

WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #1

FILED
1990 MAY 27 AM 9:30
CLERK OF COURTS
WEST VIRGINIA

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: West Virginia State Fire Commission TITLE NUMBER: 87

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

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: State Building Code

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

DATE OF PUBLIC HEARING: June 14, 1990 TIME: 1:00 PM

LOCATION OF PUBLIC HEARING: Conference Room B
Conference Center (Building 7)
State Capitol Complex
Charleston, West Virginia

COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: State Fire Administrator
WV State Fire Commission
State Capitol EB-64
Charleston, West Virginia

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.

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

25305

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

James B. Corley Jr.
State Fire Administrator

Summary
of
Proposed Amendments
to
Legislative Rules
State Fire Commission
Series 4

State Building Code

Amendments will:

1. Up-date the various national codes that are adopted by reference to the 1990 version or edition of the respective codes.
2. Clarify authority and responsibility of the various local jurisdictions.
3. Clarify other language which was causing some confusion on part of local jurisdiction.

TITLE 87
LEGISLATIVE RULES
STATE FIRE COMMISSION
SERIES 4
STATE BUILDING CODE

87-4-1 GENERAL

1.1 Scope: These rules and regulations establish the rules and regulations considered necessary by the State Fire Commission for the safeguarding of life and property and to ensure the quality of construction of all structures erected or renovated throughout this state.

1.2 Authority: West Virginia State Code 29-3-5b.

1.3 Filing Date:

1.4 Effective Date:

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

87-4-2 DEFINITIONS

2.1 Building code, includes all aspects of safe building construction and mechanical operations and all safety aspects related thereto:

2.2 Fire marshal, means the West Virginia State Fire Marshal and/or his designated representatives.

2.3 Fire Commission, means the eleven (11) appointed members of the West Virginia State Fire Commission.

2.4 Local jurisdiction, means municipal or county level government.

2.5 State Building Code, means the entire contents of this rule and the referenced national codes.

2.6 BOCA refers to the "Building Officials & Code Administrators International", 4051 Flossmoor Road, Country Club Hills, Illinois, 60477-5795.

2.7 CABO refers to the "Council of American Building Officials", 5203 Leesburg Pike, Suite 708, Falls Church, Virginia, 22041.

87-4-3 CONFLICTS

3.1 Whenever there arises a conflict between the "state fire code" and the "state building code", the "state fire code" shall take precedence.

3.2 Whenever there arises a conflict between the BOCA National Plumbing Code section of the "state building code" and the rules of the West Virginia State Board of Health, the rules of the Board of Health shall take precedence.

3.3 Whenever there arises a conflict between the "state building code" and statutory laws of the State of West Virginia, the West Virginia State Code shall take precedence.

87-4-4 NATIONAL STANDARDS AND CODES

4.1 The standards and requirements as set out and as published by the Building Officials & Code Administrators International and the Council of American Building Officials, as listed below, shall have the same force and effect as if set out verbatim in this rule:

The BOCA National Building Code,
~~Tenth~~ Eleventh Edition, ~~1987~~ 1990

The BOCA National Plumbing Code,
~~Seventh~~ Eighth Edition, ~~1987~~ 1990

The BOCA National Mechanical Code,
~~Sixth~~ Seventh Edition, ~~1987~~ 1990

The BOCA National ~~Existing Structures~~ Property Maintenance Code,
~~Second~~ Third Edition, ~~1987~~ 1990

The BOCA National Energy Conservation Code
~~Fifth~~ Sixth Edition, ~~1987~~ 1990

The CABO One- and Two-Family Dwelling Code
~~1986~~ 1989 Edition

4.2 A copy of the ~~said respective~~ codes as listed in Section 4.1 of this rule have been filed with the Secretary of State. These code books, collectively or separately, may be obtained by

contacting the Building Officials & Code Administrators International, 4051 West Flossmoor Road, Country Club Hills, Illinois 60477-5795, telephone 708-312-700-2300; OR BOCA International Regional Offices, 3592 Corporate Drive, Suite 107, Columbus, Ohio 43229, telephone 614/890-1064.

87-4-5 ADOPTION BY LOCAL JURISDICTION

5.1 ~~Each county or municipality intending to adopt local jurisdiction adopting the State Building Code shall notify the State Fire Commission of its intent in writing, along with a copy of the local ordinance. A copy of the ordinance or order said documents shall be sent forwarded to the State Fire Administrator, West Virginia State Fire Commission, State Capitol Building, Room EB-64, Charleston, West Virginia 25305, within thirty (30) days of the adoption.~~

5.2 ~~Each county or municipality local jurisdiction which adopts the State Building Code shall have responsibility for the enforcement of the building code as provided in West Virginia Code 7-1-3n and 8-12-13.~~

5.3 ~~Throughout the national codes, as adopted in Section 4.1 of this rule, there are discretionary provisions which require further action by the adopting jurisdiction in order to adapt these codes to various local conditions. It is therefore the intent of these rules to further authorize each local jurisdiction to further complete, by order or ordinance, those respective areas which are indicated to be completed by the adopting "jurisdiction".~~

5.4 ~~Within the penalty sections of each of the national codes, as adopted in Section 4.1 of this rule, there is a penalty for imprisonment. The provision of imprisonment for any violation of these rules is to be considered optional with each adopting local jurisdiction.~~

5.5 ~~Each of the national codes, as adopted in Section 4.1 of this rule, provides for a separate appeals board, however; the intent and requirements for an appeal board will be considered to be met with the creation by the local jurisdiction of a single appeals board for the entire "State Building Code."~~

87-4-6 EXISTING BUILDING CODES...

6.1 All building codes which have been adopted by local jurisdictions prior to the passage of West Virginia Code 29-3-5b, shall be null and void one year following the effective date of the State Building Code of April 28, 1989.

87-4-7 SEVERABILITY

7.1 The sections and subsections of these rules and regulations ~~shall be deemed~~ are severable. Should any section or sub section be ~~deemed ruled unconstitutional~~ 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, that such remaining portions are not determined to be inseparable, and to this end these rules and regulations are declared ~~separable~~ severable.

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Added language - underlined

Deleted language - ~~bold lettering~~ "AND STRIKE THW."