire life safety in a manner equivalent to code requirements.

The definition of "fireman" is added to clarify that it includes both male and female firefighters, since there are many female fire fighting personnel in Minnesota. The definitions of "mechanical code" and "municipality" are amended in order to conform with the State Building Code.

The definitions of "Group I Occupancies" (institutional) and "Group R Occupancies" (residential) are amended to conform with the State Building code. The definition of "Supervised Living Facility" is added both to conform with the State Building Code and to satisfy a need for inspection purposes, to specifically classify these types of facilities, of which there are approximately 338 in existence in Minnesota. The existing code does not directly address nor classify Supervised Living Facilities, causing a lack of uniformity in classifying and applying proper code requirements to them. An exception in Group R, Division 1 occupancies (multiple unit residential facilities) specifies that supervised living facilities Class A-2 having more than 6 but not more than 15 ambulatory or mobile disabled persons, which were licensed prior to the adoption of this code and found to be in compliance with the 1973 Life Safety Code requirements of the National Fire Codes for rooming and lodging houses, shall be classified as Group R, Division 3 occupancies. As part of the federal Medicare/Medicaid requirements, these facilities have undergone stringent annual inspections to the requirements of the 1973 Life Safety Code as specified for rooming and lodging houses. Many of them have incurred great expense in the last few years to bring their facilities into compliance with the existing code requirements. The 1973 requirements provide the same and in some cases greater degree of fire life safety. To mandate different requirements for these existing occupancies would place undue hardship and financial burden on them.

11 MCAR1.5126. This amendment changes "fire department" to "chief" in order to designate the specific person in the fire department who must approve the installation of fire protection systems. The ultimate responsibility must be vested in one particular person rather than anyone in the department. Because of his or her position, it is the chief's responsibility to have the knowledge and expertise to understand, interpret, and communicate the requirements.

11 MCAR1.5127 Subsection 10.309(g) of the Uniform Fire Code, which is being deleted, would otherwise require all institutional occupancies to be sprinklered. This conflicts with the 1982 National Fire Codes, Life Safety Code, being adopted as part of these rules. Its requirements are preferred because they are more specific and detailed. It provides for sprinklering and gives equivalencies for non-sprinklered facilities. The Life Safety Code is a recognized standard for fire life safety for these types of facilities which have been inspected to its requirements since 1972. The Life Safety Code provides the greatest degree of fire life safety for these facilities. They have been incurring a great deal of expense and effort to come into compliance with that code and changing the requirements would place on them an undue and unfair hardship.

11 MCAR1.5128. This section requires that standpipe systems be installed in conformance with Standard 14 of the National Fire Codes and also adds the requirement that these systems have a constant water supply and pressure, except with the prior approval of the Chief. The purpose of this amendment is to conform with the Minnesota Uniform Building Code which contains this exact same requirement.

11 MCAR1.5129. The only change made to Table No. 10.312, Standpipe Requirements, is to conform with Minnesota Uniform Building Code requirements.

11 MCAR1.5131. This rule prohibits the use of natural trees in institutional occupancies, permits their use without lights in schools, stores, churches, and hotels, and allows use of flame retardant trees with lights in all occupancies. This rule is similar to an amendment contained in the rules presently in existence. It provides maximum fire safety without undue hardship for the specified types of occupancies. In the existing code the prohibition on use or display of natural trees applies to hospitals and nursing homes. This amendment extends that prohibition to all institutional occupancies. It provides a greater degree of fire life safety to all types of institutions in which occupants are confined and cannot take immediate safety action for themselves. Another amendment removes places of assembly from the list of occupancies wherein natural trees without lights are allowed, because it conflicts with Section 25.103(a). An additional paragraph prohibits storage of natural trees on balconies or grounds of hotels and apartments (R-1 occupancies). In this way, trees will not be permitted to pile up for weeks or months after Christmas to dry out and quickly create a fire hazard. This storage prohibition is provided for in the Uniform Fire Code for other types of occupancies but not for hotels or apartments. The remainder of the rule is the same as the amendment contained in the existing FireMar 48(c).

11 MCAR1.5135. The Uniform Fire Code rule, relating to asphalt kettles, requires tight fitting covers and placement a safe distance from any combustible material. This rule is essentially the same as FireMar 48(h) presently in existence, however the restriction is added that the vehicles must be attended while being filled or discharged. Filling and discharge pose the threat of spillage which can produce the immediate danger of bodily burns and widespread fire if ignited.

11 MCAR1.5137 & 1.5138. The amendment clarifies and reinforces present enforcement policy which specifies that stairways and exit enclosures conform to the provisions of the State Building Code. Existing language leaves this policy open to divergent interpretation. The purpose is to ensure strict conformity with the State Building Code and remove any doubt as to the interpretation. In addition it will provide statewide uniformity, which will benefit enforcement agencies who must enforce this code and engineers, building contractors, and architects who must design and build various occupancies according to code requirements.

11 MCAR1.5143. The subtitle of this Uniform Fire Code section is amended by deleting the prefacing word Pin in order to conform with the stated intent in 11 MCAR 1.5139 that this article applies to various public assembly places rather than just bowling alleys. Refinishing operations involving flammable or combustible finishes are also done in roller rinks, gymnasiums and dance halls.

11 MCAR1.5144. Paragraph (c) is amended to require a local permit for welding operations, except in commercial/industrial welding establishments. This rule is in the existing Minnesota Uniform Fire Code. FireMar 50, however, does not specify that the permit is locally issued. The State Fire Marshal does not issue fire code related permits, since such permits would

have to be applicable statewide. With this amendment, any local jurisdiction that wants to issue the permit is allowed to do so. In issuing a permit, the local fire chief will know the location of such operations and be able to enforce related code requirements.

11 MCARI.5145. The purpose of this amendment is to conform to newly passed legislation (Laws 1982 Chapter 447) which sets forth requirements relating to the installation and use of waste oil burners.

11 MCARI.5148. The amendment in Exception 1 clarifies that the United States rather than Minnesota Department of Transportation is the correct reference. In subparagraph (a) the reference to the applicable flammable and combustible liquids law and rule is changed to the currently effective Fire Marshal rules, FireMar 20-23.

11 MCARI.5149. This section of the Uniform Fire Code specifies the type of dispensing devices which are approved for self-service gas stations. It contains the same requirements and prohibitions in the current rules, FireMar 44(k) except that the language is organized and presented slightly differently.

11 MCARI.5153. Section 85.109 is extremely idealistic and prohibitive to the extent that it is unenforceable. It specifies that unapproved electrical appliances or fixtures shall not be sold, offered for sale or rent, disposed of by gift or premium, nor made available for use. It is not reasonable for the State to mandate this unenforceable requirement upon all jurisdictions nor does the State Fire Marshal have the resources to even attempt to regulate such a broad prohibition.

11 MCARI.5154. This rule adopts several appendixes by reference as part of the code, whereas several other appendixes are not adopted by reference but may be adopted by local jurisdictions at their discretion. The amendment to Appendix II-B, Item 3(d) changes the tightness test for underground flammable or combustible liquid tanks and fittings from not less than 5 pounds per square inch to not less than three nor more than five pounds per square inch. The existing language allows the test to be made at any pressure over 5 pounds per square inch. Based on actual experience in Minnesota, this amount of pressure has been found to be very dangerous. It could cause underground tank rupture resulting in a pressure explosion at ground level. This amendment specifies both a minimum and a maximum pressure at amounts that are both safe and effective for the test.