



## City of Phoenix FIRE PREVENTION

### Appeals to the Fire Marshal

There are times when project or site-specific conditions make it impractical to comply with the strict letter of the code. Section 104.8 of the Phoenix Fire Code (PFC) grants authority to the Fire Marshal to consider modifications to the adopted code under certain conditions. **Before granting an appeal the code states that the Fire Marshal “shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements (2018 PFC 104.8).”** The International Fire Code (IFC) commentary cautions that “this section is not intended to allow a code provision to be set aside or ignored; rather, it is intended to provide for the acceptance of equivalent protection [using alternate materials or methods] (2018 IFC 104.8 Commentary).” The Fire Marshal cannot legally approve a clear code violation or deficiency.

This document will aid customers and City of Phoenix staff as they consider project specific conditions and develop proposals for a Fire Marshal appeal.

### **All information must be completed including the following:**

1. Letter providing commentary for the six items listed below
2. One copy of the site plan and floor plan, as applicable, minimum size 11"x17"
3. Appellant **and** Building Owner signatures
4. Payment of \$250 (cash, credit, or check made payable to City of Phoenix)
5. If the building owner is not available for signature, a notarized letter is required stating the owner is aware of the appeal and has no objections.

### **Commentary shall address these items:**

1. What is the applicable code section reference and requirement? (Please consider City of Phoenix amendments).
2. What is the intent and purpose of that code section? (Use current/previous/future code and commentary excerpts, ICC/NFPA/Other interpretations and/or technical articles to provide a complete overview.)
3. How does the proposed modification comply with the intent and purpose of the code?
4. How does the proposed modification meet or exceed the health, life and fire safety requirements of the code?
5. What project specific hardships make strict code compliance impractical? (Provide diagrams, figures, sketches, reports or other supporting material to describe the project specific conditions.)  
  
\*Please note a code violation or the expense of correcting one cannot constitute a practical difficulty. (See 2018 PFC 104.8)
6. Have you discussed your proposed solution with City of Phoenix staff? If so, who?



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### Appeals Application

Application for appeal must be *submitted in writing*. The appeal application is available online at: <https://www.phoenix.gov/fire/prevention/appeals>, or may be picked up at the Fire Prevention Office 150 S 12<sup>th</sup> Street, Phoenix, AZ 85034. To request an application be mailed to you call 602-262-6771.

**Note:** Prior to log in, applications will be screened and accepted by the Fire Marshal, or Fire Protection Engineer, to ensure a complete proposal is provided.

Submit completed application package with payment to the Fire Prevention Office. Applications may be walked-in, mailed, faxed (602-495-7429) or emailed (fireprevention.pfd@phoenix.gov). Credit card forms must be faxed, payment can also be taken over the phone, 602-262-6771.

### Appeals Panel

Appeals to the Fire Marshal are reviewed by panel of professionals which may include:

- Fire Marshal
- Fire Protection Engineer from Fire Prevention
- Fire Protection Engineer from Planning & Development
- Representative from Fire Operations Division
- Support staff for documentation

### Appeals Panel Decisions

The panel will make one of the following decisions on each appeal:

- **Approved**
- **Approved with Stipulations** - The stipulations will document when further action is required by the Appellant; recheck dates are established to allow time for compliance.
- **Denied** – Appeals may be submitted to the Fire Safety Advisory Board within 30 days of denial by the Fire Marshal.

### 2018 Phoenix Fire Code Sections governing Appeals to the Fire Marshal:

**Section 104.8 Modifications.** Whenever there are practical difficulties involved in carrying out the provisions of this code, the Fire Marshal shall have the authority to grant modifications for individual cases, provided the Fire Marshal shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the files of the Department of Fire Prevention.

Approvals by the Fire Marshal of alternate material or method shall be subject to the approval of the building official whenever it involves the Building Code.



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### **Appeals to the Fire Safety Advisory Board**

Appeals to the Fire Safety Advisory Board (FSAB) follow the same procedure as an appeal to the Fire Marshal. The fee for an appeal to the FSAB is \$50 for a commercial occupancy and \$25 for a residential occupancy. Documentation requirements are the same.

### **Fire Safety Advisory Board Panel Decisions**

The panel will make one of the following decisions on each appeal and issue the decision in writing to the appellant with a duplicate copy to the Fire Marshal:

- **Approved**
- **Approved with Stipulations** - The stipulations will document when further action is required by the Appellant; a recheck date is established to allow time for compliance.
- **Denied** – Appeals may be submitted to the Superior Court of the city of Phoenix within 30 days of denial by the Fire Safety Advisory Board.

### **2018 Phoenix Fire Code Sections governing Appeals to the Fire Safety Advisory Board:**

**Section 108.1 Fire Safety Advisory Board.** In order to hear and decide appeals of orders, decisions or determinations made by the Fire Marshal relative to the application and interpretation of this code, there shall be and is hereby created the Fire Safety Advisory Board. Hereinafter called “the Board,” it shall consist of up to 13 members, a majority of whom are residents of the City of Phoenix. All shall be citizens of the United States and composed and consisting of persons representing the following industries, trades and professions: fire-protection systems contractor; architect; realtor; developer; petroleum industry; liquefied petroleum gas industry; property insurance; fire-protection engineering; owner or manager of a business that would not qualify for membership in another industry; health care industry; special events coordinator; construction contractor; and resident of the City of Phoenix. The Board shall be appointed by the governing body and shall hold office at its pleasure. The Fire Marshal shall be an ex officio member of said board but shall have no vote on any matter before the Board. The Board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Fire Marshal.

For assistance or information, please call LaNette McKinney at 602-262-1849 or Fire Prevention at 602-262-6771.