

# **The Role of the Fire Department, Fire Chief and Fire Code Official**

## **Purpose**

Provide guidance to fire chiefs regarding their role as the fire code official in their community and communities they contract with for fire protection.

## **Minnesota State Fire Code (MSFC) definitions**

- **Authority having jurisdiction:** Any municipal fire code official serving within their appointed jurisdiction or the state fire marshal or any of their authorized representatives.
- **Fire department:** A regularly organized fire department, fire protection district, or fire company regularly charged with the responsibility of providing firefighting or fire protection services to the state or a political subdivision.
- **Fire chief:** The chief officer of the fire department serving the jurisdiction or the chief's authorized representatives.
- **Fire code official:** The state fire marshal, the state fire marshal's authorized representative, fire chief, fire department representatives authorized by the fire chief, or other authority specifically designated by ordinance or regulation charged with the administration and enforcement of the code. The appointing authority shall ensure that the fire code official is competent by virtue of certification as a fire inspector, training, or experience in fire prevention inspections and enforcement.

## **Fire department definition**

Minnesota statutes and the MSFC define what a fire department is in Minnesota. Fire departments provide firefighting or fire protection to a political subdivision. A fire department is:

- A municipal fire department as stated in city ordinance.
- A fire protection district providing firefighting to multiple political subdivisions or communities.
- A private fire company specifically designated by a political subdivision to provide firefighting services to one or more political subdivisions or communities.



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## The fire code official

It is important to recognize the legal delegation of authority to the fire code official. The authority to enforce the MSFC is given to the fire code official. The following have the authority to enforce the MSFC:

- The state fire marshal and the state fire marshal's authorized representatives.
- The chief of the fire department.
- Members of the fire department authorized by the fire chief.
- Another authority specifically designated by an ordinance or regulation of the political subdivision or community.

According to the MSFC, the local fire chief is the fire code official for the area that the fire department protects with two exceptions:

- The fire chief can delegate or assign those duties to another fire department member.
- The governing body ordinance or regulations can delegate that authority to another employee or official of the governing body or community.

## Fire code official to be competent

The MSFC further requires that the fire code official be competent with competency coming from fire inspector certification, training or experience in the areas of fire prevention, fire inspections, or fire code enforcement.

## Fire chief vs. fire code official

The MSFC recognizes that there are situations where the fire chief may not be the fire code official. Nonetheless, the MSFC acknowledges that the fire chief is in charge of operational firefighting and fireground operations. In addition, the fire chief needs to be involved in decisions regarding fire response, operations and tactics.

Examples of this include:

- Authority at fires and similar emergencies.
- Fire protection standpipe and hose stream adjustments.
- Protection of aboveground fuel storage tanks.
- Fireworks displays.
- Fire department vehicle access and firefighting water supplies.

## Community fire code adoption and the fire code official

A common question is whether a community needs to adopt the state fire code in order to perform fire inspections or enforce the fire code. Minnesota Statutes, section 299F.011, subdivision 4 states (in



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part) that the MSFC is applicable throughout the state and in all political subdivisions and municipalities therein. A political subdivision or community does not need to adopt the fire code to inspect or enforce the fire code.

Again, by default, the fire chief is the fire code official unless that authority has been delegated to another member of the fire department or, by ordinance, to another community official.

## **Are local fire inspections necessary**

There is no mandate in the state fire code to inspect buildings. Some studies have shown that fire loss is less in cities that conduct regular fire inspections. The MSFC gives authority to conduct building inspections for the purpose of enforcement, but the MSFC does not mandate such inspections.

Even if communities do not inspect buildings regularly, there have been some legal liability lawsuits that have established a precedence that the fire code official needs to investigate complaints about fire safety or fire code deficiencies once they become aware of them. If a fire code official has actual (or constructive) knowledge of an unsafe condition and fails to take action, the political subdivision and the fire code official could be held liable for any loss, injury or death.

Bottom line: Fire code officials have a legal obligation to investigate allegations of fire safety issues or fire code violations in their jurisdiction.

## **Municipal fire departments with contracts outside of municipal limits**

Many fire departments have contractual agreements to provide fire protection services to surrounding communities or townships that do not have their own fire department. Unless the community has designated its own code official, the fire chief of the contracted fire department is the fire code official. As previously stated, the fire chief is not required to start an inspection program or conduct routine fire inspections in those communities, but the fire chief should respond to fire code complaints.

## **Technical assistance**

The State Fire Marshal Division (SFMD) has fire code specialists that can provide assistance for fire code questions. The SFMD, however, does not have the resources to be the fire code official for every community in the state and cannot conduct routine fire inspections throughout the state. The SFMD has personnel that inspect nursing homes, hotels, public schools, day care centers and fire protection systems.

The MSFC has some helpful language allowing the fire code official to require a technical opinion and report prepared by qualified person approved by the fire code official (see MSFC 104.7.2). This report is to be prepared at the owner's expense. This is not a substitute for routine fire code enforcement activities but does give the fire code official a powerful tool in situations where they may lack the resources or technical expertise to determine the adequacy of fire safety.

Additional help is available in the information sheets and inspection checklists at the [fire code tab](#) of our website. You may also email the code team at [fire.code@state.mn.us](mailto:fire.code@state.mn.us) or the fire sprinkler team at [fm.fire.sprinkler@state.mn.us](mailto:fm.fire.sprinkler@state.mn.us).

