

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #4

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CLERK OF THE
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: West Virginia State Fire Commission TITLE NUMBER: 87

CITE AUTHORITY: W.Va. Code § 29-3-5b

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 87-4

TITLE OF RULE BEING AMENDED: STATE BUILDING CODE

IF NO, SERIES NUMBER OF RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

Robert S. Sullivan

Authorized Signature

FILED

**TITLE 87
LEGISLATIVE RULE
STATE FIRE COMMISSION**

2012 DEC 21 PM 1:30

C. L. HIGDON
SECRETARY OF STATE

**SERIES 4
STATE BUILDING CODE**

§87-4-1. General.

1.1. Scope. -- This rule establishes the standards considered necessary by the State Fire Commission for the safeguarding of life and property and to ensure compliance with the minimum standards of safe construction of all structures erected or renovated throughout this state.

1.2. Authority. -- W. Va. Code §29-3-5b.

1.3. Filing Date. -- ~~April 26, 2010.~~

1.4. Effective Date. -- ~~July 1, 2010.~~

1.5. Incorporation of other Documents. -- This rule does not include a reprinting of all the requirements imposed by statute or by the incorporation of various nationally recognized standards and codes cited in Subsection 4.1 of this rule. For ascertaining these additional standards and requirements, it is necessary to make reference to the other documents.

§87-4-2. Definitions.

2.1. "ANSI" means American National Standards Institute, 25 West 43rd St., Fourth Floor, New York, NY 10036.

2.2. "ASTM" means American Society of Testing and Materials.

2.3. "Fire Commission" means the thirteen (13) appointed members of the West Virginia State Fire Commission.

2.4. "Fire Marshal" means the West Virginia State Fire Marshal and/or his or her designated representatives.

2.5. "Local jurisdiction" means municipal or county level government.

2.6. "ICC" or "International" means International Code Council, ~~5203 Leesburg Pike, Suite 600, Falls Church, Virginia 22041-3401~~ 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001.

2.7. "NFPA" means National Fire Protection Association, 1 Batterymarch Park, P. O. Box 9101, Quincy, MA 02269-9101.

2.8. "State Building Code" means the entire contents of this rule and the referenced national standards and codes.

2.9. "State Fire Code" means the entire contents of State Fire Commission, State Fire Code, 87CSR1, and the referenced standards and codes.

§87-4-3. Conflicts.

3.1. Whenever there is a conflict between the State Fire Code and the State Building Code, the State Fire Code takes precedence.

3.2. Whenever there is a conflict between the International Plumbing Code requirements of the State Building Code and the rules of the West Virginia State Department of Health and Human Resources, the rules of the Department of Health and Human Resources take precedence.

3.3. Whenever there is a conflict between the State Building Code and statutory laws of the State of West Virginia, the laws of the State of West Virginia take precedence.

§87-4-4. National Standards and Codes.

4.1. The standards and requirements as set out and as published by the International Code Council, and American National Standards Institute, and the National Fire Protection Association as listed in this subsection, have the same force and effect as if set out verbatim in this rule.

4.1.a. The ~~2009~~ 2012 edition, International Building Code, ~~First Printing~~, with the following exceptions:

4.1.a.1. Provided; that the section entitled "Fire Prevention" and identified as Section *101.4.5* is deleted and not considered to be a part of this rule.

4.1.a.2. Further provided that the entire ~~section~~ subsection entitled "~~Board of Appeals~~" "Qualifications" and identified as Section *113.3* is deleted and replaced with the following:

Section *113.3*. Board of Appeals

113.3 Qualifications. The board of appeals shall consist of five members, with up to three alternates, who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction. They may include, but are not limited to, a WV Registered Professional Architect or Engineer, or a WV Licensed General Building, Residential, Electrical, Piping, Plumbing, Mechanical or Fire Protection Contractor, with at least 10 years experience, five of which shall be in responsible charge of work.

4.1.b. The ~~2009~~ 2012 edition of the International Plumbing Code, ~~First Printing~~.

4.1.c. The ~~2009~~ 2012 edition of the International Mechanical Code, ~~First Printing~~.

4.1.d. The ~~2009~~ 2012 edition of the International Fuel Gas Code, ~~First Printing~~, with the following exception:

Section 404.10 Underground piping systems shall be installed a minimum depth of 12 inches (305 mm) below grade. If the minimum depth cannot be maintained, the piping system shall be installed in conduit or shielded in an approved manner.

4.1.e. The ~~2009~~ 2012 edition of the International Property Maintenance Code, ~~First Printing~~. This Code may be rejected at the option of the local jurisdiction.

4.1.e.1. This code may be adopted by the local jurisdiction without requiring adoption of the

other national codes and standards listed in this section.

4.1.f. ~~The 2003~~ 2009 edition of the International Energy Conservation Code, ~~Fifth Printing for residential buildings, Provided that this does not become effective until November 30, 2013.~~

4.1.g. The ANSI/ASHRAE/IESNA Standard 90.1-2007 Edition for commercial buildings.

4.1.g.h The 2009 edition of the International Residential Code for One and Two Family Dwellings, First Printing, with the following exceptions:

Chapter 11 of the 2009 edition of the International Residential Code for One and Two Family Dwellings, Seventh Printing, entitled "Energy Efficiency", is exempt from this rule.

Section G2415.10 (404.10) Minimum Burial Depth. Underground piping systems shall be installed a minimum depth of 12 inches (305 mm) below grade. If the minimum depth cannot be maintained, the piping system shall be installed in conduit or shielded in an approved manner.

~~Section R303.6.1 Light Activation -- The control for activation of the required interior stairway lighting shall be accessible at the top and bottom of each stairway without traversing any steps. The illumination of exterior stairways shall be controlled from inside the dwelling unit. Exceptions: 1. Lights that are continuously illuminated or automatically controlled. 2. Interior stairways consisting of less than three steps.~~

~~Section R-311.3.1 Landings at doors -- Where a stairway of two or fewer risers is located on the exterior side of a door, other than the required exit door, a landing is not required for the exterior side of the door.~~

Section R311.7.4 Stair Treads and Risers

311.7.4.1 Riser Heights -- The maximum riser height shall be eight and one-quarter (8 ¼) inches.

311.7.4.2 Tread Depth -- The minimum tread depth shall be nine (9) inches.

~~Section R313.2: Automatic Fire Sprinkler Systems, in its entirety, is specifically excluded from the scope of this rule series.~~

Section R403.1.7.1: Building Clearances From Ascending ~~Scopes~~ Slopes is not applicable to this rule.

Section R403.1.7.2: Footings Setbacks From Descending Slope Surfaces is not applicable to this rule.

~~4.1.h. Chapter 11 of the 2009 edition of the International Residential Code for One and Two Family Dwellings, Seventh Printing, entitled "Energy Efficiency", is deleted and not considered to be a part of this rule.~~

~~4.1.i.~~ 4.1.j. The 2003 2009 ICC/ANSI A117.1 American National Standards for Accessibility & Usable Buildings & Facilities, ~~First Printing.~~

4.1.j. 4.1.k. The 2009 2012 International Existing Building Code, ~~First Printing,~~ with the following

exception:

~~4.1.j.1.~~ 4.1.k.1. Omit reference to International Fire Code and substitute NFPA Life Safety Code 2009 Edition.

~~4.1.k.~~ 4.1.m. The 2008 2011 edition of the National Electric Code, NFPA 70.

§87-4-5 Fire Protection of Floors in Residential Buildings

5.1 New One and Two Family Dwellings over one level in height, New One and Two Family Dwellings containing a basement, and New One and Two Family Dwellings containing a crawl space containing a fuel burning appliance below the first floor, shall provide a method for fire protection of floors of a ½ inch (12.7 mm) gypsum wallboard membrane, 5/8 inch (16 mm) wood structural panel membrane, or equivalent on the underside of the floor framing member. Alternatively, floor fire protection may be provided with wood floor assemblies using dimension lumber or structural composite lumber equal or greater than 2 inch by 10 inch (50.8 mm by 254 mm) nominal dimension, or other approved floor assemblies demonstrating equivalent fire performance. If the flooring does not meet the requirements of this section, the dwelling must contain an Automatic Fire Sprinkler System as set forth in section R313.2 of the 2009 edition of the International Residential Code for One and Two Family Dwellings. Provided that: floor assemblies located directly over a space protected by an automatic sprinkler system as set forth in section R313.2 of the 2009 edition of the International Residential Code for One and Two Family Dwellings are exempt from this requirement.

§87-4-5-6. Exceptions.

The following structures are not subject to inspection by local jurisdictions:

Group U utility structures and storage sheds comprising an area not more than ~~±50~~ 200 sq. ft. which have no plumbing or electrical connections and are used only for residential storage purposes. (Examples include sheds that are for the residential storage of lawnmowers, tools, bicycles or furniture.) Not included are those utility structures and storage sheds which have plumbing or electrical connections are a non-residential use or for the storage of explosives or other hazardous or explosive materials.

§87-4-6. Availability of Code Books.

~~— A copy of the codes listed in Subsection 4.1 of this rule have been filed with the Secretary of State. These code books, collectively or separately, may be obtained by contacting the International Code Council, 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795, 1-888-422-7233 or the ICC Store, 1-800-786-4452.~~

§87-4-7. Adoption by Local Jurisdiction.

7.1. Each local jurisdiction adopting the State Building Code shall notify the State Fire Commission in writing. The local jurisdiction shall send a copy of the ordinance or order to the State Fire Marshal, West Virginia State Fire Commission, 1207 Quarrier Street, 2nd floor, Charleston, West Virginia 25301, within thirty (30) days of adoption.

7.2. Each local jurisdiction which adopts the State Building Code is responsible for the enforcement of the building code as provided in West Virginia Code 7-1-3n and 8-12-13.

7.3. Throughout the national codes, adopted in subsection 4.1 of this rule, there are discretionary

provisions or amendments which require further action by the adopting local jurisdiction in order to adapt these codes to various local conditions. The appendices are not a part of the code and must also be adopted by the local jurisdiction to be enforceable. It is therefore the intent of this rule to further authorize each local jurisdiction to further complete, by order or ordinance, those respective areas which are indicated to be completed by the adopting "jurisdiction" and any of the appendices the local jurisdiction wishes to adopt.

7.4. Within the penalty sections of each of the national codes, adopted in Section 4.1 of this rule, there is a penalty for imprisonment. The provision of imprisonment for any violation of this rule is optional with each adopting local jurisdiction.

7.5. Each of the national codes adopted in subsection 4.1 of this rule provides for a separate appeals board. However, the intent and requirements for an appeal board may be met with the creation by the local jurisdiction of a single appeals board for the entire "State Building Code."

§87-4-8. Existing Building Codes.

8.1. ~~All building codes which have been adopted by local jurisdictions prior to the passage of West Virginia Code 29-3-5b, in 1988, are null and void.~~ All building codes previously adopted by local jurisdictions are null and void.