


# Minnesota Attorney General: Administrative Rules Proceedings

## Copyright Notice:

This material may be protected by copyright law (U.S. Code, Title 17). Researchers are liable for any infringement. For more information, visit www.mnhs.org/copyright.

Version 3
August 20, 2018

# MINNESOTA STATE REGULATIONS

Notice of filing by the Commissioner of Administration

We have received on this date, stamped and filed 2 copies of Rules and Regulations pertaining to the Administration Department - Building Code
(Agency or Board)

Regulation No. Section 1602 (d), 1603(d), 1604(a) 3802 (b)6, (b)8, (b)12

Subject: City of Rochester

Department of Administration
Publication, Central Services Division
Documents Section
140 Centennial Office Building
St. Paul, Minnesota 55155
Telephone: (612) 296-2874

FILED
RICHARD L. BRUBACHER
Commissioner of Administration

APR 30 1975 12:30 pm

BY Eda Staudenmaier
AUTH. SIGNATURE EJ

Stamped and filed with the Secretary of State 4-30-75

Rev. 9-72

In the Matter of the Proposed
Amendments to the State Building
Code for the City of Rochester

The following amendments are adopted:

Section 1602(d) Special Requirements. For automatic fire extinguishing systems in Group E, Division 4, Group F and Group H Occupancies, see Section 3802(b)6, 8 and 12.

Section 1603(d) Special Requirements. For automatic fire extinguishing systems in Group E, Division 4, Group F and Group H Occupancies, see Section 3802(b)6, 8 and 12.

Section 1604(a) Special Requirements. For automatic fire extinguishing systems in Group E, Division 4, Group F and Group H Occupancies, see Section 3802(b)6, 8 and 12.

Section 3802(b)6 In Group E, Divisions 1 and 2 Occupancies having an area of more than 1500 square feet; in Group E, Division 3 Occupancies having an area of more than 3000 square feet; and in Group E, Division 4 Occupancies more than one story in height, or exceeding 8400 square feet in floor area located in Fire Zone No. 1 or No. 2 or exceeding 20,200 square feet in floor area located in Fire Zone No. 3. The area and height increases specified in Section No. 506 and No. 507 shall be permitted.

In rooms where flammable or combustible liquids are stored or handled in excess of the quantities set forth in Table No. 10-A, or any combination of flammable liquids totaling 240 gallons, as defined in the Fire Code.

For special provisions on hazardous chemicals and magnesium, and calcium carbide, see Fire Code.

Section 3802(b)8 In retail sales rooms classed as Group F, Division 2 Occupancies where the floor area exceeds 12,000 square feet on any floor 24,000 square feet on all floors; however, the area and height increases specified in Sections 506(c) and 507 shall be permitted. In Group F Occupancies exceeding 13,500 square feet in floor area located in Fire Zone No. 1 or No. 2, or when of Type V construction exceeding 10,500 square feet of floor area located in Fire Zone No. 2, or exceeding 20,200 square feet in floor area located in Fire Zone No. 3. The area and height increases specified in Section No. 506 and No. 507 shall be permitted.

EXCEPTION: Open parking garages.

Section 3802(b)12 In Group H Occupancies exceeding 20,200 square feet in floor area or four stories in height located in Fire Zone No. 1 or No. 2, or exceeding 30,000 square feet in floor area located in Fire Zone No. 3. The area and height increases specified in Section No. 506 and No. 507 shall be permitted.

APPROVED AS TO FORM AND LEGALITY
APR 30 1975 19
WARREN SPANNAUS, ATTORNEY GENERAL
BY Michael B Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

RECEIVED
APR 30 1975
DOCUMENT - SECTION

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 30 1975 12:15 P.M.
Joan Anderson Growe
Secretary of State

FILED
RICHARD L. BRUBACHER
Commissioner of Administration
APR 30 1975 12:30 P.M.
BY Edna Staudenmaier
AUTH. SIGNATURE

Set #1

PUBLIC HEARING

December 27, 1974

Building Code Division

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General J. Michael Miles, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

J. Michael Miles
SPECIAL ASSISTANT ATTORNEY GENERAL

Date: 4/14/75

Exhibit A

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE

COMMISSIONER OF ADMINISTRATION

In the Matter of the Proposed Amendments to the State Building Code for the City of Rochester

ORDER FOR HEARING

To effectively implement Minn. Stat. 1971, Section 16.86, the Commissioner of Administration deems it necessary to consider adoption of certain amendments to the State Building Code pursuant to the authority vested in the Commissioner by the Statute cited above.

NOW, THEREFORE, IT IS ORDERED this 15th day of November, 1974, that a Public Hearing on the proposed amendments be held in the Conference Room of the State Building Code Division, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota, commencing at 9:00 a.m. and continuing until all local governmental units, representatives of associations and other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given pursuant to the provisions of Minn. Stat. 1971, Section 15.0412, Subdivision 4, and to all representatives of associations or other interested groups or persons who have registered their names with the Secretary of State for that purpose and all persons who are presently members of the Minnesota Legislature.

Dated: November 27, 1974

R B Brubacher for

Richard L. Brubacher
Commissioner of Administration

MINNESOTA DEPARTMENT OF ADMINISTRATION

Exhibit B

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE

COMMISSIONER OF ADMINISTRATION

In the Matter of the Proposed Amendments to the State Building Code for the City of Rochester

STATEMENT OF NEED

The above-captioned proposed rules are amendments to the existing State Building Code.

Pursuant to Minn. Stat. 1971, Section 16.86, the Commissioner of Administration is charged with the responsibility of applying the State Building Code to all local governmental units having building codes, with limited exceptions, and with the duty of amending the State Building Code from time to time to maintain the most modern code standards regarding the construction, addition to or alteration of building, including life safety.

Further, the Commissioner of Administration may hold public hearings at such times as interested parties petition for amendments to the State Building Code. Pursuant to Minn. Stat. 1971, Section 15.0412, Subdivision 1 and 4, the Commissioner is empowered to promulgate reasonable substantive rules and may also amend rules as is deemed necessary upon a showing of need for the Amendment subsequent to a public hearing. Further, the Commissioner of Administration may hold Public Hearings at such times as interested parties petition for Amendments to the State Building Code. The above-captioned amendments that fall within the above mentioned conditions are deemed of sufficient importance to warrant consideration through the process of Public Hearing.

Dated: November 15, 1974

RBV for

Richard L. Brubacher
Commissioner of Administration

Exhibit C

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE

COMMISSIONER OF ADMINISTRATION

In the Matter of the Proposed Amendments to the State Building Code for the City of Rochester

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held pursuant to Minn. Stat. 1971, Section 16.86, Section 15.0412, Subdivision 4, regarding the above-entitled matter, in the Conference Room of the State Building Code Division office, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101, commencing at 9:00 a.m., December 27, 1974, and continuing until all local governmental units, all representatives of associations and other interested groups or persons have had an opportunity to be heard concerning the adoption of amendments to the 1973 Edition of the Uniform Building Code by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted without appearing at the hearing.

Amendments to be heard are as follows:

Section 1602(d): Special Requirements. For automatic fire extinguishing systems in Group E, Division 4, Group F and Group H Occupancies, see Section 3802(b)6, 8 and 12.

Section 1603(d): Special Requirements, For automatic fire extinguishing systems in Group E, Division 4, Group F and Group H Occupancies, see Section 3802(b)6, 8 and 12.

Section 1604(a): Special Requirements. For automatic fire extinguishing systems in Group E, Division 4, Group F and Group H Occupancies, see Section 3802(b) 6, 8 and 12.

Section 3802(b)6: In Group E, Divisions 1 and 2 Occupancies having an area of more than 1500 square feet; in Group E, Division 3 Occupancies having an area of more than 3000 square feet; and in Group E, Division 4 Occupancies more than one story in height, or exceeding 8400 square feet in floor area located in Fire Zone No. 1 or No. 2 or exceeding 20,200 square feet in floor area located in Fire Zone No. 3. The area and height increases specified in Section No. 506 and No. 507 shall be permitted.

In rooms where flammable or combustible liquids are stored or handled in excess of the quanities set forth in Table No. 10-A, or any combination of flammable liquids totaling 240 gallons, as defined in the Fire Code.

For special provisions on hazardous chemicals and magneisum, and calcium carbide, see Fire Code.

Section 3802(b)8: In retail sales rooms classed as Group F, Division 2 Occupancies where the floor area exceeds 12,000 square feet on any floor 24,000 square feet on all floors; however, the area and height increases specified in Sections 506(c) and 507 shall be permitted. In Group F Occupancies exceeding 13,500 square feet in floor area located in Fire Zone No. 1 or No. 2, or when of Type V construction exceeding 10,500 square feet of floor area located in Fire Zone No. 2, or exceeding 20,200 square feet in floor area located in Fire Zone No. 3. The area and height increases specified in Section No. 506 and No. 507 shall be permitted.

EXCEPTION: Open parking garages.

Section 3802(b)12: In Group H Occupancies exceeding 20,200 square feet in floor area or four stories in height located in Fire Zone No. 1 or No. 2, or exceeding 30,000 square feet in floor area located in Fire Zone No. 3. The area and height increases specified in Section No. 506 and No. 507 shall be permitted.

A copy of the procedural rules for the hearing is attached. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand and may be presented either orally or in writing at the public hearing or by mailing a statement to Herbert W. Meyer, State Building Inspector, at the above mentioned address within 20 days following the conclusion of the subject hearing. If the person submitting a statement cannot be present to read his statement at the time of the hearing, the statement will be entered into the record. For those wishing to submit written statement or exhibits, it is requested that at least three (3) copies of such statement, exhibit, or summary be furnished at the hearing. It is suggested that to save time and avoid duplication, those organizations or associations having common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests.

Dated: 11-15-74

Richard L. Brubacher
Commissioner of Administration

MINNESOTA DEPARTMENT OF ADMINISTRATION

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed Amendments to the State Building Code for the City of Rochester

AFFIDAVIT

Herbert W. Meyer, being duly sworn, on oath deposes and says:

1) That he is an employee of the Department of Administration of the State of Minnesota.

2) That on the 15th day of November, 1974, he requested from the Secretary of State's office for the State of Minnesota current list of all representatives of associations and other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of regulations pursuant to Minn. Stat. 15.0412.

3) That on the 19th day of Nov, 1974 in response to the above request, the Secretary of State provided him with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

JEAN MORLEY
Notary Public, Ramsey Co., Minn.
MY COMMISSION EXPIRES
September 30, 1980

Herbert W. Meyer

Herbert W. Meyer
State Building Inspector
Minnesota Department of Administration

Subscribed to and sworn to before me this 22nd day of Nov, 1974

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed Amendments to the State Building Code for the City of Rochester

CERTIFICATE

I hereby certify that the attached 391 labeled & Two sheets constitute the complete list of persons, associations, and other interested groups who as of 1:30 o'clock P M. this 11th day of November, 1974, have requested pursuant to Minn. Stat. 1971, Section 15.0412, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

SECRETARY OF STATE

Arlen I. Erdahl

Arlen I. Erdahl

By: Neil Dion

Exhibit F

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed Amendments to the State Building Code for the City of Rochester

AFFIDAVIT OF MAILING

Herbert W. Meyer, being first duly sworn, deposes and says:

That on the 20th day of Nov, 1974 at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all local governmental units, all persons and associations at the addresses listed on the attached Certificate regarding the Secretary of State, members of the Minnesota Legislature, and other interested individuals.

Herbert W. Meyer

Herbert W. Meyer
State Building Inspector
Minnesota Department of Administration

JEAN MORLEY
Notary Public, Ramsey Co., Minn.
MY COMMISSION EXPIRES
September 30, 1980

Subscribed to and sworn to before me this 22nd day of Nov, 1974

Exhibit 8

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE

COMMISSIONER OF ADMINISTRATION

In the Matter of the Proposed Amendments to the State Building Code for the City of Rochester

APPOINTMENT

Herbert W. Meyer is hereby appointed to serve as hearing officer on behalf of the Commissioner of Administration in the above-captioned matter, said hearing to be held on December 27, 1974, and continue until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

This appointment is made pursuant to Minn. Stat. 1971, Section 16.86, Subdivision 4.

Dated: November 27, 1974

RLB Vacation for

Richard L. Brubacher
Commissioner of Administration

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE

COMMISSIONER OF ADMINISTRATION

In the Matter of the Proposed Amendments to the State Building Code for the City of Rochester

FINDINGS OF FACT

The above-entitled matter came on for hearing before the Commissioner of Administration of the State of Minnesota on the 27th day of December, 1974, at 9:00 a.m. in the Conference Room of the State Building Code Division office, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota, 55101, after proper notice required by Minn. Stat. 1971, Section 15.0412, Subdivision 4 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, I find the following:

The City of Rochester is unique among Minnesota municipalities because of the extent of medical facilities.

These medical facilities are concentrated in Rochester because of its long history and reputation as the location of the Mayo Clinic and other large private hospitals.

These extensive medical facilities are used by persons from all parts of the world. Consequently, Rochester has a transient population greater than many cities and especially greater than any other Minnesota city.

This large transient population resides in hotels, motels, rooming and boarding houses, and requires especially greater care and safer lodging than do permanent residents.

The transient persons are people who are there because of illness, awaiting treatment, examinations, or therapy, or recuperating from serious and special operations not normally performed elsewhere.

Many of these persons are non-ambulatory and place a greater burden on the lodging and residential facilities. There are numerous days in which all of the available facilities are overtaxed and overcrowded, thus requiring the best and safest facilities that can be provided.

The normal growth rate of the City of Rochester could not have anticipated the surge of construction in the past few years related principally to health care.

The water mains were designed to be adequate for the fire-fighting needs of a typical city of that size, but are, at best, marginal for Rochester's growth pattern.

As an alternate to replacing or increasing the size of the water mains, use of automatic fire extinguishing systems (fire sprinklers) is contemplated, since the water demand is substantially less than for other fire suppression methods.

In addition, a smaller fire-fighting staff is possible where more individual buildings have been thus protected.

Hence, the Rochester amendments, as listed in the Order Adopting Rules, will promote the wiser use of automatic fire extinguishing systems by requiring their installation more extensively than otherwise specified in the State Building Code.

Date 4-10-75

Richard L. Brubacher
Commissioner of Administration

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE

COMMISSIONER OF ADMINISTRATION

In the Matter of the Proposed Amendments to the State Building Code for the City of Rochester

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Commissioner of Administration of the State of Minnesota on the 27th day of December, 1974, at 9:00 a.m. in the Conference Room of the State Building Code Division, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota, 55101, after proper notice required by Minn. Stat. 1971, Section 15.0412, Subdivision 4 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files, and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above-captioned rules:

NOW, THEREFORE, IT IS ORDERED that these rules identified as amendments to the State Building Code for the City of Rochester are adopted this _____ day of _____, 1975, pursuant to the authority vested in me by Minn. Stat. 1971, Section 16.86:

Section 1602(d) Special Requirements for the City of Rochester. For automatic fire extinguishing systems in Group E, Division 4, Group F and Group H Occupancies, see Section 3802(b)6, 8, and 12.

Section 1603(d) Special Requirements for the City of Rochester. For automatic fire extinguishing systems in Group E, Division 4, Group F and Group H Occupancies, see Section 3802(b)6, 8, and 12.

Section 1604(a) Special Requirements for the City of Rochester. For automatic fire extinguishing systems in Group E, Division 4, Group F and Group H Occupancies, see Section 3802(b)6, 8, and 12.

Section 3802(b)6 In Group E, Divisions 1 and 2 Occupancies having an area of more than 1500 square feet; in Group E, Division 3 Occupancies having an area of more than 3000 square feet; and in Group E, Division 4 Occupancies more than one story in height, or exceeding 8400 square feet in floor area located in Fire Zone No. 1 or No. 2 or exceeding 20,200 square feet in floor area located in Fire Zone No. 3. The area and height increases specified in Section No. 506 and No. 507 shall be permitted.

Section 3802(b)6 continued:

In rooms where flammable or combustible liquids are stored or handled in excess of the quantities set forth in Table No. 10-A, or any combination of flammable liquids totaling 240 gallons, as defined in the Fire Code.

For special provisions on hazardous chemicals and magnesium, and calcium carbide, see Fire Code.

Section 3802(b)8 In retail sales rooms classed as Group F, Division 2 Occupancies where the floor area exceeds 12,000 square feet on any floor or 42,000 square feet on all floors; however, the area and height increases specified in Sections 506(c) and 507 shall be permitted. In Group F Occupancies exceeding 13,500 square feet in floor area located in Fire Zone No. 1 or No. 2, or when of Type V construction exceeding 10,500 square feet of floor area located in Fire Zone No. 2, or exceeding 20,200 square feet in floor area located in Fire Zone No. 3. The area and height increases specified in Section No. 506 and No. 507 shall be permitted.

EXCEPTION: Open parking garages.

Section 3802(b)12 In Group H Hotel Occupancies exceeding 20,200 square feet in floor area or other Group H Occupancies exceeding three (3) stories in height. The area and height increases specified in Section No. 506 and No. 507 shall be permitted.

4-10-75
Date

Richard L. Brubacher
Commissioner of Administration

This matter came on in regular order for public hearing on the 27th day of December, 1974, commencing at 9:00 o'clock, a. m. in the Conference Room of the State of Minnesota, Building Code Division, Metro Square Building, St. Paul, Minnesota, with the following named persons being present:

Herbert W. Meyer, who is the Hearings Officer for this hearing.

J. Michael Miles, Esq., Special Assistant Attorney General for the State of Minnesota.

The panel was made up of the following-named people from the Building Code Standards Commission: Albert L. Seanger, Alvin E. Kleinbeck, Lawrence A. Laukka, and Patricia S. Lucas.

TRANSCRIPT OF PROCEEDINGS

Robert W. Riley
ASSOCIATED REPORTERS
MIDLAND BANK BUILDING
MINNEAPOLIS, MINNESOTA 55401
TELEPHONE: 335-0119

PROCEEDINGS

MR. MEYER: I would like to call the hearing to order. My name is Herb Meyer, the hearing officer for the hearing.

I would like to introduce the people at the table. On my left is Al Kleinbeck, who is Chairman of the Building Standards Committee; Mr. Laukka, who is a member of the Building Standards Committee; on my immediate right is Mike Miles, Special Assistant Attorney General, assigned to the Division for the hearing; and Mr. Al Seanger, who is a member of the Building Standards Committee.

At this time I would like to ask Mr. Miles to review the exhibits and also the rules for the hearing.

MR. MILES: Mr. Meyer, at this time I would like to introduce the exhibits for our public hearing this morning. Exhibit "A" is the order for hearing required by Chapter 15 of the Minnesota Statutes. This document is signed by the Deputy Commissioner of Administration, Raymond B. Vecellio, and calls for a hearing to be held on this date.

Exhibit "B" is the Statement of Need in which the reasons for calling this public hearing are set forth. This document is also signed by Raymond B. Vecellio, City Commissioner of Administration.

Exhibit "C" is the notice of hearing which was submitted to all interested parties -- all those who had

their names on the Secretary of State's list, as well as all legislators -- at least thirty days prior to this public hearing. This document is signed by Richard L. Brubacher, the Commissioner of Administration.

Exhibit "D" is an affidavit signed by Herbert W. Meyer which states in fact that he did go to the Secretary of State's office and attempt to obtain the list of names of parties who had signed up in the Secretary of State's office for notice of such public hearings.

Exhibit "E" is a certificate signed by Arlen Erdahl, Secretary of State, indicating that, in fact, Mr. Meyer did receive from the Secretary of State the list of interested persons who signed their names up there. Also attached to this certificate is a copy of that list of interested parties.

Exhibit "F" is the affidavit of mailing which was executed by Herbert W. Meyer once again, indicating that on the 20th day of November, 1974, he did place in the mails copies of the Notices of Hearing to all interested parties.

Finally, Exhibit "G" is an appointment form appointing Mr. Meyer as Hearing Examiner for this morning. This document is signed by Raymond B. Vecellio, Deputy Commissioner of Administration.

At this juncture, Mr. Meyer, I would like to go over with members who have joined us this morning the rules for our public hearing. First of all, it should be noted

that anyone who so desires may give either oral or written testimony and may do so at the public hearing this morning, and they have, further, twenty days following the conclusion of this hearing in which to submit any written data which they wish to.

We would ask that when you come forward to testify, that you would please state your name and spell it for the benefit of our Court Reporter so that we may get an accurate record on the proceedings. When you choose to testify orally this morning, you automatically submit yourselves to any cross-examination that the members of the panel wish to give you. You do not, however, have to submit to cross-examination by your peers in the audience this morning. However, if you do not, that will be considered as to the weight of your testimony.

We also ask that when you come forward, that you be sworn. You need not do so if you request that you not be sworn, but it will go to the weight of your testimony. There is no limit on the number of times that you may speak this morning. You may come forward on several occasions or as many as you wish and give evidence.

Again, you have twenty days following the conclusion of the public hearing this morning in which to submit any further written data.

Finally, if you are going to give oral testimony

this morning or simply to turn in documents that you want made part of the record, we would ask that you introduce them. We will mark them as exhibits and note them for the record. Mr. Meyer.

MR. MEYER: Thank you, Mr. Miles. Are there any questions? If not, we will open the hearing for testimony. I would just like to point out that the hearing is to consider amendments that will apply only to the City of Rochester. Who wants to speak first? -- Mr. Mertz.

MR. MERTZ: My name is Orville Mertz. I am the Chief of the Fire Department at Rochester, Minnesota, and I respresent --

MR. MEYER: Would you like to be sworn in?

(At which time Mr. Mertz was sworn in by Mr. Miles)

MR. MERTZ: I will submit to cross-examination from anyone. I would like to restate that I am the Chief of the Rochester Fire Department, and do officially represent the City of Rochester here today. I would like to submit this in evidence. There is the original and about four copies there of what I would like to present right now.

MR. MEYER: This will be Exhibit "H".

MR. MERTZ: It is directed to Herb Meyer, Director of Building Codes Division, State of Minnesota, and Members of the Building Code Standards Committee.

"Gentlemen:

"Our requests for special consideration, in relation to fire protection devices, in certain occupancies, is not the result of whim or hasty conclusions. It is requested after long and serious study. The City of Rochester, in 1965, began a comprehensive study of the fire protection problems and its impact and cost to the community, as a result of the large and expansive building programs that were already on the drawing boards. As a result of this study, it was decided that strict compliance with an all-encompassing sprinkler ordinance would substantially reduce the requirements of the fire department as well as the need for larger water delivery and storage systems. In 1967, this necessary fire suppression ordinance was enacted. Miles of new water mains were installed in areas where the occupancy was moving from residential to more commercially related buildings, as well as permitting some mains to be left in place. These mains were left in place, or smaller than normally required mains were installed, because it was presumed that most of the construction in these areas would have to be sprinkled, and the water requirements for firefighting could be substantially reduced. With reduced water supply requirements, the firefighting requirements of men and machines could also be reduced, and overall efficiency and economies could be gained.

"The State of Minnesota, in 1971, passed a uniform

building code that prevented the City of Rochester from enforcing their sprinkler ordinance. The City Council then, by resolution, authorized myself to pursue these requirements through the Building Code Division of the State of Minnesota. (I would like to add here that during the debate preceding the adoption of the State Building Code, we were assured, unofficially, that we would have no problem getting authorization to inforce our sprinkler requirements). The City Council resolution was followed by a resolution from the Board of Directors of the Chamber of Commerce agreeing with the Rochester City Council and encouraging the passage of our present request. Both of these resolutions have been submitted to you and are on file in the offices of the Director of the Minnesota State Building Code.

"This is the fourth hearing we have had on this particular subject and the Commissioner of Administration, in his findings of fact, has deemed that Rochester is truly unique, in relation to the rest of the state in regards to its size, general occupancy and its hazards. He has further stated that this uniqueness does create special problems not found elsewhere in the state and that the Minnesota State Building Code does not adequately address itself to these particular problems and that our amendments will be a wiser use of automatic sprinkler systems, than is found in the State Building Code.

"We have given you reams of information on this subject, all documented by either nationally or internationally known individuals, testing laboratories and concerns testifying to the validity of our requests and who are generally recognized as experts in the field of fire prevention and suppression.

"In view of the fact that you have already been presented much evidence in regards to our request, I will not belabor the points and reintroduce them. I would, however, like to briefly summarize some of the significant factors in our request.

1. Our present requests are the result of a compromise between the City of Rochester and the Minnesota State Building Code Division, and represents a more liberal view of our original request. It is our assumption that these requests have the blessing of the State Building Department as well as the Commissioner of Administration.

2. We have massive buildings in the form of residential or institutional buildings, for a city of our size, and it is impossible to give the occupants of these buildings even minimal life safety from fire without sprinkler requirements that exceed the State Building Code. We also have many supporting facilities, that while smaller, are

located close to and are frequented by people who are convalescing from serious illness. (In 1973 there were 450,000 who registered at the Mayo Clinic.)

3. We are larger than any metropolitan suburb except one. These metropolitan suburbs all have mutual aid agreements with each other and it certainly is in the realm of possibility for them to muster even upwards of 200 or 300 men with corresponding equipment should any of them find it necessary to do so -- the South St. Paul propane fire was a good example of that -- Rochester has no such luxury. There is not one single community that we can call for help. We must do with what we have and by 150 Standards we are nearly 50 men understaffed. We are naturally more concerned with fire prevention techniques and in keeping all fires that do start -- small.

4. It has been proven beyond any doubt that the economic advantages of a community sprinkler system will prevent undue and unnecessary growth of tax-supported services as well as being an economic advantage to the building owner himself.

5. These amendments to the State Building Code are not new to our community, but have been

enforced and proven for a number of years. They still have the support of our elected officials and the community at large.

6. We are not asking for any amendments that will alter the construction of the building. Your uniformity still stands. We are merely asking for some very necessary fire suppression devices. These requirements are for new construction only.

"Since our last hearing the following states have adopted requirements state-wide that are similar to our requests. They are Massachusetts, Connecticut, California, Ohio, Maryland, Illinois and Wisconsin, as well as countless individual cities and counties throughout the country. I say similar, but that may be a slight understatement. They are -- practically all of them -- almost exactly the ordinance we adopted in 1967. We were the first city in the United States to adopt such an ordinance and we were in communication with every one of the above states. Many individual communities adopted our code almost verbatim. Since our requests have been accepted by other states and communities, they certainly should be accepted by our own state.

"The concept of uniformity is deserving of merit. However, it is completely illogical for any intelligent human being to expect uniformity on everything, everywhere and in every instance. In relation to a building code, this

very committee has recognized this fact and has wisely made dozens of amendments to the Uniform Building Code where they believe that it is necessary to do so. The Uniform Building Code adopted by the State of Minnesota in Article #102 clearly states that this code is to provide 'minimum standards to safeguard life and limb, health and property'. The most logical conclusion that one could reach from that statement practically jumps off the page right at you. If you are to adopt a minimum standard, then you must address yourself to the severist test that you could conceivably have, or to amend it in areas that a prudent person would do so.

"The President's Commission of Fire Prevention and Control has this to say: 'Fire protection has been largely a local responsibility and for good reasons it is destined to remain so. Each community has a set of conditions unique to itself and a system of fire protection that works well for one community cannot be assumed to work well for other communities. To be adequate, the fire protection system must respond to local conditions. Without local level planning, the system of fire protection is apt to be ill-suited to local needs and lag behind the changing needs of the community. Excellent fire protection, for example, in the form of automatic extinguishing system, lies within technical grasp, and certainly lies within the resources of most

communities to provide.' Again, it doesn't take an intellectual genius to realize that the same building and occupancy can pose quite a different set of problems from one community to another.

"Our requests here today are well within the cost-benefit ratio of anything that is put into these buildings. It costs more to paint some of these buildings than to put sprinklers in them. Many of these buildings are carpeted throughout at substantially more cost than sprinklers. The landscaping many times will exceed the cost of sprinklers; and in some cases, the installation of sprinklers can actually reduce the overall cost of building construction. In addition, sprinklers have, by far, the best record of any device, or combination of devices, in protecting property and in the prevention of death and injury by fire. A fact that is well recognized by every leading authority on fire in the world.

"It will no doubt be argued here again, that if it's good for Rochester, it should be good for the entire state. With that, I will agree. However, this argument is nothing more than a subterfuge to prevent the passage of these regulations, and it should be treated as such. As you know, by your experience, the same people and organizations who belabor that point also appear before this committee in opposition to these regulations when they have

been proposed statewide. Since the fire authorities in the City of Rochester know the fire problem better than anyone in the state, or in the United States for that matter, I can only conceive that their 'sudden concern' for the safety and well being of the entire state is merely a stalling device to prevent Rochester from attaining what we consider essential in our overall fire protection plan.

"We are not asking to change any of the construction in these buildings, so your uniformity concept remains intact. We are merely asking for devices that will assist us in preventing large fires and to minimize death and injury from them.

"Should we be denied these vital requests, you have, just as surely as you are sitting there, increased the economic burden of fire protection on the City of Rochester as well as the death and injury from fire, and the increase of large loss fires that will surely follow."

Thank you.

MR. MEYER: Does any member of the panel have any questions of Mr. Mertz? -- any members of the audience?

MR. PATES: I have one. You mentioned in your letter that the Commissioner of Administration has determined that Rochester is "unique". Would you explain how it is "unique"?

MR. MERTZ: Do you mind if I read right from his

notes?

MR. PATES: Sure, that's fine.

MR. MERTZ: This, incidentally, is not signed by him, although it is typewritten. I understand it was an administrative error that it wasn't. And this is the State of Minnesota, County of Ramsey, before the Commissioner of Administration, in the matter of the proposed amendments to the State Building Code.

"The above entitled matter came on for hearing before the Commissioner of Administration of the State of Minnesota on the 29th day of March, 1973, in St. Paul, Minnesota; the 10th day of April, 1973, in Rochester, Minnesota; and the 15th day of August, 1973, in St. Paul, Minnesota, after proper notice required by Minn. Stat. 1971, Section 15.0412, Subdivision 4, was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

"After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all the testimony, having considered all of the evidence adduced and upon the records, files and proceeding herein, I find the following facts and conclusions regarding the adoption of the proposed amendments:"

And then it goes on to name the amendments we are here talking about.

He further states: "The City of Rochester is unique among Minnesota municipalities because of the extent of medical facilities resulting in many more multi-story buildings than one would expect in a city of this size. Thus, the transient population residing in hotels, motels, rooming houses and boarding houses while awaiting examination in the process of health care is greater than other Minnesota municipalities. Moreover, the precentage of non-able-bodied persons is greater.

"The normal growth rate of the City could not have anticipated the surge of construction in the past few years related principally to health care. The water mains, for example, were designed to be adequate for the fire-fighting needs of a typical city of that size, but are, at best, marginal for Rochester's growth pattern. As an alternate to replacing or increasing the size of the water mains, use of automatic fire extinguishing systems is contemplated, since the water demand is substantially less than for other fire suppression methods. In addition, a smaller fire-fighting staff is possible where more individual buildings have been thus protected.

"Hence, the Rochester amendments will promote the wiser use of automatic fire extinguishing systems by requiring their installation more extensively than otherwise specified in the State Building Code."

Would you like to read it?

MR. PATES: No, you've just read it.

MR. MEYER: Any other questions of Mr. Mertz? Thank you.

MR. MERTZ: I would just like to add, while I'm up here, about two and a half or three weeks ago -- well, let's see. It was the first fire that came in the day after Thanksgiving at Dayton's. It's about 200,000 square feet attached to the Miracle Mile -- or attached to the Apache Mall -- 750,000 square feet. There were three arson fires in there. The first one began on November -- the day after Thanksgiving -- a Friday, which by the manager's own statements was the busiest day they have had since they have been there. There were something like well over 3,000 people in that area. The fellow lit a fire. Two sprinkler heads went off, and while the heads did not actually extinguish the fire, they did keep it in controllable portions.

It was necessary for the fire department to lay lines into that building and travel 500 feet laying the lines to extinguish the fire. The fire took maybe 10 to 15 minutes to extinguish.

Just as sure as I am standing here, that building would have burned down if it weren't for two sprinkler heads. We cannot go through dense smoke 500 feet, with lines, to extinguish fire -- no way.

Even if it did not burn down, there would have been close to a seven or eight million dollar loss of merchandise -- lost goods -- things of that nature. It's very conceivable, in fact, that the odds would have been in favor of the entire Apache Mall complex burning down. I would say that there would be maybe two out of ten chances that we would have had to extinguish that fire before it burned the entire complex down because of the manner in which it was guarded. That's a fifty million dollar loss. Two sprinkler heads saved that.

MR. MEYER: Thank you. Does anybody else wish to testify for or against the proposed amendments? Mr. Pates?

MR. PATES: For or against?

MR. MEYER: Either one. We'll take anybody in any order.

(At which time Mr. Pates was sworn in by Mr. Miles)

MR. PATES: I am this morning representing Building Owners and Managers Association of Minneapolis. We have supplied a letter to Commissioner Brubacher stating our position regarding the fragmented proposal to the State Uniform Building Code. Seeing that the letter has already been submitted, would you care to have it read or just leave it as a matter of the record?

ME. MEYER: Either way. We'll receive it as

Exhibit "I".

MR. PATES: The letter is addressed to Commissioner Brubacher. It reads:

"The Code Committee of this association has met and presents the following comments relating to proposed amendments to the State Building Code for the City of Rochester, which will be discussed at the public hearing, December 27, 1974.

"It is our understanding that the Uniform Building Code was established in the State of Minnesota as a state standard which all municipalities would follow.

"The granting of special code considerations for the City of Rochester is a distinct departure from the philosophy of the Uniform Building Code and clearly establishes a dangerous precedent which does destroy the concept of the Minnesota State Building Code.

"The State Building Inspection Department should concentrate on proposed changes to the Uniform Code which benefit the entire state.

"This association, therefore, recommends that the proposed amendments to the State Building Code for the City of Rochester be denied.

"This association continues to offer its service to the Department of Administration, State Building Inspection Department and the Minnesota State Code Technical Committees

in continuing a uniformity in state building code requirements. Sincerely, Minneapolis Association of Building Owners and Managers Incorporated."

MR. MEYER: Any questions of Mr. Pates by the panel? Mr. Miles.

MR. MILES: Mr. Pates, I wonder what your reaction would be, sir, if we were to take this amendment at a future hearing and make it applicable to all municipalities. Would you then be in favor of the amendments?

MR. PATES: I think then we would certainly consider reviewing it further as it applies to the State of Minnesota, but as it sets now as just a singular device which does in effect fragment the State Building Code, we won't accept it. We won't accept it.

MR. MILES: But you have not reached a decision on whether you would accept it if it were --

MR. PATES: No, not as yet. It would require further study.

MR. MEYER: Any other questions? Anybody else wish to testify? Mr. Bloom, will you be sworn?

(At which time Mr. Bloom was sworn in by Mr. Miles)

MR. BLOOM: I have no objection, specifically, to the proposed amendment as to whether it is a better fire suppression, fire detection, than any other. I am no expert.

I do know, however, that not everyone agrees with the statements made by Chief Mertz.

I don't believe that it is uniformally considered that a sprinkler is a life-safety device. A sprinkler system is really for the protection of property, not life. Early detection and warning systems are not sprinkler systems.

My main objection is the fact that we now have, supposedly, a uniform law. Every jurisdiction who did not agree with that uniform law has its own interpretations of it, and those who didn't agree with its provisions depart considerably from it.

I believe that by allowing special exemptions for the City of Rochester, which may be unique by its Mayo Clinic -- I don't know. I think Minneapolis must be unique. It has the University of Minnesota Hospital and all its environs. I do know that because our present provisions have not been specifically laid out, that the 23 jurisdictions in the municipal area alone -- St. Paul or Minneapolis -- each have their own interpretation right now. If this precedent is established, I can assure you that the Village of Edina considers itself unique; the Village of New Hope, who has already enacted an ordinance contrary to the provisions of the State Building Code, will consider itself unique. Minneapolis, I am sure, considers it a unique municipality and so does St. Paul. I guess Coon Rapids has always been

unique. This special ordinance, any one, establishes a very dangerous precedent, and I can assure you that you will have at least 20 more specific amendments to the Fire Protection Life Safety Code provisions of the Uniform Building Code.

It opens up the door to everyone who disagrees with their provisions, and I don't think we are naive enough to believe that everyone agrees with those provisions. That is my objection to any special provision. The basis is that the City of Rochester can no longer enforce a sprinkler ordinance. Well, the Village of Edina can no longer enforce its fire alarm ordinance, nor can 21 other jurisdictions.

As long as I am up here, I would like to request again that the provisions of the Uniform Building Code, specifically Sections 1302 and 1807, be clarified either under a law passed by the Legislature of 1974, by the State Fire Marshall or by the State Building Code Division. This has been requested many times verbally and in writing. I have been assured in writing that it would be done, but no date was set, and the result is that we do now have many, many special laws under this as is requested by the City of Rochester. That's all.

MR. MEYER: Thank you, Mr. Bloom. Any questions of Mr. Bloom from the panel or anybody in the audience?

MR. MERTZ: I would like to ask a question.

MR. MEYER: Surely, Mr. Mertz.

MR. MERTZ: How many times have you amended the State Building Code?-- this committee -- just offhand, maybe a ballpark figure.

MR. MEYER: I have no idea.

MR. MERTZ: Fifty -- a hundred different -- that you amended the building code that you adopted? In other words, you haven't established the precedence of not amending the building code?

MR. BLOOM: I meant special provisions, Chief.

MR. MEYER: Well, we have had somewhere between 12 and 15 hearings. The exact number of amendments I can't tell you.

MR. MERTZ: I just want to establish the fact that it has been amended, and I think that as far as Mr. Bloom -- maybe there will be 21 come up here and ask for -- I just think that each request should be studied on its own indivisual merits. Maybe there are other communities that have individual and unique problems. I don't doubt that there are. This does not mean that they should be denied them. As far as Mr. Bloom's statement that sprinklers control property and not lives, I'd like to make a direct quote --

MR. MEYER: Would you stand up if you are going to give us this information and testify again?

MR. MERTZ: This is a direct quote from Chairman Bland of the President's commission on fire prevention and

control in an interview with a reporter for the U. S. News and World Report. I quote: "In testifying before a Senate committee the question was - what can we do to help protect these people from fire? The irrefutable answer is, completely sprinkle these buildings. Without a doubt it should be mandatory in all housing for people over 65. It should be mandatory in all buildings over three stories high and should be mandatory for all buildings with a gross square footage that is more than 10,000 square feet." That's for life safety.

MR. MEYER: Thank you. Anybody else wish to testify?

MR. LEVIN: I would like to ask a procedural question. I would like to ask further questions of Chief Mertz, if that's still --

MR. MEYER: Well, it's up to him if he wants to answer them.

MR. MERTZ: Certainly.

MR. LEVIN: My name is Marshall Levin. I am an architect, and I respresent the Minnesota Society of Architects.

Chief Mertz, the specific amendment as it is written gives certain area and height limitations, and I am asking you what the basis -- the technical basis -- is for the new limitations set. What study and what natural source

or what source was used to establish the new serial limitations, and what basis was this written?

MR. MERTZ: Well, you just asked me for a 55 page report, and I can get that in in a month, but if you want a five minute brief synopsis of it, it goes back to the fire fighting -- how much water it takes to fight a given fire of a given substance in a given area. Now, basically it's about 20,000 square feet that a good well-equipped, well-trained fire department can control before the fire goes out of control. In other words, when you start exceeding 20,000 square feet in a building that is involved with highly combustible materials -- not highly combustible, ordinary combustible materials, you are taxing the fire suppression forces to their utmost. When you go up, if you are in the first story, you are talking about 12,000, and it's reduced substantially as you go up, and you can well understand that.

Now, there is a formula to figure out how much water it requires to put out a given amount of combustibles in a given amount of area, and to determine the size of the water you need or require to control it.

Now, there's also another formula that gives you how much additional manpower is needed to produce that kind of water -- also the kind of machines that are necessary. Basically, it simplifies the formula. The rule of thumb is

that it requires one fireman per hundred gallons of water to deliver it. Consequently, if you need 3,000 gallons a minute to fight a fire in a given occupancy, given certain combustibles, it requires 30 people at the scene. Now, to have 30 people on the scene you have to have about a 99 man fire department to produce that kind of water availability. Have I answered that question, or do you wish me to continue?

MR. MEYER: Chief Mertz, can I interrupt here? I guess in answer to Marshall Levin's question - these figures that are in here are based on the present 1973 Uniform Code, and are identical to what's presently in the Code as such, with only modifications in the location, but the actual figures are identical as to what's in the Code.

MR. LEVIN: I guess the question I -- I raised the question, basically, because it goes back to one of the justifications Chief Mertz gave in regard to the water supply problem, and the City of Rochester, from what I gather, is saying that the City of Rochester is asking the individual building owner to pay for their lack of foresightedness in designing their water supply system. And that over the long run, the cost has got to be cheaper to the City of Rochester or to the general community. For all the dollars that are put in, the construction cost would be less over a number of buildings than it would be to install the proper water supply system.

We had -- I'm sorry. One of the members of the MSA Committee that was here in regard to construction of Cedar Riverside, for example, -- they noted that it would be easier to supply different equipment to the fire department than it would be to sprinkler the buildings. And again this is the unusual probability with Rochester.

MR. MEYER: I think that's evidence that should be introduced by whoever it is without getting into debate between one authority and the other.

MR. LEVIN: One point is that there is no specific reference to the City of Rochester in a written amendment.

MR. MEYER: Are you asking questions, or are you going to testify? If you're going to testify, I would like to ask you if you want to be sworn in.

MR. LEVIN: Yes, I'll be sworn in.

(At which time Mr. Levin was sworn in by Mr. Miles)

MR. LEVIN: Specific amendments do not give any reference to the City of Rochester other than the Notice of Hearing, and I don't know how this is going to be accomplished as a technical thing.

MR. MEYER: That's a legal question that the attorney will answer at the time they are filed.

MR. LEVIN: One of the questions, also, is in regard to the high transient level and the handicapped or

somewhat immobile people. I question that this is applicable to the E-4 Occupancy, for example.

MR. MEYER: Would you like to tell us why it isn't?

MR. LEVIN: Well, the immobile people aren't necessarily using repair garages.

MR. MEYER: I don't think that the testimony was that they're immobile. They are convalescent, which is a great deal different than what you maintain they are, Mr. Levin. I think if you are going to testify, you ought to give us something, rather than question either the panel or somebody else -- about testimony.

MR. LEVIN: Mr. Meyer, I'm trying not to repeat this same --

MR. MEYER: But, you are changing the testimony by your questions. I think you have got to be careful about that. We are glad to hear it, but I think the testimony is pretty clear. It's in written form, and if you have questions as to whether those figures are accurate or what kind of people they are, that's something different. But I think that to make a statement that they are immobile - that was never stated in this hearing.

I'd like you to be clear as to what you are going to ask. You are assuming something that wasn't presented as evidence.

MR. LEVIN: I feel that the testimony given does

not reflect itself to the areas of the Code that are asked to be amended. There has been no specific testimony reporting the evidence that these particular occupancies are affected by the arguments given for the amendment. Maybe I'm not making myself clear.

MR. MILES: Mr. Levin, I wonder if I might back up just a moment. Did you have a question regarding the legal form for the Notice of Hearing, sir?

MR. LEVIN: One of the questions I raised is that the written amendment, in itself, does not pertain to Rochester. If this is an amendment to the State Building Code, there is no mention of the City of Rochester only -- in the document itself.

MR. MILES: Mr. Levin, I would turn your attention to the head note for the Notice of Hearing, which provides for the City of Rochester, intending to limit it to them. When the final amendments are adopted, if in fact they are, then we would note that the City of Rochester is in the amendment itself. If you --

MR. LEVIN: This is not the final format of the document you are signing then?

MR. MILES: Substantially it is. In other words, given that fact, the Notice of Hearing clearly sets forth that these amendments are for the City of Rochester alone. I think that any changes made in the substance of the proposed

amendment would be editorial in the sense of just noting that fact.

MR. LEVIN: I am going to end my statements, sir, leaving the last statement before Mr. Miles brought in the comment on the legality question. My comment was - there is no specific evidence introduced in regard to these particular occupancies as far as Mr. Mertz's testimony.

MR. MEYER: That's fine -- that's testimony. We'll be glad to accept that. Anybody else that would like to testify? I'll ask again if anybody has any testimony that they would like to submit?

MR. McGURN: I will testify, if I can, Mr. Meyer. Frank McGurn, M-c-G-u-r-n, National Automatic Sprinkler and Fire Control Association.

(At which time Mr. McGurn was sworn in by Mr. Miles)

MR. McGURN: I would like to point out, first of all, that I have been aware of the Rochester Sprinkler Ordinance since 1968, and in 1968 our association, which publishes a news bulletin, published a news bulletin describing this ordinance and Rochester in its uniqueness -- the fact that it had all the transients and it has the high buildings and that it does not have a metropolitan area to draw on for mutual aid. We published this in our news bulletin in September of '68. We also published Chief

Mertz's Rochester Sprinkler Ordinance, and we were deluged with requests for information about this ordinance, and I am sure Chief Mertz, as he said, has been in contact with fire departments and municipalities around the United States.

What Chief Mertz has said, in essence, is if the individual building will build in fire protection, the City of Rochester will not have to go out and revamp the water mains right away. They won't have to hire 50 or 60 men immediately. Municipal budgets being what they are, they probably couldn't do it anyway.

So what they are really asking for is the people in Rochester who are building these buildings to pitch in and help with fire protection, and that's what the sprinkler system will do. It will help with the municipal fire protection and conserve water in the meantime.

Chief Mertz pointed out that he had a fire after Thanksgiving with two sprinkler heads operating, which is roughly 50 gallons of water per minute. If they had come in and used master strains, which probably would be two and a half inch hose lines on this fire, which he probably would have, that's 250 gallons of water per minute. So you can see the saving of water is quite apparent with the sprinkler system. That's what I have to say.

MR. PATES: The sprinklers in the shopping center -- they are already required under the State Board?

MR. McGURN: Oh, of course, but he was just pointing out an instance of how the sprinkler does act -- is what he was pointing out.

MR. MERTZ: There is one thing I would like to say, and that is that when they built the original Apache Mall, sprinklers were not required at 750,000 square feet. The Dayton's building was required by a new code, but they actually tried to build that building without putting sprinklers in it, and they asked for their building permit the week that our sprinkler ordinance went into effect -- the Saturday before they got their building permit. They got it actually the following Monday or they would have -- they were trying to avoid putting sprinklers into this building, and if that was the case, --.

There is one more thing I would like to point out. We had our sprinkler ordinance in '69 when they built Barloe's, which was a twenty-four or twenty-five thousand, type 4 non-combustible building, and they were required to put sprinklers in. Now, he's putting a 16,000 addition onto this building, and if we would not have had the foresight to have a sprinkler ordinance in 1969, when he built that building, he would not be able to, under the State Building Code, put any addition onto that building unless he sprinklered it or brought it up to a type 2 building, or put a four hour fire wall between the new construction and the old. So the

foresight of having a sprinkler system lets him do today what he could not have done without that foresight.

MR. MEYER: Thank you. Do you wish to testify?

MR. WERSAL: I'd like to testify.

MR. MEYER: Would you like to be sworn?

MR. WERSAL: My name is Mark Wersal, W-e-r-s-a-l.

(At which time Mr. Wersal was sworn in by Mr. Miles)

MR. WERSAL: I am with the Associated General Contractors of Minnesota, which is a trade association of construction firms and material suppliers and subcontractors. Our membership is in the neighborhood of 600 companies. It is the policy of the AGC to object to any modifications of the Code which would affect a single municipality. We feel that the Code was designed for uniformity, and we feel that lends itself to efficient construction. We would hate to see that lost. Along that same point, we feel that allowing any revisions which affect a single municipality will only encourage other cities to ask for revisions perhaps on weaker reasons than are presented here today.

On the point of the transient population of Rochester, I guess we feel that there are many other areas which likewise have a highly transient population, and I think you only have to go down to I-494, commonly known as the "strip",to see that there is a great number of hotels

and motels down there.

It has been pointed out that Rochester, if I can paraphrase, has inadequate water mains, and we fear that allowing this as a reason to amend the Code strictly for the City of Rochester would have the unfortunate impact of encouraging other cities to design what might be marginal water main systems, which would be inadequate for future use, feeling that they could come in sometime in the future and get revisions of the Code for problems they have in fact created.

Thank you.

MR. MEYER: Any questions of Mr. Wersal?

MR. MERTZ: If you paraphrased me, you paraphrased me wrong. I did not say our mains were inadequate. I said our mains were installed with the idea long before the State Building Code got into business. We laid our water mains out with the idea that these areas would be sprinkled, and they were put in accordingly. They were completely adequate under those conditions. They only become inadequate when we can't enforce our sprinkler provision. This is what we are asking for.

MR. WERSAL: Yes, but they are inadequate at the present time.

MR. MERTZ: No, no. I did not say that; you said that. You show me where I said our sprinkler mains were

inadequate.

MR. WERSAL: I believe the word is in the record, but I won't argue about it.

MR. MERTZ: It's not in the record.

MR. MEYER: Anybody else wish to testify?

MR. BERGER: My name is Wilt Berger. I am with a local architectural firm.

MR. MEYER: Would you be sworn?

MR. BERGER: I just have a question. I don't know whether --

MR. MEYER: Okay.

MR. BERGER: I was wondering if it's normal procedure to identify reasons for proposed Code changes when the Code changes are published and sent out. I have noticed on some of them that reasons justifying the proposed amendments were stated, and on this one, particularly, were not. I think it would be much better if the justification for the proposals was published at the same time that the proposed amendment goes out to the interested parties, because it's much easier to come prepared to the hearings if you have some knowledge of the reasons before hand.

MR. MILES: Well, Mr. Berger, I can tell you precisely the reason that that occurred in this particular instance. In some cases where the Building Code Division itself is proposing amendments, it is encumbent upon us to

provide reasons. That is what the Statement of Need document is all about - is indicating why we are going to hold a hearing, why we want to change the existing Code. When outside parties propose amendments -- which is, of course, the case in this situation, as well as in many others -- it is not required by law that the person requesting an amendment being considered in public hearing provide reasons. Now, generally what we do is provide them with a form which asks them to set forth as many reasons as they can. Again, this is a matter of convenience. We like to see it that way. I think there are two reasons why it probably wasn't done in the present case. First of all, because this has been heard on three previous occasions, and perhaps the opponent did not feel it necessary to repeat himself again. The second reason being, again, we are held to the obligation of holding public hearings when outside parties wish to present information or amendments. We are not responsible for those amendments. It is up to the outside party to present his information. Consequently, only in the situation where the State Building Code Division would be proposing a specific amendment would we be required by law to provide some sort of reasoning in our Statement of Need.

MR. BERGER: I would just like to make the statement that I am not in favor of the proposed amendment, and I will put together some supporting information and

submit it to the Building Code Division.

MR. MEYER: I would just like to point out for the information of the people that are here that because it had been heard that often and that the original submissions all had voluminous documents, we determined that we would not reprint them and reissue them before this hearing as such. We concur it's nice to have them, but they were available. Most everybody has had them in the past, and as I say, we had some 40 and 50 pages which we felt we wouldn't want to reproduce and send out to everybody again -- to 1,100 people.

Is there anybody else that wishes to testify? Yes, sir.

MR. AGVALD: My name is Ibb Agvald. I'm representing Borson Construction Company.

(At which time Mr. Agvald was sworn in by Mr. Miles)

MR. AGVALD: I wish to go on record that we support the statement that was given by Mr. Wersal that we are against adoption of the proposed amendment for reasons that Mr. Wersal outlined.

MR. MEYER: Thank you. Are there any other people who want to testify?

MR. GARGER: I am Lee Garber. I am with Fire Protection Technology.

(At which time Mr. Garber was sworn in by Mr. Miles)

MR. GARBER: Currently around the Twin Cities area I know that -- we specialize in fire protection design, and right now, even though we have the Uniform Building Code, there are many different requirements by the local municipalities that are in fact greater than the State Building Code provides. So the way I see it, is it -- I don't think the Uniform Building Code is in effect right now as far as local municipalities go around the Twin Cities area.

This amendment that we are considering right now is -- I guess it's no more different than Brooklyn Center passing an ordinance that says, "Well, we don't have any aerial equipment in Brooklyn Center, and we're not going to penalize the people of Brooklyn Center by buying new fire equipment. Therefore, any building that is over three stories in height, we're going to require to be sprinklered." I don't know if anything has been done about that by the State Building Code, but they passed that over a year ago -- a year and a half ago. What Rochester is doing is no different, I guess, than what Brooklyn Center has already done. Questions?

MR. MEYER: I guess I would like to ask you what that has to do with the proposed amendment in Rochester? Are you for or against it?

MR. GARBER: Am I for or against it? My only point is that there is already an ordinance that has been passed -- that we are not following the State Building Code. We are not following it right now. Rochester may be unique compared to the other cities, but I think the argument that you say -- that everyone has given -- that we have to have or enforce the Uniform Building Code, well, we're not doing that now, so I don't think the argument is valid.

MR. LAUKKA: Well, then are you stating that you're for this proposed amendment because it doesn't make any difference anyway?

MR. GARBER: Yes, I would say I am for the amendment, because it doesn't make any difference anyway. The Uniform Building Code isn't being followed right now.

MR. MEYER: Any other questions of Mr. Garber?

MR. BLOOM: I have some questions. Do you find that various jurisdictions do not follow the Building Code at the present time?

MR. GARBER: No. I find that they are probably more strict.

MR. BLOOM: Well, they are not carrying out the requirement of it; they are going further?

MR. GARBER: They are going further.

MR. BLOOM: Do you know why?

MR. GARBER: Do I know why? Yes.

MR. MEYER: Would you stand up and speak so we can get this in the record?

MR. GARBER: I guess I'd like --

MR. MEYER: Mr. Garber, would you wait just a minute. I want to caution both you and Mr. Bloom that you had better testify to this amendment and not as to any other cities. I don't want any discussion about that. I will tell you that now, because it's not pertinent to what is in this amendment.

MR. BLOOM: Well, isn't it pertinent --

MR. MEYER: No. Now, I'm not going to accept any of that amendment. Now, if you want to ask a specific question as to what it would or wouldn't do with reference to this hearing, that's fine, but we're not going to engage in a debate as to whether or not the Building Code is enforced uniformly. That's history, but that has nothing to do with the fact that the City of Rochester has followed the procedures in the law as to asking for its amendment. I am not going to permit any further testimony by either Mr. Bloom or Mr. Garber with reference to what other cities do or don't do, because that's an enforcement matter that will be handled. We'll take care of that, but we are not going to ask that that be submitted in testimony today. So we'll not accept that.

MR. BLOOM: Well, Mr. Meyer, is it possible that

they consider themselves unique?

MR. MEYER: That's not for me to say one way or another.

MR. BLOOM: Wouldn't that be pertinent to this? -- that Rochester thinks they're unique?

MR. MEYER: Well, there is nothing that we have in evidence that anybody else is unique in that they've asked for an amendment. Is there any other testimony that anybody wishes to present? If not, we'll ask Mr. Miles if he has a comment to make, and then I would like to finish with a statement, and we'll conclude the hearing.

MR. MILES: Mr. Meyer, I would like to advise everyone again that the record will remain open for 20 days following the conclusion of this hearing. That means that the first day of those 20 days starts tomorrow.

Also, I would like to advise you that any of the materials which are submitted with relation to the hearing itself -- any of the written documents, as well as the copy of the transcript -- are public records and are available for anyone to examine as they wish. So in the event that you can't recall precisely what was stated here this morning or you want to recheck anything so that you can submit further written data, please feel free to come to the Building Code Office and examine all the records of the hearing.

MR. MEYER: Thank you. Mr. Berger?

MR. BERGER: Will a transcript be available prior to the end of those 20 days?

MR. MEYER: It may or may not be.

MR. MILES: Mr. Berger, I doubt if the transcript will be prepared within 20 days. As soon as it is prepared, you may examine it. We would have to turn to our Court Reporter to answer that question. Since we have had a relatively short hearing this morning, prehaps it will be ready, and you may feel free to examine it. If you want copies of any of the documents or materials that are submitted, you may have them, provided, of course, that you pay the cost of reproducing same.

MR. MEYER: Any other questions?

I would like to thank everyone for attending the hearing and again, to remind you as Mr. Miles did that you have 20 days to submit written evidence in the testimony.

Thank you. We will conclude the hearing.

(Hearing concluded at 10:00 o'clock, a.m.)

203 Magnolia Street
Maxwell AFB AL 36113

Mr Dan Magraw
Department of Administration
State of Minnesota
St Paul, MN 55155

26 March 1975

Dear Mr Magraw

I am conducting some academic research in the area of Privacy. I read an article in "Computerworld" about the Minnesota privacy law and some of the problems encountered. To round out my research I would appreciate a copy of the Minnesota law and any other information you might furnish. I will give credit to the sources and no infringement of copyright material will be permitted.

Thank you.

Sincerely

Robert S. Hamilton

ROBERT S. HAMILTON

RECEIVED

MAR 3 1 1975

Dept. of Administration
Office of Commissioner

Robert S. Hamilton
203 Magnolia Street
Maxwell AFB AL 36113







Mr Dan Magraw
Department of Administration
State of Minnesota
St Paul MN 55155

MUNICIPALITIES: TOWNS: POWER TO ESTABLISH MILITIA: Town board possesses no authority to pass resolution establishing militia as official arm of local government.

Mr. James Wilson
Assistant County Attorney
Clearwater County
Bagley, Minnesota 56621

Dear Mr. Wilson:

In your letter to Attorney General Warren Spannaus you present substantially the following

FACTS

One of the townships in Clearwater County recently passed a resolution establishing a company of militia as an official arm of the township government. The resolution also included provisions for nomination of officers and petition to the United States Department of Defense for arms, ammunition and supplies.

You then ask substantially the following

QUESTION

Is a township legally empowered to establish and maintain a militia?

OPINION

Minn. Stat. § 624.61 (1974) provides:

ARMED ASSOCIATION. It shall not be lawful for any body of men, other than the national guard, troops of the United States and, with the consent of the governor, Sons of Veterans and cadets of educational institutions where military science is taught, to associate themselves together as a military company with arms, but members of social and benevolent organizations are not prohibited from wearing swords. Any violation of this section shall be a misdemeanor.

This statute is a direct prohibition of the activity about which you inquire. Similar statutes in other states have been upheld as proper exercises of the state's police power under the U. S. Constitution. Presser v. State of Illinois, 116 U.S. 252,

6 S. Ct. 580, 29 L. Ed. 615 (1886); Dunne v. People, 94 Ill. 120, 34 Am. R. 213 (1882); Application of Cassidy, 51 N.Y.S.2d 202, 268 App. Div. 282 (1944).

Moreover, the power to establish and regulate militia in this state rests solely with the Governor. Minn. Const., Art. V, §4; Art. XII, § 1; Minn. Stat. §§ 190.02, 190.06, Subd. 2 (1974).

Finally, it should be noted that the powers of townships in this state are limited by Minn. Stat. § 365.03 (1974), which provides:

> No town shall possess or exercise any corporate powers except such as are expressly given by law, or are necessary to the exercise of powers so given.

Minn. Stat. § 366.01 (1974), which is the express grant of powers to townships, does not grant authority for establishment of a militia.

The grant of powers necessary to exercise express powers in § 365.03, and similar provisions in other states, have been construed narrowly; since local governments are agencies of the state, only powers indispensable to their operation are deemed to have been granted by implication. See City of Trenton v. New Jersey, 262 U.S. 182, 186, 43 S. Ct. 534, 537, 67 L. Ed. 938, 941, (1923); Cover v. Town of Baytown, 12 Minn. 124, 12 Gil. 71 (1867); McQuillin, Municipal Corporations, § 10.09; Dillon Municipal Corporations (5th Ed.) § 237 (89).

Powers normally regarded as implied are those that municipal corporations held at common law, such as acquiring and disposing of land, entering into contracts and levying taxes. Establishing and maintaining a militia is clearly not such a power.

For the reasons stated above, we answer your question in the negative.

Very truly yours,

WARREN SPANNAUS
Attorney General

MICHAEL B. MILLER
Special Assistant
Attorney General