

Title 09
MARYLAND DEPARTMENT OF LABOR
Subtitle 12 DIVISION OF LABOR AND INDUSTRY
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 Maryland Department of Labor.
- (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 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 within 6 months after the Department's adoption of the 2024 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) (text unchanged)

(ii) That approval will expire for a building unless construction begins within 6 months after Department's adoption of the 2024 edition of the International Building Code.

09.12.50.02

(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 2018 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.

B. Documents Incorporated.

(1) 2021 International Building Code (International Code Council), which is incorporated by reference in COMAR 09.12.51.04A(1) and as modified in COMAR 09.12.51.04B.

(2) 2021 International Plumbing Code (International Code Council) modified as follows:

(a) For industrialized building construction delete §404 and replace with COMAR 09.12.53 Maryland Accessibility Code; and

(b) For all other building construction, the plumbing code requirements and modifications adopted under Business Occupations and Professions Article, §§12-101—12-702, Annotated Code of Maryland, apply.

(3) National Electric Code, 2020 Edition (NFPA 70), except in Article 210.8(F) Ground-Fault Circuit Interrupter Protection for Personnel, Outdoor Outlets Exception include “and heating, air-conditioning, and refrigeration equipment that serve the dwelling.”

(4) 2021 International Residential Code for One- and Two-Family Dwellings (International Code Council), which is incorporated by reference in COMAR 09.12.51.04A(2) and as modified in COMAR 09.12.51.04C.

(5) 2021 International Mechanical Code (International Code Council).

(6) 2021 International Energy Conservation Code (International Code Council), which is incorporated by reference in COMAR 09.12.51.04A(3) and as modified in COMAR 09.12.51.04D.

(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 constitute the Model Performance Code for building construction in the State.

B. 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 this regulation.

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

D. Copies of these documents are filed in special public depositories located throughout the State. A list of these depositories is available online at dsd.maryland.gov.

.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.

09.12.50.07

.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 .02B amended effective May 29, 2023 (50:10 Md. R. 407)
- Regulation .02-1 amended effective May 29, 2023 (50:10 Md. R. 407)
- 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); May 29, 2023 (50:10 Md. R. 407)
- 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)