

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Fire Prevention
(Amendment)

815 KAR 10:060. Kentucky standards of safety.

RELATES TO: KRS ~~[198B.140,]~~ 227.300, 227.320, 227.330, 227.990, 234.140, 198B.050

STATUTORY AUTHORITY: KRS 227.300(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 227.300(1) requires~~[authorizes]~~ the commissioner to promulgate an administrative regulation establishing the Kentucky Standards of Safety, which shall provide a reasonable degree of safety for human life against the exigencies of fire and panic and insuring as far as practicable against fire loss. This administrative regulation establishes the Kentucky Standards of Safety to supplement the Kentucky Building Code, promulgated as 815 KAR 7:120, in matters of fire safety.

Section 1. Definitions. (1) "Accepted" means that all deficiencies communicated, in writing, to the owner have been corrected to the satisfaction of the inspecting authority.

(2) "Distinct fire hazard" means a condition that poses a threat to life or property, including a condition likely to inhibit escape from danger of fire or explosion, but methods of construction that met the uniform state building code requirements, as applicable, at the time of construction shall not be deemed a distinct fire hazard. A building shall be deemed a distinct fire hazard if the authority having jurisdiction determines:

- (a) A fire, explosion, or asphyxiation is likely to occur;
- (b) Conditions may provide a ready fuel supply to augment the spread or intensity of a fire or explosion;
- (c) A building is vacant, unguarded and open to unauthorized entry;
- (d) An accumulation of combustible dust, debris, or materials is present;
- (e) Required exits or fire protection are in non-working condition or not present;
- (f) Objects ~~[are]~~ placed or installed so as to interfere with exits or exit routes;
- (g) Combustible materials or items are in dangerous proximity to an ignition source such as a stove, fireplace, or heater;
- (h) Electrical or mechanical systems or installations create a hazardous condition; or
- (i) Operations, conditions, processes, use, or materials being used fail to afford adequate safety to the public. ~~[Methods of construction that met the uniform state building code requirements, as applicable, at the time of construction shall not be deemed a distinct fire hazard.]~~

(3) "Fire protection system" is defined by KRS 198B.550(6).

(4) "NFPA" means the National Fire Protection Association.

(5) "NICET" means the National Institute for Certification of Engineering Technologies.

(6) "Unsafe Building" means a building characterized by:

- (a) Deficiency in means of egress;
- (b) Danger to human life or public welfare by reason of illegal or improper use, occupancy, or maintenance;
- (c) Non-compliance with the construction codes in place at time of construction;
- (d) Significant damage including as the result of:
 - 1. Fire;
 - 2. Explosion;
 - 3. Natural disaster;
 - 4. Neglect; or

5. Vandalism;

- (e) Falling away, hanging loose, or loosening of siding, block, or other building material, appurtenance, or part thereof; or
- (f) Existence of structurally unsafe conditions.

Section 2. Scope. (1) Applicability. This administrative regulation shall apply to all buildings except one (1) and two (2) family dwellings.

(2) Enforcement.

(a) State Fire Marshal. The State Fire Marshal shall:

1. Have primary jurisdiction over all property, unless a local government has established a fire inspection program by ordinance adopting this administrative regulation pursuant to KRS 227.320; and

2. Have exclusive jurisdiction over state-owned property, ~~[and primary jurisdiction for code compliance for health care facilities and other facilities licensed by the Kentucky Cabinet for Health and Family Services.]~~

(b) Local fire chief. Jurisdictions wherein a local fire chief is designated by ordinance to operate a fire inspection program pursuant to KRS 227.320 shall have primary jurisdiction for the enforcement of all property within the local governmental boundary except as provided in subparagraph (a)2. of this subsection.

Section 3. Existing Buildings and Conditions. (1) The standards for the construction pursuant to 815 KAR 7:120, Kentucky Building Code, in effect at the time of construction, and for which there has been issued a lawful certificate of occupancy, shall supersede different construction standards regarding the requirements for egress facilities, fire protection, and built-in fire protection equipment established in this administrative regulation or conflicting local ordinances.

(2) Change of use. It shall be unlawful to make a change in the use of a building or portion thereof without project plan review and approval in accordance with 815 KAR 7:120, Kentucky Building Code, except as specified in Chapter 34 therein.

(3) Buildings and conditions approved under other codes.

(a) Buildings constructed prior to promulgation of the uniform state building code. A building, or portion thereof, which was constructed and approved prior to the effective date of the uniform state building code shall be maintained as constructed and approved.

(b) Previous fire code. A building, or portion thereof, which was inspected, approved, or accepted pursuant to a previously adopted fire code~~[the 1996 Kentucky Fire Prevention Code]~~ shall:

- 1. Be maintained as previously approved or accepted; and
- 2. Not be required to make a modification or change for so long as the building is maintained and used as previously accepted or approved.

(c) Buildings not occupied or used for one (1) year or more. Prior to occupancy, a building shall be subject to safety inspection by the State Fire Marshal or his designee to ensure that the structure is neither a distinct fire hazard or an unsafe structure.

(4) Distinct Fire Hazards.

(a) If the State Fire Marshal or local fire chief determines that a distinct fire hazard exists, the fire hazard shall be remedied so as to render the property safe.

(b) The State Fire Marshal or a local fire chief shall use the standards specified in this administrative regulation~~[paragraph]~~ to identify and to order the correction of a distinct fire hazard acting in accordance with the procedures established in KRS Chapter 227 and ~~[Section 5 of]~~ this administrative regulation. In exercising authority granted, the following shall be applicable:

1. NFPA 1, Uniform Fire Code, 2018[2012] edition, and the NFPA referenced standards included in Chapter 2 of NFPA 1 except:

a. NFPA 403[402], Guide for Aircraft Rescue and Fire Fighting Operation, 2018[2002] edition;

b. ~~NFPA 472, Standard for Professional Competence of Responders to Hazardous Materials Incidents, 2002 edition;~~

e.] NFPA 1031, Standard for Professional~~[Profession]~~ Qualifications for Fire Inspectors and Plan Examiner, 2014[2003] edition;

c. NFPA 1192, Standard on Recreational Vehicles, 2018 edition;

d. NFPA 1194, Standard for Recreational Vehicle Parks and Campgrounds, 2018 edition;

e. NFPA 1901, Standard for Automotive Fire Apparatus, 2016 edition;

f. NFPA 1906, Standard for Wildland Fire Apparatus, 2016 edition;

g. NFPA 1925, Standard on Marine Fire-Fighting Vessels, 2013 edition;

h. NFPA 1963, Standard for Fire Hose Connections, 2014 edition;

i. NFPA 2113, Standard on Selection, Care, Use, and Maintenance of Flame-Resistant Garments for Protection of Industrial Personnel Against Short-Duration Thermal Exposures from Fire, 2015 edition;

j[d]. NFPA 5000, Building Construction and Safety Code, 2018[2012], edition;

k. Code reference 1.7.2, Minimum Qualifications to Enforce this Code;

l. Code reference 10.2.7, Minimum Fire Prevention Inspection Frequencies for Existing Occupancies;

m[e]. Code reference 13.3.2.26, High Rise Buildings;

n[f]. Code reference 13.3.2.8, Existing Assembly Occupancies; and

o[g]. Code reference 13.6, Portable Extinguishers, which if required, shall be modified to exclude the provisions for installation of portable extinguishers in the occupancies listed in Table 13.6. Portable extinguishers shall be installed as required in the occupancy chapters of NFPA 101, Life Safety Code, 2018[2012] Edition;

2. NFPA 101, Life Safety Code, 2018[2012] edition, and the NFPA referenced standards included in Chapter 2 of NFPA 101 except Code reference 13.3.5;

3. NFPA 70, National Electrical Code[®], 2017[2014] Edition; and

4. 815 KAR 7:120, Kentucky Building Code.

(c) Modifications, alternatives, and interpretations. If the State Fire Marshal accepts or approves an alternative to a code provision or issues an interpretation and the alternative or interpretation is of general applicability, it shall be published and forwarded to all known fire inspectors and other persons requesting a copy.

(5) Abatement of fire hazards. The abatement of a distinct fire hazard pursuant to this administrative regulation shall not require construction measures that would exceed the requirements of the current edition of 815 KAR 7:120, Kentucky Building Code, if the building were being newly constructed.

(6) Maintenance of equipment.

(a) All fire suppression and fire protection equipment, systems, devices, and safeguards shall be maintained in accordance with the applicable NFPA referenced code and the manufacturer's recommendations.

(b) This administrative regulation shall not be the basis for removal or abrogation of a fire protection or safety system or device installed in a building without approval granted by the authority having jurisdiction.

(7) Cooperation with building official. The State Fire Marshal and the local fire chief shall coordinate and cooperate with the building code official having jurisdiction in assessing a building for relative fire safety and to assure that the proper standards are applied.

Section 4. Permits. (1) State permits required. A permit shall be required from the State Fire Marshal for flammable, combustible, ~~or~~~~and~~ hazardous material storage vessel installations.

(2) Local permits allowed.

(a) A permit from a local government shall not be required unless required by local ordinance.

(b) An inspection or permit fee, if applicable, shall be established within the local adopting legislation.

Section 5. Enforcement of Violations. (1) Notice of deficiency. If the State Fire Marshal or local fire chief observes an apparent violation of a provision of this administrative regulation ~~and the standards incorporated herein~~ or other codes or ordinances under state or local jurisdiction, the State Fire Marshal or local fire chief shall prepare a written notice of deficiency. The notice of deficiency shall state the applicable code provision violated and specify the date by which the required repairs or improvements shall be completed. Pursuant to KRS 227.336, corrective action shall be ordered remedied within a period of time not to exceed sixty (60) days. The State Fire Marshal may grant extensions to the compliance date upon receipt of a written plan of a correction stating the dates of completion of each violation and a reason for the delay. The plan of correction must be received before the end of the first sixty (60) day period.

(2) ~~Services~~~~Service~~ of notice. The written notice of deficiency shall be served personally or via certified U.S. Mail upon the owner or the owner's duly authorized agent and upon each other person responsible for the deficiency. Proof of service shall be required to perfect service.

(3) Failure to correct deficiency. Any person who fails to correct a deficiency ordered to be remedied shall be subject to enforcement actions authorized in KRS 227.331.

Section 6. Means of Appeal. (1) Appeals of orders issued by the State Fire Marshal.

(a) An appeal to the State Fire Marshal from a notice of deficiency issued by the Division of Fire Prevention shall be:

1. In writing; and

2. Received by the Division of Fire Prevention, State Fire Marshal prior to the completion date specified in the notice of deficiency served.

(b) If the matter is not resolved by agreement of the affected parties and the State Fire Marshal, legal action shall be instituted pursuant to KRS Chapter 227.

(2) Appeal of an order to remedy. Pursuant to KRS 227.380, the owner of the subject property may appeal to the State Fire Marshal within ten (10) days following receipt of the issued order.

Section 7. Special Provisions. (1) Fire incident reporting. The fire chief or highest ranking fire department officer may request investigative assistance from the State Fire Marshal.~~[shall promptly notify the State Fire Marshal upon becoming aware of any of the following:~~

~~(a) A hazardous materials incident;~~

~~(b) Fire-related fatality (including a vehicle or home);~~

~~(c) Fire-related injury serious enough to become a fatality; or~~

~~(d) A fire involving major structural damage in the following buildings:~~

~~1. An institutional, educational, state-owned or state-leased, or high-hazard occupancy;~~

~~2. A business, mercantile, or industrial occupancy having a capacity over 100 persons;~~

~~3. An assembly occupancy having a capacity over 100 persons;~~

~~4. A place of religious worship with a capacity over 400 persons and more than 6,000 square feet; or~~

~~5. Any other building more than three (3) stories in height or 20,000 square feet of floor area.]~~

(2) Fire protection systems testing and inspection.

(a) Reporting. Except as provided in paragraph (c) of this subsection, an inspection ~~nor~~~~or~~ test required by this administrative regulation, Chapter 11, 13, or 20 of the NFPA 1, Uniform Fire Code shall be conducted and reported to the owner by a person authorized or certified by the ~~department~~~~[State Fire Marshal]~~.

(b) Inspection and test reports.

1. A required inspection or test shall be recorded on the applicable form contained in NFPA 25 or NFPA 72~~[as determined by the State Fire Marshal]~~.

2. ~~[If any violations are noted, the]~~ The completed report shall be given to the owner and a copy shall be forwarded to the local fire chief or highest ranking fire department officer~~[State Fire Marshal]~~ within ten (10) working days of the date of the inspection.

(c) Reporting exceptions.

1. Portable fire extinguishers and single station smoke detectors may be inspected and tested by the property owner or the property owner's agent.

2. Allowable reports by owners and owner agents shall not be required to be filed with the State Fire Marshal, but shall be kept on file within the building and available for review upon request by the State Fire Marshal.

a. Electric single station and electric multiple station smoke alarms shall be tested monthly. A log of the test shall be kept on site for review by the fire code official.

b. Battery powered smoke alarms shall be tested weekly. A log of the test results shall be kept on site for review by the fire code official.

c. Portable fire extinguishers shall be visually inspected monthly to ensure proper charge, accessibility, and that the extinguisher hose is free of obstruction.

(d) Frequency. Periodic testing and inspection of each fire suppression and each alarm system shall be performed as follows:

1. Fire detection and alarm systems and all fire suppression systems in buildings other than state licensed hospitals, nursing homes, and ambulatory surgical centers shall be inspected and tested for proper operation annually.

2. Fire detection and alarm systems and all fire suppression systems in state licensed hospitals, nursing homes, and ambulatory surgical centers shall be inspected and tested quarterly by a Kentucky certified inspector for sprinkler systems and fire alarms, respectively; and

3. Systems or components for which the manufacturer recommends more frequent checks shall be performed as described by the manufacturer's instructions.

(e) Inspectors.

1. Fire alarm inspectors shall apply to be certified by the department on a Form FPS 33-01, Application for Fire Alarm Systems Certification, and shall:

a.(i) Be qualified as NICET level two (2), level three (3), or level four (4) in fire alarm systems; or

(ii) Pass the examination for alarm inspector administered by an examination provider approved by the department;

b. Have had at least eighteen (18) months of experience in installation, repair, testing, or a combination thereof during the five (5) year period immediately preceding application;

c. Pay an annual certification fee of fifty (50) dollars for each classification applied for; and

d. Submit a passport-sized color photograph with the application.

2. For renewals of fire alarm inspector certification, an applicant shall:

- a. Submit a completed Form FPS 33-02, Renewal Application for Fire Alarm Systems Certification, May 2020;
 - b. Pay an annual certification renewal fee of fifty (50) dollars for each classification held;
 - c. Submit a passport-sized color photograph with the renewal application; and
 - d. (i) Provide proof of six (6) hours of continuing education from an approved provider obtained in the twelve (12) months prior to renewal; or
(ii) Provide proof of current NICET certification.
3. Penalties. An applicant shall be subject to penalties established in KRS 227.990 and may be denied certification nor[~~or~~] renewal for:
- a. Failure of a certified fire alarm inspector to conduct an inspection in accordance with the NFPA 72 standard;
 - b. Submission of false inspection reports;
 - c. Performing inspections without first having been certified by the department as a fire alarm inspector; or
 - d. Making a false or misleading statement on an application for certification or renewal.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) NFPA 1, "Uniform Fire Code", 2018[~~2012~~] edition;
- (b) NFPA 101, "Life Safety Code", 2018[~~2012~~] edition;
- (c) NFPA 70, "National Electrical Code®", 2018[~~2014~~] edition;
- (d) FPS 33-01, "Application for Fire Alarm Systems Certification", May 2020; and
- (e) FPS 33-02, "Renewal Application for Fire Alarm Systems Certification", May 2020.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. 815 KAR 10:060:

KERRY B. HARVEY, Secretary
RICK W. RAND, Commissioner

APPROVED BY AGENCY: July 6, 2021

FILED WITH LRC: July 6, 2021 at 12:27 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 27, 2021 at 10:00 a.m., eastern time, in the Department of Housing, Buildings and Construction, 500 Mero Street, First Floor, Frankfort, Kentucky 40601. Individuals interest in being heard at this hearing shall notify this agency in writing by five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through September 30, 2021 at 11:59 p.m., eastern time. Send written notification of the intent to be head at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person below:

CONTACT PERSON: Benjamin Siegel, General Counsel, Department of Housing, Buildings and Construction, 500 Mero Street, 1st Floor, Frankfort, Kentucky 40601, phone (502) 782-0604, fax (502) 573-1057, email benjamin.siegel@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Benjamin Siegel

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the Kentucky Standards of Safety to supplement the Kentucky Building Code, promulgated as 815 KAR 7:120, in matters of fire safety.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the Kentucky Standards of Safety, which are required, pursuant to KRS 227.300(1), to provide a reasonable degree of safety for human life against the exigencies of fire and panic and insuring as far as is practicable against fire loss.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 227.300(1) requires the commissioner to promulgate reasonable administrative regulations based on good engineering practice and principles as embodied in recognized standards of fire prevention and protection, providing for a reasonable degree of safety for human life against the exigencies of fire and panic, and insuring as far as practicable against fire loss. These standards are to supplement the Uniform State Building Code, the Kentucky Building Code, 815 KAR 7:120, in matters of fire safety.

(d) How this administrative regulation current assists or will assist in the effective administration of the statutes: This administrative regulation establishes the Kentucky Standards of Safety to supplement the Kentucky Building Code, 815 KAR 7:120, in matters of fire safety, as required by KRS 227.300(1).

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change the existing administrative regulation: This amendment adopts the 2018 NFPA 1 and 101, with some exceptions as outlined in the administrative regulation. This amendment also removes the requirement for local fire officials to report to the State Fire Marshal specific fire and hazardous materials incidents, instead allowing the local fire official to request investigative assistance from the State Fire Marshal. This amendment also clarifies the testing and reporting requirements of fire protection systems, and makes grammatical and technical edits to make the administrative regulation more user friendly.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to adopt the 2018 editions of NFPA 1 and 101, amend reporting requirements for local fire officials, and to make the administrative regulation more user friendly.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 227.300(1) requires the commissioner to promulgate reasonable administrative regulations based on good engineering practice and principles as embodied in recognized standards of fire prevention and protection, providing for a reasonable degree of safety for human life against the exigencies of fire and panic, and insuring as far as practicable against fire loss. These standards are to supplement the Uniform State Building Code, the Kentucky Building Code, 815 KAR 7:120, in matters of fire safety.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation establishes the Kentucky Standards of Safety to supplement the Kentucky Building Code, 815 KAR 7:120, in matters of fire safety, as required by KRS 227.300(1). This amendment will allow the State Fire Marshal and local fire chiefs to utilize the 2018 NFPA 1 and 101 when addressing distinct fire hazards.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect the Department of Housing, Buildings and Construction, local fire officials, and fire alarm inspectors.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to comply with this administrative regulation or amendment: The State Fire Marshal and local fire officials will need to familiarize themselves with the 2018 NFPA 1 and 101.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The regulated entities identified in question (3) may face a one time increase in expenses to purchase new code books and training.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits of the 2018 NFPA 1 and 101 include: enhanced fire protection, additional standards on door locking to prevent unwanted entry in educational and daycare occupancies, and potentially lower insurance premiums as a result of better ISO ratings. Benefits from the other portions of the amendment include: the elimination of redundant reporting requirements and clarification on testing requirements.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There are no anticipated additional costs to administer these regulatory amendments.

(b) On a continuing basis: There are no anticipated additional costs on a continuing basis to administer these regulatory amendments.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of these amendments is anticipated to result in no additional costs to the department. Any costs resulting from these amendments will be met with existing agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment will not necessitate an increase in fees or require funding from the department for implementation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This amendment does not directly or indirectly increase previously established fees.

(9) TIERING: Is tiering applied? Tiering is not applied as this administrative regulation applies equally to all department personnel, local fire officials, and licensees.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Fire Prevention and local fire departments or fire inspection programs will be effected.

2. Identify each state or federal statute or federal regulation that requires or authorized the action taken by the administrative regulation. KRS 227.300(1) requires the commissioner to promulgate reasonable administrative regulations based on good engineering practice and principles as embodied in recognized standards of fire prevention and protection, providing for a reasonable degree of safety for human life against the exigencies of fire and panic, and insuring as far as practicable against fire loss. These standards are to supplement the Uniform State Building Code, the Kentucky Building Code, 815 KAR 7:120, in matters of fire safety.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school dis-

tricts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment is not anticipated to generate additional revenue for state or local government for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This amendment is not anticipated to generate additional revenue for state or local government for subsequent years.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this amendment for the first year.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this amendment for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None