

**DIVISION OF BUILDING STANDARDS AND CODES**

STATE OF NEW YORK

**DEPARTMENT OF STATE**

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**NEW YORK STATE DEPARTMENT OF STATE  
DIVISION OF CODE ENFORCEMENT AND ADMINISTRATION**

**DRAFT MINUTES - STATE FIRE PREVENTION AND BUILDING CODE COUNCIL**

DRAFT Minutes of the Friday August 19, 2015 meeting of the New York State Fire Prevention and Building Code Council commencing at 10 a.m., held at:

Empire State Plaza, Concourse Level Meeting Rooms 2 and 3, Albany, New York;  
123 Williams Street, New York City, New York, Conference Room 231; and  
65 Court Street, Buffalo New York, Conference Room 208.

The following Council members, designees and staff were in attendance:

**COUNCIL MEMBERS PRESENT:**

Ronald Piester, Presiding  
Theodore Banta  
Timothy DeRuyscher  
John Flanigan  
Shawn Hamlin  
Judith Kennedy  
Joseph Palozzola  
Vincent Rapacciuolo  
Barbara Rice  
Joseph Sauerwein  
William Tucker  
William Tuyn  
Keith Wen

**ALSO PRESENT:**

Joe Ball  
Mark Blanke  
Nick McAndrew  
Miriam McGiver  
Janet Miller  
Julie Nemeth-Weisser  
Dan Nichols

**Agenda Item 1 – Welcome.**

Ronald Piester called the meeting to order, welcomed all, and introduced and welcomed new members to the Code Council. The new members included Ted Banta, the Town Supervisor of the Town of Cairo, representing Towns; Timothy DeRuyscher, P.E., representing engineers; and Joseph Palozzola, newly acting as designee representing Commissioner Darryl Towns of NYS Homes and Community Renewal.

Mark Blanke took a roll call attendance, and noted that a quorum was present. Mr. Blanke and Mr. Piester provided a summary of Agenda items and documents submitted to the Code Council members for consideration prior to this meeting.

### **Agenda Item 2 – Minutes**

**Minutes of the May 15, 2015 meeting.** Ron introduced the minutes. There was no discussion. John Flanigan made a motion to approve the minutes, seconded by Mayor Kennedy, approved unanimously.

### **Agenda Item 3 – Code Change Adoption: Carbon Monoxide Detection in Restaurants and Commercial Buildings**

Mark and Ron introduced the adoption of this emergency rule, which implements legislation effective June 27, 2015, that requires carbon monoxide (CO) detection in both new and existing commercial buildings that have a CO source, including buildings that contain one or more restaurants. The Code Council approved an emergency rule addressing this at the last Code Council meeting. A public hearing is scheduled for August 31th, and the public comment period will expire five days later. At this meeting, the Code Council is asked to adopt an emergency rule to allow time to complete the public comment period and the review and response to public comments before adoption of a permanent rule. Currently the Uniform Codes require CO detection in residential occupancies and those with sleeping areas, but not in most commercial buildings. Mark informed the Code Council that the emergency rule approved by them at the last meeting had been amended to provide that there would be no violation until June of 2016 for an existing building whose owner shows a good faith effort to comply.

Mr. Flanigan made the following motion:

1. That the Code Council find and determine that the re-adoption of the rule identified in agenda item 3 (“Code Change Adoption: Carbon Monoxide Detection in Restaurants and Commercial Buildings”) will not have a significant environmental impact, and will not have a significant adverse effect on any significant fish or wildlife habitat, scenic resource of statewide significance, important agricultural land, or area included in an approved local waterfront revitalization program; and
2. That Mark Blanke be authorized to sign and deliver, on behalf of the Code Council and the Department of State:
  - (a) the State Environmental Quality Review Act Short Environmental Assessment Form,
  - (b) the State Environmental Quality Review Act Negative Declaration,
  - (c) the New York State Department Of State Coastal Management Program Coastal Assessment Form, and
  - (d) the Certification of No Significant Coastal Impact;

Joseph Sauerwein seconded the motion. There was no discussion. The motion passed unanimously.

Mr. Flanigan made a second motion,

1. That the Code Council find and determine that re-adoption of the rule identified in agenda item 3 (“Code Change Adoption: Carbon Monoxide Detection in Restaurants and Commercial Buildings”) on an emergency basis, as authorized by Section 202 of the State Administrative Procedure Act, is required to preserve public safety and general welfare because:
  - (a) Executive Law § 378 (5-d), as added by Chapter 541 of the Laws of 2014, provides that the Uniform Code must contain provisions requiring the installation of carbon monoxide detecting devices in every commercial building and every building that contains one or more restaurants;
  - (b) Executive Law § 378 (5-d) became effective on June 27, 2015;
  - (c) the initial emergency adoption of this rule became effective on June 27, 2015;
  - (d) the initial emergency adoption of this rule will expire on September 23, 2015;
  - (e) the August 19, 2015 meeting of the Code Council is the last meeting of the Code Council scheduled to be held prior to September 23, 2015;
  - (f) the public comment period on the proposal to adopt this rule as a permanent measure closes on September 13, 2015, and no action to adopt this rule as a permanent measure can be taken any earlier than September 13, 2015; and
  - (g) re-adopting this rule on an emergency basis at the August 19, 2015 meeting of the Code Council is necessary to assure that the Uniform Code will continue to include the provisions contemplated by subdivision 5-d of Executive Law § 378 between September 23, 2015 and the date on which the rule might be considered for adoption as a permanent rule;
2. That the Code Council find and determine that making the re-adoption of the rule identified in agenda item 3 (“Code Change Adoption: Carbon Monoxide Detection in Restaurants and Commercial Buildings”) effective

immediately upon the filing of the notice of emergency adoption, as authorized by Executive Law § 378 (15)(a), is required to protect health, safety and security because, in the absence of such a finding and determination, the amendment of the Uniform Code to be implemented by this rule would not become effective until 90 days after publication of the notice of emergency adoption and, for the reasons stated above, this rule must continue to remain on and after the date on which the initial emergency adoption of this rule would otherwise expire (September 23, 2015); and

3. That the rule identified in agenda item 3 (“Code Change Adoption: Carbon Monoxide Detection in Restaurants and Commercial Buildings”) be re-adopted as an emergency rule; that the notice of emergency adoption for such re-adoption be filed on or before September 22, 2015, and that the re-adopted rule be effective on the date of filing of such notice of emergency adoption.

Joseph Sauerwein seconded. There was no discussion. The motion passed unanimously.

#### **Agenda Item 4 – Uniform Code 2015 Update – Topics for Discussion and Action**

##### **a. Gas Station – Fire Suppression**

##### **b. Residential Sprinkler Systems**

Ron Piester provided background on this agenda item and indicated that the code council has been preparing to adopt the I-codes with minimal modification. In addition, the Code Council has made decisions several specific critical issues. The last two such issues to address is gas station fire suppression system requirements and residential sprinkler requirements. Ron explained that a motion is still on the table for residential fire suppression sprinklers, the second issue under this agenda item. The first issue to be addressed is gas state fire suppression.

##### **a. Gas Station – Fire Suppression**

Mr. Blanke introduced this item. There was some discussion. Mr. Rapacciuolo made a motion to proceed with development of rulemaking documents, incorporating the 2015 IFC by reference without modification related to fire protection requirements at new gas stations but amending the Uniform Code as necessary to ensure that existing gas stations either maintain existing fire suppression requirements, or are updated to include all safety requirements in the 2015 IFC related to motor fuel dispensing systems.

Shawn Hamlin seconded. There was no further discussion. The motion passed unanimously.

##### **b. Residential Sprinkler Systems**

Mr. Blanke introduced this item, and read the standing motion on the floor, “To proceed with the development of rulemaking documents, incorporating the 2015 IRC by reference with a modification establishing provisions to maintain the requirement for residential sprinkler systems in buildings three stories in height.”

Mr. Blanke also discussed a memo that had been sent to Code Council members regarding the cost of townhouse construction with fire suppression sprinklers versus with two-hour rated fire walls. There was some discussion of matters such as on-going costs, different types of sprinkler systems (such as described in NFPA 13D, NFPA 13R and IRC section 2904), technology of sprinkler installation (insulation, nail guards, storage, fire flow, water supply, seasonally occupied residences). There was further discussion of potential policy issues, such as allowing flexibility for local jurisdictions, requiring sprinklers only in certain residences such as townhouses or over a certain size.

Ron took a roll call vote of the motion on the floor. The motion passed with ten ayes and three nays.

Mr. Sauerwein expressed disappointment that he had failed to convince fellow council members of the need for residential fire suppression sprinklers. After some discussion, Mr. Sauerwein proposed an amendment to require residential fire suppression sprinkler systems in townhouses constructed under the IRC. Mr. Flanigan seconded. There was some discussion. Mr. Piester took a roll call vote, and the motion failed with seven nays and six ayes.

#### **Agenda Item 5 – Public Comment Period**

The following people spoke during the public comment period

Jeff Wilkinson, President of the New York State Fire Marshals & Inspectors Association, said he was ashamed of the vote today.

Rob Pickett, technical consultant to the Log Home Council, made a public comment regarding the need to allow alternate energy efficiency paths such as ICC 400, for energy compliance of log homes.

Dottie Harris of ICC urged the Code Council members and the public to watch the webcast of upcoming ICC public hearings, scheduled for September 30<sup>th</sup> through October 5<sup>th</sup>, 2015. Mark Blanke said he could provide the Code Council members with a link to that webcast.

Edward Cusato, NYSBOC President, thanked the Code Council and Ron Piester for moving forward with adoption of the 2015 I-Codes with minimal amendments.

Matthew Hunter, NE regional representative of the American Wood Council, made a public comment of the need for prescriptive provisions in the 2015 IRC for cavity only insulation. Vermont has adopted such provisions, and they pass ResCheck.

Larry Levine, of the Natural Resources Defense Council, made a public comment of the benefits of EPA's WaterSense fixture standards, as he said USEPA WaterSense program products are widely available, and save both water and energy, for residents individually, and collectively due to reduced costs for water supply and distribution.

**Agenda Item 6 - Future meetings.**

Mark Blanke announced that he sent the Code Council members a meeting schedule for 2015, with the next meeting scheduled for November 19<sup>th</sup>. He plans to present the schedule for 2016 at that meeting.

**Agenda Item 7 - Other Business.**

Mark Blanke reminded those attending about the need for speakers to complete the Notices of Appearance and for those seeking continuing education credits to complete the sign-in sheet.

The meeting adjourned at 12:50 PM.

Record of the meeting prepared by: Miriam McGiver, PE, Senior Building Construction Engineer, Division of Building Standards and Codes, Code Development Unit

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