

# CONSOLIDATION OF FIRE SAFETY ACT

R.S.N.W.T. 1988,c.F-6

(Current to: March 11, 2019)

## AS AMENDED BY NORTHWEST TERRITORIES STATUTES:

S.N.W.T. 1995,c.11

## AS AMENDED BY NUNAVUT STATUTES:

S.Nu. 2006,c.8

In force June 15, 2006

S.Nu. 2012,c.15,s.35 (as amended by S.Nu. 2017,c.7,s.10)

s.35 in force September 1, 2018: SI-003-2018

S.Nu. 2017,c.7

In force March 14, 2017 except:

ss.3,4(f),5,9(1)(a),(2),14 NIF

ss.4(b),(c),(d),6-8,9(1)(b),(c),(d), (3) in force September 1, 2018

ss.11,12: in force 6 months after s.5 of S.Nu. 2017,c.7 comes into force

**Note: see s.14 of S.Nu. 2017,c.7 for the transitional provision (NIF).**

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## GLOSSARY OF TERMS USED IN CONSOLIDATIONS

### *Miscellaneous*

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

### *Citation of Acts*

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the Revised Statutes of the Northwest Territories, 1988.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

## TABLE OF CONTENTS

### INTERPRETATION

Definitions	1	
Definitions	1	<b>NIF</b>

### GOVERNMENT OF NUNAVUT

Government bound by Act	1.1	
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### FIRE MARSHAL, ASSISTANT FIRE MARSHALS AND LOCAL ASSISTANTS

Appointment of Fire Marshal and Assistant Fire Marshals	2	(1)
Jurisdiction		(2)
Duties and powers of Fire Marshal		(3)
Duties and powers of Assistant Fire Marshal		(4)
Delegation by Fire Marshal		(5)
Duties of Fire Marshal	3	(1)
Powers with respect to municipalities		(2)
Powers with respect to municipalities		(2) <b>NIF</b>
Repealed	4	
<i>Ex officio</i> local assistants	5	(1)
Notification to Fire Marshal		(2)
Appointment of additional local assistants		(3)
Appointment of local assistants outside municipality		(4)
Jurisdiction		(5)
R.C.M.P.		(6)
Fire protection plan	5.01	(1) <b>NIF</b>
Purpose, contents and approval		(2) <b>NIF</b>
Submission for approval		(3) <b>NIF</b>
Approval and mandate		(4) <b>NIF</b>
Fire protection plan made by Fire Marshal		(5) <b>NIF</b>
Not exceeding requirements		(6) <b>NIF</b>
Implementation		(7) <b>NIF</b>
<i>Statutory Instruments Act</i>		(8) <b>NIF</b>
Public access to fire protection plan		(9) <b>NIF</b>
Repealed	5.1	

### INVESTIGATIONS, INQUIRIES AND REPORTING OF FIRES

Investigation by local assistant	5.2	(1)
Securing scene		(2)
Written statement		(3)

Report of fatality or injury	5.3	
Investigation by Assistant Fire Marshal	5.4	(1)
Investigation report		(2)
Power to enter	6	(1)
Powers during investigation		(2)
Return of property		(3)
Copy of document		(4)
Repealed	7	
Inquiries	8	(1)
Witnesses and production of documents		(2)
Hearing		(3)
Adjournment		(4)
Repealed	9	
Insurer's report	10	(1)
When report to be provided		(2)
Insurance adjuster's report		(3)
Insurance adjuster's preliminary report		(4)
<i>Idem</i>		(5)

#### INSPECTIONS

Inspection of structure, premises and property	11	(1)
Entry to adjoining structure, premises and property		(2)
Time of entry		(3)
Entry to private dwelling		(4)
Powers during inspection		(5)
Return of thing removed		(6)
Document removed		(7)
Inspection report		(8)
Electrical installations	11.1	
Unsafe condition	11.1.1	

#### WARRANTS

Warrant authorizing entry	11.2	(1)
Application without notice		(2)
Execution		(3)
Expiration and extension		(4)
Use of force		(5)
Assistance		(6)
Identification		(7)

#### HAZARDS AND ORDERS

Immediate protection order	11.3	
Immediate threat to persons or property	11.4	(1)

Notice to owner		(2)
Notice to be posted		(3)
Contents of notice		(4)
Use of force and assistance		(5)
Order of Fire Marshal	12	(1)
Closure order		(2)
Dangerous appliance		(3)
Content of order		(4)
Service of order		(5)
Repealed	13	
Repealed	14	
Review and reconsideration of orders		
Review of orders by Assistant Fire Marshal or local assistant	14	(1)
Reconsideration of orders by Fire Marshal		(2)
Contents of notice or application		(3)
Process		(4)
No stay		(5)
Extrinsic evidence		(6)
Decision		(7)
Copy to applicant		(8)
Notice of right to apply		(9)
Application to Advisory Committee	14.1	(1)
Exception		(2)
Destruction of article		(3)
Procedure		(4)
Appeal	15	
Failure to comply with order in municipality	16	(1)
Failure to comply with order outside municipality		(1.1)
Recovering cost of work		(2)
Application for carrying out of work		(3)
Application to carry out order	17	
MISCELLANEOUS		
Exclusion of liability	17.1	
Fire safety plan	17.2	
Annual report	17.3	(1)
Tabling of annual report		(2)
Exits of public buildings	18	(1)
Liability for contravention		(2)

## OFFENCES AND PUNISHMENT

Offence and punishment	19	
Obstruction	20	
False or misleading information	20.1	
Interference with device or safeguard	20.2	
General offence and punishment	20.3	
Corporate penalty	20.4	(1)
Liability of officers, directors and agents		(2)
Failure to comply with order	21	
Search and seizure	22	(1)
Application without notice		(2)
Powers under warrant		(3)
Exigent circumstances		(4)
Execution		(5)
Expiration and extension		(6)
Use of force		(7)
Assistance		(8)
Identification		(9)

## REGULATIONS

Regulations	23	(1)
Regulations	23	(1) <b>NIF</b>
Adoption by reference		(1.1) <b>NIF</b>
Adoption of National Fire Code of Canada		(2)
Code amendments		(2.1)
Repealed		(3)
Repealed		(4)

**FIRE SAFETY ACT**

## INTERPRETATION

## Definitions

**1.** In this Act,

"Advisory Committee" means the Nunavut Building Advisory Committee established under the *Building Code Act*; (*comité consultatif*)

"Assistant Fire Marshal" means an Assistant Fire Marshal appointed under subsection 2(1); (*commissaire adjoint aux incendies*)

"code" means the National Fire Code of Canada as adopted in the regulations pursuant to subsection 23(2); (*code*)

"Court" means the Nunavut Court of Justice; (*Cour*)

"fire" includes an explosion or other incident caused by or related to fire; (*incendie*)

"Fire Marshal" means the Fire Marshal appointed under subsection 2(1); (*commissaire aux incendies*)

"local assistant" means a person

- (a) who, by virtue of his or her office, is a local assistant to the Fire Marshal under subsection 5(1), or
- (b) appointed as a local assistant to the Fire Marshal under subsection 5(3) or (4); (*représentant local*)

"National Fire Code of Canada" means the National Fire Code issued by the National Research Council; (*Code nationale de prévention des incendies du Canada*)

"property" includes real and personal property whether movable or immovable; (*biens*)

"structure" means any building, plant, machinery, equipment, storage tank, storage place or fixture of any kind erected or placed on, in, over or under any area of land or water; (*structure*)

"substantial alteration" means any change to a structure, premises or property that increases or decreases the floor area of an occupancy or that affects any of the following:

- (a) a major occupancy classification,
- (b) an exit or entrance in or of a structure, premises or property, including means of egress, and travel distance to an exit,
- (c) a fire alarm system,
- (d) a system for the prevention or suppression of fire. (*transformation importante*)

S.Nu. 2006,c.8,s.2; S.Nu. 2012,c.15,s.35(2); S.Nu. 2017,c.7,s.2.

**Note:** On a day to be fixed by order of the Commissioner, section 1 is amended by adding the following definition in alphabetical order:

"fire protection plan" means a fire protection plan made in accordance with section 5.01; (*plan de protection contre les incendies*)

See S.Nu. 2017,c.7,s.3.

## GOVERNMENT OF NUNAVUT

Government bound by Act

**1.1.** This Act binds the Government of Nunavut. S.Nu. 2006,c.8,s.2.1.

### FIRE MARSHAL, ASSISTANT FIRE MARSHALS AND LOCAL ASSISTANTS

Appointment of Fire Marshal and Assistant Fire Marshals

**2.** (1) The Minister may appoint a Fire Marshal and one or more Assistant Fire Marshals.

Jurisdiction

(2) The Fire Marshal and an Assistant Fire Marshal have jurisdiction throughout Nunavut.

Duties and powers of Fire Marshal

(3) The Fire Marshal

- (a) shall perform the duties imposed and may exercise the powers conferred on the Fire Marshal by this Act and the regulations; and
- (b) may perform the duties imposed and exercise the powers conferred on the Assistant Fire Marshal by this Act and the regulations.

Duties and powers of Assistant Fire Marshal

(4) An Assistant Fire Marshal shall perform the duties imposed and may exercise the powers conferred on an Assistant Fire Marshal by this Act and the regulations.

Delegation by Fire Marshal

(5) The Fire Marshal may delegate, in writing, to an Assistant Fire Marshal or local assistant any of the duties imposed or powers conferred on the Fire Marshal except the power

- (a) to appoint a local assistant under subsection 5(3) or (4);
- (b) to designate a person to conduct an inquiry under subsection 8(1);
- (c) to make an order under subsection 12(1) or (2) or paragraph 12(3)(b);
- (d) to authorize a municipality to carry out work under subsection 16(1); or



- (e) to make an application to the Court under section 17.  
S.Nu. 2006,c.8,s.3.

#### Duties of Fire Marshal

- 3.** (1) The Fire Marshal shall
- (a) keep a record of fires reported to the Fire Marshal;
  - (b) investigate and hold inquiries respecting the cause, origin and circumstances of fires;
  - (c) from time to time inspect any structure, premises or property with a view to determining whether precautions against fire and the spread of fire and the means of exit in case of fire or the alarm of fire are adequate and satisfactorily maintained, and with a view to directing alterations or additions to be made and precautions to be taken that the Fire Marshal considers necessary for the safeguarding of persons and property;
  - (d) **repealed, S.Nu. 2017,c.7,s.4(b);**
  - (d.1) **repealed, S.Nu. 2017,c.7,s.4(b);**
  - (e) **repealed, S.Nu. 2006,c.8,s.4(5);**
  - (f) advise and make recommendations to the Minister with respect to
    - (i) the establishment of fire departments, the necessary organization and equipment of fire departments and the establishment of training programs for fire-fighters,
    - (ii) the provision of adequate water supply for fire-fighting purposes,
    - (iii) the installation and maintenance of fire extinguishing equipment,
    - (iv) the storage, use, sale or disposal of combustibles, explosives or other flammable material,
    - (v) the provision of exit facilities in the event of fire or the alarm of fire,
    - (vi) the types and adequacy of fire-alarms in communities,
    - (vii) precautions to be taken for the purpose of fire prevention or protection against fire in the construction or substantial alteration of or addition to any structure, premises or property,
    - (viii) assessing fire hazards, and
    - (ix) the enactment and enforcement by municipalities of by-laws for the prevention and suppression of fire and the safeguarding of persons and property in the event of fire or the alarm of fire;
  - (g) disseminate information and advice as to fire prevention and protection against fire by means of public meetings or public education; and
  - (h) perform any other related duties that the Minister may from time to time request.

## Powers with respect to municipalities

## (2) The Fire Marshal may

- (a) provide municipalities with advice and guidance on matters related to fire prevention and fire protection;
- (b) provide municipalities with training related to fire prevention and fire protection;
- (c) supply municipalities with equipment and materials related to fire prevention and fire protection or provide municipalities with funding for that purpose;
- (d) maintain, or provide funding for maintaining, municipal equipment and buildings related to fire prevention and fire protection;
- (e) provide municipalities with any other funding or resources the Fire Marshal considers advisable to support fire prevention and fire protection services and activities;
- (f) enter into agreements with municipalities on any matter referred to in paragraphs (a) to (e).

S.N.W.T. 1995,c.11,s.22; S.Nu. 2006,c.8,s.4;

S.Nu. 2017,c.7,s.4(a)-(e).

**Note:** On a day to be fixed by order of the Commissioner, section 3 is amended in paragraph (2)(a) by adding ", including their fire protection plan" **after** "fire protection".

See S.Nu. 2017,c.7,s.4(f).

#### 4. Repealed, S.Nu. 2006,c.8,s.5.

##### *Ex officio* local assistants

5. (1) The following municipal officials or employees are, by virtue of their offices, local assistants to the Fire Marshal and, subject to the direction of the Fire Marshal, shall perform the duties imposed and may exercise the powers conferred on a local assistant by this Act and the regulations:

- (a) in a municipality in which a fire department is established, the chief or acting chief of the fire department of the municipality;
- (b) in a municipality in which no fire department is established, the senior administrative officer appointed under the *Cities, Towns and Villages Act* or the *Hamlets Act*.

##### Notification to Fire Marshal

(2) The appropriate municipal council shall immediately notify the Fire Marshal of the full name, address and occupation of any person who, by virtue of his or her office, is or becomes a local assistant.

#### Appointment of additional local assistants

(3) The Fire Marshal may, with the approval of the municipal council, appoint one or more municipal employees with appropriate training or experience as a local assistant to the Fire Marshal, who, subject to the direction of the Fire Marshal, shall perform the duties imposed and may exercise the powers conferred on a local assistant by this Act or the regulations.

#### Appointment of local assistants outside municipality

(4) In an area outside a municipality, the Fire Marshal may appoint one or more local assistants to the Fire Marshal, who, subject to the direction of the Fire Marshal, shall perform the duties imposed and may exercise the powers conferred on a local assistant in this Act or the regulations.

#### Jurisdiction

(5) A local assistant has jurisdiction

- (a) where an *ex officio* local assistant under subsection (1), within the municipality;
- (b) where appointed under subsection (3), within the municipality; or
- (c) where appointed under subsection (4), within the area set out in the appointment.

#### R.C.M.P.

(6) A member of the Royal Canadian Mounted Police while on duty in Nunavut has all the powers of a local assistant to the Fire Marshal under this Act and the regulations. S.Nu. 2006,c.8,s.6.

**Note:** On a day to be fixed by order of the Commissioner, the following is added after section 5:

#### Fire protection plan

**5.01.** (1) Every municipality shall make and maintain a fire protection plan for the municipality in accordance with the regulations.

#### Purpose, contents and approval

(2) A fire protection plan must

- (a) provide for adequate fire protection within the municipality;
- (b) comply with the regulations; and
- (c) be approved by a resolution of the council of the municipality.

#### Submission for approval

(3) Where a municipality makes or amends a fire protection plan, or is, under the regulations, required to seek re-approval for an existing fire protection plan, the municipality shall submit the plan to the Fire Marshal for approval.

**Approval and mandate**

- (4) If the Fire Marshal is satisfied that a fire protection plan submitted under subsection (3) complies with the requirements of subsection (2), the Fire Marshal shall
- (a) approve the fire protection plan; and
  - (b) subject to subsection (6), make mandatory
    - (i) the entire fire protection plan, or
    - (ii) any part of the fire protection plan that complies with the requirements of subsection (2), as specified by him or her.

**Fire protection plan made by Fire Marshal**

- (5) Subject to subsection (6), if a municipality does not submit a fire protection plan to the Fire Marshal under subsection (3), or the Fire Marshal is not satisfied that a fire protection plan submitted by a municipality under subsection (3) complies with the requirements of subsection (2), the Fire Marshal shall
- (a) make a fire protection plan for the municipality that complies with the requirements of paragraphs (2)(a) and (b); and
  - (b) make the fire protection plan mandatory.

**Not exceeding requirements**

- (6) The Fire Marshal may not make a fire protection plan, or make mandatory any part of a fire protection plan, that exceeds the requirements of paragraphs (2)(a) or (b).

**Implementation**

- (7) A municipality, with respect to a fire protection plan approved for it under subsection (4) or made for it under subsection (5),
- (a) shall implement the mandatory part of a fire protection plan; and
  - (b) may implement the non-mandatory part, if any, of the fire protection plan.

***Statutory Instruments Act***

- (8) The *Statutory Instruments Act* does not apply to a fire protection plan.

**Public access to fire protection plan**

- (9) A municipality shall make available a copy of a municipality's fire protection plan for inspection by members of the public at the offices of the municipality during regular business hours.

*See S.Nu. 2017,c.7,s.5.*

**5.1. Repealed, S.Nu. 2012,c.15,s.35(4).**

## INVESTIGATIONS, INQUIRIES AND REPORTING OF FIRES

### Investigation by local assistant

**5.2.** (1) A local assistant shall investigate or cause to be investigated, in a general way, the cause, origin and circumstances of every fire occurring within his or her jurisdiction.

### Securing scene

(2) Where a local assistant has reason to believe that a fire has been caused deliberately, the local assistant shall immediately secure the scene and notify the Fire Marshal of his or her belief.

### Written statement

(3) A local assistant shall, immediately after completing an investigation under subsection (1), provide the Fire Marshal with a written statement of all the facts that can be ascertained relating to the cause, origin and circumstances of the fire, and any further information that may be required by the Fire Marshal. S.Nu. 2006,c.8,s.7,8.

### Report of fatality or injury

**5.3.** A local assistant shall

- (a) immediately report to the Fire Marshal any fatality caused by a fire; and
  - (b) report to the Fire Marshal any injury caused by a fire within 24 hours after its occurrence.
- S.Nu. 2006,c.8,s.8.

### Investigation by Assistant Fire Marshal

**5.4.** (1) In addition to an investigation made by a local assistant under section 5.2, an Assistant Fire Marshal may investigate the cause, origin and circumstances of any fire.

### Investigation report

(2) An Assistant Fire Marshal shall, within a reasonable time after completing an investigation under subsection (1), provide the Fire Marshal with a written report of the results of the investigation. S.Nu. 2006,c.8,s.8.

### Power to enter

**6.** (1) An Assistant Fire Marshal or local assistant, in investigating a fire, may enter in or on and examine any structure, premises or property in which a fire is occurring or has occurred and any adjoining or proximate structure, premises or property.

### Powers during investigation

(2) In the course of an investigation into a fire, an Assistant Fire Marshal or local assistant may

- (a) have any person assist him or her in the course of the investigation;
- (b) take with him or her any thing that he or she considers would be of assistance in the investigation;

- (c) close the structure, premises or property in which the fire is occurring or has occurred and prohibit any person, except a peace officer in the execution of his or her duties, from entering or remaining in the structure, premises or property until the investigation is complete;
- (d) perform or cause to be performed on the structure, premises or property under investigation or any thing in it any test that he or she considers necessary to determine the cause, origin and circumstances of the fire; and
- (e) remove and retain as evidence any thing that is in the structure, premises or property under investigation.

#### Return of property

(3) Where any thing is removed under paragraph (2)(e), the person who removed the thing shall return it to the person entitled to it as soon as possible after the investigation is completed, unless

- (a) the thing is required as evidence in a prosecution arising out of the investigation; or
- (b) it is impossible or impractical to return the thing.

#### Copy of document

(4) Where a document is removed under paragraph (2)(e) and the state of the document permits a copy to be made of it, the person removing the document shall ensure that a copy of the document is given to the owner or occupant of the structure or premises within five days after the removal. S.Nu. 2006,c.8,s.9.

### **7. Repealed, S.Nu. 2006,c.8,s.10.**

#### Inquiries

**8.** (1) The Fire Marshal, an Assistant Fire Marshal or any person designated by the Fire Marshal with the approval of the Minister may conduct an inquiry into the cause, origin and circumstances of any fire that caused an injury or fatality or destroyed or damaged property.

#### Witnesses and production of documents

(2) The person conducting the inquiry may summon witnesses to appear before him or her, and may require the witnesses to give evidence on oath, or, in the case of persons entitled to affirm in civil matters, on solemn affirmation, and to produce those documents and things that he or she considers necessary to the full investigation of the matter under inquiry.

#### Hearing

(3) An inquiry may, in the discretion of the person conducting it, be conducted in private, and persons other than those required to be present under this Act may be excluded.

### Adjournment

(4) The person conducting the inquiry may, for the purpose of obtaining further evidence, adjourn the inquiry from time to time, but no adjournment shall be for more than 30 days. S.Nu. 2006,c.8,s.11.

### **9. Repealed, S.Nu. 2006,c.8,s.12.**

### Insurer's report

**10.** (1) Every fire insurance company carrying on business in Nunavut shall provide the Fire Marshal with a monthly report of every claim made under a fire insurance policy issued by it, setting out the prescribed information.

### When report to be provided

(2) A report referred to in subsection (1) shall be provided within 15 days after the end of the month in which the fire occurs and if complete information is not then available, an interim report shall be provided.

### Insurance adjuster's report

(3) Every person adjusting a claim against an insurer in respect of a loss by fire of property in Nunavut, whether that person represents the insurer or the insured, shall provide the Fire Marshal with a report setting out the prescribed information.

### Insurance adjuster's preliminary report

(4) Where an insurance adjuster adjusting a claim in respect of a loss by fire of property in Nunavut has reason to believe that the fire has been caused deliberately, the insurance adjuster shall, within 48 hours after forming that belief, provide the Fire Marshal with a preliminary report setting out the prescribed information.

### *Idem*

(5) The report referred to in subsection (4) shall be in addition to, and not in place of, any other report required by this Act. S.Nu. 2006,c.8,s.13.

## INSPECTIONS

### Inspection of structure, premises and property

**11.** (1) An Assistant Fire Marshal may, on the complaint of any interested person, or without a complaint where the Assistant Fire Marshal considers it necessary, enter in or on and inspect any structure, premises or property for the purposes of assessing fire safety.

### Entry to adjoining structure, premises and property

(2) An Assistant Fire Marshal may enter in or on an adjoining structure, premises or property if the entry is necessary for the purposes of conducting an inspection.

#### Time of entry

(3) The power of an Assistant Fire Marshal to enter and inspect a structure, premises or property must be exercised at a reasonable time.

#### Entry to private dwelling

(4) An Assistant Fire Marshal shall not enter in or on any structure or premises that is a private dwelling without the consent of the owner or occupant or a warrant issued under subsection 11.2(1).

#### Powers during inspection

- (5) In the course of an inspection, an Assistant Fire Marshal may
- (a) have any person assist him or her in the course of the inspection;
  - (b) take with him or her any thing that the Assistant Fire Marshal considers would be of assistance in the course of the inspection;
  - (c) close the structure, premises or property and prohibit any person from entering or remaining in the structure, premises or property until the inspection is complete;
  - (d) perform or cause to be performed on the structure, premises or property or any thing in it any test that he or she considers relevant to the inspection;
  - (e) remove for review and retain as evidence any thing or document that is in the structure, premises or property under inspection;
  - (f) require any person present to do any action or refrain from doing any action that is reasonable in the circumstances to assist the inspection;
  - (g) require any machinery, equipment or device to be operated, used or set in motion;
  - (h) demand the production for inspection of any thing or document that is relevant to the inspection; and
  - (i) question any person on any matter relevant to the inspection.

#### Return of thing removed

(6) Where any thing is removed in the course of an inspection, the person who removed the thing shall return it to the person entitled to it within a reasonable time after the inspection is completed, unless

- (a) the thing is required as evidence in a prosecution arising out of the inspection; or
- (b) it is impossible or impractical to return the thing.

#### Document removed

(7) Where any document is removed in the course of an inspection, the person who removed the document shall return the document or a copy of it to the person entitled to it within a reasonable time after the inspection is completed unless

- (a) the document is required as evidence in a prosecution arising out of the inspection; and
- (b) the state of the document does not permit a copy to be made of it.



### Inspection report

(8) An Assistant Fire Marshal shall provide the Fire Marshal with a written report within a reasonable time after completing the inspection. S.Nu. 2006,c.8,s.14.

### Electrical installations

**11.1.** Where an Assistant Fire Marshal conducting an inspection under section 11 is of the opinion that an electrical installation in a structure or premises creates or poses a risk of fire, the Assistant Fire Marshal shall report the risk to the Chief Inspector appointed under the *Electrical Protection Act* or, on the coming into force of the *Technical Standards and Safety Act*, the chief inspector responsible for electrical protection appointed under that Act. S.Nu. 2006,c.8,s.14.

### Unsafe condition

**11.1.1.** Where an Assistant Fire Marshal conducting an inspection under section 11 is of the opinion that a structure or premises is in an unsafe condition or poses a danger to the safety of the occupants or the public, the Assistant Fire Marshal shall report the risk to the chief building official appointed under the *Building Code Act*, if the unsafe condition or danger is not related to fire safety. S.Nu. 2012,c.15,s.35(5).

## WARRANTS

### Warrant authorizing entry

**11.2.** (1) A justice of the peace or judge may issue a warrant authorizing the person named in the warrant to enter in or on and inspect a private dwelling and exercise any of the powers referred to in subsection 11(5) if the justice of the peace or judge is satisfied by information on oath that there are reasonable grounds to believe that

- (a) the entry is justified for the purposes of assessing fire safety; and
- (b) an Assistant Fire Marshal
  - (i) has been or will be denied entry to the private dwelling, or
  - (ii) has been or will be obstructed in exercising any of the powers referred to in subsection 11(5).

### Application without notice

(2) A warrant may be issued, with or without conditions, on an *ex parte* application by the Fire Marshal, an Assistant Fire Marshal or a local assistant.

### Execution

(3) A warrant must be executed at a reasonable time, or as specified in the warrant.

### Expiration and extension

(4) A warrant must state the date on which it expires, and a justice of the peace or judge may extend the date on which the warrant expires for such additional periods as the justice of the peace or judge considers necessary.

#### Use of force

(5) A person named in a warrant may use such force as is reasonable and necessary to make the entry and exercise any power specified in the warrant.

#### Assistance

(6) A person named in a warrant may call on any other person he or she considers necessary to execute the warrant.

#### Identification

(7) On the request of an owner or occupant of the private dwelling, a person executing a warrant shall identify himself or herself and explain the purpose of the entry. S.Nu. 2006,c.8,s.14.

## HAZARDS AND ORDERS

#### Immediate protection order

**11.3.** Where an Assistant Fire Marshal is of the opinion that it is necessary for the immediate protection of persons or property, the Assistant Fire Marshal may order a structure, premises or property to be immediately closed and vacated, and shall specify the period, not to exceed 24 hours, that the structure, premises or property shall remain closed and vacated. S.Nu. 2006,c.8,s.14.

#### Immediate threat to persons or property

**11.4.** (1) Where an Assistant Fire Marshal has reasonable grounds to believe that a risk of fire poses an immediate threat to persons or property, the Assistant Fire Marshal may, without a warrant, enter in or on any structure, premises or property and do any or all of the following for the purpose of removing or reducing the threat:

- (a) remove and dispose of any flammable, combustible or explosive material;
- (b) eliminate or seal an ignition source;
- (c) install a temporary safeguard, including a fire extinguisher and smoke alarm;
- (d) make minor repairs to an existing fire safety system;
- (e) post a fire watch;
- (f) any other thing that the Assistant Fire Marshal considers is urgently required to remove or reduce the threat to persons or property.

#### Notice to owner

(2) An Assistant Fire Marshal shall without delay provide notice to the owner, his or her agent or occupant of the exercise of any power under subsection (1) if the whereabouts in Nunavut of the owner, his or her agent or occupant are known to the Assistant Fire Marshal.

#### Notice to be posted

(3) An Assistant Fire Marshal shall post a copy of the notice in or on the structure, premises or property.

#### Contents of notice

- (4) The notice referred to subsections (2) and (3) must set out
- (a) the location of the structure, premises or property;
  - (b) the reason for the entry; and
  - (c) any action taken under subsection (1) to remove or reduce the threat.

#### Use of force and assistance

(5) An Assistant Fire Marshal who enters a structure, premises or property under subsection (1) may use such force as is reasonable and necessary to make the entry, and may call on any other person for assistance as is necessary. S.Nu. 2006,c.8,s.14.

#### Order of Fire Marshal

**12.** (1) The Fire Marshal may, in writing, order the owner, his or her agent or the occupant of a structure, premises or property to do any or all of the following:

- (a) take any measure necessary to ensure fire safety in the structure, premises or property;
- (b) repair, remove, destroy or demolish a structure, premises or property that is
  - (i) especially susceptible to fire because of age, dilapidated condition, lack of proper repair or any other reason, and
  - (ii) so situated as to endanger other structures, premises or property;
- (c) repair, remove, destroy or demolish a structure, premises or property that is dangerous to persons or property because of a fire that is occurring or has occurred;
- (d) alter the use or occupancy of a structure, premises or property if the structure, premises or property is being used or occupied in a manner that any fire occurring in the structure, premises or property would be likely to cause the structure, premises or property to become a hazard to persons or property;
- (e) remove any flammable, combustible or explosive material stored in or on a structure, premises or property in a manner that is dangerous to persons or property;
- (f) install and use any equipment or device to contain hazardous material in or on the structure, premises or property;
- (g) remedy any hazardous condition in or on the structure, premises or property;
- (h) install and use, where required by the code,
  - (i) smoke detectors or other devices for detection of fire,
  - (ii) fire-alarms or other devices for the alarm of fire,

- (iii) fire extinguishers or other devices for the suppression of fire,
- (iv) a sprinkler system or other systems for the suppression of fire,
- (v) fire doors or other safeguards for the containment of fire, or
- (vi) exit signs, exit doors, emergency lighting systems, notices describing means of exit or other safeguards for the safe evacuation of the structure or premises in case of fire or an alarm of fire;
- (i) prepare a fire safety plan and post it at a location the Fire Marshal directs;
- (j) stop work on the construction, alteration or repair of a structure, premises or property because of a failure to comply with a code;
- (k) remedy a breach of a code.

#### Closure order

(2) Where the Fire Marshal makes an order under subsection (1), the Fire Marshal may, in writing, order the structure, premises or property to be closed and vacated, and the structure, premises or property shall remain closed and vacant until the Fire Marshal is satisfied that the order under subsection (1) has been complied with.

#### Dangerous appliance

(3) Where an appliance, apparatus or place used or intended to be used for supplying fire or heat is likely to be dangerous to persons or property, the Fire Marshal may

- (a) seal the appliance, apparatus or place; and
- (b) order, in writing, the owner, his or her agent or the occupant of the structure, premises or property in which the appliance, apparatus or place is located
  - (i) to remedy any condition which renders the appliance, apparatus or place dangerous, and
  - (ii) to not use or light, or allow to be used or lighted, the appliance, apparatus or place until the dangerous condition has been remedied to the satisfaction of the Fire Marshal.

#### Content of order

- (4) An order made under subsection (1) or (2) or paragraph (3)(b) must set out
- (a) the location of the structure, premises or property;
  - (b) the reasons for the order;
  - (c) an explanation of the work to be carried out or the action required to be taken;
  - (d) the period of time within which the order must be complied with; and
  - (e) the right to review or reconsideration by the Fire Marshal under section 14.

#### Service of order

(5) A copy of an order made under subsection (1) or (2) or paragraph (3)(b) must be served on the owner, his or her agent and any occupant of the structure, premises or property. S.Nu. 2006,c.8,s.15; S.Nu. 2017,c.7,s.6.

**13. Repealed, S.Nu. 2006,c.8,s.15.**

**14. Repealed, S.Nu. 2006,c.8,s.15.**

#### Review and reconsideration of orders

##### Review of orders by Assistant Fire Marshal or local assistant

**14.** (1) A person who is subject to a decision or order made under this Act by an Assistant Fire Marshal or a local assistant may apply to have the decision or order reviewed by the Fire Marshal by filing an application within seven days after the day on which the decision or order is served on the person.

##### Reconsideration of orders by Fire Marshal

(2) A person who is subject to a decision or order made under this Act by the Fire Marshal, other than one confirmed or varied under this section, may apply to the Fire Marshal for reconsideration of the decision or order by filing a written application for reconsideration within seven days after the day on which the decision or order is served on the person.

##### Contents of notice or application

- (3) The application for review or reconsideration must set out
- (a) the reasons for the application;
  - (b) a summary of any facts relevant to the application;
  - (c) whether the decision or order should be revoked or what changes should be made to it; and
  - (d) the contact information of the applicant.

##### Process

(4) The Fire Marshal shall consider the application, including any oral or written evidence submitted by the applicant or available to the Fire Marshal to support or repudiate any allegation contained in the application.

##### No stay

(5) Unless otherwise ordered by the Fire Marshal, an application for review or reconsideration does not operate as a stay of the decision or order being reviewed or reconsidered.

##### Extrinsic evidence

(6) If the Fire Marshal intends to rely on evidence other than that submitted by the applicant in considering an application, the Fire Marshal shall provide that evidence to the applicant and allow the applicant to respond with further evidence.

### Decision

(7) The Fire Marshal shall, within 10 days after receiving the application for reconsideration, make a decision whether to confirm, vary or rescind the decision or order.

### Copy to applicant

(8) The Fire Marshal shall provide the applicant, and any other affected party, with a written copy of the decision made under subsection (7), with reasons, as soon as practicable.

### Notice of right to apply

(9) In providing a decision under subsection (8), the Fire Marshal shall provide notice of the right to apply to the Advisory Committee for a ruling under section 14.1. S.Nu. 2006,c.8,s.16; S.Nu. 2017,c.7,s.7.

### Application to Advisory Committee

**14.1.** (1) Subject to subsection (2), a person aggrieved by the decision of the Fire Marshal made under section 14 may apply to the Advisory Committee for a ruling on any of the following grounds:

- (a) an interpretation of the technical requirements of the code or the sufficiency of compliance with those requirements;
- (b) a decision respecting an order made pursuant to subsection 12(1) or (2) or paragraph 12(3)(b).

### Exception

(2) For greater certainty, an application may not be made under subsection (1) where the decision relates to an order made under section 11.3.

### Destruction of article

(3) If an application or appeal relates to the destruction of an article, neither the appellant nor the respondent shall dispose of the article pending the application or appeal.

### Procedure

(4) The relevant procedure under the *Building Code Act* applies to applications and rulings under this section. S.Nu. 2017,c.7,s.7.

### Appeal

**15.** The ruling of the Advisory Committee may be appealed to the Nunavut Court of Justice in the manner set out in section 19 of the *Building Code Act*. S.Nu. 2006,c.8,s.16; S.Nu. 2017,c.7,s.7.

### Failure to comply with order in municipality

**16.** (1) The Fire Marshal may authorize a municipal council to take any steps necessary to carry out the work required by an order made by the Fire Marshal under

subsection 12(1) or paragraph 12(3)(b) if the owner or his or her agent or the occupant fails to comply

- (a) with the order within the period specified in the order; or
- (b) with an order of the Court within five days after the order is made if an appeal is taken under section 15.

Failure to comply with order outside municipality

(1.1) The Fire Marshal may, where the structure, premises or property is located outside a municipality, carry out or cause to be carried out the work required by an order made by the Fire Marshal under subsection 12(1) or paragraph 12(3)(b) if the owner or his or her agent or the occupant fails to comply

- (a) with the order within the period specified in the order; or
- (b) with an order of the Court within five days after the order is made if an appeal is taken under section 15.

Recovering cost of work

(2) The amounts expended in performance of work authorized under subsection (1) may be recovered from the owner or occupant of the property in the same manner as taxes may be recovered and every such amount shall without delay be added to and form part of the taxes on the property on which the work was done, but in any year the amount so charged shall not exceed 5% of the assessed value of the property described in the order.

Application for carrying out of work

(3) Where a municipal council authorized under subsection (1) to carry out work is unable to carry it out, the municipal council may request the Government of Nunavut to undertake, or arrange for and pay the costs of, the carrying out of the work.  
S.Nu. 2006,c.8,s.17.

Application to carry out order

**17.** The Fire Marshal may apply *ex parte* to the Court for authorization to enter in or on a structure, premises or property to carry out an order made under subsection 12(1) or paragraph 12(3)(b) where

- (a) after reasonable inquiries, the whereabouts in Nunavut of the owner or agent of the owner, if any, is unknown to the Fire Marshal; or
- (b) there is no occupant or, after reasonable inquiries, the whereabouts in Nunavut of the occupant are unknown to the Fire Marshal.  
S.Nu. 2006,c.8,s.18.

## MISCELLANEOUS

## Exclusion of liability

**17.1.** The Fire Marshal, Assistant Fire Marshal local assistants, the Advisory Committee or members of the Advisory Committee are not liable for any loss or damage caused by anything done or not done in good faith by them in the performance of their duties or in the exercise of their powers under this Act or the regulations. S.Nu. 2006,c.8,s.19; S.Nu. 2017,c.7,s.8.

## Fire safety plan

**17.2.** Every building to which the public has access must have a fire safety plan posted in a conspicuous place. S.Nu. 2006,c.8,s.19.

## Annual report

**17.3.** (1) The Fire Marshal shall submit to the Minister, within three months after the end of each year, a detailed report for that year, setting out

- (a) particulars known to the Fire Marshal of every fire that occurred, every fatality or injury caused by fire, every investigation and inquiry into a fire, and every prosecution under this Act or for arson;
- (b) a summary of the activities of the office of the Fire Marshal for fire prevention and protection against fire; and
- (c) any other information that the Minister requests.

## Tabling of annual report

(2) The Minister shall table the report referred to in subsection (1) before the Legislative Assembly at the first sitting of the Legislative Assembly after the report is received. S.Nu. 2006,c.8,s.19.

## Exits of public buildings

**18.** (1) The outside doors and the main inside doors of every structure used as a theatre, dance hall or skating rink and of every structure used as a church, school or place of public resort or amusement having a seating capacity for more than 50 persons shall be so hung as to open freely outwards and, during the time when the structure is being publicly used, shall not be bolted, barred or locked in any manner other than with standard panic hardware, and the gates or outer fences if not so hung shall be kept open by proper fastenings during the time when the structure is being publicly used.

## Liability for contravention

(2) Congregations and societies possessing corporate powers and trustees, incumbents, church wardens and other persons holding church or school property or property used for churches or schools as trustees for such congregations, societies or school districts, are jointly and severally liable for any contravention of subsection (1).



## OFFENCES AND PUNISHMENT

### Offence and punishment

**19.** Every person who contravenes subsection 18(1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$10,000 and to a further fine of \$500 for each day after conviction on which the contravention continues and, in default of payment, to imprisonment for a term not exceeding three months. S.Nu. 2006,c.8,s.20.

### Obstruction

**20.** Every person who obstructs, hinders or interferes with the Fire Marshal, an Assistant Fire Marshal or a local assistant in the exercise of a power or the performance of a duty under this Act or the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding one year or to both. S.Nu. 2006,c.8,s.21.

### False or misleading information

**20.1.** Every person who knowingly provides false or misleading information to, or fails or refuses to provide the information requested by, the Fire Marshal, an Assistant Fire Marshal or a local assistant in the exercise of a power or the performance of a duty under this Act or the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding one year or to both. S.Nu. 2006,c.8,s.21.

### Interference with device or safeguard

**20.2.** Every person who, without lawful excuse, interferes with or removes any device or safeguard required by or under this Act or the regulations for the detection, containment or suppression of fire is guilty of an offence and liable on summary conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding one year or to both. S.Nu. 2006,c.8,s.21.

### General offence and punishment

**20.3.** Every person who contravenes a provision of this Act or the regulations for which no specific punishment is provided is guilty of an offence and liable on summary conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding one year or to both. S.Nu. 2006,c.8,s.21.

### Corporate penalty

**20.4.** (1) Notwithstanding the punishment set out in sections 20 to 20.3, where a corporation is guilty of an offence under this Act or the regulations, the corporation is liable on summary conviction to a fine not exceeding \$100,000, and to a further fine not exceeding \$10,000 for each day on which the offence continues.

### Liability of officers, directors and agents

(2) Where a corporation commits an offence under this Act or the regulations, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of an offence and

liable on summary conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding one year or to both, whether or not the corporation has been prosecuted or convicted. S.Nu. 2006,c.8,s.21.

#### Failure to comply with order

**21.** Every owner, agent of an owner and occupant of a structure, premises or property who fails to comply with an order made by the Fire Marshal under subsection 12(1) or (2) or paragraph 12(3)(b) is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 for each day after receipt of the order on which the failure to comply continues. S.Nu. 2006,c.8,s.21.

#### Search and seizure

**22.** (1) A justice of the peace or judge may issue a warrant authorizing the person named in the warrant to enter in or on a structure, premises or property and exercise any of the powers referred to in subsection (3) if the justice of the peace or judge is satisfied by information on oath that there are reasonable grounds to believe that

- (a) an offence under this Act or the regulations has been or is being committed; and
- (b) a document or thing that may afford evidence of, or information concerning the offence is likely to be found in or on the structure, premises or property, or is likely to be obtained through the exercise of any of the powers specified in the warrant.

#### Application without notice

(2) A warrant may be issued, with or without conditions, on an *ex parte* application by the Fire Marshal, an Assistant Fire Marshal or a local assistant.

#### Powers under warrant

(3) The warrant may authorize the person named in the warrant to do any or all of the following:

- (a) search the structure, premises or property;
- (b) seize any document or thing referred to paragraph (1)(b);
- (c) perform or cause to be performed any test relevant to the search;
- (d) require that any machinery, equipment or device be operated, used or set in motion;
- (e) question a person on any matter relevant to the search;
- (f) demand the production of any thing or document;
- (g) require any person present to do any action or refrain from doing any action reasonable in the circumstance.

#### Exigent circumstances

(4) Notwithstanding subsections (1) and (2), the Fire Marshal, an Assistant Fire Marshal or a local assistant may exercise any of the powers referred to in subsection (3) without a warrant where the conditions for obtaining a warrant exist but the delay necessary to obtain a warrant would result in a danger to persons or property or in the removal, loss or destruction of evidence.

### Execution

(5) A warrant must be executed at a reasonable time, or as specified in the warrant.

### Expiration and extension

(6) A warrant must state the date on which it expires, and a justice of the peace or judge may extend the date on which the warrant expires for such additional periods as the justice of the peace or judge considers necessary.

### Use of force

(7) A person named in a warrant may use such force as is reasonable and necessary to make the entry and exercise any power specified in the warrant.

### Assistance

(8) A person named in a warrant may call on any other person he or she considers necessary to execute the warrant.

### Identification

(9) On the request of an owner or occupant of the structure, premises or property, a person executing a warrant shall identify himself or herself and explain the purpose of the entry. S.Nu. 2006,c.8,s.22.

## REGULATIONS

### Regulations

**23.** (1) The Commissioner, on the recommendation of the Minister, may make regulations

- (a) **repealed, S.Nu. 2012,c.15,s.35(9);**
- (a.01) **repealed, S.Nu. 2012,c.15,s.35(9);**
- (a.1) prescribing the information to be provided under subsections 10(1), (3) and (4);
- (a.2) governing the establishment and operation of any plant and equipment used in the business of dry cleaners, dry dyers, cleaners and pressers and similar businesses in which flammable liquid or other light petroleum or coal tar product or volatile liquid is used;
- (b) governing the approval, sale, distribution, installation and maintenance of fire-fighting and fire prevention equipment, apparatus, material and supplies, including fire-alarm systems, and the licensing and control of manufacturers, agents and jobbers, wholesale and retail vendors, and installers of such equipment, apparatus, material or supplies;
- (c) governing the approval, sale, installation and maintenance of oil burners, oil-burning equipment and appliances using flammable liquids or gases as fuel;
- (c.1) governing the licensing and control of manufacturers, agents and jobbers, wholesale and retail vendors, and installers of oil burners,

- oil-burning equipment and appliances using flammable liquids or gases as fuel;
- (c.2) governing the purchase, sale, importation, possession, storage and use of fireworks;
- (d) governing the possession, sale, storage and use of flammable or combustible liquids and gases, and the manner of disposal of their containers;
- (e) respecting the prevention and extinguishment of fires;
- (e.1) respecting the safety of persons and the preservation of property; and
- (f) **repealed, S.Nu. 2017,c.7,s.9(1)(d)**
- (g) generally for the enforcement and better carrying out of the intent and provisions of this Act.

#### Adoption of National Fire Code of Canada

- (2) The Commissioner in Executive Council may make regulations:
  - (a) adopting by reference, in whole or in part, and with such modifications as may be considered necessary or advisable, a prescribed edition of the National Fire Code of Canada; and
  - (b) amending, repealing or replacing any provision of a code adopted pursuant to paragraph (a)

#### Code amendments

(2.1) The Advisory Committee may receive applications and make recommendations to amend a code adopted pursuant to paragraph (2)(a) in the manner provided for in section 20 of the *Building Code Act*.

(3) **Repealed, S.Nu. 2012,c.15,s.35(10).**

(4) **Repealed, S.Nu. 2012,c.15,s.35(10).**

S.Nu. 2006,c.8,s.23; S.Nu. 2012,c.15,s.35(9),(10);

S.Nu. 2017,c.7,s.9(1)(b),(c),(d),(3).

**Note:** On a day to be fixed by order of the Commissioner, subsection 23(1) is amended by adding the following after paragraph (d):

- (d.1) respecting fire protection plans, including
  - (i) their objectives,
  - (ii) their making and amendment, including matters that must be considered in making or amending a fire protection plan,
  - (iii) their maintenance, including periodic reviews and re-approvals by the Fire Marshal,
  - (iv) minimum standards for training, equipment, and supplies that must be included in a fire protection plan,
  - (v) other matters that must be included in a fire protection plan, and
  - (vi) the approval process;

and the following is added after subsection 23(1):

**Adoption by reference**

(1.1) Regulations made under paragraph (1)(d.1)(iv) may adopt by reference, in whole or in part, with or without modifications, and as amended from time to time, codes and standards respecting training, equipment, or supplies for the purposes of inclusion in fire protection plans.

*See S.Nu. 2017,c.7,s.9(1)(a),(2).*