

# **FIRE INSPECTION IN NEVADA COUNTY**

## **What We Don't Know Can Hurt Us**

2019-2020 Nevada County Grand Jury

Report Date: May 19, 2020

Public Release Date: June 23, 2020

# FIRE INSPECTION IN NEVADA COUNTY

## What We Don't Know Can Hurt Us

### Summary

The 2019-2020 Nevada County Grand Jury (Jury) poses the question: Do citizens assume that places which their families frequent such as restaurants, theaters, and places of worship and public assembly have been inspected regularly and are safe?

The Jury became aware of potential public safety issues through interviews with fire safety personnel working within Nevada County (County). The Jury investigated the safety of buildings and places of public assembly to determine who was responsible and what fire inspections were performed.

California Health and Safety Code (HSC) §§ 13143-13146, 17921 and 17958 establish the responsibility for enforcement of building standards adopted by the State Fire Marshal for the prevention of fire or for the protection of life and property against fire or panic.

The law requires every fire agency, including all fire departments and fire protection districts, in the state to enforce, within their areas of responsibilities, the building standards and fire safety regulations adopted by the State Fire Marshal; including annual inspections of public and private schools, hotels, motels, lodging houses, apartments, multi-family residences of three or more units, and biennial inspections of jails. Effective January 1, 2019, fire agencies are also required to report annually their compliance with the mandated inspections to their administering authority as defined in the legislation.

In this investigation the Jury developed and distributed a *Fire District and Department Inspection Survey* to all eleven fire agencies within the County requesting information on current inspection activity. It determined that there are significant differences among the eleven fire agencies covering the County, and gaps in the conduct of fire inspections. These gaps include the types of facilities inspected, the number and frequency of inspections, and the follow-up of violations. The citizens of the County may find it surprising that regular fire inspections of theaters, places of worship, restaurants, and other public or event centers are not mandated by the state.

Public assembly site and building fire inspections are intended to reduce the risk and severity of fire and limit injury or death when fires do occur. The County has eleven fire agencies that work to perform the fire inspections required by the State, and some fire agencies voluntarily provide additional inspection services. The choices made by the various agencies are not consistent, not uniformly performed, or consistently documented. While many inspections mandated by the State are regularly conducted, a great many areas within the County where people congregate for social, civic, religious activities, and to participate in large public events are not regularly inspected.

Ultimately, it is up to the citizens to decide what level of inspection service they want for themselves, their families, and their community. Then, they must be prepared to work with their local and state agencies to adopt ordinances or policies to reflect a higher level of inspection activity and support funding initiatives as necessary to achieve that goal.

## **Glossary**

<b>County</b>	Nevada County
<b>Jury</b>	2019-2020 Nevada County Grand Jury
<b>CFD</b>	Nevada County Consolidated Fire District
<b>FD</b>	Fire Department
<b>FPD</b>	Fire Protection District
<b>HSC</b>	California Health and Safety Code
<b>TI</b>	Tenant Improvement

## **Background**

The Jury is a judicial body impaneled as an arm of the Nevada County Superior Court as authorized by the state constitution to act as a voice of the people and conscience of the community.

HSC §§ 13143-13146, 17921 and 17958 establish the responsibility for enforcement of building standards adopted by the State Fire Marshal for the prevention of fire or for the protection of life and property against fire or panic.

The law requires every fire agency in the state to enforce, within their jurisdiction, the building standards and fire safety regulations adopted by the State Fire Marshal; including annual inspections of public and private schools, hotels, motels, lodging houses, apartments, multi-family residences of three or more units, and biennial inspections of jails.

Additionally, HSC § 13146.4, effective January 1, 2019, requires every fire agency required to perform these annual inspections to make a report to their administering authority every year on their level of compliance with the mandate. See Appendix B. The administering authorities of fire agencies may adopt ordinances or policies to include non-mandated fire inspections in their areas of responsibility.

The fire agencies providing fire services in Nevada County are:

- Grass Valley Fire Department (FD)
- Higgins Fire Protection District (FPD)
- Nevada City FD
- Nevada County Consolidated Fire District (CFD)

North San Juan FPD  
Ophir Hill FPD  
Peardale-Chicago Park FPD  
Penn Valley FPD  
Rough & Ready FPD  
Truckee FPD  
Washington FD

## **Approach**

The Jury became aware of potential public safety issues through interviews with fire safety personnel working within the County. The Jury investigated the safety of buildings and places of public assembly to determine who was responsible and what fire inspections were performed.

After research into previous grand jury reports and current California state requirements for fire inspections, an investigation into public assembly and building safety in the County was initiated.

In this investigation the Jury developed and distributed a *Fire District and Department Inspection Survey* to all eleven fire agencies within the County in October and November 2019. The survey requested information on current inspection activity. The Jury also interviewed personnel from fire agencies throughout the county, conducted internet research, and reviewed information available in other counties.

## **Discussion**

The Jury investigated the safety of buildings in the County to determine who was responsible for inspections and what inspections were performed. It determined that there are significant differences among the eleven fire agencies covering the County, and gaps in the conduct of fire inspections. These gaps include the types of facilities inspected, the number and frequency of inspections, and the follow-up of violations. The citizens of the County may find it surprising that regular fire inspection of theaters, places of worship, restaurants, and other public or event centers are not mandated by the State. The State mandated inspections are schools, certain care facilities, apartments, multi-family units, hotels, motels, some temporary residences, and jails.

Fire agencies working within the County are required to conduct state mandated inspections. Many agencies are also conducting non-mandated inspections on a less regular schedule, often only as a result of a complaint, incident report, or as part of a building permit process.

Effective January 1, 2019, fire agencies are required to report annually to their administering authorities on their level of compliance with inspection requirements. Six fire agencies reported they had complied with this reporting mandate, four said they would be complying in 2020, and

one did not respond to the survey. However, the Jury's review of the submitted reports identified a number of deficiencies, such as failure to identify the number of mandated inspections required and the number completed.

The Jury also noted that several fire agencies cited funding and lack of personnel as contributing factors for the low level of inspections. Although the HSC allows fire agencies to collect fees for inspection services, only five of the fire agencies in the county reported that they charge fees for inspection and associated services. See additional details in Appendix A.

The County's eleven fire agencies rely on a mixture of full-time paid, part-time paid, volunteer, intern, and seasonal fire fighters. Three fire agencies indicated they were an all-volunteer agency, which would allow them to request assistance completing required inspections as allowed by § 13146.6 of the HSC from other fire agencies. See Appendix B.

Typical areas of inspection are listed below.

- Occupancy capacity
- Means of Egress/Exit
- Fire Alarms
- Fire Extinguishers
- Elevators
- Lighting
- Flame Retardant Materials
- Electrical
- Platforms and Stages
- Housekeeping

In addition to fire fighting and fire inspections, fire agencies working within the County may provide other services such as, emergency medical services, hazardous materials incident response, and fire prevention information.

Other County agencies, such as those involved with law enforcement, environmental health, planning, and code compliance, inspect buildings within the County for compliance with their ordinances or regulations. However, fire agencies are the primary agencies mandated by the state to perform certain fire inspections on a fixed schedule.

The following information was self-reported in response to the *Fire District and Department Inspection Survey* distributed in October and November of 2019 and received within three months, to gather information on current inspection processes in the County. The Jury found from the survey responses that not all of the fire agencies accurately reported the number of buildings within their areas of responsibilities that they were required to inspect.

## Mandated Inspections

### Schools

An annual fire inspection of all buildings used for educating K-12 students, including public, private, and faith-based schools. Private residences used for homeschooling are not included. Inspectors enter classrooms and other areas to perform inspections.

Total number of schools in the County as reported by fire agencies	50
--	----

Number inspected within the last year as required	44
---	----

Most of the fire agencies reported having inspected all of their schools in the last year, however, one reported not inspecting five schools and one uninspected school is shown as “Pending” from 2016.

### State Licensed Care Facilities

Fire inspections are required for California Department of Social Services-licensed care facilities initially, annually, and when significant changes are introduced in the facility or how it is used. Examples include residential care facilities for the elderly and disabled and assisted living facilities.

Total number of care facilities in the County as reported by fire agencies	22
--	----

Number inspected within the last year as required	22
---	----

Four fire agencies working within the County reported having licensed care facilities in their area of responsibility, all of which were inspected within the last year.

### Multi-Family and Temporary Residences

Public areas of multi-family residences of three units or more must be inspected annually by the fire department. These include apartments, condominiums, triplexes, and temporary residences such as hotels, motels and boarding houses. Annual fire inspection requirements in California do not apply to single-family residences or duplexes. Inspectors are only authorized to inspect common areas such as hallways, stairwells, and the exterior of buildings.

#### Multi-Family Residences

Total number of multi-family residences in the County as reported by fire agencies	180
--	-----

Number inspected within the last year as required 25

Only five fire agencies reported having apartments, condominiums, triplexes, but the majority of those residences were not inspected as required. Two fire agencies reported being up-to-date with these inspections. Apartment dwellers should be aware that one jurisdiction reported 128 such facilities uninspected since at least 2015 and another 14 with date unknown.

### Temporary Residences

Total number of temporary residences in the County as reported by fire agencies 26

Number inspected within the last year as required 22

The Jury has no authoritative count of the number of County hotels, motels, bed and breakfasts, and boarding houses, but a quick web search or drive around the neighborhoods of our most populated areas suggest that the County has many overlooked temporary residences. The total number of uninspected units is certainly more than four.

Only one western county fire agency reported having any hotels, motels or boarding houses, and of those, it reported inspecting only five of the eight required, with the others inspected in 2018.

### **Jails**

Jails and places of detention are required to have fire inspections at least once every two years.

Total number of jails in the County as reported by fire agencies 2

Number inspected within the last two years 1

One jail was reported not inspected within the last two years. It was last inspected in 2017.

## Annual Inspection Report

HSC § 13146.4 effective January 1, 2019, requires fire agencies to make a summary report to their administering authority every year on their level of compliance conducting the annual inspections mandated by the HSC. The administering authority is required to acknowledge receipt of the report in the form of a resolution or similar formal document. All of the fire agencies were required to comply with this law in 2019.

Total number of fire agencies in the county 11

Number of fire agencies that reported compliance with the requirements as of November 2019: 6

### Additional Inspections – Not Mandated

Citizens might be surprised to learn that fire agencies are not required by State law to inspect other categories of facilities that are open to the public. However, some fire agencies perform inspections on public assembly sites and buildings of their own volition, even though they are not required to do so by state and local mandates. Inspections are sometimes required for new construction or modification of buildings such as high-rise facilities, businesses, factories, storage facilities, and places of public assembly of 50 or more persons. But more often they are the result of the certain knowledge that inspections can help prevent fires, regardless of their optional nature. The following paragraphs present the results of the Jury's questions about non-mandated inspections.

The Jury asked fire agencies about inspections of theaters, churches, restaurants, and event centers in their areas of jurisdiction. The results are:

#### Theaters

Total number of theaters in the County as reported by fire agencies 5

Number inspected in 2019 1

Two fire departments reported having a total of five theaters in western Nevada County, but they inspected only one in the last year. Four theaters were reported going uninspected in 2019; one was last inspected in 2016; and the others were inspected prior to 2012.



## **Places of Worship**

Total number of places of worship in the County as reported by fire agencies	50
--	----

Number inspected in 2019	27
--------------------------	----

Seven fire agencies reported having churches in their jurisdictions, but only four agencies are inspecting all of them regularly. Many places of worship are not inspected. Twenty-three places of worship were reported not inspected in 2019; one was reported last inspected in 2016; and one was inspected in 2015. Twenty-one were reported last inspected prior to 2015 or the date was unknown.

## **Restaurants**

Total number of restaurants in the County as reported by fire agencies	143
--	-----

Number inspected in 2019	44
--------------------------	----

Because of the fire danger associated with food preparation, citizens might expect that restaurants routinely receive fire inspections. Seven of the fire agencies reported restaurants in their areas of responsibility, but only 44 of 143 were inspected in the last year. Twenty-five restaurants were reported last inspected in 2018, twenty-six in 2017, twenty-five in 2016, and twelve in 2015. Eleven were reported last inspected prior to 2015 or the date was unknown.

## **Public or Event Centers**

Total number of public or event centers in the County as reported by fire agencies	72
--	----

Number inspected in 2019	48
--------------------------	----

Seven fire agencies reported the presence of a total of 72 public event centers in their areas. Of that number, 24 were reported not inspected in 2019. One was reported last inspected in 2018, one in 2017, four were in 2016, and three in 2015. Fifteen were reported last inspected prior to 2015 or the date was unknown.

## **Conclusions**

The Jury poses the question: Do citizens assume that places which their families frequent such as restaurants, theaters, and places of worship and public assembly have been inspected regularly and are safe?

Public assembly site and building fire inspections are intended to reduce the risk and severity of fire and limit injury or death when fires do occur. The County has eleven fire agencies that work to perform the fire inspections required by the State, and some fire agencies voluntarily provide additional inspection services. The choices made by the various agencies are not consistent, not uniformly performed, or consistently documented. While many inspections mandated by the State are regularly conducted, a great many areas within the County where people congregate for social, civic, or religious activities, and to participate in large public events are not regularly inspected.

Ultimately, it is up to the citizens to decide what level of inspection service they want for themselves, their families, and their community. They must be prepared to work with their local and state agencies to adopt ordinances or policies to reflect a higher level of inspection activity and support funding initiatives as necessary to achieve that goal.

## **Findings**

- F1** Two fire agencies reported that they were not current with mandated school inspections.
- F2** All fire agencies that reported licensed care facilities in their jurisdictions reported that they were current with the mandated inspections.
- F3** Two fire agencies reported that they were not current with mandated multi-family unit and temporary residence fire inspections.
- F4** One fire agency reported that it was not current with mandated jail inspections.
- F5** As of October and November 2019, six fire agencies reported they had completed the annual report required by HSC § 13146.4. The remaining agencies had until December 31, 2019 to meet the requirement to report to their administering authority.
- F6** One volunteer fire agency hired a County fire inspector to perform its required inspections, although it failed to report the results as required by the HSC.
- F7** Five fire agencies reported that they did not charge fees for inspections and one did not report whether or not it charged for fire inspections

- F8** The administering authorities of fire agencies may adopt ordinances or policies to include non-mandated fire inspections in their areas of responsibility.

## **Recommendations**

The Nevada County Grand Jury recommends the following.

- R1** Fire agencies should review and comply with HSC § 13146.3 to conduct the mandated annual school fire inspections within their areas of responsibility.
- R2** Fire agencies should review and comply with the requirement to conduct the mandated annual licensed care facilities fire inspections within their areas of responsibility.
- R3** Fire agencies should review and comply with HSC § 13146 to conduct the mandated annual multi-family and temporary residence fire inspections within their areas of responsibility.
- R4** Fire agencies should review and comply with the requirement to conduct mandated biennial jail fire inspections within their areas of responsibility.
- R5** Fire agencies should review and comply with HSC § 13146.4 requiring every fire department or fire district to report to their administering authority every year on their level of compliance with the inspection mandates.
- R6** Higgins, Ophir Hill, Peardale-Chicago Park, and Rough and Ready FPDs, and Washington FD should consider charging for fire inspections and other services to improve their financial position as necessary.
- R7** North San Juan FPD should obtain fire inspection data from the County Fire Inspector hired to perform the agency fire inspections and provide it to its administering authority.

## **Request for Responses**

No responses are requested.

## Appendices

### Appendix A. Charging Fees for Inspections and Other Services

<b>District</b>	<b>Reported Fees Status as of November 30, 2019</b>
Grass Valley Fire Department	Yes
Higgins Fire Protection District	No
Nevada City Fire Department	Yes
Nevada County Consolidated Fire District	Yes
North San Juan Fire Protection District	*
Ophir Hill Fire Protection District	No
Peardale-Chicago Park Fire Protection District	No
Penn Valley Fire Protection District	Yes
Rough & Ready Fire Protection District	No
Truckee Fire Protection District	Yes
Washington Fire Department	No

\*North San Juan Fire Protection District did not report fee status.

## **Appendix B. California Health and Safety Code, §§ 13146 - §13146.6**

### **§ 13146.**

(a) The responsibility for enforcement of building standards adopted by the State Fire Marshal and published in the California Building Standards Code relating to fire and panic safety and other regulations of the State Fire Marshal shall be as follows:

(1) The city, county, or city and county with areas of responsibilities in the area affected by the standard or regulation shall delegate the enforcement of the building standards relating to fire and panic safety and other regulations of the State Fire Marshal as they relate to R-3 dwellings, as described in Section 310.5 of Part 2 of the California Building Standards Code, to either of the following:

(A) The chief of the fire authority of the city, county, or city and county, or the chief's authorized representative.

(B) The chief building official of the city, county, or city and county, or the official's authorized representative.

(2) The chief of any city, county, or city and county fire department or of any fire protection district, and their authorized representatives, shall enforce within its areas of responsibilities the building standards and other regulations of the State Fire Marshal, except those described in paragraph (1) or (4).

(3) The State Fire Marshal shall have authority to enforce the building standards and other regulations of the State Fire Marshal in areas outside of corporate cities and districts providing fire protection services.

(4) The State Fire Marshal shall have authority to enforce the building standards and other regulations of the State Fire Marshal in corporate cities and districts providing fire protection services upon request of the chief fire official or the governing body.

(5) The State Fire Marshal shall enforce the building standards and other regulations of the State Fire Marshal on all University of California campuses and properties administered or occupied by the University of California and on all California State University campuses and properties administered or occupied by the California State University. For each university campus or property the State Fire Marshal may delegate that responsibility to the person of the State Fire Marshal's choice who shall be known as the Designated Campus Fire Marshal.

(b) A fee may be charged pursuant to the enforcement authority of this section but shall not exceed the estimated reasonable cost of providing the service for which the fee is charged, pursuant to Section 66014 of the Government Code.

### **§ 13146.1.**

(a) Notwithstanding Section 13146, the State Fire Marshal, or the State Fire Marshal's authorized representative, shall inspect every jail or place of detention for persons charged with or convicted of a crime, unless the chief of any city, county, or city and county fire department or fire protection district, or that chief's authorized representative, indicates in writing to the State Fire Marshal, by June 30 of each applicable year pursuant to subdivision (b), that inspections of jails or places of detention, therein, shall be conducted by the chief, or the chief's authorized representative, and submits the reports as required in subdivision (c).

(b) The inspections shall be made at least once every two years for the purpose of enforcing the regulations adopted by the State Fire Marshal, pursuant to Section 13143, and the minimum standards pertaining to fire and life safety adopted by the Board of State and Community Corrections, pursuant to Section 6030 of the Penal Code.

(c) Reports of the inspections shall be submitted to the official in charge of the facility, the local governing body, the State Fire Marshal, and the Board of Corrections within 30 days of the inspections.

(d) The State Fire Marshal, or the State Fire Marshal's authorized representative, who performs an inspection pursuant to subdivision (a) may charge and collect a fee for the inspection from the local government. Any fee collected pursuant to this subdivision shall be in an amount, as determined by the State Fire Marshal, sufficient to pay the costs of that inspection or those related fire and life safety activities.

### **§ 13146.2.**

(a) Every city, county, or city and county fire department or district providing fire protection services required by Sections 13145 and 13146 to enforce building standards adopted by the State Fire Marshal and other regulations of the State Fire Marshal shall, annually, inspect all structures subject to subdivision (b) of Section 17921, except dwellings, for compliance with building standards and other regulations of the State Fire Marshal.

(b) A city, county, or city and county fire department or district providing fire protection services that inspects a structure pursuant to subdivision (a) may charge and collect a fee for the inspection from the owner of the structure in an amount, as determined by the city, county, or city and county fire department or district providing fire protection services, sufficient to pay the costs of that inspection.

(c) A city, county, or city and county fire department or district providing fire protection services that provides related fire and life safety activities for structures subject to subdivision (b) of Section 17921, such as plan review, construction consulting, fire watch, and investigation, may charge and collect a fee from the owner of the structure in an amount, as determined by the city, county, city and county, or district, sufficient to pay the costs of those related fire and life safety activities.

(d) The State Fire Marshal, or the State Fire Marshal's authorized representative, who inspects a structure subject to subdivision (b) of Section 17921, except dwellings, for compliance with building standards and other regulations of the State Fire Marshal, may charge and collect a fee for the inspection from the owner of the structure. The State Fire Marshal may also charge and collect a fee from the owner of the structure for related fire and life safety activities, such as plan review, construction consulting, fire watch, and investigation. Any fee collected pursuant to this subdivision shall be in an amount, as determined by the State Fire Marshal, sufficient to pay the costs of that inspection or those related fire and life safety activities.

### **§ 13146.3.**

(a) A city, county, or city and county fire department or district providing fire protection services shall inspect every building used as a public or private school within its jurisdiction, for the purpose of enforcing regulations promulgated pursuant to Section 13143, not less than once each year. The State Fire Marshal and the State Fire Marshal's authorized representatives shall make

these inspections not less than once each year in areas outside of corporate cities and districts providing fire protection services.

(b) A city, county, or city and county fire department or district that, or the State Fire Marshal or the State Fire Marshal's authorized representative who, inspects a structure pursuant to subdivision (a) may charge and collect a fee for the inspection in an amount sufficient to pay the costs of that inspection.

**§ 13146.4.**

(a) Every city or county fire department, city and county fire department, or district required to perform an annual inspection pursuant to Sections 13146.2 and 13146.3 shall report annually to its administering authority on its compliance with Sections 13146.2 and 13146.3.

(b) The report made pursuant to subdivision (a) shall occur when the administering authority discusses its annual budget, or at another time determined by the administering authority.

(c) The administering authority shall acknowledge receipt of the report made pursuant to subdivision (a) in a resolution or a similar formal document.

(d) For purposes of this section, "administering authority" means a city council, county board of supervisors, or district board, as the case may be.

**§ 13146.5.**

The provisions of Sections 13145, 13146 and 13146.3 shall, so far as practicable, be carried out at the local level by persons who are regular full-time members of a regularly organized fire department of a city, county, or district providing fire protection services, and shall not be carried out by other persons pursuant to Section 34004 of the Government Code.

**§ 13146.6.**

If the governing body of a city, county, or city and county fire department or district providing fire protection services relies on an all-volunteer fire department for the provision of fire protection services pursuant to Sections 13145, 13146, 13146.2, and 13146.3, they may do so through one of the following methods:

(a) They may request the State Fire Marshal to enforce the building standards and other regulations of the State Fire Marshal, in accordance with paragraph (4) of subdivision (a) of Section 13146.

(b) They may request another city, county, or city and county fire department or district providing fire protection services that has regular full-time members of a regularly organized fire department to enforce the building standards and other regulations of the State Fire Marshal.