

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

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JUN 10 11 32 AM '97

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: STATE FIRE COMMISSION TITLE NUMBER: 87

RULE TYPE: Legislative; CITE AUTHORITY 29-3-5

AMENDMENT TO AN EXISTING RULE: YES XXX NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: I

TITLE OF RULE BEING AMENDED: State Fire Code

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

DATE OF PUBLIC HEARING: July 14, 1997 TIME: 10:00 AM

LOCATION OF PUBLIC HEARING: State Capitol Complex
Main Capitol, East Wing, Room E-215
Charleston, WV 25305

COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH XX

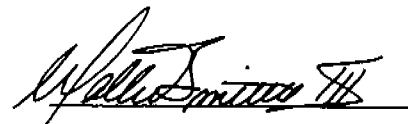
COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: State Fire Commission
c/o Bill Spencer, Chairman
1207 Quarrier St. 2nd Floor

Comment Period will end on July 21, 1997 at 4:00 PM
The Department requests that persons wishing to make
comments at the hearing make an effort to submit written
comments in order to facilitate the review of these comments.

Charleston, WV 25301

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL


Authorized Signature

\$11.20

The West Virginia State Fire Commission promulgates the State Fire Code in accordance with West Virginia Code, Chapter 29, Article 3, Section 5. The purpose of this code is to establish the minimum requirements for the safeguarding of life and property from the hazards of fire and explosion. Amendments to the State Fire Code include the adoption of the 1997 National Fire Codes as promulgated and miscellaneous requirements for fire safety.

STATE FIRE CODE

STATEMENT OF CIRCUMSTANCES

The State Fire Code provides the latest technology in fire safety designs and installations. This proposed rule adopts the 1997 edition of the National Fire Codes which are referenced by federal and state governments for reducing property loss and loss of life from the hazards of fire and explosion.

The purpose of updating the State Fire Code will provide the design professionals with different options to achieve a level of fire safety within different occupancies. The proposed rule also provides for miscellaneous fire requirements not specifically addressed by the National Codes. The State Fire Commission is authorized by Chapter 29, Article 3, Section 5 of the West Virginia Code to establish safe practices embodied in widely recognized standards of good practice for fire safety.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: State Fire Code

Type of Rule: XX **Legislative** **Interpretive** **Procedural**

Agency State Fire Commission

Address 1207 Quarrier Street, 2nd Floor

Charleston, WV 25301

Telephone: (304) 558-2191

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERNATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of above estimates:

Non-applicable

3. Objectives of these rules:

The objective of this rule provides for up-to-date technology in fire safety to reduce the loss of life and property from fires or explosions. This rule will adopt the National Fire Codes which are used by the Federal and State government, as well as international recognition, and provides the best viable fire safety resources with today's knowledge which provides for a reasonable level of safety for all occupancies.

Rule Title: State Fire Code

4. **Explanation of Overall Economic Impact of Proposed Rule.**

A. Economic Impact on State Government. This proposed rule will provide the State Fire Commission with updated technology on fire safety procedures and requirements to reduce fire loss. The initial cost for filing the National Fire Codes has been waived by the National Fire Protection Association, therefore, there is no cost to the State for filing this rule.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.


The utilization of the 1997 National Fire Codes will permit all individuals to use the latest technology available. The use of this technology will provide the necessary fire safety features for the reduction of fire loss. Requests for updating the code have been made by architects, business & industry.

C. Economic Impact on Citizens/Public at Large.

The current State Fire Code uses the 1994 National Fire Codes. With the adoption of the 1997 National Fire Codes, a more viable program for enhancing fire safety can be achieved through inspection and public information programs.

Date: June 10, 1997

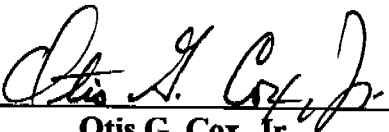
Signature of Agency Head or Authorized Representative



**WEST VIRGINIA
STATE FIRE CODE**

**Rules
of the West Virginia
State Fire Commission**

Approved by Secretary, Department of Military Affairs and Public Safety



Otis G. Cox, Jr.

June 10, 1997

Date

Approved by State Fire Commission



Bill L. Spencer, Chairman

June 10, 1997

Date

**STATE FIRE COMMISSION
1207 Quarrier Street, 2nd Floor
Charleston, West Virginia 25301**

WEST VIRGINIA STATE FIRE CODE

Rules of the West Virginia State Fire Commission

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TITLE 87
LEGISLATIVE RULE
FIRE COMMISSION

SERIES 1
FIRE CODE

FILED
JUN 10 11 32 AM '97
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§87-1-1. General.

1.1. Scope. -- This rule establishes the State Fire Code for the safeguarding of life and property from the hazards of fire and explosion.

1.2. Authority. -- This legislative rule is issued under authority of W. Va. Code §29-3-5 (1931, as amended), and pursuant to the provisions of W. Va. Code, Chapter 29A.

1.3. Filing Date. -- ~~March 29, 1995~~

1.4. Effective Date. -- ~~April 1, 1995~~

1.5. Exemption. -- This State Fire Code has no application to personal care homes caring for three or less patients or buildings used wholly as dwelling houses for no more than two families and has no application to farm structures. Provided; however, that farm structures (1) used for group sleeping accommodations for farm workers or (2) used for educational, health care, assembly or penal detention/correctional occupancy are not exempt from the requirements of this State Fire Code.

1.6. Incorporation of Other Documents. -- This State Fire Code does not include a reprinting of all the requirements imposed by statute or by the incorporation of various National Standards and Codes cited in Section 4 of this rule. For ascertaining these additional standards and requirements it is necessary to make reference to these other documents.

§87-1-2. Reporting of Fire Incidences by Fire Departments Brigades, and Companies.

Any organized public fire brigade, department or company shall report every fire and non-fire incident(s) to the State Fire Marshal on the forms provided by the State Fire Marshal. Every fire and non-fire incident response shall be reported within thirty (30) days after the date of the incident. EXCEPTION: Any fire or explosion involving human fatality, property damage in excess of \$250,000, or arson or suspected arson, shall be reported immediately.

§87-1-3. Unvented Heaters.

All unvented fuel fired heaters are prohibited for all occupancies except one (1) and two (2) family dwellings.

§87-1-4. National Standards and Codes.

4.1. Incorporated of National Standards and Codes - The standards and requirements as set out and established by the 1994 7 edition of "The National Fire Codes" published by the National Fire Protection Association, [The National Fire Protection Association (NFPA) organized in 1896 is an independent, voluntary membership, nonprofit (tax-exempt) organization and has as its mission the safeguarding of people, their property, and the environment from destructive fire, using scientific and engineering techniques and education] and the State Building Code, but not including standards and requirements directed to the operation of local fire departments, and NFPA 101M A and Chapters 22 and 23 of NFPA 101 and have the same force and effect as if set out verbatim in this rule and are hereby adopted and promulgated by the State Fire Commission as a part of the State Fire Code. The State Fire Marshal shall make use of the standards and requirements within the publications in all matters coming under his or her jurisdiction. A copy of The National Fire Codes has been filed with the Secretary of State and a copy of the Table of Contents of said publication is included in Section 4.5 of this rule. Information regarding the purchase of The National Fire Codes (or separate volumes thereof) may be obtained by writing to the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

4.2. National Standards and Codes - Modification of Fireworks Display Regulations. The "Regulations of the State Fire Marshal For The Display of Fireworks" as contained in N.F.P.A. 1123 and 1126 of the 19947 edition of The National Fire Codes have the same force and effect and shall control the same as if set out verbatim in this rule and are hereby adopted and promulgated by the State Fire Commission as a part of the State Fire Code, but with numbered paragraphs A and B changed to read as follows:

A. Upon receipt of such application at least 15 days in advance of the date set for this display, the Chief of the Fire Department shall make, or cause to be made an investigation of the site of the proposed display for the purpose of determining whether the provisions of this rule are complied with in the case of the particular display. He or she shall confer with the Chief of the Police Department, or the County Sheriff if the site for the proposed display is to be outside the limits of a municipality, about the application and whether issuance of a permit would be consistent with public safety. If a display is properly lawful, the Chief of Police (or the County Sheriff, if the site of the proposed display is outside the limits of a municipality) and the Chief of Fire Department shall together endorse the application, stating that they approve the display as being in conformance with all parts of the law and with this rule. Failure to approve the application by either the Fire Chief or Police Chief (or County Sheriff, as the case might be) is sufficient cause for the State Fire Marshal to deny a permit.

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43B	Organic Peroxide Formulations—1993	Vol 2	264A	Upholstered Furniture Components or Composites and Mattresses, Heat Release Rates for—1994	Vol 6
86	Ovens and Furnaces—1995	Vol 4	266	Upholstered Furniture Exposed to Flaming Ignition Source, Method of Test for Fire Characteristics of—1994	Vol 6
430	Oxidizers, Liquid and Solid—1995	Vol 7	1991	Vapor-Protective Suits for Hazardous Chemical Emergencies—1994	Vol 9
50	Oxygen Systems, Bulk, at Consumer Sites—1996	Vol 2	68	Venting of Deflagrations—1994	Vol 10
53	Oxygen-Enriched Atmospheres, Fire Hazards in—1994	Vol 10	306	Vessels, Control of Gas Hazards on—1993	Vol 6
88A	Parking Structures—1995	Vol 4	312	Vessels, Protection During Construction, Repair, and Lay-up—1995	Vol 6
1982	Personal Alert Safety Systems (PASS) for Fire Fighters—1993	Vol 9	90B	Warm Air Heating and Air Conditioning Systems—1996	Vol 5
43D	Pesticides, Storage of—1994	Vol 2	820	Wastewater Treatment and Collection Facilities—1995	Vol 7
912	Places of Worship—1993	Vol 12	25	Water-Based Fire Protection Systems—1995	Vol 2
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903	Property Survey Guide—1996	Vol 12	17A	Wet Chemical Extinguishing Systems—1994	Vol 1
1977	Protective Clothing and Equipment for Wildland Fire Fighting—1993	Vol 9	18	Wetting Agents—1995	Vol 1
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1035	Public Fire and Life Safety Educator Professional Qualifications—1993	Vol 7	299	Wildfire, Protection of Life and Property—1991	Vol 6
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1922	Pumping Units, Fire Service Self-Contained—1994	Vol 9	664	Wood Processing and Woodworking Facilities—1993	Vol 7
1911	Pumps on Fire Department Apparatus, Service Tests of—1991	Vol 8	482	Zirconium, Production, Processing—1996	Vol 7
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40E	Pyroxylin Plastic—1993	Vol 2			

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§87-1-5. Sprinkler Protection and Area Limitations.

Approved automatic sprinkler systems in accordance with the applicable NFPA Standard for Sprinkler Systems, will be installed in all new buildings, used for any occupancies, exceeding the areas in the table at the end of this rule.

EXCEPTION: Sprinkler protection for occupancies covered by Section 6 of this rule are required to provide sprinkler protection.

Type of Construction	BUILDING HEIGHT				
	1 Story	2 Story	More than 2 stories and up to 40 ft.	More than 40 feet	More than 75 feet
Type I					
443 Fire Resistive	40,000	40,000	10,000	Sec.10-High Rise	Sec.10-High Rise
332 Fire Resistive	40,000	30,000	10,000	Sec.10-High Rise	Sec.10-High Rise
Type II					
222 Protected Non-Com.	30,000	20,000	8,000	Sec.10-High Rise	Sec.10-High Rise
111 Protected Limited Combustible	30,000	15,000	5,000	Sec.10-High Rise	Sec.10-High Rise
000 Unprotected Limited Unprotected Non-Com.	10,000	5,000	All Areas Require Sprinklers	NOT PERMITTED	NOT PERMITTED
Type III					
211 Protected Ordinary	9,000	6,000	All Areas Require Sprinklers	NOT PERMITTED	NOT PERMITTED
200 Non-Protected Ordinary	7,000	4,000	All Areas Require Sprinklers	NOT PERMITTED	NOT PERMITTED
Type IV					
2HH Heavy Timber	9,000	6,000	All areas Require Sprinklers	NOT PERMITTED	NOT PERMITTED
Type V					
111 Protected Wood Frame	7,000	4,000	All Areas Require Sprinklers	NOT PERMITTED	NOT PERMITTED
000 Non-Protected Wood Frame	5,000	3,000	NOT PERMITTED	NOT PERMITTED	NOT PERMITTED

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Notes to Table:

(1) The word "area" means that area enclosed by exterior or foundation walls, fire barrier walls, or a combination of exterior or foundation walls. A fire barrier wall is a continuous vertical membrane designed and constructed with a fire resistance rating of two (2) hours to limit the spread of fire and smoke. ~~Fire barriers shall have protected openings shall be constructed in accordance with NFPA 221, Standard for Fire Walls and Fire Barrier Walls, with a minimum of a 2 hour fire rating.~~ Buildings shall only be separated by one (1) two hour fire barrier wall and areas shall be divided as equally as possible.

(2) The phrase "not permitted" means that buildings of these heights are not permitted for the type of construction indicated.

(3) The phrase "Section 10-High Rise" means that the building shall also comply with Section 10 of these Rules and Regulations.

(4) Types of building construction indicated in the chart are located in NFPA 220, Standard on Types of Building Construction.

~~(5) Protection of Structural members in Type I and Type II construction: Columns, girders, trusses, beams, lintels, or other structural members that are required to have a fire resistance rating and that support more than two floors or one floor and roof, or support a bearing wall or a nonbearing wall more than two stories high, shall be individually protected on all sides for their length or height with materials having the required fire resistance rating. All other structural members required to have a fire resistance rating may be protected by individual encasement, by a membrane or ceiling protection which is part of an approved assembly which meets the required fire resistance rating, or by a combination of both.~~

§87-1-6. Sprinkler Protection (Certain Occupancies).

All nursing, convalescent, old age, custodial care, and long term or extended care homes or institutions, existing and new, regardless of the type of construction, shall be provided with a complete automatic sprinkler protection in accordance with Standard 13 contained within the National Fire Codes and incorporated by reference in Section 4.1 of this rule.

EXCEPTION: Homes caring for not more than three patients.

§87-1-7. Carpet Used as Floor Covering.

7.1. Flammability Requirements for Carpet Used As Floor Covering

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In institutional, health care, educational and penal occupancies, carpet shall meet a minimum value of 0.45 watts per square centimeter in all corridors and exits. Carpet in all other areas of the above shall meet a minimum value of 0.22 watts per square centimeter.

Flammability requirements for carpet used as floor covering in all other occupancies shall meet a minimum value of 0.22 watts per square centimeter in all corridors and exits.

Any pad used under the carpet shall meet the minimum class of the carpet installed.

The values shall be determined by NFPA 253, Critical Radiant Flux of Floor Covering Systems.

7.2. Smoke Generation Properties of Carpet Used as Floor Covering.

In all occupancies smoke shall not exceed a maximum value of $D_m=450$ (flaming mode).

The value shall be determined by ASTM E-662, Specific Optical Density of Smoke Generation by Solid Materials.

All test data for determining the flammability and smoke properties of carpets shall be conducted by a nationally recognized laboratory as certified by the National Voluntary Laboratory Accreditation Program.

EXCEPTION: Where an approved, automatic sprinkler system is installed and the all floors is are non-combustible. Class II carpet shall be permitted in any location where Class I is required. Where an approved automatic sprinkler system is installed and the all floors are is noncombustible and Class II carpet is permitted, no rating is required.

§87-1-8. Maintenance of Fire Hazard; Order for Correcting Condition, Removal of Material, Repair, Demolition, etc.; Order to Contain Notice to Comply and Right to Appeal.

Whenever the State Fire Marshal, by and through persons working under his or her direction, determines (based upon the State Fire Code and/or on the experience and knowledge applied in the operation of his or her office) (1) that any building or structure has been constructed, altered, or repaired in a manner violating the State Fire Code as promulgated prior to the commencement of such construction, alterations, or repairs, or (2) that any building or structure is being maintained or used in such a way as to endanger life or property from the hazards of fire or explosion, or (3) that any building or other structure or property of any kind, which, for want of repairs, or by reason of its age, dilapidated, or abandoned condition or for any other reason constitutes a fire hazards and is located or constructed so as to constitute a danger to other buildings, property, persons, life, or limb, or (4) that in any building or upon any premises there is located any combustible, flammable, or explosive

substance or material or other condition dangerous to the safety of persons occupying the building or premises and adjacent premises and property, then the State Fire Marshal shall order such condition or thing to be corrected, or combustible, flammable or explosive, items to be removed, or such building or buildings to be repaired, closed to occupants, or removed, as required by the circumstances. Such order shall be promptly complied with by the owner, agent, occupant, and lessee of such premises, place, property, or thing. Any order may be expressed in the alternative, e.g. allowing repair but on the failure to repair requiring demolition. Any such order by the State Fire Marshal which concludes that a fire hazard exists, stating what repairs, and/or demolition, must be accomplished, and that compliance must be completed within thirty (30) days of issuance, and in the event of noncompliance, the State Fire Marshal is authorized by statute to enter into and upon the premises affected by the order and cause the building, structure, premises, or thing to be repaired, torn down, materials removed, and all dangerous conditions to be remedied (as the case may be) at the expense of the owner, and shall advise that the order can be contested by entering an appeal to the State Fire Commission as outlined in Section 13 of this Rule.

§87-1-9. Interference with Fire Protection Equipment.

No person shall render any portable or fixed fire extinguishing system or device or any fire warning system inoperative or inaccessible except as may be necessary during emergencies, maintenance, drills or prescribed testing.

§87-1-10. High Rise Buildings - Fire Safety Standards and Requirements.

10.1. General - All new buildings or structures more than forty (40) feet in height, measured from the lowest grade level of fire department vehicle access to the floor of the highest normally occupied space used for human occupancy of the structure, are subject to this rule for high rise buildings. This rule shall not nullify or interfere with existing city high rise ordinances or local laws previously adopted prior to September 8, 1975 relative to this subject. EXCEPTION: Industrial occupancies not occupied as business offices are exempted from this section.

10.2. Addition of Floors to Existing Buildings

Whenever floors are added to an existing building, which previously was not a high rise, causing building to become a high rise, the building shall comply with this rule.

10.3. Automatic Fire Extinguishing Systems & Standpipe Systems - Any building or structure as defined in Subsections 10.1 or 10.2 and used for human occupancy shall have an approved automatic fire extinguishing system throughout the entire building and standpipe systems installed in accordance with The National Fire Codes, imposed by Section 4 of this Rule. NOTE: Class I Manual Standpipe Systems may be used up to 75 feet as per NFPA 14, Standard for Standpipe Systems.

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10.4. Fire Alarm System - The fire alarm system shall conform to the rules imposed by Section 4 and Section 11 of this Rule.

10.5. Fire Department Voice Communication System - Any high rise building or structure used for human occupancy that is seventy-five (75) feet in height or greater as measured ~~from the lowest grade level to the floor of the highest normally occupied space used for human occupancy~~ in accordance with Section 10.01 shall have an approved electrically supervised fire department voice communication system. The Fire Department Voice Communication System shall be located at each floor level of stair enclosures, elevator lobbies, penthouse and in any elevator designated for fire department use. This system shall be a telephone jack system unless specifically approved otherwise by the designated fire authority having jurisdiction.

10.6. High Rise Central Control Station - In every High Rise as defined in Subsections 10.1 and 10.2, a central control station for Fire Department operations shall be provided in a location approved by the State Fire Marshal or the designated local fire authority. The Central Control Station shall contain: (1) the fire department voice communication system panel when required, (2) fire detection and alarm system panels, (3) status indicators for the HVAC, Smoke Control System, fire pumps and emergency generator and a (4) telephone approved by designated fire authority having jurisdiction. Emergency lighting shall be provided at the Central Control Station.

10.7. Emergency Power - A permanently installed emergency power generation system conforming to The National Fire Codes imposed by Section 4 of Rule shall be provided in every high rise building 75 feet in height or greater, as measured ~~from the lowest grade level to the floor of the floor of the highest normally occupied space used for human occupancy~~ in accordance with Section 10.01.

All power, lighting, signal, and communication facilities, required by this rule or otherwise, shall be transferable automatically to the emergency power system.

The emergency system shall be of sufficient capacity to provide service for, but not limited to, the following:

- (a) The Fire Alarm System
- (b) Exit & Other Emergency Lighting
- (c) Fire Protection Equipment
- (d) The Smoke Management System
- (e) The Fire Department Elevator
- (f) The Fire Department Voice Communication System
- (g) The Fire Pumps

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10.8. Smoke Management - In all high rise buildings as defined in Subsections 10.1 and 10.2 smoke management system designed in accordance with NFPA 92A, Smoke-Control Systems, and 92B, Smoke Management Systems in Malls, Atria and Large Areas, shall be provided and acceptable to the authority having jurisdiction.

10.9. Floor Designation - All stairway doors (both on the stairway and entrance side) shall indicate the floors by number. The number shall be at least 6" block letters in a contrasting color.

§87-1-11. Fire Alarm System.

11.1. General Requirements for All Occupancies

(1) The requirements of NFPA 101, Life Safety Code, Chapter 7, Section 6 as adopted by this Rule shall apply in addition to the following requirements.

~~(12)~~ All fire alarm systems including all components shall be electrically supervised. Components include pull stations, automatic detection, sounding devices, flow switches, tamper switches and main panel.

~~(23)~~ All fire alarm systems shall be tied in ahead of the main power disconnect, unless a secondary power source is provided.

~~(34)~~ All fire alarm systems shall be in accordance with The National Fire Codes, imposed by Section 4 of this rule. (NOTE: NFPA 70, National Electrical Code, and NFPA 72, National Fire Alarm Code)

~~(45)~~ Sprinkler System(s) installed - The OS & Y, P.I.V. and other Control Valves shall be electrically supervised and tied into the trouble/supervisory side of the fire alarm control panel.

~~(56)~~ Sprinkler System(s) shall be tied in so water flow will activate the general fire alarm sounding device(s).

~~(67)~~ Flow and/or pressure switches shall be annunciated separately on the main fire alarm control panel.

~~(78)~~ All Health Care, and Detention and Correctional Occupancies shall be tied into a fire department or a communication center responsible for receiving emergency calls with 24-hour supervision.

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Section 11.01

(89) Heating, Ventilation, Air Conditioning Systems (HVAC)

(a) All heating, ventilation, and air conditioning systems greater than 2000 CFM and less than 15,000 CFM shall have a duct type smoke detector in the return air duct or plenum for automatic shut down, to close main fan dampers and to sound general fire alarm when activated.

(b) All heating, ventilation, air conditioning systems greater than 15,000 CFM shall have duct type smoke detectors installed in both supply and return air duct to automatically shut down, close main fan dampers and to sound a general fire alarm when activated.

(c) Health Care, Detention/Correctional occupancies and high rise buildings duct detectors shall be zoned to indicate the specific air handling unit at the main fire alarm panel.

(d) 100% utilization of outside air will not require duct detector(s).

(e) HVAC Systems used as part of the smoke management systems are exempt from this subsection.

(910) Audible alarm indicating devices shall be of such character and so distributed as to be effectively heard above the ambient noise level obtained under normal conditions of occupancy. Audible alarm indicating devices shall produce signals that are distinctive from audible signals used for other purposes in the same building.

Visual signal devices shall be provided in all new fire alarm systems.

Pre-recorded or live voice evacuation instructions to occupants are permitted. Pre-recorded instructions shall be preceded by not less than 5 seconds or more than 10 seconds of a continuous alerting signal. Upon completion or failure of pre-recorded instructions, the fire alarm evacuation signal shall sound. Pre-recorded instructions shall be repeated two or more times. Live voice instructions shall be permitted to interrupt the pre-recorded message or the fire alarm evacuation signal. Audible and visual fire alarm devices shall be used only for fire alarm system.

(1011) Manual pull stations shall be located no greater than 200 feet from each other and at all exits. Manual pull stations shall be of the same general operational type. (See specific subsections of this section for additional occupancy requirements.

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Section 11.01

(~~11~~12) Thermal detectors are required in the following areas in all occupancies requiring a fire alarm system and as listed or identified in NFPA 101, The Life Safety Code

AREAS	TYPE OF DETECTORS
(a) Elevator Shafts	Fixed Temperature
(b) Attic & Cockloft Spaces	Fixed Temperature
(c) Storage Rooms	Rate of Rise
(d) Furnace or boiler rooms	Fixed Temperature
(e) Janitor Closets	Rate of Rise
(f) Kitchens	Fixed Temperature
(g) Laboratories, Home Economics, Woodworking Shops, Auto Shops, Utility Rooms, & Locker Rooms	Rate of Rise

EXCEPTION: Thermal detectors are not required in areas provided with sprinkler protection or dwelling units of apartments.

(~~12~~13) Smoke detectors are required in the following areas in all occupancies requiring fire alarm systems:

(A) Rooms and/or areas dedicated for the location of electrical distribution panels or transformers.

(B) Stages/Platforms

(C) On each side of required smoke partition doors.

Smoke detectors where required by the occupancy shall be placed a maximum of 15 feet from ends of corridors or walls and 30 feet on center and in rooms open to the corridors. Variance with these requirements must have submission of technical data to justify exceeding these distance requirements.

(~~13~~14) A building or structure being used for more than one occupancy must comply with the fire alarm system requirements of the most stringent occupancy for that building or structure.

(~~14~~15) Hood suppression systems shall be connected to the Fire Alarm System.

(16) A pre-signal system is not permitted.

11.2. Requirements for Educational/Day Care Occupancy

(1) A fire alarm system is required in every educational occupancy, and must meet the requirements and standards as provided in this section. Educational occupancies are defined in NFPA 101, The Life Safety Code. ~~EXCEPTION: One or two~~ A classroom buildings of less than 2500 sq. ft. gross floor area with direct exiting to the outside from each classroom.

(2) The general requirements shall be complied with in all educational occupancies as if herein restated verbatim.

(3) Open Plan Classroom Concepts require a complete smoke detection system throughout the facility.

(4) Day Care Centers located in buildings other than educational facilities shall have smoke detectors installed on the ceilings of each story in front of the doors to the stairways and at no greater than 30 feet spacing in the corridors of all floors occupied by the center.

(4a) Group Day Cares require hardwired smoke detectors in sleeping rooms and corridors. Audio visual warning devices are required if hearing impaired individuals are in the facility. In mixed occupancies when exiting requires the use of a common corridor, an electrically supervised fire alarm system shall be installed.

(5) An annunciator panel or fire alarm control panel is to be readily accessible to local fire department personnel.

(6) Rate of rise thermal detectors are required in all Rest Rooms ~~having three (3) or more fixtures.~~ Exception: Existing Buildings.

(7) Smoke detectors shall be installed in all corridors, except in a single story building with direct exiting to the exterior from every normally student occupied room via a door.

11.3. Requirements for Assembly Occupancy

(1) A fire alarm system is required in every place of assembly where:

- (a) Occupancy is subject to 300 or more occupants, or
- (b) Occupancy is subject to 100 or more occupants above or below level of exit discharge, or
- (c) The building is two (2) or more stories in height above level of exit discharge, or two (2) or more stories below level of exit discharge.

(d) Theaters with more than one audience-viewing room.

Assembly occupancies are as defined in the Life Safety Code.

(2) The General Requirements shall be complied with in all places of assembly as if herein restated verbatim.

(3) Annunciator panel and/or fire alarm control panel shall be readily accessible to fire department personnel.

(4) Theater(s) and auditorium(s) are required to provide sounding audible device(s). House lights in auditoriums and theaters shall be activated by the fire alarm system.

11.4. Requirements for Health Care Occupancy

(1) A fire alarm system is required in every Health Care occupancy, and such a system must meet the requirements and standards of this rule. Health Care occupancies are defined in NFPA 101, The Life Safety Code.

(2) The general requirements of this rule shall be complied with in all health care occupancies as if herein restated verbatim.

(3) An approved automatic smoke detection system shall be installed in all corridors.

(4) Manual pull stations shall be installed every 50 feet throughout the facility in patient room areas starting at the end of all corridors. All other manual pull stations shall be placed in accordance with general requirements of this rule.

(5) Fire alarm systems shall have annunciators located at all 24 hour nurse's stations, the telephone switchboard, and at the main location of the fire department's entry.

11.5. Requirements for Detention and Correctional Occupancies

(1) A fire alarm system is required in every Detention and Correctional occupancy and such a system must meet the requirements and standards as provided in this rule. Detention and Correction occupancies are defined in NFPA 101, The Life Safety Code.

(2) The general requirements shall be complied with in all Detention and Correctional occupancies as if herein restated verbatim.

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(3) The annunciator panel or fire alarm control panel is to be readily accessible to fire department personnel and shall also be provided in the jail control center.

(4) Manual pull stations shall be provided as set forth in general requirements of this rule. EXCEPTION: Manual pull stations may be of security type in detention sections.

(5) Smoke detectors shall be installed in all corridors. If no corridor exists, installation shall be at the highest point of the cell area(s).

(6) Dormitory style facilities shall comply with Residential requirements.

11.6. Requirements for Residential Occupancy

(1) A fire alarm system is required for each of the herein enumerated groups of residential buildings, and such system must meet the requirements and standards provided. A residential building is as defined in NFPA 101, The Life Safety Code.

EXCEPTION: Lodging and Rooming Houses protected throughout with a sprinkler system shall be provided with interconnected hardwired smoke detectors per NFPA 72, The National Fire Alarm Code, Chapter 2.

(2) These general requirements shall be complied with in all residential occupancies as if herein restated verbatim.

(3) Residential occupancies are designated in two Groups, A and B. These designations or groups must comply with the stated requirements, as follows:

GROUPS

- A. Hotel/Motels, Dormitories, Lodging and Rooming Houses
- B. Apartments

REQUIREMENTS

- A. Hotels/Motels/Lodging or Rooming ~~and/or Boarding~~ Houses, Dormitories

(1) Smoke detectors shall be placed a maximum of 15 feet from ends of corridors or walls and located 30 feet on center throughout all inside corridors. Smoke detectors shall be placed a maximum of 15 feet from ends of walls and 30 feet on center in open bay sleeping areas.

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(2) The annunciator panel or fire alarm control panel shall be readily accessible to fire department personnel and also shall be located at the registration desk.

(3) All sleeping rooms and living areas in suites shall have an approved self-contained smoke detector(s) hard wired in accordance with NFPA 742, Household Fire Warning Equipment, National Fire Alarm Code.

(4) Motel(s)/Hotel(s) having direct exterior exiting shall have manual pull station(s) every 75 feet located on exterior walls. (Minimum requirement shall be one): Exception: One story motels with 16 or less sleeping rooms having direct exiting to the exterior are not required to be provided with a fire alarm system.

B. Apartments

(1) Apartment buildings having 12 or more units or 4 or more stories in height shall have a fire alarm system. Smoke detectors shall be placed a maximum of 15 feet from the ends of corridors and walls and 30 feet on centers.

(2) All existing apartments shall have approved self-contained smoke detector(s) located at entrance(s) to bedrooms.

(3) All new apartments shall have an approved self-contained smoke detector(s) hard wired in accordance with NFPA 742, Household Fire Warning Equipment, National Fire Alarm Code.

(4) All new apartment building having 12 or more units or 4 or more stories in height with direct exiting to the exterior shall have manual pull stations every 75 feet on the exterior wall. Minimum requirement shall be one.

11.7. Requirements for Mercantile Occupancy

(1) A fire alarm system is required in every mercantile occupancy over 3,000 square feet, and such system must meet the requirements and standards as provided herein. Mercantile occupancies are as defined in NFPA 101, the Life Safety Code.

(2) The general requirements will be complied with in all mercantile occupancies as if herein restated verbatim.

(3) If an existing Class B mercantile occupancy has a complete and approved sprinkler protection system, a fire alarm system will not be required.

11.8. Requirements for Business Occupancy

(1) A fire alarm system is required in every business occupancy where:

(a) Occupancy is subject to 300 or more total occupants, or

(b) Occupancy is subject to 100 or more occupants above or below level of exit discharge,
or

(c) Building two (2) or more stories in height above level of exit discharge or two (2) or more stories below the level of exit discharge. Business occupancy is defined in NFPA 101, The Life Safety Code.

(2) The general requirements shall be complied with in all business occupancies as if herein restated verbatim.

11.9. Requirements for Industrial Occupancy

A fire alarm system is required in all Industrial Occupancies as required in The National Fire Codes (NFPA 101, Life Safety Code) referred to in Section 4 of this rule.

11.10. Requirements for Storage Occupancy

A fire alarm system is required in all Storage Occupancies as required in The National Fire Codes (NFPA 101, Life Safety Code) referred to in Section 4 of this rule.

§87-1-12. Exit Inspections and Public Life Safety Announcements.

12.1. Inspection of Exits. Not more than ninety (90) minutes prior to the scheduled commencement of any noncontinuous activity, event, performance, show, meeting, function, or other occasion for which persons will gather at a Class A or B place of assembly (as defined in NFPA 101, The Life Safety Code) the owner (or his or her designee pursuant to written authority, instructions, or procedures) shall inspect every required exit, way of approach thereto, and way of departure therefrom. If such inspection reveals that any required means of egress is obstructed, inaccessible, locked, fastened, or otherwise unsuited for immediate use, the scheduled program shall not begin, nor shall admittance to the place of assembly be permitted, until necessary corrective action has been completed.

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12.2. Announcements. Immediately prior to the start of a program, the owner or his or her authorized agent shall orally notify all attendees concerning the location of the exit(s) to be used in case of fire or other emergency.

12.3. Records. Accurate record of all inspections, corrections, and notifications made pursuant to this chapter shall be kept and retained for at least two (2) years in the offices of the respective building owners. The records shall contain:

- (a) A brief description of each activity, event, performance, etc., including date, time, and location;
- (b) the name and signature of the person who performed each requirement of this chapter; and
- (c) the date and time when each requirement was performed.

12.4. Alternatives. In cases of practical difficulty or undue hardship, or in which compliance would not significantly increase life safety, the State Fire Marshal may approve or accept alternative means of accomplishing the objectives of this section.

§87-1-13. Orders and Decisions of the State Fire Marshal; and Appeals and Procedure for Appeals from such Orders or Decisions.

Any person aggrieved by an order or final written decision of the State Fire Marshal based upon or made in the course of the administration or enforcement of the provisions of W.Va. Code Chapter 29, Article 3 or made pursuant to these rule, and desiring to contest such order or written decision may file an appeal from such order or written decision with the State Fire Commission. Preservation of the right to an appeal and the procedure for the contested case is governed by this section and by W. Va. Code §Chapter 29, Article 3, and Chapter 29A.

13.1. State Fire Marshal's Order and Decisions are Final and Conclusive - Any order or final written decision of the State Fire Marshal based upon or made in the course of the administration or enforcement of the provisions of W.V. Code, Chapter 29, Article 3 based upon or made pursuant to this rule is final, unless vacated or modified upon review pursuant to the appeal rights and procedures provided by Chapter 29A of the W.V. Code and this rule.

13.2. W. Va. Code §29-3-12(g) and (i) Inquiry and Investigation - The testimony which may be obtained by the State Fire Marshal pursuant to the authority in W. Va. Code §29-3-12(g) and (i) shall be obtained without compliance with the provisions in these rules governing "Procedure in Contested Cases." Where appropriate, a subsequent order by the State Fire Marshal relating to the testimony

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so obtained shall, the same as any other order by the State Fire Marshal, be subject to the appeal rights provided in W. Va. Code §Chapter 29, Article 3.

13.3. Appeal Petition - The appeal petition is to be typewritten, styled "Appeal Petition", and submitted with an original and one (1) copy. It shall be complete in itself so as to fully state the matters contested. No telegram, telephone call, or similar communication will be regarded as an appeal petition. The petition shall contain and include the following:

- (A) a copy of the order or decision of the State Fire Marshal being contested;
- (B) a clear and concise assignment of each error which the petitioner alleges to have been committed by the State Fire Marshal in issuing said order or decision with each assignment of error being shown in separately numbered paragraphs;
- (C) a clear and concise statement of fact upon which the petitioner relies as sustaining his assignment of errors;
- (D) the address petitioner desires to have all notices, documents, and the final order of the State Fire Commission mailed to;
- (E) the telephone number or numbers where petitioner can be contacted;
- (F) the names and addresses of all persons having any ownership interest in the property which is the subject of the State Fire Marshal's order being contested;
- (G) a prayer setting forth the relief sought; and
- (H) the signature of the petitioner or its duly authorized officer.

13.4. Time Requirement and Manner of Filing Appeal Petition - An appeal petition must be personally delivered or mailed to the State Fire Commission within thirty (30) days following service upon the petitioner, or within thirty (30) days following actual receipt if service is not required or for some reason is not made of the order or decision being contested. Any appeal petition shall be sent by certified mail, return receipt requested, and timely if postmarked within the thirty (30) day period. Any appeal petition not delivered or mailed within the thirty (30) day period is not timely filed and the order or decision of the State Fire Marshal being contested is final.

13.5. Copy of Appeal Petition to State Fire Commission - Upon receipt of an appeal petition, the State Fire Commission shall supply a copy of the petition to the State Fire Commission together with an opinion by the State Fire Marshal regarding the urgency of the matter being contested. If The State

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Fire Marshal elects to file a response to the appeal petition, he or she shall deliver a copy of the response to the State Fire Commission and a copy to the petitioner.

13.6. Scheduling Appeal Petition for and Notice of Hearing - The State Fire Commission through the State Fire Marshal shall schedule a hearing on the appeal petition giving the petitioner and the State Fire Marshal at least ten (10) days written notice of the date, time, and place of the hearing. The notice to the petitioner shall be by personal delivery or by certified mail, return receipt requested, shall contain a short and plain statement of the matters to be considered at the hearing, a copy of the State Fire Marshal's response, if any, to the appeal petition, and be mailed or personally delivered by the State Fire Marshal no later than thirty (30) days after receipt of the appeal petition. A copy of the notice to the petitioner shall be supplied to the State Fire Marshal. The hearing is to be conducted at a designated location at the State Capitol in Charleston, West Virginia, or in the discretion of the State Fire Commission at a location within the county where the premises in question are located.

13.7. Authorized Representative - The petitioner may appear individually, or by counsel.

13.8. Continuances - A motion for continuance shall not be granted unless made in writing three days before the hearing or during the hearing, in either case for good and sufficient cause. Upon consideration of a motion for continuance, the urgency of the situation shall be determined and taken into consideration. Conflicting engagements of counsel or the employment of new counsel are not good grounds for a continuance, unless set forth in a motion filed promptly after the notice of hearing has been mailed, or unless extenuating circumstances are shown, which the State Fire Commission or hearing examiner considers adequate.

13.9. Absence of Petitioner or Counsel at the Scheduled Hearing - A hearing shall not be delayed or continued due to the absence of the petitioner or his legal counsel at a hearing, after service of notice of time, date, and place. The hearing shall proceed and the case shall be submitted for decision on the part of the absent petitioner or petitioners.

13.10. Hearing Examiner - Any member of the State Fire Commission may conduct a hearing on an appeal petition, and shall have full authority to conduct the proceedings on an appeal petition, and when acting in such capacity shall be referred to as the hearing examiner. Alternatively, the State Fire Commission may authorize and empower an impartial attorney as a hearing examiner with the specific powers listed in W. Va. Code §29A-5-1(d).

13.11. Subpoenas and Subpoenas Duces Tecum - At any hearing held hereunder, the testimony of witnesses and the production of documentary evidence may be required through the use of subpoenas and subpoenas duces tecum. The State Fire Marshal may issue subpoenas and subpoenas duces tecum at the request of the petitioner, the hearing examiner, or the State Fire Commission.

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Every such subpoena and/or subpoena duces tecum is required to prove service at least five (5) days before the return date thereof, either by personal service made by any person eighteen (18) years of age, or older, or by registered or certified mail, but a return acknowledgement signed by the person to whom the subpoena or subpoena duces tecum is directed shall be required to prove service by registered or certified mail.

Any party requesting a subpoena or subpoena duces tecum must see that it is properly served. Service of a subpoena or subpoena duces tecum issued at the insistence of the State Fire Commission is the responsibility of such Commission.

Any public official who serves any such subpoena or subpoena duces tecum shall be entitled to the same fee as a Sheriff who serves a witness subpoena for a circuit court of this state; and fees for the attendance and travel of witnesses shall be the same as for witnesses before the circuit courts of this state. All fees shall be paid by the State Fire Commission if the subpoena or subpoena duces tecum is issued at the instance of the Commission. All such fees related to any subpoena or subpoena duces tecum issued at the instance of the petitioner or the State Fire Marshal shall be paid by the party requesting such subpoena or subpoena duces tecum.

A request for a subpoena or subpoena duces tecum shall be in writing and shall contain a statement acknowledging that the requesting party agrees to pay the required fee.

Any person receiving a subpoena or subpoena duces tecum issued hereunder shall honor the same as though it were issued by a circuit court of the state, and shall appear as a witness and/or produce such books, records, or papers in response to such subpoena or subpoena duces tecum. In case of disobedience or neglect of any subpoena or subpoena duces tecum served on any person or the refusal of any witness to testify to any matter regarding which he or she may be lawfully interrogated, the circuit court of the county in which the hearing is being held, upon application by the State Fire Commission, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena or subpoena duces tecum issued from such circuit court or a refusal to testify therein.

13.12. Evidence

(A) All witnesses appearing at such hearing shall testify under oath or affirmation. Every adverse party shall have the right of cross-examination of witnesses who testify, and shall have the right to submit rebuttal evidence.

(B) All relevant and material evidence, including papers, records, agency staff memoranda and documents in the possession of the State Fire Commission or the State Fire Marshal of which either party desires to avail himself, may be offered and made a part of the record in the case.

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(C) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Except as otherwise herein stated, the rules of evidence as applied in civil cases in the circuit courts of this state shall be followed in considering the admissibility of evidence. However, when necessary to ascertain facts not reasonably susceptible of proof under those rules, reasonably authenticated evidence not admissible thereunder may be admitted, except where precluded by the official code of W.V. or privilege, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

13.13. Record of Proceedings - All of the testimony, evidence and rulings on admissibility of evidence at any such hearing shall be recorded by a certified court reporter. An official record of the hearing will be prepared by the State Fire Commission, but a transcript, shall only be prepared if this Commission's final decision is appealed. The cost of the transcript shall be paid by the party requesting it.

13.14. Informal Disposition - At any stage of the proceedings, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

13.15. Decision by the State Fire Commission - Upon the conclusion of the hearing, the person designated by the State Fire Commission as hearing examiner shall prepare a decision supported by findings of fact and conclusions of law affirming, modifying, or vacating the earlier order of decision of the State Fire Marshal. The State Fire Commission may either accept, modify, or reject the hearing examiner's decision. If the Commission accepts the hearing examiner's decision it shall sign the decision. If the Commission rejects or modifies the hearing examiner's decision, it shall prepare a written decision setting forth findings of facts and conclusions of law. In either event, the order signed by the State Fire Commission shall be final unless vacated or modified upon judicial review thereof. A copy of the order shall be served on all parties to the hearing and all attorneys of record, if any, in person or by certified mail, return receipt requested.

13.16. Judicial Review - The petitioner or by the State Fire Marshal may appeal the Commission's decision to the circuit court of the county where the premises are located, if the appeal is filed within thirty (30) days after the date upon which party was served with a copy of the final order or decision of the State Fire Commission. The final order signed by the State Fire Commission is final if the proceedings for judicial review are not instituted within the said thirty (30) day period.

§87-1-14. Miscellaneous Provisions.

14.1. FOREST FIRE SEASON:

The periods of each year between March first and May thirty-first, inclusive, and October first and December thirty-first, inclusive, are hereby designated as forest fire seasons. No person shall during

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any such fire season, except between the hours of four o'clock p.m. and seven o'clock a.m. prevailing time, set fire to, or procure another to set fire to, any brush, leaves, grass, debris or field containing dry grass or other inflammable material capable of spreading fire, located in or within 300 feet of any woodland, brushland, or field containing dry grass or other inflammable material. Any fire set during this time shall be extinguished prior to seven o'clock a.m. prevailing time. Such prohibition of fires between seven o'clock a.m. and four o'clock p.m. prevailing time does not include (1) small fires set for the purpose of food preparation, or providing light or warmth around which all grass, brush, stubble, or other debris has been removed for a distance of ten feet from the fire, and (2) burning which may be conducted at any time when the ground surrounding the burning site is covered by one inch or more of snow. Any person who sets or causes to be set any fire permitted by this section shall not leave such fire unattended for any period of time.

Any person or his agent or employee who sets or causes to be set any fire at any time in the use and occupation of any kind on which the burning was being done is in violation of this section if fire escapes beyond the safety strip. Any person who, by himself, or by his employees, agents or guides or as an employee, agent or guide of any other person, shall at any time build or use any fire in any field, on any public or private road, or in any area adjacent to or on any forest land in this state, shall, before leaving such fire for any period of time, totally extinguish the same. A person shall not at any time, totally extinguish the same. A person shall not at any time throw or place any lighted match, cigar, cigarette, firecracker or lighted material on any forest land, private road, public highway or railroad right-of-way within this state.

Provided that the State Fire Marshal may issue permits authorizing fires prohibited by the preceding paragraph in accordance with West Virginia State Code, Chapter 20, Article 3, Section 5 and 6 of the West Virginia Code.

14.2. Executive Order by the Governor on Open Burning

On such occasions when the Governor of the State issues an Executive Order or Proclamation to ban open burning due to weather conditions, the fire marshal may assist in the enforcement of the provisions of the Proclamation or Executive Order.

14.3. Outdoor Storage of Used Tires

The storage of used tires shall comply with the following:

- (1) All outdoor storage of used tires shall be free from all trash and debris within the site.
- (2) The owners/operators of outdoor storage of used tires shall maintain controlled access to the property with only one entrance/exit, and install security lighting for use during evening and night time hours as designated by the State Fire Marshal.

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- (3) All outdoor storage of used tires shall have a perimeter security chain link fence of a minimum height of six feet.
- (4) All storage of used tires, shredded or unshredded, shall be separated into individual piles on the property. No pile may exceed 50 feet by 50 feet by 15 feet in height.
- (5) In the absence of an available water supply of at least 500 GPM (gallons per minute) provided by fire hydrants within 1000 feet of the facility, a minimum of 10,000 thousand gallon water supply on the site for exclusive use of fire fighting personnel shall be established.
- (6) Fire lanes shall be established between all tire piles and maintained having a minimum of forty-five foot lanes capable of supporting fire apparatus.
- (7) A minimum of a fifty foot wide zone around the site perimeter inside the fence line shall be maintained.
- (8) All storage piles shall have a minimum of a thirty inch high earthen dike around each tire pile as the piles are established.
- (9) A maximum of eighteen tire piles may be established on a single site.
- (10) No site may exceed the storage of more than three hundred thousand tires without the approval of the state fire marshal.

14.4. Fireworks Defined; Labels Required (29-3-23)

The term "fireworks" means and includes any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and includes blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of unmanned balloons which require Fire underneath to propel the same, firecrackers, torpedoes, skyrockets, roman candles, daygo bombs, sparklers or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance, except that the term "fireworks" shall not include sparklers and novelty items per Chapter 29, Article 3, Section 23 of the West Virginia Code, model rockets and model rocket engines, designed, sold and used for the purpose of propelling recoverable acro models and shall not include toy pistols, toy canes, toy guns or other devices in which paper or plastic caps manufactured in accordance with the United States department of transportation regulations for packing and shipping of toy paper or plastic caps are used and toy paper or plastic caps manufactured as provided therein,

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the sale and use of which shall be permitted at all times. Each package containing toy paper or plastic caps offered for retail sale shall be labeled to indicate the maximum explosive content per cap.

14.5. Unlawful Sale, Possession or Use of Fireworks; Permit for Public Display (29-3-24)

Except as hereinafter provided, no person, firm, co-partnership or corporation shall offer for sale, possess, expose for sale, sell at retail, keep with intent to sell at retail, or use or explode any fireworks. The granting of permits for supervised displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals shall be in accordance with the National Fire Codes as adopted in Section 4 of this State Fire Code. The state fire marshal shall have the authority to charge a fee of ten dollars to each applicant requesting a license to be a pyrotechnic operator as set forth in this article. The state fire marshal shall charge a scaled fee for all applications requesting permits to establish a pyrotechnics display as provided in this section. All fees (as provided in Rule, Fees for Services Rendered, Series 5) required to be paid by the provisions of this section shall be paid to the state fire marshal and thereafter deposited by him into a special account for the operation of the state fire commission. Such permits may be granted upon application to said state fire marshal and after approval of the local police and fire authorities of the community wherein the display is proposed to be held as provided herein and the filing of a bond by the applicant as provided hereinafter. Every such display shall be handled by a competent operator licensed or certified as to competency (as provided by National Codes as adopted in Section 4 of this State Fire Code) by the state fire marshal and shall be of such composition, character, and so located, discharged or fired as in the opinion of the chief of the fire department, after proper inspection, and of the chief of police as to not be hazardous to property or endanger any person or persons. After such privilege shall have been granted, sales, possessions, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

The governing body or chief executive authority of the municipality shall require a bond from the licensee in a sum not less than one thousand dollars conditioned on compliance with the provisions of this article and the rules of the state fire commission, provided no municipality shall be required to file such bond.

Before any permit for a pyrotechnic display shall be issued, the person, firm or corporation making application therefor shall furnish proof of financial responsibility (as provided by National Codes as adopted in Section 4 of this rule) to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of such person, firm or corporation or any agent or employee thereof, in such amount, character and form as the state fire marshal determines to be necessary for the protection of the public.

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14.6. Necessity of License for Electrical Work

No electrical work may be performed, offered or engaged in for compensation or hire within the state of West Virginia by any person, unless such person possesses a valid license issued by the state fire marshal in accordance with Chapter 29, Article 3B of the West Virginia Code. (29-3B-2)

14.7. Residential Board and Care Occupancies

Application: All facilities classified as residential board and care occupancies shall conform to the following Life Safety Code, NFPA 101, requirements except where modified as follows:

Definitions:

~~Residential Board and Care Occupancy. A building or part of a building used to provide lodging, boarding, and personal care services for four (4) up to and including ten (10) residents unrelated by blood or marriage to its owners or operators.~~

~~Personal Care. "Personal Care" means protective care of a resident who does not require chronic or convalescent medical or nursing care. Personal care involves responsibility for the safety of the resident when in the building. Protective care may include a daily awareness by the management of the resident's functioning and his or her whereabouts, the arrangement of appointments and reminders of appointments for a resident, the ability and readiness to intervene if a crisis arises for a resident, supervision in areas of nutrition and medication, and actual provision of transient medical care.~~

~~Self-preservation. A person is capable of removing his or her physical self from situations involving imminent danger, such as fire.~~

~~Other. Definitions applicable to these requirements can be found in NFPA 101 Life Safety Code.~~

Requirements:

~~(1) All residents shall be capable of self-preservation.~~

~~(2) Minimum Construction Required: No Requirements.~~

~~(3) Height Requirements: Patient Resident sleeping rooms to be located on first and second floors only unless the facility is provided with a sprinkler system per NFPA 13, Standard for Sprinkler Systems.~~

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(42) Means of Egress: At least two (2) remote approved from each floor; at least one (1) of which shall be a door directly to the outside without traversing any corridor or space exposed to an unprotected vertical opening.

(53) Vertical Openings: Shall be properly enclosed on all at least one (1) levels above grade unless used as the primary means of egress, then shall be enclosed at all levels with 1/2 hour fire rated construction if used as primary means of egress all levels shall be properly enclosed with 1 hour fire rated construction.

(64) Doors: Shall be side-hinged swinging at least 32 inches wide when located in means of egress. Bathroom doors may be 24 inches wide.

(75) Existing Stairs: Shall be at least Class B.

(86) Hazardous Areas: Shall be provided with one hour fire-rated separation or provided with automatic sprinkler protection and smoke tight. Doors shall be self-closing.

(97) Interior Finish: Walls and ceilings shall be at least Class C throughout.

(108) Fire Alarm:

(a) An electrically supervised fire alarm system shall be provided approved electrically supervised and meet State Fire Code requirements for Residential: Rooming/Lodging of 11.01 & 11.04.

(b) Individual sleeping rooms shall be provided with a single station smoke detectors hardwired in accordance with NFPA 742, Household Fire Warning Equipment National Fire Alarm Code, Chapter 2.

Exception: This rule does not apply to facilities with less than four (4) residents.

(119). Sprinkler: Automatic sprinkler system is required and shall meet NFPA 13D, Sprinkler Systems in One- and Two-Family Dwellings, in all residential board and care facilities.

Exception: This rule does not apply to facilities with less than four (4) residents.

(1210) Corridor Walls: Shall be at least twenty (20) minute fire-rated and smoketight.

(13) Corridor Doors: ~~Shall be provided with self-closing devices or automatic closers. Shall be provided with latches suitable for keeping the door closed.~~

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~~(1411)~~ Electrical System: Shall meet the National Electric Code.

~~(1512)~~ Each sleeping room shall be provided with at least one (1) outside window for rescue/ventilation and must meet the requirement for windows in one and two family dwellings.
EXCEPTION: Door to the outside.

~~(1613)~~ Any carpet located in the facility shall meet State Fire Code for Residential Occupancies.

~~(1714)~~ No door in any means of egress shall be locked against egress when the building is occupied.

~~(1815)~~ Every bathroom door lock shall be designed to permit opening of the locked door from the outside in an emergency.

~~(1916)~~ Every closet door latch shall be such that it can be readily opened from the inside in case of emergency.

~~(20)~~ Heating, ventilating, and air conditioning equipment shall comply with the provisions of NFPA 101 Sections 7-2.1 and 7-2.2.

~~(2117)~~ No stove or combustion heater shall be located as to block escape in case of fire arising from malfunction of the stove or heater.

~~(22)~~ All facilities shall comply with the Life Safety Code, Chapter 31, Section 7, Operating Features.

(18) Impractical residents in small facilities shall be located in rooms at grade with direct exiting to the outside. Corridor room door shall be 20 minute rated or equivalent.

14.8. Storage of DOT Classified Fireworks Wholesale Distributors

Definitions: Facility shall mean any building, igloo, barn, trailer, semitrailer or other mobile property.

Storage of Fireworks: All new and existing storage facilities for interstate wholesale fireworks distribution in accordance with W. Va. Code §29-3-25 shall meet the following requirements:

(1) Each Storage facility shall be fire resistive construction.

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- (2) Each Storage facility containing 1000 pounds or more shall have a complete automatic sprinkler system installed in accordance with NFPA 13, Installation of Sprinkler Systems.
- (3) Each Storage facility shall not be located within a residential area.
- (4) Each Storage facility shall not be located within 2000 feet of any assembly, educational, health care or correctional occupancies.
- (5) Storage/Sale Permits shall be issued by the State Fire Marshal's Office. Permits will be issued only upon verified compliance of these rules and payment of required fee.
- (6) Owner(s) or Operator(s) shall immediately notify State Fire Marshal's Office of any lost, stolen or unaccounted fireworks within 24 hours.
- (7) No Smoking shall be permitted in the facility or within 50' of a facility. Conspicuous signs indicating "Warning - No Smoking" shall be posted at frequent intervals throughout the facility.
- (8) No fireworks shall be sold to any West Virginia resident.
- (9) A fire alarm system with complete smoke detection shall be installed throughout the facility in accordance with the State Fire Code.
- (10) Each facility shall meet the requirements of the State Fire Code.
- (11) Each display area shall contain only inert fireworks and be secured to prevent unauthorized access to the display area.
- (12) All sales shall be recorded and shall include the name, address, city, state and zip code, business license number and tax department number of each purchase.
- (13) Daily inventory of fireworks shall be maintained for each facility.
- (14) All fireworks transported by vehicle from a distribution facility shall be placarded in accordance with U.S. DOT requirements. Less than 1000 pounds shall be placarded Class C Explosives. More than 1000 pounds shall be placarded Class B Explosives. Each vehicle used to transport fireworks shall meet Chapter 5 of NFPA 1124, Code for the Manufacture, Transportation and Storage of Fireworks.

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(15) Each Fire Department providing emergency services to any facility shall be notified in writing of the existence of the storage facility including information as to the type of explosives and explosive hazards. Pre-fire planning shall be completed by the fire department prior to operating the facility.

(16) The land surrounding each facility shall be kept clear of combustibles for a distance of at least 25 feet on all sides.

(17) Each storage facility shall be securely locked in accordance with NFPA 495, Explosive Material Code, Chapter 6-6.1(g).

(18) All electrical wiring and fixtures shall be in accordance with the National Electrical Code, Class II, Group E, Division I locations (Article 502 of the National Electrical Code).

(19) All Heating, Ventilation and Air Conditioning shall be in accordance with the State Fire Code. No open flaming devices on heating units shall be permitted.

(20) Each facility shall be separated from inhabited buildings, passenger railways, public highways and other storage buildings according to the distance specified in Table 2-6.5 of NFPA 1124, Code for the Manufacture, Transportation and Storage of Fireworks. (See items 3 and 4 of this rule for prohibited locations).

14.9. Stopping, Standing or Parking Prohibited in Specified Areas.

(a) No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

(4) Within fifteen feet of a fire hydrant;

(10) Within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of said entrance (when properly sign-posted) (17C-13-3)

14.10. Crossing Fire Hose

No streetcar or vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, private driveway, or streetcar track, to be used at any fire or alarm of fire, without the consent of the fire department official in command.

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14.11. Emergency Vehicle Permits

(a) Authorization for all fire department vehicles and firefighters to operate Class A vehicles shall be designated by their fire chief and the State Fire Marshal's Office. Vehicles authorized by 17C-15-26 shall have red flashing warning lights and an audible signaling device, such as a siren, whistle or bell capable of emitting sound audible from a distance of not less than 500 feet. (17C-9-5 and 17C-15-26)

(b) Upon receipt of written notification from the Fire Chief of the local fire department to the State Fire Marshal requesting that an Emergency Vehicle Permit be revoked, the State Fire Marshal shall cause the permit to be revoked.

14.12. Correctional/Detention Facilities

All new correctional or detention facilities as defined in the Life Safety Code shall be protected throughout with a complete automatic sprinkler system in accordance with NFPA-13, Standard for Sprinkler Systems.

~~14.13. Primary Care Facilities~~

~~Definitions:~~

~~Primary Care Facility: Medical care and services at the point when a person first seeks assistance from the health care system for the simpler and more common illnesses, and which takes ongoing responsibility for the recipient's health maintenance and illness. Included are facilities: primary care centers, local health initiative/Kellogg Clinics, and birthing centers where patients are capable of taking action for self preservation. No more than three non-ambulatory patients are permitted:~~

~~Self-Preservation: Patients and other occupants of the facility must be capable of removing themselves from the facility with limited assistance, either physical or verbal, in an emergency, such as fire.~~

~~Minimum Construction Requirements:~~

~~A. New Construction shall meet Section 5 of this rule.~~

~~Exception: No new facility shall be constructed of protected wood frame construction (Type V (000))~~

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~~B. Existing Construction - No requirement except unprotected wood frame construction shall not be acceptable unless provided with an automatic sprinkler protection system.~~

~~Sprinkler System:~~

~~Automatic Sprinkler System. Design and installation shall be in accordance with NFPA 13, Standard for the Installation of Sprinkler Systems.~~

~~Occupant Load:~~

~~A. Occupant Load calculation will be one person per 100 square feet of gross floor area.~~

~~B. No birthing/non-ambulatory care rooms will be located above or below the level of exit discharge.~~

~~Means of Egress Requirements:~~

~~Every aisle, passageway, corridor, exit discharge, exit location, and access shall be in accordance with NFPA 101, Life Safety Code, Means of Egress Requirements, and as modified by this rule.~~

~~Number of Exits:~~

~~There shall be not less than two remote exits provided from each floor.~~

~~Corridors:~~

~~A. No dead-end corridor shall exceed 20 feet.~~

~~B. Travel distance to an exit shall not exceed 150 feet in a nonsprinklered building or 200 feet in a sprinklered building.~~

~~C. All corridors shall be a minimum of 44 inches in clear width. Primary Care facilities accepting non-ambulatory patients shall have 6 foot corridors.~~

~~D. Corridors shall be of smoke tight construction.~~

~~Doors:~~

~~A. Doors in Means of Egress shall be a minimum of 36 inches in width and comply with NFPA 101, Life Safety.~~

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~~B. All exit doors shall be equipped with panic hardware.~~

~~C. Doors not in the means of egress shall comply with NFPA 101, Life Safety Code, Means of Egress Components:~~

~~Protection:~~

~~A. Vertical Openings: All openings will comply with NFPA 101, Life Safety Code, Vertical Openings Requirements:~~

~~B. Hazardous Areas:~~

~~1. All hazardous areas shall be separated by one hour fire resistive construction with openings protected with one hour fire resistive assemblies or shall be protected with an automatic sprinkler system and construction that resists the passage of smoke.~~

~~2. General anesthetizing locations and laboratories using hazardous chemicals shall be protected in accordance with NFPA 99, Standard for Health Care Facilities:~~

~~C. Interior Finish:~~

~~Interior finish throughout the building will be Class A. Where an approved automatic sprinkler system is installed, Class B or C is acceptable.~~

~~D. Carpet:~~

~~All carpet will have a critical radiant flux minimum of 0.45 watts per square centimeter.~~

~~E. Fire Alarm:~~

~~1. The fire alarm system will comply with Section 11.1 and 11.4 of this rule. EXCEPTION: The fire alarm system is not required to be connected to a communication center.~~

~~F. Building Services:~~

~~Building services will comply with NFPA 101, Life Safety Code, Building Service and Fire Protection Equipment Requirements:~~

~~G. Rescue and Ventilation:~~

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~~Sleeping rooms will have at least one outside window for emergency rescue and ventilation. The window shall provide a clear opening of not less than 20 inches in width, 24 inches in height and 5.7 square feet in area. The bottom of these window openings will be no more than 44 inches above the floor.~~

~~H. Separation Requirements:~~

~~When a facility is located within a building having more than one occupancy, the facility will be separated from all other occupancies with a two (2) hour fire barrier, or the building will be completely protected with an automatic sprinkler system in accordance with NFPA 13, Standard for the Installation of Sprinkler System.~~

14.14. Explosives Amendment to NFPA 495, Explosive Materials Code

a. As soon as practical after all loaded blast holes (shot) are linked, they shall be immediately connected to a source of ignition and fired by a person legally permitted to do so.

b. Pre-loading blast holes (shots) to be fired at a later time shall be prohibited. In an emergency situation, this requirement may be waived by the State Fire Marshal.

§87-1-15. Severability.

The sections this rule are severable. Should any section be declared by judicial opinion unconstitutional or in any manner contrary to the laws of the State of West Virginia, that particular section shall be invalid and all other sections shall remain in full force and effect.