



## Legislation Text

**File #:** Ord 13-52, **Version:** 4

Amending Chapter 40 of the Saint Paul Legislative Code pertaining to responsibility for management of the fire certificate of occupancy program, and updating language.

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

### SECTION 1

Chapter 40 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 40.01. Fire certificate of occupancy requirement.

(a) All existing buildings in the city are required to have and maintain a fire certificate of occupancy, issued by the ~~fire marshal~~ department of safety and inspections. The ~~certificate~~ fire certificate of occupancy shall be an indication that the building meets, at the time of inspection, all relevant codes to maintain the health, safety and welfare of the building's occupants and the general public. ~~It shall be a misdemeanor to rent or lease, or permit the occupancy of, a building or structure or portion thereof which does not have a fire certificate of occupancy.~~

(b) Provisional fire certificate of occupancy. ~~When~~If an owner-occupied dwelling changes to a rental dwelling unit, the owner of the dwelling must apply and pay the fee for a provisional certificate of occupancy within thirty (30) days of the change in use. ~~Failure to apply for a provisional certificate of occupancy is a misdemeanor.~~

Sec. 40.02. Exception, certain residential dwelling units of owner-occupied buildings.

An Owner-occupied single-family houses, owner-occupied duplexes, and or owner-occupied condominium units shall be exempted from the requirement to have and maintain a fire certificate of occupancy. "Owner-occupied" means the house, duplex or condominium dwelling unit for which the exemption is claimed is the owner's principle residence. For the purposes of this exception, "owner" means a natural person and does not include a corporation, partnership, or other entity.

Sec. 40.03. Definitions.

Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section.

*Authorized agent.* An individual(s) with legal authority ~~and~~ capable of executing documents for the sale of the building(s) and authority over the proceeds of such sale.

*Building.* Any structure intended for supporting or sheltering any use or occupancy, including the land surrounding the structure. If the building is a multi-unit residential dwelling, a hotel or motel, or a commercial or office building, the term "building" for purposes of this ordinance means only the portion of the building within or outside the structure in which a nuisance is maintained or permitted; such as a dwelling unit, room, suite of rooms, office, common area, storage area, garage, or parking area.

*Certificate of code compliance.* A document or emblem issued by the department of safety and inspections indicating that the rehabilitation of an existing structure complies with all state and local safety codes. A valid certificate of code compliance allows for the issuance of a fire certificate of occupancy for use as a commercial

building or a residential occupancy.

*Certificate of occupancy.* A document issued by the city building official under the authority of both state and city building codes indicating a newly constructed or substantially rehabilitated structure is, at the time of inspection, code compliant, habitable and otherwise meets all requirements for its intended use.

*Code compliance inspection.* An inspection of a registered vacant building by one or more inspectors including fire, code enforcement and construction trades to determine necessary repairs and permits required for the rehabilitation of the existing structure.

*Commercial building.* Any nonresidential structure, the surrounding land and accessory use structures.

*Condemned.* A fire certificate of occupancy status indicating that the building or dwelling is not in compliance with safety codes and that the entire structure or a portion thereof is deemed unsafe, unfit for habitation or other occupancy or use. Additional inspections are required to gain compliance and to re-instate the fire certificate of occupancy prior to any occupancy or use of the building or dwelling. The structure or portion thereof cannot be occupied while under condemnation.

*Department of safety and inspections.* The city department and its divisions charged with the inspection of buildings, housing, and the enforcement of safety codes including building, fire, housing, health safety, and zoning and other similar codes, laws and ordinances. The fire certificate of occupancy program is also administered by the department of safety and inspections.

*Dwelling.* A building that contains one-, two- or multiple dwelling units, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

*Dwelling Unit.* A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

*Family.* One (1) or two (2) persons or parents, with their direct lineal descendants and adopted or legally cared for children together with not more than two (2) persons not so related, living together in the whole or part of a dwelling comprising a single housekeeping unit.

*Fire certificate of occupancy.* A document or emblem issued by the city fire marshal ~~department of safety and inspections~~ indicating the existing structure complies with all state and local safety codes allowing its use as a commercial building or for residential occupancy. Buildings and dwellings cannot be occupied or used without a fire certificate of occupancy.

*Fire code official.* The authority specifically designated by ordinance or regulation which is charged with the administration and enforcement of the Fire Code. For the purposes of this Chapter the Fire Code Official is the Director of DSI and his or her designees. ~~For the purposes of this Chapter the fire code official is the division chief of the fire inspection division of the department of safety and inspections.~~ The fire code official shall include any enforcement officer under his or her supervision or direction. The ~~appointing authority~~ Director of DSI shall ensure that any designees under this provision are competent by virtue of certification as a fire inspector, training or experience in fire prevention inspections and enforcement.

*Fire code.* The current edition of the Minnesota State Fire Code, pursuant to Minnesota Statutes, section 299F.011, and Minnesota Rule 7510.3510; over which the city fire marshal will have policy oversight.

*Fire marshal.* The city fire marshal and his or her designee or designees, and shall include any enforcement officer under his or her supervision or direction, or other duly authorized representative. ~~The fire certificate of occupancy program shall be issued under the authority of the fire marshal.~~

*Interested party.* ~~For purposes of section 40.06 of this chapter "interested party" means a~~ Any known lessee or tenant of a building or affected portion of a building; or any known agent of an owner, lessee, or tenant; or any other known person who maintains or permits a nuisance.

*Nuisance activity.* Acts constituting a nuisance under Minnesota Statute 617.81, subdivision 2, or two (2) or more violations within a period of twelve (12) months of nuisance provisions of the Saint Paul Legislative Code.

*Owner.* The person, firm, corporation or other entity listed in the records on file in the recorder's office as holding fee title to the building. For purposes of notice only, "owner" includes the owner's authorized agent or other person in control of the premises.

*Owner-occupied.* ~~Residential d~~Dwellings which are the principal residence of the owner of record of the building and in which the owner resides. "Owner," for the purposes of this definition, means a natural person and does not include a corporation, partnership, or other entity.

*Partial fire certificate of occupancy.* A document issued by the ~~city fire marshal~~ department of safety and inspections indicating that a portion of an existing structure complies with all state and local safety codes allowing its use as a commercial building or for residential occupancy. The partial fire certificate of occupancy shall describe specifically which portion of the building is approved for occupancy.

*Property manager or responsible party.* An individual(s) with the legal authority to make and act on decisions of tenancy, building maintenance and repairs relating to applicable safety codes.

*Provisional fire certificate of occupancy.* A document or emblem issued by the ~~city fire marshal~~ department of safety and inspections to temporarily permit continued occupancy pending a ~~code compliance~~ fire certificate of occupancy inspection of the existing structure. Buildings with a provisional fire certificate of occupancy will be granted a fire certificate of occupancy upon the successful completion of fire certificate of occupancy inspection. ~~per this chapter.~~

*Recorder's office.* ~~The recorder's office is t~~ The county department of property records and taxation, or its division which maintains title and property records, and any successor agency or department thereof.

*Rental dwelling unit.* Any room or rooms, or space, in any dwelling designed or used for residential occupancy by one (1) or more persons who are not the owner.

*Residential occupancy.* Occupancy in a building or portion thereof, for residential purposes, used or intended to be used for living, sleeping, and/or cooking or eating purposes.

*Revoked fire certificate of occupancy.* A status indicating that the building or dwelling is not in compliance with relevant safety codes or that the structure is vacant. Additional inspections are required to gain compliance and to re-instate the fire certificate of occupancy prior to any occupancy or use of the building or dwelling. The structure or portion thereof cannot be occupied while under revocation.

*Safety code or safety codes.* ~~include a~~ Any building, fire, housing, health, safety, zoning or other similar code, law and ordinance, promulgated or enacted by the United States, the State of Minnesota, the County of Ramsey and the City of Saint Paul, or any lawful agency or department thereof, which are applicable to a building in such city. Safety code includes, without any limitation of the foregoing sentence as a result of this specification, the provisions of Chapters 33, 34, 43, 45, 49, 55, 56 and 58 of the Legislative Code.

*Suspended Fire Certificate of Occupancy.* A status indicating that the building or dwelling is not in compliance with safety codes and that an enforcement action has been taken. A notice of intent to take additional action is

also given at this time. A final period for compliance has been established. Failure to comply may result in additional enforcement action including, but not limited to, revocation or condemnation. The structure or portion thereof may continue to be occupied while under suspension pending compliance.

Sec. 40.04. Certification process.

(a) *Buildings and occupancies requiring a fire certificate of occupancy.*

(1) A building or portion thereof which receives a certificate of occupancy from the city's building official upon completion of construction or major rehabilitation shall simultaneously receive a fire certificate of occupancy ~~from the fire marshal~~ if their use or occupancy so requires.

(2) Buildings which have a change in use or occupancy and become subject to the fire certificate of occupancy requirement.

(3) One and two-family dwellings which have a change in status from owner occupied to non-owner occupied or rental.

~~(3)~~ (4) Commercial buildings and residential occupancies which have current fire ~~prevention issued~~ certificates of occupancy on or after January 1, 2007 shall be subject to the ongoing requirement to maintain a fire certificate of occupancy. These buildings shall be issued fire certificates of occupancy and shall be subject to periodic inspection based on the date of the building's last complete fire certificate of occupancy inspection, subject to the terms of this chapter.

~~(4)~~ (5) One- and two-unit rental dwellings which are currently registered and ~~certified as~~ rental properties under the requirements of this code on January 1, 2007 shall receive provisional fire certificates of occupancy. These properties shall be issued fire certificates of occupancy upon the successful completion of a fire certificate of occupancy inspection.

~~(5)~~ (6) A building which has been registered as a vacant building under chapter 43 of the Legislative Code that subsequently received a certificate of code compliance under section 33.06 of the Legislative Code shall be issued a fire certificate of occupancy concurrently with the certificate of code compliance, if their use or occupancy so requires.

(b) *Information and application.* Owners of all buildings subject to the fire certificate occupancy requirement shall apply for a fire certificate of occupancy. The application shall ~~be provided by the fire marshal and~~ include, at a minimum, the following information:

(1) A description of the building;

(2) The name, address and twenty-four (24) hour telephone numbers of the owner(s);

(3) The name, address and telephone numbers of the property manager(s) or responsible party;

~~(4) The name, address and telephone number of the refuse removal person(s) or company(s) which supplies refuse removal services for the building;~~

~~(5)~~ (4) An owner of a building used for residential occupancy who is applying for their first fire certificate of occupancy must complete the Minnesota crime free multi-housing program or have completed a similar program approved by the department of safety and inspections ~~completed~~ within the last two (2) years. ~~that is approved by the fire marshal.~~ The owner must submit with the application a certificate of attendance or a letter showing proof of attendance at the program or verification of enrollment at the next scheduled class. This

requirement shall not apply to an owner who has a fire certificate of occupancy on another building used for residential occupancy; and

~~(6) (5) The fire marshal may require such a~~ Additional property and property management-related information as will promote effective enforcement of this chapter.

~~(c) Inspection.~~ Prior to obtaining a Fire Certificate of Occupancy, all buildings shall obtain a safety code compliance inspection under chapter 33.06 of this code to determine whether the building is in compliance with all safety codes. Dwelling units occupied by an owner shall be exempted from this requirement if the residence contains three (3) or more dwelling units. Properties occupied by an owner shall be exempted from this requirement if the residence contains one or two dwelling units. For the purposes of this section, the word "owner" means a natural person, and does not include a corporation, partnership or other entity.

~~(d) Issuance.~~ Upon a finding of no violations of the provisions of state and local safety codes, the ~~fire marshal~~ department of safety and inspections shall issue a fire certificate of occupancy that shall contains the following:

(1) The type of occupancy, including number of dwelling, rooming or guest units;

(2) The address of the building;

(3) The name and address of the owner(s) and property manager(s) or responsible party;

(4) A description of that portion of the building for which the certificate is issued; and

(5) A statement that the described portion of the building has been inspected for compliance with the requirements of state and local safety codes for the group and division of occupancy and the use for which the proposed occupancy is classified; and

~~(6) The name of the fire marshal.~~

~~(e) Smoke detectors required. Where required, no fire certificate of occupancy shall be issued unless each such building has a proper, adequate and operable smoke detector.~~

~~(f) (e) Posting.~~ The fire certificate of occupancy provided by the ~~fire marshal~~ fire code official shall be posted in a conspicuous place on the building and shall not be removed except by ~~the fire marshal~~ authorized persons. Single family and duplex occupancies need not post the fire certificate of occupancy but it shall be available on the premises.

~~(g) (f) Other violations.~~ Issuance of a fire certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Certificates presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid.

#### Sec. 40.05. Renewal of fire certificates of occupancy.

All fire certificates of occupancy shall be renewed according to the schedule in (2) below. The renewal schedule applied to all buildings with a fire certificate of occupancy shall be based on the safety code compliance classification system outlined in (1) below. ~~The fire marshal~~ department of safety and inspections shall develop and maintain a numerical system which will assign points to safety code violations. The numerical system shall assign the greatest number of points to the most severe safety code violations. The numerical system shall be adopted by resolution of the city council and updated from time to time upon

recommendation ~~of the fire marshal~~ department of safety and inspections to the city council.

(1) *Classification system.* There shall be three (3) categories of buildings for purposes of this code. Classification numbers shall be assigned at the first inspection. The total number of "points" from that inspection shall be adjusted to take into account the number of units in the building and shall determine the class assigned to each building. All buildings which contain only one (1) or two (2) dwelling units shall be treated as if they contain three (3) dwelling units for purposes of determining their building category under this classification system.

a. *Class A.* Residential buildings with an average of fewer than five (5) points per dwelling unit shall be classified as class A.

b. *Class B.* Residential buildings with an average of five (5) or more but less than eleven (11) points per dwelling unit shall be classified as class B

c. *Class C.* Residential buildings with an average of eleven (11) or more points per dwelling unit shall be classified as class C.

d. Commercial or nonresidential shall not be rated in this classification system.

(2) *Renewal cycle.* Renewal of the fire certificate of occupancy shall be scheduled by the ~~fire marshal~~ fire code official for all buildings according to the buildings' classification.

a. Class A properties shall be renewed every five (5) years.

b. Class B properties shall be renewed every three (3) years.

c. Class C properties shall be renewed every year.

d. Commercial or nonresidential buildings. The ~~fire marshal~~ department of safety and inspections shall establish written guidelines for the renewal of nonresidential occupancies based on the hazard of the occupation. This cycle shall not exceed three (3) years. ~~The fire marshal~~ department of safety and inspections shall provide an annual written report of nonresidential inspections that includes group, property address, and inspection schedule to the city council.

~~e. Revocations of fire certificates of occupancy, condemnations and orders to vacate. Where the fire certificate of occupancy has been revoked or suspended because of code violations associated with a condemnation and order to vacate, the certificate shall be scheduled for renewal in one (1) year.~~

(3) *Complaint of safety code deficiency or violation.* All complaints of safety code violations and deficiencies shall be investigated by the ~~fire marshal~~ fire code official. Such investigation may initiate an out-of-cycle fire certificate of occupancy inspection at the discretion of the ~~fire marshal~~ fire code official. The point assigned at this out-of-cycle fire certificate of occupancy inspection shall result in a new classification if the points assigned to safety code violations warrant reassignment.

(4) *Enforcement actions.* The classification system shall be used exclusively for the purpose of establishing a renewal schedule. Classifications shall have no bearing on enforcement actions undertaken by the city, such as notices and orders related to code deficiencies and violation, revocations of the fire certificate of occupancy, condemnations and orders to vacate.

Sec. 40.06. Suspension, revocation and denial.

(a) *Grounds for revocation.* The ~~fire marshal~~ fire code official may, in writing, issue a notice to the owner(s) and the ~~known~~ interested parties ~~known to the fire marshal~~ of the city's suspension or revocation of a fire certificate of occupancy issued under the provisions of this code, or deny an application therefor:

- (1) Whenever the certificate was issued in error, or on the basis of incorrect information supplied;
- (2) When the owner(s) has submitted a false, incomplete or inaccurate statement as a part of the application for certificate;
- ~~(3) If the owner has failed or refused to pay fees to the city for inspections or certificates;~~
- (4) ~~(3)~~ If it is found upon inspection of the ~~fire marshal~~ fire code official that the building or occupancy is in violation of provisions of this or other applicable safety codes, ordinances, rules and regulations;
- ~~(5)~~ (4) If the owner, in a material matter, fails to comply with the regulations in section 40.09 of this chapter; or in situations where the ~~fire marshal~~ fire code official after a good faith effort cannot identify an owner or interested party;
- ~~(6)~~ (5) If the nonresidential building ~~or structure~~ becomes unoccupied; or a vacant building as defined in section 43.02 of the Saint Paul Legislative Code;
- ~~(7)~~ (6) If a residential building becomes unoccupied or is a vacant building as defined in section 43.02 of the Saint Paul Legislative Code;
- ~~(8)~~ (7) Evidence of nuisance activity which shall follow the procedures stated in subsection (b) (2) below; or
- (9) (8) If a tenant, leaseholder, or third party payer files a written request for revocation following an owner's violation of Saint Paul Legislative Code chapter 53 which requires that owners notify tenants of pending mortgage foreclosure or cancellation of contract for deed involving the property.

(b) *Notice of suspension, revocation or denial.*

- (1) When the ~~fire marshal~~ fire code official revokes, suspends or denies a fire certificate of occupancy for safety code violations, the notice ~~issued by the fire marshal~~ shall state:
  - a. The specific reason(s) for the city's suspension, revocation or denial of the fire certificate of occupancy;
  - b. The effective date of the revocation, suspension or denial of the fire certificate of occupancy;
  - c. A statement indicating that the commercial building or residential occupancy, or portion thereof, shall not again be used or occupied until such time as the said certificate is issued or renewed or suspension lifted following inspection and a determination by the ~~fire marshal~~ fire code official that the commercial building or residential occupancy, or portion thereof, is in compliance with applicable safety codes; ~~under the jurisdiction of the fire marshal;~~ and
  - d. A statement indicating that the suspension, revocation, or denial may be appealed to the legislative hearing officer within ten (10) days of issuance.
- (2) When the ~~fire marshal~~ fire code official determines in consultation with the city attorney that he or she has evidence of nuisance activity as described in Minnesota Statutes 617.81, subdivision 2, or other violations of nuisance provisions of the Saint Paul Legislative Code are maintained or permitted in the jurisdiction he or she serves, the ~~fire marshal~~ fire code official shall provide the written notice as described in paragraph a), by

personal service or certified mail, return receipt requested, to the owner and interested parties, ~~known to the fire marshal.~~

a. The notice must:

1. State that a nuisance as defined in Minnesota Statute 617.81 Subdivision 2, or other violations of the nuisance provisions of the Saint Paul Legislative Code, is maintained or permitted in the building ~~or structure~~ and must specify the kind or kinds of nuisance being maintained or permitted;
2. Summarize the evidence that a nuisance is being maintained or permitted in the building ~~or structure~~, including the date or dates on which the nuisance-related activity or activities are alleged to have occurred;
3. Inform the recipient that failure to abate the conduct constituting the nuisance or to otherwise resolve the matter with the ~~fire marshal~~ fire code official by entering into an agreed upon abatement plan within thirty (30) days of service of the notice will result in recommending the suspension or revocation of the fire certificate of occupancy to the city council, and/or referring the matter to the prosecuting attorney who serves in the jurisdiction for remedies in accordance with Minnesota Statute 617.80 et seq., which could result in enjoining the use of the building ~~or structure~~ for any purpose for one (1) year, or in the case of a tenant, could result in cancellation of the lease; and
4. Inform the owner of the options available under Minnesota Statute Section 617.85, which provides that the owner of the building which is subject to a district court abatement proceeding may file a motion before the court that has jurisdiction over the abatement proceeding to cancel the lease or otherwise secure restitution of the premises from the tenant or lessee who has maintained or conducted the nuisance. The owner may assign to the prosecuting attorney the right to file this motion.

b. If the recipient of a notice under this section either abates the conduct constituting a nuisance or enters into an agreed upon abatement plan within thirty (30) days of service of the notice and complies within the stipulated time period, the ~~fire marshal~~ fire code official may not take action to suspend or revoke the fire certificate of occupancy on the specified property regarding the nuisance activity described in the notice.

c. If the recipient fails to abate the nuisance within 30 days of service of the notice, or fails to comply with the agreed upon abatement plan, the ~~fire marshal~~ fire code official will refer the matter to the city council recommending suspension or revocation of the fire certificate of occupancy or refer the matter to the prosecuting attorney in accordance with Minnesota Statute 617.80 et seq.

(3) The notice of intent to suspend or revoke the fire certificate of occupancy for nuisance activity shall be served by personal service or by certified mail, return receipt requested. The notice shall state:

a. The specific reason(s) the ~~fire marshal~~ fire code official recommends suspension or      revocation of the fire certificate of occupancy; and

b. The date, time and place of the legislative hearing and public hearing.

*(c) Appeals and stays of enforcement for revocations, suspensions and denials of fire certificates of occupancy.*

~~(1) Voluntary vacation of premises. No suspension, revocation or denial of the fire certificate of occupancy shall be imposed upon any owner who serves written notice upon the legislative hearing officer stating and intent to permanently vacate the premises within thirty (30) days of the receipt of the notice of suspension, revocation or denial. Written notice of intention to vacate, along with the date of vacation, must be filed with the hearing officer within ten (10) days from the receipt of the notice and shall include proof that notice of eviction was served upon the occupants of the premises.~~

Stay pending appeal. Enforcement proceedings on the suspension, revocation or denial of the fire certificate of occupancy, or orders to correct violations, shall be held in abeyance if the owner shall file an appeal to the legislative hearing officer within ten (10) days of receiving the written order issued by the enforcement officer, except in the case of an order to vacate a structure which is deemed to be in an unsafe condition and dangerous to life or limb, the enforcement officer shall proceed to order the building vacated until it is made safe or a final determination is made by the legislative hearing officer allowing re-occupancy of the building. This decision shall be presented to the city council for ratification at its next available public hearing. Abeyance of enforcement proceedings shall continue until such time as the hearing officer shall have issued a final determination or in the event the owner should not prosecute the appeal in a timely fashion.

(d) *Reinstatement following suspension or revocation.* If a fire certificate of occupancy is suspended or revoked for a building, or portion thereof, that building or portion thereof, shall not be occupied until such time as the fire certificate of occupancy is reinstated.

(e) *Reinstatement following second suspension or revocation.* If a fire certificate of occupancy is suspended or revoked for a second time within a two-year time period under the same ownership, the building for which it was issued shall not again be occupied until such time as the following has occurred:

(1) The ~~fire marshal~~ fire code official has determined that the building is in compliance with applicable safety codes; and

(2) A five thousand dollar (\$5,000.00) performance deposit or bond has been posted with the city; the purpose of said bond shall be to off-set potential city expenses associated with abating nuisance conditions at this property and shall be returned to owner upon completion of two (2) years with no legislative code violations requiring city abatement.

(f) *Reinstatement following third suspension or revocation.* If a fire certificate of occupancy is suspended or revoked for a third time within a three-year time period under the same ownership, the building for which it was issued shall not again be occupied until a nuisance abatement plan is developed by the ~~property~~ owner, reviewed by the legislative hearing officer and approved by the city council. If a nuisance abatement plan is not developed and approved, the premise for which the fire certificate of occupancy was issued shall not again be used or occupied for a period of six (6) months.

#### Sec. 40.07. Inspections.

(a) *Scope of inspection.* The ~~fire marshal~~ fire code official is authorized, in conformity with this chapter, to inspect all buildings, whether having a fire certificate of occupancy hereunder or not. The inspection may include the building ~~or structure~~, the land upon which it is located and accessory uses or structures. All inspections authorized by this chapter shall be limited to those which are done for the purpose of seeking compliance with applicable safety codes, and shall take place only at reasonable hours or as may otherwise be agreed upon by the owner and the ~~fire marshal~~ fire code official.

(b) *Notice of violations.* The ~~fire marshal~~ fire code official shall give written notice to the owner and any known interested parties of any violations of the applicable safety codes which are discovered during any inspection.

(c) *Administrative search warrant.* Access during reasonable times shall not be denied by any owner, occupant or other person in charge of the premises. The ~~fire marshal~~ fire code official may obtain a search warrant where probable cause exists to believe that the premises are in violation of this chapter. Provided, however, that no search warrant is needed for entry where an emergency condition exists and sufficient time to obtain a warrant is unavailable.

Sec. 40.08. Reserved.

Sec. 40.09. Regulations.

(a) *Notice by owner.*

(1) The owner of a building for which a fire certificate of occupancy has been issued is under a continuing obligation to give written notice to the ~~fire marshal~~ department of safety and inspections of any changes in the information supplied as part of the application for the certificate. This includes any changes or modifications of ownership of the building, property manager or responsible party.; ~~and any change in use or occupancy status of the building.~~

(2) The owner of a residential building for which a fire certificate of occupancy has been issued who is required to give notice to tenants of potential mortgage foreclosure or cancellation of contract for deed involving the property pursuant to chapter 53 of the Saint Paul Legislative Code must file proof of such notice being given with the ~~fire marshal~~ fire code official within thirty (30) days.

(b) *New owner.* A new owner of a building with a fire certificate of occupancy shall file with the ~~fire marshal~~ department of safety and inspections a written application for a modification of the certificate if such premise is still being used or occupied under an existing certificate. Such application shall be filed within thirty (30) days after such new owner obtains new ownership in the building, whether or not such interest has been recorded.

(c) *Change of use.* Changes in the use of a building shall not be made without the approval of the ~~fire marshal~~ department of safety and inspections, ~~and the building may be occupied for other purposes provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use.~~ If the use or occupancy of a fire certificate of occupancy premise changes, it shall immediately be required to meet all requirements of law, including the requirement for a certificate of occupancy before being used for such new or changed use. No change in the existing occupancy classification of a building ~~or structure~~ or portion thereof shall be made, until the ~~fire marshal~~ the fire code official has issued a fire certificate of occupancy therefor as provided herein. ~~Dwelling units occupied by an owner shall be exempted from this requirement if the residence contains three (3) or more dwellings units. Properties occupied by an owner shall be exempted from this requirement if the residence contains one or two dwelling units. The word "owner" means a natural person, and does not include a corporation, partnership or other entity.~~

(d) *Posting.* The fire certificate of occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by ~~the fire marshal~~ authorized persons. Single family and duplex occupancies need not post the fire certificate of occupancy but it shall be available on the premises.

Sec. 40.10. Fees.

(a) *Original issue, new building or substantially rehabilitated buildings.* There shall be no fee charged for an issuance of the fire certificate of occupancy for new buildings at the completion of their construction or following substantial rehabilitation if the city's building official issues a certificate of occupancy or certificate of code compliance.

(b) *Fees.* (SEE ATTACHMENT)

(c) *Reinspection fee.* The renewal fee established in subsections (a) and (b) above allows for one (1) inspection and one (1) reinspection for the renewal of the fire certificate of occupancy. A reinspection fee of fifty (50) percent of the renewal fee shall be levied for each additional reinspection required to demonstrate compliance with applicable safety codes.

(d) *Referral (or complaint-based) reinspection fee.* Whenever a written correction order is issued to the owner for a violation of this code and after a reasonable time for compliance has elapsed, a reinspection shall be made. If the violation has not been corrected at the time of the reinspection, a referral reinspection fee of sixty dollars (\$60.00) shall be collected for every subsequent reinspection until the violation is corrected.

~~(e) *Partial fire certificate of occupancy fee.* A fee of one hundred thirty-eight dollars (\$138.00) will be charged for each partial certificate of occupancy requested. The issuance of a partial fire certificate of occupancy is at the discretion of the building official and fire marshal and the portion of the building covered by the certificate must be legally completed and ready to occupy along with all other life and safety requirements.~~

~~(f) (e) *Provisional fire certificate of occupancy.* A fee of fifty dollars (\$50.00) will be charged for each provisional certificate of occupancy. This is an annual fee until the building is granted a fire certificate of occupancy upon the successful completion of fire certificate of occupancy inspection per this chapter.~~

~~(g) (f) *No entry fee.* The fire marshal fire code official shall give notice of all inspections to the building owner. If any reason exists that the inspection cannot be conducted at the identified time, the building owner, shall make personal contact with the fire marshal fire code official in an acceptable manner writing, no later than 8:00 a.m. on the date of the scheduled inspection. If the fire marshal fire code official does not receive such notice and is unable to conduct the inspection because the owner fails to cooperate with the inspector, the owner shall be assessed a sixty dollars (\$60.00) no-entry fee.~~

~~(h) (g) *Exceptions.* The fees for the fire certificate of occupancy and inspection are provided in chapter 33 of this code shall be required on buildings owned and occupied by any governmental agency, including county and state governmental agencies. The city, and any other agencies specifically exempted from such fees under state law, shall be exempt from payment of such fees.~~

#### Sec. 40.11. Collection of unpaid fees.

It is the intent of the city council, by the adoption of this section, to impose and collect the costs associated with the inspections and reinspections conducted by the city, under this chapter, to maintain the health and safety of the users of city's built environment. If the charges for these services are not paid by the owner of the property in a timely fashion, the city shall collect such costs by assessment against the real property receiving these inspection and reinspection services, pursuant to Minnesota Statutes, Section 429.101, and chapter 14 of the Saint Paul City Charter.

##### (1) *Written notice.*

a. *Written notice of violations.* When the fire marshal fire code official conducts an initial inspection of a building and determines that violations of safety codes under the jurisdiction of the fire marshal exist, the fire marshal fire code official shall, in addition to any other action the fire marshal fire code official may undertake, serve written notice of the violation in conformance with the requirements set forth in this chapter.

b. Notice for collection of inspection and reinspection costs shall include the following information:

1. Fee for the fire certificate of occupancy inspection and associated reinspections are the responsibility of the building owner and shall be paid within the time period(s) identified in the notice; and

2. The fire marshal fire code official may require an inspection following a complaint or referral. If the fire marshal fire code official finds a violation of safety codes during a referral or complaint-related inspection, the fire marshal fire code official will issue correction orders. If the violation is not corrected by the compliance date provided in the notice of violation, the building owner (s) shall be assessed fees for any necessary

reinspections.

(2) *Fee and liability.* The city shall be entitled to collect its costs of fire certificate of occupancy inspections and reinspection. The fees associated with the fire certificate of occupancy program shall be a debt owed to the city and unpaid costs shall be collected by special assessment under the authority in Minnesota Statutes, Section 429.101 and the charter by the procedure outlined in Chapter 60 of the Saint Paul Administrative Code. Action under this section does not preclude any other civil or criminal enforcement procedure.

Sec. 40.12. Illegal occupancy.

No person shall occupy any building which does not have a fire certificate of occupancy. Any unit or structure which is so occupied shall be subject to the provisions of section 34.23(2) of the legislative code relating to illegal occupancy. Such illegal occupancy also constitutes a hazard to the health, safety or welfare of the occupants and the public, and may be condemned by the ~~appropriate enforcement officer~~ fire code official under section 34.23 of the legislative code.

Sec. 40.13. Penalty.

A violation of, or failure to comply with, any section, provision or requirement in this chapter shall be a misdemeanor and shall be subject to ~~sections 1.05 and 1.06 Chapter 1~~ of the legislative code, and to applicable state statutes. This chapter is a part of the city health, safety, housing, building, fire prevention and housing maintenance codes, and a violation shall be deemed to be a violation for purposes of state statutes allowing escrow of rent to remedy violations.

Sec. 40.14. Appeal to legislative hearing officer.

Orders of the ~~fire marshal~~ fire code official are subject to ~~section 18.02 Chapter 18~~ of the Legislative Code. Orders of the ~~fire marshal~~ fire code official pertaining to revocation, suspension or denial of application are also governed by section 40.07 of this chapter.

Sec. 40.15. Applicability of other laws.

Nothing in this chapter is intended to waive, replace or amend the applicability or enforcement of any other law, ordinance or regulation applicable to commercial buildings and ~~residential~~ dwellings, including but not limited to, zoning, nuisance abatement, or licensing ordinances.

## SECTION 2

This Ordinance shall take effect and be in force thirty (30) days following its passage, approval and publication.