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May 27, 2015

Mayor Svante L. Myrick
Members of the Common Council
City of Ithaca
108 East Green Street
Ithaca, New York 14850

Report Number: S9-14-49

Dear Mayor Myrick and Members of the Common Council:

The Office of the State Comptroller works to help city officials manage their resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support city operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and City Council governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard assets.

In accordance with these goals, we conducted an audit of 10 municipalities (seven cities and three villages) throughout New York State. The objective of our audit was to determine if the use of municipal resources resulted in an effective enforcement of the Fire Code¹ (i.e., fire safety of buildings). We included the City of Ithaca (City) in this audit. Within the scope of this audit, we examined the City's process for evaluating fire safety plans and procedures for the period January 1 through December 31, 2013. Following is a report of our audit of the City. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law.

This report of examination letter contains our findings and recommendations specific to the City. We discussed the findings and recommendations with City officials and considered their comments, which appear in Appendix A, in preparing this report. City officials agreed with our recommendations and indicated they have taken or plan to take corrective action. At the completion of our audit of the 10 municipalities, we prepared a global report that summarizes the significant issues we identified at all the municipalities audited.

¹ 2010 Fire Code of New York State

Summary of Findings

We found that the City could improve its controls for evaluating fire safety plans and evacuation plans and confirming evacuation drills are performed for buildings in its jurisdiction. The City does not maintain records to support that its Fire Department reviews fire safety plans and evacuation plans and it does not approve the plans, as required. The Fire Department also lacked support that it confirms whether buildings conduct the required number of evacuation drills each year.

We sampled 18 buildings to determine if the fire safety plans and evacuation plans on file were complete and in conformance with the 2010 Fire Code of New York State (Fire Code). We found that 15, or 83 percent, of the fire safety plans and 13, or 72 percent, of the evacuation plans were incomplete and did not comply with the Fire Code. In addition, 13, or 72 percent, of the buildings did not conduct the required number of evacuation drills.

Background and Methodology

The City has a population of approximately 30,000 residents and is governed by an 11-member Common Council (Council), which comprises a mayor and 10 council members. The City's 2013 budget totaled \$51.7 million, which includes the Fire Department's (Department) budget of \$10 million. The Department is responsible for monitoring fire safety for 1,272 buildings located in the City.

The Fire Chief oversees the general management of the Department and Fire Code² enforcement. In an effort to monitor fire safety within the City, the Department budget includes funding for a Fire Prevention Bureau that is responsible for reviewing and approving fire safety plans (fire plans) and evacuation plans, as well as verifying the number of evacuation drills (drills) exercised at the buildings within its jurisdiction.

The Fire Code establishes the minimum requirements for providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures and premises.³ It also provides safety to fire fighters and emergency responders during emergency operations.

The Fire Code requires both an approved fire plan and an evacuation plan to be prepared and maintained for most buildings. The plans must be reviewed or updated at least once a year, or as necessitated by changes in staff assignments, occupancy or building layout. The plans must be available in the workplace for reference and review by employees, and copies must be provided to the code enforcement official upon request.

² The 2010 Fire Code of New York State is the most up to date version available (see also 19 NYCRR 1225.1 [c], which amends section 610 of the Fire Code). The Fire Code is part of the New York State Uniform Fire Prevention and Building Code.

³ 2010 Fire Code of New York State Chapter 1 Section 101.3

The Executive Law⁴ and New York State Codes, Rules and Regulations (NYCRR)⁵ generally provide that cities, counties, towns and villages are responsible for enforcing the New York State Uniform Fire Prevention and Building Code⁶ (Uniform Code). However, the State Education Department is responsible for Uniform Code enforcement with respect to school districts' and boards of cooperative education services' buildings.

Administration and enforcement of the Uniform Code generally are made through local law, ordinance or other appropriate regulation. However, a local government has the option to decline that responsibility; when this occurs, the responsibility passes to the respective county. Counties are afforded a similar option. If a local government and a county each exercise their option not to enforce the Uniform Code, the statute provides that the Secretary of State shall, directly or by contract, administer and enforce the Uniform Code.

The Uniform Code requires every city, county, town and village charged with enforcing the Uniform Code to maintain a system of records that supports its code enforcement activities. Buildings that contain an area of public assembly must be inspected each year, while all other buildings requiring a fire safety and evacuation plan must have a fire safety inspection at least every three years. It also requires local governments to annually submit to the Secretary of State a report of their activities relative to administration and enforcement of the Uniform Code.⁷

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). Such standards require that we plan and conduct our audit to adequately assess those operations within our audit scope. Further, those standards require that we understand the management controls and those laws, rules and regulations that are relevant to the operations included in our scope. We believe that our audit provides a reasonable basis for the findings, conclusions and recommendations contained in this report. More information on such standards and the methodology used in performing this audit is included in Appendix C of this report.

Audit Results

Fire Safety Plan – Local governments must evaluate compliance with the Fire Code. Therefore, the City must verify that certain buildings in its jurisdiction have fire plans that comply with the Fire Code. The Fire Code establishes the seven basic requirements each fire plan must contain. For example, the fire plan must include a procedure for reporting a fire or other emergency. The fire plan also must have a list of major fire hazards associated with the normal use and occupancy of the premise, including maintenance and housekeeping procedures. Appendix B details the seven fire plan requirements.

A properly developed fire plan can help ensure that responsible parties notify building occupants of an emergency and that evacuations will occur when necessary. It can also ensure that responsible parties promptly notify the Department of an emergency and convey relevant information, such as identification of hazardous material. The Department's Fire Prevention Bureau is responsible for ensuring that each building requiring a fire plan has one that complies with the Fire Code. Furthermore, the NYCRR requires the City to keep records relating to the fire safety and property maintenance inspections it conducts.

⁴ Section 381 (2)

⁵ 19 NYCRR Part 1203

⁶ See 19 NYCRR 1225.1

⁷ See 19 NYCRR 1203.4

To determine if the Fire Prevention Bureau reviews and approves fire plans as required by law, we visited 18 buildings⁸ and obtained the fire plans on file. We looked for evidence that the Fire Prevention Bureau reviewed and approved each fire plan within the NYCRR timeframe. We also reviewed the fire plans for completeness with the Fire Code requirements. We found that 15 of the 18 buildings (83 percent) had fire plans but they were incomplete and did not comply with the Fire Code. These buildings comprised an assembly, a fraternity, six hotels, three preschools, three private schools and a residential facility. The missing fire safety plan components for each of these buildings are detailed in Figure 1. The remaining three buildings had fire plans that complied with the Fire Code.

Figure 1: Missing Building Fire Safety Plan Components^a

Building	Fire and Emergency Reporting	Life Safety Strategy	Site Plans	Floor Plans	Fire Hazards	Fire Prevention and Control System	Fuel Hazard Sources
Assembly		✓	✓	✓	✓	✓	✓
Fraternity						✓	✓
Hotel			✓	✓	✓	✓	
Hotel		✓	✓	✓			
Hotel	✓	✓	✓	✓	✓	✓	✓
Hotel		✓	✓	✓			✓
Hotel		✓	✓	✓	✓		✓
Hotel			✓	✓			
Preschool	✓	✓	✓	✓	✓	✓	✓
Preschool	✓	✓	✓	✓	✓	✓	✓
Preschool		✓	✓	✓	✓	✓	✓
Private School			✓	✓			
Private School			✓	✓	✓	✓	✓
Private School			✓	✓	✓	✓	✓
Residential Facility		✓	✓	✓	✓	✓	✓

^a See Appendix B for the specific fire safety plan requirements.

We found no written evidence that the Fire Prevention Bureau reviewed and approved any of the plans within the statutory timeframe because it does not keep documentation to support its review of fire plans and officials told us that they do not approve fire plans. Officials did not know they were required to do so.

The Fire Code states that it was established, among other things, to ensure the protection of human life and property.⁹ Our review found that, while each building we visited had a fire plan, most of the plans were incomplete and did not comply with the Fire Code. Incomplete fire plans may lead to an increased chance of a loss of life or property damage.

⁸ We judgmentally chose a sample of 18 buildings for our audit testing. We selected buildings that are occupied by children or elderly individuals, or which have a high number of daily occupants or visitors.

⁹ 2010 Fire code of New York State Chapter 1 Section 101.3

Evacuation Plan – Buildings requiring a fire plan must also maintain an evacuation plan. The Fire Code establishes the eight basic requirements each evacuation plan must contain. For example, an evacuation plan must include emergency egress or escape routes and whether evacuation of the building is to be complete or, where approved, by selected floors or areas only. The evacuation plan also must include procedures for accounting for employees and occupants after an evacuation has been completed. Appendix B details the eight evacuation plan requirements. The Fire Prevention Bureau is also responsible for ensuring that each building requiring an evacuation plan has one that complies with the Fire Code. Furthermore, the NYCRR requires the City to keep records relating to the fire safety and property maintenance inspections it conducts.

To determine if the Fire Prevention Bureau reviews and approves evacuation plans as required by law, we also obtained the evacuation plans on file for the 18 buildings previously discussed. We looked for evidence that the Fire Prevention Bureau reviewed and approved each plan within the statutory timeframe. We also reviewed the evacuation plans for completeness with the Fire Code requirements.

We found that 13 of the 18 buildings’ evacuation plans (72 percent) did not meet the Fire Code requirements. These building comprised an assembly, a fraternity, four hotels, three preschools, three private schools and one residential facility. The missing evacuation plan components for each of these buildings are detailed in Figure 2. The remaining five buildings had evacuation plans that comply with the Fire Code.

Figure 2: Missing Evacuation Plan Component(s)^a

Building	Escape Routes	Critical Equipment	Occupant Accounting	Rescue/ Emergency Aid	Occupant Notification Method	Emergency Reporting	Contact	Emergency Communication System
Assembly		✓	✓	✓	✓	✓	✓	✓
Fraternity		✓	✓	✓				✓
Hotel				✓				
Hotel			✓	✓				✓
Hotel		✓	✓	✓	✓	✓	✓	✓
Hotel				✓				✓
Preschool	✓	✓	✓	✓	✓	✓	✓	✓
Preschool	✓	✓	✓	✓	✓	✓	✓	✓
Preschool		✓	✓	✓				✓
Private School				✓				✓
Private School		✓		✓				✓
Private School		✓		✓				✓
Residential Facility		✓		✓	✓			✓

^a See Appendix B for the specific evacuation plan requirements

Like the fire plans, we found that the Fire Prevention Bureau did not document that it reviewed and approved the evacuation plans we reviewed within the statutory time limit. Officials said they did not approve building evacuation plans. As a result, the City has no assurance that each building

requiring an evacuation plan has one that meets minimum Fire Code requirements. In addition, building occupants may not be prepared to react to an emergency evacuation.

Evacuation Drills – The Fire Code also requires buildings to have a specified number of drills conducted each year. Drills help ensure that building occupants are prepared to respond to an emergency evacuation and the drills can identify improvement opportunities. The number of drills required is based on how a building is used. For example, a private school is required to conduct 12 drills each year while an office building must conduct two. Appendix B details the building types and drill requirements. The City’s Fire Prevention Bureau must verify that the required number of drills are being conducted each year. Furthermore, the NYCRR requires the City to keep records relating to the fire safety and property maintenance inspections it conducts.

We also obtained evidence to determine whether the required drills were conducted annually at the 18 buildings previously discussed. We found that, in calendar year 2013, 13, or 72 percent, of the buildings did not conduct the required number of drills. The 13 deficient buildings included one assembly, two assisted living facilities, six hotels, two preschools and two private schools. Figure 3 compares the drill requirements to the number of drills the building owners performed.

Figure 3: Fire Code Evacuation Drill Requirements Compared to Drills Performed			
Building Type	Annual Evacuation Drill Requirement^a	Drills performed	Variance
Assembly	4	0	(4)
Assisted Living Facility	12	9	(3)
Assisted Living Facility	12	11	(1)
Hotel	12	3	(9)
Hotel	12	0	(12)
Hotel	12	1	(11)
Hotel	12	0	(5) ^b
Hotel	12	2	(10)
Hotel	12	2	(10)
Preschool	12	10	(2)
Preschool	12	0	(12)
Private School	12	10	(2)
Private School	12	5	(7)

^a See Appendix B for the annual drill requirements

^b The hotel did not open until August 2013. We prorated the 12 annual drills to account for the five months the property was open in 2013.

We did not find evidence that the Fire Prevention Bureau confirmed that the required number of drills were conducted at the buildings. Officials informed us that the Fire Prevention Bureau does not confirm that buildings conduct the required number of drills each year. As a result, the City has no assurance that drills are being performed at each building as required. When the required number of drills are not performed, building occupants are likely less prepared to conduct an emergency evacuation, which could affect an evacuation outcome.

Uniform Code Administration and Enforcement Report – The NYCRR¹⁰ requires every local government charged with administration and enforcement of the Uniform Code to annually submit to the Secretary of State a report of its activities relative to administration and enforcement of the Uniform Code (report). City officials assigned the responsibility of filing the report with the Department of State (DOS) to the Code Department. The Code Department completed and submitted the report detailing its 2013 enforcement activities to the DOS. Therefore, the City did comply with the NYCRR.

Recommendations

The Fire Prevention Bureau should:

1. Review and approve all fire plans and evacuation plans in accordance with the Fire Code.
2. Keep documented evidence detailing when fire plans and evacuation plans were reviewed and approved.
3. Determine whether the required number of drills are conducted in accordance with the Fire Code and maintain documented evidence of these reviews.
4. Ensure that buildings requiring a fire plan and evacuation plan have plans that meet the minimum Fire Code requirements.

The Council has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. The Council should make the CAP available for public review in the Clerk's office.

We thank the City officials and staff for the courtesies and cooperation extended to our auditors during this audit.

Sincerely,

Gabriel F. Deyo
Deputy Comptroller

¹⁰ 19 NYCRR 1203.4

APPENDIX A

RESPONSE FROM CITY OFFICIALS

The City officials' response to this audit can be found on the following pages.



CITY OF ITHACA

108 East Green Street Ithaca, New York 14850

OFFICE OF THE MAYOR • SVANTE L. MYRICK

Telephone: 607/274-6501 Fax: 607/274-6526

December 22nd, 2014

Ann C. Singer, Chief Examiner
State Office Building, Suite 1702
44 Hawley Street
Binghamton, NY 13901-4417

Dear Ms. Singer:

The City wishes to thank the New York State Comptroller's Office for conducting an audit of the City's enforcement of the Fire Code of NYS (i.e. fire safety of buildings). The scope of the audit examined the City's process for evaluating fire safety plans and procedures, for the period of January 1 through December 31, 2013. The audit process was very useful to the City's Fire Prevention Bureau by identifying elements with its code enforcement practices that can be improved.

Employees in the Ithaca Fire Department's Fire Prevention Bureau approach their duties and responsibilities seriously. They work diligently inspecting hundreds of buildings each year with limited resources in the ongoing effort to meet the needs of the growing Ithaca community. The Bureau strives to find the right balance between available inspectors and the need to complete the number and frequency of fire inspections established by New York State. The process of evaluating a building for compliance is time consuming, and often relies on the inspector's knowledge and experience to prioritize the critical elements that must be evaluated during a fire safety inspection. While the Comptroller's audit focused on three sections of the Fire Code, the Fire Code and Property Maintenance Code contain fifty-one sections, amounting to over 1,000 criteria that must be evaluated for compliance. Without guidance from the New York Department of State on enforcement priorities, Code Enforcement Officials must exercise judgment regarding which elements of compliance require the greatest attention. The Comptroller's Audit is useful in making that judgment.

We have provided responses to each of the four recommendations of the audit as follows:

- 1) Review and approval all fire plans and evacuation plans in accordance with the Fire Code:** We agree that the Fire Department should review all fire safety and evacuation plans for compliance with the Fire Code. The department's inspectors have been reviewing fire safety and evacuation plans, however the department does not have adequate quality assurance processes in place to assure 100 percent compliance. The Fire Department will adopt policies and procedures to address the need for evaluation and approval of fire safety plans.



- 2) **Keep documented evidence detailing when fire plans and evacuation plans were review and approved:** We agree that our inspection reports should indicate the date when fire safety and evacuation plans were reviewed, and we have already made the necessary changes to our processes to record when plans have been reviewed and deemed acceptable. Previously, our inspection software did not require affirmation of compliance; rather a violation was only indicated when the inspector indicated a failure on the inspection checklist. The inspection software has been modified to require an affirmation of compliance with the applicable sections covering fire safety and evacuation plans. If there is no affirmation of compliance, a violation will be recorded in an inspection report to the property or business owner.
- 3) **Determine where the required number of drills are conducted in accordance with the Fire Code and maintain documented evidence of these review:** We agree that our inspectors should be verifying that business and property owners are performing the required number of evacuation drills. The inspection software used by the Fire Department has been modified to cause an affirmation of compliance with the required number of evacuation drills. Buildings or business occupancies that are not performing the required number of evacuation drills will be cited for non-compliance, and remediation plans will be required to insure compliance.
- 4) **Ensure all buildings requiring a fire plan and evacuation plan have plans the meet the minimum Fire Code requirements:** The fire department's inspectors have been reviewing both fire safety and evacuation plans, however they have been indicating compliance with each element of the requirement. A checklist has been created within the department's software requiring confirmation that each element required by the Fire Code is contained in both plans.

The City accepts the audit's findings and recommendations, and will submit a Corrective Action Plan outlining the City's implementation plans at a later date in accordance with the Comptroller's directives. We strive to provide high-value, efficient, and cost-effective services to our taxpayers, and appreciate the Comptroller's Office's assistance in carrying out that mission.

Sincerely,

Svante Myrick, Mayor

APPENDIX B

FIRE SAFETY PLAN, EVACUATION PLAN AND EVACUATION DRILL REQUIREMENTS¹¹

Fire Safety Plan Must Include:

1. The procedure for reporting a fire or other emergency.
2. The life safety strategy and procedures for notifying, relocating or evacuating occupants.
3. Site plans indicating the following:
 - 3.1 The occupancy assembly point.
 - 3.2 The location of fire hydrants.
 - 3.3 The normal routes of fire department vehicle access.
4. Floor plans identifying the locations of the following:
 - 4.1 Exits
 - 4.2 Primary evacuation drills
 - 4.3 Secondary evacuation routes
 - 4.4 Accessible egress routes
 - 4.5 Areas of refuge
 - 4.6 Manual fire alarm boxes
 - 4.7 Portable fire extinguishers.
 - 4.8. Occupant-use hose stations
 - 4.9 Fire alarm annunciations and controls.
5. A list of major fire hazards associated with the normal use and occupancy of the premise, including maintenance and housekeeping procedures.
6. Identification and assignment of personnel responsible for maintenance of systems and equipment installed to prevent or control fires.
7. Identification and assignment of personnel responsible for maintenance, housekeeping and controlling fuel hazard sources.

¹¹ We obtained the requirements for the Fire Safety Plans, Fire Evacuation Plans and Emergency Evacuation Drills from the 2010 Fire Code of New York State.

Evacuations Plans Must Include:

1. Emergency egress or escape routes and whether evacuation of the building is to be complete or, where approved, by selected floors or areas only.
2. Procedures for employees who must remain to operate critical equipment before evacuating.
3. Procedures for accounting for employees and occupants after evacuation has been completed.
4. Identification and assignment of personnel responsible for rescue or emergency medical aid.
5. The preferred and any alternative means of notifying occupants of a fire or emergency.
6. The preferred and any alternative means of reporting fires and other emergencies to the fire department or designated emergency response organization.
7. Identification and assignment of personnel who can be contacted for further information or explanation of duties under the plan.
8. A description of the emergency voice/alarm communication system alert tone and preprogrammed voice messages, where provided.

Figure 4: Fire and Evacuation Drill Frequency and Participation Requirements		
Group or Occupancy	Frequency	Participation
Group A	Quarterly	Employees
Group A ^a	Three Annually	All occupants
Group B ^b	Two Annually	All occupants
Group B ^a	Three Annually	All occupants
Group E	Monthly ^c	All occupants
Group I	Quarterly on each shift	Employees ^d
Group R-1	Quarterly on each shift	Employees
Group R-2 ^a	Four Annually	All Occupants
Group R-4	Quarterly on each shift	Employees ^d
High-rise buildings	Annually	Employees
^a Applicable to college and university buildings in accordance with Fire Code Section 408.3 ^b Group B buildings having an occupant load of 500 or more persons, or more than 100 persons above or below the lowest level of exit discharge ^c The frequency shall be allowed to be modified in accordance with Fire Code Section 408.3.2. ^d Fire and evacuation drills in residential care assisted living facilities shall include complete evacuation of the premises in accordance with Fire Code Section 408.10.5. Where occupants receive habilitation or rehabilitation training, fire prevention and fire safety practices shall be included as part of the training program.		

Definitions of Each Group or Occupancy From the 2010 Fire Code of New York State With Examples:

Group A: Assembly Group A occupancy includes, among others, the use of a building for the gathering of persons for purposes such as civic, social or religious functions; recreation, food or drink consumption; or awaiting transportation. Examples include movie theatres, restaurants and arenas.

Group B: Business Group B occupancy includes, among others, the use of a building for office, professional or service-type transactions, including storage of records and accounts. Examples include banks, civic administration and outpatient clinics.

Group E: Educational Group E occupancy includes, among others, the use of a building by six or more people at any one time for educational purposes through the 12th grade. This group also includes day cares with more than five children who are older than two-and-a-half years of age.

Group I: Institutional Group I occupancy includes, among others, the use of a building in which people are cared for or living in a supervised environment. Such occupants have physical limitations because of health or age; are harbored for medical treatment or other care or treatment; or are detained for penal or correctional purposes or other purposes in which their liberty is restricted. Examples include hospitals, nursing homes and jails.

Group R: Residential Group R includes, among others, the use of a building for sleeping purposes.

R-1: Residential occupancies containing sleeping units where the occupants are primarily transient in nature, including boarding houses (transient), hotels (transient) and motels (transient).

R-2: Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including apartment houses, boarding houses (nontransient), convents, dormitories, fraternities and sororities, hotels (nontransient), monasteries, motels (nontransient) and vacation timeshare properties.

R-4: Residential occupancies shall include buildings arranged for occupancy as residential care/assisted living facilities including more than five but not more than 16 occupants, excluding staff.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

To complete our objective, we interviewed City and Department officials and reviewed procedures used to monitor drill logs, fire safety plans and evacuation plans to determine whether the City is effectively enforcing the Fire Code. We also reviewed the City's policies and procedures for approving/reviewing fire safety and evacuation plans.

We selected a judgmental sample of 18 buildings for the audit period by selecting buildings that are occupied by children or elderly individuals or have number of daily occupants or visitors. We obtained and reviewed each building's drill logs, fire safety plan and evacuation plan. We compared each building's fire safety and evacuation plan to the Fire Code to determine if the plans contained all required components. We also examined each plan to determine if the Department reviewed and approved each plan. In addition, we compared the number of drills each building owner conducted to the Fire Code to confirm the building owner conducted the required number of drills. We also interviewed officials to learn if they filed a report of its activities relative to administration and enforcement of the Uniform Code.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.