CHAPTER 100

STATE FIRE MARSHAL

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GENERAL PROVISIONS

100.1 Fire marshal.

The chief officer of the division of state fire marshal in the department of public safety shall be known as the state fire marshal. The fire marshal's duties shall be as follows:

1. To enforce all laws of the state relating to the suppression of arson, and to apprehend those persons suspected of arson;

2. To investigate into the cause, origin, and circumstances of fires;

3. To promote fire safety and reduction of loss by fire through educational methods;

4. To enforce all laws, and the rules and regulations of the Iowa department of public safety, concerned with:

a. The prevention of fires;

b. The storage, transportation, handling, and use of flammable liquids, combustibles, and explosives;

c. The storage, transportation, handling, and use of liquid petroleum gas;

d. The electric wiring and heating, and adequate means of exit in case of fire, from churches, schools, hotels, theaters, amphitheaters, asylums, hospitals, health care facilities as defined in section 135C.1, college buildings, lodge halls, public meeting places, and all other structures in which persons congregate from time to time, whether publicly or privately owned;

5. To promulgate fire safety rules. The state fire marshal shall have exclusive right to promulgate fire safety rules as they apply to enforcement or inspection requirements by the

state fire marshal, but the rules shall be promulgated pursuant to chapter 17A. Wherever by any statute the fire marshal or the department of public safety is authorized or required to promulgate, proclaim, or amend rules and minimum standards regarding fire hazards or fire safety or protection in any establishment, building, or structure, the rules and standards shall promote and enforce fire safety, fire protection, and the elimination of fire hazards as the rules may relate to the use, occupancy, and construction of the buildings, establishments, or structures. The word "*construction*" shall include but is not limited to electrical wiring, plumbing, heating, lighting, ventilation, construction materials, entrances and exits, and all other physical conditions of the building which may affect fire hazards, safety, or protection. The rules and minimum standards shall be in substantial compliance except as otherwise specifically provided in this chapter, with the standards of the national fire protection association relating to fire safety as published in the national fire codes.

6. To adopt rules designating a fee to be assessed to each building, structure, or facility for which a fire safety inspection or plan review by the state fire marshal is required by law. The fee designated by rule shall be set in an amount that is reasonably related to the costs of conducting the applicable inspection or plan review. The fees collected by the state fire marshal shall be deposited in the general fund of the state.

7. To administer the fire extinguishing system contractor, alarm system contractor, and alarm system installer certification program established in chapter 100C.

[S13, §2468-a, -m; C24, 27, 31, 35, 39, §**1619;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.1; 81 Acts, ch 46, §1]

92 Acts, ch 1163, §25; 2000 Acts, ch 1229, §20; 2003 Acts, ch 165, §17; 2003 Acts, ch 166, §1; 2004 Acts, ch 1125, §1; 2007 Acts, ch 197, §1, 50; 2008 Acts, ch 1032, §190; 2010 Acts, ch 1014, §1

Referred to in **§101C.2**, **§237.3**

100.2 Duties of fire officials.

The chief of the fire department or the chief's designee of every city or township in which a fire department is established or the chief of the fire department or the chief's designee responding to every township fire where there is a contract for fire protection in effect shall investigate into the cause, origin and circumstances of every fire occurring in the city or township by which property has been destroyed or damaged or which results in bodily injury to a person, and determine whether the fire was the result of natural causes, negligence or design. The state fire marshal may assist in the investigation or may direct the investigation if the fire marshal finds it necessary.

[S13, §2468-d, -e; C24, 27, 31, 35, 39, §**1624;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.2]

84 Acts, ch 1095, §1

Referred to in **§100.3**, **§100.4**

100.3 Reports of fires and emergency responses.

When death, serious bodily injury, or property damage in excess of two hundred thousand dollars has occurred as a result of a fire, or if arson is suspected, the fire official required by section 100.2 to make fire investigations, shall notify the state fire marshal's division immediately. For all other fires causing an estimated damage of fifty dollars or more or emergency responses by the fire service, the fire official required by section 100.2 to investigate shall file a report with the fire marshal's division within ten days following the end of the month. The report shall indicate all fire incidents occurring which have an estimated damage of fifty dollars or more and state for each incident the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, the origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incident. The report on each

emergency response shall include the nature of the incident and other facts, statistics and circumstances concerning the emergency response.

[S13, §2468-e; C24, 27, 31, 35, 39, §**1625;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.3]

84 Acts, ch 1095, §2; 86 Acts, ch 1018, §1

Referred to in **§100.4**, **§100.5**

100.4 Penalty for nonreporting.

The failure or refusal of a fire official to make an investigation or report required by sections 100.2 and 100.3 is a simple misdemeanor.

[S13, §2468-e; C24, 27, 31, 35, 39, §**1626;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.4]

84 Acts, ch 1095, §3

100.5 Reports — when public records.

Reports required by section 100.3 shall be kept on file for public inspection in the fire marshal's office. In those circumstances where disclosure of particular facts in the reports would plainly and seriously jeopardize an investigation of criminal activity, the portions of the reports pertaining to the facts are classified as peace officers' investigative reports and subject to section 22.7.

Reports and records on investigations made by the state fire marshal's office are the same as peace officers' investigative reports and subject to section 22.7.

[S13, §2468-f; C24, 27, 31, 35, 39, §**1627;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.5; 81 Acts, ch 47, §1]

84 Acts, ch 1095, §4

Arson investigation disclosures; see chapter 100A

100.6 Testimony under oath.

The fire marshal or the fire marshal's designated subordinate shall, when in the fire marshal's or subordinate's opinion further investigation is necessary, take or cause to be taken the testimony under oath of all persons supposed to have knowledge of any facts, or to have means of knowledge in relation to the matter in which an examination is herein required to be made, and shall cause the same to be reduced to writing.

[S13, §2468-g; C24, 27, 31, 35, 39, §**1628;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.6]

100.7 Oaths — attendance of witnesses.

The fire marshal and the fire marshal's designated subordinates shall each have power in any county in the state to administer an oath and compel the attendance of witnesses before them, or either of them, to testify in relation to any matter which is by the provisions of this chapter a subject of inquiry and investigation, and may require the production of any books, papers, or documents necessary for such investigation.

[S13, §2468-h; C24, 27, 31, 35, 39, §**1629;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.7]

100.8 Refusal to testify or produce books.

Any witness who refuses to be sworn, except as otherwise provided by law, or who disobeys any lawful order of said fire marshal, or the fire marshal's designated subordinates, or who fails to produce any books, papers, or documents touching any matter under examination, shall be guilty of a simple misdemeanor.

[S13, §2468-h; C24, 27, 31, 35, 39, §**1630;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.8]

100.9 Crimes in connection with fires.

If the fire marshal shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson, or with attempt to commit the crime of arson, or of conspiracy to defraud, or criminal conduct in connection with such fire, the fire marshal shall cause such

person to be arrested and charged with the offense, or either of them, and shall furnish to the proper county attorney all such evidence, together with the names of witnesses and all of the information obtained, including a copy of all matter and testimony taken in the case.

[S13, §2468-g; C24, 27, 31, 35, 39, §**1631;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.9]

100.10 Authority to enter and inspect.

The state fire marshal, and the fire marshal's designated subordinates, in the performance of their duties, shall have authority to enter any building or premises and to examine the same and the contents thereof.

[S13, §2468-i; C24, 27, 31, 35, 39, §**1632;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.10]

100.11 Fire escapes.

It shall be the duty of the fire marshal to enforce all laws relating to fire escapes.

[C39, §**1632.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.11]

100.12 Authority for inspection — orders.

The chief of a fire department or an authorized subordinate who is trained in fire prevention safety standards may enter a building or premises at a reasonable hour to examine the building or premises and its contents. The examining official shall order the correction of a condition which is in violation of this chapter, a rule adopted under this chapter, or a city or county fire safety ordinance. The order shall be in writing or, if the danger is imminent, orally followed by a written order. The examining official shall enforce the order in accordance with the applicable law or ordinance. At the request of the examining official the state fire marshal may assist in an enforcement action.

[C31, 35, §1632-c1; C39, §**1632.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.12; 82 Acts, ch 1157, §1]

84 Acts, ch 1095, §5

100.13 Violations — orders.

1. If a person has violated or is violating a provision of this chapter or a rule adopted pursuant to this chapter, the state fire marshal, the chief of any fire department, or the fire prevention officer of a fire department organized under chapter 400 may issue an order directing the person to desist in the practice which constitutes the violation and to take corrective action as necessary to ensure that the violation will cease. The order shall be in writing and shall specify a reasonable time by which the person shall comply with the order. The person to whom the order is issued may appeal the order as provided in chapter 17A. On appeal, the administrative law judge may affirm, modify, or vacate the order. Judicial review may be sought in accordance with chapter 17A.

2. Notwithstanding any other provision of law to the contrary, if the state fire marshal determines that an emergency exists respecting any matter affecting or likely to affect the public safety, the fire marshal may issue any order necessary to terminate the emergency without notice or hearing. An emergency order is binding and effective immediately, until or unless the order is modified, vacated, or stayed at an administrative hearing or by a district court.

[S13, §2468-j; C24, 27, 31, 35, 39, §**1633;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.13; 82 Acts, ch 1157, §2]

94 Acts, ch 1078, §1

Referred to in **§100.14**

100.14 Legal proceedings — penalties — injunctive relief.

At the request of the state fire marshal, the county attorney shall institute any legal proceedings on behalf of the state necessary to obtain compliance or enforce the penalty provisions of this chapter or rules or orders adopted or issued pursuant to this chapter, including, but not limited to, a legal action for injunctive relief. The county attorney or any

other attorney acting on behalf of the chief of a fire department or a fire prevention officer may institute legal proceedings, including, but not limited to, a legal action for injunctive relief, to obtain compliance or enforce the penalty provisions or orders issued pursuant to section 100.13.

[C24, 27, 31, 35, 39, §**1634;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.14]

94 Acts, ch 1078, §2

Referred to in **§100.16**

100.15 Repealed by 94 Acts, ch 1078, §9.

100.16 Judicial review — court costs.

1. Judicial review of actions of the fire marshal may be sought in accordance with the terms of the Iowa administrative procedure Act pursuant to chapter 17A. If legal proceedings have been instituted pursuant to section 100.14, all related issues which could otherwise be raised in a proceeding for judicial review shall be raised in the legal proceedings instituted pursuant to section 100.14.

2. Upon judicial review of the fire marshal's action, if the court affirms the agency action, the court shall tax all court costs of the review proceeding against the appellant. However, if the court reverses, revokes, or annuls the fire marshal's action, the court shall tax all court costs of the review proceeding against the agency. If the fire marshal's action is modified or the matter is remanded to the agency for further proceedings, the court shall apportion the court costs within the discretion of the court.

[S13, §2468-j; C24, 27, 31, 35, 39, §**1636;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.16]

94 Acts, ch 1078, §3

100.17 Repealed by 94 Acts, ch 1078, §9.

100.18 Smoke detectors.

1. As used in this section:

a. *"Dormitory"* means a residential building or portion of a building at an educational institution which houses students in rooms not individually equipped with cooking facilities.

b. *"Multiple-unit residential building"* means a residential building, an apartment house, or a portion of a building or an apartment house with two or more units, hotel, motel, dormitory, or rooming house.

c. *"Smoke detector"* means a device which detects visible or invisible particles of combustion and which incorporates control equipment and an alarm-sounding unit operated from a power supply either in the unit or obtained at the point of installation.

2. *a.* Except as provided in subsection 3, multiple-unit residential buildings and single-family dwellings the construction of which is begun on or after July 1, 1991, shall include the installation of smoke detectors in compliance with the rules established by the state fire marshal under subsection 4.

b. The rules shall require the installation of smoke detectors in existing single-family rental units and multiple-unit residential buildings. Existing single-family dwelling units shall be equipped with approved smoke detectors. A person who files for a homestead credit pursuant to chapter 425 shall certify that the single-family dwelling unit for which the credit is filed has a smoke detector installed in compliance with this section, or that one will be installed within thirty days of the date the filing for the credit is made. The state fire marshal shall adopt rules and establish appropriate procedures to administer this subsection.

c. An owner or an owner's agent of a multiple-unit residential building or single-family dwelling shall supply light-emitting smoke detectors, upon request, for a tenant with a hearing impairment.

3. This section does not require the following:

a. The installation of smoke detectors in multiple-unit residential buildings which, on July 1, 1981, are equipped with heat detection devices or a sprinkler system with alarms approved by the state fire marshal.

b. The installation of smoke detectors in hotels, motels, and dormitories equipped with an automatic smoke detection system approved by the state fire marshal.

4. The state fire marshal shall enforce the requirements of subsection 2 and may implement a program of inspections to monitor compliance with the provisions of that subsection. Upon inspection, the state fire marshal shall issue a written notice to the owner or manager of a multiple-unit residential building or single-family dwelling informing the owner or manager of compliance or noncompliance with this section. The state fire marshal may contract with any political subdivision without fee assessed to either the state fire marshal or the political subdivision, for the performance of the inspection and notification responsibilities. The inspections authorized under this section are limited to the placement, repair, and operability of smoke detectors. Any broader inspection authority is not derived from this section. The state fire marshal shall adopt rules under chapter 17A as necessary to enforce this section including rules concerning the placement of smoke detectors and the use of acceptable smoke detectors. The smoke detectors shall display a label or other identification issued by an approved testing agency or another label specifically approved by the state fire marshal.

5. The inspection of a building or notification of compliance or noncompliance under this section is not the basis for a legal cause of action against the political subdivision, state fire marshal, the fire marshal's subordinates, chiefs of local fire departments, building inspectors, or other fire, building, or safety officials due to a failure to discover a latent defect in the course of the inspection.

6. If a smoke detector is found to be inoperable the owner or manager of the multiple-unit residential building or single-family dwelling shall correct the situation within fourteen days after written notification to the owner or manager by the tenant, guest, roomer, state fire marshal, fire marshal's subordinates, chiefs of local fire departments, building inspectors, or other fire, building, or safety officials. If the owner or manager of a multiple-unit residential building fails to correct the situation within the fourteen days the tenant, guest, or roomer may cause the smoke detector to be repaired or purchase and install a smoke detector required under this section and may deduct the repair cost or purchase price from the next rental payment or payments made by the tenant, guest, or roomer. However, a lessor or owner may require a lessee, tenant, guest, or roomer who has a residency of longer than thirty days to provide the battery for a battery operated smoke detector.

7. No person may render inoperable a smoke detector, which is required to be installed by this section, by tampering.

8. A person who violates a provision of this section or a rule adopted pursuant to this section is guilty of a simple misdemeanor.

[81 Acts, ch 45, §1, 2; 82 Acts, ch 1157, §7]
83 Acts, ch 198, §13; 91 Acts, ch 64, §1 – 6; 94 Acts, ch 1078, §4; 2008 Acts, ch 1032, §17

100.19 Repealed by 94 Acts, ch 1078, §9.

100.20 County attorney.

The county attorney shall represent the state and the fire marshal, but not to the exclusion of any other attorney who may be engaged in said cause.

[C24, 27, 31, 35, 39, §**1640;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.20]
Referred to in **§331.756(23)**

100.21 and 100.22 Repealed by 74 Acts, ch 1090, §211.

100.23 Repealed by 94 Acts, ch 1078, §9.

100.24 and 100.25 Repealed by 74 Acts, ch 1090, §211.

100.26 Time for compliance with order — penalty.

If a petition of review has not been filed or the court on review has affirmed or modified an order for the removal, destruction, or repair of a building, or the removal of any of its

contents, or the change of any of its conditions, the owner, lessee, or occupant shall comply with the order within thirty days after the delivery of the order or a copy of the order to the person, either personally or by certified letter to the last known address, or by service upon the person's appointed agent. Failure of the owner, lessee, or occupant to comply with the order shall subject the owner, lessee, or occupant to a penalty of ten dollars for each day of failure or neglect after the expiration of the period. The penalty shall be recovered in the name of the state and paid into the treasury of the political subdivision which issues the order or the treasurer of state if the order is issued by the state. If the owner, lessee, or occupant cannot reasonably comply with the order within thirty days and a good faith effort at compliance has been made within thirty days, the owner, lessee, or occupant shall not be subject to a penalty under this section. However, the penalty may be imposed on the person upon a failure to continue the good faith compliance with the order.

[S13, §2468-j; C24, 27, 31, 35, 39, §**1646;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.26]

84 Acts, ch 1095, §6; 94 Acts, ch 1078, §5

100.27 through 100.29 Repealed by 94 Acts, ch 1078, §9.

100.30 Investigation may be private.

Investigation by or under the direction of the state fire marshal or the fire marshal's designated subordinates may in their discretion be private. They may exclude from the place where such investigation is held all persons other than those required to be present, and witnesses may be kept separate from each other and not allowed to communicate with each other until they have been examined.

[C24, 27, 31, 35, 39, §**1650;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.30]

100.31 Fire and tornado drills in schools — warning systems — inspections.

1. It shall be the duty of the state fire marshal and the fire marshal's designated subordinates to require all private and public school officials and teachers to conduct not less than four fire drills and not less than four tornado drills in all school buildings during each school year when school is in session; and to require the officials and teachers of all schools to keep all doors and exits of their respective rooms and buildings unlocked when occupied during school hours or when such areas are being used by the public at other times. Not less than two drills of each type shall be conducted between July 1 and December 31 of each year and not less than two drills of each type shall be conducted between January 1 and June 30 of each year.

2. Every school building with two or more classrooms shall have a warning system for fires of a type approved by the underwriters' laboratories and by the state fire marshal. The warning system shall be used only for fire drills or as a warning for emergency. Schools may modify the fire warning system for use as a tornado warning system or shall install a separate tornado warning system. Every school building shall also be equipped with portable fire extinguishers, with the type, size and number in accordance with national fire protection association standards and approved by the state fire marshal.

3. The state fire marshal or the fire marshal's deputies shall cause each public or private school, college or university to be inspected at least once every two years to determine whether each school meets the fire safety standards of this Code and is free from other fire hazards. Provided, however, that cities which employ fire department inspectors shall cause such inspections to be made.

[S13, §2468-k; C24, 27, 31, 35, 39, §**1651;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.31]

94 Acts, ch 1078, §6

100.32 Repealed by 98 Acts, ch 1008, §4.

100.33 Annual report.

The state fire marshal shall file with the governor annually, at the time provided by law, a detailed report of the fire marshal's official acts and of the affairs of the fire marshal's office which report shall be published and distributed as the reports of other state officers.

[S13, §2468-n; C24, 27, 31, 35, 39, §**1653;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.33]

100.34 Repealed by 91 Acts, ch 268, §519.

100.35 Rules of marshal.

The fire marshal shall adopt, and may amend rules under chapter 17A, which include standards relating to exits and exit lights, fire escapes, fire protection, fire safety and the elimination of fire hazards, in and for churches, schools, hotels, theaters, amphitheaters, hospitals, health care facilities as defined in section 135C.1, boarding homes or housing, rest homes, dormitories, college buildings, lodge halls, club rooms, public meeting places, places of amusement, apartment buildings, food establishments as defined in section 137F.1, and all other buildings or structures in which persons congregate from time to time, whether publicly or privately owned. Violation of a rule adopted by the fire marshal is a simple misdemeanor. However, upon proof that the fire marshal gave written notice to the defendant of the violation, and proof that the violation constituted a clear and present danger to life, and proof that the defendant failed to eliminate the condition giving rise to the violation within thirty days after receipt of notice from the fire marshal, the penalty is that provided by law for a serious misdemeanor. Each day of the continuing violation of a rule after conviction of a violation of the rule is a separate offense. A conviction is subject to appeal as in other criminal cases.

Rules by the fire marshal affecting the construction of new buildings, additions to buildings or rehabilitation of existing buildings and related to fire protection, shall be substantially in accord with the provisions of the nationally recognized building and related codes adopted as the state building code pursuant to section 103A.7 or with codes adopted by a local subdivision which are in substantial accord with the codes comprising the state building code.

The rules adopted by the state fire marshal under this section shall provide standards for fire resistance of cellulose insulation sold or used in this state, whether for public or private use. The rules shall provide for approval of the cellulose insulation by at least one nationally recognized independent testing laboratory.

[S13, §2514-j, -k, -l; SS15, §2514-i, -n, -o, 4999-a10; C24, 27, 31, 35, 39, §**1671, 2843 – 2850;** C46, 50, 54, §103.12, 170.38 – 170.45; C58, §100.35, 103.12, 170.38 – 170.45; C62, 66, 71, 73, 75, 77, §100.35, 103.12, 107.38; C79, 81, §100.35, 103.12, 170.38, 170A.9, 170B.13; 81 Acts, ch 46, §2, 4; 82 Acts, ch 1157, §3]

88 Acts, ch 1278, §23; 98 Acts, ch 1162, §2, 30; 2004 Acts, ch 1086, §28

Referred to in **§100.51**, **§137C.18**, **§137C.35**, **§137F.15**

100.36 Repealed by 87 Acts, ch 10, §1.

100.37 Repealed by 76 Acts, ch 1245(4), §525.

100.38 Conflicting statutes.

Provisions of this chapter in conflict with the state building code, as adopted pursuant to section 103A.7, shall not apply where the state building code has been adopted or when the state building code applies throughout the state.

[C73, 75, 77, 79, 81, §100.38]

2004 Acts, ch 1086, §29

100.39 Fire extinguishers in high-rise buildings.

1. All buildings approved for construction after July 1, 1998, that exceed four stories in height, or seventy-five feet above grade, shall require the installation of an approved

automatic fire extinguishing system designed and installed in conformity with rules promulgated by the state fire marshal pursuant to this chapter.

2. The requirements of this section shall not apply to the following:

a. Any noncombustible elevator storage structure or any noncombustible plant building with noncombustible contents.

b. Any combustible elevator storage structure that is equipped with an approved drypipe, nonautomatic sprinkler and automatic alarm system.

c. Buildings in existence or under construction on August 15, 1975. However, if subsequent to that date any building is enlarged or altered beyond the height limitations applicable to new buildings, such building in its entirety shall be subject to all the provisions of this section.

d. Any open parking garage structure which is in compliance with rules adopted by the state fire marshal.

3. Plans and installation of systems shall be approved by the state fire marshal, a designee of the state fire marshal, or local authorities having jurisdiction. Except where local fire protection regulations are more stringent, the provisions of this section shall be applicable to all buildings, whether privately or publicly owned. The definition of terms shall be in conformity, insofar as possible, with definitions found in the state building code adopted pursuant to section 103A.7.

4. Any person violating the provisions of this section is guilty of a misdemeanor and shall, upon conviction, be subject to a fine not to exceed one hundred dollars or by imprisonment in the county jail for not more than thirty days, or be subject to both such fine and imprisonment.

[C77, 79, 81, §100.39]

90 Acts, ch 1029, §1; 98 Acts, ch 1008, §1; 2004 Acts, ch 1086, §30; 2008 Acts, ch 1032, §201

100.40 Marshal may prohibit open burning on request.

1. The state fire marshal, during periods of extremely dry conditions or under other conditions when the state fire marshal finds open burning constitutes a danger to life or property, may prohibit open burning in an area of the state at the request of the chief of a local fire department, a city council or a board of supervisors and when an investigation supports the need for the prohibition. The state fire marshal shall implement the prohibition by issuing a proclamation to persons in the affected area. The chief of a local fire department, the city council or the board of supervisors that requested the prohibition may rescind the proclamation after notifying the state fire marshal of the intent to do so, when the chief, city council or board of supervisors finds that the conditions responsible for the issuance of the proclamation no longer exist.

2. Violation of a prohibition issued under this section is a simple misdemeanor.

3. A proclamation issued by the state fire marshal pursuant to this section shall not prohibit a supervised, controlled burn for which a permit has been issued by the fire chief of the fire district where the burn will take place, the use of outdoor fireplaces, barbecue grills, properly supervised landfills, or the burning of trash in incinerators or trash burners made of metal, concrete, masonry, or heavy one-inch wire mesh, with no openings greater than one square inch.

[S81, §100.40; 81 Acts, ch 48, §1]

97 Acts, ch 19, §1

100.41 Authority to cite violations.

Fire officials acting under the authority of this chapter may issue citations in accordance with chapter 805, for violations of this chapter or a violation of a local fire safety code.

84 Acts, ch 1095, §8

100.42 through 100.50 Reserved.

ARSON INSPECTION WARRANTS

100.51 Application for warrant.

If consent to inspect property damaged or destroyed by fire to determine the cause, origin and circumstances of the fire or to inspect property subject to rules adopted under section 100.35 has been refused to the official authorized to make the inspection, the state fire marshal, a state arson investigator or official authorized to make such an inspection may apply to the district court for a special inspection warrant for authority to conduct the inspection.

[81 Acts, ch 47, §3]

100.52 Grounds for issuance.

The judicial officer shall review the application and may take sworn testimony or receive affidavits to supplement it.

If the judicial officer is satisfied that there are legal grounds under the circumstances specified in the application and any supplementary testimony taken sufficient to justify the issuance of an inspection warrant, it shall be issued.

[81 Acts, ch 47, §4]

100.53 Warrant requirements.

Each inspection warrant issued under this chapter shall:

1. State the grounds for its issuance.
2. Be directed to the applicant or some other designated person authorized to conduct the inspection.
3. Command the person to whom it is directed to inspect the area, premises, building or conveyance identified for the purpose specified and, if appropriate, direct the seizure of property specified.
4. Identify the item or type of property, if any, to be seized.
5. Direct that it be served, if appropriate, during normal business hours and designate the magistrate to whom it shall be returned.

[81 Acts, ch 47, §5]

100.54 Execution of warrant.

A warrant issued under this chapter must be executed and returned within ten days from the date of issuance unless, upon the showing of a need for additional time, the court so instructs otherwise in the warrant. A copy of the warrant shall be delivered to a person in charge of the premises being inspected or, if no one is present, a copy of the warrant shall be posted upon the premises. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom the property is seized, or the person in charge of the premises from which the property is seized, a receipt for the property seized or shall leave the copy and receipt at the place from which the property is seized. The return of the warrant shall be made promptly and accompanied by a written inventory of property seized. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was seized, if they are present, or in the presence of at least one credible person other than the person executing the warrant.

A copy of the return, the inventory and any receipts issued shall be promptly filed with the clerk of the district court for the county in which the inspection is made.

[81 Acts, ch 47, §6]