

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
HUNTINGTON BEACH AMENDING MUNICIPAL CODE
SECTION 17.56.055 REGARDING ENFORCEMENT OF FIRE SPRINKLER
REQUIREMENT FOR ASSEMBLIES

The City Council of the City of Huntington Beach hereby ordains as follows:

SECTION 1. Recitals.

A. Beginning with the adoption of Ordinance No. 3317 on December 18, 1995, the City has required installation of automatic fire sprinklers in all existing buildings exceeding 5,000 square feet upon the change of use to an "assembly" occupancy. Ordinance No. 3317 adopted by reference the California Fire Code as the City Fire Code, subject to certain local amendments. Section 17.56.055 of the City Fire Code amended the California Fire Code to state that: "An automatic sprinkler system shall be installed whenever the total gross floor area exceeds 5,000 square feet for all new construction, additions to existing buildings, or change of occupancy classification"

B. On September 16, 2002, the City adopted Ordinance No. 3571, which again adopted by reference the latest California Fire Code as the City Fire Code, subject to certain local amendments. Section 17.56.055 of the City Fire Code amended the California Fire Code to state that: "An automatic sprinkler system shall be installed whenever the total gross floor area exceeds 5,000 square feet for all new construction, additions to existing buildings, or change of occupancy classification to an assembly, educational, institutional, hazardous or residential use"

C. The California Fire Code further defines an "assembly" occupancy as "the gathering together of 50 or more persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking, dining or awaiting transportation."

D. Generally, the City Fire Code does not require fire sprinklers if the square footage of the building is less than 5,000 square feet. Occupancies classified as hazardous or woodworking facilities have requirements for fire sprinklers even in buildings less than 5,000 square feet. The square footage of a building includes the entire interior floor area of the building, regardless of interior walls, unless the interior walls are a four-hour, fire resistant masonry wall. Consequently, even if an assembly includes less than 5,000 square feet of the building, fire sprinklers are required if the building exceeds 5,000 square feet. Section 17.56.060 of the City Fire Code provides that sprinklers only may be omitted where a four-hour masonry wall separates the assembly area from the adjoining occupancies, and limits the assembly use to 5,000 square feet, or less.

E. Huntington Beach's Building and Fire Codes recognize that different types of assemblies pose different risks to life and property in case of fire. Although all assemblies are defined as gatherings of 50 or more persons, the Codes distinguish between (1) civic, social or

APPROVED FOR INTRODUCTION

5-21-2007

D-1

religious assemblies, (2) food or drink assemblies, and (3) recreation, education or instruction assemblies. Civic, social or religious assemblies present the greatest risk to life and property in case of fire because the Building Code permits "auditoriums, churches and chapels" to be occupied by up to one person for every seven square feet of floor area, whereas "dining rooms and dining establishments" are permitted one person per every 15 square feet of floor area and "exercising rooms" are allowed one person per every 50 square feet.

F. The City issues Certificates of Occupancy ("C of O") for all buildings. Fire code permits authorize both the permitted use of the building (such as manufacturing, business, assembly, etc.). The maximum number of persons that may occupy the building is defined as occupancy load. In issuing C of Os for assemblies, the City must distinguish between assemblies established before 1996, when fire sprinklers were not required, and those established after 1996, when fire sprinklers were required. As a legal, non-conforming use, any assembly established before 1996 may continue to operate indefinitely without sprinklers after 1996. Alternatively, if the City issued fire permits for a non-assembly use in an existing building prior to 1996, and later, the landlord rented the same space to a new, restaurant tenant engaged in an assembly use, the City should have recognized this change of use, and required the installation of fire sprinklers before issuing a fire permit.

G. The City has effectively applied the fire sprinkler requirement to all new construction, demolitions and remodeling/expansions, and any new occupancy that requires a discretionary land use entitlement. However, the City may have failed to consistently require installation of fire sprinklers upon changes of use to assemblies in existing buildings where it was unnecessary to obtain zoning approval to establish the new occupancy.

H. The City Council seeks to ensure that all buildings where there was a change of use to assembly after 1996 are retrofitted with automatic fire sprinklers to protect against loss of life and property due to fire. In enforcing the fire sprinkler requirement, the City Council recognizes not only the substantial cost of fire sprinklers, but also that tenants may have entered into leases and operated business based upon the assumption that fire sprinklers were not required. In order to correct any failure of enforcement without causing undue hardship on the property owner and/or tenant, the City Council adopts this Ordinance to amortize as expeditiously as possible any unlawful assemblies.

SECTION 2. Section 17.56.055 of the Municipal Code is amended to read as follows:

17.56.055 CFC Section 1003.2.2 Automatic Fire Extinguishing Systems.

1003.2.2 All Occupancies: All Occupancies Except Group U occupancies. (For group U occupancies, refer to City Specification #404). An automatic sprinkler system shall be installed whenever the total gross floor area exceeds 5,000 square feet for all new construction, addition to existing buildings (refer to City Specification #420), or change of occupancy classification to an assembly, educational, institutional, hazardous or residential use, and as follows:

- 1003.2.3.1 **Drinking Establishments:**
Line 5 Change '(1) hour' to '(4) hour.'
Line 6 Change one (1) hour to four (4) hour.
- 1003.2.3.3 **Exhibition and Display rooms:**
Line 2 Change 12,000 to 5,000.
- 1003.2.3.7 **Stages.** All buildings shall be sprinklered, where there is a stage or enclosed platform.

1003.2.3.9 -- Automatic sprinklers shall be required throughout building where a portion of the building above the first floor is used for drinking and/or dining.

1003.2.3.10 -- Automatic sprinklers shall be required throughout the building when a portion of the building above the first floor is used for any assembly purpose other than drinking and/or dining, with an occupant load of fifty (50) or more persons.

1003.2.3.11 -- Certificate of Temporary Conformity and Amortization.
Any change of occupancy to an assembly use begun after January 17, 1996 and prior to January 1, 2006 pursuant to a City-issued occupancy permit may be continued without installation of automatic fire sprinklers, provided that upon written notice from the Fire Marshal, the owner of the building shall apply for and obtain a Certificate of Temporary Conformity and Amortization Schedule. The owner shall make such application within sixty (60) days from receiving the Fire Marshal's notice of violation. Upon determining that the City had issued an occupancy permit authorizing an assembly use, the Fire Marshal shall issue a Certificate of Temporary Conformity and Amortization Schedule upon the following conditions:

1. The building owner shall apply for a Certificate of Temporary Conformity and Amortization Schedule within sixty (60) days of the Fire Marshal serving a notice of violation of the Fire Code on the Property.
2. The Fire Marshal may issued the Certificate Of Temporary Conformity and Amortization Schedule subject to the following conditions:
 - a. The nonconforming assembly use shall be amortized within three (3) years of the date of issuance of the Certificate of Temporary Conformity and Amortization Schedule. The three year amortization period of the Certificate is limited to compliance with the fire sprinkler or fire wall requirement, and no other City Code requirements.
 - b. At a minimum, amortization shall require the installation of fire sprinklers or a fire wall.
 - c. The building owner shall apply for a fire permit to remedy the nonconformity by installing fire sprinklers or fire wall within

- one (1) year of issuance of the certificate of temporary conformity.
- d. The building owner shall begin installation of the fire sprinklers or fire wall within two (2) years of the issuance of the Certificate of Temporary Conformity.
- e. The nonconforming assembly use may not be altered or extended to occupy greater floor area.
- f. If such nonconforming assembly use ceases for a period of thirty (30) days, any subsequent use shall be in conformity with the Fire Code.
- g. The owner must apply for any other land use permits required for the change of occupancy within one (1) year of issuance of the certificate of temporary conformity.
- h. If such nonconforming assembly use shall be substantially destroyed, then it may not be resumed.
- i. Such other conditions as the Fire Marshal shall determine are reasonably necessary to ensure timely compliance with the Fire Code.

1003.2.4.1 General. Delete – Exceptions one (1) and two (2).

1003.2.8 Group M Occupancies. An automatic sprinkler system shall be installed in retail sales rooms classified as Group M Occupancies where the floor exceeds 5,000 square feet or in Group M retail sales occupancies more than three stories in height. The area of mezzanines shall be included in determining the areas where sprinklers are required.

SECTION 3. This Ordinance shall become effective 30 days after its adoption

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 2007.

ATTEST:

City Clerk

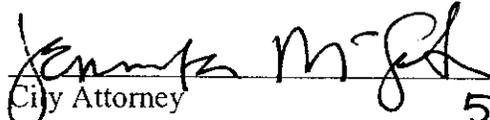
Mayor

REVIEWED AND APPROVED:

APPROVED AS TO FORM:

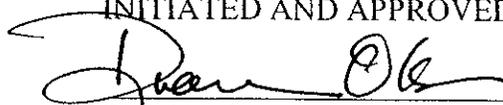


City Administrator



City Attorney 5.8.07

INITIATED AND APPROVED:



Fire Chief

D1.4

LEGISLATIVE DRAFT

Chapter 17.56

HUNTINGTON BEACH FIRE CODE

17.56.055 CFC Section 1003.2.2 Automatic Fire Extinguishing Systems.

1003.2.2 All Occupancies: All Occupancies Except group U occupancies. (For group U occupancies, refer to City Specification #404). An automatic sprinkler system shall be installed whenever the total gross floor area exceeds 5,000 square feet for all new construction, additions to existing buildings (refer to City Specification #420), or change of occupancy classification to an assembly, educational, institutional, hazardous or residential use, and as follows: (3317-1/96, 3430-7/99, 3571-10/02)

1003.2.3.1 Drinking Establishments:

Line 5 Change '(1) hour' to '(4) hour'.

Line 6 Change one (1) hour to four (4)

1003.2.3.3 Exhibition and Display rooms:

Line 2 Change 12,000 to 5,000.

1003.2.3.7 Stages. All buildings shall be sprinklered, where there is a stage or enclosed platform.

1003.2.3.9 ADD- Automatic sprinklers shall be required throughout the building where a portion of the building above the first floor is used for drinking and/or dining.

1003.2.3.10 ADD- Automatic sprinklers shall be required throughout the building when a portion of the building above the first floor is used for any assembly purpose other than drinking and/or dining, with an occupant load of fifty (50) or more persons.

1003.2.3.11 ADD -- Certificate of Temporary Conformity and Amortization.

Any change of occupancy to an assembly use begun after January 17, 1996 and prior to January 1, 2006 pursuant to a City-issued occupancy permit may be continued without installation of automatic fire sprinklers, provided that upon written notice from the Fire Marshal, the owner of the building shall apply for and obtain a Certificate of Temporary Conformity and Amortization Schedule. The owner shall make such application within sixty (60) days from receiving the Fire Marshal's notice of violation. Upon determining that the City had issued an occupancy permit authorizing an assembly use, the Fire Marshal shall issue a Certificate of Temporary Conformity and Amortization Schedule upon the following conditions:

- 1. The building owner shall apply for a Certificate of Temporary Conformity and Amortization Schedule within sixty (60) days of the Fire Marshal serving a notice of violation of the Fire Code on the Property.**

- 2. The Fire Marshal may issued the Certificate of Temporary Conformity and Amortization Schedule subject to the following conditions:**
 - a. The nonconforming assembly use shall be amortized within three (3) years of the date of issuance of the Certificate of Temporary Conformity and Amortization Schedule. The three year amortization period of the Certificate is limited to compliance with the fire sprinkler or fire wall requirement, and no other City Code requirements.**
 - b. At a minimum, amortization shall require the installation of fire sprinklers or a fire wall.**
 - c. The building owner shall apply for a fire permit to remedy the nonconformity by installing fire sprinklers or fire wall within one (1) year of issuance of the certificate of temporary conformity.**
 - d. The building owner shall begin installation of the fire sprinklers or fire wall within two (2) years of the issuance of the Certificate of Temporary Conformity.**
 - e. The nonconforming assembly use may not be altered or extended to occupy greater floor area.**
 - f. If such nonconforming assembly use ceases for a period of thirty (30) days, any subsequent use shall be in conformity with the Fire Code.**
 - g. The owner must apply for any other land use permits required for the change of occupancy within one (1) year of issuance of the certificate of temporary conformity.**
 - h. If such nonconforming assembly use shall be substantially destroyed, then it may not be resumed.**
 - i. Such other conditions as the Fire Marshal shall determine are reasonably necessary to ensure timely compliance with the Fire Code.**

1003.2.4.1 General. Delete - Exceptions one (1) and two (2).

1003.2.8 Group M Occupancies. An automatic sprinkler system shall be installed in retail sales rooms classified as Group M Occupancies where the floor area exceeds 5,000 square feet or in Group M retail sales occupancies more than three stories in height. The area of mezzanines shall be included in determining the areas where sprinklers are required.

**INTENTIONALLY
LEFT
BLANK**