

Chapter Comm 14

FIRE PREVENTION

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Note: Chapter Ind 65 as it existed on April 30, 1989 was repealed and a new chapter ILHR 14 was created effective May 1, 1989; Chapter ILHR 14 as it existed on March 31, 1992 was repealed and a new chapter ILHR 14 was created effective April 1, 1992. Chapter ILHR 14 was renumbered to chapter Comm 14 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, December, 1996, No. 492. Chapter Comm 14 as it existed on June 30, 2002 was repealed and a new Chapter Comm 14 was created effective July 1, 2002. Chapter Comm 14 as it existed on February 29, 2008 was repealed and a new chapter Comm 14 was created effective March 1, 2008.

Subchapter I — Adoption and Application of NFPA 1, Uniform Fire Code

Comm 14.001 Adoption and application. (1) (a) *Adoption of model fire code.* NFPA 1, *Uniform Fire Code*™ – 2006, subject to the modifications specified in this chapter, is hereby incorporated by reference into this chapter.

Note: A copy of NFPA 1, *Uniform Fire Code* is on file in the offices of the department and the legislative reference bureau. Copies of NFPA 1, *Uniform Fire Code* may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Box 9101, Quincy, MA. 02269-9101.

(b) *Application of model fire code.* The use, operation and maintenance of public buildings and places of employment shall comply with par. (a), except as provided in this chapter.

(2) **ALTERNATE MODEL FIRE CODE.** (a) Where a municipality has by ordinance adopted requirements of the *International Fire Code*® – 2006 and any additional requirements, that, in total, are equivalent to sub. (1) and subch. II, the department will not consider that ordinance to be in conflict with sub. (1) and subch. II; and property owners or managers, or employers, need only comply with that ordinance.

(b) Any special order granted by the department prior to March 1, 2008, that authorized a municipality to use the *International Fire Code*® – 2000 in lieu of NFPA 1 and subch. III of a previous edition of this chapter shall terminate on March 1, 2008.

History: CR 06-120: cr. Register February 2008 No. 626, eff. 3-1-08.

Subchapter II — Modifications of NFPA 1, Uniform Fire Code

Note: The sections in this subchapter are generally numbered to correspond to the chapter and section numbering of NFPA 1, *Uniform Fire Code*; e.g., s. Comm 14.01 contains modifications of NFPA 1, chapter 1.

Comm 14.01 Administration. (1) SCOPE. These are department rules in addition to the requirements in NFPA 1 section 1.1:

(a) Except as provided in pars. (b) to (f), this chapter applies to all public buildings and places of employment.

(b) This chapter does not apply to buildings or situations listed under the exclusions in ss. 101.01 (11) and (12), Stats., or under the exemptions in s. 101.05, Stats.

Note: See Appendix for a reprint of the above-referenced sections of the Statutes.

(c) This chapter does not apply to all of the following types of buildings, structures or situations:

1. a. Buildings or structures located on Indian reservation land that are held either in trust by the United States, or in fee by the tribe or a tribal member.

b. Buildings or structures which are located on off-reservation Indian land that is held in trust by the United States – and which are held either in trust by the United States, or in fee by the tribe or a tribal member.

2. Buildings and portions of buildings that are exempted by federal statutes or treaties.

3. Portions of buildings leased to the federal government provided all of the following conditions are met:

a. A statement is recorded with the register of deeds that describes the steps necessary for compliance to this chapter if the space is converted to a nonexempt use.

b. The statement recorded with the register of deeds is recorded in a manner that will permit the existence of the statement to be determined by reference to the property where the building is located.

c. The owner of the building submits a copy of the recorded document to the department or its authorized representative.

4. Buildings and structures that are on a farm premises and used exclusively for farming purposes, provided any use of the building or structure by the public consists only of consumers directly receiving farm commodities, substantially all of which have been planted or produced on the farm premises. In this application, “substantially all” means at least 90 percent of the commodities were planted or produced on the farm premises.

Note: As referenced in par. (b) and Note, see Appendix for a reprint of the exclusions referenced in ss. 101.01 (11) and (12), Stats., which includes definitions of “farming” and “farm premises.”

5. A one- or 2-family dwelling used as a foster home, treatment foster home, or group home, or as a child caring institution having a capacity for 8 or fewer children, all as defined in s. 48.02, Stats.

Note: The definitions in s. 48.02, Stats., limit foster homes to no more than 4 children unless all the children are siblings, limit treatment foster homes to no more than 4 children, and limit group homes to no more than 8 children. Where permitted by the department of health and family services, a group home or a child caring institution having a capacity for 8 or fewer children may be located in a one- or 2-family dwelling as a community living arrangement, as defined in s. 46.03 (22), Stats.

6. A one- or 2-family dwelling in which a public or private day care center for 8 or fewer children is located.

7. That portion of or space within a one- or 2-family dwelling in which a home occupation is located.

(d) In this section, “home occupation” means any business, profession, trade or employment conducted in a person’s dwelling unit, that may involve the person’s immediate family or household and a maximum of one other unrelated person, but does not involve any of the following:

1. Explosives, fireworks or repair of motor vehicles.

2. More than 25% of the habitable floor area of the dwelling unit.

(e) 1. The requirements in sub. (9) apply to all fire responses, rather than only to fire responses for public buildings and places of employment.

2. The requirements in sub. (11) (d) 2. apply to fire responses to first alarms for all buildings, rather than only for public buildings.

(f) Except for facilities as exempted from this code under par. (c) 1. to 3. – and notwithstanding pars. (b), (c) 4. to 7. and (d) – this code applies to all facilities and structures which exist on or after March 1, 2008, and which involve flammable–, combustible– or hazardous–liquid storage, transfer or dispensing.

Note: Chapter Comm 5 regulates persons or businesses that are required or permitted to obtain licenses, certifications or registrations under chapters 101, 145 or 167 of the statutes. Chapter Comm 5 states that no person may inspect a tank system which has held or will hold flammable, combustible or hazardous liquids to determine compliance with chapter Comm 10 unless the person holds a certification issued by the department as a certified tank system inspector. Chapters Comm 5 and 10 do not preclude a fire inspector from conducting fire safety inspections involving flammable, combustible or hazardous liquids under chapter Comm 10; or from enforcing fire safety requirements under chapter Comm 14 or sections 101.14 (1) (a) or (b) or (2) of the statutes.

Note: In conjunction with addressing the quality and retail sales of petroleum products, chapter Comm 48 also regulates containers which have a capacity of under 275 gallons and which are used for storing gasoline or any other petroleum product that has a flash point of less than 100°F. Comm 48 requires these containers to be colored red and appropriately labeled, and prohibits using red containers for storing petroleum products that have a flash point of 100°F or more.

Note: The scope of NFPA 1, *Uniform Fire Code* is broader than the scope of this chapter. For example, that code contains requirements for premises which do not include a public building or place of employment and which do not store flammable, combustible or hazardous liquids. Any requirements which are beyond the scope of this chapter cannot be enforced under this chapter, but may be adopted by local ordinances. Those ordinances may be adopted under statutory authority that is separate from the department's statutory authority.

(2) **APPLICATION.** Substitute the following wording for the requirements in NFPA 1 section 1.3.1:

(a) **General.** 1. This chapter applies to all of the following unless specifically stated otherwise in this chapter:

a. The use and operation of all public buildings and places of employment that exist on or after March 1, 2008.

b. The inspection, testing and maintenance of all fire safety features as specified in this chapter, for all public buildings and places of employment, that exist on or after March 1, 2008.

2. The design and construction requirements in NFPA 1, *Uniform Fire Code* that apply to public buildings or places of employment are not included as part of this chapter, except as specified in subd. 4. a.

Note: See chs. Comm 60 to 66 for design and construction requirements for public buildings and places of employment.

3. The codes and standards that are referenced in this chapter, and any additional codes and standards which are subsequently referenced in those codes and standards, shall apply to the prescribed extent of each such reference, except as modified by this chapter.

4. a. The design and construction requirements in NFPA 1 chapter 18 for fire department access and water supply are included as part of this chapter.

b. The requirements in NFPA 1 sections 18.2.3 and 18.3 do not apply to buildings constructed prior to March 1, 2008.

(b) **Conflicts.** 1. Where any rule written by the department differs from a requirement within a document referenced in this chapter, the rule written by the department shall govern.

2. Where rules of the department specify conflicting requirements, types of materials, methods, processes or procedures, the most restrictive rule shall govern, except as provided in subds. 1., 3. and 4.

Note: If the most restrictive of two or more conflicting requirements is not readily apparent, a determination of which is more restrictive can be obtained from the department.

3. Where a rule prescribes a general requirement and another rule prescribes a specific or more detailed requirement regarding the same subject, the specific or more detailed requirement shall govern, except as provided in subds. 1. and 4.

4. Where differences occur between the requirements of this chapter and ch. Comm 10, the requirements of ch. Comm 10 shall govern.

(c) **Department authority.** Any departmental interpretation of the requirements in this chapter or in the codes and standards that are adopted in this chapter shall supersede any differing interpretation by either a lower level jurisdiction or an issuer of the adopted code or standard.

(d) **Local ordinances.** 1. Pursuant to s. 101.02 (7), Stats., a city, village, town or local board of health may enact and enforce additional or more restrictive requirements for public buildings and places of employment, provided the requirements do not conflict with this chapter.

2. Nothing in this chapter affects the authority of a municipality or county to enact and enforce requirements for fire districts, land use, or zoning under ss. 59.69, 60.61, 60.62, 61.35, and 62.23 (7), Stats.

(e) **Alternatives.** Nothing in this chapter is intended to prohibit or discourage the design and use of new materials or components, or new processes, elements or systems, provided written approval from the department is obtained first.

(f) **Temporary use.** A municipal fire or building code official may allow a building or a portion of a building to be used temporarily in a manner that differs from the approved use for the building or space, or may approve a temporary building to be used by the public, subject to all of the following provisions:

1. The official shall determine the time frame within which the temporary use is permitted, based on the extent hazards are created by the temporary use. This time frame may not exceed 180 days, except the official may grant extensions for demonstrated cause.

2. Except as provided in subd. 3., buildings or spaces considered for temporary use shall conform to the requirements of this chapter as necessary to ensure the public safety, health and general welfare.

3. The official may require additional safety requirements for a temporary use as a trade-off for any safety provisions that may be lacking.

4. The official may terminate the approval for a temporary use at any time and order immediate discontinuance of the use or complete evacuation of the building or space.

Note: The department and other state agencies may have additional rules that affect the design, construction, inspection, maintenance and use of public buildings, places of employment and premises, including chs. Comm 5, Licenses, Certifications, and Registrations; Comm 7, Explosives and Fireworks; Comm 10, Flammable, Combustible and Hazardous Liquids; Comm 16, Electrical; Comm 18, Elevators, Escalators and Lift Devices; Comm 40, Gas Systems; Comm 41, Boilers and Pressure Vessels; Comm 43, Anhydrous Ammonia; Comm 45, Mechanical Refrigeration; Comm 60 to 66, Commercial Building Code; Comm 75 to 79, Buildings Constructed Prior to 1914; Comm 81 to 87, Plumbing; Comm 90, Public Swimming Pools; and Comm 91, Sanitation. The department's Safety and Buildings Division administers all of these listed codes except ch. Comm 5, which is jointly administered with the department's Environmental and Regulatory Services Division, and ch. Comm 10, which is administered by that Division.

(3) **PETITION FOR VARIANCE.** Substitute the following wording for the requirements in NFPA 1 section 1.4.3: The department shall consider and may grant a variance to a provision of this chapter in accordance with ch. Comm 3. The petition for variance shall include, where applicable, a position statement from the fire department having jurisdiction.

Note: Chapter Comm 3 requires the submittal of a petition for variance form (SBD-9890) and a fee, and that an equivalency is established in the petition for variance which meets the intent of the rule being petitioned. Chapter Comm 3 also requires the department to process regular petitions within 30 business days and priority petitions within 10 business days. The SBD-9890 form is available from the Department's Web site at www.commerce.wi.gov, through links to Safety and Buildings Division forms.

(4) **EXCLUSIONS.** (a) 1. The requirements in the following NFPA 1 sections are not included as part of this chapter: 1.7.10.2, 1.7.10.4, 1.9.1, 1.9.2, and 1.10.

2. Any permit referenced in NFPA 1 section 1.12 or referred to elsewhere under this chapter is not required by this chapter, but may be required at the local level if done so through a local ordinance.

3. Any certificate of fitness referenced in NFPA 1 section 1.13 or referred to elsewhere under this chapter is not required by this chapter, but may be required at the local level if done so through a local ordinance.

(b) Any requirement which is specified in par. (a) and which is subsequently referred to elsewhere under this chapter is not included as part of this chapter.

(5) **FEES.** This is a department rule in addition to the requirements in NFPA 1 chapter 1: Fees for petitions for variance and for inspection of buildings, structures, and premises shall be submitted as specified in ch. Comm 2.

(6) **OWNER'S RESPONSIBILITY.** This is a department rule in addition to the requirements in NFPA 1 chapter 1: The owner of each building, structure and premises shall be responsible for maintaining the property in compliance with this chapter. Compliance with this chapter does not relieve the owner of a public building or place of employment from compliance with the other administrative rules established by the department or other state agencies.

Note: Pursuant to s. 101.11 (2) (a), Stats., no employer or owner, or other person may hereafter construct or occupy or maintain any place of employment, or public building, that is not safe, nor prepare plans which fail to provide for making the same safe.

Note: See Appendix for statutory penalties relating to interfering with fire fighting, and to false alarms.

(7) **APPEALS.** These are department rules in addition to the requirements in NFPA 1 chapter 1:

(a) *Appeal of Department Order.* Pursuant to s. 101.02 (6) (e), Stats., any person who owns or occupies a property that is affected by an order of the department may petition the department on the reasonableness of the order.

(b) *Appeal of local order.* Pursuant to s. 101.02 (7) (b), Stats., any person affected by a local order that is in conflict with an order of the department may petition the department for a hearing.

Note: Section 101.01 (8), Stats., defines "local order" as any ordinance, order, rule or determination of any common council, board of alders, board of trustees or the village board, of any village or city, or the board of health of any municipality, or an order or direction of any official of such municipality, upon any matter over which the department has jurisdiction.

Section 101.02 (7) (c), Stats., reads: "Upon receipt of such petition the department shall order a hearing thereon, to consider and determine the issues raised by such appeal, such hearing to be held in the village, city or municipality where the local order appealed from was made. Notice of the time and place of such hearing shall be given to the petitioner and such other persons as the department may find directly interested in such decision, including the clerk of the municipality or town from which such appeal comes. If upon such investigation it shall be found that the local order appealed from is unreasonable and in conflict with the order of the department, the department may modify its order and shall substitute for the local order appealed from such order as shall be reasonable and legal in the premises, and thereafter the said local order shall, in such particulars, be void and of no effect."

(8) **REVOCATION OF APPROVAL.** These are department rules in addition to the requirements in NFPA 1 chapter 1:

(a) *Department revocation.* The department may revoke any approval, issued under the provisions of this chapter, for any false statements or misrepresentation of facts on which the approval was based.

(b) *Local revocation.* The fire chief, or in first class cities the commissioner of building inspection, may revoke any local approval issued by them under the provisions of this chapter, for any false statements or misrepresentation of facts on which the approval was based. The fire chief, and in first class cities the commissioner of building inspection, may not revoke an approval issued by the department.

(9) **FIRE INCIDENT REPORTS.** Substitute the following wording for the requirements in NFPA 1 section 1.11.3.2:

(a) Except as provided in par. (b), each fire chief shall submit written or electronic-based fire incident reports to the department no later than April 1, for the previous year. The reports shall contain the fire response information specified in NFPA 1 section 1.11.3.1.

(b) Electronic-based fire incident reports that are submitted directly to and in compliance with the National Fire Incident

Reporting System are not required to be submitted to the department.

(10) **PENALTIES.** This is a department rule in addition to the requirements in NFPA 1 section 1.16: Penalties for violations of this chapter shall be assessed in accordance with s. 101.02 (12) and (13) (a), Stats.

Note: Section 101.02 (12), Stats., indicates that each day during which any person, persons, corporation or any officer, agent or employee thereof, fails to observe and comply with an order of the department will constitute a separate and distinct violation of such order.

Section 101.02 (13) (a), Stats., indicates penalties will be assessed against any employer, employee, owner or other person who fails or refuses to perform any duty lawfully enjoined, within the time prescribed by the department, for which no penalty has been specifically provided, or who fails, neglects or refuses to comply with any lawful order made by the department, or any judgment or decree made by any court in connection with ss. 101.01 to 101.25. For each such violation, failure or refusal, such employee, owner or other person must forfeit and pay into the state treasury a sum not less than \$10 nor more than \$100 for each violation.

(11) **FIRE CHIEF AND FIRE DEPARTMENT DUTIES.** These are department rules in addition to the requirements in NFPA 1 chapter 1:

(a) *Authorized deputy of the department.* The fire chief of the fire department in every city, village or town, except cities of the first class, is a duly authorized deputy of the department.

(b) *Fire prevention inspections.* 1. 'General.' The chief of the fire department shall be responsible for having all public buildings and places of employment within the territory of the fire department inspected for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violations of any law or ordinance relating to fire hazards or to the prevention of fires.

2. 'Determining the buildings that are to be inspected.' The fire chief shall be responsible for determining those public buildings and places of employment that are to be inspected, for each municipality for which the fire department has responsibility.

3. 'Scheduling of inspections.' Except as provided in subds. 4. to 6., fire prevention inspections shall be conducted at least once in each non-overlapping 6-month period per calendar year, or more often if ordered by the fire chief, in all territory served by the fire department.

4. 'Exception for first class cities.' In first class cities, the fire chief may establish the schedule of fire inspections. The fire chief shall base the frequency of the inspections on hazard classification, the proportion of public area, the record of fire code violations, the ratio of occupancy to size and any other factor the chief deems significant. Property other than residential property with 4 dwelling units or less shall be inspected at least once annually.

5. 'Exception for other municipalities.' Within the territory of each fire department, in each municipality other than first class cities, the following types of occupancies shall be inspected at least once per calendar year, provided the interval between those inspections does not exceed 15 months:

a. Offices, outpatient clinics and dental clinics, if less than 3 stories in height.

b. Unoccupied utility facilities, such as a water well facility, electric power substation and communication facility.

c. Places of worship that do not have a rental hall, child day care facility or preschool to 12th grade instruction within the immediate church building.

d. Buildings at colleges and universities, if used exclusively for classroom lecture or offices, provided there are no laboratories, chemical storage or industrial arts rooms in the building.

e. Libraries, museums and art galleries.

f. Hotels and motels, if less than 3 stories in height.

g. Townhouses and rowhouses, if less than 3 stories in height.

h. Residential condominiums and apartments, if there are less than 5 units under one roof.

i. Convents and monasteries.

j. Detention and correctional facilities.

k. Garages used for storage only.

L. Pedestrian walkways and tunnels, membrane structures, open parking structures, outdoor theaters, assembly seating areas, greenhouses and mini-storage buildings. If interior access to mini-storage buildings cannot be obtained, an exterior inspection shall be conducted.

m. Vacant or unoccupied buildings. If interior access to vacant or unoccupied buildings cannot be obtained, an exterior inspection shall be conducted.

n. Confined spaces. An area that is identified by a sign as a permit-required confined space need not be internally inspected, but an exterior inspection shall be conducted.

o. Townhouses, rowhouses, residential condominiums and apartments with no common use areas. An exterior inspection of these occupancies shall be conducted.

p. Fully-sprinklered office buildings up to 60 feet in height.

q. Fully-sprinklered residential condominiums and apartments, if less than 3 stories in height.

r. Fully-sprinklered townhouses and rowhouses, if less than 4 stories in height.

Note: Fully-sprinklered buildings are protected throughout by an automatic fire sprinkler system as specified in NFPA 13 or 13R, as referenced in chs. Comm 60 to 66.

s. Seasonal or periodic occupancies, provided at least one interior inspection is conducted during an occupancy period.

6. 'Local ordinances for reducing the frequency of inspections.' a. Where authorized by a local ordinance, a city, village or town may reduce the inspections required under subd. 3. to at least once per calendar year, provided the interval between those inspections does not exceed 15 months.

b. Any local ordinance adopted under subd. 6. a. shall be made available to the department during an audit conducted under sub. (12) (d).

c. Any special order granted by the department prior to March 1, 2008, that authorized a city, village or town to reduce the number of required inspections shall remain in effect until the expiration date specified in that order.

7. 'Inspection reports.' Except in first class cities, the fire chief shall make and keep on file reports of fire prevention inspections. In first class cities, the commissioner of the building inspection department shall make and keep the reports. For at least 5 years, the reports shall be maintained in written form or in another form capable of conversion into written form within a reasonable amount of time.

Note: The department has developed fire inspection report forms that may be used by fire departments. The fire inspection report forms (SBD-10615A and SBD-5295) are available from the Safety and Buildings Division through one or more of the following means: at P.O. Box 7839, Madison, WI 53707-7839; or at the Department's Web site at www.commerce.wi.gov, through links to Safety and Buildings forms.

8. 'Inspectors.' Fire safety inspections shall be conducted by the department or deputy or an authorized representative of the deputy.

9. 'Statutory inspection authority.' The rules of this chapter do not limit or deny the ability of department deputies to conduct the activities under s. 101.14 (1) (a) and (b), Stats., for the purpose of ascertaining and causing to be corrected any condition liable to cause fire, or any violation of any law or order relating to fire hazards or to the prevention of fire.

Note: Under s. 101.14 (2) (a), Stats., and as referenced in s. Comm 14.01 (11) (a), "The chief of the fire department in every city, village or town, except cities of the 1st class, is constituted a deputy of the department."

10. 'Fire inspector training.' All fire department personnel directly involved in conducting fire inspections are authorized by the department and by the fire chief to conduct the inspections upon completion of training approved by the fire chief.

(c) *Public fire education services.* Each fire department shall provide public fire education services within the territory served by the fire department. The services may be selected from the fol-

lowing public fire education-related activities, or may be other activities acceptable to the department:

1. 'Fire prevention week program.' Fire departments complete any combination of the following activities during national fire prevention week: children's poster contest; fire department open house; school visits to teach children fire safety; fire department fire safety demonstrations, including but not limited to fire fighting demonstrations, fire extinguisher and smoke detector demonstrations, stop, drop and roll demonstrations or an activity that specifically relates to a national fire prevention week theme.

2. 'Residential fire inspection program.' Fire departments advertise and conduct residential fire inspections on a request basis or in response to local ordinance.

3. 'Building plan review program.' Fire departments conduct plan reviews and approvals of fire safety related elements prior to construction of public buildings and places of employment.

4. 'School education program.' Fire departments conduct approved fire safety education programs in the school districts for which they have responsibility.

5. 'Continuing public fire education program.' Fire departments conduct public fire education programs, which may include monthly public service announcements for radio or television, monthly newspaper articles, booths at fairs, demonstrations at shopping centers, and billboards with fire safety messages.

6. 'Public fire education speaking bureau.' Fire departments organize a group of speakers to make public fire education presentations to civic organizations, professional organizations, school organizations and similar groups.

7. 'Youth fire awareness program.' Fire departments conduct youth fire awareness programs, including skill award and merit badge clinics for scouts, junior fire marshal program, juvenile fire setters program, first aid and CPR training and related activities.

8. 'Fire extinguisher training program.' Fire departments conduct training programs for the public or industry regarding the operation of fire extinguishers. Industrial fire brigade training programs may be conducted to complete this activity.

9. 'Occupancy inspection program.' Fire departments conduct inspections of public buildings and places of employment prior to the issuance of local occupancy permits. Written documentation of the inspections is kept by each fire department.

10. 'Smoke detector awareness program.' Fire departments conduct programs to inform people regarding the effectiveness and proper installation of smoke detectors in residential buildings, public buildings and places of employment.

(d) *Record keeping.* The following fire department dues entitlement records shall be generated and maintained by each fire department:

1. Current roster of active fire department members.

2. Time, date, location, and number of firefighters responding, excluding the chief, for each first alarm for a building. For any of these responses that are in combination with another fire department under a mutual aid agreement, the record under this paragraph shall include the name of that department and the number of firefighters, excluding the chief, responding from that department.

3. Number and duration of, and attendance at, fire department meetings, if the fire department is a volunteer fire department. For the purposes of this requirement, a volunteer fire department does not have any member who is paid for 36 hours or more of work, on a weekly basis.

4. Number and duration of, topic of and attendance at fire department training sessions.

5. Number, type, and duration of, and attendance of fire department members at, public fire education related activities.

(e) *Availability of records.* For at least 5 years, the records specified in par. (d) shall be maintained in written form or in

another form capable of conversion into written form within a reasonable amount of time; and shall be made available to the department and to the public, upon request to the fire department.

Note: Section 19.32 (2), Stats., considers a record to be material containing written or electromagnetic information. The department will consider computer records to be equivalent to written reports.

(12) FIRE DEPARTMENT DUES. These are department rules in addition to the requirements in NFPA 1 chapter 1:

(a) *Eligibility.* 1. a. In order to be eligible to receive a fire department dues payment, a municipality shall be in substantial compliance with the requirements for fire protection and fire prevention services specified in ss. 101.14 and 101.575, Stats., and this chapter, throughout the entire municipality.

b. The training program required under s. 101.575 (3) (a) 3., Stats., shall be in accordance with ch. Comm 30 for public sector fire departments and in accordance with 29 CFR 1910.156 for private sector fire departments.

2. a. Except as provided in subd. 2. b., the fire protection and fire prevention services shall be provided by the fire department. A municipality not maintaining a fire department shall have the services provided through contract. A fire department may use mutual aid agreements as a means of providing fire protection services.

b. In first class cities, fire inspections may be provided by the neighborhood services department.

(b) *Compliance determination.* 1. 'General.' The department shall determine substantial compliance with the fire department dues entitlement program through the self-certification process specified in par. (c) and the audit process specified in par. (d).

2. 'Multiple fire departments.' Where a municipality is served by more than one fire department and any one of the fire departments is determined to be in noncompliance within that municipality, the entire municipality shall be determined to be in noncompliance.

3. 'Notice of noncompliance.' The department shall issue a notice of noncompliance to the municipality and the chief of the fire department that the department has determined to be in noncompliance. The determination shall be based on one or more of the following causes:

a. The municipality fails to return the self-certification form on time.

b. The municipality returns an incomplete self-certification form.

c. The municipality self-certifies noncompliance.

d. An audit results in failure.

(c) *Self-certification.* 1. A municipality shall annually complete and submit a fire department dues entitlement self-certification form for the previous calendar year. The certification shall be made on the form provided by the department and the form shall be returned to the department on or before April 1.

Note: The department annually sends form SBD-10318 to the municipality. This form is also available from the Safety and Buildings Division through one or more of the following means: at P.O. Box 7839, Madison, WI 53707-7839; or at the Department's Web site at www.commerce.wi.gov, through links to Safety and Buildings Division forms.

2. A municipality shall identify on the self-certification form the name of every fire department and the chief of the fire department that provided fire protection services and fire prevention services, to the municipality in the last calendar year. This identification shall be used to determine which fire departments are entitled to receive fire department dues from the municipality.

3. The chief of the fire department that provided the fire protection and fire prevention services and the clerk of the municipality shall sign the self-certification form and indicate whether or not the municipality is in substantial compliance with state regulations regarding the fire department dues entitlement program. In first class cities, the commissioner of the building inspection department shall also sign the self-certification form.

(d) *Audit.* 1. In addition to the self-certification process, the department shall periodically conduct audits of fire department dues entitlement records to determine substantial compliance with the fire department dues entitlement program for the previous calendar year.

2. The department shall periodically examine fire department dues entitlement records, including the records required in sub. (11) (b) 7. and (d), and in NFPA 1 section 1.11.2, to verify that the required fire prevention and fire protection services were provided within the territory served by the fire department and, within first class cities, by the building inspection department.

Note: The information required in the entitlement records is as specified in ss. 101.14 and 101.575, Stats. Under those sections, the fire incident reports that are addressed in sub. (9), and any records of fire prevention inspections beyond public buildings and places of employment, are not fire dues entitlement records.

3. The department shall write a report summarizing the results of each audit.

(e) *Appeals of audit determinations.* 1. A department audit determination under this subsection may be appealed only in accordance with this paragraph or ch. 227, Stats.

2. 'Filing an appeal.' a. The appeal shall be filed in writing, with the department.

b. An appeal may be filed only by either a fire department that fails an audit conducted under par. (d), or by a municipality served by that fire department.

3. 'Timing of an appeal.' An appeal may only be filed after the department issues a written determination of failure, but no later than 30 business days after that issuance. If no appeal is received by the department within that time period, the initial determination of failure shall become effective.

4. 'Processing an appeal.' The department shall forward the appeal to the appeals board established under subd. 5.

5. 'Appeals board.' The department shall appoint an appeals board comprised of the following members: a volunteer fire chief, a paid fire chief, a fire inspector, a volunteer firefighter, a paid firefighter, a representative of the League of Wisconsin Municipalities, and a representative of the Wisconsin Towns Association.

6. 'Support staff and resources.' The department shall provide support staff and other resources needed for the functions of the appeals board.

7. 'New information.' New information submitted with an appeal may result in remanding the appeal back to a lower level.

8. 'Hearing.' If requested by the appellant, the board shall allow oral testimony in addition to the written material filed under subd. 2. a. Any oral testimony shall be presented either through a teleconference or at a hearing location determined by the department.

9. 'Determinations of the board.' a. Four members of the board shall constitute a quorum. For the purpose of conducting business, a majority vote of the entire board, excluding any vacant positions, is required.

b. Findings of the appeals board shall be forwarded to the secretary of the department no later than 30 business days after the department receives the appeal, unless a later deadline is agreed upon by both the appellant and the appeals board.

10. 'Decision by the secretary.' No later than 30 days after receipt of the findings of the appeals board, the secretary of the department shall consider the findings and, in writing, either uphold or overturn the department's initial determination of failure.

11. 'Completion of the appeal process.' Any appeal filed under this paragraph shall progress through subd. 10. no later than August 1 in the year the appeal is filed, unless withdrawn by the appellant.

12. 'Appeal of the secretary's decision.' A secretary decision under this paragraph may be appealed only through the contested-case provisions in ch. 227, Stats.

(f) *Fire department registration.* 1. A fire department that provides fire prevention and fire protection services to a municipality shall register with the department on the form provided by the department.

Note: The department annually sends form SBD-10638 to the fire department. This form is also available from the Safety and Buildings Division through one or more of the following means: at P.O. Box 7839, Madison, WI 53707-7839; or at the Department's Web site at www.commerce.wi.gov, through links to Safety and Buildings Division forms.

2. The fire chief of a registered fire department shall annually submit a completed fire department annual update form, provided by the department, to the department by February 1.

Note: The department annually sends form SBD-10114 to the fire department. This form is also available from the Safety and Buildings Division through one or more of the following means: at P.O. Box 7839, Madison, WI 53707-7839; or at the Department's Web site at www.commerce.wi.gov, through links to Safety and Buildings Division forms.

History: CR 06-120: cr. Register February 2008 No. 626, eff. 3-1-08.

Comm 14.03 Definitions. These are department definitions for this chapter in addition to the definitions in NFPA 1 chapter 3:

(1) (a) "Administrative expenses," for the appropriation under s. 20.143 (3) (La), Stats., means expenditures for the direct costs and indirect costs of administering ss. 101.14, 101.141 and 101.573, Stats.

(b) In this subsection:

1. "Direct costs" means the cost of salaries, limited term employees, fringe benefits and supplies to administer ss. 101.14, 101.141 and 101.573, Stats.

2. "Indirect costs" means the cost, determined on a pro rata basis, of management and administrative services provided to administer ss. 101.14, 101.141 and 101.573, Stats.

3. "Supplies" means equipment, memberships, postage, printing, rent, subscriptions, telecommunications, travel, utilities and similar outfitting and services, directly related to administering ss. 101.14, 101.141 and 101.573, Stats.

(2) "Department" means the department of commerce.

(3) "Fire chief" means the chief or authorized representative of the fire department serving the unit of government having authority over the public building or place of employment. Fire chief also means the representative designated by the local unit of government to carry out the duties of this chapter.

(4) "Fire department" means a municipal fire department, public safety department, or public or private organization, such as a fire association, fire district, fire company or fire corporation, organized or created for the purpose of extinguishing fires and preventing fire hazards.

(5) "Municipality" means a city, village or town.

(6) "NFPA 1" means the 2006 edition of NFPA 1, *Uniform Fire Code*, as adopted and modified in this chapter.

(7) "One- and 2-family dwelling" has the meaning as defined for dwelling in s. 101.61 (1), Stats.

Note: Section 101.61 (1), Stats., reads as follows: "'Dwelling' means any building that contains one or 2 dwelling units. 'Dwelling unit' means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others."

(8) "Place of employment" has the meaning as defined in s. 101.01 (11), Stats.

Note: See Appendix for a reprint of s. 101.01 (11), Stats.

(9) "Public building" has the meaning as defined in s. 101.01 (12), Stats.

Note: See Appendix for a reprint of s. 101.01 (12), Stats.

(10) "Substantial compliance," for the purposes of s. 101.575 (4) (a) 1. and 2., Stats., means an ample amount of the required activity was performed through a concerted effort aimed at total compliance. A determination of substantial compliance is obtained through a common-sense approach to evaluating whether enough effort was made to comply with the applicable statute or code requirements. Substantial compliance is not a spe-

cific number or percent of compliance. A determination of substantial compliance in any one year or regulatory standard does not mean that the same amount of compliance or effort in the following year or in another area of the code automatically equals substantial compliance.

Note: Under section 101.575 (4) (a) 1. of the statutes, the Department may not pay fire department dues to a city, village, town or fire department, unless the Department determines that the city, village, town or fire department is in substantial compliance with sections 101.575 (6) and 101.14 (2) of the statutes.

History: CR 06-120: cr. Register February 2008 No. 626, eff. 3-1-08.

Comm 14.10 General fire safety. (1) NFPA 101®, LIFE SAFETY CODE®. This is a department informational note to be used under NFPA 1 section 10.1.2:

Note: As established in s. Comm 14.01 (2) (a) 2., the design and construction requirements that are included in NFPA 1, *Uniform Fire Code*, either directly, or indirectly through cross-references to other standards and codes such as NFPA 101, are not included as part of this chapter.

(2) OUTSIDE STORAGE. This is a department informational note to be used under NFPA 1 section 10.16:

Note: See Appendix for related explanatory material.

History: CR 06-120: cr. Register February 2008 No. 626, eff. 3-1-08.

Comm 14.11 Portable unvented heaters. This is a department rule in addition to the requirements in NFPA 1 section 11.5: Portable, fuel-fired, unvented heating appliances are prohibited - except during construction or demolition of a building, provided adequate ventilation is supplied.

Note: See chs. Comm 60 to 66 for requirements for other heating appliances.

History: CR 06-120: cr. Register February 2008 No. 626, eff. 3-1-08.

Comm 14.13 Fire protection systems. (1) INSPECTION, TESTING AND MAINTENANCE OF CROSS CONNECTION CONTROL DEVICES. This is a department rule in addition to the requirements in NFPA 1 sections 13.3 to 13.5: All cross connection control devices installed in water-based fire protection systems shall be inspected, tested and maintained in accordance with this chapter and ch. Comm 82.

(2) CREDENTIALS FOR TESTERS OF FIRE SPRINKLER SYSTEMS. This is a department informational note to be used under NFPA 1 section 13.3.3:

Note: Chapter Comm 5 contains credential requirements for testers of fire sprinkler systems. That chapter and this chapter do not preclude non-credentialed individuals from conducting the daily, weekly, monthly, quarterly or semiannual inspection and testing activities for automatic fire sprinkler systems required under NFPA 25 and NFPA 72.

(3) MAINTENANCE OF SMOKE DETECTORS IN RESIDENTIAL BUILDINGS. This is a department informational note to be used under NFPA 1 section 13.7.4.6:

Note: Sections 101.145 (3) (b) and (c), Stats., address maintenance of smoke detectors in residential buildings and read as follows: Section 101.145 (3) (b) "The owner of a residential building shall maintain any such smoke detector that is located in a common area of that residential building."

(c) "The occupant of a unit in a residential building shall maintain any smoke detector in that unit, except that if an occupant who is not an owner, or a state, county, city, village or town officer, agent or employee charged under statute or municipal ordinance with powers or duties involving inspection of real or personal property, gives written notice to the owner that a smoke detector in the unit is not functional the owner shall provide, within 5 days after receipt of that notice, any maintenance necessary to make that smoke detector functional."

(4) MANUAL WET SPRINKLER SYSTEMS. This is a department rule and informational note in addition to the requirements in NFPA 1 section 13.8: Inspection, testing and maintenance of manual wet sprinkler systems shall comply with all of the requirements of NFPA 25, for an automatic fire sprinkler system, except that the main drain test specified in NFPA 25 is not required.

Note: Wisconsin has unique design and construction requirements for these manual wet systems, as established in chs. Comm 60 to 66.

History: CR 06-120: cr. Register February 2008 No. 626, eff. 3-1-08.

Comm 14.16 Hose threads during construction. These are department informational notes to be used under NFPA 1 section 16.4.3.3.2.6:

Note: Section 213.15, Stats., regulates fire hose threads and fittings and reads as follows: "All fire hose fittings, apparatus fittings, 1.5 and 2.5 inches in diameter purchased or procured by a fire department or fire company shall be of the national standard hose thread as adopted by the national fire protection association. No fire department shall utilize hose and equipment not in conformance with the requirement that

all threads shall be national standard hose thread as adopted by the national fire protection association. Any person offering for sale nonstandard hose couplings, fittings or apparatus fittings may be fined not less than \$100 nor more than \$500."

Note: NFPA 1963 contains the specifications for national standard hose thread.

History: CR 06-120: cr. Register February 2008 No. 626, eff. 3-1-08.

Comm 14.20 Open flame devices and pyrotechnics.

Substitute the following wording for the introductory paragraph in NFPA 1 section 20.1.4.3: No open flame devices or pyrotechnic devices may be used in any occupancy, unless otherwise permitted by the following:

History: CR 06-120: cr. Register February 2008 No. 626, eff. 3-1-08.

Comm 14.27 Manufactured home and recreational vehicle sites. The requirements in NFPA 1 chapter 27 are not included as part of this chapter.

Note: See ch. Comm 26 for requirements for manufactured home communities.

History: CR 06-120: cr. Register February 2008 No. 626, eff. 3-1-08.

Comm 14.65 Explosives, fireworks and model rocketry. (1) ENFORCEMENT. This is a department informational note to be used under NFPA 495 section 1.6, as referenced in NFPA 1 section 65.9.1:

Note: Any inspections by fire inspectors do not substitute for the department's licensing and permitting of the facilities that are regulated under this section and ch. Comm 7.

(2) MIXING PLANT OPERATION. These are department rules in addition to the requirements in NFPA 495 section 5.2.8 as referenced in NFPA 1 section 65.9.1:

(a) *Personnel limitations.* Only persons essential to the mixing and packaging operations shall be allowed in the mixing and packaging area at any one time.

(b) *Production limitations.* No more than one day's production of blasting agent shall be permitted in the mixing and packaging area at any one time.

(c) *Labeling.* All cartridges, bags or other containers of blasting agents shall be labeled to indicate their contents. Ammonium nitrate bags may not be re-used as containers for blasting agents unless they are clearly relabeled so that no mistake can be made regarding their contents.

(3) MAGAZINE INSPECTION. Substitute the following wording for the requirements in NFPA 495 section 8.7.2 as referenced in NFPA 1 section 65.9.1: All magazines containing explosive materials shall be opened and inspected at maximum intervals of 7 days to determine whether there has been unauthorized or attempted entry into the magazines or whether there has been unauthorized removal of the magazines or their contents.

(4) USE OF EXPLOSIVE MATERIALS. The requirements in NFPA 495 chapters 10 and 11 as referenced in NFPA 1 section 65.9.1 are not included as part of this chapter.

Note: See ch. Comm 7 for requirements relating to the use of explosive materials.

History: CR 06-120: cr. Register February 2008 No. 626, eff. 3-1-08.

Chapter Comm 14

APPENDIX

The material contained in this appendix is for clarification purposes only and is numbered to correspond to the number of the rule as the rule appears in the text of this chapter.

A-14.01 (1) STATUTORY DEFINITIONS OF TERMS USED IN THIS CHAPTER. (a) *Public buildings and places of employment.* Under s. 101.01 (11), Stats., “place of employment” includes every place, whether indoors or out or underground and the premises appurtenant thereto where either temporarily or permanently any industry, trade or business is carried on, or where any process or operation, directly or indirectly related to any industry, trade or business, is carried on, and where any person is, directly or indirectly, employed by another for direct or indirect gain or profit, but does not include any place where persons are employed in private domestic service which does not involve the use of mechanical power or in farming. “Farming” includes those activities specified in s. 102.04 (3), Stats., and also includes the transportation of farm products, supplies or equipment directly to the farm by the operator of said farm or employees for use thereon, if such activities are directly or indirectly for the purpose of producing commodities for market, or as an accessory to such production. When used with relation to building codes, “place of employment” does not include an adult family home, as defined in s. 50.01 (1), Stats., or, except for the purposes of s. 101.11, Stats., a previously constructed building used as a community-based residential facility, as defined in s. 50.01 (1g), Stats., which serves 20 or fewer residents who are not related to the operator or administrator.

Under s. 101.01 (12), Stats., “public building” means any structure, including exterior parts of such building, such as a porch, exterior platform or steps providing means of ingress or egress, used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy, or use by the public or by 3 or more tenants. When used in relation to building codes, “public building” does not include a previously constructed building used as a community-based residential facility as defined in s. 50.01 (1g), Stats., which serves 20 or fewer residents who are not related to the operator or administrator or an adult family home, as defined in s. 50.01 (1), Stats.

(b) *Exclusions referenced in ss. 101.01 (11) and (12), Stats., and exemptions in s. 101.05, Stats.* Section 102.04 (3), Stats., as referenced in s. 101.01 (11), Stats., reads as follows: “As used in this chapter ‘farming’ means the operation of farm premises owned or rented by the operator. ‘Farm premises’ means areas used for operations herein set forth, but does not include other areas, greenhouses or other similar structures unless used principally for the production of food and farm plants. ‘Farmer’ means any person engaged in farming as defined. Operation of farm premises shall be deemed to be the planting and cultivating of the soil thereof; the raising and harvesting of agricultural, horticultural or arboricultural crops thereon; the raising, breeding, tending, training and management of livestock, bees, poultry, fur-bearing animals, wildlife or aquatic life, or their products, thereon; the processing, drying, packing, packaging, freezing, grading, storing, delivering to storage, to market or to a carrier for transportation to market, distributing directly to consumers or marketing any of the above-named commodities, substantially all of which have been planted or produced thereon; the clearing of

such premises and the salvaging of timber and management and use of wood lots thereon, but not including logging, lumbering or wood cutting operations unless conducted as an accessory to other farming operations; the managing, conserving, improving and maintaining of such premises or the tools, equipment and improvements thereon and the exchange of labor, services or the exchange of use of equipment with other farmers in pursuing such activities. The operation for not to exceed 30 days during any calendar year, by any person deriving the person’s principal income from farming, of farm machinery in performing farming services for other farmers for a consideration other than exchange of labor shall be deemed farming. Operation of such premises shall be deemed to include also any other activities commonly considered to be farming whether conducted on or off such premises by the farm operator.”

Under s. 50.01 (1), Stats., as referenced in s. 101.01 (12), Stats., “adult family home” means one of the following:

(a) A private residence to which all of the following apply:

1. Care and maintenance above the level of room and board but not including nursing care are provided in the private residence by the care provider whose primary domicile is this residence for 3 or 4 adults, or more adults if all of the adults are siblings, each of whom has a developmental disability, as defined in s. 51.01 (5), Stats., or, if the residence is licensed as a foster home, care and maintenance are provided to children, the combined total of adults and children so served being no more than 4, or more adults or children if all of the adults or all of the children are siblings, or, if the residence is licensed as a treatment foster home, care and maintenance are provided to children, the combined total of adults and children so served being no more than 4.

2. The private residence was licensed under s. 48.62, Stats., as a foster home or treatment foster home for the care of the adults specified in subd. 1. at least 12 months before any of the adults attained 18 years of age.

(b) A place where 3 or 4 adults who are not related to the operator reside and receive care, treatment or services that are above the level of room and board and that may include up to 7 hours per week of nursing care per resident. “Adult family home” does not include a place that is specified in sub. (1g) (a) to (d), (f) or (g).

Under s. 50.01 (1g), Stats., as referenced in s. 101.01 (12), Stats., “community-based residential facility” means a place where 5 or more adults who are not related to the operator or administrator and who do not require care above intermediate level nursing care reside and receive care, treatment or services that are above the level of room and board but that include no more than 3 hours of nursing care per week per resident. “Community-based residential facility” does not include any of the following:

(a) A convent or facility owned or operated by members of a religious order exclusively for the reception and care or treatment of members of that order.

(b) A facility or private home that provides care, treatment and services only for victims of domestic abuse, as defined in s. 46.95 (1) (a), Stats., and their children.

(c) A shelter facility as defined under s. 560.9808 (1) (d), Stats.

(d) A place that provides lodging for individuals and in which all of the following conditions are met:

1. Each lodged individual is able to exit the place under emergency conditions without the assistance of another individual.

2. No lodged individual receives from the owner, manager or operator of the place or the owner's, manager's or operator's agent or employee any of the following:

a. Personal care, supervision or treatment, or management, control or supervision of prescription medications.

b. Care or services other than board, information, referral, advocacy or job guidance; location and coordination of social services by an agency that is not affiliated with the owner, manager or operator, for which arrangements were made for an individual before he or she lodged in the place; or, in the case of an emergency, arrangement for the provision of health care or social services by an agency that is not affiliated with the owner, manager or operator.

(e) An adult family home.

(f) A residential care apartment complex.

(g) A residential facility in the village of Union Grove that was authorized to operate without a license under a final judgment entered by a court before January 1, 1982, and that continues to comply with the judgment notwithstanding the expiration of the judgment.

Section 101.05, Stats., reads as follows: "**Exempt buildings and projects.** (1) No building code adopted by the department under this chapter shall affect buildings located on research or laboratory farms of public universities or other state institutions and used primarily for housing livestock or other agricultural purposes.

(2) A bed and breakfast establishment, as defined under s. 254.61 (1), is not subject to building codes adopted by the department under this subchapter.

(3) No standard, rule, code or regulation of the department under this subchapter applies to construction undertaken by the state for the purpose of renovation of the state capitol building.

(4) No standard, rule, order, code or regulation adopted, promulgated, enforced or administered by the department under this chapter applies to a rural school building if all of the following are satisfied:

(a) The school building consists of one classroom.

(b) The school building is used as a school that is operated by and for members of a bona fide religious denomination in accordance with the teachings and beliefs of the denomination.

(c) The teachings and beliefs of the bona fide religious denomination that operates the school prohibit the use of certain products, devices or designs that are necessary to comply with a standard,

rule, order, code or regulation adopted, promulgated, enforced or administered by the department under this chapter."

Under s. 254.61 (1), Stats., as referenced in s. 101.05, Stats., "bed and breakfast establishment" means any place of lodging that:

(a) Provides 8 or fewer rooms for rent to no more than a total of 20 tourists or transients.

(b) Provides no meals other than breakfast and provides the breakfast only to renters of the place.

(c) Is the owner's personal residence.

(d) Is occupied by the owner at the time of rental.

(e) Was originally built and occupied as a single-family residence, or, prior to use as a place of lodging, was converted to use and occupied as a single-family residence.

(f) Has had completed, before May 11, 1990, any structural additions to the dimensions of the original structure, including by renovation, except that this limit does not apply to any of the following:

1. A structural addition, including a renovation, made to a structure after May 11, 1990, within the dimensions of the original structure.

2. A structural addition, made to a structure that was originally constructed at least 50 years before an initial or renewal application for a permit under s. 254.64 (1) (b), Stats., is made and for which no use other than as a bed and breakfast establishment is proposed. The structural addition under this subdivision shall comply with the rules under s. 101.63 (1) and (1m), Stats.

A-14.01 (6) INTERFERING WITH FIRE FIGHTING, AND FALSE ALARMS. Section 941.12, Stats., reads as follows: "**Interfering with fire fighting.** (1) Whoever intentionally interferes with the proper functioning of a fire alarm system or the lawful efforts of fire fighters to extinguish a fire is guilty of a Class I felony.

(2) Whoever interferes with, tampers with or removes, without authorization, any fire extinguisher, fire hose or any other fire fighting equipment, is guilty of a Class A misdemeanor.

(3) Whoever interferes with accessibility to a fire hydrant by piling or dumping material near it without first obtaining permission from the appropriate municipal authority is guilty of a Class C misdemeanor. Every day during which the interference continues constitutes a separate offense."

Section 941.13, Stats., reads as follows: "**False alarms.** Whoever intentionally gives a false alarm to any public officer or employee, whether by means of a fire alarm system or otherwise, is guilty of a Class A misdemeanor."