

An ordinance to repeal and reenact with amendments Chapter 9 of the Rockville City Code, entitled "Fire Code" so as to adopt and incorporate by reference the State of Maryland Fire Prevention Code with amendments as the Fire Code of the City of Rockville.

BE IT ORDAINED, BY THE MAYOR AND COUNCIL OF ROCKVILLE, in public meeting assembled, that the Chapter 9 of the City Code, entitled "Fire Code", is repealed and reenacted with the amendments, to read as follows:

## **Chapter 9. FIRE**

### **CODE ARTICLE I.**

#### **IN GENERAL**

##### **Sec. 9-01. Scope.**

This Chapter shall apply to the construction, alteration, addition, repair, removal, demolition, use, location, occupancy, and/or maintenance of all buildings, structures, properties and their service equipment, within the City of Rockville. It supersedes Ordinance No. 8-75, adopted June 2, 1975. Its purpose is to adopt the 2015 editions of the Fire Code (NFPA 1) and the Life Safety Code (NFPA 101), and all associated NFPA codes or standards incorporated by reference and the latest editions of certain other NFPA codes not incorporated by reference into NFPA 1 or NFPA 101, with modifications necessary to achieve uniformity and consistency with certain State of Maryland, Montgomery County, and City of Rockville laws and ordinances, as well as certain Community Planning and Development Services policies and procedures. Where this ordinance differs from any other City of Rockville ordinances or the State of Maryland Fire Prevention Code (COMAR 29.06.01), it does not preempt or negate any more restrictive provisions adopted or enacted by those ordinances and the more restrictive provision(s) shall apply.

The provisions of this Chapter shall not apply to any building, area or premises within the City, which is owned by any department or agency of the Government of the United States or the State of Maryland.

##### **Sec. 9-02. Purpose.**

The purpose and the intent of this Chapter is to prescribe minimum requirements and controls to safeguard life, property public welfare and the welfare of emergency responders from the hazards of fire and explosion arising from the improper storage, handling or use of substances, materials, or devices and from conditions hazardous to life, property and the public welfare in the use or occupancy of buildings, structures, tents, lots or premises. Where no specific standards or requirements are specified in this Chapter, or contained within other applicable laws, regulations, or ordinances, compliance with the standards of the National Fire Protection Association (NFPA), International Code Council (ICC), and other nationally recognized safety standards as are approved by the authority having jurisdiction shall be deemed as prima facie evidence of compliance with this intent.

### **Sec. 9-03. Definitions.**

The definitions contained in this section apply throughout this Chapter and are in addition to the definitions contained in the individual articles and any document referred to therein:

*Accessory building* means a building subordinate to, and located on the same lot with a main building, the use of which is clearly incidental to that of the main building, or to the use of the land, and which is not attached by any part of a common wall or common roof to the main building.

*Administrative authority* means the City Manager and the City Manager's designees and duly authorized agents.

*Alternative* means a system, condition, arrangement, material, or equipment submitted for approval to the authority having jurisdiction as a substitute for a code requirement.

*Approved* means acceptable to the authority having jurisdiction.

*Authority having jurisdiction (AHJ)* means an organization, office, or individual responsible for enforcing the requirements of a code or standard, or for approving equipment, materials, an installation, or procedure.

*Building* means a structure having one (1) or more stories and a roof, designed primarily for the shelter, support, or enclosure of persons, animals, or property of any kind.

*City Fire Marshal* means the officer or other designated authority charged with the administration and enforcement of the fire code and who is recognized by the State Fire Marshal's Office as the Assistant State Fire Marshal for the City of Rockville.

*COMAR* means Code of Maryland Regulations.

*Demolition* means the complete razing of a building or structure.

*Fire Department* means an organization of people trained to prevent, control, and extinguish fires and to rescue people from fires and other dangerous situations. A Fire Department may be staffed by career or volunteer members, or a combination of both.

*Fire hazard* means any situation, process, material, or condition that, on the basis of applicable data, can cause a fire or explosion or that can provide a ready fuel supply to augment the spread or intensity of a fire or explosion, all of which pose a threat to life or property.

*Fire marshal* means a government official designated and authorized by the City Fire Marshal or their designee to provide delivery, management, and/or administration of fire protection and life safety related codes and standards, investigation, education, and/or prevention services for local, county, state, provincial, federal, or private sector jurisdictions as adopted or determined by that entity.

*Fire protection system* means any fire alarm device or system, fire detection device or system, smoke control device or system, or fire extinguishing device or system, or their combination, which is designed and installed for detecting, controlling a fire or smoke, or the extinguishing of a fire, or otherwise altering occupants or the Fire Department, or both that a fire has occurred.

*Fire watch* means 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.

*Historic Buildings Catalog* means the inventory of properties that may meet the City's Historic District Designation Criteria and that must be reviewed according to the Criteria by the Historic District Commission before demolition may occur. Refer to Chapter 25, Article 22 of City of Rockville Zoning Ordinance.

*Impaired* means a condition where a fire protection system or unit or portion thereof is damaged, disabled or out of order, in whole or in part; and the condition can result in the fire protection system or unit not functioning in the event of a fire or other emergency.

*Incident Commander* means the individual responsible for all incident activities, including the development of strategies and tactics and the ordering and the release of resources.

*New building or new condition* means a building, structure, installation, plant, equipment, renovation, or condition:

- (a) For which a building permit is issued on or after the effective date of this chapter;
- (b) On which actual construction is started on or after the effective date of this chapter in a jurisdiction where a building permit is not required;
- (c) Which represents a change from one occupancy classification to another on or after the effective date of this chapter; or
- (d) Which represents a situation, circumstance, or physical makeup of any structure, premise, or process that was commenced on or after the effective date of this chapter.

*NFPA* means National Fire Protection Association.

*Notice* means the verbal or written statement that gives an order, information or warning

*Out of Service* means when a fire protection system is damaged or impaired to a degree that it is unable to provide the basic level of fire protection it was intended to provide.

*Owner* means any person who alone, or jointly or severally with others shall have legal title to any building, property, structure, or premises with or without accompanying actual possession thereof and shall include his duly authorized agent or attorney, a purchaser, devisee, fiduciary and any person having a vested or contingent interest in the property in question.

*Permit* means a document issued by the authority having jurisdiction for the purpose of authorizing performance of a specified activity.

*Repair* means the reconstruction or renewal of any part of an existing building, structure or system for the purpose of its maintenance. The term “repair” or “repairs” shall not apply to any change in construction.

*State Fire Marshal’s Office or State Fire Marshal* means the State Fire Marshal for the State of Maryland and/or a duly authorized representative from the Headquarters, or a Regional Office, of the State of Maryland’s Office of the State Fire Marshal.

*Structure* means a combination of materials that requires permanent location on the ground or attachment to something having permanent location on the

ground.

*Trade secret* means a confidential formula, pattern, device, or compilation of information that:

- (a) Is used in an employer's business;
- (b) Gives the employer an opportunity to obtain an advantage over competitors who do not know or use the information; and
- (c) Is known only to the employer and those employees to whom it is necessary to confide the information.

WSSC means the Washington Suburban Sanitary Commission.

**Sec. 9-04. Remedial intent.**

This Chapter is hereby declared to be remedial and shall be liberally construed to secure the beneficial purposes intended hereby. Any requirement essential for the structural or fire safety of a proposed or existing building or structure, or essential for the health and safety of the occupants thereof, and which is not specifically covered by this Chapter, shall be determined by the enforcing authority for this chapter on a basis consistent with the general tenor and objectives of this Chapter.

**Sec. 9-05. Compliance with other applicable laws, ordinances, regulations.**

(a) Nothing in this Chapter shall be so construed so as to excuse compliance with any other applicable law or regulation.

(b) The owner of any property in a Historic District Zone must receive a Certificate of Approval from the City of Rockville Historic District Commission before exterior alterations or demolition may occur. Demolition of any property may not occur without Historic District Commission approval in accordance with the City of Rockville Zoning Ordinance Section 25.04.04.b.1. Exterior alterations to any building listed in the City's Historic Building Catalog may not occur without Historic District Commission approval if it is the subject of an application for nomination, historic evaluation, or demolition in accordance with the City of Rockville Zoning Ordinance Section 25.22.03.

**Sec. 9-06. Administration.**

The City Manager, as the administrative authority, may designate the Chief of Inspection Services and the City Fire Marshal, or any other qualified employee of the City who is certified as a Special Assistant State Fire Marshal or its equivalent to administer any or all of the provisions of this Chapter. The person so

authorized may delegate any or all of the powers and duties under this Chapter to qualified assistants, subordinates, or other employees of the City.

**Sec. 9-07. Duties of the City Fire Marshal.**

(a) Enforcement of laws and regulations - The City Fire Marshal shall enforce all laws and regulations applicable within the corporate limits of the City of Rockville that relate to:

- (1) The prevention of fire;
- (2) The storage, sale, and use of explosives, combustibles, or other dangerous materials or articles, in solid, liquid, or gaseous form;
- (3) The installation and maintenance of all kinds of equipment intended to control, detect, or extinguish fire;
- (4) The means and adequacy of egress, in the case of fire, from buildings and all other places in which individuals work, live, or congregate, except buildings that are used solely as dwelling houses for no more than two (2) families;
- (5) The maintenance of fire protection and the elimination of fire hazards on land and in buildings, structures, and other property, including those under construction; and
- (6) The investigation of the cause, origin, and circumstances of fire and explosions, and the suppression of arson.
  - i. The City Fire Marshal may choose to delegate this responsibility to Montgomery County Department of Fire and Rescue Services or the Office of the State Fire Marshal.
  - ii. A change in responsibility for the investigation of the cause, origin, and circumstances of fire shall be indicated in writing by the City Fire Marshal to the organization assuming or being relieved of the responsibility for investigations.

(b) Implementation of fire safety programs – The City Fire Marshal shall implement fire safety programs in the City to minimize fire hazards and disasters and loss of life and property from these causes, including:

- (1) The establishment and enforcement of fire safety practices throughout the City;
- (2) Preventative inspection and correction activities;
- (3) Coordination of fire safety programs with the Fire Department and other State of Maryland agencies and political subdivisions exercising enforcement aspects; and
- (4) Critical analysis and evaluation of City fire loss statistics to determine problems and solutions.

(c) Assistance in fire prevention matters – The City Fire Marshal, or his/her authorized representative, shall assist in fire prevention matters or request of:

- (1) A chief of a Montgomery County Fire Department or other Fire Department operating under a mutual aid agreement with Montgomery County; or
- (2) A legally designated fire marshal of Montgomery County; or
- (3) The State Fire Marshal's Office.

(d) Modification of provisions – The City Fire Marshal may modify or vary provisions and requirements of this Chapter.

- (1) A modification or variation may only be granted where an alternative is provided which achieves a comparable level of fire safety and/or prevention or where a requirement cannot physically be achieved on a specific property, building or structure.
- (2) Modifications and variances shall be administered through the code modification process of the Inspection Services Division.

#### **Sec. 9-08. Powers of the City Fire Marshal.**

The City Fire Marshal is empowered to administer the provisions of this Chapter and perform such other duties as may be set forth in other sections of the Rockville City Code, and as may be conferred and imposed from time to time by law, regulation or directive of the City Manager. The City Fire Marshal shall also be empowered to exercise the following duties within the jurisdiction of the City:

- (1) Those powers set forth in Public Safety Article, Title 6-305; and
- (2) The review and approval of plans for buildings, structures and the storage of hazardous or combustible chemicals, petroleum products, or other such materials for conformance with this Chapter; and
- (3) The issuance of permits authorized or required under this Chapter; and
- (4) Inspection of all buildings, properties, and structures, except buildings that are lawfully and solely used as dwelling houses for no more than two (2) families, and all storage sites and facilities containing substantial quantities of hazardous or combustible materials for the purpose of ascertaining and causing to be corrected any condition reasonably believed to cause fire or explosion, contribute to the spread of fire, interfere with firefighting operations, endanger life or property, or violate the provisions of this Chapter or any other law, ordinance or regulation involving fire or safety, or fire prevention; and
- (5) The issuance of warnings, orders, decisions, and directives relating to the enforcement of the provisions of this Chapter; issuance or revocation of any

permit issued under this Chapter; evacuations as hereinafter provided; and the unlawful continuance of any unsafe condition or activity in violation this Chapter; and

- (6) The issuance of municipal infraction citations pursuant to Section 1-9 of the City Code or such misdemeanor prosecutions pursuant to Section 1-10 of the Rockville City Code. In addition, the City Fire Marshal may seek those additional legal and equitable remedies provided for in Section 1-11 of the Rockville City Code.

#### **Sec. 9-09. Duties of the Fire Department.**

(a) The employees of the Fire Department are requested to make a report in writing to the Chief of Inspection Services Division or the City Fire Marshal of all fires and explosions occurring within the City of Rockville. Such reports should be delivered to the Chief of Inspection Services Division or the City Fire Marshal within twenty-four (24) hours of the first report of the fire or explosion to the Fire Department.

(b) The members of the Montgomery County Department of Fire & Rescue Service are hereby authorized to enforce the requirements of this Chapter.

#### **Sec. 9-10. Fire Department authority to combat fires and related emergencies and conduct rescue operations.**

(a) The Incident Commander conducting operations in connection with the extinguishment and control of any fire, explosion, or other emergency shall have full power and authority to direct all operations of fire extinguishment or control, and to take the necessary precautions to save life, protect property, and prevent further injury or damage. In the pursuit of such operation, the Incident Commander may control or prohibit the approach to the scene of such emergency by any vehicle, vessel, or thing and all persons not actually employed in the extinguishment of such fire or involved in other actions germane to the emergency.

(b) Penalty for Interference. Any person who obstructs the operations of the Fire Department in connection with extinguishing any fire, or actions relative to other emergencies, or disobeys any lawful command of the Incident Commander in charge of the emergency, or any part thereof; or any lawful order of a police officer assisting the Fire Department shall be in violation of this Chapter and subject to the penalties established by law.

#### **Sec. 9-11. Duties of the Police Department.**

All employees of the City of Rockville Police Department shall make a report in writing to the Chief of Inspection Services Division or the City Fire Marshal of all fires and explosions occurring within the City of Rockville. Such reports should be delivered to the Chief of Inspection Services Division or the

City Fire Marshal within twenty-four (24) hours of the first report of the fire or explosion to the City of Rockville Police Department.

**Sec. 9-12. Right of entry.**

(a) The administrative authority shall, upon exhibiting the proper credentials or proof of identify on request, have the right to enter any building, property, structure, or premises (except those areas actually occupied as a dwelling unit) without consent of the occupants, at any time during business or operating hours, and at such other times as may be necessary in an emergency that immediately endangers life, property, or public safety, for the purpose of performing duties under this Chapter or enforcing the provisions thereof. In the case of multi-family dwellings, they shall have such right to enter without consent only such areas as storage rooms, laundries, boiler rooms, utility rooms, hallways, basements, and similar spaces not part of individual dwelling units provided, however, that such authorities may enter any dwelling unit for the purpose of enforcing this Chapter with the consent of the occupant thereof, or without legal procedure, or if there is a present emergency such as a fire, explosion, or the like, or immediately following such emergency.

(b) Implied Consent. Any application for, or acceptance of, any permit or license requested or issued pursuant to this code constitutes agreement and consent by the person, agency, entity, or group making application or accepting the permit, to allow fire officials to enter the premises to conduct such inspections as required to enforce this Code.

(c) Impersonation of officials. Any person, who with fraudulent design on person or property, falsely represents that the person is a fire marshal, shall be guilty of a misdemeanor.

**Sec. 9-13. Evacuation.**

(a) When, in the opinion of the authority having jurisdiction, there is actual and/or potential danger to the occupants or those in the proximity of any building, property, structure, or premises because of any violation of this Chapter constituting a dangerous or hazardous condition, the authority having jurisdiction or the Fire Department may order the immediate evacuation of said building, property, structure, or premises. All of the occupants so notified shall immediately leave the building, property, structure, or premises; and persons shall not enter or re-enter until authorized to do so by the authority having jurisdiction or the Fire Department. The authority issuing the evacuation order shall order such dangerous or hazardous conditions and materials removed or remedied. Buildings or premises deemed unsafe by the authority having jurisdiction or the Fire Department for violations of this Chapter or the presence of dangerous or hazardous conditions

may be reopened for use by the authority having jurisdiction, the Fire Department, or their authorized representative after inspections of the said building and a determination as to the safety and habitability of the building or premises.

(b) Unlawful Continuance. Any person who shall refuse to leave, interfere with the evacuation of other occupants, or continue any operation after having been given an evacuation order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be deemed guilty of a misdemeanor.

#### **Sec. 9-14. FireWatch.**

(a) Purpose. The Chief of Inspection Services Division, the City Fire Marshal, or their designee may order or authorize the use of a fire watch when a building or premises presents a hazard to life or property as the result of fire or other emergency, or when it is determined that any fire protection equipment or life safety system is inoperable, impaired, defective, inadequate, has been taken out of service, or when otherwise deemed necessary by the Chief of Inspection Services Division or the City Fire Marshal, or their authorized designees.

(b) Limitations. The intent of this Section is to allow for the continuity of operation and avoid evacuation of an existing and occupied building or premises, while providing a minimum level of occupant safety. It is not the intent of this Section to authorize the use of a fire watch to permit the occupancy of currently unoccupied building or premises.

(c) Requirements. Personnel conducting the fire watch will follow the policy and procedures produced by the Fire Marshal.

(d) Modifications. The requirements as set forth in Section 9-14 (c) may be modified as determined by the authority having jurisdiction.

(e) Fees. Where a fire watch is ordered in accordance with this section a fee, as set forth by resolution, may be imposed where the fire watch is a result of a failure to maintain a required life safety system.

#### **Sec. 9-15. Service of orders and notices.**

Except as otherwise specifically provided by this Chapter, any order or notice issued pursuant to this Chapter shall be served upon the owner, agent, or occupant of the structure to which the order or notice relates or other person responsible for the condition of violation. Service shall be made either by personal service; by delivering the same to the subject premises or the office or usual place of abode of the person being served and

leaving it with some person of suitable age and responsibility who shall be informed of the contents thereof; or by mailing a copy thereof to such person by certified mail to the last known address with return receipt requested. If the certified mail is returned without receipt or with receipt showing that it has not been delivered, a posted copy of the order or notice shall be placed in a conspicuous place in or about the structure affected by such order or notice. If service cannot be made by any of the foregoing methods, service may be made by publishing the substance of the order or notice in a newspaper of general circulation within Montgomery County.

#### **Sec. 9-16. Administrative liability.**

(a) No officer, agent, or employee of the City shall be personally liable for any damage or loss that may accrue to persons or property as a result of any action required or permitted in the discharge of his/her duties under this Chapter.

(b) The City shall not be liable under this Chapter for any damage or loss to persons or property by reason of the inspection or re-inspection of buildings, properties, structures, or operations authorized hereunder, or failure to inspect or re-inspect such building properties, structures, or operations or by reason of any permit issued hereunder or the approval or disapproval of any equipment authorized herein.

#### **Sec. 9-17. Permits.**

(a) No activity requiring a permit by this article shall be undertaken prior to the issuance of a permit.

(b) Application. Application for a permit shall be made on suitable forms provided by the administrative authority. The application shall be accompanied by the payment of fees in the amount established by resolution.

(c) Permit Issuance. No permit shall be issued until plans and specifications showing the proposed work in necessary detail have been submitted to the administrative authority and have been determined from examination of such plans and specifications that they give assurance that the work will be conformed to the provisions of this Chapter. If a permit is denied, the applicant may submit revised plans and specifications. The revised submission shall be accompanied by the payment of fees in the amount established by resolution.

(d) Display of Permits. A copy of the permit shall be posted at each place of operation or construction for which the permit was issued.

(e) Compliance Required. All permits or certificates issued under this Chapter shall be presumed to contain the provision that the applicant and the applicant's agents and employees shall carry out the proposed activity in compliance with all the requirements of this Chapter and any other applicable

laws or regulations, whether specified or not, and in complete accord with any approved plans and specifications. Any permit or certificate which purports to sanction a violation of any provision of this Chapter or any applicable law or regulation shall be void, and any approval of plans and specifications in the issuance of such permits or certificates shall likewise be void.

(f) Suspension and Revocation. Any permit, approval, or certificate issued under this Chapter may be suspended or revoked when it is determined by the administrative authority that:

- (1) It is used by a person other than the person to whom the permit, approval, or certificate was issued; or
- (2) It is used for a location other than that for which it was issued; or
- (3) Any of the conditions or limitations set forth in the permit or certificate have been violated; or
- (4) The permittee fails, refuses, or neglects to comply with any order or notice duly served upon him or her under the provisions of this Chapter within the time provided therein; or
- (5) There has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or application was based. Revocation shall be in writing and shall state the reason for the revocation; or
- (6) There exists or arises a hazardous or unsafe condition beyond the scope of the permit, or affecting a permit condition.

(g) Authority to Require Exposure of Installation. Whenever any installation requiring a permit and/or inspection under any provision of this Chapter is covered or concealed without having first been inspected, the authority having jurisdiction may require by written notice that such work shall be exposed for inspection. Any cost of such exposing and recovering shall be borne by the permittee or party responsible for the work requiring inspection.

(h) Authority to Stop Work.

- (1) When any construction or installation work is being performed in violation of this Chapter, any applicable permit, or approved plans and specifications, a written notice shall be issued to the responsible party to stop work on that portion of the work that is in violation. The notice shall state the nature of the violation and no work shall be continued on that portion until the administrative authority determines that the violation has been corrected.
- (2) In addition to other provisions of this Chapter relating to service of notice, a notice to stop work shall be posted at the job site if practicable.

(i) Unlawful Continuance. Any person who shall continue any

work in or about the structure after having been issued a verbal or written stop work order, except such work that the person is directed to perform to remove a violation or unsafe condition, shall be guilty of a municipal infraction.

(j) Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within six (6) months after its issuance, or if the work authorized by such permit does not continue to progress or is abandoned for a period of six (6) months after the last approved/valid inspection. Before such work re-commences, a new permit shall be first obtained, and the appropriate fees shall be paid. The authority having jurisdiction can extend the time for action by the permittee if there is reasonable cause. A permittee holding an unexpired permit shall have the right to apply for an extension, in writing, for time to complete such work. The extension shall be requested for a justifiable cause.

The fees shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original construction documents for such work. Any person who commences work before obtaining the necessary permits shall be subject to, an investigation fee as set forth by resolution, and 100 percent of the usual permit fee.

#### **Sec. 9-18. Inspections and testing.**

(a) It shall be the duty of the administrative authority to make the inspections and tests required by this Article. The responsible party or his/her representative shall request inspections and tests following the City of Rockville Inspection Services Division's established procedure for inspection scheduling.

(b) Nothing in this Article shall be construed to require actual testing of facilities when in the judgment of the administrative authority such testing is unnecessary. No testing deemed necessary by the administrative authority shall be prohibited. In the case of discretionary action in determinations of the administrative authority under the provisions of this article, the relevant facts shall be considered and determinations made in the exercise of reasonable discretion and all such determinations shall be final in the absence of abuse of discretion.

(c) Where an additional inspection under this section is made necessary by failure to complete or properly perform the work inspected, or by failure of work tested to withstand tests, such additional inspection shall not be made until the person requesting such inspection shall pay to the administrative authority the fee established by the resolution.

(d) Protection of trade secrets. Any information reported to or otherwise obtained by the City Fire Marshal or designee of the City Fire Marshal in connection with a permit application or inspection that contains or might reveal a

trade secret is, to the extent permitted by State law, confidential.

(1) Information described in Section 9-18, Paragraph (d), may be disclosed only:

- i. to other officers or employees responsible for carrying out this Chapter, and only when necessary for determining compliance during the permit review or inspection process.
- ii. if relevant to a proceeding under this Chapter.

(2) In a proceeding under this Chapter, the Chief of Inspection Services, the City Fire Marshal, or a court of competent jurisdiction, as applicable, shall issue appropriate orders to protect the confidentiality of a trade secret.

(e) Acceptance tests. It shall be unlawful to occupy any building, property, structure or any portion thereof until required fire protection systems have been tested, accepted, and approved by the City Fire Marshal or designee of the City Fire Marshal.

#### **Sec. 9-19. Tampering with fire safety equipment.**

(a) It shall be unlawful to deliberately operate, activate, trip, or use any fire protection system for purposes other than emergencies, maintenance, or prescribed testing.

(b) It shall be unlawful to tamper with or render inoperative any fire protection system.

(c) It shall be unlawful to use, tamper with, or render inoperative any portable fire extinguisher other than during emergencies, maintenance, drills, required and authorized training, or testing.

(d) No person shall use or operate any fire hydrant without the permission of the owner of such hydrant. The provision of this section shall not restrict the use of fire hydrants by the Fire Department in the course of their duties.

(e) Tampering with Fire Department equipment. No person shall molest, tamper with, damage, render inoperative, or otherwise disturb any apparatus, equipment, or appurtenance belonging to or under the supervision and control of the Fire Department without authority from the officer in charge or his/her authorized representative to do so.

(f) Removal. No person shall remove, tamper with, or otherwise disturb any fire hydrant, fire protection system, or portable fire extinguisher required to be installed or maintained under the provisions of this Chapter except for the purpose

of extinguishing fire, training purposes, recharging, testing, making necessary repairs, or when approved by the authority having jurisdiction. Whenever fire equipment is removed as herein permitted, it shall be replaced or reinstalled as soon as the purpose for which it was removed has been accomplished, except as permitted by the authority having jurisdiction.

(g) Penalties. Any person who tampers with fire safety equipment or Fire Department equipment pursuant to this Section, shall be deemed guilty of a misdemeanor.

### **Sec. 9-20. Enforcement; violations.**

(a) Any person who shall violate any of the provisions of this Chapter; or shall fail to comply herewith; or shall permit or maintain such a violation; or shall violate or fail to comply with any order made hereunder; or shall build in violation of any details, statements, specifications or plans submitted or approved hereunder; or shall operate not in accordance with the provisions of any certificate, permit, or approval issued hereunder; or who shall fail to comply with such an order as affirmed or modified by the Board of Adjustments and Appeals within the time fixed therein, shall severally for each violation and noncompliance respectively, be guilty of a municipal infraction, unless otherwise provided for by this Chapter. The imposition of penalty for any violation shall not excuse the violation nor shall the violation be permitted to continue. Prosecution or lack thereof of the owner, occupant, or the person in charge shall not be deemed to relieve any of the others.

(b) Any order or notice issued or served as provided in this Chapter shall be complied with by the owner, operator, occupant or other person responsible for the condition or violation to which the order or notice pertains. Every order or notice shall set forth a time limit for compliance dependent upon the hazard and danger created by the violation. In cases of extreme danger to persons or property immediate compliance shall be required. If the building or other premises is owned by one person and occupied by another, under lease or otherwise, and the order or notice requires additions or changes in the building or premises such as would immediately become real estate and be the property of the owner of the building or premises such order or notice shall be complied with by the owner unless the owner and occupant have otherwise agreed between themselves, in which event the occupant shall comply.

### **Secs. 9-21. Emergency repairs.**

Immediate emergency repairs are authorized prior to the issuance of any permit required for the repair, when a fire protection system or building construction feature is damaged or impaired to a degree that it is unable to provide the basic level of protection or safety it was intended to provide.

Emergency repairs are permitted under the following provisions:

- (a) The City Fire Marshal shall be notified immediately;
- (b) A permit for the required work shall be applied for within one (1) business day;
- (c) Failure to make application for the required work within the required time frame shall be considered work without a permit, and shall be subject to any applicable fines, fees and enforcement actions;
- (d) Any work completed prior to the issuance of the permit is subject to all requirements of the permit approval;
- (e) Any work concealed prior to inspection shall be subject to exposure, in accordance with Section 9-17, Paragraph (g) of this Chapter, as required by the authority having jurisdiction;
- (f) Any costs associated with repair, correction, or exposure of the repairs in order to comply with permit approval shall be borne by the permittee or party responsible for the work requiring inspection and shall not be borne by the City; and
- (g) A fire watch, in accordance with Section 9-14 of this Chapter may be required as determined by the City Fire Marshal or his/her designee.

**Sec. 9-22. Appeals from administrative decisions.**

(a) *Grounds for appeals.* Any person aggrieved by and desirous of challenging a decision of the administrative authority in connection with the interpretation, application, or modification of any provision of this chapter relating to the manner of construction or materials used in connection with the erection, alteration, or repair of a building or structure or system installed therein, shall appeal such decision to a Board of Adjustments and Appeals. An appeal may be taken when it is claimed that:

- (1) The true intent of the code or the rules legally adopted there under have been incorrectly interpreted; or
- (2) The provisions of the code do not fully apply; or
- (3) An equally good or better form of construction, protection, or system can be used, employed, or provided in a compensatory manner.

(b) *Procedure for making an appeal.* An appeal shall be filed with the City Clerk within seven (7) calendar days from the date of the administrative decision being appealed, and a copy thereof shall be submitted to the Chief of Inspection Services. The appeal shall be in writing and shall contain a detailed statement of the reasons in support of such appeal.

(c) *Board of Adjustment and Appeals*; composition and compensation.

(1) The Board of Adjustment and Appeals shall consist of three (3) persons:

- a. A licensed professional engineer or architect chosen by the administrative authority;
- b. A licensed professional engineer or architect chosen by the owner of the subject building or structure; and
- c. A licensed professional engineer or architect to be jointly chosen by the other two members.

(2) All fees charged by the licensed professional engineers or architects to serve on the Board shall be paid for by the person appealing the administrative decision.

(d) *Hearing*.

(1) The Board of Adjustments and Appeals shall conduct a hearing on the appeal, at which time the appellant, the appellant's representative, representatives of the City who have inspected the subject building or structure or applicable system installed therein, and any other person having knowledge of the matter or whose interests may be affected by the decision on the appeal shall be given an opportunity to be heard. The hearing shall be conducted informally, and the formal rules of evidence shall not apply. The Board may accept written testimony and shall give it such weight as it deserves.

(2) Interpretation, given provisions of the applicable International Code Council, or National Fire Protection Association code or standard, shall be given great deference.

(3) The Board may inspect the structure or building and conduct any other investigation or research necessary in order to render a decision.

(e) *Decision*.

(1) Within fifteen (15) working days of the hearing, the Board shall affirm, modify or reverse the decision of the administrative authority.

(2) The agreement of any two (2) members of the Board shall constitute the decision of the Board. Failure to obtain the agreement of any two (2) members of the Board shall constitute a denial of the appeal and an affirmation of the decision of the administrative authority. The Board's

findings and decision shall be rendered in writing, and copies thereof shall be provided to the appellant and any other party who has entered their appearance before the Board and requested a copy of the decision. The decision may contain recommendations for remedial steps to be taken to meet the intent of the applicable code.

(f) *Appeal from decision of Board.* Any person aggrieved by a decision of the Board of Adjustments and Appeals may appeal the decision to the Circuit Court for the County in accordance with the Maryland Rules as set forth in Title 7, Chapter 200.

### **Sec. 9-23. Penalties.**

(a) *Municipal infractions.* Unless provided otherwise, all violations of this Chapter are municipal infractions. Any person found violating any provision of this Chapter which violation is a municipal infraction, shall be subject to a fine of five hundred dollars (\$500.00) and those penalties pursuant to Section 1-9 of the Rockville City Code.

(b) *Misdemeanors.* Any person found guilty of violating any provision of this Chapter which violation is a misdemeanor, shall be subject to a fine not exceeding one hundred dollars (\$100.00) or imprisonment for not more than ninety (90) days, or both such fine and imprisonment. This imposition of a penalty pursuant to Section 1-10 of the Rockville City Code does not prevent license revocation or the imposition of administrative sanctions.

(c) *Civil action.* The imposition of any criminal penalty under this Chapter shall not preclude the City or any aggrieved person from instituting appropriate action or proceedings to require compliance with the provisions of this Chapter and with administrative orders and determinations made under this Chapter.

### **Sec. 9-24. Severability.**

Should any provision or section of this Chapter be held to be invalid, it is intended that the remaining provision and section of this Chapter shall not be affected and shall continue to apply.

### **Secs. 9-25 – 9-35. Reserved.**