

# **Title 09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION**

## **Subtitle 12 BUILDING AND MATERIAL CODES**

### **Chapter 51 Maryland Building Performance Standards**

**Authority: Public Safety Article, §§12-503, 12-507(a)(2), 12-508(g), and 12-510(d),  
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 Building 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 Labor, Licensing, and Regulation.

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

(8) Hotel.

(a) "Hotel" means an establishment that offers sleeping accommodations for compensation.

(b) "Hotel" does not include a bed and breakfast establishment.

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

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

(11) "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.

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

(13) "Master control device" means:

(a) A control that is activated when a person enters the room through the primary room-access method; or

(b) An occupancy sensor control that is activated by a person's presence in the room.

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

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

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

(17) "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) 2018 International Building Code (International Code Council);

(2) 2018 International Residential Code for One- and Two-Family Dwellings (International Code Council);

(3) 2018 International Energy Conservation Code (International Code Council); and

(4) 2012 International Green Construction Code (International Code Council, 500 New Jersey Avenue, N. W., 6th Floor, Washington DC 20001).

B. Modifications to the 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:

(a) 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;

(b) 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 09.12.58; and

(c) Exception: 3. Maintenance of residential structures and premises shall comply with the Minimum Livability Code COMAR 09.12.54.

(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 Appendices 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 09.12.53. 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 09.12.53.

(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. Any rehabilitation work undertaken in an existing building as defined in COMAR 9.12.58 shall comply with the requirements of Maryland Building Rehabilitation Code set forth in COMAR 09.12.58.

#### C. Modifications to the 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) ENERGY. Chapter 11. ENERGY EFFICIENCY.

(a) Add to Section N1102.4.1.2 (R402.4.1.2): Except as provided for in the:

(i) Simulated Performance Path listed in Section N1105 (R405); and

(ii) Energy Rating Index Compliance Alternative in Section N1106 (R406);

(b) Modify Table N1105.5.2(1) (R405.5.2(1)) for Air Exchange Rate line item under the proposed design add “not to exceed 5 air changes per hour with baseline of 3 air changes per hour in climate zones 4 and 5 maintained for Standard Reference Design” after “The measured air exchange rate”; and

(c) Add exception to Section N1106.2 (R406.2): The maximum of 5 air changes per hour tested in accordance with Section R402.4.1.2 may be used to determine the Energy Rating index score with baseline of 3 air changes per hour in climate zones 4 and 5 maintained for ERI Reference Design.

(3) 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.

(4) 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.

(5) 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 International Energy Conservation Code.

(1) Add a note to Section C101, Scope and General Requirements: 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.

(2) Add a note to Section C405.2.4 Specific Application Controls: For the new construction of hotels:

(a) Each hotel guest room shall be equipped with a master control device that automatically turns off the power to all of the lighting fixtures in the guest room no more than 30 minutes after the room has been vacated; and

(b) A master control device may also control the heating, ventilation, or air conditioning default settings in hotel guest rooms 30 minutes after a room has been vacated by:

(i) Increasing the set temperature by at least 3 degrees Fahrenheit when in the air conditioning mode; or

(ii) Decreasing the set temperature by at least 3 degrees Fahrenheit when in the heating mode.

(3) Add to Section R402.4.1.2: Except as provided for in the:

(a) Simulated Performance Path listed in Section R405;

(b) Energy Rating Index Compliance Alternative in Section R406;

(4) Modify Table R405.5.2(1) for Air Exchange Rate line item under the proposed design add “not to exceed 5 air changes per hour with baseline of 3 air changes per hour in climate zones 4 and 5 maintained for Standard Reference Design” after “The measured air exchange rate”; and

(5) Add exception to Section R406.2: The maximum of 5 air changes per hour tested in accordance with Section R402.4.1.2 may be used to determine the Energy Rating index score with baseline of 3 air changes per hour in climate zones 4 and 5 maintained for ERI Reference Design.

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;

(b) May adopt and amend the IGCC to be part of the Standards applicable in the local jurisdiction.

(c) May not adopt any amendments that weaken the requirements of the IECC or Chapter 13 of the IBC;

(d) Except as set forth in Public Safety Article, §12-504(a)(1)(iii), Annotated Code of Maryland, may not adopt any amendments that weaken the automatic fire sprinkler systems provisions for townhouses and one- and two-family dwellings contained in the Standards; and

(e) May not adopt amendments that weaken the wind design and wind-borne debris provisions contained in the Standards.

(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 12 months of the effective date of any amendments by the Department to this chapter.

C. The provisions of Public Safety Article, §12-508, Annotated Code of Maryland, modify and determine the applicability of the Standards to agritourism.

## **.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 Utilities 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 09.01.02.

**.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); January 1, 2012 (38:24 Md. R. 1500)

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); January 1, 2012 (38:24 Md. R. 1500); October 29, 2012 (39:21 Md. R. 1377); January 1, 2015 (41:25 Md. R. 1476)

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

Regulation .04A, D amended effective October 29, 2012 (39:21 Md. R. 1377)

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 .05B amended effective October 29, 2012 (39:21 Md. R. 1377); January 1, 2015 (41:25 Md. R. 1476)

Regulation .05C adopted effective October 29, 2012 (39:21 Md. R. 1377)

Regulation .05C repealed effective January 1, 2015 (41:25 Md. R. 1476)

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)

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Regulation .06B, C amended effective March 25, 2019 (46:6 Md. R. 345)

Regulation .07B amended effective March 25, 2019 (46:6 Md. R. 345)