



# OFFICE OF THE ILLINOIS STATE FIRE MARSHAL

JB Pritzker, Governor  
James A. Rivera, State Fire Marshal

**To:** All Local Municipal and Governmental Authorities  
**From:** State Fire Marshal, Office of the State Fire Marshal, State of Illinois  
**Date:** December 21, 2021  
**Topic:** Applicability of the State-Adopted Life Safety Code

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In an effort to clarify the role of the Office of the State Fire Marshal (OSFM) in matters related to fire investigations and fire safety inspections conducted within the State of Illinois, I offer the following:

## **Fire Investigations**

The Illinois General Assembly enacted the Fire Investigation Act (the "Act") (425 ILCS 25) in 1909. The legislature specifically selected the OSFM to investigate and to supervise the investigation of fires by the Chiefs of all legally organized municipal fire departments and fire protection districts within the State of Illinois. The Act also assigned local Fire Chiefs the responsibility to determine if fires occurring in their respective communities were accidental or by design (cause and origin determinations).

If it is determined that the fire may have been intentionally set (arson), the Chief can take one of two paths:

1. The local department can conduct an arson investigation if they have the capability and resources.
2. The local department can request that the OSFM conduct an arson investigation if they do not have the capability and resources.

The OSFM reserves the right to conduct an arson investigation at any juncture where circumstances deem it appropriate.

## **Fire Safety Inspections**

The legislature issued an additionally important mandate in the Act. It required the State Fire Marshal to adopt and promulgate rules to protect the public from fire hazards (425 ILCS 25/9). Currently, OSFM has adopted the NFPA 101, Life Safety Code (2015 Edition). The home rule status of a municipality will largely inform whether the OSFM life safety code – adopted by administrative rule pursuant to the Act – is the mandated applicable minimum standard in a given municipality.

- For home rule municipalities, the municipality can opt either to adopt fire prevention and life safety standards of its own choosing or to follow the OSFM-adopted NFPA 101, Life Safety Code (2015 Edition). Notwithstanding the above, the OSFM-adopted life safety code still applies to state buildings, state-licensed facilities, and other occupancies under the purview of OSFM that are located in home rule municipalities.
- Unlike home rule municipalities, non-home rule municipalities are mandated to enforce fire prevention and life safety standards that are equal to or greater than the OSFM-adopted life safety code. Non-home rule municipalities that have not adopted fire prevention and life safety standards that are equal to or greater than the OSFM-adopted NFPA 101, Life Safety Code

(2015 Edition) are required to use the NFPA 101, Life Safety Code (2015 Edition). The administrative rules contain established methods for non-home rule municipalities to demonstrate equivalency with the OSFM-adopted life safety code. Notwithstanding the above, the OSFM-adopted life safety code still applies to state buildings, state-licensed facilities, and other occupancies under the purview of OSFM that are located in non-home rule municipalities with codes that are determined to be equal to or greater than the OSFM-adopted code.

The right of entry for the purpose of inspecting properties was granted to both the OSFM and the Chiefs of all municipal fire departments and fire protection districts. The OSFM's jurisdiction to inspect properties for fire hazards is not exclusive. While the OSFM is required by the law to inspect all state public buildings, public schools, and occupancies licensed by the state, its jurisdiction to inspect private and commercial occupancies is concurrent with our local fire service partners.

The OSFM depends on local departments to be vigilant in pre-planning and identifying hazards in all buildings within their respective communities. This expectation does not mean that every department/district must conduct regular safety inspections of buildings within their areas. With that said, routine fire safety inspections not only ensure that buildings are safe, they also provide an opportunity to pre-plan and reconnoiter the building so firefighters know what to expect during an emergency. This ultimately enhances your response capabilities and furthers public safety.

Regular inspections would be ideal and should be an aspirational goal that every department or fire protection district strives for, but I understand that it is not realistic in some areas of our state. Although the Act does not require Fire Chiefs or their designees to conduct routine inspections, it does require, at a minimum, that Fire Chiefs or their designees report safety violations when discovered and take appropriate enforcement action to address them as necessary. This can take several forms:

1. For local departments/districts that enforce a code different from the OSFM-adopted minimum or maintain a dedicated fire prevention bureau, these violations are best handled by using locally adopted ordinances that spell out enforcement procedures. The OSFM is available to assist our local partners with technical support relating to NFPA 101 code interpretation.
2. For local departments/districts that do not have locally adopted ordinances on enforcement, violations should still be handled by the local department/district. The designated local official should notify the building owner/tenant of the specific violation(s) in writing and provide them with an opportunity to remediate the situation or to file an appeal with the local authority. If the violation is upheld or modified, the person against whom the final order has been issued may seek review of the decision in the circuit court. Fire safety violations are petty offenses under the Act and violators are subject to fines and injunctive orders issued by the circuit court. The role of the OSFM in situations where local departments/districts do not have locally adopted ordinances or dedicated fire prevention bureaus can vary based upon the circumstances and may include:
  - advisory/technical support relating to code interpretation
  - assistance in conducting an inspection
  - assistance in writing a notice of violation

The OSFM is primarily available to provide such technical assistance while local officials pursue enforcement. Infrequently, a direct referral of the matter to the OSFM for inspection/enforcement action may be appropriate.

3. The Fire Protection District Act (70 ILCS 705) also provides Fire Protection District Fire Chiefs with an additional avenue of enforcement should he or she not be able to achieve compliance with orders issued under 70 ILCS 705/11m(b) or 70 ILCS 705/11m(c). If this is the case, pursuant to 70 ILCS 705/11m(d), the Fire Protection District Fire Chief may refer such an order to the State's Attorney so that the State's Attorney may (at its discretion) enforce the Fire Chief's order.

The important message here is that the OSFM understands that fulfilling our duties as spelled out in the Act will require teamwork on both our parts. The OSFM recognizes the issues that can arise in carrying out your assigned duties and we are dedicated to helping you through partnership.

### **Tools and Training**

In an effort to help municipal fire departments and fire protection districts that do not have a fire inspection program, the OSFM has developed a free, online interactive Life Safety Code training program. This program is available to all Illinois firefighters on-demand and can be accessed through:

<https://sfm.illinois.gov/iam/firedepartment/firefightertraining/lifesafetycodetrainingrequest.html>

Along with the training, we are developing a sample inspection checklist that can be modified or tailored to fit the demands of your department/district. The checklist is being designed as a tool to assist individuals who conduct fire inspections, or to simply use as a notice of violation when a violation is found. We are also developing an instructional video which will be placed on our website that will help familiarize you with using the sample inspection checklist.

### **Protection**

The OSFM notes that while every department should strive to conduct accurate and thorough inspections, mistakes or omissions may occur. If such mistakes or omissions do happen, there are statutes (e.g., the Local Governmental and Governmental Employees Tort Immunity Act (745 ILCS 10)) and case law that discuss the possibility of immunity protection for public entities and public employees stemming from inspections. The availability of governmental tort immunity as a defense will ultimately depend on the specific facts and circumstances of the matter in question. Therefore, if additional guidance on this issue is needed, a local department/district should consider seeking the advice of legal counsel.

The OSFM understands that it is no easy task for Fire Chiefs throughout the state. I want to personally thank each of you for the work you do to keep Illinois safe. I look forward to working with all of you in furtherance of improving fire safety within our state. If you have questions about this communication, please direct them to [sfm.info@illinois.gov](mailto:sfm.info@illinois.gov).

James A. Rivera

State Fire Marshal