

WEST VIRGINIA
STATE FIRE CODE

Rules and Regulations
of the West Virginia
State Fire Commission

State Capitol
Charleston, West Virginia

STATE FIRE COMMISSION

Chairman

Approved by State Fire Commission:

Vice Chairman

Effective Date:

WEST VIRGINIA STATE FIRE CODE

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West Virginia State Fire Commission

SERIES I

INDEX

Section 1	General	
	1.01 Scope	1
	1.02 Authority	1
	1.03 Effective Date	1
	1.04 Filing Dates	1
	1.05 Certification	1
	1.06 Exemption	1
	1.07 Incorporation of Other Documents	2
Section 2	Reporting of Fire Incidences by Fire Departments, Brigades, and Companies	2
Section 3	Unvented Heaters	2
Section 4	National Standards and Codes	
	4.01 Incorporation of National Standards and Codes	3
	4.02 National Standards and Codes - Modification of Fireworks Display Regulations	4
	4.03 National Standards and Codes - Table of Contents	
	(1) National Fire Codes - Published by National Fire Protection Association	6-7
Section 5	Sprinkler Protection & Area Limitation	8
Section 6	Sprinkler Protection (Certain Occupancies)	9
Section 7	Carpet Used as Floor Covering	10
Section 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	11

Section 9	Interference with Fire Protection Equipment	13
Section 10	High Rise Buildings - Fire Safety Standards and Requirements	13
	10.01 General	13
	10.02 Addition of Floors of Existing Buildings	13
	10.03 Automatic Fire Extinguishing Systems and Standpipe Systems	14
	10.04 Fire Alarm System	14
	10.05 Fire Department Voice Communication System	14
	10.06 High Rise Central Control Station	15
	10.07 Emergency Power	15
	10.08 Smoke Control	16
	10.09 Floor Designation	16
Section 11	Fire Alarm Systems	
	11.01 General	16-20
	11.02 Requirements for Educational Occupancy	20
	11.03 Requirements for Assembly Occupancy	21
	11.04 Requirements for Health Care Occupancy	22-23
	11.05 Requirements for Detention and Correction Occupancies	23-24
	11.06 Requirements for Residential Occupancy	24-26
	11.07 Requirements for Mercantile Occupancy	26
	11.08 Requirements for Business Occupancy	27

11.09	Requirements for Industrial Occupancy	27
11.10	Requirements for Storage Occupancy	28
Section 12	Exit Inspections and Public Life Safety Announcements	
12.01	Inspection of Exits	28
12.02	Announcements	28
12.03	Records	29
12.04	Alternatives	29
Section 13	Order of Decision of the State Fire Marshal; and Appeals and Procedure for Appeals from such Orders or Decisions	
13.01	State Fire Marshal's Order and Decisions are Final and Conclusive	30
13.02	West Virginia Code 29-3-12(g) and (i) Inquiry and Investigation	30
13.03	Appeal Petition	31
13.04	Time Requirement and Manner of Filing Appeal Petition	31
13.05	Copy of Appeal Petition to State Fire Commission	32
13.06	Scheduling Appeal Petition for and Notice of Hearing	32
13.07	Authorized Representative	33
13.08	Continuances	33
13.09	Absence of Petitioner or Counsel at the Scheduled Hearing	34
13.10	Hearing Examiner	34
13.11	Subpoenas and Subpoenas Duces Tecum	34-35
13.12	Evidence	36
13.13	Recording of Proceedings	37
13.14	Informal Disposition	37

13.15 Decision by the State Fire Commission	38
13.16 Judicial Review	38
Section 14 Miscellaneous Provisions	
14.01 Forest Fire Season	39
14.02 Executive Orders by the Governor on Open Burning	39
14.03 Outdoor Storage of Used Tires	40
14.04 Fireworks Defined; Labels Required	41
14.05 Unlawful Sale, Possession or Use of Fireworks; Permit for Public Display	41
14.06 Necessity of License for Electrical Work	42
Section 15 Severability	43

SECTION 1. General

1.01 Scope - These regulations establish the rules and regulations deemed necessary by the State Fire Commission for the safeguarding of life and property from the hazards of fire and explosion.

1.02 Authority - These rules and regulations are issued under authority of West Virginia Code, Chapter 29, Article 3.

1.03 Effective Date -

1.04 Filing Dates -

1.05 Certification - These rules and regulations are certified authentic by the State Fire Commission.

1.06 Exemption - This State Fire Code has no application to personal care homes caring for five 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 or penal occupancy shall not be exempt from the requirements of this State Fire Code.

1.07 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 these Rules and Regulations. For ascertaining these additional standards and requirements it is necessary to make reference to said other documents.

SECTION 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.

SECTION 3 Unvented Heaters

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

SECTION 4 National Standards and Codes

4.01 Incorporated of National Standards and Codes - The standards and requirements as set out and established by the 1983 edition of "The National Fire Codes" published by the National Fire Protection Association including Supplements A and B (but not including standards and requirements directed to the operation of local fire departments) shall have the same force and effect as if set out verbatim in these regulations 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 said publications in all matters coming under his jurisdiction. A copy of the said, "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 herewith. Information regarding the purchase of the aforesaid "The National Fire Codes" (or separate volumes thereof) may be obtained by writing to the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

4.02 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 of the 1983 edition of "The National Fire Codes" above referred to shall have the same force and effect and shall control the same as if set out verbatim in these regulations and are hereby adopted and promulgated by the State Fire Commission as a part of the State Fire Code, but with numbered paragraphs 3 and 4 thereof changed to read as follows:

3. 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 these regulations are complied with in the case of the particular display. He 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. Being satisfied that 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 these regulations. Failure to approve the application by either the Fire Chief or Police Chief (or County Sheriff, as the case might be) shall be sufficient cause for the State Fire Marshal to deny a permit.

4. The application, following endorsement by the Chiefs of the Fire and Police Departments (or County Sheriff, as the case might be), shall be sent to the State Fire Marshal who shall then, upon receipt of evidence of financial responsibility as required by law in such cases, issue a nontransferable permit authorizing the display.

These changes to said N.F.P.A. 1123 are made to make certain that it is understood that the County Sheriff (rather than City Police Chief) is the local police authority referred to in West Virginia Code 29-3-24 in those situations where the proposed site of a fireworks display is outside the limits of a municipality.

4.03 National Standards and Codes, Table of Contents

(1) National Fire Codes - Published by National
 Fire Protection Association:

ALPHABETICAL LISTING - 1983 NFC CONTENTS

Acetylene Cylinder Charging Plants	51A	Vol 4	Cooking Equipment, Vapor Removal	96	Vol 9
Aerial Ladders and Elevating Platforms	1904	Vol 12	Cooling Towers, Water	214	Vol 10
Agricultural Commodities, Miking of	610	Vol 5	Cutting and Welding Processes	518	Vol 4
Agricultural Dusts	66	Vol 5	Dipping and Coating Processes Using	34	Vol 3
Air Cond. & Ven. Svsts.	90A	Vol 9	Flammable or Combustible Liquids		
Aircraft Engine Test Facilities 83 Edition	423	Supp.-3	Door Assemblies, Fire Tests of	252	Vol 10
Aircraft Fire Investigator's Manual	422M	Vol 16	Dry Chemical Extinguishing Systems	17	Vol 2
Aircraft Fueling Ramp Drainage	415	Vol 11	Drycleaning Plants	22	Vol 3
Aircraft Fuel Servicing	407	Vol 10	Dwelling Fire Safety Surveys	1452	Vol 16
Aircraft Hand Fire Extinguishers	408	Vol 10	Electricity in Patient Care Areas	763	Vol 7
Aircraft Hangars	409	Vol 11	Electrical Code for One- and Two- Family Dwellings	70	Vol 6
Aircraft Interior Fire Prot.	421	Vol 16	Electrical Code - National 84 Edition	497M	Supp.-A
Aircraft Loading Walkways	417	Vol 11	Electrical Equipment in Haz. (Class.) Locations, Gases, Vapors, Dusts	70B	Vol 15
Aircraft Maintenance	410	Vol 11	Electrical Equipment Maintenance	496	Vol 4
Aircraft Rescue, Fire Fighting at Air- ports and Heliports	403	Vol 15	Electrical Equipment, Purged and Pressurized Enclosures for	907M	Vol 16
Aircraft Rescue, Evaluating Foam Fire Fighting Equipment	412	Vol 11	Electrical Fires, Investigation of	497	Vol 14
Aircraft Rescue, Fire Fighting, Opera- tional Procedures	402	Vol 15	Electrical Installations, Classification of Class 1 Hazardous Locations	70L	Vol 15
Aircraft Rescue, Fire Fighting Using Structural Fire Apparatus	406M	Vol 15	Electrical Safety Requirements for Employee Workplaces	76C	Vol 15
Aircraft Rescue, Fire Fighting Vehicles	414	Vol 11	Electricity, High-Frequency in Health Care Facilities	89	Vol 5
Airport/Community Emerg. Planning	424	Vol 16	Explosion Prevention Systems	58	Vol 14
Airport Fire Fighter Qual.	1003	Vol 12	Explosion Venting	495	Vol 4
Airport Terminal Buildings	418	Vol 11	Explosives, Motor Vehicle Terminals	498	Vol 4
Airport Water Supply Systems	419	Vol 15	Exposure Fires, Protection from Feed Mills, Fire and Dust Explosions	30A	Vol 15
Aluminum Nitrate Storage of	490	Vol 3	Fire Apparatus, Automotive	1002	Vol 12
Aluminum or Magnesium Powder	551	Vol 5	Fire Attack, Initial	1410	Vol 12
Aluminum Processing, Finishing	65	Vol 5	Fire Brigades, Private	1931	Vol 12
Archives and Record Centers	232AM	Vol 5	Fire Department Ground Ladders	13E	Vol 13
Blower and Exhaust Systems 83 Edition	31	Supp.-3	Fire Department Organization of Fire Department Safety Officer	1202	Vol 16
Boiler Furnaces, Furnace Impositions in Multiple Burner	35G	Vol 8	Fire Detectors, Automatic	72E	Vol 7
Boiler Furnaces, Natural Gas-Fired Multiple Burner	35B	Vol 8	Fire Doors and Windows 83 Edition	90	Supp.-3
Boiler Furnaces, Oil- and Gas-Fired Single Burner	35A	Vol 7	Fire Extinguishers, Portable	10	Vol 13
Boiler Furnaces, Oil-Fired Multiple Burner	35D	Vol 8	Fire Extinguishers, Port. Enabling Act	10L	Vol 13
Boiler Furnaces, Pulverized Coal-Fired Multiple Burner	35E	Vol 8	Fire Fighter Professional Qualifications	1001	Vol 12
Building Areas and Heights	106M	Vol 15	Fire Fighting Order Symbols for	178	Vol 15
Building Construction and Demolition Operations	241	Vol 10	Fire Hazards of Materials, Identification	704	Vol 11
Building Construction and Materials, Fire Tests of	251	Vol 10	Fire Hose	1961	Vol 12
Building Construction Standard Types of	220	Vol 10	Fire Hose, Care, Maintenance and Use	1962	Vol 12
Building Materials, Fire Retardant Treatments of	703	Vol 10	Fire Hose Connections	1963	Vol 12
Building Materials, Test Method for Potential Heat	259	Vol 10	Fire Inspector Investigator Prevention Education Officer Qual.	1031	Vol 12
Building Materials, Test of Surface Burning Characteristics of	255	Vol 10	Fire Officer Professional Qualifications	1021	Vol 12
Carbon Dioxide Extinguishing Systems	12	Vol 1	Fire Prevention Code	1	Vol 13
Cellulose Nitrate Motion Picture Film	40	Vol 3	Fire Pumps, Centrifugal	29	Vol 2
Chemical Reactions, Hazardous	491M	Vol 14	Fire Pumps, Steam	21	Vol 13
Chemicals Data, Hazardous	49	Vol 13	Fire Reporting Field Incident Manual	902M	Vol 16
Chimneys, Vents, Heat Producing Ap- pliances, Terms Relating to	97M	Vol 15	Fire Reporting Investigative Manual	904M	Vol 16
Chimneys, Vents, Fireplaces, and Solid Fuel Burning Appliances	211	Vol 10	Fire Service Instructor Qual.	1041	Vol 12
Cigarette Ignition Resistance, Components of Furniture	260A	Vol 10	Fire Services, Organization for	1201	Vol 16
Cigarette Ignition Resistance, Composites of Furniture	260B	Vol 10	Fire Warning Equipment Household	74	Vol 7
Closed Head Foam Water Spray Sysys	16A	Vol 13	Fireworks, Manufacture, Transporta- tion and Storage of	44A	Vol 3
Clothing Protective for Structural Fire Fighting	1971	Vol 12	Fireworks, Model State Law	494L	Vol 14
Coal Prep. Plants, Dust Explosions	653	Vol 5	Fireworks, Public Display of	1123	Vol 12
Coding, Uniform for Fire Protection	901	Vol 16	Flam and Comb. Liquids, Class	321	Vol 3
Combustion Engines and Gas Turbines	37	Vol 3	Flamm and Comb. Liquids Code	30	Vol 3
Communications Public Fire Service	1221	Vol 12	Flammable and Combustible Liquids	395	Vol 3
Computer/Data Processing Equipment	75	Vol 7	Flammable and Combustible Liquids, Portable Shipping Tanks	385	Vol 3
			Flammable and Combustible Liquids, Tank Vehicles for	385	Vol 3

Fire Commission
Legislative Regulations
Series I

Sec. 4.03

(1) Continued

Flammable and Combustible Liquids	329	Supp. B	Oxidizing Materials, Gaseous, Storage	43C	Vol 3
Underground Leakage of 83 Edition			Oxidizing Materials, Liquid and Solid	43A	Vol 3
Flammable Liquids and Gases in	328	Vol 13	Storage of		
Manholes, Sewers			Oxygen Systems, Bulk, at Consumer	50	Vol 4
Flammable Liquids, Gases, Volatile	325M	Vol 13	Sites		
Solids, Fire Hazard Properties of			Oxygen-Enriched Atmospheres, Fire	53M	Vol 14
Floor Covering Systems, Critical	253	Vol 10	Hazards in		
Radiant Flux Test for			Parking Structures	38A	Vol 9
Foam Apparatus, Mobile	11C	Vol 1	Pesticides in Portable Containers	43D	Vol 3
Foam Extinguishing Systems	11	Vol 1	Piers and Wharves	87	Vol 8
Foam Systems, Medium & High Expan-			Plastics Industry, Dust Explosions in	65A	Vol 5
son	11A	Vol 1	Pumping Units, Portable	1921	Vol 12
Foam-Water Sprinkler and Spray	16	Vol 2	Private Fire Service Mains	24	Vol 2
Systems			Property Survey Manual	903M	Vol 16
Forest Products, Storage of	46	Vol 13	Records, Protection of	232	Vol 10
Fuel Gas Code, National	54	Vol 4	Pulverized Fuel Systems	85F	Vol 8
Fur Storage, Fumigation and Cleaning	81	Vol 7	Pyrolytic Plastic	40E	Vol 3
Furnaces, Ind., Design, Location			Racetrack Stables	150	Vol 9
Equip.			Rack Storage of Materials	231C	Vol 10
	85B	Vol 8	Radioactive Materials, Facilities	801	Vol 16
Furnaces, Ind., Special Atmos.	85C	Vol 8	Handling		
Furnaces, Ind., Vacuum Atmos.	85D	Vol 8	Recreational Vehicle Parks	5010	Vol 11
Garages, Repair	88B	Vol 9	Recreational Vehicles	501C	Vol 11
Gas Systems, Nonflammable Medical	46F	Vol 4	Respiratory Therapy	56B	Vol 4
Gas Systems, Oxygen-Fuel, Welding,	51	Vol 4	Respiratory Therapy, Home Use	56HM	Vol 14
Cutting			Rockets, Code for Unmanned	1122L	Vol 16
Grain Elevators and Bulk Handling	51B	Vol 5	Roof Coverings	203M	Vol 15
Guard Operations in Fire Loss Prev.	501A	Vol 11	Roof Coverings, Fire Tests of	256	Vol 10
Guard Service in Fire Loss Prevention	601	Vol 16	Rubber Tiles, Storage of	2310	Vol 10
Halon 1211 Fire Ext. Systems	12B	Vol 1	Self-Contained Breathing Apparatus	1981	Vol 12
Halon 1301 Fire Ext. Systems	12A	Vol 1	Signaling Systems, Auxiliary Prot.	72B	Vol 7
Health Care Emergency Preparedness	3M	Vol 13	Signaling Systems, Central Station	71	Vol 7
Health Care Facilities, Essential Elec-	75A	Vol 7	Signaling Systems, Local Protective	72A	Vol 7
trical Systems for			Signaling Systems, Proprietary Prot.	72D	Vol 7
High-Rise Construction and	418	Vol 11	Signaling Systems, Remote Station	72C	Vol 7
Protection			Smoke and Heat Venting	204	Vol 15
Highways, Structural Fire Fighters	1972	Vol 12	Smoke Generated by Solid Materials,	258	Vol 10
Highways, Tunnels, Bridges	502	Vol 16	Std. Research Test for Measuring		
Homes and Camps in Forest Areas	224	Vol 10	Std. Research Test for Measuring	36	Vol 3
Hydrants, Testing and Marking	291	Vol 13	Solvent Extraction Plants	33	Vol 3
Hydrogen Systems, Gaseous, at Con-	50A	Vol 4	Spray Application Using Flammable		
sumer Sites			and Combustible Materials		
Hyperbaric Facilities	56D	Vol 4	Sprinkler Syst., Care, Maint.	10A	Vol 13
Hypobaric Facilities	56E	Vol 4	Sprinkler Systems, Installation	13	Vol 2
Incinerators, Waste and Linen Han-	82	Vol 7	Sprinkler Systems, One- and Two-	130	Vol 2
dling Systems and Equipment			Family Dwellings		
Industrial Trucks, Powered	505	Vol 11	Standpipe and Hose Systems	14	Vol 2
Inhalation Anesthetics	56A	Vol 4	Starch Manufacturing and Handling	61A	Vol 5
Inhalation Anesthetics, Ambulatory	56G	Vol 4	Static Electricity	77	Vol 15
Care Facilities			Storage, General Indoor	331	Vol 10
Intrinsically Safe Apparatus	493	Vol 4	Sulfur Fires Exposures, Prev.	655	Vol 5
Labs in Health-Related Institutions	56C	Vol 4	Symbols (Fire Protection) for Architec-	172	Vol 15
Laboratories Using Chemicals	45	Vol 3	tural and Engineering Drawings		
Libraries and Library Collections	910	Vol 16	Symbols (Fire Protection) for Risk	174	Vol 15
Life Safety Code*	101*	Vol 9	Analysis Diagrams		
Lightning Protection Code 83 Edition	78	Supp. B	Tanks, Containers, Small Cleaning	327	Vol 3
Liquefied Hydrogen Systems at Con-	50B	Vol 4	Tents and Air-Supported Structures,	102	Vol 9
sumer Sites			Assembly Sealing		
Liquefied Natural Gas, Storage and	59A	Vol 5	Terminals, Motor Freight	513	Vol 11
Handling			Textures and Films, Flame Resistant	701	Vol 11
Liquefied Petroleum Gases at Utility	59	Vol 5	Tests for		
Gas Plants			Titanium Handling and Storage	481	Vol 3
Liquefied Petroleum Gases, Storage	58	Vol 5	Training Reports and Records	9	Vol 13
and Handling			Transit Systems, Fixed Guideway	130	Vol 9
Magnesium Storage, Handling	48	Vol 3	Truck Fire Protection	512	Vol 11
Mannes and Boatyards	303	Vol 10	Vessels, Control of Gas Hazards on	306	Vol 10
Manne Terminals, Operation of	307	Vol 15	Vessels, Protection During Construc-	312	Vol 10
Medical-Surgical Vacuum Systems in	56K	Vol 14	tion Repair and Layou		
Hospitals			Warm Air Heating & Air Cond. Syst.	90B	Vol 9
Metallworking Machine Tools and	79	Vol 7	Water Spray Fixed Systems	15	Vol 2
Plastics Machinery Electrical Stan-			Water Supplies, Suburban and Rural	1231	Vol 12
dards			Fire Fighting		
Mobile Homes, Installation of	501A	Vol 11	Water Supplies, Valves Controlling	36	Vol 13
Mobile Surface Mining Equip	121	Vol 9	Water Tanks for Private Fire Protection	22	Vol 2
Motor Craft	302	Vol 10	Wearing Apparel, Flammability	702	Vol 11
Museums and Museum Collections	911	Vol 16	Wetting Agents	18	Vol 2
Nuclear Power Plants 83 Edition	803	Supp. B	Whistle Control, Vol. Fire Deps	295	Vol 2
Nuclear Research Reactors 83 Edition	802	Supp. B	Window Assemblies, Fire Tests of	257	Vol 10
Oil Spilling Equipment, Installation of	31	Vol 3	Wood Processing and Woodworking,	664	Vol 5
Organic Coatings, Manufacture of	35	Vol 3	Dust Explosion		
Ovens and Furnaces, Design, Location	85A	Vol 8	Zirconium Production Processing	482	Vol 3

Standard for Fixed Guideway Transit System	1983 Edition	Supp. B
Standard for Gloves for Structural Firefighters	1983 Edition	Supp. B
Standard on Personal Alert Safety Systems for	1983 Edition	Supp. B
Firefighters		
Fire Protection Training Reports and Records	1983 Edition	Supp. B

SECTION 5. Sprinkler Protection & Area Limitations

Approved automatic sprinkler systems will be installed in all new buildings, used for any occupancies, exceeding the areas in the following table.

EXCEPTION: As to occupancies noted in Section 6 of these rules and regulations, sprinkler protection shall be provided as required by said Section 6.

BUILDING HEIGHT

Type of Construction	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	30,000	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	20,000	15,000	5,000	Sec.10-High Rise	NOT PERMITTED
000 Unprotected Limited Unprotected Non-Com	7,000	4,000	All Areas Require Sprinklers	NOT PERMITTED	NOT PERMITTED
Type III					
211 Ordinary Protected	9,000	6,000	All Areas Require Sprinklers	NOT PERMITTED	NOT PERMITTED
200 Ordinary Non-Protected	7,000	4,000	All Areas Require Sprinklers	NOT PERMITTED	NOT PERMITTED
Type IV					
2HH Heavy Timber	9,000	6,000	3,000	NOT PERMITTED	NOT PERMITTED
Type V					
111 Protected Wood Frame	7,000	4,000	All Areas Requires Sprinklers	NOT PERMITTED	NOT PERMITTED
000 Non-Protected Wood Frame	5,000	3,000	NOT PERMITTED	NOT PERMITTED	NOT PERMITTED

Notes to Table:

- (1) The word "area" means that area enclosed by exterior or foundation walls, fire barriers, or a combination of exterior or foundation walls. A fire barrier 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 protect openings.
- (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 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.

SECTION 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 complete automatic sprinkler protection in accordance with Standard 13 contained within the aforesaid National Fire Codes. EXCEPTION: Homes caring for not more than three patients.

SECTION 7 Carpet Used As Floor Covering

7.01 Flammability Requirements for Carpet Used As Floor Covering

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.

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

7.02 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 shall be conducted by a nationally recognized laboratory as certified by the National Voluntary Laboratory Accreditation Program.

SECTION 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 direction, shall determine (based upon the State Fire Code and/or on the experience and knowledge applied in the operation of his 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 hazard 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, and such order shall be promptly complied with by the owner, agent, occupant, and lessee of such premises, place, property, or thing. Any such 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, shall advise what repairs, and/or demolition, must be accomplished, shall advise that compliance therewith shall be completed within thirty (30) days of issuance, shall advise that in the event of noncompliance, the State Fire Marshal is authorized by statute to enter into and upon the premises affected by such 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 subject order can be contested by entering an appeal to the State Fire Commission as outlined in Section 13 of these Rules and Regulations.

SECTION 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.

SECTION 10 High Rise Buildings - Fire Safety Standards and Requirements

10.01 General - All new buildings or structures more than forty (40) feet in height, measured from the lowest grade level to the floor of the highest normally occupied space used for human occupancy of the structure, shall be subject to the rules and regulations set forth herein for high rise buildings. These high rise regulations shall not nullify or interfere with existing city ordinances or local laws previously adopted prior to September 8, 1975 relative to this subject. EXCEPTION: Industrial occupancies not occupied as business offices.

10.02 Addition of Floors to Existing Buildings

Whenever floors are added to existing building, which previously was not a high rise, causing building to now become a high rise, such building shall comply with High Rise Standard.

10.03 Automatic Fire Extinguishing Systems & Standpipe Systems - Any building or structure as defined in 10.01 or 10.02 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 these Rules and Regulations

10.04 Fire Alarm System - The fire alarm system shall conform to the standards and requirements imposed by Section 4 and Section 11 of these Rules and Regulations.

10.05 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 shall have an approved electrically supervised fire department voice communication system. 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.

10.06 High Rise Central Control Station - In every High Rise as defined in 10.01 and 10.02, 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.

10.07 Emergency Power - A permanently installed emergency power generation system conforming to The National Fire Codes imposed by Section 4 of these Rules and Regulations 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.

All power, lighting, signal, and communication facilities, required by these rules and regulations 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) Fire Alarm System
- (b) Exit & Other Emergency Lighting
- (c) Fire Protection Equipment
- (d) Smoke Control System
- (e) Fire Department Elevator
- (f) Fire Department Voice Communication System
- (g) Fire Pumps

10.08 Smoke Control - In all high rise buildings as defined in 10.01 and 10.02 an engineered smoke control system shall be provided as acceptable to the authority having jurisdiction.

10.09 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.

SECTION 11 Fire Alarm System

11.01 General Requirements for All Occupancies

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

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

(3) All fire alarm system wiring shall be in accordance with The National Fire Codes, imposed by Section 4 of these rules and regulations.

(4) Sprinkler System(s) installed - The OS & Y and P.I.V. Valves shall be electrically supervised and tied into the trouble side of the panel.

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

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

(7) 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-four supervision.

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

(a) All heating, ventilation, 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 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) Exception to 11.01(8): HVAC Systems used as part of the engineered smoke control systems are exempt from 11.01(8).

(9) 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.

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.

(10) 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 occupancy provisions for additional requirements)

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

(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) 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

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

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

11.02 Requirements for Educational Occupancy

(1) A fire alarm system is required in every educational occupancy, and such a system must meet the requirements and standards as provided herein. Educational occupancies are as defined in the Life Safety Code. EXCEPTION: One or two room 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 will 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 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. Detectors shall also be installed in lounges and recreation areas in the center.

(5) An annunciator panel or fire alarm panel is to be readily accessible to local fire department personnel if more than one zone is provided.

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

(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.

11.03 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) 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.

Such system must meet requirements and standards as provided herein.

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 panel shall be readily accessible to fire department if more than one zone is provided.

(4) Theater(s) are required to provide sounding audible device(s). House lights shall be activated by fire alarm system.

11.04 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 as provided herein. Health Care occupancies are as defined in The Life Safety Code.

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

(3) Health Care occupancies are herein-
after placed in Groups A and B and these designations then
used to indicate which group or groups must comply with the
stated requirement(s), as follows:

GROUPS

- A. Hospitals and Nursing Homes
- B. Residential - Custodial Care, Super-
visory Care, Ambulatory Health Care

REQUIREMENTS

- A and B (a) Annunciator Panel or Fire Alarm Panel is to be readily accessible to Fire Department personnel if more than one zone is provided.
- A and B (b) An approved automatic smoke detection system shall be installed in all corridors.
- A and B (c) Manual pull stations shall be installed every 50 feet throughout the facility in patient room areas starting at the end of corridors. All other manual pull stations shall be placed in accordance with general requirements.
- (d) Fire alarm systems shall have annunciators located at all nurse's stations, the telephone switchboard, and at main location of fire department entry.

11.05 Requirements for Detention and Correction 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 herein. Detention and Correction occupancies are defined in the Life Safety Code.

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

(3) Annunciator panel or fire alarm panel is to be readily accessible to fire department personnel if more than one (1) zone is provided, and shall also be provided in jail control center.

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

(5) Smoke detectors shall be installed in 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.

11.06 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 herein. A residential building is as defined in the Life Safety Code.

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

(3) Residential occupancies are hereinafter placed in Groups A and B and these designations then used to indicate which group or groups must comply with the stated requirement, 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 centers throughout all inside corridors. Smoke detectors shall be placed maximum of 15 feet from ends of walls and 30 feet on centers in open bay sleeping areas.
- (2) Annunciator panel or fire alarm panel shall be readily accessible to fire department if more than one (1) zone is provided, and also shall be located at the registration desk.
- (3) All sleeping rooms shall have an approved self-contained smoke detector(s) hardwired in accordance with NFPA 74, Household Fire Warning Equipment except for existing sleeping rooms owned by the State and located in dormitories or state parks.

- (4) Motel(s)/Hotel(s) having direct exterior exiting shall have manual pull station every 75 feet located on exterior walls. (Minimum requirement shall be one).

B. Apartments

- (1) Apartment buildings having 12 or more units or 4 or more stories in height shall have fire alarm systems. 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 to bedrooms.
- (3) All new apartments shall have an approved self-contained smoke detector(s) hard wired in accordance with NFPA 74, Household Fire Warning Equipment.

11.07 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 the Life Safety Code.

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

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

11.08 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.

Such system must meet requirements and standards as provided herein.

Business occupancy are as defined in the Life Safety Code.

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

11.09 Requirements for Industrial Occupancy

A fire alarm system is required in all Industrial Occupancies as required in The National Fire Codes (Life Safety Code) referred to in Section 4 of these rules and regulations.

11.10 Requirements for Storage Occupancy

A fire alarm system is required in all Storage Occupancies as required in The National Fire Codes (Life Safety Code) referred to in Section 4 of these rules and regulations.

SECTION 12 Exit Inspections and Public Life Safety Announcements

12.01 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 the 1981 edition of the Life Safety Code - NFPA No. 101) the owner (or his 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.

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

12.03 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.

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

SECTION 13. Order of Decision 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 Article 3 of Chapter 29 of the Official Code of the State of West Virginia or based upon or made pursuant to these rules and regulations, and desiring to contest such order or decision may file

an appeal from such order or written decision with the State Fire Commission. Preserving the right to have such an appeal and the manner of proceeding with the resulting contested case shall be governed by the following rules and regulations and by the corresponding state statutes, i.e. West Virginia Code 29-3-1, et. seq. and West Virginia Code, Chapter 29A.

13.01 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 Article 3 of Chapter 29 of the Official Code of the State of West Virginia, or based upon or made pursuant to these rules and regulations, shall be final and conclusive, unless vacated or modified upon review pursuant to the appeal rights and procedures provided by said statute and these rules and regulations.

13.02 West Virginia 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 stated in West Virginia Code 29-3-12(g) and (i) shall be obtained without compliance with the provisions set forth in these rules and regulations governing "Procedure in Contested Cases." Where appropriate, a subsequent order by the State Fire Marshal relating to the testimony so obtained shall, the same as any other order by the State Fire Marshal, be subject to the appeal rights provided in West Virginia Code 29-3-1, et. seq.

13.03 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 must contain and include the following: (1) a copy of the order or decision of the State Fire Marshal being contested; (2) 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; (3) a clear and concise statement of fact upon which the petitioner relies as sustaining his assignment of errors; (4) the address petitioner desires to have all notices, documents, and the final order mailed to; (5) the telephone number or numbers where petitioner can be contacted; (6) 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; (7) a prayer setting forth the relief sought; and (8) the signature of the petitioner or its duly authorized officer.

13.04 Time Requirement and Manner of Filing Appeal Petition - An appeal petition must be personally delivered or mailed to the State Fire Administrator within thirty (30) days

following service upon the petitioner, or within thirty (30) days following actual receipt if service be not required or for some reason not made of the order or decision being contested. Any appeal petition that is mailed shall be by certified mail, return receipt requested, and shall be considered timely if postmarked within the said thirty (30) day period. Any appeal petition not delivered or mailed as aforesaid within said thirty (30) day period shall not be timely filed and the order or decision of the State Fire Marshal being contested by the untimely appeal petition shall be final and conclusive.

13.05 Copy of Appeal Petition to State Fire Commission

- Upon receipt of an appeal petition, the State Fire Administrator shall forthwith supply a copy of same to the State Fire Commission together with an opinion by the State Fire Marshal regarding the urgency of the matter being contested. The State Fire Marshal may elect to file a response to the appeal petition, and if he so does, same shall be delivered to the State Fire Commission and a copy mailed to the petitioner.

13.06 Scheduling Appeal Petition for and Notice of

Hearing - The State Fire Commission through the State Fire Administrator 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. Said

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, shall contain a copy of the State Fire Marshal's response, if any, to the appeal petition, and shall be mailed or personally delivered by the State Fire Administrator no later than thirty (30) days after receipt of the appeal petition. A copy of the said notice to the petitioner shall be supplied to the State Fire Marshal. Any such hearing shall be conducted at a designated location at the State Capitol in Charleston, West Virginia, or in the discretion of the State Fire Administrator at a location within the county where the premises in question are totally or partially located.

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

13.08 Continuances - A motion for continuance will not be granted unless made three days before the hearing in writing, 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 will not be regarded as good ground for a continuance, unless set forth in a motion filed promptly after the no-

tice of hearing has been mailed, or unless extenuating circumstances are shown, which the State Fire Commission or hearing examiner deems adequate.

13.09 Absence of Petitioner or Counsel at the Scheduled Hearing - The absence of the petitioner or his legal counsel at a hearing, after service of notice of time, date, and place, shall not be the occasion for delay or continuance. The hearing shall proceed and the case be regarded as having been 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, issue subpoenas and subpoenas duces tecum, and shall have full authority to conduct the proceedings on an appeal petition, and when so acting 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 West Virginia 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. Such subpoenas or subpoenas duces tecum may be issued at the request of the petitioner, the State Fire Marshal, or of the State Fire Commission, and shall be issued by and in the name of the State Fire Commission.

Every such subpoena and/or subpoena duces tecum shall be served 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 such 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 aforesaid 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 - (1) 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.

(2) 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, notwithstanding admissibility objections which might be validly asserted in a court of law.

(3) 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 what evidence shall be admitted. 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 statute or privilege, if it is of a type commonly relied upon by reasonably prudent men 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 reported by stenographic notes and characters or by mechanical means and in such a manner that an accurate transcript of the testimony may be prepared. An official record of the hearing will be prepared by the State Fire Commission, but a transcript, as aforesaid, need not be prepared by the State Fire Commission unless it be required for an appeal.

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 recommended decision supported by findings of fact and conclusions of law affirming, modifying, or vacating the earlier order of decision of the State Fire Marshal with respect to which said hearing was held, and the State Fire Commission may, thereafter, either accept, modify, or reject such recommended decision, if it shall accept such decision it shall sign the same as its own; if it shall reject or modify the same, 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 said order shall be served upon each party to the hearing and his attorney of record, if any, in person or by certified mail, return receipt requested.

13.16 Judicial Review - An appeal may be taken by the petitioner or by the State Fire Marshal to the circuit court of the county where the premises are totally or partially located, if filed within thirty (30) days after the date upon which such 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, which such 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 shall be final and conclusive if the proceedings for judicial review have not been duly instituted within the said thirty (30) day period.

Section 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 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.

Provided, that permits may be issued authorizing fires prohibited by the preceding paragraph, as provided and in accordance with West Virginia Code, 20-3-5.

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 shall install security lighting for use during evening and night time hours as designated by the State Fire Marshal.

Fire Commission

Legislative Regulations ----- Sec. 14

Series I

----- (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 provided by fire hydrants within 1000 feet of the facility, a minimum of a 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 and maintained having a minimum of forty-five foot lanes capable of supporting fire apparatus, and shall exist between all tire piles.

----- (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, dayao 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 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, 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 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 Rules and Regulations, 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 regulations 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 State Fire Code) 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.

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)

Exemptions: This requirement does not apply to and no license may be required for (a) a person who performs electrical work with respect to any property owned or leased by such person; (b) a person who performs electrical work at any manufacturing plant or other industrial establishment as an employee of the person, firm or corporation operating such plant or establishment; (c) a person who performs electrical work while employed by an employer who engages in the business of selling appliances at retail, so long as such electrical work is performed incident to the installation or repair of appliances sold by the employer; (d) a person who, while employed by a public utility or its affiliate, performs electrical work in connection with the furnishing of public utility service; or (e) any government employee who performs electrical work at property owned/leased by the government.

SECTION 15. Severability

The sections and subsections of these rules and regulations shall be deemed severable. Should any section or subsection be deemed by judicial opinion unconstitutional or in any manner contrary to the laws of the State of West Virginia, then such opinion or enactment shall invalidate only that particular section or subsection of these rules and regulations and all other sections shall remain in full force and effect (provided

such remaining portions are not determined to be inseparable) and to this end these rules and regulations are declared separable.