



November 16, 2021

City of Saint Paul
Legislative Hearing Officer
15 W. Kellogg Blvd. – Room 310 City Hall
Saint Paul, MN 55102

Madam Hearing Officer,

We appreciate the opportunity to present before you on November 9, 2021. At the close of Americold's presentation, you invited Americold to submit additional materials that would support or clarify its appeal. We therefore respectfully submit this letter to further clarify the points outlined in Americold's original appeal.

In its assertion that it is "grandfathered," Americold contends that it is an existing building that has been legally occupied with the same continuous use since its construction in 1970. As such, there are specific codes and chapters that apply to the building. Americold does not believe a waiver or variance on any code requirements is necessary if the correct code chapters are applied. Americold presented this concept in its September 13, 2021 code review and compliance proposal, and Americold directs the Hearing Officer's attention there.

At the hearing, the fire code official brought attention to the 1971 Uniform Fire Code, and cited to Chapter 35 for "high-piled combustible stock." However, the State of Minnesota never adopted the 1971 Uniform Fire Code; it did not adopt any version of the Uniform Fire Code until 1975 when it adopted the 1973 edition. See Effective Dates of Minnesota Code Adoptions, available at https://www.dli.mn.gov/sites/default/files/pdf/sbc_dates.pdf. The 1973 edition contains the scope language under 1.103(b) is similar to the scope language in all codes:

The provisions of this Code shall apply to existing conditions as well as to conditions arising after the adoption thereof, except that conditions legally in existence at the adoption of this Code and not in strict compliance therewith shall be permitted to continue only if, in the opinion of the Chief, they do not constitute a distinct hazard to life or property.

This building was already constructed and in use by then. We do not believe the building was designed, permitted, built, inspected, and occupied by mistake for over 40 years.



Americold has maintained legal occupancy of this building since the early 1970s without a change in use. The original design and construction were clearly intended to support storage heights in excess of 12 feet. Mr. John Brisson and Mr. Terry Hopkins stated to the Hearing Officer in June that the cited warehouse had always been used for refrigerated storage. Mr. Hopkins reiterated this point during the November 9, 2021 when he stated this was the case even while the other main building on-site was used for meat processing. Mr. Hopkins' and Mr. Brisson's statements find substantial support in the record.

Americold does not believe the building or fire code officials would have ever been mistaken by this building configuration when they originally granted the Certificate of Occupancy and we do not believe building or fire code officials thought retroactive installation of sprinklers was supported by the code at any point in time during the seven additional Certificate of Occupancy renewals. Americold provided additional support for this continuity by submitting statements from its insurance carrier noting the consistent use of the building and pallet storage inventory for the March 2017 inspection timeframe and for the surrounding years (attached to the September 13 submission).

Because this building has operated under the same use as its 1970s construction, this building squarely falls within Minnesota State and International codes as an "existing building." Minnesota State Conservation Code (MSCC)/International Existing Building Code (IEBC) and the Minnesota State Fire Code (MSFC)/International Fire Code (IFC) have specific code language and sections for applicability and compliance and our September 13th letter demonstrates how full compliance with applicable code sections is achieved. As we stated in our meeting, the code does not support the retroactive application of other chapters of the code (i.e., provision of sprinklers or modifying storage heights) when dealing with existing buildings. Doing so would be overstepping provisions specifically written into the MSCC/IEBC and Chapter 11 of the MSFC/IFC.

Retroactively installing sprinklers in a storage building or modifying the storage arrangement of an existing building that has been legally occupied is not supported by the MSCC/IEBC and Chapter 11 of the MSFC/IFC. When using other examples in the code for buildings that "constitute a distinct hazard," we do not find that this building meets any of those conditions. The applicable code section is MSFC/IFC Chapter 11, and there are no provisions to mandate retroactive installing sprinklers. In fact, following in the spirit of MSCC/IEBC, there are very few instances in any Minnesota State code where retroactive installing sprinklers is mandated.



This is an important feature of all codes, to promote the continued use and reuse of existing buildings. Applying "new" code sections to "existing" buildings would set unrealistic goals for those buildings—not only when applying the fire code, but also other codes (such as plumbing, mechanical, and electrical). Existing building provisions are inherent in all versions of building and fire codes, even dating back to the 1970 uniform codes. Without this important language, the code authors recognize that many buildings would go into obsolescence every time a new code version is published. That is simply not the intended case.

There was mention of perceived changes in use with respect to small rooms such as forklift charging areas and refrigeration units. The forklift charging areas were remedied long ago, and as indicated in our supplemental submission, we believe Americold's careful and constant maintenance of the refrigeration units count in favor of Americold, not against it. Those items do not change the character of the building in any way. If the fire code official has prepared written reports or findings with respect to its review of Americold's September 13 submission, we respectfully request the opportunity to review those materials.

We reiterate our appreciation for the opportunity to present Americold's appeal. Americold can assure that existing operational and maintenance protocols will either remain in effect or be improved during the course of Americold's remaining lease period. Americold is committed to reducing our risk profile by updating our emergency response procedures to ensure worker training and accountability of all workers present at the facility. We will continue to limit access to the facility and provide training and escorts to nonemployees visiting the facility. We will also monitor its logistics programs to reduce storage height of cyclical products stored at the facility whenever possible. We look forward to working with the fire code official to implement additional, feasible life safety features.

We appreciate your review of our case.

Terry Hopkins
Americold
General Manager - Saint Paul