

**COMMUNITY DEVELOPMENT DIVISION  
FREDERICK COUNTY, MARYLAND**

*Department of Permits and Inspections*

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May 11, 2012

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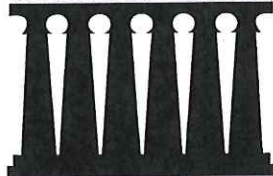
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Dear Ms. Carey:

The Frederick County (Maryland) Department of Permits and Inspections (FCDPI) is currently reviewing two proposed amendments to the 2012 International Energy Conservation Code (IECC), copies of which are attached hereto. State law conditions approval of these local amendments upon a determination that they do not serve to "weaken" the 2012 IECC. See the attached copies of §12-504 of the Public Safety Article of the Maryland Code and the Maryland Building Performance Standards (COMAR Title 05, Subtitle 2, Chapter 07).

FCDPI believes these amendments, which allow exchanging one Btu saved for another achieves the same energy efficiency as the standards in the IECC. Therefore FCDPI believes that these proposed amendments do not weaken the energy conservation and efficiency provisions contained in the 2012 IECC. Before forwarding the proposed amendments for state interpretation, we would greatly appreciate the Department of Energy's (DOE's) advising us as to whether your interpretation of these amendments is consistent with or different from our own.

A description of the two amendments under consideration and the associated rationale for their acceptance is described briefly below.

1. Acknowledge energy neutral equipment trade-offs in the performance section of the 2012 IECC.

Equipment efficiency for equivalent energy code compliance, which was eliminated in the 2009 edition of the IECC, remains absent from the 2012 edition. FCDPI believes that allowing equipment trade-offs, so long as the same energy efficiency is achieved, is consistent with the intent, scope,

and application of the IECC and should be reinstated. Section R101.3 of the 2012 IECC states that “this code is intended to provide flexibility to permit the use of innovative approaches and techniques to achieve...effective use and conservation of energy.” We also believe that equipment trade-offs are also consistent with the DOE’s legislative mandate, which states that the department should “seek adoption of all technologically feasible and economically justified energy efficient measures”. 42 U.S.C. § 6836.

High performance space heating, space cooling and water heating equipment save energy and are technically feasible. Therefore, it should ultimately be a market determination as to whether the use of high efficiency mechanical equipment is economically justified to achieve code-required levels of overall building efficiency. We have been informed by Frederick County’s building community that significant construction cost savings can be realized by the consumer when allowing energy neutral equipment trade-offs, and that making equipment efficiency trade-offs is essential in achieving “effective use and conservation of energy.”

Stakeholders in the building community have also stated that, in the 2012 ICC code cycle, DOE proposed EC-16 which allowed for limited equipment trade-offs against building tightness in the prescriptive path (the trade-off portion of the proposal was removed before being adopted because of concerns related to NAECA). In addition, the performance paths in both the commercial and high-rise residential portions of the 2012 IECC and ASHRAE 90.1, both supported by DOE, allow energy “neutral” trade-offs when using equipment with efficiencies higher than the Federal minimum or efficiencies specified within the standards.

By ignoring equipment efficiency, the 2012 IECC appears to be inconsistent with the spirit of performance-based energy code compliance, where the ultimate goal is to achieve a target energy use or better. If the goal is cost-effectively reducing energy consumption for all buildings, it should not matter if the savings are from better performing windows or high efficiency equipment. It also seems inconsistent to apply the performance benefits of more efficient equipment only to those buildings which fall under the commercial and high-rise residential portions of the 2012 IECC. We have heard from the building community that a Btu saved by using high efficiency equipment in residential construction should be considered the same as a Btu saved by additional insulation or a tighter duct system, regardless of the building type. For the above reasons, we believe that the proposed code amendment does not weaken the 2012 IECC.

The second attached proposed amendment to the 2012 IECC is described below:

2. Allow for energy neutral performance trade-offs for air leakage rates exceeding those specified in the 2012 IECC.

As the 2012 IECC is currently written, there is a mandatory requirement to achieve a maximum building leakage rate of 3 Air Changes per Hour (ACH) at a 50 Pascal pressure difference between inside and outside the house ( $ACH_{50}$ ) in Climate Zone 4 where Frederick County, Maryland is located. This proposed amendment will allow an air leakage rate in excess of 3 ACH only if other changes have been made resulting in a performance path calculation with an equal or lower annual energy cost. This second proposed amendment allows alternative means of compliance with the 2012 IECC. The building community has provided a number of reasons why the IECC ACH limit should be more flexible and subject to trade-offs that achieve the same energy efficiency:

- First, there are concerns for the public health related to indoor air quality. Three ACH is an aggressive requirement for building tightness, representing less than 6% of the 1998 U.S. building stock (2009 ASHRAE Handbook of Fundamentals 16.16).
- Second, the tightness of a new home is unknown until final testing when construction is virtually complete; so, not meeting an aggressive, prescriptively mandated requirement can cause significant problems at this late stage of construction.
- Third, the jointly sponsored DOE and EPA Energy Star program posits 5 ACH<sub>50</sub> as a reasonable residential building tightness to achieve on a consistent basis for this nationally recognized, premium, energy efficiency brand.

Over the last 6 years, the code-mandated increase in energy efficiency is roughly 30%. The feedback my department consistently receives from builders knowledgeable of the IECC is that the 2012 IECC is pushing or exceeding practical limits in many aspects of the energy code. While this is driving, in a positive way, major changes in how builders evaluate certain products and construction practices, there seem to be some changes that many builders are reluctant to make (e.g. adding continuous exterior foam insulation, consistently achieving extremely tight envelopes), based on the concerns cited above. In addressing these concerns, high efficiency equipment trade-offs would allow builders to manage potential liabilities since additional time and experience may end up demonstrating that liability and public health concerns are well founded and that alternative approaches to increasing energy efficiency are warranted.

For the reasons stated herein, FCDPI supports the adoption of these proposed IECC amendments, so long as we can be sure that these amendments do not violate the above-referenced Maryland laws and regulations. Therefore, we respectfully request DOE's interpretation of the proposed amendments, specifically as to whether the amendments weaken the 2012 IECC.

Should you require any additional information in connection with this code interpretation request, please contact me at 301-600-2028 or via E-mail addressed to [GHessong@FrederickCountyMD.gov](mailto:GHessong@FrederickCountyMD.gov).

Thank you for your time and consideration. I would greatly appreciate a response at your earliest convenience as the County is required by State law to adopt code amendments by July 1, 2012.

Sincerely,



Gary Hessong  
Director

Attachments (4)



## Attachment #1

### Recommended Frederick County Amendment to the 2012 International Energy Conservation Code (IECC)

**Issue:** The Elimination of Equipment Trade-offs

**2012 IECC Section:** Table R405.5.2(1)

**Recommended Amendment:**

*Modify the Table as shown below (Delete text, add New Text)*

**TABLE R405.5.2(1)  
SPECIFICATIONS FOR THE STANDARD REFERENCE AND PROPOSED DESIGNS**

BUILDING COMPONENT	STANDARD REFERENCE DESIGN	PROPOSED DESIGN
Heating systems <sup>f, g,</sup>	<p>As proposed for other than electric heating without a heat pump. Where the proposed design utilizes electric heating without a heat pump the standard reference design shall be an air source heat pump meeting the requirements of Section R403 of the IECC-Commercial Provisions.</p> <p><u>Fuel type: same as proposed design</u></p> <p><u>Efficiencies:</u></p> <p><u>Electric: air-source heat pump with prevailing federal minimum efficiency</u></p> <p><u>Nonelectric furnaces: natural gas furnace with prevailing federal minimum efficiency</u></p> <p><u>Nonelectric boilers: natural gas boiler with prevailing federal minimum efficiency</u></p> <p>Capacity: sized in accordance with Section R403.6</p>	As proposed
Cooling system <sup>f, h,</sup>	<p>As proposed</p> <p><u>Fuel type: Electric</u></p> <p><u>Efficiency: in accordance with prevailing federal minimum standards</u></p> <p>Capacity: sized in accordance with Section R403.6</p>	As proposed
Service Water Heating <sup>f, g, h, i</sup>	<p>As proposed</p> <p><u>Fuel type: same as proposed design</u></p> <p><u>Efficiency: in accordance with prevailing Federal minimum standards</u></p> <p><u>Use: gal/day = 30 + 10 × N<sub>br</sub></u></p> <p><u>Tank temperature: 120°F</u></p> <p><u>Use: same as proposed design</u></p>	<p>As proposed</p> <p><u>Same as standard reference</u></p> <p><u>gal/day = 30 + (10 × N<sub>br</sub>)</u></p>

(Remainder of Table remains unchanged)

**Justification:**

The purpose of this amendment is to retain the original equipment trade-off provisions from the 2006 International Energy Conservation Code (IECC) for the heating systems, cooling systems, and service water heating.

By retaining these, builders have an opportunity to optimize a code-compliant house design by using energy efficient equipment.

Eliminating the ability to use equipment efficiency as a means to achieve whole-house energy conservation will discourage the use of higher efficiency equipment. Quite often, the use of this high efficiency equipment provides a more cost effective solution to achieve code compliance. Eliminating this ability discourages the concept of the “house as a system” approach which is a cornerstone of many state energy programs and the Federal Energy Star Program. In fact, without this amendment the current practice for constructing an Energy Star home in this jurisdiction would be disallowed.

Without accepting this amendment will force a negative impact on the installation of state-of-the-art, more energy efficient equipment, it will increase the cost of construction by driving builders to often use less efficient equipment while dramatically increasing the cost of construction of the building envelope, namely windows and fiberglass insulation.

Significant improvements in the efficiency of HVAC and water heating equipment have been made in the last 20 years. With the increased emphasis on new and improved technologies, this trend will continue and will result in even higher energy savings in future years. Eliminating the ability to recognize the value of these technologies in the marketplace will prove detrimental to all builders and ultimately the homeowners.

One of the easiest ways to conserve energy is to utilize high efficiency equipment. The 2012 IECC code does not provide any incentives for the builder to install high efficiency equipment, but rather continues the use of the minimum equipment efficiencies established by federal standards.

The language in the 2012 IECC effectively removes the use of high efficiency HVAC equipment as a reasonable and cost-effective solution to achieve compliance. Failure to remove the existing language concentrates solely on the building envelope by focusing on insulation/windows to meet specific energy targets.

For these reasons we encourage the adoption of this amendment.

## Attachment #2

# Recommended Frederick County Amendment to the 2012 International Energy Conservation Code (IECC)

**Issue:** Dwelling Unit Air Leakage

**2012 IECC Section:** R402.4.1.2

**Recommended Amendment:** Add an exception

**R402.4.1.2 Testing.** The building or dwelling unit shall be tested and verified as having an air leakage rate of not exceeding 5 air changes per hour in Climate Zones 1 and 2, and 3 air changes per hour in Climate Zones 3 through 8. Testing shall be conducted with a blower door at a pressure of 0.2 inches w.g. (50 Pascals). Where required by the code official, testing shall be conducted by an approved third party. A written report of the results of the test shall be signed by the party conducting the test and provided to the code official. Testing shall be performed at any time after creation of all penetrations of the building thermal envelope.

**Exception:** An air leakage rate not exceeding 5 air changes per hour shall be permitted in Climate Zone 4 except marine, where it is demonstrated by simulated energy performance software approved by the code official, that through a combination of alternate construction methods, materials and equipment produces a result that is at a minimum energy-neutral when compared against the energy consumption arising from that same modeled building based upon the standard reference model of the code.

Remainder of Section R402.4.1.2, beginning with "During testing:" continues unchanged.

**Justification:** A home air tightness requirement of 3 air changes per hour or less at a 50 Pascal pressure, decreased from 7 air changes per hour or less in the 2009 IECC, may prove to be unnecessarily aggressive, given that experience with the resulting indoor air quality and the potential for adverse health effects arising from such tight construction is limited. To prevent there being unforeseen and unintended consequences arising from excessively tight residential construction, there should be a preference for erring on the side of moderation in decreasing the rate of building air leakage. To do otherwise and aggressively push the boundaries of building tightness could prove unfortunately detrimental to public health and safety. This code amendment makes possible the ability to trade-off building tightness in the performance path against other building requirements, resulting in a home having energy performance equivalent to that achieved by following the prescriptive requirements of the code. The result of the amendment, which is realized with less potential risk to public health, could otherwise be jeopardized by too great a reduction in building air leakage before sufficient data is available for arriving at an informed conclusion about the extent of the relationship, if any, between building air tightness, indoor air quality and related concerns for occupant safety and public health.

PUBLIC SAFETY  
TITLE 12. BUILDING AND MATERIAL CODES; OTHER SAFETY PROVISIONS  
SUBTITLE 5. MARYLAND BUILDING PERFORMANCE STANDARDS  
Md. PUBLIC SAFETY Code Ann. § 12-504 (2012)

§ 12-504. Local amendments to Standards and International Green Construction Code.

(a) Authority to adopt. --

(1) A local jurisdiction may adopt local amendments to the Standards if the local amendments do not:

(i) prohibit the minimum implementation and enforcement activities set forth in § 12-505 of this subtitle; or

(ii) weaken energy conservation and efficiency provisions contained in the Standards.

(2) (i) Regardless of whether the International Green Construction Code is adopted by the Department under § 12-503(d) of this subtitle, a local jurisdiction may adopt the International Green Construction Code.

(ii) A local jurisdiction may make local amendments to the International Green Construction Code.

(b) Applicability. -- If a local jurisdiction adopts a local amendment to the Standards, the Standards as amended by the local jurisdiction apply in the local jurisdiction.

(c) Conflict with Standards. -- If a local amendment conflicts with the Standards, the local amendment prevails in the local jurisdiction.

(d) Adopted in accordance with local law. -- A local jurisdiction that adopts a local amendment to the Standards shall ensure that the local amendment is adopted in accordance with applicable local law.

(e) Copy of amendments. -- To keep the database established under this subtitle current, a local jurisdiction that adopts a local amendment to the Standards shall provide a copy of the local amendment to the Department:

(1) at least 15 days before the effective date of the amendment; or

(2) within 5 days after the adoption of an emergency local amendment.

# MARYLAND CODES ADMINISTRATION

## Maryland Building Performance Standards

**COMAR 05-02-07**

**Effective January 1, 2012**



**Maryland Codes Administration  
100 Community Place  
Crownsville, Maryland 21032  
410-514-7220 • 800-756-0119**



MARTIN O'MALLEY  
*Governor*

ANTHONY G. BROWN  
*Lt. Governor*

RAYMOND A. SKINNER  
*Secretary*

CLARENCE J. SNUGGS  
*Deputy Secretary*



The Maryland Department of Housing and Community Development (DHCD) pledges to foster the letter and spirit of the law for achieving equal housing opportunity in Maryland.



# **Title 05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

## **Subtitle 02 BUILDING AND MATERIAL CODES**

### **Chapter 07 Maryland Building Performance Standards**

**Authority:** Public Safety Article §§12-501—12-508, Annotated Code of Maryland

#### **.01 Title.**

This chapter shall be known and may be cited as the Maryland Building Performance Standards Regulations.

#### **.02 Purpose and Scope.**

The purpose of this chapter is to adopt the International Building Code (IBC), the International Residential Code (IRC), and the International Energy Conservation Code (IECC), as may be modified by the Department, as the Maryland Building Performance Standards, which will provide reasonable protection to the public against hazards to life, health, and property, and to establish the policies and procedures associated with the operation of a data base that contains the Standards, the local amendments, and other related information.

#### **.03 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) Agricultural Building.

(a) "Agricultural building", for purposes of Regulation .06B of this chapter only, means a structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products.

(b) "Agricultural building" does not include a place of human residence.

(2) Agritourism.

(a) "Agritourism" means tourism of agricultural farms and buildings by members of the general public for recreational, entertainment, or educational purposes for which tourists may or may not pay fees.

(b) Agritourism includes the following activities, when performed by a tourist:

(i) Viewing rural activities, farming, ranching, and wine making;

(ii) Viewing natural, historical, and cultural resources; and

(iii) Harvesting agricultural products.

(3) "Building" has the meaning and interpretation set forth in the International Building Code.

(4) "Codes Administration" means the Maryland Codes Administration, an administration within the Department.

(5) "County" means any of the 23 counties of the State and the Mayor and City Council of Baltimore.

(6) "Department" means the Department of Housing and Community Development of Maryland.

(7) "High Performance Home" has the meaning stated in Public Safety Article 12-509(a), Annotated Code of Maryland.

(8) "IBC" means the International Building Code, as incorporated by reference in this chapter.

(9) "ICC" means the organization known as the International Code Council.

(10) "Local amendment" means:

(a) An amendment to the Standards that has been adopted by a local jurisdiction in accordance with applicable local laws and regulations; and

(b) A copy of the amendment has been provided to the Department for inclusion in the data base within the following time period:

(i) At least 15 days before the effective date of the amendment, or

(ii) In the case of an emergency adoption of an amendment, within 5 days of the emergency amendment's adoption.

(11) "Local jurisdiction" means the county or municipality responsible for implementation and enforcement of the Maryland Building Performance Standards.

(12) "MBPS" or "Standards" means the Maryland Building Performance Standards established by these regulations.

(13) "Municipality" means a municipal corporation subject to the provisions of Article XI-E of the State Constitution.

(14) "Person" means an individual, corporation, partnership, association, or any other legal entity authorized to do business in the State.

(15) "Structure" has the meaning and interpretation set forth in the IBC.

#### **.04 Incorporation by Reference.**

A. In this chapter, the following documents are incorporated by reference:

(1) 2012 International Building Code (International Code Council, 500 New Jersey Avenue, N.W., 6th Floor, Washington, DC 20001);

(2) 2012 International Residential Code for One- and Two-Family Dwellings (International Code Council, 500 New Jersey Avenue, N.W., 6th Floor, Washington, DC 20001); and

(3) 2012 International Energy Conservation Code (International Code Council, 500 New Jersey Avenue, N.W., 6th Floor, Washington, DC 20001).

B. Modifications to the 2012 International Building Code.

(1) Chapter 1. Add note to Chapter 1 of the IBC: Local jurisdictions are responsible for the implementation and enforcement of the Maryland Building Performance Standards. Refer to each local jurisdiction for local amendments to Chapter 1 of the IBC. Each local jurisdiction having authority shall establish, on or before the application date in Regulation .06 of this chapter, implementation and enforcement procedures that include:

- (a) Review and acceptance of appropriate plans;
- (b) Issuance of building permits;
- (c) Inspection of the work authorized by the building permits; and
- (d) Issuance of use and occupancy certificates.

(2) Chapter 1. Delete Exception in the Section 101.2 Scope and replace with the following:

Exception: 1. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the International Residential Code.

Exception: 2. Existing buildings undergoing repair, alterations or additions, and change of occupancy shall comply with the Maryland Building Rehabilitation Code set forth in COMAR 05.16.

Exception: 3. Maintenance of residential structures and premises shall comply with the Minimum Livability Code COMAR 05.02.03.

(3) Chapter 1. Delete the Section 101.2.1 Appendices and replace with the following:

101.2.1 Appendices: All the provisions in the Appendices are adopted as part of the IBC except those in Appennices A, B, D, E, and K.

(4) Chapter 9. Add note to Section 901.1 Scope Fire protection system requirements of Chapter 9 may be concurrently covered in the State Fire Prevention Code, Public Safety Article, §§6-101—6-202, Annotated Code of Maryland, and COMAR 29.06.01. The State Fire Prevention Code is enforced by the State Fire Marshal or authorized fire official.



(5) Add note to Section 1001.1 General: Means of egress requirements of Chapter 10 may be concurrently covered in the State Fire Prevention Code, Public Safety Article, §§6-101—6-602, Annotated Code of Maryland, and COMAR 29.06.01. The State Fire Prevention Code is enforced by the State Fire Marshal or authorized fire official.

(6) Chapter 11. Chapter 11 of the IBC related to accessibility requirements is hereby replaced with the Maryland Accessibility Code set forth in COMAR 05.02.02. A local jurisdiction may adopt and enforce the requirements of Chapter 11 of the IBC to the extent the requirements meet or exceed the requirements set forth in COMAR 05.02.02.

(7) Chapter 24. The requirements for safety glazing set forth in Public Safety Article, Title 12, Subtitle 4, Annotated Code of Maryland, are in addition to Chapter 24, Section 2406 of the IBC related to safety glazing. In the event of a conflict between Chapter 24 of the IBC and the Annotated Code of Maryland, the requirements of the Annotated Code of Maryland prevail.

(8) Chapter 27. ELECTRICAL. Add note to Section 2701.1 Scope: The subject matter of this chapter is not within the scope of the Maryland Building Performance Standards. For the applicable electrical requirements, refer to the local electrical code and the National Electrical Code as adopted and enforced by the State Fire Marshal, authorized fire officials, or building officials pursuant to the provisions of Public Safety Article, Title 12, Subtitle 6, Annotated Code of Maryland.

(9) Chapter 28. MECHANICAL SYSTEMS. Add note to Section 2801.1 Scope: The subject matter of this chapter is not within the scope of the Maryland Building Performance Standards. For the applicable requirements concerning the mechanical systems, refer to the local mechanical code and the mechanical code adopted pursuant to the provision of Business Regulation Article, §9A-205, Annotated Code of Maryland.

(10) Chapter 29. PLUMBING SYSTEMS. Add note to Section 2901.1 Scope: The subject matter of this chapter is not within the scope of the Maryland Building Performance Standards. For the applicable requirements concerning the plumbing systems, refer to the local plumbing code and the plumbing code adopted pursuant to the provisions of Business Occupations and Professions Article, Title 12, Annotated Code of Maryland.

(11) Chapter 30. The provisions of Chapter 30 of the IBC relate to elevators and conveying systems and are in addition to and not instead of the requirements set forth in Public Safety Article, Title 12, Subtitle 8, Annotated Code of Maryland. In the event of a conflict between the IBC and the Annotated Code of Maryland, the provisions of the Annotated Code of Maryland prevail.

(12) Chapter 34.

Add the following exception to section 3401.1 Scope:

Exception: Any rehabilitation work undertaken in an existing building as defined in COMAR 05.16 shall comply with the requirements of Maryland Building Rehabilitation Code set forth in COMAR 05.16.

C. Modifications to the 2012 International Residential Code for One- and Two-Family Dwellings:

(1) Chapter 1. Delete the Section 102.5 Appendices and replace with the following:

102.5 Appendices: All the provisions in the Appendices are adopted as part of the IRC except those in Appendices E, J and L.

(2) MECHANICAL. Chapter 12. MECHANICAL ADMINISTRATION. Add note to Section M1201.1 Scope: The subject matter of chapters 12 through 24 is not within the scope of the Maryland Building Performance Standards. For the applicable requirements concerning the mechanical systems, refer to the local mechanical code and the mechanical code adopted pursuant to the provisions of Business Regulation Article, §9A-205, Annotated Code of Maryland.

(3) PLUMBING. Chapter 25. PLUMBING ADMINISTRATION. Add note to Section P2501.1 Scope: The subject matter of chapters 25 through 33 is not within the scope of the Maryland Building Performance Standards. For the applicable requirements concerning the plumbing systems, refer to the local plumbing code and the plumbing code adopted pursuant to the provisions of Business Occupations and Professions Article, Title 12, Annotated Code of Maryland.

(4) ELECTRICAL. Chapter 34. GENERAL REQUIREMENTS. Add note to Section E3401.1 Applicability: The subject matter of chapters 34 through 43 is not within the scope of the Maryland Building Performance Standards. For the applicable electrical requirements, refer to the local electrical code and the National Electrical Code as adopted and enforced by the State Fire Marshal, authorized fire officials, or building officials pursuant to the provisions of Public Safety Article, Title 12, Subtitle 6, Annotated Code of Maryland.

D. Modifications to the 2012 International Energy Conservation Code. Add a note to Section 101 Scope and General Requirement: Additional requirements concerning energy conservation for buildings and structures may be required by the Energy Conservation Building Standards, Public Utility Companies Article, §§7-401—7-408, Annotated Code of Maryland, as amended.

E. The Department encourages:

- (1) Home builders to construct new high performance homes, and
- (2) Local jurisdictions to amend these standards to allow builders to construct high performance homes.

### **.05 Maryland Building Performance Standards.**

A. The IBC, IRC, and IECC, as modified in Regulation .04 of this chapter, shall constitute the Maryland Building Performance Standards.

B. Local Amendments.

(1) Each local jurisdiction:

- (a) May by local amendment modify the provisions of the Standards to address conditions peculiar to the local jurisdiction's community; and
- (b) May not adopt any amendments that weaken the requirements of the IECC or Chapter 13 of the IBC.

(2) If a local jurisdiction adopts a local amendment, the Standards as amended by the local jurisdiction shall apply in that local jurisdiction.

(3) If a local amendment conflicts with the provisions of the Standards, the provisions of the local amendment shall prevail in the local jurisdiction.

(4) Local amendments shall be submitted to the Department:

- (a) At least 15 days before the effective date of the amendment; or
- (b) In the case of an emergency adoption of a local amendment, within 5 days after the local amendment's adoption.

## **.06 Application of the Standards.**

A. Except as provided in §§B and C of this regulation, the Standards shall apply to all buildings and structures within the State for which a building permit application is received by a local jurisdiction.

B. A local jurisdiction shall implement and enforce the Standards and any local amendments within 6 months of the effective date of any amendments by the Department to this chapter.

C. In Calvert County, Charles County, Dorchester County, Frederick County, Harford County, Prince George's County, St. Mary's County, Somerset County, and Talbot County:

- (1) The Standards do not apply to the construction, alteration, or modification of an agricultural building for which agritourism is an intended subordinate use;
- (2) An existing agricultural building used for agritourism is not considered a change of occupancy that requires a building permit if the subordinate use of the building for agritourism:
  - (a) Complies with §C(3) of this regulation;
  - (b) Occupies only levels of the building on which a ground level exit is located; and
  - (c) Does not allow more than 50 people to occupy an individual building at any one time;
- (3) An agricultural building used for agritourism shall be structurally sound and in good repair; and
- (4) An agricultural building used for agritourism does not have to comply with:
  - (a) The requirements for bathrooms, sprinkler systems, and elevators set forth in the Standards; or
  - (b) Any other requirements of the Standards or other building codes as set forth in this subtitle or COMAR 05.16.



## **.07 Utilization of Standards.**

### **A. Central Data Base.**

(1) The Department shall establish an automated central data base which shall contain or provide a link to access the following information:

(a) The Standards;

(b) Local amendments;

(c) State Fire Prevention Code and amendments to the State Fire Prevention Code promulgated by the State Fire Prevention Commission, or the State Fire Prevention Commission's successor;

(d) The fire codes adopted by the local jurisdictions and any amendments to them;

(e) The electrical code required under Public Safety Article, §12-603, Annotated Code of Maryland;

(f) Local amendments to the electrical code required under Public Safety Article, §12-603, Annotated Code of Maryland;

(g) Local code provisions that are more restrictive than the IECC as modified in Regulation .04 of this chapter and the energy code defined under Public Utility Companies Article, §7-401, Annotated Code of Maryland;

(h) The Maryland Building Rehabilitation Code; and

(i) Local amendments to the Maryland Building Rehabilitation Code.

(2) The Department may compile and include in the central data base:

(a) Any information provided by the local jurisdiction on the implementation and interpretation of the Standards by the local jurisdiction;

(b) Interim amendments to the IBC and IRC, including subsequent printing of the most recent edition; and

(c) Any other information the Department determines is relevant to the construction or rehabilitation of buildings and structures in the State.

(3) Software.

(a) The Department shall be responsible for the development and distribution among the local jurisdictions of software related to the operation of the central data base.

(b) Any software developed by or on behalf of the Department shall be owned by the Department, or the developer of the software.

(c) Neither the local jurisdiction nor any other user acquires any proprietary right in any of the ICC copyrighted material or ICC trademark contained in the software.

B. Voluntary Dispute Resolution.

(1) Upon the written request of a local jurisdiction and any person aggrieved by the Standards or any local amendments to them, the Codes Administration shall conduct an informal mediation or conciliation with the local jurisdiction and any person aggrieved by the Standards or any local amendments to them.

(2) The aggrieved person and the local jurisdiction shall each submit to the Codes Administration a written statement of the dispute and include any related material either party feels is appropriate. In addition to the written statement, either party may request a meeting with the other party and the Codes Administration to discuss the dispute.

(3) Within the latter to occur of 30 days of receipt of both statements of the disputed and any related material, or 30 days after a meeting conducted in accordance with §B(2) of this regulation, the Director of the Codes Administration shall issue a decision on behalf of the Department regarding resolution of the dispute.

(4) Within 15 days of the date of the decision of the Director of the Codes Administration, either party may appeal to the Secretary of the Department or the Secretary's designee, in writing. The Secretary of the Department or the Secretary's designee shall respond to the appeal within 15 days of receipt of the appeal.

(5) Neither a decision by the Codes Administration nor the Department under §B(3) or (4) of this regulation shall constitute a contested case proceeding under the Maryland Administrative Procedure Act and is not subject to the provisions of COMAR 05.01.01.

**.08 Enforcement of the Standards.**

Enforcement of the Standards shall be the responsibility of the local jurisdiction in which the building or structure is located.

## **.09 Enforcement of State Fire Code Requirements.**

There is a State Fire Code, Public Safety Article 38A, §§6-101—6-602, Annotated Code of Maryland, and COMAR 29.06.01, which requires enforcement of the Fire Code by the State Fire Marshal or authorized fire official.

### *Administrative History*

#### **Effective date:**

Regulations .01—.09 adopted as an emergency provision effective January 13, 1995 (22:3 Md. R. 148); adopted permanently effective June 5, 1995 (22:11 Md. R. 818)

Regulation .02 amended effective October 15, 2001 (28:5 Md. R. 548); September 20, 2004 (31:6 Md. R. 507); January 1, 2010 (36:22 Md. R. 1722)

Regulation .03B amended effective April 7, 1997 (24:7 Md. R. 552); October 15, 2001 (28:5 Md. R. 548); September 20, 2004 (31:6 Md. R. 507); July 16, 2007 (34:14 Md. R. 1245)

Regulation .04 amended effective October 15, 2001 (28:5 Md. R. 548); September 20, 2004 (31:6 Md. R. 507); July 1, 2007 (34:7 Md. R. 696); January 1, 2010 (36:22 Md. R. 1722)

Regulation .04A, B amended and C adopted effective April 7, 1997 (24:7 Md. R. 552)

Regulation .05 amended effective March 15, 2001 (28:5 Md. R. 548); September 20, 2004 (31:6 Md. R. 507); January 1, 2010 (36:22 Md. R. 1722)

Regulation .06 amended effective April 7, 1997 (24:7 Md. R. 552); October 15, 2001 (28:5 Md. R. 548); September 20, 2004 (31:6 Md. R. 507); July 16, 2007 (34:14 Md. R. 1245)

Regulation .06B amended effective January 1, 2010 (36:22 Md. R. 1722)

Regulation .07 amended effective April 7, 1997 (24:7 Md. R. 552); October 15, 2001 (28:5 Md. R. 548); September 20, 2004 (31:6 Md. R. 507)

Regulation .07A amended effective January 1, 2010 (36:22 Md. R. 1722)

Regulation .09 amended effective April 7, 1997 (24:7 Md. R. 552)