

Wyo. Stat. § 35-9-121

Current through the 2018 Budget Session. Subject to revisions by LSO.

§ 35-9-121. Local enforcement.

(a) The state fire marshal shall delegate complete authority to municipalities and counties which apply to enforce and interpret local or state fire, building, existing building standards or electrical safety standards which meet the requirements of this section. The state fire marshal shall notify the governing body of the municipality or county of the minimum standards and requirements of this act and W.S. 16-6-501 and 16-6-502 and transfer jurisdiction and authority by letter. Except as provided in W.S. 35-9-119(a)(i) and subsection (b) of this section, nothing in this section affects the authority of the state fire marshal or chief electrical inspector regarding state owned or leased buildings. Local enforcement authority under this subsection shall be subject to the following requirements and certification of inspectors:

(i) Before a municipality or county without local enforcement authority is initially granted local enforcement authority for fire, building, existing building standards or electrical standards the state fire marshal shall determine that the local governing body has adopted minimum standards by ordinance or resolution that are equivalent to or more stringent than those applicable standards adopted by the department;

(ii) If a municipality or county that has been granted local enforcement authority under this subsection fails to adopt, within six (6) months following the adoption of new standards by the department, or maintain standards by ordinance or resolution that at least meet the statewide standards, enforcement authority shall immediately revert to the department. It shall be the responsibility of the municipality or county to notify the department of the repeal of minimum standards in their jurisdiction;

(iii) If code enforcement authority for fire and building codes is requested, certification of a fire inspector or building inspector by the International Code Council or the International Conference of Building Officials is required for any inspector employed or contracted after July 1, 2010 to enforce those codes for the municipality or county;

(iv) If code enforcement authority for the electrical code is requested, certification of an electrical inspector by the International Code Council or the International Association of Electrical Inspectors and licensing by the state as a journeyman or master electrician is required;

(v) If a municipality or county that has been granted local enforcement authority under this subsection fails to maintain employment of an inspector holding any certification required by this subsection, enforcement authority shall revert to the department one hundred twenty (120) days after the last day the properly certified inspector has left the employment of the municipality or county. It shall be the responsibility of the municipality or county to notify the department upon the termination of employment of any certified inspector required by this subsection.

(b) Notwithstanding the provisions of subsection (a) of this section a local governmental entity is authorized to assume sole plan review authority, and, in accordance with W.S. 35-9-107(a)(iv), that entity has sole construction inspection authority on the approved plans and sole authority for periodic fire and life safety inspections on state owned or leased buildings. For the purpose of this section, school buildings shall be construed to be state buildings. If local code provisions are more stringent than adopted state codes, the local code prevails. The authority granted to local governmental entities under this subsection is subject to certification of local inspectors as follows:

(i) If sole plan review authority is requested, certification of a plan reviewer by the international conference of building officials or the International Code Council;

(ii) If code enforcement authority for fire and building codes is requested, certification of a fire inspector or building inspector by the International Code Council or the International Conference of Building Officials;

(iii) If code enforcement authority for the electrical code is requested, certification of an electrical inspector by the International Code Council or the International Association of Electrical Inspectors and licensing by the state as a master electrician.

(c) If a municipality or county has assumed enforcement authority for only one (1) or two (2) of the fire, building and electrical standards, the municipality or county shall deliver notice of any project plans submitted to the municipality or county for approval to the department. The notice of the project shall be delivered within ten (10) days of receiving plans from the applicant.

(d) A municipality or county which has enforcement authority under this section shall create its own appeals boards to determine the suitability of alternate materials and types of construction and to interpret and grant variances from adopted codes or standards. The boards shall be appointed and removed by the governing body of the municipality or county, but the person making the decision upon which the appeal is based shall not be a member of the appeal board.

(e) A decision rendered by the local municipal or county appeals board pursuant to subsection (d) of this section may be appealed to the council on fire prevention and electrical safety in buildings for a final decision. A decision of the council may be appealed to the appropriate district court.

(f) Any appeal to a local board under subsection (d) of this section or the council under subsection (e) of this section shall be heard within thirty (30) days of the request for appeal.

(g) Nothing in this section prohibits the state fire marshal from assisting, upon request, a municipality, county or other local governmental entity in exercising authority granted to that entity under this section.

History

Laws 1973, ch. 239, § 1; W.S. 1957, § 35-436.21; Laws 1983, ch. 97, § 1; 1993, ch. 190, § 1; 2003, ch. 49, § 2; 2005, ch. 69, § 1; 2008, ch. 4, § 1; 2010, ch. 84, § 2; 2015, ch. 158, § 1; 2017, ch. 164, § 1.

▼ Annotations

Notes

The 2005 amendment, effective April 1, 2005, in (a), added “which meet the requirements of this section” in the first sentence, and added the last sentence; including (a)(i) and (a)(ii); in (b), substituted “are more stringent than” for “conflict with” and “local” for “state”; added (c), redesignating former (c) and (d) as present (d) and (e).

The 2008 amendment, effective July 1, 2008, substituted “shall be construed” for “shall not be construed” in the second sentence of (b), and made a stylistic change.

The 2010 amendment, effective July 1, 2010, in the introductory language of (a), inserted “existing building standards” and “requirements and certification of inspectors”; inserted “existing building standards” in (a)(i);

substituted “department” for “council on fire prevention and electrical safety” in (a)(i) and (a)(ii); deleted “of fire prevention and electrical safety” at the end of the first sentence, and following “department” in the last sentence of (a)(ii); added (a)(iii) through (a)(v); deleted “of fire prevention and electrical safety” at the end of the first sentence of (c); in (d), substituted “section shall” for “section may” in the first sentence, inserted “but the person making the decision upon which the appeal is based shall not be a member of the appeal board” and deleted the former last sentence which read: “The council on fire prevention and electrical safety in buildings and the electrical board shall serve as appeals boards for a municipality or county that has not created an appeals board under this subsection.”; in (e), deleted “regarding state owned or leased buildings” following “of this section” in the first sentence and added the second sentence; and added (f).

The 2015 amendment, effective July 1, 2015, in (d), added “and to interpret and grant variances from adopted codes or standards” in the first sentence.

The 2017 amendment, effective July 1, 2017, in (a), added the beginning of the second to last sentence “Except as provided in W.S. 35-9-199(a)(i) and subsection (b) of this section”; in (b), near the beginning, substituted “sole” for “joint”, deleted “with the state fire marshal” following “review authority”, added “in accordance with W.S. 35-9-107(a)(iv)”; in (b)(i), substituted “sole” for “joint”; added (g); made a stylistic change; and made related changes.

Temporary provisions. —

Laws 2005, ch. 69, § 2 provides that those municipalities or counties that have been granted local enforcement authority under new subsection (c) prior to April 1, 2005, will be granted until October 1, 2005 to adopt by ordinance or resolution minimum fire, building or electrical standards that are equivalent to or more stringent than those standards adopted by the council on fire prevention and electrical safety.

Council authorized to hear variance appeals. —

Section 35-9-106(c), when read in conjunction with subsection (c) of this section, authorized the council to consider an oil company's request for a variance from a fire code regulation where the city did not establish its own appeal procedure to review decisions of the local fire chief. *V-1 Oil Co. v. City of Rock Springs*, 823 P.2d 1176, 1991 Wyo. LEXIS 200 (Wyo. 1991).

Research References & Practice Aids

Am. Jur. 2d, ALR and C.J.S. references. —

Municipal liability for negligent fire inspection and subsequent enforcement, 69 ALR4th 739.

State Notes

Research References & Practice Aids

Hierarchy Notes:

Wyo. Stat. Title 35

Wyo. Stat. Title 35, Ch. 9

Wyo. Stat. Title 35, Ch. 9, Art. 1

Wyoming Statutes Annotated

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