

TITLE 10 PUBLIC SAFETY AND LAW ENFORCEMENT
CHAPTER 25 STATE FIRE MARSHAL
PART 5 FIRE PREVENTION AND PUBLIC OCCUPANCY

10.25.5.1 ISSUING AGENCY: New Mexico Public Regulation Commission.
[10.25.5.1 NMAC - Rp/E, 10.25.1 NMAC, 6/28/2019]

10.25.5.2 SCOPE:

- A.** This rule applies to structures, processes, premises and safeguards regarding:
- (1) the hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices;
 - (2) conditions hazardous to life, property or public welfare in the occupancy of structures or premises;
 - (3) fire hazards in the structure or on the premises from occupancy or operation;
 - (4) matters related to the construction, extension, repair, alteration or removal of fire protection systems; and
 - (5) conditions affecting the safety of firefighters and emergency responders during emergency operations.
- B.** This rule does not apply to detached, -single, -double, or -three family dwellings.
- C.** Other agencies have adopted rules that may apply and that are not affected by these rules.
- (1) CID has adopted rules for housing and construction that include provisions on fire prevention in Title 14, Chapters 5 through 10 NMAC.
 - (2) The environmental improvement board has adopted rules for aboveground and underground storage tanks containing petroleum or hazardous substances and rules governing hazardous waste administered by the environment department in Title 20, Chapter 5 NMAC.
 - (3) The board of licensure for professional engineers and surveyors has adopted rules for the design of fire protection and alarm systems in Title 16, Chapter 39 NMAC.
- D.** AHJs may adopt fire protection requirements that are more stringent or comprehensive than 10.25.5 NMAC, as long as the requirements do not conflict with these rules.
[10.25.5.2 NMAC - Rp/E, 10.25.5.2 NMAC, 6/28/2019]

10.25.5.3 STATUTORY AUTHORITY: Sections 8-8-21, 59A-52-15, and 59A-52-16 NMSA 1978.
[10.25.5.3 NMAC - Rp/E, 10.25.5.3 NMAC, 6/28/2019]

10.25.5.4 DURATION: Permanent.
[10.25.5.4 NMAC - Rp/E, 10.25.5.4 NMAC, 6/28/2019]

10.25.5.5 EFFECTIVE DATE: June 28, 2019 unless a later date is cited at the end of a section.
[10.25.5.5 NMAC - Rp/E, 10.25.5.5 NMAC, 6/28/2019]

10.25.5.6 OBJECTIVE: The purpose of this rule is to prescribe minimum requirements for the operation and maintenance of buildings and structures necessary to reasonably protect life and property from the hazards created by fire, explosion, and similar emergencies.
[10.25.5.6 NMAC - Rp/E, 10.25.5.6 NMAC, 6/28/2019]

10.25.5.7 DEFINITIONS: In addition to the definitions in 10.25.1 NMAC:

- A.** **fire code official** shall have the meaning provided in Section 202 of the IFC;
- B.** **IFC** means the international fire code, 2015 edition, published by the international code council, inc. and available by contacting: Publications, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795;
- C.** **NFPA 1** means the fire prevention code, 1997 edition, published by the national fire protection association and available by contacting: Secretary, Standards Council, National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101;
- D.** **NFPA 101** means the life safety code, 1997 edition, published by the national fire protection association and available by contacting: Secretary, Standards Council, National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101; and
[10.25.5.7 NMAC - Rp/E, 10.25.5.7 NMAC, 6/28/2019]

10.25.5.8 ADOPTION OF NATIONAL STANDARD: The fire marshal adopts and incorporates by reference IFC as revised in this rule. In this rule, revisions are numbered to correspond with the numbering of the IFC and further amend such section of the IFC. All references in the IFC to the International Mechanical Code mean the New Mexico Mechanical Code. All references in the IFC to the International Plumbing Code mean the New Mexico Plumbing Code.

[10.25.5.8 NMAC - Rp/E, 10.25.5.8 NMAC, 6/28/2019]

10.25.5.9 CHAPTER 1 ADMINISTRATION:

A. Section 101 General.

(1) **Section 101.1 Title.** Insert in brackets: New Mexico.

(2) **Section 101.2 Scope.** This section of the IFC shall not apply. 10.25.5.2 NMAC defines the scope of this rule.

(3) **Section 101.2.1 Appendices.** The appendices of the IFC shall not apply, except where adopted by an AHJ.

B. Section 104 General authority and responsibilities. If Section 104.6 (official records) or any other provision of the IFC conflicts with the Inspection of Public Records Act, Sections 14-2-1 through 14-2-12 NMSA 1978, the provisions of the Inspection of Public Records Act shall control.

C. Section 105 permits. Section 105.6, required operational permits of the IFC shall not apply. Section 105.7.2 through 105.7.5 shall not apply. Section 105.7.8 through 105.7.16 shall not apply. Section 105.7.18 shall not apply. These rules do not affect the requirements imposed by those counties and municipalities with concurrent jurisdiction that require permits relating to fire protection. The fire marshal issues only the following permits with the following exceptions.

(1) **Permits and licenses for fireworks.** The fire marshal requires permits and licenses for fireworks as provided in 10.25.6 NMAC.

(2) **Certificates of fitness.** The fire marshal requires certificates of fitness for the installation, inspection, maintenance and repair of fire protection systems as provided in 10.25.2 NMAC.

(3) **Section 105.3 Conditions of a Permit.** This section is deleted in its entirety and replaced with the following language: "105.3 conditions of a permit. Such permission, if granted in Section 105.1.2.2, shall not be construed as authority to violate, cancel or set aside any other provisions of this code or other applicable regulations or laws of the jurisdiction."

(4) **Section 105.4.1 Construction documents: submittals.** This section is deleted in its entirety and replaced with the following language:

(a) Two sets of construction documents shall be submitted.

(b) All construction documents shall be submitted with the applicant's certificate of fitness number, permit application and permit number or building official unique identifier and shall comply with the approval process provided in 10.25.5.16 NMAC.

D. Section 106.2.2 Insert "when required" after "fire code official" at the end of the last sentence of this section.

E. Section 108 Board of appeals. This section of the IFC shall not apply. The appeal processes provided in Sections 59A-52-21 and 59A-52-22 NMSA 1978 shall apply and may be initiated by filing an appeal as provided in 10.25.1.NMAC.

F. Section 109 Violations. The penalties in section 109.4 of the IFC shall not apply in New Mexico. The penalties authorized in Sections 59A-52-24 and 59A-52-25 NMSA 1978 shall apply.

G. Section 111 Stop work order. The penalties in section 111.4 of the IFC shall not apply. The penalties authorized in Sections 59A-52-24 and 59A-52-25 NMSA 1978 shall apply.

H. Section 113 Fees. This section of the IFC shall not apply.

[10.25.5.9 NMAC - Rp/E, 10.25.5.9, 6/28/2019]

10.25.5.10 CHAPTER 2 DEFINITIONS:

A. Unless defined by the fire marshal in Title 10 NMAC or by CID in Title 14 NMAC, terms used herein shall have the definition provided in Chapter 2 of the IFC. Where a term is defined by the fire marshal, the fire marshal's definition shall supersede all other definitions. Where a term is not defined by the fire marshal, but is defined by CID in Title 14 NMAC, the CID definition shall apply.

B. Section 202 General Definitions. The definition of “record drawings” is deleted in its entirety and replaced with the following language: “record drawings” means “as built” that document the location of all appurtenances of fire protection systems.

[10.25.5.10 NMAC - Rp/E, 10.25.5.10 NMAC, 6/28/2019]

10.25.5.11 CHAPTER 3 GENERAL REQUIREMENTS:

A. Section 301.1 Scope. This section applies as mandated by the local AHJ.

B. Section 301.2 Permits. Permits shall only and to the extent mandated by the local AHJ.

C. Section 304.1.2 Vegetation. This section applies to the extent mandated by the local AHJ.

D. Section 307, Open burning, recreational fires and portable outdoor fireplaces. This section of the IFC applies only and to the extent mandated by the local AHJ.

E. Section 308.3 Group A Occupancies Exception #2. Delete the word “international” and replace with the word “New Mexico”.

[10.25.5.11 NMAC - N, 6/28/2019]

10.25.5.12 CHAPTER 4 EMERGENCY PLANNING AND PREPAREDNESS: In section 405.5 Record keeping, item number 7 is deleted and replaced with the following language: “Problems encountered and corrective actions for the problems encountered.”

[10.25.5.12 NMAC - Rp/E, 10.25.5.11 NMAC, 6/28/2019]

10.25.5.13 CHAPTER 6 BUILDING SERVICES AND SYSTEMS: Amend section 603.9 to add “if required by the fire code official” at the end of the section.

[10.25.5.13 NMAC - Rp/E, 10.25.5.12 NMAC, 6/28/2019]

10.25.5.14 CHAPTER 9 FIRE PROTECTION SYSTEMS: Throughout chapter 9, the following shall apply:

A. Delete the term “International Mechanical Code” where used in this chapter and replace with the term “New Mexico Mechanical Code”.

B. Delete the term “International Plumbing Code” where used in this chapter and replace with the term “New Mexico Plumbing Code”.

C. Section 904.12 Commercial cooking systems. The exception described in Section 904.12 of the IFC shall not apply. The replacement of commercial cooking equipment, including but not limited to a stove, hood, deep fryer, grill, griddle, or any other device used in the cooking process, requires the simultaneous installation of an automatic fire suppression system.

D. Section 905.3.4.1 Hose and Cabinet. Insert the following sentence at the end of this section, “Unless required by a fire code official, one and one-half inch hoses and hose cabinets are not required for class II and class III standpipe systems.”

[10.25.5.14 NMAC - Rp/E, 10.25.5.13 NMAC, 6/28/2019]

10.25.5.15 CHAPTER 10 MEANS OF EGRESS: This chapter of the IFC applies, except Table 1004.1.2 is amended to add the following: “New and existing correctional facilities and detention centers: the occupant load for which the means of egress is calculated by the maximum number of persons intended to occupy the floor or area, shall be no less than 60 square feet of gross floor area per person”.

[10.25.5.15 NMAC - Rp/E, 10.25.5.14 NMAC, 6/28/2019]

10.25.5.16 CHAPTER 56 EXPLOSIVES AND FIREWORKS: This chapter of the IFC and 10.25.6 NMAC apply to fireworks. If there is any conflict between this chapter of the IFC and the Fireworks Licensing and Safety Act, Sections 60-2C-1 through 60-2C-11 NMSA 1978, the Fireworks Licensing and Safety Act shall control.

[10.25.5.16 NMAC - N, 6/28/2019]

10.25.5.17 REPEAL OF CODES: NFPA 1 and NFPA 101 are repealed except as provided in 10.25.5.17 NMAC.

[10.25.5.17 NMAC - Rp/E, 10.25.5.16 NMAC, 6/28/2019]

10.25.5.18 APPROVAL OF FIRE PROTECTION SYSTEMS: Prior to beginning construction or occupancy of any building or structure regulated by the IFC, the owner shall apply for approval from the fire

marshal or AHJ, whichever is applicable, of a fire protection system for the building or structure. The review and approval of fire protection systems is in addition to any review required by CID in Title 14 of the New Mexico administrative code.

A. Filing drawings for review.

(1) **Documents required.** The owner shall submit two sets of shop drawings for the building or structure. For his own convenience, an owner may submit additional sets of drawings and an envelope with prepaid postage for the fire marshal's use in returning the drawings after review. Electronic filing of fire protection plans (shop drawings) will be accepted via electronic plans review software that is compatible with software used by the New Mexico state fire marshal division. The state fire marshal division shall keep a copy of all submitted file drawings for 20 years.

(2) **Where to submit.** The owner shall submit drawings to the fire code enforcement division of the fire marshal division in compliance with 10.25.1 NMAC or to an AHJ as provided by the AHJ. The fire marshal shall not accept drawings by facsimile transmission.

(3) **Requirements for drawings.** The drawings shall show the fire protection systems in sufficient detail to allow the fire marshal or AHJ to analyze compliance with applicable codes and standards, and shall provide the signature and seal of the engineer that prepared the drawings. The fire marshal has optional guidelines available to assist in compliance with applicable codes and standards that may be obtained as provided in 10.25.1.9 NMAC.

(4) **Fees.** The fire marshal division does not require any fees for review of fire protection systems.

B. Third party review. The fire marshal, in his sole discretion, may require and arrange for third party review of drawings if specialized expertise or knowledge is needed. If the fire marshal determines third party review is necessary, he shall so notify the owner in writing with an estimate of the cost. If the owner decides to proceed with review, he shall file written approval by the method provided in 10.25.1.8 NMAC and shall pay directly to the third party the cost of such review before the fire marshal returns the drawings.

C. Return of drawings. If the owner has provided an envelope with prepaid postage, the fire marshal shall mail the drawings back to the owner after review. If the owner did not supply a postage-prepaid envelope, the fire marshal shall call the owner to pick up the drawings. The fire marshal shall keep one set of electronically filed fire protection plans (shop drawings). If the fire marshal or AHJ approves the drawings, the drawings shall be stamped "approved". If the fire marshal or AHJ rejects or does not approve the drawings, an explanation for the basis for rejection or non approval shall be given to the owner.

D. Rejection. The fire marshal or AHJ may reject drawings for the following reasons:

- (1) the drawings are incomplete;
- (2) the drawings indicate a violation of these rules or applicable codes and standards;
- (3) the engineer that prepared the drawings did not sign, seal or prepare the drawings in accordance with Title 16, Chapter 39 NMAC;
- (4) the drawings or certificate of fitness documentation contain a misrepresentation or inaccuracy;
- (5) third party review indicates that the drawings indicate a violation of these rules, applicable codes or standards, or specialized requirements presented by the drawings; or
- (6) any other reason provided in the authorizing legislation of an AHJ.

E. Re-submission. If drawings are rejected, the owner may correct the deficiencies indicated in the rejection letter. A new set of shop drawings shall be submitted by the same process for filing original drawings for review.

F. Construction.

(1) After an AHJ has approved and returned drawings, but not before, an owner may start the installation or construction of the building or structure in compliance with the approved drawings.

(2) After the owner has completed the installation or construction, he may request that the AHJ perform an inspection. The request may be made orally or in writing to the fire marshal at the address or phone number provided in 10.25.1.9 NMAC or as otherwise required by another AHJ.

G. Inspection and testing. The AHJ will inspect the building or structure within a reasonable period of time after the responsible party's request for inspection and if applicable, the AHJ may request a letter indicating the system is in compliance with approved plans and applicable codes and standards. The AHJ will not approve the installation or construction if the inspection indicates:

- (1) a violation of these rules or applicable codes and standards;

- (2) the building or structure was not installed or constructed in compliance with the drawings;
- (3) the building or structure fire protection system(s) was not installed or constructed by the responsible party through a person with an applicable certificate of fitness;
- (4) The record of completion shall be completed at the time of final acceptance testing of each fire protection system; or
- (5) any other reason provided in the authorizing legislation of an AHJ.

H. Re-inspection. If the AHJ does not approve the installation or construction and the responsible party corrects the deficiencies noted in the inspection, the responsible party may re-apply for inspection following the same procedure as for the initial inspection.

[10.25.5.18 NMAC - Rp/E, 10.25.5.17 NMAC, 6/28/2019]

10.25.5.19 CODE REQUIREMENTS FOR EXISTING BUILDINGS AND STRUCTURES: For purposes of this section, "constructed" shall mean that the owner has begun any substantial portion in the design, permitting or building of a building or structure. A change in occupancy requires approval from the appropriate building code official. All new construction, alteration, repair, and additions require adherence to applicable building codes and laws.

A. Existing buildings and structures.

(1) An owner is not required to renovate or adapt an existing building or structure to comply with the IFC 2015, but shall comply with the requirements in place when the existing building or structure was constructed.

(2) Following the adoption of this provision, an existing structure that changes its classification, however done, must comply with the IFC 2015.

(3) Following the adoption of this provision, an existing structure that is renovated, as the term "renovated" is defined by the applicable local or state building code, but whose classification does not change, shall comply with IFC 2015.

(4) Buildings or structures constructed prior to November 15, 2007, which fall under NFPA 1, 1997 edition, and NFPA 101, 1997 edition, shall be required to have a permit using the requirements of IFC 2015, section 105, prior to installation of any new, renovated, or partial fire protection system.

(5) Buildings which were initially inspected under IFC 2015 as per the requirements for new construction under Subsection B of 10.25.2.19 NMAC will be inspected per IFC 2015.

B. New construction. Any new building, new alteration, new addition, or new structure after the effective date of the adoption of the IFC 2015 shall comply with the IFC 2015.

C. Variance. The fire marshal may grant a variance from any of the requirements of this subsection if the applicant demonstrates to the fire marshal's satisfaction that the variance sought does not degrade the overall protection of individuals from fire and similar emergencies.

D. Hazard to life or property. Notwithstanding any other provision of these rules, if the fire marshal or AHJ determines that a nonconforming facility constitutes a hazard to life or property, the fire marshal or AHJ shall so notify the owner of the facility in writing, and shall permit the owner a reasonable period of time to comply with current rules. If the owner does not comply with the notification and its requirements within the time specified, the fire marshal or AHJ may order the owner to take the facility out of service.

[10.25.5.19 NMAC - Rp/E, 10.25.5.18 NMAC, 6/28/2019]

HISTORY OF 10.25.5 NMAC:

Pre-NMAC History: none.

History of Repealed Material:

10 NMAC 25.5, Fire Prevention (filed 05/09/1997) repealed 11/15/2007.

10.25.5 NMAC, Fire Prevention and Public Occupancy (filed 11/1/2007) repealed, effective 6/28/2019.

NMAC History:

10 NMAC 25.6, Safe Handling and Sale of Fireworks, effective 6/9/1997.

10 NMAC 25.5, Fire Prevention (filed 05/09/1997) was replaced by 10.25.5 NMAC, Fire Prevention and Public Occupancy, effective 11/15/2007.

10.25.5 NMAC, Fire Prevention and Public Occupancy (filed 11/1/2007) was replaced by 10.25.5 NMAC, Fire Prevention and Public Occupancy, effective 6/28/2019.