

1. 6:30 P.M. 07-19-18 - Agenda

Documents:

[07-19-2018 AGENDA.PDF](#)

2. Memorandum

Documents:

[MEMO FROM CORPORATION COUNSEL.PDF](#)

3. 6:30 P.M. Instructions

Documents:

[INSTRUCTIONS.PDF](#)

# CITY OF PORTLAND, MAINE

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## ZONING BOARD OF APPEALS

Eric Larsson, Chair  
Donna Katsiaficas, Secretary  
Kent Avery  
Robert Bartels  
Benjamin McCall  
Nicole Gray  
Joseph Zamboni

### APPEAL AGENDA

The Board of Appeals will hold a Public Hearing on Thursday, July 19, 2018, at 6:30 p.m. in Room 209 (Second Floor) at Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following appeals:

#### 1. Old Business:

A. **Interpretation Appeal:** 59 Somerset Street, FEDEQ DV004, LLC, owner, Tax Map 025, Block B, Lot 003; B-7 Business Zone: On June 21, 2018, the Board voted 5-0 to deny the Interpretation Appeal. The Board will vote on the Findings of Fact for this appeal.

#### 2. New Business:

A. **Interpretation Appeal:** 6 Houlton Street, Marcia J. Cleveland and Daniel W. Paul, owners, Tax Map 055, Block B, Lot 032; R-6 Residential Zone: The applicant is challenging a Notice of Violation dated April 17, 2018 that cited the property owner for the lack of one-hour fire doors under the Life Safety Code, NFPA 101 (2009) 31.2.2.1. Representing the appeal are the owners.

B. **Variance Appeal:** 231 York Street, 231 York LLC, owner, Tax Map 044, Block E, Lot 003, B-1 Neighborhood Business Zone: The applicant is seeking a variance to waive the off-street parking requirement of nine spaces for a proposed personal services (spa) business [Section 14-332(j)]. Representing the appeal is Mary Costigan, Esq., legal representative to the owner.

C. **Miscellaneous Appeal:** 231 York Street, 231 York LLC, owner, Tax Map 044, Block E, Lot 003, B-1 Neighborhood Business Zone: The applicant is seeking approval for nine remote parking spaces to be used for a personal services (spa) business in the existing building [Section 14-334]. Representing the appeal is Mary Costigan, Esq., legal representative to the owner.

#### 3. Adjournment

## MEMORANDUM

**TO:** City of Portland Zoning Board of Appeals  
**FROM:** Anne M. Torregrossa, Associate Corporation Counsel  
**DATE:** July 17, 2018  
**RE:** Appeal regarding 6 Houlton Street

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### BACKGROUND

The Fire Department has conducted fire and life safety inspections of apartment buildings and commercial spaces in the City for decades. In response to the death of six individuals in the tragic Noyes Street fire in 2014, the City of Portland convened a task force that recommended the creation of a Housing Safety Office (“HSO”). The HSO was created in 2016 and, since that time, has been jointly responsible with the Fire Department for the inspection of residential rental units in the City of Portland.

The property at issue in this appeal – 6 Houlton Street – is a three-unit residential property. Appellants purchased the property in 2016 for \$560,000 and rent out two of the units on a long-term basis. The third unit is owner-occupied for most of the year, although appellants also rent their unit out on a short-term basis.

In accordance with the City’s rental housing inspection program, Housing Safety Officer Kevin Hanscombe inspected the property on February 16, 2018. During that inspection he found, among other violations, that the doors leading from the apartments into the exit were not one-hour fire-rated doors, as required by both State and City requirements. Kevin subsequently issued a notice of violation ordering that appellants install the required fire doors. A copy of that NOV is attached as Exhibit A. Appellants have filed this appeal, as well as two separate 80B appeals in Superior Court, which are currently pending.

### ARGUMENT

#### **I. The Appellants’ Appeal is Late.**

As an initial matter, this Board does not even have to reach the merits of the present appeal – in fact, it is prohibited from reaching the merits of this appeal – because the appeal was untimely filed. Under Maine law, an appeal must be dismissed where an appeal is taken too late because the ZBA is “without legal authority to entertain the appeal.” *Keating v. Zoning Board of Appeals*, 325 A.2d 521, 525 (Me. 1974).

The timing for appeals to this Board is established by City ordinance. Section 14-472(b)(1) of the City Code provides the right of appeal in this case. That section states that:

An appeal may be taken to the board of appeals by any person affected by a decision of the building authority. Such appeal shall be taken within thirty (30) days of the action complained of by filing with the building authority a notice of appeal

specifying the grounds thereof. A payment of a nonrefundable filing fee, as established from time to time by the city council to cover administrative costs and costs of hearing, shall accompany notice of appeal.

City of Portland Code of Ordinances § 14-472(b)(1). Copies of the relevant City Code provisions are attached as Exhibit B.

The Notice of Violation being appealed from was issued on April 17, 2018, was mailed on April 19, 2018, and was actually received by appellants on April 23, 2018. A copy of the certified mail tracking information is attached as Exhibit C. Giving appellants every benefit of the doubt and calculating the appeal deadline from the date of receipt, this appeal was required to be filed by May 23, 2018 at the latest.

Despite that deadline, appellants' appeal is dated May 31, 2018 and was not filed with the City until June 1, 2018. However, the appeal was still not completed as of that date because no "payment of a nonrefundable filing fee . . . accompan[ied the] notice of appeal." Despite a phone call and two emails from the City about the oversight, appellants did not submit payment until June 11, 2018 – nineteen days after the appeal deadline.

Because the appeal in this matter was submitted beyond the deadline set forth in the City's ordinances, this Board lacks jurisdiction to hear the appeal and it must be dismissed. *See Keating*, 325 A.2d at 525.

## **II. The City has properly incorporated NFPA 101, *Life Safety Code* (2009) into its ordinances.**

Appellants first argue that the City has improperly delegated its legislative authority by incorporating the 2018 version of NFPA 101, *Life Safety Code* ("NFPA 101") into City ordinances. Appellants claim that, because the 2018 revision was "not in existence" as of the time the City adopted the relevant code provisions, that any reliance on the 2018 revision is improper. However, the City has not adopted the 2018 version of NFPA 101, and has not relied on that version in requiring appellants to make the required life safety improvements to their building. Instead, the City has consistently relied on the has properly adopted 2009 version of NFPA 101.<sup>1</sup>

Municipalities are specifically allowed by state law to incorporate model codes by reference. 30-A M.R.S. § 3003. Chapter 10 of the City Code does just that – it incorporates the 2009 revision of NFPA 101 by providing:

There is hereby adopted for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, a code known as the National Fire Protection Association (NFPA) 101: Life Safety Code (hereinafter referred to as the "Life Safety Code") recommended by the National Fire Protection

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<sup>1</sup> Tellingly, the relevant provisions in both the 2009 and the 2018 codes are identical, and both would require the installation of one-hour fire-rated doors.

Association, being particularly the 2009 edition thereof and the whole thereof, except for such portions as are deleted, modified or amended . . .

City Code § 10-1 (included in Exhibit B). The building authority is given authority to enforce Chapter 10 in the Housing Code pursuant to § 6-116, which provides that, “No person shall occupy as owner-occupant or shall allow another to occupy any dwelling, dwelling unit, rooming house, or rooming unit which does not comply with Chapter 10 of this code.” City Code § 6-116. This is the section that Housing Safety Officer Kevin Hanscombe relied upon in requiring appellants to install the fire doors.

Appellants attempt to muddy this crystal clear water by selectively taking a portion of the ordinance section – § 6-116(e) – out of context. The ordinance in context reads:

**Sec. 6-116. Minimum standards for safety.**

No person shall occupy as owner-occupant or shall allow another to occupy any dwelling, dwelling unit, rooming house, or rooming unit which does not comply with Chapter 10 of this code, *including but not limited to* the following minimum standards for safety from fire.

...

(e) Every dwelling, dwelling unit, rooming house and rooming unit shall comply with the applicable provisions of the most current edition of the National Fire Protection Association Life Safety Code, and with all other applicable state statutes and regulations.

City Code § 6-116 (emphasis added) (included in Exhibit B). Appellants claim that the language “the most current edition of the National Fire Protection Association Life Safety Code” refers to the adoption of the 2018 version of NFPA 101. However, read in context, it is clear that § 6-116(e) is merely one example of provisions already in Chapter 10. Chapter 10 properly adopted the 2009 version of NFPA 101. Read fairly, the language of § 6-116(e) merely provides an example of the type of violations of Chapter 10 that are prohibited, including violations of the current edition of NFPA 101 *adopted by Chapter 10*.

Read in context, § 6-116(e) does not impermissibly delegate the City’s legislative authority, and appellants – and everyone else in the City – are required to abide by the 2009 version of NFPA 101.<sup>2</sup>

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<sup>2</sup> Even if the City ordinance was invalid, appellants would still have to install the necessary fire-rated doors. Pursuant to 25 M.R.S. § 2452, the Commissioner of Public Safety is authorized to adopt “rules governing the safety to life from fire in or around all buildings or other structures.” In rule-making, the State Fire Marshal has adopted the 2009 edition of NFPA 101. 16- 219 C.M.R. ch. 20, § 1. The City is authorized to enforce those adopted rules – completely independent of its own ordinances – pursuant to 25 M.R.S. § 2361(1-A).

**III. The property at issue is required to have 60-minute fire-rated doors installed.**

Appellants next make a convoluted – and incorrect – argument as to why NFPA 101 does not require them to install 60-minute fire-rated doors in their three-unit apartment building. To understand why appellants are incorrect, it makes sense to first understand the regulatory structure that requires rated fire doors in the property in question.

NFPA 101 is broken into chapters, with each chapter addressing the requirements for a particular type of use. Chapter 31 addresses apartment buildings, which appellants agree applies to their property. From there, NFPA 101 requires the reader to navigate several twists and turns to get to the required 1-hour fire door rating:

- Section 31.2.1.1 of NFPA 101 provides that, “Means of egress from dwelling units to the outside of the building shall be in accordance with Chapter 7 . . .”
- Turning to Chapter 7, § 7.1.3.2 explains that “Where this *Code* requires an exit to be separated from other parts of the building,<sup>3</sup> . . . the separating construction shall meet the requirements of Section 8.2.”
- Within Section 8.2, 8.2.2 requires that fire barriers must comply with Section 8.3.
- Section 8.3.4.2 finally provides the following table:

Component	Walls and Partitions (hr)	Fire Door Assemblies (hr)	Fire Window Assemblies (hr)
. . .			
Vertical shafts (including stairways, exits, and refuse chutes)	2	1 ½	NP
	1	1	NP
	1/2	1/3	NP

The walls and partitions of an exit in an apartment building must be one-hour rated (see footnote 3). Therefore, the chart explains that the fire door assemblies must also be one-hour rated. Copies of the relevant provisions of NFPA 101 are included in Exhibit B. The City has been enforcing this particular requirement for more than fifteen years, and has also confirmed its interpretation with NFPA. A copy of the City’s inquiry and NFPA’s confirmation is attached as Exhibit D.

Appellants try to get around the requirements of NFPA 101 by pointing to § 7.1.3.1. However, this provision does not apply to the doors at issue here. That section provides:

<sup>3</sup> Section 31.2.2.7 provides the required separation in this case. That section provides, “Exit passageways complying with 7.2.6 shall be permitted.” Section 7.2.6.2 provides that “An exit passageway shall be separated from other parts of the building as specified in 7.1.3.2. . .” Section 7.1.3.2 provides that “The separation shall have a minimum 1-hour fire resistance rating where the exit connects three or fewer stories.”

**7.1.3.1 Exit Access Corridors.** Corridors used as *exit access* and serving an area having an *occupant load exceeding 30* shall be separated from other parts of the building by walls having not less than a 1-hour fire resistance rating in accordance with Section 8.3, unless otherwise permitted by the following:

- (1) This requirement shall not apply to existing buildings, provided that the occupancy classification does not change.
- (2) This requirement shall not apply where otherwise provided in Chapters 11 through 43.

NFPA 101 (2009) § 7.1.3.1 (emphasis added). On its face, the cited exception applies only to corridors used as an *exit access* (not an exit), and to buildings with an *occupant load exceeding 30*. The doors in question lead to an exit, and the building does not have an occupant load exceeding 30. Staff will further explain the distinction between an exit access and an exit, but the definitions contained in § 3.3.75 and § 3.3.76 are included in Exhibit B.

#### **IV. The City ordinance does not constitute an unconstitutional taking.**

Although not fully raised in their appeal, appellants insinuate that the retroactive requirement to install fire doors is an unconstitutional taking. A state or federal takings claim requires the appellant to show “that the governmental action has ‘rendered the property substantially useless and stripped of all practical value.’” *MC Assocs. v. Town of Cape Elizabeth*, 773 A.2d 439, 443 (Me. 2001), quoting *Wyer v. Bd. of Env'tl. Prot.*, 2000 ME 45, p1, 747 A.2d 192. This analysis requires the deciding body to “determine the value of the property at the time of the governmental restriction and compare that with its value afterwards, to determine whether the diminution, if any, is so substantial as to strip the property of all practical value.” *Id.*

Although appellants offer no evidence in support of their takings claim, in other proceedings they have alleged that the work to install the necessary fire doors would cost them \$7,000. Although they have not detailed the value of their property, a transfer tax form filed in 2016 when they purchased the property reveals the sales price to be \$560,000. Based on these figures, appellants have failed to even come close to describing a deprivation that would amount to a constitutional taking as they allege. The property certainly has not been “stripped of all practical value,” as required to make out a constitutional takings claim.

Further, courts from across the country have long recognized that regulations for safety purposes may be made retroactive, and require the outlay of money, without infringing on a constitutional right. As the Washington Courts have so eloquently put it, “There is such thing as an inherent or vested right to imperil the health or impair the safety of the community.” *Seattle v. Hinckley*, 82 P. 747, 748 (Wash. 1905); see also *Usuery v. Turner Elkhorn Mining Co.*, 428 U.S. 1, 16 (1976) (“legislation readjusting rights and burdens is not unlawful solely because it upsets otherwise settled expectations”); *City of Chicago v. Washingtonian Home of Chicago*, 124 N.E. 416, (Ill. 1919) (upholding retroactive requirement to install fire sprinklers); *Adamec v. Post*, 7

N.E. 2d 120 (N.Y. 1937) (retroactive requirements for health and safety of apartments was constitutional).

The City's retroactive requirement to make important safety upgrades to residential housing is not unconstitutional.

### **CONCLUSION**

As an initial matter, this appeal should be dismissed because it is untimely. However, even reaching the merits of the appeal, appellants arguments all fall short. For these reasons, the appeal should be denied.



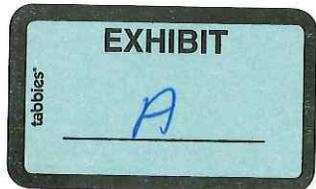
**City of Portland  
Permitting and Inspections Department  
Inspection Violations**

Case Number: Case Module: Permit Management  
 Inspection Date: 02/16/2018 Inspection Status: Re-inspection required  
 Inspector: Kevin Hanscombe Inspection Type: Housing Inspection  
 Job Address: 6 Houlton St Parcel Number:  
 Portland, ME 04102

Contact Type	Company Name	Name
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Checklist Item	Passed	Comments
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Code Name	Comments	Deadline
NFPA 101-31.3.2		05/18/2018
Boiler and fuel-fired heaters serving more than one dwelling unit must have 1-hour separation or sprinkler protection.		
NFPA 101-31.2.2.1		11/16/2018
1-hour fire rated doors and assemblies required, including self-closing and self-latching mechanisms.		
NFPA 70		05/18/2018
Refer to NFPA 70, National Electrical Code, for information on missing breakers in an electrical panel.		
NFPA 101-31.3.4.5; City Code 10-3(I)	1st floor owners unit missing smoke alarm. Owner can install hard wired photo electric combination Smoke and Carbon Alarms to additionally meet CO requirement.	05/18/2018
Photoelectric, hardwired with battery backup smoke alarms must be provided in every sleeping room, outside every sleeping area, and on every level, including the basement.		



(Code 1968, § 307.9; Ord. No. 475-86, § 7, 4-7-86; Ord. No. 156-88, 9-19-88)

**Sec. 6-115. Lead-based paint hazard.**

(a) This provision is intended to supplement the Lead Poisoning Control Act (22 M.R.S.A. Sections 1314 et seq.) and the regulations adopted pursuant thereto including, but not limited to, the Rules for Environmental Lead Inspections and the Rules for Abatement of Environmental Lead Hazards.

(b) When either the city's health authority, as defined in section 2-17(h), or the city's director of permitting and inspections, as defined in section 2-17(h)(10) of this Code as amended, determines that an environmental lead hazard exists in any dwelling or premises (as those terms are defined in Section 216.03-7 and Section 216.03-31 of the Rules for Abatement of Environmental Lead Hazards), he or she shall issue an order in writing to the owner (as defined in Section 216.03-28 of the Rules for Abatement of Environmental Lead Hazards), describing the environmental lead hazards and establishing a time within which such hazards shall be abated.

(Code 1968, § 307.9A; Ord. No. 490-74, § 2, 8-5-74; Ord. No. 475-86, § 8, 4-7-86; Ord. No. 159-95, 1-4-95; Ord. No. 165-15/16, 3-7-2016)

**Sec. 6-116. Minimum standards for safety.**

No person shall occupy as owner-occupant or shall allow another to occupy any dwelling, dwelling unit, rooming house, or rooming unit which does not comply with Chapter 10 of this code, including but not limited to the following minimum standards for safety from fire.

- (a) No dwelling unit or rooming unit shall be located within a building containing any establishment handling, dispensing, storing or producing flammable liquids, toxic gas vapors or fibrous materials, such as asbestos, which may endanger the lives or safety of the occupants.
- (b) Every dwelling unit and every rooming unit shall have safe, unobstructed means of egress leading to safe and open spaces at ground level in accordance with applicable statutes, regulations and ordinances.
- (c) Every hallway, stairway, corridor, exit, fire escape door or other means of egress shall be kept clear of obstructions at all times.



- (d) Storage rooms and storage lockers shall not be used for storage of refuse, rubbish or waste.
- (e) Every dwelling, dwelling unit, rooming house and rooming unit shall comply with the applicable provisions of the most current edition of the National Fire Protection Association Life Safety Code, and with all other applicable state statutes and regulations.
- (f) When the health or building authority or his or her designee determines that a dwelling contains friable asbestos material in an amount and/or location which presents an unacceptable health hazard to the occupants and/or the general public, the owner of the dwelling, upon notification from the health or building authority or a housing safety official designated by the city manager, shall remove that material or encapsulate it. Removal or encapsulation shall be conducted in accordance with all applicable federal, state and local laws and regulations.

(Code 1968, § 307.10; Ord. No. 475-86, § 9, 4-7-86; Ord. No. 188-00, §5, 4-24-00; Ord. 298-14/15, 7-6-2015; Ord. 18-17/18, 8-21-2017)

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\*Editor's Note—Pursuant to Council Order 165-10/11 passed on 4-4-11, Sections 6-116.1 thru 6-116.3 were repealed in their entirety.  
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#### **Sec. 6-117. Inspections.**

The health or building authority or his or her designee, upon showing, proper identification, shall have the right to enter at any and all reasonable times into or upon any dwelling or dwelling premises within the city for the purpose of inspecting the dwelling or dwelling premises in order to determine compliance with the provisions of this article and for the purpose of examining and inspecting any work performed under the provisions of this article, and it shall be a violation of this article for any person to interfere with or prevent such inspection.

(Code 1968, § 307.11; Ord. No. 475-86, § 10, 4-7-86; Ord. 298-14/15, 7-6-2015; Ord. 18-17/18, 8-21-2017)

#### **Sec. 6-118. Notices.**

When any violation is found to exist within the meaning of this article, the health or building authority or his or her designee shall give the owner, operator or occupant, or both a

## Chapter 10 FIRE PREVENTION AND PROTECTION\*

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\*Cross reference(s)--Civil emergency preparedness, § 2-401 et seq.; buildings and building regulations, Ch. 6; electrical regulations for fire alarms, § 6-41; fireworks in cemeteries, § 7-138; fire protection in day-care facilities, § 8-41; selling toy balloons with flammable gases prohibited, § 17-31; following fire apparatus, § 28-99; crossing fire hose, § 28-100.

State law reference(s)--Fire prevention and fire protection, 25 M.R.S.A. § 2351 et seq.; municipal fire protection, 30-A M.R.S.A. § 3151 et seq.  
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- Art. I. NFPA 101: Life Safety Code, §§ 10-1--10-15
- Art. II. NFPA 1: Fire Code, §§ 10-16--10-21
- Art. III. Enforcement and Appeals, §§ 10-22--10-25
- Art. IV. Hydrants, §§ 10-26--10-36
- Art. V. Reserved, §§ 10-37--10-65
- Art. VI. Fire Suppression Systems, §§ 10-66 - 10-90
- Art. VII. Open Burning, §§ 10-91 - 10-99
- Art. VIII. Signaling Systems for the Protection of Life and Property  
§§ 10-100 - 10-107

### ARTICLE I. LIFE SAFETY CODE

#### **Sec. 10-1. Adoption of National Fire Protection Association 101: Life Safety Code.**

There is hereby adopted for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, a code known as the National Fire Protection Association (NFPA) 101: Life Safety Code (hereinafter referred to as the "Life Safety Code") recommended by the National Fire Protection Association, being particularly the 2009 edition thereof and the whole thereof, except for such portions as are deleted, modified or amended by section 10-3, of which code not less than one (1) copy has been and now is filed in the office of the city clerk and the same is hereby adopted and incorporated as fully as if set out at length herein, and shall be controlling within the limits of the city.

(Ord. No. 188-00, § 6, 4-24-00; Ord. No. 214-01/02, § 1; Ord. No. 25-10/11, 8-16-

**Sec. 14-466. - Sec. 14-470. Reserved.**

DIVISION 28. JURISDICTION OF BOARD OF APPEALS\*

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\*Cross reference(s)—Administration, Ch. 2; boards generally, § 2-31 et seq.; board of appeals, § 14-541 et seq.  
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**Sec. 14-471. Jurisdiction and authority.**

The board of appeals shall have the following jurisdiction and authority:

- (a) Subject to the provisions of section 14-472, to hear and decide appeals from, and review orders, decisions, determinations or interpretations made by the building authority;
  - (b) Subject to the provisions of section 14-473, to hear and grant or deny applications for variances from the terms of this article;
  - (c) Subject to the provisions of section 14-474, to hear and grant or deny applications for conditional uses, as specified in this article;
  - (d) To initiate changes and amendments to this article.
- (Code 1968, § 602.24.A; Ord. No. 437-74, 7-1-74; Ord. No. 354-85, § 5, 1-7-85)

**Sec. 14-472. Appeals.**

(a) *Authority.* The board of appeals shall hear and decide appeals from and review orders, decisions, determinations or interpretations or the failure to act of the building authority.

(b) *Procedure:*

1. *Notice of appeal.* An appeal may be taken to the board of appeals by any person affected by a decision of the building authority. Such appeal shall be taken within thirty (30) days of the action complained of by filing with the building authority a notice of appeal specifying the grounds thereof. A payment of a nonrefundable filing fee, as established from time to time by the city council to cover administrative costs and costs of hearing, shall accompany notice of appeal. The building authority shall

forthwith transmit to the board of appeals all of the papers constituting the record upon which the action appealed from was taken.

2. *Public hearing.* A public hearing shall be set, advertised and conducted by the board of appeals in accordance with article VI of this chapter.
3. *Action by the board of appeals.* Within thirty (30) days following the close of the public hearing, the board of appeals shall render a decision on the appeal in the manner and form specified in article VI of this chapter. The failure of the board to act within thirty (30) days shall be deemed an approval of the appeal unless mutually extended in writing by the appellant and the board. Within five (5) days of such decision or failure to act notice thereof shall be mailed by the secretary to each party.
4. *Right to grant variance in deciding appeals.* In any case where the notice is accompanied by an application for variance in accordance with section 14-473(b)(1), the board of appeals shall have the authority to grant, as part of the relief, a variance, but only in strict compliance with each provision of section 14-473 hereof.
5. *Conditions and limitations on rights granted by appeal.* Any right granted by the board of appeals on appeal shall be subject to the same conditions and limitations as if secured without the necessity of an appeal.

(Code 1968, § 602.24.B; Ord. No. 437-74, 7-1-74)

#### **Sec. 14-473. Variances.**

(a) *Authority.* Except as otherwise expressly provided in subsection (c)(3) and (c)(4), the board of appeals may authorize variances from the provisions of this article as meet the requirements of this division including but not limited to use variance, dwelling unit conversion, space and bulk such as lot size, density and side yard, parking, loading and signs.

(b) *Procedure:*

1. *Application.* Application for a variance shall be submitted to the building authority. A payment of a nonrefundable application fee, as established from time to time by the city council to cover administrative costs

**3.3.71 Exhibit.** A space or portable structure used for the display of products or services.

**3.3.72 Exhibitor.** An individual or entity engaged in the display of the products or services offered.

**3.3.73\* Existing.** That which is already in existence on the date this edition of the *Code* goes into effect.

**3.3.73.1 Approved Existing.** That which is already in existence on the date this edition of the *Code* goes into effect and is acceptable to the authority having jurisdiction.

**3.3.74 Existing Building.** See 3.3.32.5.

**3.3.75\* Exit.** That portion of a means of egress that is separated from all other spaces of a building or structure by construction or equipment as required to provide a protected way of travel to the exit discharge.

**3.3.75.1\* Horizontal Exit.** A way of passage from one building to an area of refuge in another building on approximately the same level, or a way of passage through or around a fire barrier to an area of refuge on approximately the same level in the same building that affords safety from fire and smoke originating from the area of incidence and areas communicating therewith.

**3.3.76 Exit Access.** That portion of a means of egress that leads to an exit.

**3.3.77 Exit Discharge.** That portion of a means of egress between the termination of an exit and a public way.

**3.3.77.1\* Level of Exit Discharge.** The story that is either (1) the lowest story from which not less than 50 percent of the required number of exits and not less than 50 percent of the required egress capacity from such a story discharge directly outside at the finished ground level; or (2) where no story meets the conditions of item (1), the story that is provided with one or more exits that discharge directly to the outside to the finished ground level via the smallest elevation change.

**3.3.78 Exposition.** An event in which the display of products or services is organized to bring together the provider and user of the products or services.

**3.3.79 Exposition Facility.** See 3.3.82.1.

**3.3.80\* Exposure Fire.** A fire that starts at a location that is remote from the area being protected and grows to expose that which is being protected.

**3.3.81 Externally Illuminated.** See 3.3.135.1.

**3.3.82 Facility.**

**3.3.82.1 Exposition Facility.** A convention center, hotel, or other building at which exposition events are held.

**3.3.82.2\* Limited Care Facility.** A building or portion of a building used on a 24-hour basis for the housing of four or more persons who are incapable of self-preservation because of age; physical limitations due to accident or illness; or limitations such as mental retardation/developmental disability, mental illness, or chemical dependency.

**3.3.83 Festival Seating.** See 3.3.221.1.

**3.3.84 Finish.**

**3.3.84.1 Interior Ceiling Finish.** The interior finish of ceilings.

**3.3.84.2\* Interior Finish.** The exposed surfaces of walls, ceilings, and floors within buildings.

**3.3.84.3\* Interior Floor Finish.** The interior finish of floors, ramps, stair treads and risers, and other walking surfaces.

**3.3.84.4 Interior Wall Finish.** The interior finish of columns, fixed or movable walls, and fixed or movable partitions.

**3.3.85 Finished Ground Level (Grade).** The level of the finished ground (earth or other surface on ground). (See also 3.3.115, *Grade Plane*.)

**3.3.86 Fire Barrier.** See 3.3.27.1.

**3.3.87 Fire Barrier Wall.** See 3.3.268.1.

**3.3.88 Fire Compartment.** See 3.3.43.1.

**3.3.89 Fire Door.** See 3.3.57.2.

**3.3.90 Fire Door Assembly.** See 3.3.21.1.1.

**3.3.91 Fire Exit Hardware.** See 3.3.124.1.

**3.3.92\* Fire Model.** A structured approach to predicting one or more effects of a fire.

**3.3.93 Fire Protection Rating.** See 3.3.206.1.

**3.3.94 Fire Resistance Rating.** See 3.3.206.2.

**3.3.95 Fire Safety Functions.** Building and fire control functions that are intended to increase the level of life safety for occupants or to control the spread of the harmful effects of fire. [72, 2007]

**3.3.96\* Fire Scenario.** A set of conditions that defines the development of fire, the spread of combustion products throughout a building or portion of a building, the reactions of people to fire, and the effects of combustion products.

**3.3.96.1 Design Fire Scenario.** A fire scenario selected for evaluation of a proposed design. [914, 2007]

**3.3.97 Fire Watch.** The assignment of a person or persons to an area for the express purpose of notifying the fire department, the building occupants, or both of an emergency; preventing a fire from occurring; extinguishing small fires; or protecting the public from fire or life safety dangers. [1, 2009]

**3.3.98 Fire Window Assembly.** See 3.3.21.2.

**3.3.99 Fire-Retardant-Treated Wood.** A wood product impregnated with chemical by a pressure process or other means during manufacture, which is tested in accordance with NFPA 255, has a listed flame spread of 25 or less, and shows no evidence of significant progressive combustion when the test is continued for an additional 20-minute period; nor does the flame front progress more than 10.5 ft (3.2 m) beyond the centerline of the burners at any time during the test.

**3.3.100 First Story Above Grade Plane.** See 3.3.115.1.

**3.3.101 Fixed Seating.** See 3.3.221.2.

**3.3.102\* Flame Spread.** The propagation of flame over a surface.

**3.3.103 Flame Spread Index.** See 3.3.138.1.

**3.3.104 Flashover.** A transition phase in the development of a compartment fire in which surfaces exposed to thermal radiation reach ignition temperature more or less simultaneously and fire spreads rapidly throughout the space, resulting in full

Table 6.1.14.4.1(a) Required Separation of Occupancies (hours),<sup>†</sup> Part 1

Occupancy	Assembly ≤300	Assembly >300 to ≤1000	Assembly >1000	Educational	Day-Care >12 Clients	Day-Care Homes	Health Care	Ambulatory Health Care	Detention & Correctional	One- & Two-Family Dwellings	Lodging or Rooming Houses	Hotels & Dormitories
Assembly ≤ 300	—	0	0	2	2	1	2 <sup>‡</sup>	2	2 <sup>‡</sup>	2	2	2
Assembly >300 to ≤1000	—	0	2	2	2	2	2 <sup>‡</sup>	2	2 <sup>‡</sup>	2	2	2
Assembly >1000	—	—	2	2	2	2	2 <sup>‡</sup>	2	2 <sup>‡</sup>	2	2	2
Educational	—	—	—	—	2	2	2 <sup>‡</sup>	2	2 <sup>‡</sup>	2	2	2
Day-Care >12 Clients	—	—	—	—	—	1	2 <sup>‡</sup>	2	2 <sup>‡</sup>	2	2	2
Day-Care Homes	—	—	—	—	—	—	2 <sup>‡</sup>	2	2 <sup>‡</sup>	2	2	2
Health Care	—	—	—	—	—	—	—	2 <sup>‡</sup>	2 <sup>‡</sup>	2 <sup>‡</sup>	2 <sup>‡</sup>	2 <sup>‡</sup>
Ambulatory Health Care	—	—	—	—	—	—	—	—	2 <sup>‡</sup>	2	2	2
Detention & Correctional	—	—	—	—	—	—	—	—	—	2 <sup>‡</sup>	2 <sup>‡</sup>	2 <sup>‡</sup>
One- & Two-Family Dwellings	—	—	—	—	—	—	—	—	—	—	1	1
Lodging or Rooming Houses	—	—	—	—	—	—	—	—	—	—	—	1
Hotels & Dormitories	—	—	—	—	—	—	—	—	—	—	—	—

<sup>†</sup>Minimum Fire Resistance Rating. The fire resistance rating is permitted to be reduced by 1 hour, but in no case to less than 1 hour, where the building is protected throughout by an approved automatic sprinkler system in accordance with 9.7.1.1(1) and supervised in accordance with 9.7.2.

<sup>‡</sup>The 1-hour reduction due to the presence of sprinklers in accordance with the single-dagger footnote is not permitted.

**7.1.3.1 Exit Access Corridors.** Corridors used as exit access and serving an area having an occupant load exceeding 30 shall be separated from other parts of the building by walls having not less than a 1-hour fire resistance rating in accordance with Section 8.3, unless otherwise permitted by the following:

- (1) This requirement shall not apply to existing buildings, provided that the occupancy classification does not change.
- (2) This requirement shall not apply where otherwise provided in Chapters 11 through 43.

#### 7.1.3.2 Exits.

**7.1.3.2.1** Where this Code requires an exit to be separated from other parts of the building, the separating construction shall meet the requirements of Section 8.2 and the following:

- (1)\*The separation shall have a minimum 1-hour fire resistance rating where the exit connects three or fewer stories.
- (2)\*The separation shall have a minimum 2-hour fire resistance rating where the exit connects four or more stories, unless one of the following conditions exists:
  - (a) In existing non-high-rise buildings, existing exit stair enclosures shall have a minimum 1-hour fire resistance rating.
  - (b) In existing buildings protected throughout by an approved, supervised automatic sprinkler system in accordance with Section 9.7, existing exit stair enclosures shall have a minimum 1-hour fire resistance rating.
  - (c) The minimum 1-hour enclosures in accordance with 28.2.2.1.2, 29.2.2.1.2, 30.2.2.1.2, and 31.2.2.1.2 shall be permitted as an alternative to the requirement of 7.1.3.2.1(2).
- (3) Reserved.
- (4) The minimum 2-hour fire resistance-rated separation required by 7.1.3.2.1(2) shall be constructed of an assembly

of noncombustible or limited-combustible materials and shall be supported by construction having a minimum 2-hour fire resistance rating, unless otherwise permitted by 7.1.3.2.1(6).

- (5)\*Structural elements, or portions thereof, that support exit components and either penetrate into a fire resistance-rated assembly or are installed within a fire resistance-rated wall assembly shall be protected, as a minimum to the fire resistance rating required by 7.1.3.2.1(1) or (2).
- (6) In Type III, Type IV, and Type V construction, as defined in NFPA 220, *Standard on Types of Building Construction* (see 8.2.1.2), fire-retardant-treated wood enclosed in noncombustible or limited-combustible materials shall be permitted.
- (7) Openings in the separation shall be protected by fire door assemblies equipped with door closers complying with 7.2.1.8.
- (8)\*Openings in exit enclosures shall be limited to door assemblies from normally occupied spaces and corridors and door assemblies for egress from the enclosure, unless one of the following conditions exists:
  - (a) Openings in exit passageways in mall buildings as provided in Chapters 36 and 37 shall be permitted.
  - (b) In buildings of Type I or Type II construction, as defined in NFPA 220, *Standard on Types of Building Construction* (see 8.2.1.2), existing fire protection-rated door assemblies to interstitial spaces shall be permitted, provided that such spaces meet all of the following criteria:
    - i. The space is used solely for distribution of pipes, ducts, and conduits.
    - ii. The space contains no storage.
    - iii. The space is separated from the exit enclosure in accordance with Section 8.3.

automatic sprinkler system shall be installed in accordance with the subparts of 9.7.1.1, as permitted by the applicable occupancy chapter.

## 8.2 Construction and Compartmentation.

### 8.2.1 Construction.

**8.2.1.1** Buildings or structures occupied or used in accordance with the individual occupancy chapters, Chapters 11 through 43 shall meet the minimum construction requirements of those chapters.

**8.2.1.2\*** NFPA 220, *Standard on Types of Building Construction*, shall be used to determine the requirements for the construction classification.

**8.2.1.3** Where the building or facility includes additions or connected structures of different construction types, the rating and classification of the structure shall be based on one of the following:

- (1) Separate buildings, if a 2-hour or greater vertically aligned fire barrier wall in accordance with NFPA 221, *Standard for High Challenge Fire Walls, Fire Walls, and Fire Barrier Walls*, exists between the portions of the building
- (2) Separate buildings, if provided with previously approved separations
- (3) Least fire-resistive construction type of the connected portions, if separation as specified in 8.2.1.3(1) or (2) is not provided

### 8.2.2 General.

**8.2.2.1** Where required by other chapters of this *Code*, every building shall be divided into compartments to limit the spread of fire and restrict the movement of smoke.

**8.2.2.2** Fire compartments shall be formed with fire barriers that comply with Section 8.3.

**8.2.2.3\*** Fire compartments shall be formed by fire barriers complying with one of the following:

- (1) The fire barriers are continuous from outside wall to outside wall or from one fire barrier to another, or a combination thereof, including continuity through all concealed spaces, such as those found above a ceiling, including interstitial spaces.
- (2) The fire barriers are continuous from outside wall to outside wall or from one fire barrier to another, or from the floor to the bottom of the interstitial space, provided that the construction assembly forming the bottom of the interstitial space has a fire resistance rating not less than that of the fire barrier.

**8.2.2.4** Walls used as fire barriers shall comply with Chapter 7 of NFPA 221, *Standard for High Challenge Fire Walls, Fire Walls, and Fire Barrier Walls*. The NFPA 221 limitation on percentage width of openings shall not apply.

**8.2.2.5** Where door assemblies are required elsewhere in this *Code* to be smoke leakage-rated in accordance with 8.2.2.5, door assemblies shall comply with the following:

- (1) They shall be tested in accordance with ANSI/UL 1784, *Standard for Air Leakage Tests for Door Assemblies*.
- (2) The maximum air leakage rate of the door assembly shall be 3.0 ft<sup>3</sup>/min/ft<sup>2</sup> (0.9 m<sup>3</sup>/min/m<sup>2</sup>) of door opening at 0.10 in. water column (25 N/m<sup>2</sup>) for both the ambient and elevated temperature tests.

- (3) Door assemblies shall be installed in accordance with NFPA 105, *Standard for the Installation of Smoke Door Assemblies and Other Opening Protectives*.

### 8.2.3 Fire Resistance-Rated Construction.

**8.2.3.1\*** The fire resistance of structural elements and building assemblies shall be determined in accordance with test procedures set forth in NFPA 251, *Standard Methods of Tests of Fire Resistance of Building Construction and Materials*; ASTM E 119, *Standard Test Methods for Fire Tests of Building Construction and Materials*; or ANSI/UL 263, *Standard for Fire Tests of Building Construction and Materials*, or other approved test methods, or analytical methods approved by the authority having jurisdiction. Materials used to construct fire resistance-rated elements and assemblies shall be limited to those permitted in this *Code*.

**8.2.3.2** Fire resistance-rated floor and roof assemblies shall be classified as restrained or unrestrained in accordance with NFPA 251, *Standard Methods of Tests of Fire Resistance of Building Construction and Materials*; ASTM E 119, *Standard Test Methods for Fire Tests of Building Construction and Materials*; or UL 263, *Standard for Fire Tests of Building Construction and Materials*; or other approved test methods. The construction shall be considered restrained only where a registered design professional has furnished the authority having jurisdiction with satisfactory documentation verifying that the construction is restrained. The classification of fire resistance-rated floor and roof construction shall be identified on the plans as restrained or unrestrained.

**8.2.3.3** Structural elements that support fire barriers shall be permitted to have only the fire resistance rating required for the construction classification of the building, provided that both of the following criteria are met:

- (1) Such structural elements support nonbearing wall or partition assemblies that have a required 1-hour fire resistance rating or less.
- (2) Such structural elements do not serve as exit enclosures or protection for vertical openings.

**8.2.3.4** The requirement of 8.2.3.3 shall not apply to health care occupancy structural elements supporting floor assemblies in accordance with the provisions of 18.1.6 and 19.1.6.

### 8.2.4 Analytical Methods.

**8.2.4.1** Analytical methods utilized to determine the fire resistance of building assemblies shall comply with 8.2.4.2 or 8.2.4.3.

**8.2.4.2\*** Where calculations are used to establish the fire resistance rating of structural elements or assemblies, they shall be permitted to be performed in accordance with ASCE/SFPE 29, *Standard Calculation Methods for Structural Fire Protection*. Where calculations are used to establish the fire resistance rating of concrete or masonry elements or assemblies, the provisions of ACI 216.1/TMS 0216.1, *Standard Method for Determining Fire Resistance of Concrete and Masonry Construction Assemblies*, shall be permitted to be used.

**8.2.4.3** Except for the methods specified in 8.2.4.2, analytical methods used to calculate the fire resistance of building assemblies or structural elements shall be approved. Where an approved analytical method is utilized to establish the fire resistance rating of a structural element or building assembly, the calculations shall be based upon the fire exposure and acceptance criteria specified in NFPA 251, *Standard Methods of Tests of Fire Resistance of Building Construction and Materials*; ASTM E 119, *Standard Test Methods for Fire Tests*

(3) The fire protection-rated glazing material is installed in approved existing frames.

**8.3.3.11** Fire protection-rated glazing shall bear identification as described in 8.3.3.11.1 or 8.3.3.11.2 and shall be permanently affixed.

**8.3.3.11.1** Fire protection-rated glazing used in doors shall bear a four-part identification in the form of D — H (or NH) — T (or NT) — XXX, with the component parts defined as follows:

- (1) D, which indicates that the glazing is to be used in fire door assemblies and that the glazing meets the fire protection requirements of NFPA 252, *Standard Methods of Fire Tests of Door Assemblies*
- (2) H, which indicates that the glazing meets the hose stream requirements of the test standard
- (3) NH, which indicates that the glazing does not meet the hose stream requirements of the test standard
- (4) T, which indicates that the glazing has a maximum transmitted temperature endpoint of not more than 450°F (250°C) above ambient at the end of 30 minutes of standard fire test exposure
- (5) NT, which indicates that the glazing does not have a temperature rise rating
- (6) XXX, which is the placeholder that specifies the fire protection rating period, in minutes

**8.3.3.11.2** Fire protection-rated glazing used in fire resistance-rated walls and partitions shall bear the identification OH-XXX, which is defined as follows:

- (1) OH indicates that the glazing meets both the fire protection and the hose stream requirements of NFPA 257, *Standard on Fire Test for Window and Glass Block Assemblies*; ASTM E 2010, *Standard Test Method for Positive Pressure Fire Tests of Window Assemblies*; or ANSI/UL 9, *Standard for Fire Tests of Window Assemblies*; and is permitted to be used in openings.
- (2) XXX indicates the fire protection rating period, in minutes, that was tested.

**8.3.4 Opening Protectives.**

**8.3.4.1** Every opening in a fire barrier shall be protected to limit the spread of fire and restrict the movement of smoke from one side of the fire barrier to the other.

**8.3.4.2\*** The fire protection rating for opening protectives in fire barriers, fire-rated smoke barriers, and fire-rated smoke partitions shall be in accordance with Table 8.3.4.2, except as otherwise permitted in 8.3.4.3 or 8.3.4.4.

**8.3.4.3** Existing fire door assemblies having a minimum ¾-hour fire protection rating shall be permitted to continue to be used in vertical openings and in exit enclosures in lieu of the minimum 1-hour fire protection rating required by Table 8.3.4.2.

**8.3.4.4** Where a 20-minute fire protection-rated door is required in existing buildings, an existing 1¾ in. (44 mm) solid-bonded wood-core door, an existing steel-clad (tin-clad) wood door, or an existing solid-core steel door with positive latch and closer shall be permitted, unless otherwise specified by Chapters 11 through 43.

**8.3.5 Penetrations.** The provisions of 8.3.5 shall govern the materials and methods of construction used to protect through-penetrations and membrane penetrations in fire walls, fire barrier walls, and fire resistance-rated horizontal assemblies. The provisions of 8.3.5 shall not apply to approved

**Table 8.3.4.2 Minimum Fire Protection Ratings for Opening Protectives in Fire Resistance-Rated Assemblies**

Component	Walls and Partitions (hr)	Fire Door Assemblies (hr)	Fire Window Assemblies (hr)
Elevator hoistways	2	1½	NP
	1	1	NP
Vertical shafts (including stairways, exits, and refuse chutes)	2	1½	NP
	1	1	NP
	½	⅓	NP
Fire barriers	3	3	NP
	2	1½	NP
	1	¾	¾
	½	⅓*	⅓
Horizontal exits	2	1½	NP
Horizontal exits served by bridges between buildings	2	¾	¾
Exit access corridors†	1	⅓	¾
	½	⅓	⅓
Smoke barriers†	1	⅓	¾
Smoke partitions†, ‡	½	⅓	⅓

NP: Not permitted.

† Fire doors are not required to have a hose stream test per NFPA 252, *Standard Methods of Fire Tests of Door Assemblies*; ASTM E 2074, *Standard Test Method for Fire Tests of Door Assemblies, Including Positive Pressure Testing of Side-Hinged and Pivoted Swinging Door Assemblies*; ANSI/UL 10B, *Standard for Fire Tests of Door Assemblies*; or ANSI/UL 10C, *Standard for Positive Pressure Fire Tests of Door Assemblies*.

‡ For residential board and care, see 32.2.3.1 and 33.2.3.1.

existing materials and methods of construction used to protect existing through-penetrations and existing membrane penetrations in fire walls, fire barrier walls, or fire resistance-rated horizontal assemblies, unless otherwise required by Chapters 11 through 43.

**8.3.5.1\* Firestop Systems and Devices Required.** Penetrations for cables, cable trays, conduits, pipes, tubes, combustion vents and exhaust vents, wires, and similar items to accommodate electrical, mechanical, plumbing, and communications systems that pass through a wall, floor, or floor/ceiling assembly constructed as a fire barrier shall be protected by a firestop system or device. The firestop system or device shall be tested in accordance with ASTM E 814, *Standard Test Method for Fire Tests of Through Penetration Fire Stops*, or ANSI/UL 1479, *Standard for Fire Tests of Through-Penetration Firestops*, at a minimum positive pressure differential of 0.01 in. water column (2.5 N/m<sup>2</sup>) between the exposed and the unexposed surface of the test assembly.

**8.3.5.1.1** The requirements of 8.3.5.1 shall not apply where otherwise permitted by any one of the following:

- (1) Where penetrations are tested and installed as part of an assembly tested and rated in accordance with NFPA 251, *Standard Methods of Tests of Fire Resistance of Building Construction and Materials*; ASTM E 119, *Standard Test Methods for Fire Tests of Building Construction and Materials*; or ANSI/UL 263, *Standard for Fire Tests of Building Construction and Materials*

**31.2 Means of Egress Requirements.****31.2.1 General.**

**31.2.1.1** Means of egress from dwelling units to the outside of the building shall be in accordance with Chapter 7 and this chapter.

**31.2.1.2** Means of escape within the dwelling unit shall comply with the provisions of Section 24.2 for one- and two-family dwellings.

**31.2.2 Means of Egress Components.****31.2.2.1 General.**

**31.2.2.1.1** Components of means of egress shall be limited to the types described in 31.2.2.2 through 31.2.2.12.

**31.2.2.1.2** In buildings using Option 4, exit enclosures shall have a minimum 1-hour fire resistance rating, and doors shall have a minimum 1-hour fire protection rating.

**31.2.2.1.3** In non-high-rise buildings using Option 2, Option 3, or Option 4, exit stair doors shall be permitted to be 1¾ in. (44 mm) thick, solid-bonded wood-core doors that are self-closing and self-latching and in wood frames not less than ¾ in. (19 mm) thick.

**31.2.2.2 Doors.**

**31.2.2.2.1** Doors complying with 7.2.1 shall be permitted.

**31.2.2.2.2** Door-locking arrangements shall comply with 30.2.2.2.2.1, 30.2.2.2.2.2, 30.2.2.2.2.3, or 31.2.2.2.2.4.

**31.2.2.2.2.1** No door in any means of egress shall be locked against egress when the building is occupied.

**31.2.2.2.2.2** Delayed-egress locks complying with 7.2.1.6.1 shall be permitted, provided that not more than one such device is located in any one egress path.

**31.2.2.2.2.3** Access-controlled egress doors complying with 7.2.1.6.2 shall be permitted.

**31.2.2.2.2.4** Elevator lobby exit access door locking in accordance with 7.2.1.6.3 shall be permitted.

**31.2.2.2.3** Revolving doors complying with 7.2.1.10 shall be permitted.

**31.2.2.2.4** Horizontal-sliding doors, as permitted by 7.2.1.14, shall not be used across corridors.

**31.2.2.2.5** Apartment occupancies protected throughout by an approved, supervised automatic sprinkler system shall be exempt from the re-entry provisions of 7.2.1.5.7 where the exit enclosure serves directly only one dwelling unit per floor, and such exit is a smokeproof enclosure in accordance with 7.2.3.

**31.2.2.3 Stairs.**

**31.2.2.3.1** Stairs complying with 7.2.2 shall be permitted.

**31.2.2.3.2** Within any individual dwelling unit, unless protected by an approved automatic sprinkler system in accordance with 31.3.5, stairs more than one story above or below the entrance floor level of the dwelling unit shall not be permitted.

**31.2.2.3.3** Spiral stairs complying with 7.2.2.2.3 shall be permitted within a single dwelling unit.

**31.2.2.3.4** Winders complying with 7.2.2.2.4 shall be permitted.

**31.2.2.4 Smokeproof Enclosures.** Smokeproof enclosures complying with 7.2.3 shall be permitted. (See also 31.2.11.1.)

**31.2.2.5 Horizontal Exits.** Horizontal exits complying with 7.2.4 shall be permitted.

**31.2.2.6 Ramps.** Ramps complying with 7.2.5 shall be permitted.

**31.2.2.7 Exit Passageways.** Exit passageways complying with 7.2.6 shall be permitted.

**31.2.2.8\* Escalators.** Escalators previously approved as a component in the means of egress shall be permitted to continue to be considered as in compliance.

**31.2.2.9 Fire Escape Stairs.** Fire escape stairs complying with 7.2.8 shall be permitted.

**31.2.2.10 Fire Escape Ladders.** Fire escape ladders complying with 7.2.9 shall be permitted.

**31.2.2.11 Alternating Tread Devices.** Alternating tread devices complying with 7.2.11 shall be permitted.

**31.2.2.12 Areas of Refuge.**

**31.2.2.12.1** Areas of refuge complying with 7.2.12 shall be permitted, as modified by 31.2.2.12.2.

**31.2.2.12.2\*** In buildings protected throughout by an approved, supervised automatic sprinkler system in accordance with 31.3.5, the two accessible rooms or spaces separated from each other by smoke-resistive partitions in accordance with the definition of area of refuge in 3.3.20 shall not be required.

**31.2.3 Capacity of Means of Egress.**

**31.2.3.1** The capacity of means of egress shall be in accordance with Section 7.3.

**31.2.3.2** Street floor exits shall be sufficient for the occupant load of the street floor plus the required capacity of stairs and ramps discharging onto the street floor.

**31.2.4 Number of Exits.** The minimum number of exits shall comply with 31.2.4.1, 31.2.4.2, 31.2.4.3, 31.2.4.4, or 31.2.4.5.

*\* See Title 25, Chapter 317, § 2453*  
**31.2.4.1** Every dwelling unit shall have access to not less than two separate exits remotely located from each other as required by 7.5.1. (See also Section 7.4.)

**31.2.4.2** A single exit shall be permitted from a dwelling unit, provided that one of the following conditions is met:

- (1) The dwelling unit has an exit door opening directly to the street or yard at the finished ground level.
- (2) The dwelling unit has direct access to an outside stair that complies with 7.2.2 and serves not more than two units, both located on the same story.
- (3) The dwelling unit has direct access to an interior stair that serves only that unit and is separated from all other portions of the building by fire barriers having a minimum 1-hour fire resistance rating, with no opening therein.

**31.2.4.3** A single exit shall be permitted in buildings where the total number of stories does not exceed four, provided that all of the following conditions are met:

- (1) The building is protected throughout by an approved, supervised automatic sprinkler system in accordance with 31.3.5.
- (2) The exit stairway does not serve more than one-half of a story below the level of exit discharge.
- (3) The travel distance from the entrance door of any dwelling unit to an exit does not exceed 35 ft (10.7 m).

CH. 31  
EXISTING  
APT. BLDGS.CH. 31  
EXISTING  
APT.  
BLDGS.CH. 32  
NEW  
BRD. &  
CARECH. 33  
EXISTING  
BRD. &  
CARECH. 3  
NEW  
MERC  
TILECH. 3  
EXIST  
MERC  
TILECH. 3  
NEW  
BUSICH. 3  
EXIST  
BUSCH. 4  
INDUCH. 5  
STOCH  
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REAN  
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SOUTHERN ME DISTRIBUTION CENTER**April 19, 2018****8:07 pm**

7/17/2018

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**April 19, 2018**

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**April 19, 2018**

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Valerie Boutin

Section 31.2.1.1 of the 2009 Edition of NFPA 101 requires that means of egress from dwelling units to the outside of the building be in accordance with Chapter 7 in addition to Chapter 31. Section 7.1.3.2 requires the separation be a minimum 1-hour fire resistance rating where the exit connects three or fewer stories and that the separating construction meets the requirements of Section 8.2. Section 8.2.2 requires the walls to be fire barriers that comply with Section 8.3. This would get you to the opening protective requirements in Section 8.3.4. Please note that Section 8.3.4.3 states that existing fire door assemblies having a minimum 3/4-hour fire protection rating shall be permitted to continue to be used in vertical openings and in exit enclosures in lieu of the minimum 1-hour fire protection rating required by Table 8.3.4.2.

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How To:

- 1) Click on "Search Plans"
- 2) Enter address of appeal into address box. Just enter street number and name (not street/road/avenue). Click "Search"
- 3) Result will appear below.
- 4) Click on the blue Plan Number to open the record.
- 5) Select the "Attachments" tab and all documents will appear.