



SAUGATUCK TOWNSHIP

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SAUGATUCK TOWNSHIP BOARD PUBLIC PRESS RELEASE PROPER INTERPRETATION OF TOWNSHIP FIRE CODE AND EMERGENCY RESPONSE

Date: September 26, 2018

Earlier this month, the Fire District provided a spreadsheet listing incidents in which the Fire District believes its operations were impaired by the Township's International Fire Code (IFC) adoption ordinance. The Township attorney and Saugatuck Township Board have reviewed that spreadsheet in detail and prepared comments for the Fire District's consideration at its regular September meeting.

It is worth noting that the release of the spreadsheet was the first time that many of the documented incidents were brought to the Township's attention. This is problematic. The Fire District is a service provider to the Township. It is supposed to cooperate with Township officials to protect the public safety and welfare. It appears that many of these incidents in the spreadsheet (and the misunderstandings that underlined them) could have been resolved with a simple phone call to Township Hall. In the future, it is the hope of the Township Board that the Fire District will communicate more effectively with its community partners.

As a brief overview, it appears that the Fire District is continuing to misconstrue the Township's ordinance. The Township previously explained the ordinance in memoranda to the Fire District dated October 13, 2017 and April 4, 2018. At taxpayer expense. Yet, Fire District officials appear to be interpreting the ordinance, again, to have a significantly broader effect than it would under the Township's interpretation. Fire District officials also appear to be declining services to residents on that basis. Accordingly, the Township is becoming increasingly concerned that the Fire District is providing misinformation about the ordinance to the public.

Many of the incidents in the spreadsheet relate to the Township's modification to Section 102.5.2 of the IFC, which now reads:

The administrative, operational and maintenance provisions of this code do not impose obligations on the owner or occupant of a one-family or two-family dwelling except when the parcel is subject to a rental permit issued under Section 8-106 of the Code of Ordinances, or is the subject of an application for a rental permit.

As previously explained in numerous correspondences to the District and Chief Janik, these provisions do not deprive the Fire District of its ability to provide services on residential property. The Township's general goal in adopting this modification was to relieve the owners of one-family and two-family dwellings from some of the obligations that the IFC imposes that are above and beyond the Michigan Residential Code. There are still many circumstances in which the Fire

District is authorized to (and, in fact, charged with the duty to) provide services to residential properties.

To further elaborate, the term “administrative, operational, and maintenance provisions” refers to the portions of the code that impose obligations on property owners and occupants on a day-to-day basis, after the structure on the property has already been designed and constructed. For example, the provisions in Chapter 8 regarding upholstered furniture fall within this category. The Township has determined that state law and other ordinances sufficiently provide for fire prevention in the residential context, and that it is not prudent to subject the activities that go on within one- and two-family homes to an additional 500 pages of code.

So, in light of the new ordinance, the Fire District may not use the provisions of the IFC to conduct inspections of single-family or two-family homes, except in connection with a rental-permit application. The Fire District also may not cite the owners or occupants of single-family or two-family homes for failing to perform obligations imposed by the IFC.

On the other hand, the Fire District retains all authority granted under state law to enforce fire-prevention measures and to respond to emergencies. It also retains all authority granted under the IFC to enforce generally applicable prohibitions, like the prohibitions on the use of sky lanterns. The Fire District may also perform services upon the request of a property owner.

Many fire departments throughout the state operate in this manner, without *any* provisions of the IFC being in force. Like many states, Michigan has not adopted the IFC on a state-wide basis. Rather, local communities may decide for themselves whether to adopt some or all of its provisions, or whether the fire-safety provisions in other statutes and codes are sufficient for the protection of their residents. The Township has chosen to adopt the IFC in full with respect to all properties other than single-family and two-family homes. Some nearby communities, like Laketown Township, have chosen not to adopt the IFC at all.

The specific modifications that the Township adopted are not unprecedented or even unusual. On a cursory review, the Township has identified three other jurisdictions that have adopted similar modifications on a state-wide basis. Specifically, the states of Georgia and North Carolina appear to completely exempt one- and two-family homes from the provisions of the IFC (which otherwise applies throughout those states). GFC 102.1, 102.2; NCFC 102.13. The state of Virginia similarly exempts one- and two-family homes from the IFC inspection requirements. VFC 109.1. So, in these three jurisdictions alone, there are approximately 30 million people subject to a regulatory scheme substantially similar to the one adopted in the Township. This suggests that much of the rhetoric surrounding the Township’s IFC modifications is overstated, and perhaps even reckless.

A recent published article inaccurately states that the IFC is “adopted in 41 states.” This is somewhat misleading, as it suggests that the IFC has been adopted on a statewide basis in those jurisdictions. In reality, only about 23 states have adopted the IFC statewide, and several of those have made significant modifications. The other states to which the article refers have (like Michigan) authorized adoption of the IFC as an optional local code.

Township Zoning Administrator Comments On Fire District Incident Report

| Date | Type | FD Narrative | FD IFC Explanation | Zoning Administrator Comments |
|----------|--|--|---|--|
| Unknown | Public Service / Dry Hydrant Test | Performing dry hydrant testing. | Per modified IFC 102.5.2, the administrative, operational and maintenance provisions of this code do not impose obligations on the owner or occupant of a one□family or two□family dwelling. Required by IFC 507 & NFPA 1142, however homeowners no longer obligated to maintain or test. | More information about the location of the hydrant is needed. If it is a private hydrant (one that has not been accepted into the public water system) the property owner is responsible for inspecting and maintaining it. |
| 11.19.17 | Power line down | ATF a tree leaning on communication lines. Access road obstructed. 2107 advised ACCD to notify Comcast of the situation. Crew on scene coned off a lane of travel directly around tree in the event it would fall. Crew were unable to cut the tree without possibly taking down the lines. 2107 advised ACCD that a boom truck was needed to safely remove the tree from the line to remove the hazard via TX. Comcast advised that it was not their line. Frontier advised it was possibly a dead line. 2107 advised Frontier to come, verify and remove the tree, and notify Fire District when tree was removed to pick up cones that remained on scene. | Allowed to respond, but no authority to take further action. Per modified IFC 102.5.2, the administrative, operational and maintenance provisions of this code do not impose obligations on the owner or occupant of a one□ family or two□family dwelling. Conflicts with IFC 503.4 obstruction for fire apparatus access road. Maintenance of fire apparatus access roads no longer applies. | <p>The Township's modifications to IFC 102.5.2 do not impair the removal of downed trees. The appropriate steps for removal would depend on the circumstances and the type of road involved. In general:</p> <ol style="list-style-type: none"> 1. The County Road Commission handles obstructions in County roads. 2. Leaning trees near power lines are best handled by the electric provider. 3. The Fire District may remove downed trees (or perform any other service relating to fire safety) on private property at the owner's request. 4. Pursuant to state statute, the Fire District can abate dangerous conditions during an emergency. MCL 29.7a. 5. In non-emergency situations, downed trees blocking driveways or private roads may be subject to nuisance abatement by the Township. <p>The Fire District should coordinate with appropriate partner agencies to address these scenarios.</p> |
| 12.13.17 | Smoke detector activation due to malfunction | Went inside to find smoke alarm sounding. 2103 spoke to ADT and disarmed the alarm. Home owner spoke to ADT and a tech will come and service the alarm. Advised the home owner the alarm system is not operational per ADT at this time. | Allowed to respond, but no authority to take further action. Per IFC 102.5.2, the administrative, operational and maintenance provisions of this code do not impose obligations on the owner or occupant of a one□ family or two□family dwelling. 2103 has no authority to speak with ADT and disarm the alarm. Homeowner is not obligated to repair | <p>State law requires a minimum of one functioning smoke detector on each floor of a single-family home. R 408.30546 (Michigan Residential Code ("MRC")). It further requires that: "the owner of a dwelling unit, in which required or optional fire detection or fire protections systems equipment is installed, shall be responsible for the proper operation, testing, and maintenance of the equipment in accordance with the manufacturer's instructions included with the equipment."</p> <p>Accordingly, the Fire District is incorrect in stating that a homeowner is not obligated to repair a defective smoke detector.</p> |
| Date | Type | FD Narrative | FD IFC Explanation | Zoning Administrator Comments |

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| 12.27.17 | Carbon monoxide incident | Resident have a very old monitor that had activated and thought he smelled something as well. Upon entering the home, we had a reading of 6 ppm and near the furnace a reading of 24 ppm. There were two adults and two children in the home, nobody had any complaints of C/O effects. 2104 recommended they leave the home and contact a furnace repair technician. When the repair is complete, they were encouraged to contact STFD and we could install a new C/O monitor. | Allowed to respond. The administrative, operational and maintenance provisions of this code do not impose obligations on the owner or occupant of a one□family or two□family dwelling. Homeowner is not obligated to leave the home, install CO alarm, or furnace repair technician. | State law requires functioning carbon monoxide alarms to be installed at the time when a home is constructed or renovated, and further requires such alarms to be "operational." MCL 125.1504f; MCR 315. Depending on the circumstances, the statement that the homeowner was not obligated to install an operational CO alarm may be inaccurate. Further, it is unclear from the Fire District's description of this incident how it would have responded differently if not for the modifications to IFC 102.5. It appears that the Fire District effectively assisted the homeowner. |
| 12.29.18 | Public Service | This call was generated by 21□0□10 regarding Call 055, on 1/28/2018, and a discrepancy with the location of the dispatched address on Old Allegan Rd. On the morning of 1/29/18, home owner stopped into the station to discuss the previous night's illegal burn call, call 055. 21□0□10 suggested the home owner discuss this with Chief Janik. His information was taken and passed on to the Chief who subsequently followed up. The owner also voiced concern that first responders had struggled to locate the address. It was determined the address dispatch was given the previous night had been incorrect. The owner assured 21□0□10 that he had proper address markings so 21□0□10 offered to drive out and make sure the address signage was properly displayed. In the afternoon, 21□0□10 and 2104 attempted to drive out to the address, as the owner had stated. There were no visible address signs with that number. The location of the home was finally found at the dead end coarse two□track. | Fire District allowed to respond, no authority to take further action. Per modified IFC 102.5, premise identification no longer applies to one□ and two□family dwellings. Fire District no longer has the authority to require approved address identification IFC 505.1. | State law requires that all buildings, including single-family and two-family residences, have approved address identification. MRC 319.1. In fact, the provision in the Michigan Residential Code regarding address identification are identical to those in the IFC. It provides as follows: "Buildings shall be provided with <i>approved</i> address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than 4 inches (102 mm) in height with a stroke width of not less than 0.5 inch (12.7 mm). Where required by the fire code official, address identification shall be provided in additional <i>approved</i> locations to facilitate emergency response. Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address identification shall be maintained." |

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| 1.31.18 | Chimney Fire | Encountered access roadway is only 17 feet, and 20 feet is required. Roadway believed to be owned by the association. Photos taken for documentation of road. Upon departure, 2151 could not navigate the unapproved turnaround at the dead-end road. 2151 had to be guided/spotted and was required to back out from Heron Bay Dr. to BSH, a distance of several thousand feet. This action required approx. 10-15 minutes. It was observed 2151 and 2112 were required to back several hundred feet in an attempt to turnaround. | Per modified IFC 102.5.1b fire apparatus access does not apply to driveways or private roads serving one or two family dwellings. Roadway does not appear to meet townships zoning ordinance. | <p>Based on the Fire District's description of this incident, it does not appear that the modifications to IFC 102.5.1 were implicated.</p> <p>The IFC's fire apparatus access road requirements only apply to a "facility, building, or portion of a building hereafter constructed." IFC 503.1.1. Accordingly, to the extent this road serves houses that were constructed before the Township adopted the Fire Code in 2008, the IFC does not provide a means for requiring road widening. Similarly, a road constructed before the adoption of the Township's private road ordinance would be (pursuant to state law) "grandfathered" into the less stringent rules that used to exist.</p> <p>For newly constructed private roads, the Township's zoning ordinance now requires a minimum width of 20 feet, matching the IFC requirement. Zoning Sec. 40-658(b)(2).</p> |
| 2.25.18 | Tree down | Obstruction of fire apparatus access road. Dispatched for a tree down. ATF small tree across Clearview Ln making it unpassable. 2100-11 contacted 2101 as the Fire District was not responsible for private roadways in the township due to changes in the Fire Code. 2101 advised that roadway should be cleared in the event of an actual emergency. Crew utilized chainsaw off 2112 to cut up tree and trunks were removed, making Clearview Ln accessible. | Fire District allowed to respond, no authority to take further action. Per modified IFC 102.5.2, the administrative, operational and maintenance provisions of this code do not impose obligations on the owner or occupant of a one-family or two-family dwelling. Michigan Residential Code [MRC] does not regulate the design and construction of emergency access to residential developments. Maintenance of fire access roads for servicing residential developments must comply with IFC 503 and Appendix D, however, these requirements no longer apply. | The Township's zoning ordinance provides for the maintenance of private roads. Specifically, it requires that the property owners' record a joint maintenance and easement agreement that authorizes the Township to perform maintenance work at the property owner's expense when the property owner fails to do so. Zoning Sec. 40-658(f). Moreover, the easement granted under these agreements is to be for the benefit of the Township and emergency service providers, like the Fire District. |

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| Unknown | Public Service / Development Review | Fire District excluded from development construction document review, and hydraulic calculations for water supply. No review and approval prior to construction. Note: Water supply for fire protection has not been installed and made serviceable prior to and during construction. | IFC 501.3, 501.4, 507.1, 507.3 and B103.3 have not been followed. | <p>This alleged incident does not appear to relate to the Township's modifications of the IFC, but instead appears to assert that the Township did not properly administer IFC provisions that are still in effect within the Township.</p> <p>To the extent these assertions relate to the residential development on the former Dennison property by developer North Shores of Saugatuck, the Township has addressed these assertions extensively in other written correspondence with the Fire District. To briefly summarize:</p> <ol style="list-style-type: none"> 1. The modifications to the IFC had not even been adopted yet at the time when the Planning Commission considered and approved the preliminary plans for the development; and 2. Fire District personnel attended the Planning Commission meeting and commented on the plans, and numerous Township officials understood those comments to mean that the plans were approved by the Fire District. |
| 3.15.18 | Rental Inspection | Requested by owner to conduct rental inspection prior to impending scheduled rental at single family dwelling. However zoning administrator was not available, he was attending "March Madness". | Per modified IFC 102.5.2, only township zoning administrator can request the fire code official to inspect rental dwellings. | <p>We understand that this incident relates to a situation in which a property owner went first to the Fire District to ask about a rental inspection, instead of applying through the Township. The Fire District should have informed the property owner of the proper process.</p> <p>Further, the allegation that the Zoning Administrator was unavailable due to attending March Madness is unverified and inaccurate.</p> |
| 4.4.18 | Citizen Complaint | Received call from concerned resident about an obstructed fire hydrant on Old Allegan Road. Apparently, someone had cut trees down on the residential property and the downed trees are obstructing hydrant access. The caller indicated, (twice) the property has been vacant for some time. The residence is a single family dwelling. Fire District has no authority to oblige IFC compliance to owner or occupant of single family dwellings. The house appeared to be abandoned from the roadway. Referred to KLSW Authority, however, KLSW thought Saugatuck township would be responsible. township copied on email by KLSW. | Per modified IFC 102.5.2, the administrative, operational and maintenance provisions of this code do not impose obligations on the owner or occupant of a one□family or two□family dwelling. Conflicts with IFC 507.5.4, obstruction. | The Township has authority to address this situation, notwithstanding the modifications to the IFC. The appropriate means for doing so would depend on the location of the fire hydrant and other circumstances. |

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|---------|-------------------------------------|--|--|--|
| 4.15.18 | Citizen Complaint | <p>2101, Greg Janik, received a voice mail at home at 06:39am from a resident concerning a large tree obstructing an emergency access road. There is only a single emergency access road to the residential development. 2101 returned the phone call and explained to resident, that according to the IFC revision by the township, we are only to respond to the emergency, subsequently the Fire District has no authority to require removal of the obstruction or removal of the tree. Resident stated there are two residents, (one very serious), with medical conditions and they are concerned emergency medical crews cannot access patient. 2101 agreed to send emergency crews to open up the emergency access road, 2101 immediately called Duty Officer and Duty Crew to respond with 2101 to the obstructed emergency access road. 2101 informed the resident that he needs to call 911 to have Fire District dispatched.</p> | <p>Fire District allowed to respond, no authority to take further action. Per modified IFC 102.5.2, the administrative, operational and maintenance provisions of this code do not impose obligations on the owner or occupant of a one-family or two-family dwelling. Michigan Residential Code [MRC] does not regulate the design and construction of emergency access to residential developments. Maintenance of fire access roads for servicing residential developments must comply with IFC 503 and Appendix D, however, these requirements no longer apply.</p> | <p>See comments regarding 11.19.17 incident.</p> |
| Unknown | Public Service / Development Review | <p>IFC 102.5 amendments only allow water supply and fire flow requirements to new subdivisions, site condominiums, or other large-scale residential developments requiring review by the township planning commission. Those provisions only apply if the development of any parcel that, prior to August 2, 2017, was part of a parent parcel that has been subsequently divided into 4 child parcels pursuant to the Michigan Land Division Act, 1967 PA 288.</p> | <p>The Fire District is not aware of how many residential projects have been allowed, or how many future residential projects will be allowed that do not have to meet water supply and fire flow requirements. The Fire District does not know the ramifications of amending a comprehensive fire code that establishes minimum national recognized requirements. Consequences of the amendment may take years to surface.</p> <p>Note: The Fire District is requesting the township to notify the Fire District of any and all developments that were approved by the township that did not require review by the Planning Commission and if the development of any parcel that, prior to August 2, 2017, was part of a parent parcel that has been subsequently divided into 4 child parcels pursuant to the Michigan Land Division Act, 1967 PA 288.</p> | <p>These comments do not appear to relate to a specific incident.</p> <p>As explained more fully in the attached accompanying cover letter, modifying the IFC to meet community needs is a common practice. On a quick review, the Township identified two states (Georgia and North Carolina) that have adopted the IFC on a state-wide basis and completely exempted to one- and two-family dwellings from its requirements. The State of Virginia has similarly adopted the IFC while exempting such dwellings from inspection requirements. Further, in many states (like Michigan), the IFC is an optional code, and many local communities have not adopted it at all.</p> <p>As to the request that the Township notify the Fire District of new developments, the Township already provides the Fire District with electronic access to all building permits issued.</p> |

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| 6.2.18 | Citizen Complaint | Potential illegal burn. | Allowed to respond, but no authority to take further action. Per modified IFC 102.5.2, the administrative, operational and maintenance provisions of this code do not impose obligations on the owner or occupant of a one-family or two-family dwelling. IFC 307, Open Burning and Recreational Fires, by specification, are no longer applicable to one and two family dwellings | The Fire District still has authority to regulate an open burning. The Township has a separate ordinance that regulates open burning and gives the Fire District permitting authority. See City Code ch 16, art IV. |
| 7.4.18 | Illegal burn Equipment Fire Sky Lanterns | Sky lanterns were observed in sky over the township at the 4th of July fireworks standby. | The use of sky lanterns is no longer prohibited under the IFC modification. Per modified IFC 102.5.2, the administrative, operational and maintenance provisions of this code do not impose obligations on the owner or occupant of a one-family or two-family dwelling. | <p>The prohibitions in the IFC (like the prohibition on sky lanterns) continue to apply. First, the IFC prohibitions on open burning continue to apply, notwithstanding the Township's code modifications. The relevant Township modification provides only that: "The administrative, operational and maintenance provisions of this code do not impose obligations on the owner or occupant of a one-family or two-family dwelling except when the parcel is subject to a rental permit." Sec. STFC 102.5.2.</p> <p>Accordingly, by its express text, the modification only exempts the owners and occupants of one- and two-family homes from affirmative obligations that the IFC would impose on them based on their status as homeowners. It does not exempt them from generally applicable prohibitions in the IFC, like the prohibitions on open burning without a permit.</p> |
| 8.26.18 | Description Not Given | Dispatched for a CO alarm activation with no one feeling ill. 2112 and 2172 arrived on scene to the home's residents in the garage with a CO alarm activated. CO had END displayed on the LCD screen and admitting a steady beep. CO monitor was confirmed to had hit the end of life. 2106 walked thru the house with a gas meter to confirm no CO. Installed a replacement CO detector with home owner permission. Also advised home owner that 3 of the 4 smoke detectors were also out of date and should be replaced. | Allowed to respond, but no authority to take further action. Per IFC 102.5.2, the administrative, operational and maintenance provisions of this code do not impose obligations on the owner or occupant of a one-family or two-family dwelling. Homeowner is not obligated to replace unit(s). | See comments regarding 12.13.17 and 12.27.17 incidents. |