

CHAPTER 5
FIRE MARSHAL ADMINISTRATION

[Ch 5 as appeared in July 1974 IDR Supplement, rescinded June 30, 1975]
[Prior to 4/20/88, Public Safety Department [680] Ch 5]

GENERAL PROVISIONS

661—5.1(100) Description. This division's charter is to prevent fires. Fire causes are determined and communicated to the public by various means including the division's annual report. The division requires building standards necessary for fire safety and apprehends those who violate such standards or fire-related criminal statutes.

5.1(1) The division's administrator is entitled the state fire marshal. The fire marshal has one assistant. The nonclerical employees of this division are peace officers designated as special agents, fire prevention inspectors, fire prevention specialists, and designated subordinates.

5.1(2) Special agents examine a fire or a fire scene to determine its cause, and arrest any who unlawfully cause fires or violate fire-related laws.

5.1(3) Inspectors examine buildings to determine the compliance of its system with applicable laws or rules.

5.1(4) A fire prevention specialist examines blueprints and specifications of proposed buildings.

5.1(5) Variance from rules. Rescinded IAB 10/31/01, effective 1/1/02.

661—5.2(17A,80,100,101,101A) Definitions. The following definitions apply generally to the provisions of this chapter unless a specific exception is made with reference to a particular rule or sequence of rules within the chapter.

"Basement" means a usable or unused floor space not meeting the definition of a "story."

"Building" is any structure used for or intended for supporting or sheltering any use or occupancy. Each portion of a building separated by one or more area separation walls with a fire-resistive rating of at least two hours may be considered a separate building.

"Corridor" means an enclosed exit access component that defines and provides a path of egress travel to an exit.

"Fire" includes explosions in which fire, combustion or rapid oxidation is an element but does not include explosions caused by nonflammable gases, liquids or other materials.

"Fire marshal" means the fire marshal, the assistant fire marshal, fire prevention inspectors, special agents, fire prevention specialist and designated subordinates.

"Fire marshal's office" means the headquarters of the fire marshal.

"NFPA" means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. References to the form "NFPA xx," where "xx" is a number, refer to the NFPA standard or pamphlet of the corresponding number.

"Owner" (For service of notice, criminal sanctions and penalties.) If a building is owned by a corporation, the chairperson or president of the board of directors is considered the owner. If a building is owned by an organization governed by a board of trustees, the president or chairperson of the board is considered the owner. If a partnership is shown to be the owner of a building, any partner is considered the owner. If an individual is shown to be the owner, the individual, or the guardian or conservator of such individual is considered to be the owner. If the building is shown to be owned by a trade name, the person who registered the trade name is considered the owner.

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused underfloor space is more than 6 feet above grade for more than 50 percent of the total perimeter or is more than 12 feet above grade at any point, such usable or unused underfloor space shall be considered as a story.

661—5.3(17A,100) Building plan approval. Plans for the proposed construction of certain new buildings or additions, alterations or changes to existing buildings require the approval of the fire marshal. Plans for initial construction or alterations, changes, additions, renovations or remodeling of the following shall be submitted to the fire marshal for approval, unless the plans have been submitted to a local fire or building department for approval based upon compliance with the rules of the fire marshal or a local fire ordinance recognized in rule 661—201.4(100):

- Any educational building or facility serving kindergarten through twelfth grade,
- Any college or university building or facility,
- Any child care facility intended to serve seven or more children at one time,
- Any correctional facility, or
- Any gaming facility.

Plans for initial construction or alterations, changes, additions, renovations or remodeling of the following shall be submitted to the department of inspections and appeals and are not required to be submitted to the fire marshal:

- Adult day services, or
- Assisted living facilities.

Plans for initial construction or alterations, changes, additions, renovations or remodeling of any building or facility subject to the provisions of 661—Chapter 205 shall be submitted to the fire marshal.

5.3(1) An initial evaluation or review by the fire marshal may be obtained on preliminary plans by submitting the plan that shows the building outline with rooms, corridors and exits indicated. The fire marshal informally responds to such preliminary plan.

5.3(2) Building plan submittals.

a. Working plans and specifications. When approval of building construction projects is required by this chapter or when requested by the submitter for other building construction projects covered by this chapter, one complete set of the final working plans and specifications shall be submitted to the fire marshal's office. The submittal shall comply with Iowa Code chapters 542B and 544A. The submittal is examined and submitter is notified of the findings. If the working plans and specifications comply with this chapter, an approval letter shall be sent to the submitter.

b. Shop drawings. Shop drawings, equipment specifications and supporting documentation for fire alarm and sprinkler systems may be submitted for review and approval. If the system is being installed as part of a project which has been designed by an engineer or architect, the submittal shall be approved by the responsible architect or engineer prior to submittal to the fire marshal. The submittal is examined and submitter is notified of the findings. If the submittal complies with the applicable standards, all copies are stamped approved and one copy is retained and the other copies, if any, are returned to the submitter. If only one copy of shop drawings, equipment specifications and supporting documentation is received, a letter shall be sent to the submitter in lieu of returning approved shop drawings.

c. Changes. No changes shall be made to the approved final working plans and specifications or shop drawings unless the changes are submitted to and approved by the fire marshal's office.

EXCEPTION: Submittal of working plans and specifications or shop drawings is not required when the plans and specifications or shop drawings have been reviewed for compliance with this chapter by the chief, or an employee authorized by the chief, of a fire department organized under Iowa Code chapter 400.

NOTE: Building, planning and design services are required to be in conformance with Iowa Code chapters 542B and 544A.

5.3(3) If the blueprints and specifications are not acceptable, the fire marshal's office specialist notifies the submitter of the deficiencies and requests that the submitter either forward changes or request a review of the blueprints and specifications with the specialist.

5.3(4) If, after such review, the submitter disputes the specialist's findings, the submitter may request that the disputed questions be referred to the national fire protection association or other similar generally recognized authority, at the submitter's expense, and the specialist submits the blueprints and specifications to the national fire protection association or other similar generally recognized authority for their analysis.

5.3(5) If the submitter disputes the findings of the national fire protection association, the submitter may appeal to the fire marshal under the procedures of 661—Chapter 10.

5.3(6) For any construction project requiring approval of the state fire marshal, construction shall not begin until such approval has been received.

NOTE: It is recommended that approval of the fire marshal be obtained prior to the release of bid documents.

661—5.4(17A,100,101,101A) Inspections. Certain buildings as designated in the Iowa Code shall comply with the Iowa Code and fire safety rules. The fire marshal determines and enforces such compliance. To do so, the fire marshal may enter such building or premises at any time without notice to inspect it.

5.4(1) Such inspection may be of a particular system in the building. For example, the electrical, heating, exit, valve, piping and venting systems may be inspected. The inspection may include the entire building. For example, the building may be so dilapidated as to be especially liable to fire.

5.4(2) Such inspection is conducted by the fire marshal or by a consultant as requested by the fire marshal. A consultant would be a person with the necessary degree of training, education or experience to examine a system within a building required to be in compliance with the law or rules and determine if such system or systems is in compliance with such requirements.

5.4(3) Inspections are conducted without announcement and occur on a random basis, upon anyone's request, upon any complaint or when fire appears to be possible. For example, the presence of flammable liquids or gases or the odor thereof outside a building storing such gases or liquids may cause an inspection.

5.4(4) When the member or consultant arrives at the building that is to be inspected, the member or consultant usually advises the owner. If a person in such a position cannot be contacted, the inspection commences anyway. If the owner or representative wishes to accompany the member or consultant, they may do so, but the inspection is not delayed.

5.4(5) The member or consultant examines the system or systems being inspected to determine compliance with the laws or rules. To guide the inspection, the member or consultant uses state rules or a manual recommended by the national fire protection association or a similar acceptable fire protection agency.

5.4(6) Upon completion of an inspection, the member or consultant completes written inspection orders. The original is filed in the fire marshal's office by county; a copy is filed in the member's office in a geographical area file; and a copy is left with the fire department having jurisdiction.

5.4(7) Upon completion of the inspection, if the building does not comply with applicable laws or rules, the member or consultant identifies specifically such noncompliance and notifies the owner. The owner may be ordered to correct or repair the deficiency or may order the building removed or demolished.

a. Copies of the notice of deficiencies or order are distributed to the fire marshal's office and the fire department having jurisdiction and a copy is filed in the member's office.

b. The time to comply with the order is determined by the member considering the likelihood of fires, the possibility of personal injury or property loss, the cost, availability of materials and labor to correct, repair, remove or demolish and other reasonable, relevant information.

c. If the owner of the building does not agree with the deficiency findings and order, the owner asks the fire marshal to review the order. The provisions of 661—Chapter 10 are then used.

d. Failure to comply with an order may incur penalties.

661—5.5(100) Certificates and inspection fees.

5.5(1) *Certificates for license.* Several Iowa statutes provide that a license to conduct certain functions cannot be issued until the fire marshal has approved the building to be used for such function. Upon receipt of a written request, the fire marshal conducts or has conducted an inspection using the procedures contained in the building inspection rule 5.4(17A,100,101,101A). Upon completion of an inspection showing the building to be in compliance, the fire marshal issues a certificate. If the building is found to be in noncompliance, the certificate applicant may file a petition requesting a review and the same procedure is used as if an order were being requested to be reviewed. Upon completion of the review process, if the building is found to be in compliance, a certificate is then issued.

5.5(2) *Inspection fees.* The following fees shall apply respectively to inspections of the facilities of the types listed where a certificate of inspection from the fire marshal is required in order to obtain licensure or certification under Iowa law. The inspection fee shall be paid by check made payable to "Fire Marshal Division, Iowa Department of Public Safety" prior to the issuance of the certificate provided for in subrule 5.5(1).

a. The inspection fee for a health care facility licensed or seeking licensure pursuant to Iowa Code chapter 135C or a group home licensed or seeking licensure in this state is \$2 per bed.

b. The inspection fee for an elder group home certified or seeking certification pursuant to Iowa Code chapter 231B or an assisted living facility licensed or seeking licensure pursuant to Iowa Code chapter 231C is \$7.50 per bed.

c. The inspection fee for an adult day services program certified or seeking certification pursuant to Iowa Code Supplement chapter 231D is \$50 per facility.

d. The inspection fee for a child care facility licensed or seeking licensure pursuant to Iowa Code chapter 237A is \$20 per facility.

e. When an initial inspection which requires a fee pursuant to paragraphs "*a*," "*b*," or "*c*" of this subrule results in a finding of a deficiency or deficiencies which require a reinspection, the initial reinspection shall be performed without the imposition of any additional fee. If the original deficiency or deficiencies have not been corrected at the time of the initial reinspection, then a fee of \$100 for each additional reinspection after the initial reinspection is required until the original deficiency or deficiencies have been corrected.

f. The fee for a suitability inspection of a prospective site for a facility which may seek licensure or certification from the state of Iowa is \$100.

This rule is intended to implement Iowa Code chapter 100 as amended by 2000 Iowa Acts, House File 2552.

661—5.6(17A,80,100) Fire investigations.

5.6(1) The fire marshal has the authority to investigate any fire in the state of Iowa.

5.6(2) City and township officers have the primary responsibility to and shall investigate fires. The city or township officer shall file a report of each fire with the fire marshal's office within one week of the fire even if the fire marshal's division participated in, assisted with, directed or supervised the fire investigation. Upon written request, the fire marshal may grant an extension of the time for filing this report for a period not to exceed 14 days. The request shall set forth compelling reasons for such extension.

5.6(3) The city or township officer shall immediately report a fire that involves death or suspected arson and does so by contacting the member assigned to that area or, if not available, the fire marshal's office or the fire marshal or assistant or, if no such contact can be made, the officer asks the county sheriff to relay the information to the Iowa police radio or teletype system (patrol communications division). The officer's report will be recorded or logged.

5.6(4) The notice of a fire involving death or arson contains the following information, if known:

a. If death has occurred or is suspected, the name, age and address of person or persons deceased or missing; the date, time and address of the fire; and the suspected cause of fire.

b. If arson is suspected, the date, time, address of the fire; the reasons for suspecting arson; whether there is obvious evidence of arson and if there is an arson suspect.

c. Whether an explosion occurred.

5.6(5) If Iowa police radio has been so notified, it immediately notifies the fire marshal or the nearest available member of the fire marshal's division.

5.6(6) The fire marshal may, while investigating the cause of a fire, compel witnesses and others to testify under oath and to submit books, records and other documents.

a. This is in the discretion of the fire marshal and may be exercised anytime, including fires that involve an extensive loss, a death, arson or explosion, or suspected arson.

b. The fire marshal may allow a person to submit to a polygraph examination.

5.6(7) The fire marshal notifies the person compelled to give testimony or information.

5.6(8) The fire marshal may assist a local officer in the investigation of any fire. The fire marshal may superintend, direct or conduct the investigation of a fire and may request the participation of a consultant when:

a. Requested by state or local authority to do so.

b. A death has occurred, an extensive amount of property has been destroyed, arson is suspected or an explosion has occurred.

c. A person is identified as an arson suspect.

d. There is obvious physical evidence of arson.

e. The fire marshal deems it necessary.

5.6(9) The fire marshal, when participating in the investigation of a fire, may request the person in control of the premises to execute a consent to search.

661—5.7(17A,101A) Explosive materials. Those wishing to receive an explosive materials commercial license may obtain a copy of the required application by contacting the fire marshal's office, sheriff's office or the office of the chief of police in cities of over 10,000 people.

5.7(1) Such application is submitted to the sheriff's office or office of the chief of police. That agency reviews the application, investigates the applicant, inspects the buildings, if necessary, and completes the application, then forwards it to the fire marshal.

a. If the application is approved, the fire marshal enters approval thereon, notifies the local agency, and issues the license.

b. Explosive materials commercial license expires on December 31 of each year and may be renewed.

c. If an application is denied, the applicant may appeal under 661—Chapter 10.

5.7(2) A person wishing to purchase, possess, transport, store or detonate explosive materials shall obtain a permit to do so from the county sheriff or the chief of police.

5.7(3) When a sheriff confiscates explosive materials, the sheriff shall give notice to the state fire marshal's office as soon as reasonably possible.

661—5.8(100,101,101A) Fire drills. All public and private school officials and teachers shall conduct fire drills in all school buildings as specified in Iowa Code section 100.31 when school is in session. All doors and exits of their respective rooms and buildings shall remain unlocked during school hours or when such areas are being used by the public at other times.

661—5.9(17A,100) Fire escapes. Upon receipt of a written communication from an owner appealing the action or requirement of any fire escape inspector that sets forth such action or requirement and the objections the owner has to the action or requirement of such inspector, the provisions of 661—Chapter 10 will apply.

661—5.10(17A,22,100,692) Public inspection of fire marshal files and fire records. The fire marshal's office keeps a record on file of every reported fire in Iowa. All other important written information gathered by the fire marshal also is filed. Most of the contents of these documents are available to the public. Some of the information contained in these files, such as investigative data, intelligence data or criminal history data, as defined in Iowa Code chapter 692, is not public record. Requests for information should be addressed to the Fire Marshal Division, Iowa Department of Public Safety, 401 S.W. 7th Street, Suite N, Des Moines, Iowa 50309.

5.10(1) A person may request to examine or copy a public record by either submitting a request in person or in writing. A person who plans to make a request in person to examine public records should first contact the office by telephone at (515)281-5821 to determine if personnel will be available to assist the person.

5.10(2) A copy will be provided on request of any public record in the possession of the fire marshal division at the expense of the person requesting the copy of the record. The fee for a copy of a record shall reflect only the cost of copying the record and the time required of staff of the department of public safety to retrieve the record, copy the record, supervise the copying of the record, and mail the record.

5.10(3) If a person wishes a copy of the record of a particular fire, it may be copied in the fire marshal's office or that person may so request by writing to the fire marshal's office setting forth the date, time and address, including county, of the fire. The fire marshal will forward a copy of the public record and may require reimbursement for the actual cost of copying and mailing the information.

661—5.11(17A,80,100) Information requested before inspection. Persons requesting the inspection of a building that is alleged to require repair, removal or demolition under Iowa Code section 100.13 shall provide the following information, if known: the address of the building; the name and address of the building's owner; the requester's name, address and telephone number; and a general description of the alleged deficiencies which the requester seeks remedied.

5.11(1) Initial determination. The fire marshal, upon receipt of the information, shall make an initial determination whether there are sufficient allegations to warrant an inspection.

a. If, in the fire marshal's opinion, the complaint fails to warrant conducting an inspection, the fire marshal shall then so advise the complainant.

b. If the fire marshal determines that an inspection is warranted, the fire marshal will so advise the county attorney, the requester and person(s) identified as the owner(s).

5.11(2) Cause to be inspected. The fire marshal shall then cause the inspection of the building to determine if:

a. By want of proper repair, or by reason of age and dilapidated condition, it is especially liable to fire and is so situated as to endanger other buildings, property or persons, or

b. It contains combustibles, explosives or flammable materials dangerous to the safety of any buildings, premises or persons.

5.11(3) Final decision. Upon completion of the inspection the fire marshal shall then decide if the building needs to be removed or repaired.

a. If the building complies with applicable laws or rules and no deficiencies are found, the fire marshal shall accordingly notify the county attorney, the owner and the requester.

b. If any deficiencies are found, and the building is within the corporate limits of a city, the fire marshal shall then notify the mayor and clerk of said city of the deficiencies and the need for repairs or removal.

c. If any deficiencies are found, and the building is within the corporate limits of a city, the fire marshal shall then identify specifically such deficiencies and prepare an order to correct or repair the deficiencies or remove or demolish the building. Such notice and order should be sent to the county attorney with a request that the notice and order be examined by the county attorney.

NOTE: An owner who receives an order from the fire marshal may appeal the order using procedures established in 661—Chapter 10.

5.11(4) *Verification of legal description.* The county attorney shall, upon receipt of the fire marshal's notice and order, verify the legal description and identification of the property owner and shall advise the fire marshal how to properly serve the order.

5.11(5) *Contents of order.* This order shall notify the owner of the building that the order becomes effective upon its receipt or issuance. The order shall also notify the owner that, within five days after the order's effective date, the owner may file a petition for review of the order in accordance with Iowa Code section 100.14.

5.11(6) *Who shall be served.* If the county attorney deems it appropriate, any occupants, lienholders or lessees shall be served with a copy of the order.

5.11(7) *Reasonable time to comply.* The order shall give the owner a reasonable time to comply with its mandate(s). The fire marshal shall determine what constitutes a reasonable time by considering the likelihood of fires, the possibility of personal injury or property loss, the cost, availability of materials and labor to correct, repair, remove or demolish the building and other reasonable, relevant information.

5.11(8) *Reinspection.* If the owner of the building elects not to challenge the fire marshal's order, the fire marshal shall then, at the end of the period during which compliance was required, conduct another inspection of the building.

a. If the fire marshal finds that the order has been complied with, the fire marshal shall notify the county attorney, owner and requester of this fact.

b. If the fire marshal finds that the order has not been complied with, the fire marshal will notify the county attorney of noncompliance.

NOTE: An owner who receives a notice of noncompliance from the fire marshal may appeal the notice using procedures established in 661—Chapter 10.

5.11(9) *Failure to comply.* Upon receipt from the fire marshal of the owner's failure to comply, the county attorney shall:

a. Institute the procedure necessary to subject the owner to a penalty of \$10 for each day the owner fails to comply, and

b. Confirm the legal description of the property, the owner's name and address, the alleged deficiencies of the building, that an inspection was conducted, that some deficiency was found, that the owner was properly served, notified and given an adequate opportunity to repair the deficiency, and that the deficiency has not been remedied and may, therefore, advise the fire marshal that the destruction is appropriate at this time.

5.11(10) *Final action taken.* The fire marshal, upon the advice of the county attorney, may repair, remove or destroy the building. Such destruction may occur by:

a. Permitting the local fire service to burn the building as a training exercise;

b. Asking for public bids on the building;

c. If significant costs are anticipated, the fire marshal may request funds from the Iowa executive council.

661—5.12(17A,80,100A) Sharing of insurance company information with the fire marshal. Insurance companies shall provide the specified information to the fire marshal as follows:

5.12(1) Whenever an insurance company has reason to believe that a fire loss insured by the company was caused by something other than an accident, said insurance company shall provide to the fire marshal, or some other agency authorized to receive such information under Iowa Code chapter 100A, all information and material possessed by said company relevant to an investigation of the fire loss or a prosecution for arson.

5.12(2) Whenever the fire marshal, or an agent or employee of the fire marshal, requests in writing that an insurance company provide information in its possession regarding a fire to the fire marshal, the insurance company shall provide all relevant information requested. Relevant information may include, but need not be limited to:

- a. Insurance policy information relating to a fire loss under investigation including information on the policy application.
- b. Policy premium payment records.
- c. History of previous claims made by the insured.
- d. Material relating to the investigation of the loss, including the statement of any person, proof of loss, and other information relevant to the investigation.

5.12(3) Unless otherwise expressly limited any request for information under this rule shall be construed to be a request for all information in the possession of an insurance company. Any information in the custody or control of any agent, employee, investigator, attorney or other person engaged by an insurance company, on a permanent or temporary basis, in the person's professional relationship to the insurance company shall be considered to be in the possession of the insurance company subject to this rule.

661—5.13(17A,80,100A) Release of information to an insurance company. An insurance company which has provided fire loss information to an authorized agency pursuant to Iowa Code section 100A.2 may request information relevant to said fire loss investigation from the fire marshal. If the insurance company has provided information to an authorized agency other than the fire marshal, the request shall include proof that information was provided. For purposes of this rule the term insurance company shall include an attorney, adjustor or investigator engaged by the company in reference to the particular fire loss involved in the request even though the attorney, adjustor or investigator is not a full-time employee of the insurance company. The attorney, adjustor or investigator shall provide the fire marshal with proof of authorization from the insurance company to act as its representative relative to the loss.

661—5.14(17A,80,100A) Forms. These rules require the use of the following forms that are available from the commissioner or the state fire marshal.

5.14(1) When an insurance company has reason to believe that a fire loss has occurred, the company shall notify the fire marshal on the form entitled "Insurance Form Number One."

5.14(2) Requests for information by the fire marshal, the fire marshal's agents or employees from an insurance company pursuant to Iowa Code section 100A.2 shall comply with the form entitled "Insurance Form Number Two."

5.14(3) Material requested on Insurance Forms Number One and Two shall carry a cover form which complies with "Insurance Form Number Three."

5.14(4) Request for information by an insurance company from the fire marshal shall comply with "Insurance Form Number Four."

661—5.15(17A,100) Waivers, variances, and exceptions. This rule outlines generally applicable standards and a uniform process for the granting of individual waivers from rules of the state fire marshal in situations where no other more specific procedure provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this rule with respect to any waiver from that rule.

"Rules of the state fire marshal" means any rules adopted pursuant to rule-making authority assigned to the fire marshal, including but not limited to rules adopted pursuant to Iowa Code section 100.1, 100.35, 100B.10, 100C.7, 101.1, 101.23, or 101A.5, or to implement any provision of Iowa Code chapter 100, 100A, 100B, 100C, 101, or 101A, or any other reference in an Iowa statute to rule making by the fire marshal or establishment of fire safety standards or requirements by the fire marshal.

NOTE: As of February 1, 2006, the following chapters are "rules of the state fire marshal": 661—Chapters 5, 51, 53, 205, 231, 251, 259, and 291.

“*Waiver*” or “*variance*” means an action by the fire marshal which suspends, in whole or in part, the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. For simplicity, the term “waiver” shall include both a “waiver” and a “variance.”

5.15(1) *Applicability of rule.* The fire marshal may grant a waiver from a rule only if the fire marshal has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. The fire marshal may not waive requirements created or duties imposed by statute.

5.15(2) *Criteria for waiver or variance.* In response to a petition completed pursuant to this rule, the fire marshal may, in the fire marshal’s sole discretion, issue an order waiving, in whole or in part, the requirements of a rule if the fire marshal finds, based on clear and convincing evidence, all of the following:

a. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;

b. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;

c. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law; and

d. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

5.15(3) *Filing of petition.* A petition for a waiver must be submitted in writing to the fire marshal as follows:

a. License application. If the petition relates to a license application, the petition shall be made in accordance with the filing requirements for the license in question.

b. Contested cases. If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case.

c. Other. If the petition does not relate to a license application or a pending contested case, the petition shall be submitted using a caption indicating the name of the entity or person for whom the waiver is requested and the location of property to which the proposed waiver would apply, if any.

d. File petition. A petition is deemed filed when it is received in the office of the state fire marshal. A petition should be sent or delivered to the Iowa State Fire Marshal, 401 S.W. 7th Street, Suite N, Des Moines, Iowa 50309.

5.15(4) *Content of petition.* A petition for waiver shall include the following information where applicable and known to the requester:

a. The name, address, and telephone number of the entity or person for whom a waiver is being requested; the case number of or other reference to any related contested case; and the name, address, and telephone number of the petitioner’s legal representative, if any.

b. A description of and citation to the specific rule from which a waiver is requested.

c. The specific waiver requested, including the precise scope and duration.

d. The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in subrule 5.15(2). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition, and a statement of reasons that the petitioner believes will justify a waiver.

e. A history of any prior contacts between the department of public safety or any other agency of the state of Iowa or political subdivision and the petitioner relating to the regulated activity or license affected by the proposed waiver, including a description of each affected license or certificate held by the requester, any formal charges filed, notices of violation, contested case hearings, or investigations relating to the regulated activity or license within the last five years.

f. Any information known to the requester regarding actions of the fire marshal in similar cases.

g. The name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question or which might be affected by the granting of a waiver.

h. The name, address, and telephone number of any entity or person who would be adversely affected by the granting of a petition.

i. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

j. Signed releases of information authorizing persons with knowledge regarding the request to furnish the department with information relevant to the waiver.

5.15(5) Additional information. Prior to issuing an order granting or denying a waiver, the fire marshal may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the fire marshal may, on the fire marshal's own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and a representative or representatives of the fire marshal related to the waiver request.

5.15(6) Notice. The fire marshal shall acknowledge a petition upon receipt. The fire marshal shall ensure that, within 30 days of receipt of the petition, notice of the pending petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law, including the petitioner. In addition, the fire marshal may give notice to other persons. To accomplish this notice provision, the fire marshal may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law, and provide a written statement to the department attesting that notice has been provided.

5.15(7) Hearing procedures. The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver filed within a contested case, and shall otherwise apply to department proceedings for a waiver only when the department so provides by rule or order or is required to do so by statute.

5.15(8) Ruling. An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person or legal entity and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

a. *Fire marshal discretion.* The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the fire marshal, upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the fire marshal based on the unique, individual circumstances set out in the petition.

b. *Burden of persuasion.* The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the fire marshal should exercise discretion to grant a waiver of a rule.

c. *Narrowly tailored.* A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

d. *Administrative deadlines.* When the rule from which a waiver is sought establishes administrative deadlines, the fire marshal shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

e. *Conditions.* The fire marshal may place on a waiver any condition that the fire marshal finds desirable to protect the public health, safety, and welfare.

f. *Time period of waiver.* A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the fire marshal, a waiver may be renewed if the fire marshal finds that grounds for a waiver continue to exist.

g. Time for ruling. The fire marshal shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the fire marshal shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

h. When deemed denied. Failure of the fire marshal to grant or deny a petition within the required time period shall be deemed a denial of that petition by the fire marshal. However, the fire marshal shall remain responsible for issuing an order denying a waiver.

i. Service of order. Within seven days of its issuance, any order issued under this rule shall be transmitted to the petitioner or the person to whom the order pertains, and to any other person entitled to such notice by any provision of law.

5.15(9) All orders granting or denying a waiver petition shall be indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying a waiver petition are public records under Iowa Code chapter 22. Some petitions or orders may contain information the fire marshal is authorized or required to keep confidential. The department may accordingly redact confidential information from petitions or orders prior to public inspection.

5.15(10) Summary reports. The fire marshal shall provide information regarding requests for waivers received pursuant to this rule to the agency rules administrator for inclusion in summary reports of requests for waivers as provided for in 661—subrule 10.222(10).

5.15(11) Cancellation of a waiver. A waiver issued by the fire marshal pursuant to this rule may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the fire marshal issues an order finding any of the following:

a. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or

b. The alternative means for ensuring that the public health, safety and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or

c. The subject of the waiver order has failed to comply with all conditions contained in the order.

5.15(12) Violations. Violation of a condition in a waiver order shall be treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

5.15(13) Defense. After the fire marshal issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein only for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

5.15(14) Appeals. Decisions of the fire marshal pursuant to this rule may be appealed to the commissioner of public safety. Provision for appeals of proposed decisions in contested case proceedings shall apply, as provided in rule 661—10.327(17A).

5.15(15) Judicial review. Judicial review of the department's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

5.15(16) Sample petition for waiver. A petition for waiver filed in accordance with this chapter must meet the requirements specified herein and must either be submitted on a completed waiver request form provided by the fire marshal or substantially conform to the following form:

BEFORE THE IOWA DEPARTMENT OF PUBLIC SAFETY,
STATE FIRE MARSHAL DIVISION

Petition by (name of petitioner) for the
waiver/variance of (insert rule citation)
relating to (insert the subject matter).



PETITION FOR
WAIVER/VARIANCE

1. Provide the name, address, and telephone number of the petitioner (person asking for a waiver or variance). Also provide the name, address, and telephone number of the petitioner’s legal representative, if applicable, and a statement indicating the person to whom communications concerning the petition should be directed.
 2. Describe and cite the specific rule from which a waiver is requested.
 3. Describe the specific waiver requested, including the precise scope and time period for which the waiver will extend.
 4. Explain the relevant facts and reasons that the petitioner believes justify a waiver. Include in the answer all of the following:
 - Why applying the rule would result in undue hardship to the petitioner;
 - Why waiving the rule would not prejudice the substantial legal rights of any person;
 - Whether the provisions of the rule subject to the waiver are specifically mandated by statute or another provision of law; and
 - How substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.
 5. Provide a history of any prior contacts between the department, other departments or agencies of the state of Iowa, or political subdivisions and petitioner relating to the regulated activity or license that would be affected by the waiver. Include a description of each affected license held by the petitioner, any formal charges filed, any notices of violation, any contested case hearings held, or any investigations related to the regulated activity, license, registration, certification, or permit.
 6. Provide information known to the petitioner regarding the fire marshal’s action in similar cases.
 7. Provide the name, address, and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the granting of the petition.
 8. Provide the name, address, and telephone number of any person or entity that would be adversely affected by the granting of the waiver.
 9. Provide the name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.
 10. Provide signed releases of information authorizing persons with knowledge regarding the request to furnish the fire marshal with information relevant to the waiver.
- I hereby attest to the accuracy and truthfulness of the above information.

Petitioner’s signature

Date

This rule is intended to implement Iowa Code section 17A.22.

661—5.16(100) Alternate requirements. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.17 to 5.34 Reserved.

661—5.35(100) Standards for automatic fire extinguishing systems. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.36 to 5.39 Reserved.

661—5.40(17A,80,100) Portable fire extinguishers—generally. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.41(17A,80,100) Halon fire extinguishing systems—generally. Rescinded IAB 7/19/06, effective 7/1/06.

661—5.42(100) Cellulose insulation. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.43 to 5.49 Reserved.

These rules are intended to implement Iowa Code chapters 100 and 100A.

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MEANS OF EXIT

661—5.50(100) General requirements. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.51(100) Exits. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.52(100) Sprinklers in elevators. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.53 to 5.99 Reserved.

[Filed 11/25/55]

[Filed 12/19/56]

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LIFE SAFETY REQUIREMENTS FOR EXISTING BUILDINGS

661—5.100(100) Exits and escapes. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.101(100) Exits. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.102(100) Enclosure of vertical shafts. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.103(100) Standpipes. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.104(100) Separation of occupancies. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.105(100) Dead-end corridors. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.106 to 5.229 Reserved.

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661—5.230(100) High-rise buildings. Rescinded IAB 11/22/06, effective 1/1/07.

*Tables published in 6/8/83 IAB

661—5.231 to 5.249 Reserved.

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LIQUEFIED PETROLEUM GASES

Rescinded IAB 11/27/02, effective 1/1/03. See 661—Chapter 51.

661—5.250 to 5.274 Reserved.

LIQUEFIED NATURAL GAS

Rescinded IAB 11/27/02, effective 1/1/03. See 661—Chapter 51.

661—5.275 to 5.299 Reserved.

FLAMMABLE AND COMBUSTIBLE LIQUIDS CODE

661—5.300 Reserved.

661—5.301(100) Assembly occupancies. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.302 to 5.349 Reserved.

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OIL BURNING EQUIPMENT

Rescinded IAB 11/27/02, effective 1/1/03. See 661—Chapter 51.

661—5.350 to 5.399 Reserved.

STORAGE OF FLAMMABLE AND COMBUSTIBLE LIQUIDS ON FARMS AND
 ISOLATED CONSTRUCTION PROJECTS

Rescinded IAB 11/27/02, effective 1/1/03. See 661—Chapter 51.

661—5.400 to 5.449 Reserved.

TRANSPORTATION AND DELIVERY OF FLAMMABLE AND COMBUSTIBLE LIQUIDS
BY TANK VEHICLES
Rescinded IAB 11/27/02, effective 1/1/03. See 661—Chapter 51.

661—5.450 to 5.499 Reserved.

CHILD CARE CENTERS

661—5.500(100) Definitions. The following definitions apply to rules 661—5.500(100) to 661—5.509.

“*Approved*” is defined as being acceptable to the state fire marshal.

“*Approved equipment and material*” shall mean any equipment or material tested and listed by a nationally recognized testing laboratory.

“*Approved standards*” shall mean any standard or code prepared and adopted by a nationally recognized association.

“*Attic*,” when used in these standards, shall mean the space between the ceiling beams of the top habitable story and the roof rafters.

“*Automatic*,” as applied to a door, window or other protection for an opening shall mean that such door, window or other protection is so constructed and arranged that if open it will close when subjected to a predetermined temperature or rate of temperature rise.

“*Automatic sprinkler system*” shall mean an arrangement of piping and sprinkler designated to operate automatically by the heat of fire and to discharge water upon the fire, according to the standards of the National Fire Protection Association.

“*Basement*” or cellar for these regulations shall mean that part of a building where the finish floor is more than 30 inches below the finish grade at the building.

“*Child occupied areas*” used in this regulation for purposes of area separation, means of egress and use, as that area used for sleeping, dining, activity and educational purposes and other areas subject to occupancy by children.

“*Combustible*” shall mean capable of undergoing combustion.

“*Combustible or hazardous storage area of room*” shall mean those areas containing heating apparatus and boiler rooms, basements or attics used for the storage of combustible material, flammable liquids, workrooms such as kitchen, laundry, handicraft shops, carpenter shops, paint shops, and upholstery shops, central storerooms such as furniture, mattresses and miscellaneous storage, and similar occupancies intended to contain combustible material which will either be easily ignited, burn with an intense flame or result in the production of dense smoke and fumes.

“*Existing center*” is that which is already in existence at the date these rules go into effect.

“*Exit*” is that portion of a means of egress which is separated from all other spaces of the building or structure by construction or equipment as required in these regulations to provide a protected way of travel to the exit discharge.

“*Exit access*” is that portion of a means of egress which leads to an entrance to an exit.

“*Exit discharge*” is that portion of a means of egress between the termination of an exit and a public way.

“*Fire door*” shall mean a door and its assembly, so constructed and assembled in place as to give protection against the passage of fire, equal to surrounding construction.

“*Fire extinguisher rating*” shall be determined as stated in NFPA 10, 2006 edition, Appendix G.

“*Fire marshal*” means the state fire marshal, any of the state fire marshal’s staff, or assistant state fire inspectors, carrying authorized cards signed by the state fire marshal.

“*Fire partition*” shall mean a partition which subdivides a story of a building to provide an area of refuge or to restrict the spread of fire for a minimum of one hour.

“*Fire-resistance rating*” shall mean the time in hours or fractions thereof that materials or their assemblies will resist fire exposure as determined by fire tests conducted in compliance with approved standards.

“*Fire resistive*” shall mean that property of materials or assemblies which prevents or retards the passage of excessive heat, hot gases or flames under condition of use. The term “fire resistive” shall mean the same as “fire resistance.”

“*Fire wall*” shall mean a wall of brick or reinforced concrete having adequate fire resistance and structural stability under fire conditions to accomplish the purpose of completely subdividing a building or of completely separating adjoining building to resist the spread of fire. A fire wall shall extend continuously through all stories from foundation to or above the roof.

“*Floor area net*” shall be the actual occupied area not including accessory unoccupied areas or thickness of walls.

“*Interior finish material*” shall be classified in accordance with the method of tests of surface burning characteristics of building material National Fire Protection Association Standard No. 255, Test Methods, Surface Burning—Building Materials, 1969. Classification of interior finish material shall be in accordance with tests made under conditions simulating actual installations, provided that the state fire marshal may by rule establish the classification of any material on which a rating by standard test is not available. Interior finish material shall be grouped in the following classes in accordance with their flame spread and related characteristics.

Class A. Interior finish flame spread 0-25.

Class B. Interior finish flame spread 25-75.

Class C. Interior finish flame spread 75-100.

“*Mixed occupancy*” shall mean when the building is used for more than one occupancy purpose.

“*Panic hardware*” shall cause the door latch to release when pressure of not to exceed 15 pounds is applied to the releasing devices in the direction of exit travel. Such releasing devices shall be bars or panels extending not less than two-thirds of the width of the door and placed at height not less than 30 nor more than 44 inches above the floor. Only approved panic hardware shall be used on exit doors.

“*Self-closing*” shall mean to be equipped with an approved device which will ensure closing after having been opened.

“*Sprinklered*” shall mean to be completely protected by an approved system of automatic sprinklers installed and maintained in accordance with approved standards.

“*State fire marshal*” shall mean the chief officer of the division of fire protection as described in Iowa Code section 100.1 or one authorized to act in the state fire marshal’s absence.

“*Story*” shall mean that part of a building comprised between a floor and ceiling or roof next above. The first story shall be that story which is of such height above the ground that it does not come within the definition of a basement or cellar.

“*Types of construction*” shall be defined in National Fire Protection Association, pamphlet No. 220, published in 1985.

“*Unduly endanger*” shall mean beyond a normal limit bring into danger or peril.

661—5.501(100) Child care centers in mixed occupancies.

5.501(1) “*Application—mixed occupancy.*” All child care centers seeking licenses under Iowa Code chapter 237A, located in mixed occupancies shall meet the requirements of the primary use and occupancy of the building as promulgated by the state fire marshal. If no such rules exist the following shall be complied to and the area used for child care shall comply as per number of children occupying the center at any given time.

5.501(2) “Mixed occupancy.”

a. “*Not meeting codes.*” In facilities not meeting nationally recognized codes for child care centers the minimum division between the child occupied area and other areas shall be a one-hour fire partition and the perimeter protected with an approved fire detection or automatic extinguishing system as directed by the fire marshal. Less than a one-hour partition may be accepted when the fire marshal approves adequate perimeter protection.

b. “*Meeting recognized codes.*” Where child care centers are located in a building containing mixed occupancies, the separation requirements of a nationally recognized code are satisfied, it shall be considered as complying to the section above.

c. “*Undue danger.*” Child care centers shall not be in buildings of mixed occupancies where the acts of other occupants could unduly endanger the lives of the children in the child care center.

661—5.502(100) Child care centers for seven or more children.**5.502(1) “Application.”**

a. “*Life safety requirements.*” This section establishes life safety requirements for child care centers in which seven or more children receive care.

b. “*Regulations shall apply to all centers.*” Rules 661—5.500(100) through 661—5.502(100) shall apply to all child day care centers. Rules 661—5.500(100) through 661—5.502(100) shall constitute the minimum requirements for day care centers for approval by the state fire marshal’s office. Additional requirements may be established by other governmental agencies or governmental subdivisions.

c. “*Time for compliance.*” In existing childcare centers a reasonable time shall be allowed for compliance with any part of this rule, commensurate with the magnitude of the expenditure and the disruption of services. When alternate protection is installed and accepted the center shall be considered as conforming for the purposes of these regulations.

d. “*Additions or structural alterations.*” Additions or structural alterations to existing facilities must have written approval from the state fire marshal, and working plans and specifications must be submitted for review and approval.

5.502(2) “Exit details.”

a. “*Number of exits.*” Each floor occupied by children shall have not less than two approved remote means of egress. Additional exits shall be determined by the number of occupants.

b. “*Basement exits.*” Where children are located below the floor of exit discharge (basement) at least one exit directly to the outside to ground level shall be provided. No center shall be located more than one story below the ground. Any stairway to the floor above shall be cut by a fire barrier containing a rated door of at least 20-minute fire protection or a minimum of 1¾-inch solid bonded wood core. They shall be equipped with a self-closing device and positive latch.

c. “*Types of exits.*” Exits shall be of the following types or combinations thereof as defined by the National Fire Protection Association. At least two exits of the below types, remote from each other, shall be provided for every story or section of the building. At least one exit in every story or section shall be of type 2, 3, 4, 5, or 6 as listed below. Exterior fire escape stairs, minimum of 44 inches in width, may be accepted as a second means of exit.

- (1) Horizontal exits.
- (2) Doors leading directly outside the buildings (without stairs).
- (3) Ramps.
- (4) Stairways, or outside stairs.
- (5) Rescinded IAB 2/15/06, effective 2/1/06.
- (6) Smoke towers.

d. *“Direct exits.”* At least one required exit from each floor shall lead directly or through an enclosed corridor, to the outside. A second or third required exit, where a more direct exit is impractical, may lead to a first floor lobby having ample and direct exit to the outside.

e. *“Exit doors shall not be locked.”* Exit doors shall not be locked against egress by bolt, key locks, hooks or padlocks. A latch type lock is permissible that locks against the outside entrance.

5.502(3) “Doors.”

a. *“Size.”* Each door in a means of egress shall not be less than 30 inches wide, 6 feet in height and reasonably covering the opening. If a door has a latch and is used by more than 50 people it shall be equipped with panic hardware.

b. *“Closet doors.”* Every closet door latch shall be such that children can open the door from the inside of the closet.

c. *“Emergency unlocking.”* Every door lock, except exit discharge, shall be designed to permit opening of the locked door from the outside in an emergency, and the opening device shall be readily accessible to the staff.

d. *“Doors protecting vertical openings.”* The doorway between the floor of exit discharge and any floor below shall be equipped with a self-closing labeled door of at least a 20-minute fire protection rating or a 1¾-inch solid bonded wood core door.

5.502(4) “Interior finish.” Interior finish in exits in child occupied spaces in the center shall be Class A in new centers and A or B in existing centers. See Table No. 5-C following 5.105(100).

5.502(5) “Detection and extinguishing systems when needed.” Detection and extinguishing systems shall comply to the following chart in regard to construction and number of stories.

a. *“Chart for detection and extinguishing systems—when needed.”*

Type of Construction	Number of Children	Number of stories				
		1	2	3	4	5 or more
Fire Resistive and Protected	7-15	4	2	2	2	2
Noncombustible	16 or more	3	2	2	2	2
Protected Wood						
Frame and Protected	7-15	4	2	1	NP	NP
Ordinary	16 or more	3	2	1	NP	NP
Heavy Timber	7-15	4	2	1	NP	NP
	16 or more	3	2	1	NP	NP
Unprotected	7-15	4	2	1	NP	NP
Noncombustible	16 or more	3	2	1	NP	NP
Unprotected						
Wood Frame and	7-15	4	NP	NP	NP	NP
Unprotected Ordinary	16 or more	2	NP	NP	NP	NP

Note 1—Sprinkler; Note 2—Complete Automatic Detection; Note 3—Manual Alarm; Note 4—Single Station Smoke Detection; Note 5—NP Not Permitted

“EXCEPTION:” Buildings where classrooms have a direct exit door to the outside are not required to have complete automatic detection. A manual alarm or single-station detector will be satisfactory.

b. *“Approved sprinkler system.”* Any required automatic sprinkler system shall be in accordance with approved standards for systems in light hazard occupancies, and shall be electrically interconnected with the manual fire alarm system. The main sprinkler control valve shall be electrically supervised so that at least a local alarm will sound when the valve is closed.

c. *“Complete automatic detection system.”* Requirements for automatic fire detection systems shall meet the following standards.

- (1) Automatically detect a fire.
- (2) Sound alarm signal throughout the premises for evacuation purposes.
- (3) Provide assurance the system is in operating condition by electric supervision.
- (4) Underwriters Laboratories listed equipment to be used throughout the system.
- (5) Provide a manual test switch and tested monthly and noted for inspection purposes.
- (6) Installation of equipment and wiring shall be in a neat and workmanship like manner.
- (7) To include smoke, or products of combustion, detection devices when required by the fire marshal.

(8) Properly located manual alarm stations.

(9) Where fire detection systems are installed to meet the requirements of this regulation, they shall be approved electrically supervised systems. Detectors shall be approved combined rate of rise and fixed temperature type detectors 135°F, or smoke, or products of combustion type, and properly installed. In spaces where high temperature is normal, devices having a higher operating point may be used. Operation of a detection or alarm shall cause an alarm which is audible throughout the center. In existing centers where “fixed temperature only detectors” are already installed, they need not be replaced until such time that a new head needs to be installed. Detector units shall be installed in every room and concealed area of the child care center.

d. *“Single station detectors.”* Every single station detector of product of combustion other than heat shall be mounted on the ceiling or wall at a point of central location in the corridor or in child occupied areas. No detector shall be mounted less than 12 inches of ceiling level. Care shall be exercised to ensure the installation will not interfere with the operating characteristics of the detectors. When activated the detector shall provide an alarm. The detectors shall be tested monthly by the operator of the center or the operator’s designee and a record kept for inspection purposes.

e. *“Manual fire alarms.”*

(1) *“Installation.”* Manual fire alarm stations shall be provided on each floor and so located that the alarm station is not more than 75 feet from any area within the building. Horns or bells that provide a distinctive sound different from any other bell system shall be provided that will give audible warning to all occupants of the building in case of a fire or other emergency. A test system shall be provided for the purpose of conducting fire drills and tests of the alarm system.

(2) *“Approval of systems.”* Factory Mutual or Underwriters Laboratories, Inc., equipment and component parts shall be used in the installation of the fire alarm system. The electrical energy for the fire alarm system shall be on a separate circuit and shall be taken off the utility service to the center building ahead of the entrance disconnect.

(3) *“Extension of system.”* Whenever the fire marshal determines it advisable, it may be required that the fire alarm system be extended or designed to provide automatic fire detection devices in unsupervised areas, boiler rooms, storerooms and shop areas.

(4) *“Mounting.”* Each station shall be securely mounted. The bottom of each station will be not less than 4½ feet and not more than 6 feet above the floor level.

(5) *“Location.”* Manual fire alarm boxes shall be distributed throughout the protected area so that they are unobstructed, readily accessible, and located in the normal path of exit from the area.

5.502(6) *“Fire drills.”* Fire drills shall be held at least once a month and recorded. A fire emergency plan shall be written and posted in a conspicuous place.

5.502(7) *“Extinguishers.”* Each child occupied area shall be protected by a Class “A” fire extinguisher 2A rating, and in areas where heating or cooking units are used there shall be a “5” lb. BC extinguisher 2B rating.

5.502(8) *“Heating equipment.”*

a. “Location.” No furnace, space heater or portable heater shall be located in child occupied areas. EXCEPTION: Approved suspended unit heaters may be used, except in means of egress and sleeping areas, provided such heaters are located high enough to be out of the reach of persons using the area and provided they are equipped with the proper safety devices. Fireplaces may be used providing the fireplace is equipped with a heat tempered glass fireplace enclosure guaranteed against breakage up to a temperature of 650°F. If, in the opinion of the fire marshal, special hazards are present, a lock on the enclosure and other safety precautions may be required.

b. “Combustion air.” If solid partitions are used to provide the separation of the furnace room from other areas, provision for outside air shall be made to assure adequate combustion for the heating unit.

5.502(9) *“Floor coverings.”* For carpet see Table No. 5-D following 5.105(100). Wall hangings and window treatments shall be flame-retardant or rendered flame-retardant.

5.502(10) *“Maintenance.”*

a. “Regular and proper maintenance.” Regular and proper maintenance of electric service, heating plants, alarm systems, sprinkler systems, fire doors and exit facilities shall be accomplished.

b. “Storerooms.” Storerooms shall be maintained in a neat and proper manner at all times.

c. “Excessive storage.” Excessive storage of combustible materials such as paper cartons, magazines, paints, sprays, old clothing, furniture and similar materials shall be prohibited at all times.

661—5.503 to 5.509 Reserved.

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ADULT DAY SERVICES PROGRAMS

661—5.510(231D) **Adult day services.**

5.510(1) *Definitions.* The following definitions apply to rule 661—5.510(231D).

“Existing adult day services program” means an adult day services program certified or seeking certification from the department of inspections and appeals pursuant to the provisions of Iowa Code Supplement chapter 231D and which has been in continuous operation in the same facility since May 31, 2004, or before and which has operated continuously since May 31, 2004, in a facility which has not undergone major renovation or remodeling since May 31, 2004.

“New adult day services program” means an adult day services program certified or seeking certification from the department of inspections and appeals pursuant to the provisions of Iowa Code Supplement chapter 231D which has not been in continuous operation since May 31, 2004, or which operates in a facility which has undergone major renovation or remodeling since June 1, 2004.

“NFPA” means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. References to the form “NFPA xx,” where “xx” is a number, refer to the NFPA standard or pamphlet of the corresponding number.

5.510(2) *Fire safety requirements for existing adult day services programs.* NFPA 101, Life Safety Code, 2003 edition, Chapter 17, “Existing Day Care Occupancies,” is adopted by reference as the rules establishing fire safety requirements for existing adult day services programs. Any existing adult day services program shall comply with the provisions of NFPA 101, Life Safety Code, 2003 edition, Chapter 17, “Existing Day Care Occupancies,” by June 1, 2005.

EXCEPTION: If the fire marshal finds that a violation of any provision of NFPA 101, Life Safety Code, 2003 edition, Chapter 17, "Existing Day Care Occupancies," presents an imminent threat to the safety of clients or staff, the fire marshal may require correction of the condition or conditions which are in violation as a condition of approval of the facility for use by an adult day services program.

5.510(3) *Fire safety requirements for new adult day services programs.* NFPA 101, Life Safety Code, 2003 edition, Chapter 16, "New Day Care Occupancies," is adopted by reference as the rules establishing fire safety requirements for new adult day services programs.

This rule is intended to implement Iowa Code Supplement section 231D.15.

661—5.511 to 5.606 Reserved.

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RESIDENTIAL FACILITIES

661—5.607(100) Scope. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.608(100) Means of escape. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.609(100) Protection of vertical openings. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.610(100) Detection, alarm, and communications. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.611(100) Hazardous areas. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.612(100) Building service. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.613(100) Evacuation plan and fire drills. Rescinded IAB 11/22/06, effective 1/1/07.

Rules 5.607(100) to 5.613(100) are intended to implement Iowa Code section 135G.4.

661—5.614 Reserved.

661—5.615(237C) Facilities in which foster care is provided to fewer than six children by agencies. Any facility, including a single-family residence, within which foster care is provided by an agency to fewer than six children shall meet each of the requirements established in this rule.

5.615(1) Battery-operated smoke detectors shall be installed in each sleeping room and on each floor of the home and shall be installed in compliance with the manufacturer's instructions.

5.615(2) Each exit and exit path shall remain clear and unobstructed at all times.

5.615(3) A five-pound 2A:10B:C fire extinguisher shall be installed in the primary caregiver's sleeping room. Additional extinguishers may be provided. Each extinguisher in the facility shall be inspected yearly by a third party in accordance with NFPA 10, Standard for Portable Fire Extinguishers, 2006 edition.

5.615(4) No combustible items shall be stored within a three-foot clearance of furnaces, hot water heaters, and electrical panels.

5.615(5) A carbon monoxide detector shall be installed on each floor of the residence. A detector shall be installed in proximity to any gas-fired appliance. All detectors shall be installed in accordance with the manufacturer's installation instructions.

5.615(6) If propane is used in the facility, a propane leak detector shall be installed in proximity to each propane-fired appliance. All detectors shall be installed in accordance with the manufacturer's installation instructions.

5.615(7) An evacuation plan shall be maintained, and fire drills shall be conducted at least once every other month.

5.615(8) If a child is sleeping in a basement room, then an egress window shall be provided in the room. An "egress window" means an existing operable window with a clear opening area of not less than 5.7 square feet, and with a minimum opening height and width of 24 inches and 20 inches, respectively.

This rule is intended to implement Iowa Code section 237.3, subsection 3.

661—5.616 to 5.619 Reserved.

661—5.620(100,135C) General requirements for small group homes (specialized licensed facilities) licensed pursuant to Iowa Code section 135C.2.

5.620(1) Scope. This rule applies to specialized licensed facilities licensed under the provisions of Iowa Code section 135C.2 having three to five beds and serving persons with mental retardation, chronic mental illness, developmental disabilities, or brain injuries.

5.620(2) Exits.

a. There shall be a minimum of two approved exits from the main level of the home and from each level with resident sleeping rooms.

b. Interior and exterior stairways shall have a minimum clear width of not less than 30 inches.

5.620(3) Windows. Every resident sleeping room shall have an outside window or outside door arranged and located to permit the venting of products of combustion and access to fresh air in the event of an emergency.

a. In new construction, windows shall have a minimum net clear openable area of 5.7 square feet, minimum net clear openable height of 24 inches, minimum net clear openable width of 20 inches and the finished sill height shall be not more than 44 inches above the floor.

b. In existing construction the finished sill height shall be not more than 44 inches above the floor or may be accessible from a platform not more than 44 inches below the window sill.

5.620(4) Interior finish. Interior finish in exit shall be Class A, B or C. See Table No. 5-C, following 661—5.105(100).

5.620(5) Doors. Doors to resident sleeping rooms shall be a minimum of 1 3/8-inch solid core wood or equivalent.

5.620(6) Vertical separations. Basement stairs must be enclosed with one-hour rated partitions and 1¾-inch solid core wood doors equipped with self-closers. These doors must be kept closed unless held open by an approved electromagnetic holder, actuated by an approved smoke detection device located at the top of the stairwell and interconnected with the alarm system.

5.620(7) Fire detection, fire alarms and sprinklers.

a. The home shall have smoke detection installed on each occupied floor, including basements, in accordance with NFPA 72, 1999 edition, Chapter 11. Smoke detectors shall be interconnected so that activation of any detector will sound an audible alarm throughout. The system shall be tested by a competent person at least semiannually with date of test and name noted.

b. Homes in which exiting is restricted by special door locking arrangements that prevent residents from free egress shall be equipped with sprinkler systems meeting the requirements of National Fire Protection Association Standard Number 13D, 1996 edition.

EXCEPTION: Homes in this classification that were licensed prior to November 1, 1999, shall comply with this requirement within a reasonable period of time and, in any event, not later than November 1, 2001.

5.620(8) Fire extinguishers.

a. Approved fire extinguishers shall be provided on each floor, so located that a person will not have to travel more than 75 feet from any point to reach the nearest extinguisher. An additional extinguisher shall be provided in, or adjacent to, each kitchen or basement storage room.

b. Type and number of portable fire extinguishers shall be determined by the fire marshal.

5.620(9) Mechanical, electrical and building service equipment.

a. Air conditioning, ventilating, heating, cooking and other service equipment shall be in accordance with state regulations governing same, or nationally recognized standards such as National Fire Protection Association standards governing the type of equipment, and shall be installed in accordance with the manufacturer's specifications. All hazardous areas normally found in one- and two-family dwellings, such as laundry, kitchen, heating units and closets need not be separated with walls if all equipment is installed in accordance with the manufacturer's listed instructions.

b. Portable comfort heating devices are prohibited.

5.620(10) Attendants, evacuation plan.

a. Every home shall have at least one staff person on the premises at all times while residents are present. This staff person shall be at least 18 years of age and capable of performing the required duties of evacuation. No person other than the management or a person under management control shall be considered as an attendant.

b. Every facility shall formulate a plan for the protection of all persons in the event of fire and for their evacuation to areas of refuge and from the building when necessary. All employees shall be instructed and kept informed respecting their duties under the plan. This plan is to be posted where all employees may readily study it. Fire drills shall be held at least once a month. Records must be kept available for inspection.

5.620(11) Smoking.

a. There shall be no smoking in resident sleeping areas and smoking and no smoking policies shall be strictly adhered to.

b. Ashtrays shall be constructed of noncombustible material with self-closing tops and shall be provided in all areas where smoking is permitted.

5.620(12) Exit illumination. Approved rechargeable battery-powered emergency lighting shall be installed to provide automatic exit illumination in the event of failure of the normal lighting system.

5.620(13) Occupancy restrictions.

a. Occupancies not under the control of, or not necessary to, the administration of residential care facilities are prohibited therein with the exception of the residence of the owner or manager.

b. Nonambulatory residents shall be housed only on accessible floors which have direct access to grade which does not involve stairs or elevators.

5.620(14) Maintenance.

a. All fire and life safety equipment or devices shall be regularly and properly maintained in an operable condition at all times in accordance with nationally recognized standards. This includes fire extinguishing equipment, alarm systems, doors and their appurtenances, cords and switches, heating and ventilating equipment, sprinkler systems and exit facilities.

b. Storerooms shall be maintained in a neat and proper manner at all times.

c. Excessive storage of combustible materials such as papers, cartons, magazines, paints, sprays, old clothing, furniture and similar materials shall be prohibited at all times.

This rule is intended to implement Iowa Code section 135C.2(5) "b."

661—5.621 to 5.624 Reserved.

661—5.625(100,231B) Elder group homes. This rule applies to elder group homes certified by the Iowa department of elder affairs.

5.625(1) Definitions. The following definitions apply to rule 661—5.625(100,231B):

"Elder" means a person 60 years of age or older.

"Elder group home" means a single family residence that is the residence of a person who is providing room, board, and personal care to three to five elders who are not related to the person providing the service within the third degree of consanguinity or affinity and which is certified as an elder group home by the Iowa department of elder affairs.

5.625(2) Exits. There shall be a minimum of two approved exits from the main level of the home and from each level with resident sleeping rooms. Interior and exterior exit stairways shall have a minimum clear width of not less than 30 inches.

5.625(3) Windows. Each resident sleeping room shall have an outside window or outside door arranged and located to provide ventilation, access to fresh air, and an emergency escape route. New or replacement windows shall have a minimum net clear openable area of 5.7 square feet, minimum net clear openable height of 24 inches, minimum net clear openable width of 20 inches, and the finished sill height shall not be more than 44 inches above the floor.

5.625(4) Interior finish. Interior finish in resident occupied areas shall be Class A or B in accordance with Table 5-C, 661 IAC 5.105(100).

5.625(5) Doors. Door to resident sleeping rooms shall be a minimum of one and three-eighths inches solid core wood or equivalent.

5.625(6) Fire detection. An elder group home shall have smoke detectors installed on each floor, including the basement, and in each sleeping room, in accordance with National Fire Protection Association # 74, Standard for Household Fire Warning Equipment, 1989 edition, and 661 IAC 5.807(100). Smoke detectors shall be interconnected so that activation of any detector will activate detectors throughout the home.

5.625(7) Fire extinguishers. Fire extinguishers shall be provided on each floor and shall be located so that a person will not have to travel any more than 75 feet from any point in the home to reach the nearest extinguisher. An additional extinguisher shall be provided in, or adjacent to, the kitchen. Type, distribution, inspection, maintenance, and recharging of extinguishers shall conform to NFPA 10, Standard for Portable Fire Extinguishers, 2006 edition.

5.625(8) Smoking. There shall be no smoking in resident sleeping rooms. Smoking may be permitted in designated areas only. If an indoor area within an elder group home is designated as a smoking area, that area shall be equipped with ashtrays constructed of noncombustible material and with self-closing tops.

5.625(9) Exit illumination. Approved rechargeable battery-powered emergency lighting shall be installed to provide automatic exit illumination in the event of failure of the normal lighting system.

5.625(10) Maintenance. All fire and life safety equipment or devices shall be U.L. or independent testing laboratory approved, installed according to manufacturer specifications, and regularly and properly maintained at all times in accordance with nationally recognized standards. This includes, but is not limited to, fire extinguishing equipment, alarm systems, doors and their appurtenances, and exit facilities. Flammable and combustible materials shall be properly stored in original, properly labeled containers or approved safety containers. Storerooms shall be maintained in a neat and proper manner at all times. Excessive storage of combustible materials is not permitted.

5.625(11) Equipment. Electrical, heating, and ventilating equipment shall be installed and maintained in accordance with manufacturer's instructions and nationally recognized standards. Portable space heaters are not permitted.

5.625(12) Emergency procedures. Every home shall formulate a plan for the protection of occupants in the event of a fire or other emergency. The plan shall take into consideration areas of refuge within the building as well as evacuation from it. The written plan must be provided to each resident and explained to them at the time they move into the facility and at least annually thereafter.

5.625(13) Compressed gases. If oxygen or other compressed gases are required by residents for respiratory purposes, the applicable standards for use, containers, equipment, maintenance and storage of compressed gases, as set forth in National Fire Protection Association # 99, 1993 edition, shall be adhered to.

5.625(14) Basements. Interior basement stairways, if enclosed, must have walls and ceilings constructed of five-eighths inch gypsum board or material providing equivalent fire protection. Basements must be separated from the first floor by a self-closing one and three-eighths inch solid wood core door or equivalent. If a basement is used by residents, it must have a door leading to the outside or an operational window having a minimum net clear openable area of 5.7 square feet, minimum net clear openable height of 24 inches, minimum net clear openable width of 20 inches, and the finished sill height shall not be more than 44 inches above the floor.

5.625(15) Construction. Unprotected wood frame structures of more than two stories in height, excluding basement, shall not be permitted for use as elder group homes.

EXCEPTION: Unprotected wood frame structures protected throughout by an approved automatic sprinkler system may be used as elder group homes.

This rule is intended to implement Iowa Code chapter 100 and section 231B.2.

661—5.626(231C) Assisted living housing.

5.626(1) Definitions. The following definitions apply to rule 661—5.626(231C):

“*Assisted living facility*” means a facility that houses a program that is certified or seeking certification pursuant to the provisions of Iowa Code Supplement section 231C.3 or that has been identified by the department of inspections and appeals as a facility housing a program which requires certification pursuant to Iowa Code Supplement section 231C.3 and is not currently certified.

“*Existing assisted living facility*” means an assisted living facility which has been in continual operation since May 31, 2004, or before.

“*New assisted living facility*” means an assisted living facility which begins operation on or after June 1, 2004.

“*NFPA*” means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. References to the form “NFPA xx,” where “xx” is a number, refer to the NFPA standard or pamphlet of the corresponding number.

5.626(2) New assisted living facilities. NFPA 101, Life Safety Code, 2003 edition, Chapter 32, “New Residential Board and Care Occupancies,” is hereby adopted by reference as the rules governing new assisted living facilities.

5.626(3) Existing assisted living facilities. NFPA 101, Life Safety Code, 2003 edition, Chapter 33, “Existing Residential Board and Care Occupancies,” is hereby adopted by reference as the rules governing existing assisted living facilities.

5.626(4) *Alternative requirements.* In lieu of complying with the requirements established in subrule 5.626(2) or 5.626(3), an assisted living facility may alternatively comply with the requirements established in this subrule, if it meets the respective qualifications stated for the alternative requirement.

a. An assisted living facility that was initially approved by the fire marshal on the basis of compliance with the requirements of the 2000 edition of the Life Safety Code or that is located within or adjacent to a licensed health care facility required to comply with applicable provisions of the 2000 edition of the Life Safety Code may comply with the requirements established in NFPA 101, Life Safety Code, 2000 edition. If the facility was initially approved on the basis of compliance with Chapter 32, “New Residential Board and Care Occupancies,” the facility shall continue to comply with the provisions of that chapter. A facility that was initially approved by the fire marshal on the basis of compliance with Chapter 33, “Existing Residential Board and Care Occupancies,” may continue to comply with that chapter as long as it is in continuous operation and does not undergo major renovation or remodeling. A facility that was initially approved on the basis of compliance with Chapter 33 and whose operation is not continuous or that undergoes major renovation or remodeling shall comply with Chapter 32.

b. An assisted living facility that was certified prior to July 1, 1997, and that has continuously operated under that certification since July 1, 1997, may comply with the requirements of NFPA 101, Life Safety Code, 1994 edition, Chapter 23, “Existing Residential Board and Care Occupancies.”

c. An assisted living facility that was certified on or after July 1, 1997, and before June 1, 2004, and that has continuously operated under that certification since before June 1, 2004, may comply with the requirements of NFPA 101, Life Safety Code, 1994 edition, Chapter 22, “New Residential Board and Care Occupancies.”

5.626(5) *Evacuation capability.* For any provision of subrules 5.626(1) through 5.626(4) which is contingent upon evacuation capability, facilities may:

a. Comply with requirements for an evacuation capability rating of “impractical.”

b. Comply with requirements which are contingent upon evacuation ratings of “slow” or “prompt,” provided that the residents and staff of the facility have undergone evacuation rating evaluations performed by a health care professional and that all residents and staff are rated capable of “slow” or “prompt” evacuation, respectively. The evacuation capability ratings shall be updated each time a new resident arrives at the facility, a new staff person is assigned to the facility, or the physical condition or capacity for mobility of a resident or staff member changes significantly. Evacuation capability ratings shall be performed at the expense of the facility and any records supporting the ratings shall be made available to a fire inspector or personnel of the department of inspections and appeals upon request.

This rule is intended to implement Iowa Code Supplement section 231C.4.

661—5.627 to 5.649 Reserved.

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FIRE SAFETY RULES FOR SCHOOL AND COLLEGE BUILDINGS

661—5.650(100) General requirements and definitions. Rescinded IAB 11/22/06, effective 1/1/07.

EXISTING SCHOOL BUILDINGS

661—5.651(100) Application. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.652(100) Exits and occupancy load. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.653(100) Corridors. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.654(100) Doors. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.655(100) Windows. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.656(100) Stairway enclosures and floor cutoffs. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.657(100) Interior finishes. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.658(100) Construction. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.659(100) Fire alarm systems. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.660(100) Electrical wiring. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.661(100) Heating equipment and flammable and combustible liquids. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.662(100) Gas piping. Rescinded IAB 12/1/99, effective 2/1/00.

661—5.663(100) Fire extinguishers. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.664(100) Basement, underground and windowless classrooms. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.665(100) Fire hazard safeguards. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.666(100) Automatic sprinklers. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.667(100) Open plan buildings. Rescinded IAB 11/22/06, effective 1/1/07.

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661—5.668 to 5.674 Reserved.

NEW SCHOOL BUILDINGS

661—5.675(100) New school buildings. Rescinded IAB 11/22/06, effective 1/1/07.

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661—5.676 to 5.699 Reserved.

NEW COLLEGE BUILDINGS

661—5.700(100) to 5.714(100) Rescinded IAB 12/1/99, effective 2/1/00. See 661—5.775(100).

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661—5.715 to 5.748 Reserved.

EXISTING COLLEGE BUILDINGS

661—5.749(100) Application. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.750(100) Exits. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.751(100) Corridors. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.752(100) Doors. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.753(100) Windows. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.754(100) Stairway enclosures and floor cutoffs. Rescinded IAB 11/22/06, effective 1/1/07.

- 661—5.755(100) Interior finishes.** Rescinded IAB 11/22/06, effective 1/1/07.
- 661—5.756(100) Construction.** Rescinded IAB 11/22/06, effective 1/1/07.
- 661—5.757(100) Fire alarm systems.** Rescinded IAB 11/22/06, effective 1/1/07.
- 661—5.758(100) Electrical wiring.** Rescinded IAB 11/22/06, effective 1/1/07.
- 661—5.759(100) Heating equipment and flammable and combustible liquids.** Rescinded IAB 11/22/06, effective 1/1/07.
- 661—5.760(100) Gas piping.** Rescinded IAB 2/15/06, effective 2/1/06.
- 661—5.761(100) Fire extinguishers.** Rescinded IAB 11/22/06, effective 1/1/07.
- 661—5.762(100) Basements.** Rescinded IAB 11/22/06, effective 1/1/07.
- 661—5.763(100) Fire hazard safeguards.** Rescinded IAB 11/22/06, effective 1/1/07.
- 661—5.764(100) Automatic sprinklers.** Rescinded IAB 11/22/06, effective 1/1/07.
- 661—5.765(100) Open plan buildings.** Rescinded IAB 11/22/06, effective 1/1/07.
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- 661—5.766 to 5.774** Reserved.

NEW COLLEGE BUILDINGS

- 661—5.775(100) New college buildings.** Rescinded IAB 11/22/06, effective 1/1/07.
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- 661—5.776 to 5.799** Reserved.

FIRE SAFETY RULES FOR RESIDENTIAL OCCUPANCIES

- 661—5.800(100) General provisions.** Rescinded IAB 11/22/06, effective 1/1/07.

NEW RESIDENTIAL OCCUPANCIES

661—5.801(100) General requirements. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.802(100) Exit facilities in new residential occupancies. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.803(100) General safety requirements. Rescinded IAB 11/22/06, effective 1/1/07.

EXISTING RESIDENTIAL OCCUPANCIES

661—5.804(100) Existing residential occupancies. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.805(100) Exit facilities. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.806(100) General provisions. Rescinded IAB 11/22/06, effective 1/1/07.

661—5.807(100) Smoke detectors definition. “Approved” is defined as being acceptable to the state fire marshal. Any equipment, device or procedure which bears the stamp of approval or meets applicable standards prescribed by an organization of national reputation such as the Underwriters Laboratories, Inc., National Bureau of Standards, Factory Mutual Laboratories, American Society for National Fire Protection Association, American Society of Mechanical Engineers or American Standards Association, which undertakes to test and approve or provide standards for equipment, devices or procedures of the nature prescribed in these regulations shall be deemed acceptable to the state fire marshal.

661—5.808(100) General requirements.

5.808(1) Approved single station smoke detectors will be acceptable in all areas covered by these regulations, unless other fire warning equipment or materials are required by other standards.

5.808(2) Any installation of wiring and equipment shall be in accordance with the latest edition of the National Fire Protection Association Standard No. 70, National Electric Code, and other applicable standards.

5.808(3) All devices, combinations of devices, and equipment to be installed in conformity with these regulations shall be approved and used for the purposes for which they are intended.

5.808(4) A combination system, such as a household fire warning system whose components may be used in whole or in part, in common with a nonfire emergency signaling system, such as a burglar alarm system or an intercom system, shall not be permitted or approved, except for one- or two-family dwellings.

5.808(5) All power supplies shall be sufficient to operate the alarm for at least four continuous minutes.

5.808(6) Power source.

a. In new buildings and additions constructed after July 1, 1991, required smoke detectors shall receive their primary power from the building wiring when such wiring is served from a commercial source. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection. Smoke detectors may be solely battery operated when installed in existing buildings, or in buildings without commercial power, or in buildings which undergo alterations, repairs or additions regulated by subrule 5.808(2).

b. New and replacement smoke detectors installed after May 1, 1993, which receive their primary power from the building wiring shall be equipped with a battery backup.

5.808(7) The failure of any nonreliable or short-life component which renders the detector inoperative shall be readily apparent to the occupant of the sleeping unit without the need for a test. Each smoke detector shall detect abnormal quantities of smoke that may occur and shall properly operate in the normal environmental condition.

5.808(8) Equipment shall be installed, located and spaced in accordance with the manufacturer’s recommendations.

5.808(9) Installed fire warning equipment shall be mounted so as to be supported independently of its attachment to wires.

5.808(10) All apparatus shall be restored to normal immediately after each alarm or test.

5.808(11) Location within dwelling units.

a. In dwelling units, detectors shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to each separate sleeping area. When the dwelling unit has more than one story and in dwellings with basements, a detector shall be installed on each story and in the basement. In dwelling units where a story or basement is split into two or more levels, the smoke detector shall be installed on the upper level, except that when the lower level contains a sleeping area, a detector shall be installed on each level. When sleeping rooms are on an upper level, the detector shall be placed at the ceiling of the upper level in close proximity to the stairway. In dwelling units where the ceiling height of a room open to the hallway serving the bedrooms exceeds that of the hallway by 24 inches or more, smoke detectors shall be installed in the hallway and in the adjacent room. Detectors shall sound an alarm audible in all sleeping areas of the dwelling unit in which they are located.

b. Location in efficiency dwelling units and hotels. In efficiency dwelling units, hotel suites and in hotel sleeping rooms, detectors shall be located on the ceiling or wall of the main room or hotel sleeping room. When sleeping rooms within an efficiency dwelling unit or hotel suite are on an upper level, the detector shall be placed at the ceiling of the upper level in close proximity to the stairway. When actuated, the detector shall sound an alarm audible within the sleeping area of the dwelling unit, hotel suite or sleeping room in which it is located.

661—5.809(100) Smoke detectors—notice and certification of installation.

5.809(1) Notice of installation. Owners of rental residential buildings containing two or more units required by law to install smoke detectors shall notify their local fire department upon installation of required smoke detectors.

5.809(2) Certification—single-family dwelling units. A person who files for homestead credit pursuant to Iowa Code chapter 425 shall certify that the single-family dwelling unit for which credit is filed has a smoke detector(s) installed in accordance with 5.808(6) and 5.808(11)“*a.*,” or that such smoke detector(s) will be installed within 30 days of the date of filing for credit.

5.809(3) Reports to fire marshal. Each county or city assessor charged with the responsibility of accepting homestead exemption credit applications will obtain certification of smoke detection on a form acceptable to the state fire marshal, signed by the person making application for credit and file a quarterly report with the fire marshal listing the name, address and whether applicant attested to a detector(s) being present at the time of application or that a detector(s) would be installed as required within 30 days.

661—5.810(100) Smoke detectors—new and existing construction.

5.810(1) New construction. All multiple-unit residential buildings and single-family dwellings which are constructed after July 1, 1991, shall include the installation of smoke detectors meeting the requirements of rule 661—5.807(100) and rule 661—5.808(100).

5.810(2) Existing construction. All existing single-family units and multiple-unit residential buildings shall be equipped with smoke detectors as required in 5.808(11)“*a.*”

Rules 5.807(100) to 5.810(100) are intended to implement Iowa Code section 100.18.

OCCUPANCY CLASSIFICATIONS PER TABLE 8-A

General Occupation Description	Current Occupancy Designation	Complete Occupancy Description
Assembly	A-1	Any assembly building with a stage and occupant load of 1,000 or more in building.
	A-2	Any building or portion of a building having an assembly room with an occupant load of less than 1,000 and a stage.
	A-2.1	Any building or portion of a building having an assembly room with an occupant load of 300 or more without a stage, including such buildings used for educational purposes and not classed as a Group E or Group B, Division 2 Occupancy.
	A-3	Any building or portion of building having an assembly room with an occupant load of 300 or more without a stage, including such buildings used for educational purposes and not classed as a Group E or Group B, Division 2 Occupancy.
	A-4	Stadiums, reviewing stands and amusement park structures not included within other Group A Occupancies.
Business, including offices, factories, mercantile and storage	B-1	Gasoline service stations, storage garages where no repair work is done except exchange of parts and maintenance requiring no open flame, welding or the use of highly flammable liquids.
	B-2	Drinking and dining establishments having an occupant load of less than 50, wholesale and retail stores, office buildings, printing plants, municipal police and fire stations, factories and workshops using material not highly flammable or combustible, storage and sales rooms for combustible goods, paint stores without bulk handling. Buildings or portions of buildings having rooms used for educational purposes, beyond the 12th grade, with less than 50 occupants in any room.
	B-3	Aircraft hangers where no repair work is done except change of parts and maintenance requiring no open flame, welding or use of highly flammable liquids. Open parking garages, heliports.
	B-4	Ice plants, power plants, pumping plants, cold storage, creameries. Factories and workshops using noncombustible and nonexplosive materials. Storage and sales rooms for noncombustible and nonexplosive materials.

Educational	E-1	Any building used for educational purposes through 12th grade by 50 or more persons for more than twelve hours per week or four hours in any one day.
	E-2	Any building used for educational purposes through 12th grade by less than 50 persons for more than twelve hours per week or four hours in one day.
	E-3	Any building used for day-care purposes for more than six children.
Hazardous	H-1	Storage, handling, use or sale of hazardous and highly flammable or explosive materials other than Class I, II, or III-A liquids.
	H-2	Storage and handling of Class I, II and III-A liquids, dry cleaning plants using flammable liquids; paint stores with bulk handling; paint shops and spray painting rooms and shops. The storage or sale of hazardous materials or chemicals or Class I, II and III-A liquids in amounts that do not exceed those set forth in Table No. 9-A is permitted in buildings or portions thereof without classifying such buildings as a Group H Occupancy, provided such chemicals, hazardous materials or liquids are stored and handled in compliance with the provisions of the Fire Code.
	H-3	Woodworking establishments, planing mills, box factories, buffing rooms for tire rebuilding plants and picking rooms; shops, factories or warehouses where loose combustible fibers or dust are manufactured, processed, generated or stored; and pin-refinishing rooms.
	H-4	Repair garages.
	H-5	Aircraft repair hangers.
Institutional	I-1	Nurseries for full-time care of children under the age of six (each accommodating more than five persons). Hospitals, sanitariums, nursing homes with nonambulatory patients and similar buildings (each accommodating more than five persons).
	I-2	Nursing homes for ambulatory patients, homes for children six years of age or over (each accommodating more than five persons).
	I-3	Mental hospitals, mental sanitariums, jails, prisons, reformatories and buildings where personal liberties of inmates are similarly restrained.
EXCEPTION: Group I Occupancies shall not include buildings used only for private residential purposes for a family group.		

Miscellaneous structures	11	M-1	Private garages, carports.
		M-2	Fences over six feet high, tanks and towers.
Residential	12	R-1	Hotels and apartment houses. Convents and monasteries (more than 10 people).
		R-3	Lodging houses (five guests or rooms).

TABLE 8-B: ALLOWABLE FLOOR AREA
(Per single story)
AND MAXIMUM HEIGHT OF BUILDINGS

TYPES OF CONSTRUCTION								
I		II		III		IV	V	
F.R.	F.R.	ONE-HOUR	N	ONE-HOUR	N	H.T.	ONE-HOUR	N

BASIC ALLOWABLE FLOOR AREA FOR BUILDINGS ONE STORY IN HEIGHT
(In Square Feet)

Unlimited	29,900	13,500	9,100	13,500	9,100	13,500	10,500	6,000
MAXIMUM HEIGHT IN FEET								
Unlimited	160	65	55	65	55	65	50	40
MAXIMUM HEIGHT IN STORIES								
Unlimited	12	4	2	4	2	4	3	2

See Notes 1. - 6.

N — No Requirements for Fire Resistance

F.R. — Fire Resistive

H.T. — Heavy Timber

NOTE 1: Separation on two sides. Where public space, streets, or yards more than twenty feet in width extend along and adjoin the sides of the building, floor areas may be increased at a rate of 1¼ percent for each foot by which the minimum width exceeds twenty feet but the increase shall not exceed 50 percent.

NOTE 2: Separation on three sides. Where public space, streets or yards more than twenty feet in width extend along and enjoin three sides of the building, floor areas may be increased at a rate of 2½ percent for each foot by which the minimum width exceeds twenty feet, but the increase shall not exceed 100 percent.

NOTE 3: Separation on all sides. Where public space, streets or yards more than twenty feet in width extend on all sides of a building and enjoin the entire perimeter, floor areas may be increased at a rate of 5 percent for each foot by which the minimum width exceeds twenty feet. Such increases shall not exceed 100 percent.

NOTE 4: Areas of buildings over one story. The total combined floor area for multistory buildings may be twice that permitted by Table 8-B for one-story buildings, and the floor area of any single story shall not exceed that permitted for a one-story building.

NOTE 5: Automatic sprinkler system. The areas specified in Table 8-B may be tripled in one-story buildings and doubled in buildings of more than one story if the building is provided with an approved automatic sprinkler system throughout. The area increases permitted for installing an approved automatic sprinkler system may be compounded with that specified in Notes 1, 2, and 3.

NOTE 6: The area increases permitted in Note 5 shall not apply when automatic sprinkler systems are installed under the following provisions:

- a. An increase in allowable number of stories.
- b. Substitution for one-hour fire-resistive construction.
- c. Atriums.

**TABLE 8-C—REQUIRED SEPARATION
IN BUILDINGS OF MIXED OCCUPANCY
(In Hours)**

	A-1	A-2	A-2.1	A-3	A-4	B-1	B-2	B-3	B-4	E	H-1	H-2	H-3	H-4,5	I	M ²	R-1	R-3
I	3	3	3	3	3	4	2	4	4	1	NP ³	4	4	4	—	1	1	1
R-1	1	1	1	1	1	3 ¹	1	1	1	1	4	3	3	3	1	1	—	N
R-3	1	1	1	1	1	1	N	N	N	1	4	3	3	3	1	1	N	—

¹The three-hour separation may be reduced to one hour where the Group B, Division 1 Occupancy, is limited to the storage of passenger motor vehicles having a capacity of not more than nine persons per vehicle and provided no repair or fueling is done and the area does not exceed 3,000 square feet in a building.

²In the one-hour occupancy separation between a Group R, Division 3 and M Occupancy, the separation may be limited to the installation of materials approved for one-hour fire-resistive construction on the garage side and a self-closing, tight fitting solid wood door in lieu of a one-hour fire assembly. Fire dampers shall not be required in ducts piercing this separation for ducts constructed of not less than No. 26 gauge galvanized steel.

³Not permitted.

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BED AND BREAKFAST INNS

661—5.820(100,137C) Bed and breakfast inns.

5.820(1) Appliances. Heating, cooking and gas and electrical equipment and appliances must conform with nationally recognized codes and standards and be installed and maintained in accordance with manufacturer's recommendations. If the building has an operable solid fuel fireplace, all components must be cleaned and maintained in accordance with NFPA 211, 2000 edition.

5.820(2) Smoke detectors. Each bed and breakfast inn shall have an operable smoke detector in each guest room, at the top of each stairwell, and at intervals not to exceed 30 feet in each exit corridor. Detectors shall be installed and maintained in accordance with NFPA 72, 1999 edition.

a. Existing facilities. In bed and breakfast inns which begin operation or are constructed or remodeled prior to February 1, 2002, required smoke detectors may be battery operated.

b. New facilities. Each bed and breakfast inn which begins operation or is constructed or remodeled on or after February 1, 2002, shall be equipped with a system of interconnected smoke detectors with detectors at the top of each stairwell and at intervals not to exceed 30 feet in each exit corridor. These smoke detectors shall receive primary power from the building's electrical wiring and shall include battery backup. Each guest room shall be equipped with a smoke detector which may be a single station detector that complies with subrule 5.807(6).

5.820(3) Emergency lighting. Each bed and breakfast inn must be equipped with approved emergency lighting so located and directed in a manner that will illuminate the routes of travel from each guest-occupied room to the outside of the building.

5.820(4) Windows. Each bed and breakfast inn guest sleeping room must have at least one outside window that is openable without the use of tools or special knowledge. The window must be large enough that, when open and without breaking glass, it will permit the emergency egress of guests.

5.820(5) Exits. Each story that has one or more guest sleeping rooms must have two means of exit that are remote from each other and so arranged and constructed as to minimize any possibility that both may be blocked by any one fire or other emergency.

5.820(6) Exit door markings. Exit doors must be marked in accordance with NFPA 101, Life Safety Code, 2000 edition, Section 7.10.

5.820(7) Fire extinguishers. Fire extinguishers must be installed and maintained in accordance with National Fire Protection Association Standard Number 10, 1998 edition.

5.820(8) Smoking prohibited. Smoking is not permitted in any sleeping room, and rooms shall be posted with plainly visible signs so stating.

5.820(9) Additional prohibitions. Candles, lamps with power sources other than electricity or solid fuel fireplaces shall not be used in guest sleeping rooms.

*Effective date of amendments to 5.800 to 5.810 and 5.820 delayed 70 days by the Administrative Rules Review Committee at its meeting held April 6, 2001. These amendments were published in the March 21, 2001, Iowa Administrative Bulletin as ARC 0566B. [See Notice ARC 9970A, IAB 7/12/00.] At its meeting held June 5, 2001, the Committee voted to delay the effective date until adjournment of the 2002 Session of the General Assembly.

At its meeting held February 8, 2002, the Committee voted to lift the delay, effective February 9, 2002.

5.820(10) Directions. Each bed and breakfast inn shall have clearly displayed in each guest bedroom printed directions and a diagram for emergency evacuation procedures. These directions must include the primary route to the outside and how to use the emergency egress window in the event the primary route cannot be traversed.

This rule is intended to implement Iowa Code section 137C.35.

661—5.821 to 5.849 Reserved.

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EXPLOSIVE MATERIALS

661—5.850(101A) Rules generally. Rescinded IAB 10/12/05, effective 1/1/06.

661—5.851(101A) Inventory. Inventory shall be of such that it shows amount of explosive material on hand, quantities dispensed and to whom, and quantity on hand at the end of each calendar working day. Anytime a shortage appears it shall be reported immediately to the chief of police or sheriff having jurisdiction, who in turn shall cause a federal form 4712 (Department of Treasury, Internal Revenue Service) to be implemented, a copy of which shall be sent to the Iowa Department of Public Safety, attention of state fire marshal.

This rule is intended to implement Iowa Code section 101A.5.

661—5.852 to 5.864 Reserved.

661—5.865(101A,252J) Grounds for suspension, revocation, or denial of commercial explosives licenses. The department may refuse to issue a commercial license for the manufacture, importation, distribution, sale, and commercial use of explosives sought pursuant to Iowa Code section 101A.2 or may suspend or revoke such a license for any of the following reasons:

1. Finding that the applicant or licensee is not of good moral character and sound judgment.
2. Finding that the applicant or licensee lacks sufficient knowledge of the use, handling, and storage of explosive materials to protect the public safety.
3. Finding that the applicant or licensee falsified information in the current or any previous license application.
4. Proof that the licensee or applicant has violated any provision of Iowa Code chapter 101A or these rules.
5. Receipt by the department of a certificate of noncompliance from the child support recovery unit of the Iowa department of human services, pursuant to the procedures set forth in Iowa Code Supplement chapter 252J.

*Effective date of amendments to 5.800 to 5.810 and 5.820 delayed 70 days by the Administrative Rules Review Committee at its meeting held April 6, 2001. These amendments were published in the March 21, 2001, Iowa Administrative Bulletin as ARC 0566B. [See Notice ARC 9970A, IAB 7/12/00.] At its meeting held June 5, 2001, the Committee voted to delay the effective date until adjournment of the 2002 Session of the General Assembly.

At its meeting held February 8, 2002, the Committee voted to lift the delay, effective February 9, 2002.

An applicant or licensee whose application is denied or a licensee whose license is suspended or revoked other than because of receipt of a certificate of noncompliance from the child support recovery unit may appeal that action pursuant to 661—Chapter 10. Applicants or licensees whose licenses are denied, suspended, or revoked because of receipt by the department of a certificate of noncompliance issued by the child support recovery unit shall be subject to the provisions of rule 661—5.866(252J) and procedures specified in 661—Chapter 10 for contesting department actions shall not apply in these cases.

This rule is intended to implement Iowa Code section 101A.2 and Iowa Code Supplement chapter 252J.

661—5.866(252J) Child support collection procedures. The following procedures shall apply to actions taken by the department on a certificate of noncompliance received from the Iowa department of human services pursuant to Iowa Code Supplement chapter 252J:

5.866(1) The notice required by Iowa Code Supplement section 252J.8 shall be served upon the applicant or licensee by restricted certified mail, return receipt requested, or personal service in accordance with Rules of Civil Procedure 56.1. Alternatively, the licensee, identification card holder, or applicant may accept service personally or through authorized counsel.

5.866(2) The effective date of revocation or suspension of a license, or denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code Supplement section 252J.8, shall be 60 days following service upon the licensee or applicant.

5.866(3) Licensees and applicants for licenses shall keep the department informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code Supplement chapter 252J and shall provide the department with copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code Supplement section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

5.866(4) All departmental fees for applications, license renewal or reinstatement must be paid by the licensee or applicant before a license will be issued, renewed, or reinstated after the department has denied the issuance or renewal of a license, or has suspended or revoked a license pursuant to Iowa Code Supplement chapter 252J.

5.866(5) In the event a licensee or applicant files a timely district court action following service of a department notice pursuant to Iowa Code Supplement sections 252J.8 and 252J.9, the department shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the department to proceed. For the purpose of determining the effective date of revocation or suspension or denial of the issuance or renewal of a license, the department shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

This rule is intended to implement Iowa Code chapter 252J.

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661—5.867 to 5.899 Reserved.

HOSPITALS AND LICENSED HEALTH CARE FACILITIES

[Prior to 4/2/03, see rules 661—5.550(100) to 661—5.603(100)]

Rescinded IAB 6/22/05, effective 5/24/05. See 661—Ch 205.

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*Editor's Note:

Effective date of 5.300, 5.301(6), 5.301(7), 5.302, 5.304(2)“c”(2), 5.304(3), 5.304(4), 5.305, 5.350 and 5.351 delayed by the Administrative Rules Review Committee 70 days.

Subrule 5.305(3) which was delayed 70 days from November 8, 1979, is renumbered and amended as 5.305(2) to be effective January 17, 1980.

Effective date of 5.400 and 5.450 to 5.452 delayed by the Administrative Rules Review Committee 70 days. These amendments published in IAC 10/3/79, ARC 0596.

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**Effective date of 661—5.620(100,135C), introductory paragraph, and subrule 5.620(1) delayed 70 days by the Administrative Rules Review Committee at its meeting held February 8, 1999.

***Effective date of amendments to 5.800 to 5.810 and 5.820 delayed 70 days by the Administrative Rules Review Committee at its meeting held April 6, 2001. These amendments were published in the March 21, 2001, Iowa Administrative Bulletin as ARC 0566B. [See Notice ARC 9970A, IAB 7/12/00.] At its meeting held June 5, 2001, the Committee voted to delay the effective date until adjournment of the 2002 Session of the General Assembly.

†At its meeting held February 8, 2002, the Committee voted to lift the delay effective February 9, 2002.

‡Two ARCs