

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

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

### **Chapter 50 Model Performance Code**

**Authority: Public Safety Article, §12-201(f), Annotated Code of Maryland**

#### **.01 Definitions.**

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

B. Terms Defined.

(1) "Department" means the Department of Labor, Licensing, and Regulation.

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

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

(4) Hotel.

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

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

(5) "Industrialized building" has the meaning stated in Public Safety Article, §12-301(d), Annotated Code of Maryland.

(6) "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.

(7) "Model Performance Code" or "Model Code" means the Model Performance Code for building construction as detailed in Regulation .03 of this chapter.

(8) "NFPA" means National Fire Protection Association, Inc.

(9) "Person" means any private individual, firm, or corporation and any public officer or agency.

(10) "Regulations" means the regulations as defined in Regulation .02 of this chapter.

(11) "Secretary" means the Secretary of Labor, Licensing, and Regulation or a designated representative.

(12) "State certified inspector" means an individual qualified by reason of experience, training, and/or examination, to inspect buildings for compliance with the State Model Performance Code, and certified pursuant to Regulation .07 of this chapter.

## **.02 General.**

A. Title. These regulations shall be known and may be cited as the Model Performance Code. Except as otherwise indicated, "regulations" as used in this chapter shall mean the Model Performance Code.

B. Application.

(1) These regulations may not be binding upon any subdivision of the State unless the subdivision adopts the Model Performance Code, by law, ordinance, or resolution of its governing body referring to the Model Performance Code.

(2) For industrialized buildings approved by an approved testing facility under COMAR 09.12.52 after the effective date of these regulations:

(a) This chapter and the codes incorporated by reference apply to any approved building provided that construction begins prior to 6 months after the Department's adoption of the 2021 edition of the International Building Code; and

(b) The approved testing facility shall state in its approval letter to the Department and the manufacturer of the building:

(i) The date of approval; and

(ii) That approval will expire for a building unless construction begins prior to 6 months after Department's adoption of the 2021 edition of the International Building Code.

(3) For industrialized buildings approved by an approved testing facility under COMAR 09.12.52 prior to the effective date of these regulations, the previous version of this chapter and the 2015 International Building Code shall apply provided that construction begins prior to 6 months after the effective date of these regulations.

C. Equivalency. Nothing in the Model Performance Code is intended to prevent the use of systems, methods, or devices of equivalent or superior quality, strength, fire resistance, effectiveness, durability, and safety to those prescribed by the Model Code, providing technical documentation is submitted to the authority having jurisdiction to demonstrate equivalency, and the system, method, or device is approved for the intended purpose.

D. The Department encourages home builders to construct new high performance homes.

## **.02-1 Incorporation by Reference.**

A. In this chapter, the following documents are incorporated by reference, except as modified in Regulation .03 of this chapter.

B. Documents Incorporated.

(1) International Building Code (International Code Council), which is incorporated by reference in COMAR 09.12.51.04A(1).

(2) 2018 International Plumbing Code (International Code Council).

(3) National Electric Code, 2017 Edition (NFPA 70).

(4) International Residential Code for One- and Two-Family Dwellings (International Code Council), which is incorporated by reference in COMAR 09.12.51.04A(2).

(5) 2018 International Mechanical Code (International Code Council).

(6) International Energy Conservation Code (International Code Council), which is incorporated by reference in COMAR 09.12.51.04A(3).

(7) 2012 International Green Construction Code (International Code Council, 500 New Jersey Avenue, N.W., 6th Floor, Washington DC 20001).

### **.03 Model Performance Code.**

A. The standards incorporated by reference in Regulation .02-1 of this chapter, and modified as follows, constitute the Model Performance Code for building construction in the State:

(1) For industrialized building construction:

(a) International Building Code with the following modifications:

(i) Chapter 1. Delete 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;

(ii) 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;

(iii) Chapter 10. 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;

(iv) Chapter 11. Chapter 11, related to accessibility requirements, is hereby replaced with the Maryland Accessibility Code set forth in COMAR 09.12.53;

(v) 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;

(vi) 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;

(b) International Plumbing Code with the following modification: Delete all of §404.0 — the subject matter is covered by Maryland Accessibility Code, COMAR 09.12.53;

(c) National Electrical Code,

(d) International Mechanical Code;

(e) International Residential Code for One- and Two-Family Dwellings with the following modifications:

(i) 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;

(ii) Add to Section N1102.4.1.2 (R402.4.1.2): Except as provided for in the Simulated Performance Path listed in Section N1105 (R405);

(iii) Add to Section N1102.4.1.2 (R402.4.1.2): Except as provided for in the Energy Rating Index Compliance Alternative Section N1106 (R406);

(iv) 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

(v) Add exception to Section N1106.2 (R406.2): The maximum of 5 air changes per hour tested in accordance with Section N1102.4.1.2 (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;

(f) International Energy Conservation Code with the following modification:

(i) Add a note to Section C405.2.4 Specific Application Controls: For the new construction of hotels, each hotel guest room shall be equipped with a master control device in compliance with COMAR 09.12.51.04D(2);

(ii) Add to Section R402.4.1.2: Except as provided for in the Simulated Performance Path listed in Section R405;

(iii) Add to Section R402.4.1.2: Except as provided for in the Energy Rating Index Compliance Alternative in Section R406;

(iv) 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

(v) 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;

(g) If an industrialized building manufacturer desires to or has been requested to construct a building to the International Green Construction Code (IGCC) standards they may use the IGCC in addition to the other codes in §A(1) with the following modifications:

(i) Chapter 1. Delete Section 101.4 Appendices and replace with the following: All the provisions in the appendices are adopted as part of the IGCC except those in the appendices C and D;

(ii) Chapter 3. Add following note to Section 302.1 Item 1: In Table 302.1, Select “Yes” for residential buildings as indicated in Exception 1 to Section 101.3; and

(iii) The §A(1)(g) does not preempt the authority reserved to local jurisdictions to regulate matters in the IGCC including land use, site placement, and other matters that do not affect the structure or design of the industrialized building; and

(h) The Department encourages home builders to construct new high-performance homes.

(2) For all other building construction:

(a) The International Building Code with modifications related to building standards, as adopted under COMAR 09.12.51.04;

(b) Plumbing Code requirements adopted under Business Occupations and Professions Article, §§12-101—12-702, Annotated Code of Maryland;

(c) National Electrical Code;

(d) International Mechanical Code;

(e) The International Residential Code for One- and Two-Family Dwellings with modifications related to building standards, as adopted under COMAR 09.12.51.04;

(f) International Energy Conservation Code with modifications related to building standards, as adopted under COMAR 09.12.51.04; and

(g) If a builder desires to or has been requested to construct a building to the International Green Construction Code (IGCC) standards they may use the IGCC in addition to the other codes in §A(2).

B. Copies of these documents are filed in special public depositories located throughout the State. A list of these depositories is available online at [www.dsd.state.md.us](http://www.dsd.state.md.us).

## **.04 Modifications to Model Performance Code.**

A. As stated in Regulation .02B of this chapter, the Model Performance Code is not binding on any subdivision of the State unless specifically adopted by it. A copy of the law, ordinance, or resolution adopting the Model Code shall be sent by the governing body of the adopting subdivision to the Secretary. Copies of all subsequent laws, ordinances, or resolutions pertaining to the Model Code shall similarly be sent by the governing body to the Secretary.

B. After adoption by a subdivision, alteration or modification of the Model Code is prohibited without prior concurrence of the Secretary.

C. The Department will regularly consult with local officials to review the application and effectiveness of the Model Code in each adopting subdivision.

D. Requests for Changes.

(1) Requests for changes, modifications, or exceptions to make the Model Code more effective and useful in any subdivision shall be submitted in writing by certified mail, return receipt requested, to the Secretary by the appropriate authority in the subdivision, together with the reasons for the request.

(2) Upon receipt of a request, the Secretary may:

(a) Concur with it;

(b) Take no action for a period of 30 days after receipt of the request, which shall be deemed concurrence; or

(c) Deny the request and notify the requesting subdivision in writing. The Secretary may utilize the 30-day period provided hereby for informal consultation with the requesting subdivision and with any other individuals or groups.

(3) Concurrence with requests for special Model Code provisions to meet local conditions will not be unreasonably withheld.

E. The administrative sections of Article 1 of the International Building Code are entirely administrative and may require alteration to adapt them to local use. Alterations to these sections of Article 1 are therefore excluded from the requirement of concurrence by the Secretary. However, any alterations shall be forwarded to the Secretary for the Department's records.

## **.05 Appeals of Code Interpretations or Applications.**

A. If a subdivision provides for a body and procedures to hear building appeals, any person aggrieved by any application or interpretation of the Model Code may obtain review under the procedures.

B. Review by this Department shall be granted:

(1) If requested by the appeals body referred to in §A.

(2) If requested by the aggrieved party before commencement of appeal procedures provided by the subdivision. In that case, the Director of the Building Codes Administration may, in the Director's discretion, decline to review the question of interpretation or application and remand the question to the subdivision, because the question is of insufficient importance or can be resolved more readily at a local level, or for other reasons. The action is not reviewable.

(3) When a building appeals procedure is not provided by the subdivision.

C. An aggrieved person requesting review by the Department of an application or interpretation of the Model Code shall do so in writing, addressed to the Director of the Building Codes Administration in the Department, together with a full statement of the circumstances and the reasons for challenge.

D. The Director of the Building Codes Administration will normally refer the question of interpretation or application to ICC or NFPA, as the case may be, for answer by their respective interpretation services. The Director is not required to refer the question to ICC or NFPA. The Director shall notify the parties of the referral.

E. Within 10 days from the receipt by the Director of the Building Codes Administration of the request for review, or within 10 days from receipt by the Director of an answer from ICC or NFPA when the question has been referred, the Director shall notify the parties of the Director's decision, with a statement of the reasons for it, including a copy of any communication from ICC or NFPA.

F. Review of an adverse decision of the Director of the Building Codes Administration shall be by appeal to the Secretary, filed within 30 days after issuance of the decision by the Director.

## **.06 Code Improvements.**

Any recommendations for changes to improve these regulations should be submitted to the Secretary with an explanation of the modification desired.

## **.07 Training and Certification of Building Inspectors.**

In order to assist local jurisdictions to effectively administer the Model Performance Code, the Department has the responsibility to train and certify building code enforcement officials in any jurisdiction where the Model Performance Code is in effect.

### **Administrative History**

#### **Effective date: April, 1973**

Regulation .01 amended effective December 30, 1985 (12:26 Md. R. 2542)

Regulation .02C adopted effective December 30, 1985 (12:26 Md. R. 2542)

Regulation .03 amended effective August 6, 1975 (2:17 Md. R. 1188); March 3, 1976 (3:5 Md. R. 295); June 29, 1979 (6:13 Md. R. 1124); March 1, 1983 (10:3 Md. R. 208); December 30, 1985 (12:26 Md. R. 2542)

Regulations .04 and .05 amended effective November 3, 1978 (5:22 Md. R. 1671)

Regulations .04E and .05C amended effective December 30, 1985 (12:26 Md. R. 2542)

Regulation .07A amended effective December 30, 1985 (12:26 Md. R. 2542)

Regulation .07B amended effective August 6, 1975 (2:17 Md. R. 1188) and November 3, 1978 (5:22 Md. R. 1671); repealed effective December 30, 1985 (12:26 Md. R. 2542)

---

Chapter recodified from COMAR 05.01.03 to COMAR 05.02.01

Regulation .01B amended effective June 1, 1988 (15:11 Md. R. 1329); July 28, 1997 (24:15 Md. R. 1061); October 15, 2001 (28:1 Md. R. 25); September 20, 2004 (31:6 Md. R. 507); January 1, 2012 (38:24 Md. R. 1499); January 7, 2013 (39:26 Md. R. 1663)

Regulation .02B amended effective January 1, 2012 (38:24 Md. R. 1499); January 1, 2015 (41:25 Md. R. 1476)

Regulation .02D adopted effective January 1, 2012 (38:24 Md. R. 1499)

Regulation .02-1 adopted effective July 28, 1997 (24:15 Md. R. 1061)

Regulation .02-1B amended effective October 15, 2001 (28:1 Md. R. 25); 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. 1499); January 7, 2013 (39:26 Md. R. 1663); January 1, 2015 (41:25 Md. R. 1476)

Regulation .03 amended effective June 1, 1988 (15:11 Md. R. 1329); July 22, 1991 (18:14 Md. R. 1609); July 28, 1997 (24:15 Md. R. 1061); October 15, 2001 (28:1 Md. R. 25)

Regulation .03A amended effective January 1, 2010 (36:22 Md. R. 1722); January 1, 2012 (38:24 Md. R. 1499); January 7, 2013 (39:26 Md. R. 1663); January 1, 2015 (41:25 Md. R. 1476)

Regulation .04D amended effective July 1, 2007 (34:7 Md. R. 696)

Regulation .04E amended effective June 1, 1988 (15:11 Md. R. 1329); October 15, 2001 (28:1 Md. R. 25); September 20, 2004 (31:6 Md. R. 507); July 1, 2007 (34:7 Md. R. 696); January 1, 2012 (38:24 Md. R. 1499); January 1, 2015 (41:25 Md. R. 1476)

Regulation .05D, E amended effective October 15, 2001 (28:1 Md. R. 25)

---

Chapter recodified from COMAR 05.02.01 to COMAR 09.12.50 effective March 25, 2019 (46:6 Md. R. 345)

Regulation .01B amended effective March 25, 2019 (46:6 Md. R. 345)

Regulation .02A, B amended effective March 25, 2019 (46:6 Md. R. 345)

Regulation .02-1B amended effective March 25, 2019 (46:6 Md. R. 345)

Regulation .03 amended effective March 25, 2019 (46:6 Md. R. 345)

Regulation .04A, E amended effective March 25, 2019 (46:6 Md. R. 345)

Regulation .05 amended effective March 25, 2019 (46:6 Md. R. 345)

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