

City of Bay Village

PLANNING, ZONING, PUBLIC GROUNDS AND BUILDINGS COMMITTEE

October 28, 2013

City Hall Conference Room 8:05 p.m.

Member Present: Councilman Steve Lee, Chairman
Councilman Mike Young
Councilman Clete Miller

Others Present: John Cheatham, Chief Building Official-SAFEbuilt, Councilman
Dwight Clark, Assistant to the Law Director Jean Cundey

Councilman Lee, Chair of the Committee, called the meeting to order at 8:05 p.m. in the Conference Room of Bay Village City Hall, and the meeting was open to the public. Mr. Lee thanked everyone for their time this evening.

Proposed Edits to Chapter 13 (Building Code)

Mr. Lee called upon John Cheatham, Chief Building Official, SAFEbuilt, and noted that when Mr. Cheatham joined the City of Bay Village in May through the contract with SAFEbuilt for Building Department services, he identified some changes to the code that would be required.

Mr. Cheatham addressed the Committee stating that the State of Ohio, in 2006, formed a committee called the RCAC. The appointees are appointed by the Governor of the State. The committee devised a state-wide mandate for residential code for the first time. The mandatory adoption date, if you had a code, was May 27, 2007. On that date state-wide, border-to-border, you either had no code, or the state code, the Residential Code of Ohio. That code just updated, for the first time, on January 1, 2013. At the time, legislation was enacted that said that anytime you had language in your city ordinances the language and intent of whatever ordinance or resolution you had, could not be in conflict with the state code.

Mr. Cheatham stated that he sits on the State Board of Building Officials Association. Every other month they meet with the Board of Building Standards and three or four times per year they meet with the RCAC. During these meetings for the past several years they have said they found out that this city somewhere still had unrevised language. Those cities were given thirty days to revise their ordinances or they would be out. Mr. Cheatham stated that he was surprised to see that certain provisions of the Bay Village language were still in need of revision. Mr. Cheatham called Regina Hinshaw, Executive Secretary of the Board of Building Standards and told her that Bay Village was outsourcing to SAFEbuilt, and there is no way this could get through City Council all at once. Ms. Hinshaw allowed one calendar year for the changes but said the sooner the better. By May 1, 2014, the language must be changed.

Mr. Cheatham stated that some of the conflicts can be addressed by changing the title of the chapter. Some absolutely have to be rescinded. Others can go to Zoning Chapter 11. Others are just recommendations but are highly recommended based on Mr. Cheatham's experience.

Part Thirteen is entitled Building Code. This must be changed to another title such as “Building Standards”, Building Regulations, Building Rules, etc.

Mr. Lee noted that some of the neighboring communities still use the title “Building Code.” Mr. Cheatham stated that Rob Johnson has been hired by the state to enforce these mandatory changes. Mr. Johnson has started with the larger departments such as Dayton, Columbus, Cincinnati, and Cleveland. Mr. Lee noted that the City of Cleveland still uses the title “Building Code.” Mr. Cheatham stated that the state has informed him that Cleveland has so many political powers that they are having trouble with them and they know they are going to end up in court.

Mr. Cheatham’s letter to Mr. Dan Galli, Service Director, dated June 18, 2013, was referenced with the following changes requested:

1. Change to another title such as “Building Standards, Building Regulations, Building Rules, etc.
2. Change all references within Chapter 13 (to the “Building Code”) to be consistent with the new title
3. 1301.03 Rescind
4. 1301.05 Rescind
5. *1303.06 This refers to the 10-day posting of intent. Add exceptions: Decks<200 square feet; sheds>144 square feet.
6. 1305 Permit and Inspection Fees – attached with suggested changes for less cumbersome fee schedules. The current fee configuration is time consuming and does not lend itself to practical logistics in pricing the permits and inspections for either the customer or the Building Department personnel. Many man hours are unnecessarily spent pricing when it could be done in a much more simplified and practical manner. The new schedule would reflect very similar fee income without resulting in an increase in cost to the consumer.
7. *1307 Plan review fees – These are too limited and disallow for charging for plan review unless it is written restrictive parameters. Any time we conduct a plan review, we need to be compensated. Often on decks and other small projects, we conduct multiple reviews prior to an approval. A lot of time is expended that is not compensated.
8. 1321 Rescind with the following exceptions:
 - a. 1553.01, 1553.02, 1565.00- these sections could be placed in Part Eleven and only the calculations from these sections are permitted to be kept without being in conflict with the State of Ohio legislative rules.
9. 1322.03 The designation of “2006” must be removed. Language to be inserted reading “the most current edition of the Residential Code of Ohio”
10. 1322.07 Rescind
11. 1322.09 Mr. Cheatham: “It is my professional opinion that this imposes undue liability on the city. This used to be in the state codes and was removed several years ago as it has too many variables, calls for personal opinion, and is too subjective and open to rulings which may be considered capricious and arbitrary.

12. 1331.01 The designation “2005” must be removed. Language to be inserted reading “The most current edition of the Ohio Building Code.”
13. 1331.03 Rescind
14. 1333 Rescind
15. 1344.03 Definitions. Some of these are redundant and some are in conflict with the State of Ohio definitions. Rescind all but the following:
 - a. 3,5,8,9,10,25,26,27,28,29,31
16. 1344.04 Rescind for the same reasons all but the following:
 - a. H, I, N
17. 1349.09 (New)

The committee proceeded to review the requested ordinance changes. Mr. Lee stated that Items No. 1 and 2 are name changes only. Numbers 3 and 4 are removing the “Duties of Director.” Mr. Cheatham stated that Mr. Galli recommended removing these ordinances because he felt the language was in conflict. Mr. Miller questioned whether the City Charter was referenced when considering these revisions. Mr. Cheatham stated that these changes have nothing to do with SAFEbuilt. There are no problems with saying in the ordinance that someone is also the Building Commissioner.

Item No. 4. Contracted professional Class I Building Official services (2002) Mr. Cheatham stated that the entire department is now contracted out. The code served its purpose at the time but is not something that is needed to stay on.

*Item No. 5. The proposed language eliminates the requirement for residents to post notice of intent for ten days. Mr. Cheatham stated that small decks and small sheds should be allowed to go in without the ten day posting requirement, as a matter of expediency. The Board of Zoning Appeals does not grant appeals by neighbors if the resident constructing the shed or deck is within code. The asterisk in front of the Item No. means that the code is not in conflict but is just a recommendation and opinion of Mr. Cheatham.

*Item No. 6. 1305 Permit and Inspection Fees - Mr. Cheatham stated that he is not recommending a change in fees for the reason of increasing or decreasing revenue. It is simply that the fee schedule as it lives today in the ordinance is extremely cumbersome and takes forever to price on every permit. An inordinate amount of time is used to calculate the fees. The new language will make the fee schedule more user friendly for the department and the end-user. Mr. Lee asked Mr. Cheatham to provide examples of the changes as it would apply to a permit.

*Item No. 7 1307 Plan review fees –Mr. Cheatham stated whether he is Bay Village or SAFEbuilt, time is time. This is the first place he has been where there is not a plan review charge if you did a plan review. Here there is only a charge for reviews for additions over a certain number and for entirely new structures, residential or commercial. Much of the plan review are sheds, alterations, decks, etc., for which there is no compensation. These take up much time and there is no compensation for the work. The charges are minimal:

New Dwellings

| Plan Examination Fee | <u>Base Fee</u> |
|-----------------------------------|-----------------|
| Type of Construction Documents | |
| Level (includes all usable space) | |
| (1) Structural | <u>\$75.00</u> |
| (2) HVAC and Plumbing | <u>\$35.00</u> |
| (3) Electrical | <u>\$35.00</u> |
| (4) Fire Suspension | <u>\$35.00</u> |
| (5) | |

Additions, alterations, decks, detached garages, accessory structure

| Plan Examination Fee | <u>Base Fee</u> |
|--|-----------------|
| Type of Construction Documents | |
| Level (includes all usable space) | |
| (1) Structural | <u>\$35.00</u> |
| (2) HVAC and Plumbing | \$25.00 |
| (3) Electrical | \$25.00 |
| (4) Fire Suppression | \$25.00 |
| (a) Plan review fees are required to be paid prior to the issuance of permits. | |

Item No. 8. 1321. Rescind with exceptions noted which will be placed in Part Eleven (Zoning Code). Mr. Cheatham stated that the state was unhappy with this ordinance. Mr. Miller asked if there is ever a time when the state may not have the best code observance in mind for a particular city, considering the scale of the city, topography, cultural make-up. Mr. Cheatham stated that the city has the right to go to the RCAC and present their unique situation and they have the right to allow special circumstances. He gave the example of those cities that have fracking.

Mr. Miller discussed Section “RDH §1565.11 Foundation facing.”

Any addition to an existing dwelling shall present a foundation wall facing of the same style as exists on the dwelling.

Any new dwelling construction shall present an above grade foundation wall facing of at least three courses of either face-brick or stucco.

A poured concrete foundation with brick pattern cast into the outer surface shall be considered brick-faced.”

He stated that there are a variety of facing materials and questioned if it could be slightly ambiguous as a finished facing. Mr. Cheatham suggested noting it “as approved by the Building Department”, or “any approved finished material.” Mr. Miller noted that they also cast foundations out of pre-formed insulation. Discussion followed. Mr. Miller suggested adding broader language that could incorporate a finished formal face. Mr. Cheatham will give this further thought.

Item 9. 1322.03

Item 10. 1322.07 Rescind

Item No. 12. 1322.09

These items all relate to an amendment of Chapter 1322 and addresses elimination of the date references so that it the most current version of the Residential Code of Ohio in effect.

*Item No. 11- Mr. Cheatham stated that the Building Code allows tolerances for certain things but they took workmanship out of the codes because it was too open to opinion and could end up being capricious and arbitrary Mr. Miller stated that it is still part of the General Condition Articles for commercial contracting. Further discussion followed. Mr. Cheatham stated that if workmanship is enforced and a builder must spend money to correct something and takes the city to court when it is not in the state code and basically is our opinion, it is opening the city to liability. He noted that this is a requirement that has been removed state-wide. Mr. Miller stated that his concern is for the residents that the city has some measure of quality control.

This item will be given further consideration.

Item No. 12. 1331.01 is for removal of the date designation of “2005.”

Item No. 13 1331.03 – Rescind due to redundancy with the Ohio Building Code (Chapter 1). At the very end of the existing chapter there is a reference to 1331.06 which refers to a Stop Work Order as referred to in Section 1331.06; that is now 1331.05 because of the renumbering. The entire wordage should be struck through.

Item No. 14 1333 – Rescind due to being in direct conflict with the state.

Item No. 15 1344.03- Definitions – Some are in conflict with the state code and will be rescinded with exceptions as noted. Mr. Lee asked if the definitions being deleted are used elsewhere in our code there will be a corresponding term in the building code. For example, the definition of “cellar” stays, but “basement” is deleted. “Basement” is in the state code but there is nothing corresponding to “cellar.”

Item No. 16 1344.04- Rescind as above with exceptions as noted. This is eliminating definitions that are in the state code. Mr. Cheatham stated that he spent a lot of time double-checking those, actually reading them and making sure that they might not be the same term but a totally different definition. Mr. Miller questioned the process when constructing a Leadership in Energy & Environmental Design (LEED) home. It was expressed that in this case the builder or resident would apply to the Board of Zoning Appeals for a variance. Mr. Cheatham noted that the building codes allow for alternative means and methods not covered in the prescriptive code of the residential or not used in the performance codes for commercial construction. Anything has to be considered and it can be considered by the building official or taken to the state and have the State Board of Building Standards review as an alternative means and methods, or if it has any kind of engineering attached or through any of the reference standards it must be accepted.

Item No. 17 1349.09- (New) Until this language is adopted SAFEbuilt cannot touch anything electrical around a pool, pool house, beach house, hot tub, or sauna.

Mr. Miller noted for clarification that the language that has been given for 1349.09 by the state has partner language in our building fees that are reflective so if we are doing those types of inspections we are charging those kinds of fees. Mr. Miller suggested a heading in the fee schedule (Section 1305) for installations where water is contained and an electrical power source is permanently connected.

Mr. Lee asked if there is any item in this list that should be moved forward ahead of anything else. Mr. Cheatham stated that the only critical item is Section 1349.09 (Item No. 17). The State of Ohio could come here tomorrow and not allow enforcement of any swimming pool or hot tub requirements at all. They are strongly enforcing this.

Mr. Lee summarized that Mr. Cheatham will provide example calculations of the fees with the old code and the new code. Language on the facing materials will be provided by Mr. Cheatham. A review of other language examples regarding workmanship will be conducted by Mr. Cheatham. Mr. Miller noted that the language should be in support of the resident as much as possible but not warrant liability by over-expectations of certain things. Mr. Cheatham suggested language comparing the workmanship to meeting industry standards. Mr. Miller suggested that the Home Builders Association (HBA) might have practices and standards for reference. Mr. Lee noted that the existing language refers to those performance standards recognized by the applicable trade or industry. Mr. Cheatham stated that it might be permissible to leave that language there but it could cause problems in the future. Mr. Miller commented that this language lets the contractor know that we are willing to go to an expert for an opinion.

Mr. Lee thanked Mr. Cheatham and Mrs. Cundey for their work on these chapters.

The meeting adjourned at 9:20 p.m.

Steve Lee, Chairman

Joan Kemper, Secretary