

CHAPTER 200
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[Ch 5 as appeared in July 1974 IDR Supplement, rescinded June 30, 1975]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]

[Prior to 11/18/09, see 661—Ch 5]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

661—200.1(100) Description. The fire marshal division is created within the department of public safety. The division headquarters is located in the State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. The main telephone number for the division is (515)725-6145. The general E-mail address for the division is fminfo@dps.state.ia.us.

200.1(1) The director of the division is the state fire marshal, who is appointed by and reports to the commissioner of public safety. There is an assistant fire marshal, appointed by the fire marshal, who also serves as chief of the arson and explosives bureau. The assistant fire marshal may act in place of the state fire marshal if the state fire marshal position is vacant or the state fire marshal is absent or unavailable.

200.1(2) The division includes the following four bureaus:

- a. Arson and explosives bureau.
- b. Fire prevention bureau.
- c. Fire service training bureau.
- d. Building code bureau.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—200.2(100) General administrative procedures. The provisions of 661—Chapter 10 are adopted by reference with the following amendments:

1. Wherever the term “department of public safety” appears, delete the term and replace it with “state fire marshal.”
2. Wherever the term “commissioner of public safety” appears, delete the term and replace it with “state fire marshal.”

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—200.3(100) Building plan approval and plan review fees. Plans for the proposed construction of certain new buildings or additions, alterations or changes to existing buildings require the approval of the fire marshal and shall be submitted to the building code bureau.

200.3(1) Plans for initial construction or alterations, changes, additions, renovations or remodeling of the following shall be submitted to the building code bureau, 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—201.5(100):

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

200.3(2) Plans for initial construction or alterations, changes, additions, renovations or remodeling of the following shall be submitted to the building code bureau for approval based upon compliance with rules of the fire marshal:

- a. Any facility housing an adult day service,
- b. Any assisted living facility,
- c. Any residential care facility,
- d. Any elder group home, or
- e. Any facility owned by the state or an agency of the state.

200.3(3) 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 building code bureau.

200.3(4) 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 building code bureau. The submittal shall comply with Iowa Code chapters 542B and 544A and with 661—subrule 300.4(1). Each submittal shall be examined, and the submitter shall be 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 shall be submitted for review and approval and signed by a responsible managing employee licensed in accordance with Iowa Code chapter 100C. 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. Each submittal shall be examined, and the submitter shall be notified of the findings. Only one copy of shop drawings, equipment specifications and supporting documentation is required. Staff of the building code bureau shall send a letter of approval 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 building code bureau.

200.3(5) If the blueprints and specifications are not acceptable, the building code bureau shall notify the submitter of the deficiencies and request that the submitter either forward changes or request a review of the blueprints and specifications with the building code bureau.

200.3(6) If, after such review, the submitter disputes the findings of the plan reviewer, the submitter may request that the disputed questions be reviewed by the building code commissioner and the chief of the fire prevention bureau.

200.3(7) If the submitter disputes the findings of the building code commissioner and the chief of the fire prevention bureau, the submitter may appeal to the fire marshal under the provisions of rule 661—200.2(100).

200.3(8) 661—subrule 300.4(2), paragraphs “b” and “c,” are adopted by reference.

NOTE: 661—subrule 300.4(2) establishes fees for plan reviews.

200.3(9) The responsible design professional for a project shall schedule a preliminary meeting with the building code bureau to discuss code compliance issues early in the design development phase. The responsible design professional shall contact the bureau to schedule the preliminary meeting. There is no separate fee for a preliminary meeting. If the responsible design professional plans to request approval to bid the project as part of the preliminary meeting, the responsible design professional shall request a copy of the document “Preliminary Meeting Checklist” at the time the meeting is scheduled and shall be prepared to address all applicable issues identified on the checklist at the preliminary meeting. Approval to bid the project shall not be given unless all applicable issues identified on the checklist have been addressed to the satisfaction of the state fire marshal or the state fire marshal’s designee.

200.3(10) A construction project that is subject to a provision of this chapter or 661—Chapter 201 that requires compliance with a provision of the 2015 edition of any code published by the International Code Council may comply with either the current requirements of this chapter and 661—Chapter 201 or the provisions of this chapter and 661—Chapter 201 as they applied prior to July 1, 2016, if construction has commenced on or prior to September 30, 2016. “Commenced” means the submitter has received preliminary approval of the plans. If a construction project receives preliminary approval based upon the provisions of this chapter and 661—Chapter 201 as they applied prior to July 1, 2016, then final approval must be received on or prior to December 31, 2016.

[ARC 8307B, IAB 11/18/09, effective 1/1/10; ARC 2494C, IAB 4/13/16, effective 5/18/16]

661—200.4(100,101,101A) Inspections and inspection fees. Certain buildings, facilities, and installations as designated in the Iowa Code are required to comply with the Iowa Code and rules of the fire marshal.

The fire marshal determines and enforces such compliance. To do so, the fire marshal or any employee of the fire marshal or local fire department authorized by the fire marshal may enter such building or premises at any time without notice to inspect it.

200.4(1) An inspection may be of a particular system in the building, facility, or installation, or the inspection may include the entire building, facility, or installation.

200.4(2) An inspection to evaluate compliance with the rules of the fire marshal shall be conducted by the fire marshal or by a consultant as requested by the fire marshal. A consultant is 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 rules of the fire marshal and determine if such system or systems are in compliance with such requirements. If a consultant who is not employed by the fire marshal is engaged to conduct an inspection, the consultant shall be accompanied by an employee of the fire marshal or of a local fire department while conducting the inspection.

200.4(3) Inspections shall be conducted without announcement and occur on a random basis, upon request, in response to a complaint or to investigate a suspected fire hazard.

200.4(4) An employee of the fire marshal or an employee of a local fire department acting on behalf of the fire marshal, upon arriving at a building, facility, or installation in order to conduct an inspection, shall advise the owner or the person in control of the building, if that person is available. If a person in such a position cannot be contacted, the inspection shall commence in any event. If the owner or the owner's representative wishes to accompany the employee during the inspection, the owner or the owner's representative may do so, provided that the inspection is not delayed.

200.4(5) Upon completion of an inspection, the employee or consultant may complete a written inspection order if any violations or deficiencies are discovered. The order shall be signed by the employee and, if prepared by a consultant, shall also be signed by the consultant.

200.4(6) Upon completion of the inspection, if the building, facility, or installation does not comply with applicable laws or rules, the employee or consultant shall identify specific provisions with which the building, facility, or installation does not comply and shall notify the owner. The owner may be ordered to correct or repair the deficiency. The owner may order the building, facility, or installation removed or demolished, in lieu of correcting the deficiency.

a. Copies of the notice of deficiencies or order shall be distributed to the fire marshal's office and the fire department having jurisdiction. The employee or consultant signing the order shall retain a copy.

b. The time allowed to comply with the order shall be determined by the employee or consultant, who shall consider the likelihood that a fire may occur, the possibility of personal injury or property loss, the cost and availability of materials and labor to correct, repair, remove or demolish, and other relevant information.

c. If the owner of the building, facility, or installation does not agree with the deficiency findings and order, the owner may appeal the order to the fire marshal under rule 661—200.2(100).

200.4(7) 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 the Fire Marshal Division, Iowa Department of Public Safety. If a certificate of occupancy is required for use of the building, facility, or installation, the certificate shall not be issued until the inspection fee has been paid.

a. The inspection fee for a hospital or health care facility licensed or seeking licensure pursuant to Iowa Code chapter 135B or 135C or a group home licensed or seeking licensure in this state is \$2.50 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 \$10 per bed.

c. The inspection fee for an adult day services program certified or seeking certification pursuant to Iowa Code chapter 231D is \$75 per facility.

d. The inspection fee for a child care facility licensed or seeking licensure pursuant to Iowa Code chapter 237A is \$25 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 \$125 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 building, facility, or installation which may seek licensure or certification from the state of Iowa is \$150.

[ARC 8307B, IAB 11/18/09, effective 1/1/10; ARC 2494C, IAB 4/13/16, effective 5/18/16]

661—200.5(100) Certificates for licensure. Several Iowa statutes provide that a license to conduct certain functions may not be issued until the fire marshal has approved the building, facility, or installation to be used for such function. Upon completion of an inspection showing the building, facility, or installation to be in compliance with applicable rules of the fire marshal, the owner or the owner’s agent may request the issuance of a certificate of occupancy specifying that the building, facility, or installation is approved for the specific use requiring licensure. Upon receipt of the request, provided that the building, facility, or installation is found to be in compliance with applicable rules of the fire marshal and all applicable fees have been paid, the fire marshal shall issue such a certificate. If the building, facility, or installation is found not to be in compliance, the person requesting the certificate may file a petition requesting a review, and the same procedure is used as if an order were being appealed. Upon completion of the appeal process, if the building, facility, or installation is found to be in compliance, a certificate will then be issued.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—200.6(100) Fire investigations.

200.6(1) The fire marshal has the authority to investigate any fire in the state of Iowa.

a. The fire marshal may initiate an investigation of any fire at the discretion of the fire marshal.

b. Any local fire or law enforcement official may request the fire marshal to investigate any fire.

Such investigation shall be undertaken at the discretion of the fire marshal.

200.6(2) Local fire officials have the primary responsibility to and shall investigate fires. A local fire official who investigates a fire shall file a report of each fire investigated with the fire marshal division within one week of the fire even if the fire marshal 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.

200.6(3) A local fire official who investigates a fire shall immediately report a fire that involves death or suspected arson and shall do so by contacting the member of the fire marshal division assigned to that area or, if that member is not available, another member of the fire marshal division. If direct contact with the fire marshal division is impractical, the local fire official may request the county sheriff to relay the information to the fire marshal division via Iowa state patrol communications.

200.6(4) The notice of a fire involving death or arson shall contain the following information, if known:

a. The date, time, and address of the fire;

b. If death has occurred or is suspected, the name, age and address of the person or persons deceased or missing;

c. The suspected cause of the fire;

d. If arson is suspected, the reasons for suspecting arson, whether there is obvious evidence of arson, and if there is an arson suspect; and

e. Whether an explosion occurred.

200.6(5) The fire marshal may assist a local officer in the investigation of any fire. The fire marshal may direct, conduct, or assist in the investigation of a fire and may arrange for the participation of a consultant in the investigation.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—200.7(100) 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.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—200.8(100) Inspection based on complaint.

200.8(1) Request for inspection. A person requesting the inspection of a building, facility, or installation that is alleged to require repair, removal or demolition because it presents a significant fire hazard shall provide the following information, if known:

- a. The address of the building, facility, or installation;
- b. The name and address of the building's, facility's, or installation's owner;
- c. The requester's name, address and telephone number; and
- d. A general description of the alleged deficiencies for which the requester seeks remedy.

200.8(2) 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 an inspection, the fire marshal shall so advise the complainant.

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

200.8(3) Cause to be inspected. After initial determination, the fire marshal shall cause the inspection of the building, facility, or installation to determine if:

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

b. The building, facility, or installation contains combustibles, explosives or flammable materials dangerous to the safety of any buildings, premises or persons.

200.8(4) Final decision. Upon completion of the inspection, the fire marshal shall decide if the building, facility, or installation needs to be removed or repaired.

a. If the building, facility, or installation 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, facility, or installation is within the corporate limits of a city, the fire marshal shall 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, facility, or installation is outside the corporate limits of any city, the fire marshal shall specifically identify such deficiencies and prepare an order to correct or repair the deficiencies or remove or demolish the building, facility, or installation. Such notice and order shall 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 rule 661—200.2(100).

200.8(5) 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.

200.8(6) Contents of order. The order shall notify the owner of the building, facility, or installation 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.

200.8(7) 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.

200.8(8) 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, facility, or installation and other reasonable, relevant information.

200.8(9) Reinspection. If the owner of the building, facility, or installation elects not to challenge the fire marshal's order, the fire marshal shall, at the end of the period during which compliance was required, conduct another inspection of the building, facility, or installation.

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 shall 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 rule 661—200.2(100).

200.8(10) Failure to comply. Upon receipt from the fire marshal of notice 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, facility, or installation; 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

c. Advise the fire marshal that destruction is appropriate.

200.8(11) Final action taken. The fire marshal, upon the advice of the county attorney, may repair, remove or destroy the building, facility, or installation. Such destruction may occur by:

a. Permitting the local fire service to burn the building, facility, or installation as a training exercise;

b. Asking for public bids on the building, facility, or installation; or

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

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—200.9(100A) Sharing of insurance company information with the fire marshal. Insurance companies shall provide specified information to the fire marshal as follows:

200.9(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, the 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 the company relevant to an investigation of the fire loss or a prosecution for arson.

200.9(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.

200.9(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, on a permanent or temporary basis, by an insurance company 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.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—200.10(100A) Release of information to an insurance company. An insurance company that has provided fire loss information to an authorized agency pursuant to Iowa Code section 100A.2 may request information relevant to the 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, adjuster or investigator engaged by the company in reference to the particular fire loss involved in the request even though the attorney, adjuster or investigator is not a full-time employee of the insurance company. The attorney, adjuster or investigator shall provide the fire marshal with proof of authorization from the insurance company to act as its representative relative to the loss.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

661—200.11(100A) Forms. These rules require the use of the following forms that are available from the state fire marshal.

200.11(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.

200.11(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.

200.11(3) Material requested on Insurance Forms Number One and Two shall carry a cover form which complies with Insurance Form Number Three.

200.11(4) Requests for information by an insurance company from the fire marshal shall comply with Insurance Form Number Four.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

These rules are intended to implement Iowa Code chapters 100, 101 and 101A.

[Filed ARC 8307B (Notice ARC 8156B, IAB 9/23/09), IAB 11/18/09, effective 1/1/10]

[Filed ARC 2494C (Notice ARC 2266C, IAB 11/25/15), IAB 4/13/16, effective 5/18/16]