

BEFORE THE WEST VIRGINIA

STATE FIRE COMMISSION

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STATE FIRE CODE PUBLIC HEARING

87 CSR 1

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BEFORE: VIRGIL WHITE, Chair
Kenneth Tree, Jr., Member

HEARING: Friday, May 9, 2025
10:01 a.m.

LOCATION: 1700 MacCorkle Avenue SE
Charleston, WV 25314

WITNESSES: None

Reporter: Emily Stewart

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BRANDOLYN N. FELTON-ERNEST, ESQUIRE
State of WV Department of Homeland Security
1900 Kanawha Boulevard East
State Capitol Complex
Charleston, WV 25305
Counsel for the Commission

Also Present:
Kathryn Burns

I N D E X

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E X H I B I T S

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NONE OFFERED

P R O C E E D I N G S

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COURT REPORTER: And I'm assuming you all want this in a transcript. Correct?

MS. BURNS: Yes. Yes.

COURT REPORTER: Is it already --- does sergeants already know how you like it or ---?

MS. BURNS: Yes. They've done them before.

COURT REPORTER: They've done it before. Okay. So just like do we want a mini? Do we want a full? Just so I know.

ATTORNEY FELTON-ERNEST: I need a transcript that I can scan and attach with the rules, if you don't mind.

COURT REPORTER: Okay. Where would you like me to send that?

ATTORNEY FELTON-ERNEST: You can send it ---?

COURT REPORTER: You want an email or a hard copy or ---?

ATTORNEY FELTON-ERNEST: You can email it to me, but you --- do you keep the hard copy? You keep it in a file of some sort?

1 MS. BURNS: I mean, I have it saved. I
2 have all of them saved. Yeah.

3 ATTORNEY FELTON-ERNEST: Okay.

4 MS. BURNS: So if you can just email it to
5 both of us.

6 COURT REPORTER: Okay.

7 ---

8 (WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

9 ---

10 CHAIR: I call to order the West Virginia
11 State Fire Commission public hearing for 87 CSR 1 as
12 required per State Code 15A-11-6 for any promulgation or
13 amendments to the Fire Code.

14 We recognize the attendees who have signed
15 in. And if you have not signed in, please do so and note
16 whether you wish to make a public comment.

17 So first order of business is the
18 consideration of comments on the 87 CSR 1 State Fire
19 Code.

20 Counsel, have there been any public
21 comments received?

22 ATTORNEY FELTON-ERNEST: Yes.

23 CHAIR: Consideration of public comments
24 of those in attendance. This is our sign-in sheet.

1 MR. TYREE: All right. So I'm going to
2 make this public comment for mine, but I know we received
3 something this morning by email which counsel has in
4 front of, but we're just taking it into record.

5 ATTORNEY FELTON-ERNEST: This came in your
6 email?

7 MR. TYREE: Yeah. Yeah. It came
8 to ---.

9 MS. BURNS: My email.

10 MR. TYREE: It came to Kathryn's email.
11 Public input regarding adoption of 87 CSR 1. It's from
12 the Fire Marshals Association of West Virginia whose
13 president is Bobby Palmer. It's relative to limited use
14 food preparation facilities in the State Fire Code. And
15 so we will put it in as a record of public input and
16 comment. And - and then so - as the state fire marshal
17 and as the agency head for the State Fire Marshal's
18 office, a non-voting member of the State Fire Commission,
19 I have some public comments or requests for public --- my
20 input to the State Fire Code pertaining to Section
21 2.2(a)(1). 2.2(a) is sprinkler protection and area
22 limitations. I'd like to make a request that the
23 following information be identified within 2.2(a)(1).

24 There is an addition on the second line of

1 2.2(a)(1) adding the word for before industrial
2 occupancies. After the word occupancies there's a
3 strikethrough that states the strikethrough is without
4 special or high hazard use or structures with the
5 exception of industrial occupancies except those
6 classified as high hazard occupancies. So that's a
7 strikethrough. And then underlying and added language
8 requests would state except those classified as high
9 hazard occupancies, period. Storage occupancies shall
10 also be included in the exemption with the exception of
11 buildings containing high-piled storage, bulk storage of
12 tires and many storage buildings as identified in NFPA 1
13 of the Fire Code, Section 13.3.2. 26, which is a part of
14 the fire protection section of that code. And then it
15 also will say this exemption shall include an exemption
16 from the height and area requirements for types of
17 construction identified as types one and one only found
18 in Section 2.2(a) of this rule.

19 And then after that an underline adding
20 the word others prior to the word exceeding in that same
21 paragraph. Then after the words and other NFPA codes,
22 adding the words where no conflicts in the language
23 exist. So the intent of this is to try to align with the
24 national --- national standards with the exception that

1 there is no reference to the types of construction and
2 storage occupancies. But as the agency head and
3 representative of this agency, I wanted to limit it to
4 type ones and --- type one and type two construction only
5 and not include types three, four and five. And
6 obviously this is not for existing construction. This is
7 for new storage occupancies and new industrial
8 occupancies.

9 And then one other request under Section
10 16, titled Exemption for Agricultural Purposes. So
11 there's already language there identified as 16.1 and
12 16.2. I'd like to add 16.3, which states to obtain
13 approval consideration for this exemption a formal
14 request will be made directly to the West Virginia
15 Department of Agriculture. If approved, this exemption
16 shall be provided to this agency from the submitter or
17 the Department of Agriculture. And that's just going to
18 bring clarity to that exemption that already is in place
19 for agricultural purposes, whether it be --- agritourism
20 or buildings used for agricultural purposes. This office
21 does not provide or give that exemption. That exemption
22 is only obtained through the West Virginia Department of
23 Agriculture. And that's why I'm asking for the addition
24 titled 16.3 in the standard --- excuse me, that already

1 exists in the State Fire Code.

2 And that is my request. I'll make sure
3 that that public comment in exactness is provided to
4 counsel since that's --- well, I won't go into that
5 because I think you're going to have to share with them
6 about the legislative process. And if anybody has
7 questions I answer them afterwards. You might ask just
8 to make sure they all said no but ---.

9 CHAIR: But does anybody have any public
10 comment?

11 AUDIENCE MEMBER: No.

12 MR. TYREE: Okay.

13 CHAIR: Counsel, could you please explain
14 the next steps and timeline involved in the state
15 legislative rule making process?

16 ATTORNEY FELTON-ERNEST: So as of today
17 the public comment period ends with us having the public
18 hearing. And I will need to file a copy of the rule with
19 the public comments addressed in the rule along with the
20 public comments with the Secretary of State's office.
21 And that needs to be filed before the first part of June.
22 And then after that it will go through the full
23 legislative process which will include hearings in front
24 of the Legislative Rulemaking Review Committee. And then

1 the rule would become part of a bundle of rules and a
2 bill for the 2026 legislative regular session.

3 So at this time we would take the public
4 comments. They all have to be addressed in the rule and
5 the rule will be filed here in the next couple of days.

6 Yes, sir.

7 MR. TYREE: One question. And this
8 hopefully will be on record. So the letter that was
9 received from the Fire Marshals Association of West
10 Virginia was not any request for public comment with the
11 exception there's one item in there where they would like
12 to have some kind of process for people to apply for the
13 limited use food preparation facilities. But the rest of
14 it is basically I'll just call commentary, not something
15 that would be added to the rule.

16 ATTORNEY FELTON-ERNEST: I mean this is
17 public comment. This is a public comment in writing that
18 I have received.

19 MR. TYREE: Yes.

20 ATTORNEY FELTON-ERNEST: So it now has to
21 be made part of all the other public comments. That will
22 be ---.

23 MR. TYREE: And I support all of that.
24 Yes.

1 ATTORNEY FELTON-ERNEST: And so it will be
2 scanned and made into a PDF and attached with the filing
3 of the rule after the public comment.

4 MR. TYREE: Okay. I just wanted the
5 public ---.

6 ATTORNEY FELTON-ERNEST: But any concerns
7 that are raised in here need to be addressed. So it'll
8 have to be noted in the --- either a change made in the
9 rule.

10 MR. TYREE: Yeah. One --- there --- yeah,
11 there's only one item where they have requested
12 technically a change in the rule which is to do with
13 procedures for applying for the limited use food
14 preparation facility permit. They're asking for that to
15 be a part of the process. The rest of it's just
16 commentary to the fact of there is this limited use food
17 preparation facility. And their opinion exemption being
18 provided.

19 CHAIR: Does anybody have any questions
20 for Marshal Tyree?

21 MR. TYREE: We all good? No, that was
22 good.

23 CHAIR: All right. Having heard the
24 public comments and the procedure steps necessary without

1 objection, this hearing is adjourned.

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3 HEARING CONCLUDED AT 10:12 A.M.

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1 CERTIFICATE

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3 I hereby certify, as the stenographic reporter,
4 that the foregoing proceedings were taken
5 stenographically by me, and thereafter reduced to
6 typewriting by me or under my direction; and that this
7 transcript is a true and accurate record to the best of
8 my ability.

9

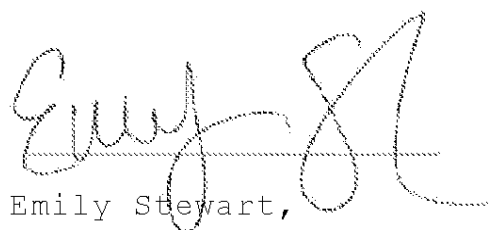
10 I certify that the attached transcript meets the
11 requirements set forth within article twenty-seven,
12 chapter forty-seven of the West Virginia Code.

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A handwritten signature in cursive script, appearing to read "Emily Stewart". The signature is written in black ink and is positioned above the printed name.

Emily Stewart,

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Court Reporter

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