



Notice to Local Officials: Applicability of the Life Safety Code

Office of the Illinois State Fire Marshal

Pat Quinn, Governor • Larry Matkaitis, State Fire Marshal

To: All Local Municipal and Governmental Authorities
From: Office of the State Fire Marshal, State of Illinois
Date: August 15, 2012
Topic: Applicability of the State-Adopted Life Safety Code

This notice is intended to serve as a reminder of the following facts concerning the application of the State-adopted life safety code.

Background

After the Cook County Administration Building Fire in October 2003, the State of Illinois commissioned James Lee Witt and Associates to provide an independent evaluation of the fire and the State's code authority. That investigation led to a final report entitled "*Cook County Administration Building Fire Final Report*", commonly known as the "Witt Report". One of the findings of both the Witt Report and the Illinois Code Task Force formed to follow through on the Report's findings was that modifications were necessary in the methods used by the Office of the State Fire Marshal ("OSFM") to issue notifications to municipalities relative to State fire codes.

As a result, the OSFM has conducted past mailings to all fire chiefs, city managers, mayors and county officials to make them aware of the requirements imposed by State law. However, with the inevitable turnover municipality and fire district personnel, the OSFM believes it is time to once again make municipal authorities aware of these issues and their obligations.

The Witt Report identified a general confusion as to applicable State laws and fire codes by municipalities across the State. One of the most notable findings was a misunderstanding, or complete lack of knowledge, by municipalities that the Fire Investigation Act requires local authorities to enforce either the State-adopted life safety code or a code that is equal to, or more stringent than the State-adopted code.

Applicability

Local municipal and governmental authorities are reminded of the following facts concerning the application of the State-adopted life safety code:

- Pursuant to the Fire Investigation Act (425 ILCS 25), the OSFM has adopted the National Fire Protection Association's ("NFPA's") Life Safety Code ("LSC" or "State Code") 2000 edition as the State's minimum fire prevention and safety code. This adoption is made at 41 Ill. Adm. Code 100. In conjunction with the authority granted by the Fire Investigation Act, the 2000 edition of the Life Safety Code is the minimum requirement *that must be met statewide in Illinois*.
- Specifically, the Act provides that all local officers charged with the duty of investigating fires *shall enforce* [the OSFM rules], under the direction of the State Fire Marshal, except in those localities which have adopted fire prevention and safety standards equal to or higher than such rules adopted by the Office of the State Fire Marshal." (425 ILCS 25/9)
- The LSC applies statewide, even in home rule units of government. While the Fire Investigation Act provides that it "is not a limit on any home rule unit," such units may not disregard the

OSFM-adopted Life Safety Code and enforce only locally-adopted codes. Rather, the OSFM has concurrent jurisdiction with local municipalities on the issue of fire and safety codes. Accordingly, local authorities shall adopt and enforce either the LSC or requirements that are equivalent to, or more stringent than, those imposed by OSFM-adopted rules. (425 ILCS 25/9, 9(e)). This decision has been supported by case law.

- Because a municipality or fire protection district may not have adopted the Life Safety Code does not excuse occupancies within that jurisdiction from the need to comply with the LSC. The LSC serves as the minimum statewide standard as provided by the authority of the Fire Investigation Act and the rule adoption of the LSC by the OSFM. (425 ILCS 25/9)
- Many municipalities and fire protection districts believe that the State Code applies only in areas where local jurisdictions have neither adopted nor enforced a code of their own. Others believe that the OSFM simply enforces the State Code in State-licensed occupancies within their municipality but that the local fire department or code enforcement agency is free to adopt and enforce whatever code they desire in all other buildings. Both of these assumptions are incorrect. The OSFM-adopted LSC is applicable statewide in all occupancy classifications with the exception of public elementary and secondary schools under the jurisdiction of the Illinois State Board of Education and single/two family dwellings, where the code is adopted as recommendation only.
- There are multiple issues and requirements to be examined when comparing locally adopted codes to the OSFM-adopted LSC. However, one major issue causes many locally adopted codes to be less stringent than the LSC: The LSC requires compliance in both new and existing occupancies. While certain LSC requirements pertaining to existing occupancies are less stringent than those applicable to new occupancies, the State Code **does not exempt or “grandfather” any existing occupancies from code compliance.** This is not usually true with locally-adopted building codes and some fire prevention code requirements, as they are forward-looking and apply only to new construction after the date of adoption. Even when other nationally-recognized codes have some requirements applicable to existing structures, they often do not impose the same degree of stringency as the LSC.
- It is a commonly held belief that the International Code Council’s (ICC) International Building Code (IBC) and/or International Fire Code (IFC) are equivalent to the NFPA LSC. However, comparisons of the specific requirements of the ICC codes to the LSC indicate that this is not accurate, especially regarding existing occupancies.
- Local amendments that allow less stringent conditions than are prescribed by nationally recognized codes are another common reason that a community’s adopted fire code may not be considered “equal to or higher” than the OSFM’s adopted rules.
- The entire content of the Fire Investigation Act as well as the OSFM’s “Part 100” administrative rules which adopt the NFPA Life Safety Code can be accessed at the OSFM’s website: <http://www.sfm.illinois.gov/commercial/buildings/rules.aspx>.
- Questions or requests for additional information may be directed to sfm.info@illinois.gov.