

Part I—Administrative

CHAPTER 1

SCOPE AND ADMINISTRATION

PART 1—GENERAL PROVISIONS

SECTION 101

SCOPE AND GENERAL REQUIREMENTS

- [A] **101.1 Title.** These rules shall be known as the *Arkansas Fire Prevention Code*.

[A] **101.2 Scope.** This code establishes regulations affecting or relating to structures, processes, premises and safeguards regarding:

1. The hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices;
2. Conditions hazardous to life, property or public welfare in the occupancy of structures or premises;
3. Fire hazards in the structure or on the premises from occupancy or operation;
4. Matters related to the construction, extension, repair, alteration or removal of fire suppression or alarm systems; and
5. Conditions affecting the safety of fire fighters and emergency responders during emergency operations.

- [A] **101.2.1 Appendices.** Provisions in the appendices shall not apply unless specifically adopted. Appendices B, C, D, E, F, G and K are adopted by the State of Arkansas. Other appendices shall not apply unless adopted by local ordinance. Requests for exceptions to Appendix D may be appealed to the Arkansas State Fire Marshal (State Fire Marshal).

- [A] **101.2.2 Locally adopted codes.** Each district, county, municipality or other political subdivision of this state shall only adopt and enforce the provisions of the *Arkansas Fire Prevention Code*, 2012 edition. The AFPC, 2012 edition, shall be the only foundation document available for modification by local jurisdictions should they choose to adopt more stringent provisions. It shall be the responsibility of local authorities having jurisdiction to bring the proposed specific rule or provision up to the minimum standards of the AFPC, 2012 edition. The State Fire Marshal shall advise local jurisdictions of any requirement that is less stringent than the AFPC, 2012 edition.

- [A] **101.3 Intent.** The purpose of this code is to establish the minimum requirements consistent with nationally recognized good practice for providing a reasonable level of life safety and property protection from the hazards of fire, explosion or

dangerous conditions in new and existing buildings, structures and premises, and to provide safety to fire fighters and emergency responders during emergency operations.

- [A] **101.4 Severability.** If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

- [A] **101.5 Validity.** In the event any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions hereof, which are determined to be legal; and it shall be presumed that this code would have been adopted without such illegal or invalid parts or provisions.

SECTION 102 APPLICABILITY

- [A] **102.1 Construction and design provisions.** The construction and design provisions of this code shall apply to:

1. Structures, facilities and conditions arising after the adoption of this code.
2. Existing structures, facilities and conditions not legally in existence at the time of adoption of this code.
3. Existing structures, facilities and conditions when required in Chapter 11.
4. Existing structures, facilities and conditions which, in the opinion of the *fire code official*, constitute a distinct hazard to life or property.

- [A] **102.2 Administrative, operational and maintenance provisions.** The administrative, operational and maintenance provisions of this code shall apply to:

1. Conditions and operations arising after the adoption of this code.
2. Existing conditions and operations.

- [A] **102.3 Change of use or occupancy.** No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure is made to comply with the requirements of this Code and the *Arkansas Fire Prevention Code*, Volume II. Subject to the approval of the *fire code official*, the use or occupancy of an existing structure shall be allowed to be changed and the structure is allowed to be occupied for purposes in other groups without conforming to all of the

SCOPE AND ADMINISTRATION

- requirements of this Code and the *Arkansas Fire Prevention Code*, Volume II, for those groups, provided the new or proposed use is less hazardous, based on life and fire risks, than the existing use.

● [A] **102.4 Application of building code.** The design and construction of new structures shall comply with the *Arkansas Fire Prevention Code*, Volume II, and any *alterations*, additions, changes in use or changes in structures required by this Code, which are within the scope of the *Arkansas Fire Prevention Code*, Volume II, shall be made in accordance therewith.

● [A] **102.5 Application of residential code.** Where structures are designed and constructed in accordance with the *International Residential Code*, the provisions of this code shall apply as follows:

- 1. Construction and design provisions: Provisions of this code pertaining to the exterior of the structure shall apply including, but not limited to, premises identification, fire apparatus access and water supplies. Where interior or exterior systems or devices are installed, construction permits required by Section 105.7 of this code shall also apply.
- 2. Administrative, operational and maintenance provisions: All such provisions of this code shall apply.

● [A] **102.6 Historic buildings.** The provisions of this code relating to the construction, *alteration*, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings when such buildings or structures do not constitute a distinct hazard to life or property. Fire protection in designated historic buildings and structures shall be provided in accordance with an *approved* fire protection plan.

● [A] **102.7 Referenced codes and standards.** The codes and standards referenced in this code shall be those that are listed in Chapter 80, and such codes and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.7.1 and 102.7.2.

● [A] **102.7.1 Conflicts.** Where conflicts occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

● [A] **102.7.2 Provisions in referenced codes and standards.** Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

● [A] **102.8 Subjects not regulated by this code.** Where no applicable standards or requirements are set forth in this code, or are contained within other laws, codes, regulations, ordinances or bylaws adopted by the jurisdiction, compliance with applicable standards of the National Fire Protection Association or other nationally recognized fire safety stan-

dards, as *approved*, shall be deemed as prima facie evidence of compliance with the intent of this code. Nothing herein shall derogate from the authority of the *fire code official* to determine compliance with codes or standards for those activities or installations within the *fire code official's* jurisdiction or responsibility.

[A] **102.9 Matters not provided for.** Requirements that are essential for the public safety of an existing or proposed activity, building or structure, or for the safety of the occupants thereof, which are not specifically provided for by this code, shall be determined by the *fire code official*.

[A] **102.10 Conflicting provisions.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in a specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern.

[A] **102.11 Other laws.** The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

[A] **102.12 Application of references.** References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

[A] **102.13 MEMORANDUM OF UNDERSTANDING—HEALTH CARE FACILITIES.** This Memorandum of Understanding will specify and serve as a method to resolve conflicts between the 2012 Arkansas Fire Prevention Code Rules (hereinafter "*Arkansas Fire Prevention Code*" or "AFPC") adopted and enforced by the Arkansas State Fire Marshal's Office, under the authority of the Director of the Department of the Arkansas State Police, and other federal or state rules governing Arkansas' health care and long-term care facilities, by law regulated by the Arkansas Department of Health and the Arkansas Department of Human Services, Division of Medical Services, Office of Long-Term Care, among others.

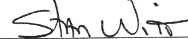
- 1. The Arkansas Department of Health and the Arkansas Department of Human Services, Division of Medical Services, Office of Long-Term Care will have inspectors and/or plan reviewers obtain training related to the implementation and application of the National Fire Protection Association Life Safety Code (NFPA 101) and the *Arkansas Fire Prevention Code*.
- 2. The Arkansas Department of Health will have concurrent authority to do Fire and Life Safety Code inspections in health care facilities regulated by the Arkansas Department of Health. The Arkansas Department of Human Services, Division of Medical Services, Office of Long-Term Care, will have concurrent authority to do Fire and Life Safety inspections in long-term care facilities regulated by the Arkansas Department of Human Services, Division of Medical Services, Office of Long-Term Care. The Arkansas Department of Health's authority and the authority of the Arkansas

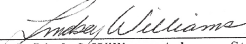
Department of Human Services, Division of Medical Services, Office of Long-Term Care will be concurrent with the current authority of any other relevant federal, state or local government agency having authority to do said inspections.

3. The *Arkansas Fire Prevention Code* is the fire prevention code for the State of Arkansas.
4. When there is a conflict between the *Arkansas Fire Prevention Code* and the National Fire Protection Association Life Safety Code (NFPA 101), New Health Care Occupancies Chapter, Existing Health Care Occupancies Chapter, New Ambulatory Health Care Occupancies Chapter, and Existing Ambulatory Health Care Occupancies Chapter, as adopted by the United States Department of Health and Human Services, Centers for Medicare Medicaid Services, in accordance with Title 42 Code of Federal Regulations, the aforementioned chapters in the Life Safety Code shall govern.
5. For new construction, when one of the affected agencies (Arkansas Department of Health, Arkansas Department of Human Services, Division of Medical Services, Office of Long-Term Care, local fire official or local building official) determines or perceives that a conflict exists between the *Arkansas Fire Prevention Code* and the National Fire Protection Association Life Safety Code (NFPA 101), as it relates to types of construction or allowable area requirements, they shall provide written notification of the perceived conflict to the project architect or engineer and the other affected agencies. The agency alleging the conflict will convene a meeting with the other affected agencies to resolve the conflict. The resolution of the conflict must be unanimous. If the group is unable to resolve the conflict unanimously, the issue will be referred to the Arkansas State Fire Marshal for final resolution. Agreed to as evidenced by the signatures of the participating Parties for their respective offices or associations below:

Arkansas State Fire Marshal for final resolution. Agreed to as evidenced by the signatures of the participating Parties for their respective offices or associations below:

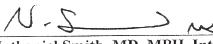
Arkansas State Fire Marshal, and Director of Arkansas State Police or his designee


Colonel Stan Witt, Director of Department of Arkansas State Police


Captain Lindsey Williams, Arkansas State Fire Marshal

Arkansas Hospital Association

Mr. Bo Ryall, President and Chief Operating Officer

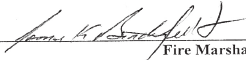
Arkansas Department of Health

Nathaniel Smith, MD, MPH, Interim Director and State Health Officer


Arkansas Department of Human Services

Mr. John Seig, Director, Arkansas DHS

Arkansas Fire Chiefs' Association

Chief Everett Watson

Arkansas Fire Marshals' Association

Fire Marshal James Birchfield

Code Officials of Arkansas Chapter of International Code Council ("ICC")

Mr. Don Harkins

PART 2—ADMINISTRATIVE PROVISIONS

**SECTION 103
DEPARTMENT OF FIRE PREVENTION**

[A] 103.1 General. The department of fire prevention is established within the jurisdiction under the direction of the *fire code official*. The function of the department shall be the implementation, administration and enforcement of the provisions of this code.

[A] 103.2 Appointment. The *fire code official* shall be appointed by the chief appointing authority of the jurisdiction; and the *fire code official* shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority.

[A] 103.3 Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the *fire code official* shall have the authority to appoint a deputy *fire code official*, other related technical officers, inspectors and other employees.

[A] 103.4 Liability. The *fire code official*, member of the board of appeals, officer or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties.

[A] 103.4.1 Legal defense. Any suit instituted against any officer or employee because of an act performed by that

officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The *fire code official* or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code; and any officer of the department of fire prevention, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

**SECTION 104
GENERAL AUTHORITY AND RESPONSIBILITIES**

[A] **104.1 General.** The *fire code official* is hereby authorized to enforce the provisions of this code and shall have the authority to render interpretations of this code, and to adopt policies, procedures, rules and regulations in order to clarify the application of its provisions. Such interpretations, policies, procedures, rules and regulations shall be in compliance with the intent and purpose of this code and shall not have the effect of waiving requirements specifically provided for in this code.

[A] **104.2 Applications and permits.** The *fire code official* is authorized to receive applications, review *construction documents* and issue permits for construction regulated by this code, issue permits for operations regulated by this code, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code.

[A] **104.3 Right of entry.** Whenever it is necessary to make an inspection to enforce the provisions of this code, or whenever the *fire code official* has reasonable cause to believe that there exists in a building or upon any premises any conditions or violations of this code which make the building or premises unsafe, dangerous or hazardous, the *fire code official* shall have the authority to enter the building or premises at all reasonable times to inspect or to perform the duties imposed upon the *fire code official* by this code. If such building or premises is occupied, the *fire code official* shall present credentials to the occupant and request entry. If such building or premises is unoccupied, the *fire code official* shall first make a reasonable effort to locate the *owner* or other person having charge or control of the building or premises and request entry. If entry is refused, the *fire code official* has recourse to every remedy provided by law to secure entry.

[A] **104.3.1 Warrant.** When the *fire code official* has first obtained a proper inspection warrant or other remedy provided by law to secure entry, an *owner* or occupant or person having charge, care or control of the building or premises shall not fail or neglect, after proper request is made as herein provided, to permit entry therein by the *fire code official* for the purpose of inspection and examination pursuant to this code.

[A] **104.3.2 State Fire Marshal jurisdiction.**

(a) The State Fire Marshal’s Office has statewide jurisdiction to inspect all places in Arkansas insofar as it is necessary for the enforcement of all laws, ordinance

and law, or ordinances and lawful orders requiring any place to be safe from fire. The State Fire Marshal or his/her duly authorized representative(s) shall be charged with the enforcement of this Code as granted under the authority of Act 254 of 1955, as amended.

(b) The fire official shall have primary responsibility for the safety of places in his/her own district, city or county. Rules of the State Fire Marshal’s Office establishing minimum standards shall not prevent any district, city or county from enacting more stringent regulations; and the State Fire Marshal’s Office shall cooperate with the fire official in enforcing all fire safety laws and ordinances of the state or its political subdivisions. Inspections of property in the territory served by the fire department shall be made as often as practicable or as often as the city or county legislative body or other political subdivision fire officials may direct.

(c) A written report of continued violations should be sent to the State Fire Marshal, who will cooperate with local authorities to secure compliance with the *Arkansas Fire Prevention Code* and other laws, ordinances and rules of the state and its political subdivisions relating to matters within the scope and jurisdiction of the State Fire Marshal’s Office.

(d) Town, City or County Building Officials: when a jurisdiction establishes a building department and a building official as set out in Volume II, Section 103 of the Code, the primary responsibility for administering and enforcing Volume II (Building Code) of the AFPC shall fall to that established administrative authority.

[A] **104.4 Identification.** The *fire code official* shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

[A] **104.5 Notices and orders.** The *fire code official* is authorized to issue such notices or orders as are required to affect compliance with this code in accordance with Sections 109.1 and 109.2.

[A] **104.6 Official records.** The *fire code official* shall keep official records as required by Sections 104.6.1 through 104.6.4. Such official records shall be retained for not less than five years or for as long as the structure or activity to which such records relate remains in existence, unless otherwise provided by other regulations.

[A] **104.6.1 Approvals.** A record of approvals shall be maintained by the *fire code official* and shall be available for public inspection during business hours in accordance with applicable laws.

[A] **104.6.2 Inspections.** The *fire code official* shall keep a record of each inspection made, including notices and orders issued, showing the findings and disposition of each.

[A] **104.6.3 Fire records.** The fire department shall keep a record of fires occurring within its jurisdiction and of facts concerning the same, including statistics as to the extent of

such fires and the damage caused thereby, together with other information as required by the *fire code official*.

[A] **104.6.4 Administrative.** Application for modification, alternative methods or materials and the final decision of the *fire code official* shall be in writing and shall be officially recorded in the permanent records of the *fire code official*.

[A] **104.7 Approved materials and equipment.** All materials, equipment and devices *approved* by the *fire code official* shall be constructed and installed in accordance with such approval.

[A] **104.7.1 Material and equipment reuse.** Materials, equipment and devices shall not be reused or reinstalled unless such elements have been reconditioned, tested and placed in good and proper working condition and *approved*.

[A] **104.7.2 Technical assistance.** To determine the acceptability of technologies, processes, products, facilities, materials and uses attending the design, operation or use of a building or premises subject to inspection by the *fire code official*, the *fire code official* is authorized to require the *owner* or agent to provide, without charge to the jurisdiction, a technical opinion and report. The opinion and report shall be prepared by a qualified engineer, specialist, laboratory or fire safety specialty organization acceptable to the *fire code official* and shall analyze the fire safety properties of the design, operation or use of the building or premises and the facilities and appurtenances situated thereon, to recommend necessary changes. The *fire code official* is authorized to require design submittals to be prepared by, and bear the stamp of, a registered design professional.

[A] **104.8 Modifications.** Whenever there are practical difficulties involved in carrying out the provisions of this code, the *fire code official* shall have the authority to grant modifications for individual cases, provided the *fire code official* shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the files of the department of fire prevention.

[A] **104.9 Alternative materials and methods.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. The *fire code official* is authorized to approve an alternative material or method of construction where the *fire code official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, *fire resistance*, durability and safety.

[A] **104.9.1 Research reports.** Supporting data, when necessary to assist in the approval of materials or assem-

blies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

[A] **104.9.2 Tests.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the *fire code official* shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *fire code official* shall approve the testing procedures. Tests shall be performed by an *approved* agency. Reports of such tests shall be retained by the *fire code official* for the period required for retention of public records.

[A] **104.10 Fire investigations.** The *fire code official*, the fire department or other responsible authority shall have the authority to investigate the cause, origin and circumstances of any fire, explosion or other hazardous condition. Information that could be related to trade secrets or processes shall not be made part of the public record, except as directed by a court of law.

[A] **104.10.1 Assistance from other agencies.** Police and other enforcement agencies shall have authority to render necessary assistance in the investigation of fires when requested to do so.

[A] **104.10.2 Report of fire fatalities.** Fire departments responding to fires resulting in a fatal injury shall report in writing such fatalities to the State Fire Marshal's Office within 3 (three) business days of the occurrence.

[A] **104.10.3 Fire reports submitted to Arkansas Fire Academy.** Fire departments responding to fires within their jurisdiction shall, by the 15th of the month following the occurrence of the fire, furnish to the Arkansas Fire Academy (AFA) for the National Incident Fire Reporting System (NFIRS), information about the fire, on forms provided by and approved by the Arkansas Fire Academy.

[A] **104.10.4 Changes in fire department information.** All fire departments shall submit, on or before June 30th of each year, the name of the officer in charge, the mailing address and electronic mailing address, telephone and facsimile numbers of the fire department and other information to the State Fire Marshal's Office on a form provided by the State Fire Marshal's Office. Any change in the pertinent information during the year shall be sent to the State Fire Marshal's Office in writing no later than thirty (30) days after the change occurs.

[A] **104.10.5 Reports of fireworks accidents.** Accidents involving fireworks resulting in death, serious injury or major property damage shall be reported immediately to the State Fire Marshal's Office by the responding fire or police department or the holder of a fireworks license or public display permit.

[A] **104.11 Authority at fires and other emergencies.** The fire chief or officer of the fire department in charge at the scene of a fire or other emergency involving the protection of