

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, 10.25.5.1 NMAC, 11/26/2019]

10.25.5.2 SCOPE:

A. This rule establishes the state's minimum requirements that apply 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 one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures not more than three stories above grade in height built to the New Mexico Residential Building Code.

C. Other state agencies have adopted rules that may or may not apply and that may or may not affect this rule.

(1) The construction industries division of the New Mexico regulation and licensing department (CID) adopts regulations for all construction pursuant to Title 14 NMAC, Housing and Construction, Chapters 5 through 10 NMAC, setting forth the state's minimum requirements that include provisions on fire prevention.

(2) The New Mexico 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 pursuant to Title 16, Chapter 39 NMAC.

(4) CID has jurisdiction over all contractors and journeymen installers of fire protection systems and establishes the minimum requirements for licenses and certificates pursuant to the Construction Industries Licensing Act and to Title 14, Chapter 6, Part 6 NMAC on CID license classifications and scopes.

D. AHJs, defined below, may adopt fire protection requirements that are more stringent than 10.25.5 NMAC, provided such requirements do not conflict with this rule. The authority for administration and interpretation of construction-related sections of the NMFC, defined below, that apply to construction projects requiring a building permit is the responsibility of the chief building official or the AHJ. The FM, defined below, shall have the authority for the administration and interpretation of fire protection systems and the chief building official of an AHJ shall have the authority for the administration and interpretation of building codes other than fire protections systems.

[10.25.5.2 NMAC - Rp, 10.25.5.2 NMAC, 11/26/2019]

10.25.5.3 STATUTORY AUTHORITY: Sections 8-8-6, 8-8-15, 59A-52-15, and 59A-52-16 NMSA 1978.
[10.25.5.3 NMAC - Rp, 10.25.5.3 NMAC, 11/26/2019]

10.25.5.4 DURATION: Permanent.
[10.25.5.4 NMAC - Rp, 10.25.5.4 NMAC, 11/26/2019]

10.25.5.5 EFFECTIVE DATE: November 26, 2019 unless a later date is cited at the end of a section.
[10.25.5.5 NMAC - Rp, 10.25.5.5 NMAC, 11/26/2019]

10.25.5.6 OBJECTIVE: The purpose of this rule is to prescribe minimum requirements for the installation, operation and maintenance of fire protection and life safety features in buildings and structures necessary to reasonably protect life and property from the hazards created by fire, explosion, and similar emergencies, and which minimum requirements shall not conflict with the provisions of the Construction Industries Licensing Act. [10.25.5.6 NMAC - Rp, 10.25.5.6 NMAC, 11/26/2019]

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

A. "Authority Having Jurisdiction (AHJ)" means an organization, office, or individual responsible for enforcing the minimum requirements of codes, standards and permits for approving equipment, materials and installations or a procedure within its jurisdiction.

B. "Certificate of Fitness" means the State Fire Marshall's verification document of a fire protection installation, maintenance and inspection company's competence in the methods and materials of the specific fire system subject to the permit, which is obtained pursuant to 10.25.2 NMAC.

C. "Fire Code Official" shall have the meaning provided in Section 202 of the IFC.

D. "Fire Marshal (FM)" means the fire marshal with the authority over permitting and inspections of fire systems within a particular political subdivision of the state.

E. "IFC" means the New Mexico currently-adopted international fire code, 2015 edition, published by the International Code Council and is available by contacting: Publications, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795.

F. "Life Safety Features" means compliance with NFPA 1 and NFPA 101 for structures built on or before November 15, 2007, and the NMFC for structures build after November 15, 2007.

G. "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.

H. "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.

I. "New Mexico Fire Code (NMFC)" means the New Mexico fire code created by this rule including the IFC currently-adopted by the construction industries division of the regulation and licensing department in New Mexico by reference.

J. "State Fire Marshal (SFM)" means the director of the state fire marshal division under the public regulation commission who has the authority for final determination of the application of the fire provisions of this rule throughout the state.

[10.25.5.7 NMAC - Rp, 10.25.5.7 NMAC, 11/26/2019]

10.25.5.8 ADOPTION OF NATIONAL STANDARD: The SFM adopts the IFC which is then incorporated by reference as revised in this rule. In this rule, revisions are numbered to correspond with the section numbering of the IFC and such revisions further amend such sections of the IFC. All references in the IFC to the International Mechanical Code mean the New Mexico Mechanical Code, CID rule 14.9.2 NMAC. All references in the IFC to the International Plumbing Code mean the New Mexico Plumbing Code, CID rule 14.8.2 NMAC. For purposes of this rule, the application of building code section 102.4 of the IFC, 2015 edition, means that the design and construction of new structures shall comply with the currently adopted New Mexico Building Code (NMBC), CID rule 14.7.2 NMAC, and any alterations, additions, changes in use or changes in structures required by the NMFC, and shall be made in accordance with the currently adopted NMBC, CID rule 14.7.2 NMAC.

[10.25.5.8 NMAC - Rp, 10.25.5.8 NMAC, 11/26/2019]

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.

(4) **Sections 101.3 through 101.5.** See the corresponding sections of the IFC.

B. Section 102.3 (Applicability, Change in use or occupancy.) Delete this section and replace with the following: "Changes shall not be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure is made to comply with the requirements of this code and the NMBC. Subject to the approval of the building code official, the use or occupancy of an existing structure shall be allowed to be changed and the structure allowed to be occupied for purposes in other groups without conforming to all of the requirements of this code and the NMBC for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use."

C. Section 104 General authority and responsibilities. If Section 104.6 (official records) or any other provision of the NMFC 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.

D. Section 105 permits. The following sections of the IFC are deleted: Section 105.6, Section 105.7.2 through 105.7.5, Section 105.7.8 through 105.7.16 and Section 105.7.18. All permits required through the CID permitting process are strictly within the authority of CID. The NMFC establishes the state minimum fire code allowing local jurisdictions and political subdivisions the ability to enact stricter ordinances provided the state minimum is complied with by all such jurisdictions. The SFM requires permits and licenses for fireworks as provided in 10.25.6 NMAC.

E. Certificates of fitness. The SFM requires certificates of fitness for the installation, inspection, maintenance and repair of fire protection systems as provided in 10.25.2 NMAC.

F. 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."

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

(1) One set of construction documents shall be submitted to the Building Official, SFM or FM, who is the AHJ for the construction project.

(2) All construction documents that are submitted to the SFM shall comply with the plans submittal information provided by the SFM on their respective website and 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 and with the CID regulation on permits, CID rule 14.5.2 NMAC.

H. Section 106.2.2 Approval Required. Change the last sentence to read, "Any portions that do not comply shall be corrected and such portion shall not be covered or concealed prior to inspection as required by the fire code official."

I. Section 108 Board of appeals. This section is deleted in its entirety and replaced with the following language: 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.

J. Section 109 Violations. The penalties listed 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.

K. Section 111 Stop work order. The penalties listed 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.

L. Section 113 Fees. This section of the IFC shall not apply.
[10.25.5.9 NMAC - Rp, 10.25.5.9 NMAC, 11/26/2019]

10.25.5.10 CHAPTER 2 DEFINITIONS:

A. Definitions defined by the SFM or the NMFC shall apply specifically to the enforcement and requirements of 10.25.5 NMAC. Terms not defined in this rule but defined in the New Mexico Building Code, CID rule 14.7.2 NMAC, the New Mexico Residential Building Code, CID rule 14.7.3 NMAC, the New Mexico Existing Building Code, CID rule 14.7.7 NMAC, the New Mexico Mechanical Code, CID rule 14.9.2 NMAC, the New Mexico Plumbing Code, CID rule 14.8.2 NMAC, the New Mexico Electrical Code, CID rule 14.10.4 NMAC, or the National Fire Protection Association's (NFPA) NFPA 54 shall have the meanings as ascribed in those codes.

B. Section 202 General Definitions. The definition of "record drawings" is deleted in its entirety and replaced with the following language: "record drawings" means submittals and amended submittals that document the location of all appurtenances of fire protection systems to include any corrections incurred during final acceptance.

[10.25.5.10 NMAC - Rp, 10.25.5.10 NMAC, 11/26/2019]

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.** This Section shall apply 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 - Rp, 10.25.5.11 NMAC, 11/26/2019]

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, 10.25.5.12 NMAC, 11/26/2019]

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, 10.25.5.13 NMAC, 11/26/2019]

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 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, shall comply with this Section and with the Uniform Mechanical Code as adopted by reference in CID rule 14.9.2.13 NMAC.
 - 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, 10.25.5.13 NMAC, 11/26/2019]

10.25.5.15 CHAPTER 10 MEANS OF EGRESS: See Section 10 of the NMBC, CID rule 14.7.2 NMAC, and IFC section 1031, Maintenance of the Means of Egress.

[10.25.5.15 NMAC - Rp, 10.25.5.14 NMAC, 11/26/2019]

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 - Rp, 10.25.5.16 NMAC, 11/26/2019]

10.25.5.17 REPEAL OF CODES: NFPA 1 and NFPA 101 are repealed except as provided in 10.25.5.19 NMAC.

[10.25.5.17 NMAC - Rp, 10.25.5.16 NMAC, 11/26/2019]

10.25.5.18 APPROVAL OF FIRE PROTECTION SYSTEMS: Prior to beginning construction or occupancy of any building or structure regulated by the currently-adopted New Mexico Building Codes and the NMFC, the contractor shall apply for a permit and submit drawings for plan review by the AHJ and approval of the fire protection system from the SFM or FM, as appropriate, of a fire protection system for the building or structure. The review and approval of fire protection systems is in addition to all review required by CID pursuant to Title 14 of the New Mexico administrative code.

- A. Filing drawings with the SFM for review.**

(1) **Documents required.** The contractor shall submit one set of drawings for the building or structure. Submittals shall be in accordance with "Plans Submittal Information" obtained via the SFM website and this rule. For convenience, a contractor may submit additional sets of drawings and an envelope with prepaid postage directly to the SFM for the SFM's use in returning the drawings after review. Electronic filing of fire protection plans will be accepted via electronic plans review software that is compatible with software used by the SFM.

(2) **Where to submit.** The contractor shall submit drawings of the fire protection system to the fire code enforcement bureau of the SFM in compliance with 10.25.1 NMAC or to an AHJ as required by the AHJ. The SFM shall not accept drawings by facsimile transmission.

(3) **Requirements for drawings.** The drawings shall clearly indicate fire protection systems in sufficient detail to establish compliance with applicable codes and standards, and shall include the signature and seal of the licensed professional engineer in accordance with the New Mexico Engineering and Surveying Practice Act (found at Chapter 61, Article 23 NMSA 1978) that prepared the drawings. Drawings submitted shall comply with plans submittal information provided by the SFM on its website.

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

B. Third party review. The SFM or FM, as appropriate, in their sole discretion, may require third party review of drawings if specialized expertise or knowledge is needed, and shall so notify the contractor in writing with a cost estimate if so determined. If the contractor agrees to proceed with review, the contractor 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 SFM or FM, as appropriate, returns the drawings.

C. Return of drawings. If the SFM or FM, as appropriate, approves the drawings, the drawings shall be stamped "approved", with the SFM or FM, as appropriate, retaining one complete set of drawings or submittals. If the SFM or FM, as appropriate, rejects the drawings or submittals or does not approve the drawings, an explanation for the basis for rejection or non approval shall be given to the contractor. The contractor shall pick up approved drawings if prior arrangements have not been agreed to for return by mail.

D. Rejection. The SFM or FM, as appropriate, may reject fire protection system 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 submitted drawings are not in accordance with Title 16, Chapter 39 NMAC;
- (4) no certificate of fitness is on file with the SFM;
- (5) the drawings or submittals contain a misrepresentation or inaccuracy;
- (6) third party review of the drawings or submittals reveals a violation of these rules, applicable codes or standards;
- (7) all SFM or FM requirements have not been included in the submittals; or
- (8) any other valid reason as determined by the SFM.

E. Re-submission. If drawings are rejected, the contractor may correct the deficiencies noted in the rejection letter. New submittals shall be submitted by the same process for filing original drawings for review.

F. Construction.

(1) Construction may commence upon approval of plans and issuance of the proper permits.

(2) After installation of the fire protection system has been completed, a request for inspection shall be made to the FM. The request may be made orally or in writing to the FM or as otherwise required by the SFM.

G. Inspection and testing. The SFM or FM, as appropriate, will inspect the fire protection system of a building or structure within a reasonable period of time after a request for inspection. The SFM or FM, as appropriate, shall notify the AHJ of approval or rejection of drawings or of the fire protection system, and, if applicable, the AHJ may request a letter indicating the system is in compliance with approved plans and applicable codes and standards. The SFM or FM, as appropriate, shall not approve the installation if the inspection indicates:

- (1) a violation of this rule or applicable codes and standards;
- (2) the fire protection system was not installed in compliance with the drawings;
- (3) the fire protection system was not installed by a licensed entity and certified journeyman;
- (4) no valid certificate of fitness is on file with the SFM;
- (5) the final acceptance testing of each fire protection system is not recorded as complete; or
- (6) any other valid reason as determined by the SFM.

H. Re-inspection. If the FM does not approve the installation of the fire protection system 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, 10.25.5.18 NMAC, 11/26/2019]

10.25.5.19 CODE REQUIREMENTS FOR EXISTING BUILDINGS AND STRUCTURES: For purposes of this section, "constructed" shall mean that the contractor 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) Upon an inspection being conducted by the FM, an owner or contractor is not required to renovate or adapt an existing building or structure to comply with the currently-adopted NMFC, but shall comply with the requirements in place when the existing building or structure was constructed. See IFC, Section 104.

(2) Following the adoption of this provision, an existing structure or part of a structure that changes its occupancy classification, however done, must comply with the currently-adopted NMFC.

(3) Following the adoption of this provision, an existing fire protection system that is replaced, repaired, or altered by the FM, whose classification has not changed, shall comply with the currently-adopted NMFC. The system shall comply with the currently-adopted New Mexico Existing Building Code.

(4) Fire protection systems 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 the currently-adopted NMFC, section 105, for the installation of any new, altered, remodeled, repaired or partial fire protection system.

(5) Fire protection systems plans which were initially submitted to the AHJ for review under the currently-adopted NMFC as per the requirements for new construction under Subsection B of 10.25.2.19 NMAC will be inspected per the currently-adopted NMFC.

B. New construction. Any new building, new alteration, new addition, or new structure after the effective date of the adoption of the currently-adopted NMFC shall comply with the currently-adopted NMFC.

C. Variance. The SFM may grant a variance from any of the requirements of this subsection if the applicant demonstrates to the SFM'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 FM or AHJ determines that a nonconforming facility constitutes an immediate hazard to life or property, the FM or AHJ shall so notify the contractor or owner of the facility in writing, and shall permit the contractor a reasonable period of time to comply with current rules. If the contractor does not comply with the notification and its requirements within the time specified, the FM or AHJ may order the owner or contractor to take the facility out of service.

[10.25.5.19 NMAC - Rp, 10.25.5.19 NMAC, 11/26/2019]

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.

10.25.5 NMAC, Fire Prevention and Public Occupancy (filed 1/28/2019) repealed, effective 11/26/2019.

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.

10.25.5 NMAC, Fire Prevention and Public Occupancy (filed 1/28/2019) was replaced by 10.25.5 NMAC, Fire Prevention and Public Occupancy, effective 11/26/2019.