

**INVER GROVE HEIGHTS SPECIAL CITY COUNCIL MEETING
MONDAY, MAY 4, 2026 - 8150 BARBARA AVENUE**

1. CALL TO ORDER:

The City Council of Inver Grove Heights met in special session on Monday, May 4, 2026, in person. Mayor Dietrich called the meeting to order at 5:00 p.m. The Pledge of Allegiance was cited.

2. ROLL CALL:

Present In-Person: Mayor Dietrich; Council Members: Gliva, Murphy, Scales, and T’Kach

Staff In Attendance: Interim City Administrator Hiniker, Parks & Recreation Director Lares, City Attorney Nason, Fire Chief Thill, Assistant Fire Chief-Fire Marshal Oswald and Deputy City Clerk Malott.

3. APPROVAL OF AGENDA:

Motion to approve Agenda as published by Scales; seconded by T’Kach.

Ayes: 5

Nays: 0

Motion carried.

4. REGULAR BUSINESS:

A. Consider request for appeal and variance from order of fire inspector for property located at 5300 Robert Trail South, #300 and action setting matter for hearing before the Fire Board of Appeals or endorsing the appeal and variance request to the State Fire Marshal.

Fire Chief Thill introduced Fire Marshal Oswald to provide an update regarding inspections and fire code compliance concerns associated with the haunted house facility classified as a special amusement building under the Minnesota State Fire Code. He outlined that the classification applies due to features such as audio and visual distractions, potentially confusing egress paths, and other amusement related elements requiring additional fire safety protections. Required systems for this occupancy type include automatic smoke detection, illuminated exit pathways during alarms, emergency voice communication capabilities, prerecorded evacuation messaging, and procedures to stop conflicting sounds and distractions during emergencies. The facility operates under a special use permit requiring annual inspections.

Fire Marshal Oswald outlined inspection requirements and review frequencies associated with various occupancies and operational permits throughout the City, including special amusement buildings, fire alarm and sprinkler system inspections, temporary structures, outdoor events, kitchen hood systems, and open flame activities. Staffing limitations were noted as continuing to impact the frequency of routine business inspections, while annual inspections of special amusement buildings remain necessary to monitor ongoing fire code compliance and address identified deficiencies.

Information was provided regarding changes made within the facility since issuance of the temporary Certificate of Occupancy in October 2022. Identified modifications included additional decorative materials and paneling, changes to egress paths and doors, updates to animatronics, installation of sound absorption materials, suspended items located beneath sprinkler systems, and additions such as mini golf areas, food and alcohol service, escape rooms, and other attractions. Inspection history from September 2023 through September 2025 was also reviewed, along with follow up communication provided to the property owner regarding concerns associated with

paneling materials observed during inspections and requests for additional information related to fire code compliance.

Fire Marshal Oswald further reviewed the inspection history and follow up actions related to the paneling materials identified within the haunted house attraction. The September 30 inspection ultimately resulted in two separate correction notices due to pending requests for additional documentation regarding fire testing and code compliance for the materials used in the affected area. The initial report was issued on October 9 while staff continued awaiting supporting information, and a second correction notice was later issued when sufficient documentation demonstrating compliance with testing requirements was not provided. An overview of the affected area within the attraction was also reviewed, including decorative materials and paneling located adjacent to the patron egress pathway.

He explained that the concern was identified during the recent inspection after the materials appeared different and prompted additional review and follow up. Clarification was provided that conditions not identified during prior inspections are not considered grandfathered or permanently approved, as inspections may reveal additional concerns over time as facilities evolve and inspectors observe changing conditions. An outline of the next procedural steps was also provided, including an opportunity for the applicant to address the concerns before the board determines whether to make a ruling on the matter or refer the issue to the Minnesota State Fire Marshal for final determination.

Galen McKay, owner of Nowhere Haunted House, stated the paneling materials in question have been installed since the facility opened in 2022 and noted the attraction has undergone multiple fire inspections and annual reviews without the materials previously being identified as an issue. He stated the attraction was developed and expanded under the understanding the materials complied with applicable requirements and expressed concern regarding the financial and operational burden associated with being required to remove or replace the panels after several years of operation. He noted the materials are commonly used throughout the haunted house industry, are regularly displayed at industry trade shows, and, to his knowledge, have not been associated with reported fire related incidents. He further stated the immersive design elements are an important part of the attraction experience and would be difficult and costly to recreate through alternative methods.

Council Member Scales questioned whether the paneling materials are commonly used in other locations or haunted house attractions and asked whether concerns regarding the materials have only recently become recognized. He stated he was unfamiliar with how widely the materials are used and referenced the haunted house at the State Fair as the only similar attraction he was personally familiar with.

Fire Marshal Oswald stated he was not aware of specific locations where the materials are being used and noted the applicable requirements are based on Minnesota State Fire Code standards, which may differ from regulations in other states. He explained the issue is dependent on the percentage of wall coverage, noting decorative materials exceeding allowable coverage thresholds may be classified as interior finish materials subject to additional code requirements. He further stated it was possible prior inspections may not have identified the materials as exceeding those thresholds and noted inspections within haunted house attractions can be more complex than inspections conducted within typical business occupancies due to the nature of the facility layout and attractions. He also reiterated that, from the City's standpoint, the materials would need to remain below the allowable 20% coverage threshold to be permitted for use as a wall covering under the applicable code requirements.

Galen McKay stated the paneling materials have existed in the attraction in the same condition since the facility originally opened and noted video footage from 2022 was provided to demonstrate the materials were present at that time.

Fire Marshal Oswald stated staff was not disputing that the materials may have existed in the attraction since the facility opened but explained that prior existence does not eliminate the need to address current code compliance concerns. He acknowledged the potential financial impact associated with modifications to the attraction and noted staff sought additional feedback from the State Fire Marshal's Office before proceeding due to the potential impact on the business. He further stated the materials could potentially remain in use if appropriate testing documentation demonstrating compliance was provided; however, the documentation submitted did not meet the applicable testing requirements.

Council Member Murphy stated he was seeking clarification regarding whether the primary concerns involved both the amount of wall coverage created by the paneling materials and the material composition itself within the attraction area.

Fire Marshal Oswald clarified that the allowable coverage threshold is calculated based on the amount of wall covering within each individual room and noted staff also sought guidance from the State Fire Marshal's Office regarding whether the affected attraction area qualified as a room under the code, which the State confirmed it did. He further stated staff could not definitively determine whether the materials would pass the required testing standards because the documentation submitted to date did not provide the appropriate testing information necessary to verify compliance.

Council Member Murphy questioned whether the Fire Department could independently research the material if it is commonly manufactured and sold for use within attractions or similar applications.

Fire Marshal Oswald stated the responsibility for providing testing documentation rests with the applicant and noted that even if the materials are commonly used elsewhere, staff would not know the specific occupancy classifications, wall coverage percentages, or code requirements applicable in other locations or states. He further stated the City's review is limited to compliance with the Minnesota State Fire Code.

Council Member Murphy requested clarification regarding whether the material itself may be permitted under certain State fire codes or within certain occupancies while not being permitted in others depending on the applicable code requirements.

Fire Marshal Oswald explained that material requirements may vary depending on the occupancy classification, such as assembly, special amusement, or business occupancies, as well as by State code requirements. He stated staff had not been provided sufficient information identifying the exact material composition and noted compliance would require testing and documentation completed by a qualified fire protection engineer. He further explained the testing evaluates factors such as smoke production and flame spread characteristics, which are important considerations within special amusement occupancies.

Council Member Murphy asked whether documentation demonstrating the material meets the applicable testing standards would assist the Fire Department in determining compliance.

Fire Marshal Oswald explained that if the material met the required testing criteria, concerns regarding wall coverage percentages would no longer apply because the testing evaluates factors such as smoke production and flame propagation characteristics.

Council Member Murphy asked whether the wall coverage percentage would no longer be an issue if documentation confirmed the material complied with the applicable testing standards, noting the primary concern is ensuring public safety.

Galen McKay stated the materials had undergone testing previously, but the documentation provided did not meet the testing criteria being required under the applicable code standards.

Fire Marshal Oswald clarified that the required testing standards are established through the State Fire Code and noted the City does not have separate local testing standards.

Mayor Dietrich questioned whether other facilities or attractions using similar materials are in different states, referencing prior comments regarding the materials being promoted and sold at industry trade shows.

Galen McKay stated the materials were purchased from a former charity haunted house operated by a school district in Door County. He noted the attraction purchased the entire set after the organization discontinued operations following COVID.

Council Member Murphy questioned how old the materials were and whether any original testing documentation could still be located.

Galen McKay estimated the materials are approximately 10 years old and stated the attraction has been unable to locate testing certification meeting current Minnesota code requirements, although documentation identifying where the materials were originally purchased remains available.

Council Member Gliva questioned whether the 20% wall coverage threshold and related requirements are established through Minnesota State Code or through local regulations and further asked whether the City was applying any additional local requirements related to the issue.

Fire Marshal Oswald clarified the requirement is established through Minnesota State Fire Code standards and noted the City does not have additional local amendments related to the requirement.

Council Member Murphy questioned whether the owner could independently submit a sample of the material for additional testing to determine compliance with the applicable standards.

Fire Marshal Oswald stated that option had previously been discussed with the applicant when the concern was initially identified.

Mayor Dietrich questioned whether the previously submitted testing documentation failed to meet the applicable standards.

Galen McKay clarified the documentation provided was original manufacturer information but did not satisfy the specific testing standards required under Minnesota State Fire Code requirements. He also questioned whether the material could still be independently tested to determine if it meets the applicable standards.

Council Member T'Kach questioned whether the materials could remain in place if they successfully passed the appropriate testing protocols required by the State of Minnesota and asked whether the Fire Department's primary concern involves verifying the materials are safe for the intended use, including factors such as aging, flame spread, and overall fire safety performance within the attraction.

Galen McKay questioned whether there is an established process or procedure available for obtaining the required testing for the materials.

Fire Marshal Oswald stated the testing process is typically undertaken through manufacturers or qualified testing entities rather than through the City.

Galen McKay stated that if the materials cannot be considered acceptable based on prior inspections, he would respectfully request an extension through August 2027, when the facility lease expires. He expressed concern regarding the difficulty of operating a special amusement attraction under the current circumstances and referenced his understanding that similar materials may be used in other large attractions with separate fire departments.

Mayor Dietrich expressed concern regarding the potential loss of a local business and encouraged additional discussion regarding operational challenges associated with doing business within the City.

Galen McKay stated the same code provisions previously cited by staff had also resulted in earlier modifications within the attraction, including relocation of sprinkler heads related to sound barrier installations. He expressed frustration that the paneling materials were not identified as an issue during prior inspections over several years and stated significant investments had since been made to construct the escape room area. He acknowledged the importance of regulatory compliance through his professional experience but stated he believes additional consideration should be given to practical judgment, risk assessment, and the circumstances surrounding the prior inspections and approvals.

Council Member T'Kach stated she understood why an extension through 2027 could be beneficial for the business but expressed concern regarding the City knowingly allowing a potential safety issue to remain unresolved if uncertainty still exists regarding the materials. She noted the City could face significant concerns and potential liability if an incident were to occur after becoming aware of the issue and referenced historical situations where unsafe building materials had previously resulted in serious consequences.

Attorney Nason explained the purpose of the special meeting was for the Council to determine whether it wished to hear and decide the requested fire code variance or refer the matter to the State Fire Marshal for review. She stated the property owner has requested a variance under the State Fire Code and outlined the standards required for granting a variance, including substantial compliance with the fire code, protection of public safety, and demonstration of undue hardship if the variance is not granted. She further explained the Council could either schedule a formal hearing to receive additional information and consider potential options related to the variance request, including a possible extension for compliance, or adopt a resolution referring the matter to the State Fire Marshal for review and determination.

Council Member Murphy questioned whether both options could be pursued, including Council review of the variance request followed by referral to the State Fire Marshal.

Attorney Nason explained the Council must first choose one option or the other but noted that if the Council hears and decides the variance request, the applicant could appeal the Council's decision to the State Fire Marshal.

Council Member T'Kach stated she would support referring the matter to the Minnesota State Fire Marshal, noting concerns regarding whether the Council possesses the necessary expertise to independently evaluate the issue without relying heavily on staff recommendations.

Mayor Dietrich, Council Member Murphy, and Council Member Scales expressed interest in having the Council hear the matter directly.

Motion to set hearing for appeal of fire code order and request for variance from fire code by Murphy; seconded by Scales, Fire Code Board of Appeals Resolution 2026-001.

Ayes: 5

Nays: 1 (T'Kach) Motion carried.

5. ADJOURN:

Motion to Adjourn at 5:28 p.m. by Gliva; seconded by Scales.

Ayes: 5

Nays: 0 Motion carried.

Minutes prepared by Recording Secretary Tammy Greenlee