

Clarifying Authority Having Jurisdiction (AHJ) Under the *Safety Codes Act*

Summary

This document clarifies how the term *Authority Having Jurisdiction* (AHJ) must be interpreted under the *Safety Codes Act* and for matters within Safety Codes Council authority. Authority Having Jurisdiction rests with accredited organizations and the Alberta Safety Codes Authority. Safety Codes Officers (SCOs) exercise delegated powers on behalf of those entities, within their designation and terms of employment. **SCOs do not supersede or replace the AHJ established under the Act.**

The guidance applies across the areas under the Council's authority including accreditation and certification.

Background

This document provides accredited organizations and SCOs with guidance on interpreting the term *Authority Having Jurisdiction* (AHJ) under the *Safety Codes Act*, RSA 2000, c S-1 (the "*Act*"). The *National Building Code – Alberta Edition 2023* (NBC-AE 2023) is used as the illustrative regulation, though this guidance is not exclusive to the building code.

Clarification is required because in Alberta, multiple adopted codes use the term "authority having jurisdiction" while the *Act* allocates jurisdiction through accreditation and statutory designation. The Council has authority on matters of accreditation, certification, and compliance oversight. This clarification applies to all areas under the authority of the Council, including SCO certification, accreditation, and the evaluation of activities conducted under these delegated authorities.

Analysis

1. Legislative Framework: *Safety Codes Act*

Under the *Safety Codes Act*, authority to administer and enforce the *Act* resides with accredited organizations and the Alberta Safety Codes Authority, not with individuals acting independently. Municipalities and regional services commissions may be designated as accredited by the Administrator of Accreditation at the Council to administer all or part of the *Act* within their boundaries (ss. 26–27). Corporations may be accredited by the Administrator to administer the *Act* with respect to property or activities under their care and control (s. 28). The Alberta Safety Codes Authority is established under s. 30.1 to administer the *Act* in unaccredited areas.

Administrators appointed under the *Act* exercise statutory authority, including accrediting corporations (s. 28), designating agencies to provide services (s. 30), and issuing compliance-related orders (s. 39).

Safety Codes Officers (SCOs) are designated individuals who exercise powers on behalf of an accredited organization or the Alberta Safety Codes Authority. The *Act* does not confer jurisdiction on individuals; rather, SCOs act as persons "employed or assisting in the administration of the *Act*" (s. 63) and may exercise powers only through the delegation and authority of the accredited organization or authority

holding jurisdiction. Certified SCOs may perform work under the *Act* only when acting within the scope of their designation and employment or agency relationship with an accredited organization or the Alberta Safety Codes Authority.

Statutory reference — Officer’s powers and duties (*Act*, s. 32): “A safety codes officer designated in accordance with section 31(1)(a) may exercise the powers and perform the duties of a safety codes officer only in accordance with (a) a designation of powers under section 31(1)(b) and the safety codes officer’s terms of employment.”

Section 32 is central to the accreditation model because it makes the SCO’s statutory authority conditional: an SCO may exercise powers only within the scope of their designation under s. 31 and in accordance with their **terms of employment**. The “terms of employment” are not incidental; they are part of the legal conditions under which the SCO may act. This confirms that an SCO working for an accredited organization is not a stand-alone authority, but an agent through whom the accredited organization (or the Alberta Safety Codes Authority) carries out its jurisdiction.

Practical Application

Accordingly, and for example, where an accredited organization adopts an administrative policy directing SCOs to utilize and accept an administratively compliant alternative solution in support of a variance, the SCO is required to apply that policy as part of their employment duties; acting contrary to that policy risks both breach of employment obligations and acting outside the employer authorized exercise of powers contemplated by s. 32. This illustrative example is relevant only if the alternative solution is administratively compliant, which is the difference between fair and justifiable influence and undue influence. Undue influence, and interference in this example, would be a person directing an SCO to issue a variance based on anything other than an administratively compliant alternative solution.

2. NBC-AE 2023 Definition Issue

The NBC-AE 2023 defines *Authority Having Jurisdiction* (AHJ) as a safety codes officer in the building discipline exercising authority under their designation of powers and terms of employment (NBC-AE 2023, Division A, Article 1.4.1.2.).

This definition must be interpreted in a manner consistent with the *Safety Codes Act*. Under the *Act*, jurisdiction and administrative responsibility are assigned through accreditation under ss. 26–30 and to the Alberta Safety Codes Authority under s. 30.1. In Alberta, SCOs do not constitute the AHJ; they exercise delegated authority on behalf of the accredited organization or authority that holds jurisdiction.

Jurisdiction is something an entity has, not something an individual is. SCOs exercise authority within a particular discipline and geographic area because they act as agents or employees of an accredited organization or the Alberta Safety Codes Authority, which holds jurisdiction under the *Act* (ss. 26–30.1). An individual does not acquire jurisdiction solely by virtue of being an SCO. If an SCO is not acting on

behalf of an accredited organization or the Alberta Safety Codes Authority, they have no authority to administer or enforce the *Act*, including the regulations and codes enabled by the *Act*.

3. Reconciling the *Act* and the Code

When interpreting the NBC-AE 2023 (and all regulations under the *Act*) definition of AHJ, accredited organizations and SCOs must rely on the *Safety Codes Act* as the governing authority. Legally, the *Act* supersedes the Code. The *Act* establishes a statutory framework under which jurisdiction and administrative responsibility are assigned exclusively through accreditation and statutory designation (ss. 26–30.1).

Accordingly, the NBC-AE 2023 definition must be read functionally as describing the individual through whom the AHJ exercises authority, rather than redefining the AHJ itself.

SCOs do not supersede or replace the AHJ established under the *Act*.

Contact

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