

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

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Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: West Virginia State Fire Commission TITLE NUMBER: 87

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 87-04

TITLE OF RULE BEING AMENDED: State Building Code

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB 2626

SECTION 64-6-2, PASSED ON April 12, 2013

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE

FOLLOWING DATE: September 1, 2013

Robert S Sullivan  
Authorized Signature

**TITLE 87  
LEGISLATIVE RULE  
STATE FIRE COMMISSION**

**SERIES 4  
STATE BUILDING CODE**

2013 JUN -3 AM 11:23

SECRETARY OF STATE

**§87-4-1. General.**

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

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

1.3. Filing Date. -- June 3, 2013

1.4. Effective Date. -- September 1, 2013

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

**§87-4-2. Definitions.**

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

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

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

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

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

2.6. "ICC" or "International" means International Code Council, 500 New Jersey Avenue, NW, 6<sup>th</sup> Floor, Washington, DC 20001.

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

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

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

**§87-4-3. Conflicts.**

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

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

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

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

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

4.1.a. The 2012 edition, International Building Code, with the following exceptions:

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

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

Section 113.3. Board of Appeals

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

4.1.b. The 2012 edition of the International Plumbing Code.

4.1.c. The 2012 edition of the International Mechanical Code.

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

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

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

4.1.e.1. This code may be adopted by the local jurisdiction without requiring adoption of the other national codes and standards listed in this section.

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

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

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

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

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

#### Section R311.7.4 Stair Treads and Risers

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

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

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

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

4.1.j. The 2009 ICC/ANSI A117.1 American National Standards for Accessibility & Usable Buildings & Facilities.

4.1.k. The 2012 International Existing Building Code, with the following exception:

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

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

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

5.1 New One and Two Family Dwellings over one level in height, New One and Two Family Dwellings containing a basement, and New One and Two Family Dwellings containing a crawl space containing a fuel burning appliance below the first floor, shall provide one of the following methods for fire protection of floors: (1) A 1/2 inch (12.7 mm) gypsum wallboard membrane, 5/8 inch (16 mm) wood structural panel membrane, or equivalent on the underside of the floor framing member; (2) Wood floor assemblies using dimension lumber or structural composite lumber equal or greater than 2 inch by 10 inch (50.8 mm by 254 mm) nominal dimension, or other approved floor assemblies demonstrating equivalent fire performance; or (3) An Automatic Fire Sprinkler System as set forth in section R313.2 of the 2009 edition of the International Residential Code for One and Two Family Dwellings: *Provided*, That floor assemblies located directly over a space protected by an automatic sprinkler system as set forth in section R313.2 of the 2009 edition of the International Residential Code for One and Two Family Dwellings are exempt from this requirement.

**§87-4-6. Exceptions.**

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

Group U utility structures and storage sheds comprising an area not more than ~~150~~ 200 sq. ft. which have no plumbing or electrical connections and are used only for residential storage purposes. (Examples include sheds that are for the residential storage of lawnmowers, tools, bicycles or furniture.) Not included are those utility structures and storage sheds which have plumbing or electrical connections are a non-residential use or for the storage of explosives or other hazardous or explosive materials.

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

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

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

7.3. Throughout the national codes, adopted in subsection 4.1 of this rule, there are discretionary provisions or amendments which require further action by the adopting local jurisdiction in order to adapt these codes to various local conditions. The appendices are not a part of the code and must also be adopted by the local jurisdiction to be enforceable. It is therefore the intent of this rule to further authorize each local jurisdiction to further complete, by order or ordinance, those respective areas which are indicated to be completed by the adopting "jurisdiction" and any of the appendices the local jurisdiction wishes to adopt.

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

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

**§87-4-8. Existing Building Codes.**

8.1. All building codes previously adopted by local jurisdictions are null and void.