



STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC SAFETY
DIVISION OF FIRE, EMERGENCY AND BUILDING SERVICES
OFFICE OF STATE FIRE MARSHAL

Policy Directive # 5
Replaces: Directive # 5 dated 3/83
Administered by: OSFM

Date: July 1, 2001
Duration: Until Revised
Authority: Deputy State Fire Marshal

SUBJECT: MODIFICATION PROCEDURE

PURPOSE:

- (1) To provide a standardized method and procedure used to seek modifications from strict compliance with the provisions of a Fire Safety Regulation adopted pursuant to the Connecticut General Statutes (C.G.S.), Chapter 541.
- (2) To reserve the authority to grant variations or exemptions from, or approve equivalent or alternate compliance with the provisions of a fire safety regulation adopted pursuant to C.G.S. Chapter 541 with the Commissioner of Public Safety/State Fire Marshal as defined in C.G.S. §29-109, §29-140, §29-296, §29-317(c), §29-321, §29-329(c), §29-333, §29-338, §29-357, and §29-368.

DISCUSSION:

Prior to April 1983, the State Fire Marshal, without input from or the knowledge of the local fire marshal having jurisdiction, granted modifications from code provisions. The local marshal was not intentionally bypassed on any matter, rather no formal system or procedure existed to insure that the local marshal was consulted on modification requests. In some instances, the local marshal did not want to become involved in the "appeal" process. The Office of State Fire Marshal (OSFM) considers any relief granted at the state level to be of vital interest to the local fire marshal having jurisdiction.

A mechanism is necessary to process requests for modification or approval of alternative methods of compliance with the strict prescriptive requirements of an adopted code. This mechanism will help tailor the fire safety requirements to fit individual circumstances yet maintain an equivalent level of safety within the intent of the adopted code.

As mandated by C.G.S. Chapter 541, the local fire official's specific role in the administration of a fire safety code adopted pursuant to C.G.S. Chapter 541 is clearly identified as the enforcement of its provisions. When the local fire official follows the procedures mandated, the maximum degree of protection under the law is afforded while performing this enforcement function.

This "system" of enforcement requires the local fire official to:

1. Inspect all occupancies governed by the Code annually (C.G.S. §29-305);
2. Issue Abatement Orders for ALL violations found. (C.G.S. §29-306 and Policy Directive #3);
3. If the violation is not corrected (within the time limit you establish), you must promptly notify in writing the prosecuting attorney having jurisdiction, sending a copy of such notification to the OSFM. (C.G.S. §29-306 and Policy Directive #3)

Local fire officials **cannot** grant modifications, variations, exemptions, equivalent or alternate compliance, C.G.S. §29-109, §29-140, §29-296, §29-317(c), §29-321, §29-329(c), §29-333, §29-338, §29-357, and §29-368 clearly places that responsibility with the Commissioner of Public Safety/State Fire Marshal. If a local fire official grants exemptions or alternatives, then that local fire official may face liability for acting outside the statutory authority.

PROCEDURE:

The following procedures will accomplish the two purposes outlined at the beginning of this directive, and more importantly, it will keep enforcement and modification efforts within established legal boundaries. Steps will be listed in the sequence they should be followed.

- A. **Inspection.** Inspect all as required by Connecticut General Statutes §29-305, and Regulations of Connecticut State Agencies (Connecticut State Fire Safety Code) §29-292-6(d).
- B. **Abatement Order.** Issue a WRITTEN abatement order for all violations found. Be specific in citing the section and subsection numbers that are being violated.

NOTE: Follow procedures as outlined in Policy Directive #3.

- C. **Work To Gain Compliance.** Remember the object of the “system” is to gain compliance with code provisions. If a person has made an attempt to correct violations or are taking steps to make corrections, the abatement time period can be extended. The system cannot become impersonal, matter-of-fact, or routine. Each situation is different and requires some interaction between the local code official and the violator.
- D. **Modification Request Form.** When the person feels that compliance with the Code (as cited) would impose practical difficulty or unnecessary hardship, or is otherwise considered unwarranted and they feel alternative methods of achieving compliance could be attained, the attached form must be completed as follows:

1. The person completes the form using your inspection report and facility information sheet (see Policy Directive #3 dated 7/1/01). Also, any additional information which the applicant feels will support their case such as photographs, sketches, plans/drawings, specifications, etc. are to be provided and attached to the form. A separate form is required for each violation where relief is being sought.
2. Upon completion of the applicable portions, the form is then submitted to the local authority for review.
3. The local authority reviews the form for completeness then completes the appropriate portion, dates, and signs it.
4. The local authority will forward the form to the OSFM for action in accordance with C.G.S. §29-109, §29-140, §29-296, §29-317(c), §29-321, §29-329(c), §29-333, §29-338, §29-357, and §29-368.
5. The Deputy State Fire Marshal will reply with his/her decision to the applicant with a copy to the local authority.

NOTE: If OSFM action is not in agreement with the local fire marshal’s recommendation, the assigned OSFM staff member will contact the local fire marshal and explain the reason for the action.

- E. **Acceptable.** If the modification is ACCEPTABLE, it should be retained and the violation need not be cited during future inspections.
- F. **Unacceptable.** If the request is UNACCEPTABLE, it also should be filed, however the violation would continue to be abated in the normal manner.
- G. **Right to Appeal.** The right to appeal the decision of the State Fire Marshal/Commissioner of Public Safety will be outlined on the return.