

# MARYLAND CODES ADMINISTRATION

## Model Performance Code

### COMAR 05-02-01

### Effective July 1, 2007



**Maryland Codes Administration**  
**100 Community Place**  
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*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 01 Model Performance Code**

**Authority: Public Safety Article, §§12-201—12-204, 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 Housing and Community Development.

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

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

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

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

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

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

(8) "Secretary" means the Secretary of Housing and Community Development, or a designated representative.

(9) "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 Maryland Model Performance Code Regulations. Except as otherwise indicated, "regulations" as used here shall mean the Maryland Model Performance Code Regulations.

B. Application. 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.

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.

**.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 2006 (International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, Virginia 22041-3401).

(2) International Plumbing Code 2006 (International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, Virginia 22041-3401).

(3) National Electrical Code, 2005 Edition (National Fire Protection Association, One Batterymarch Park, Quincy, Massachusetts 02269).

(4) International Residential Code for One- and Two-Family Dwellings 2006 (International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, Virginia 22041-3401).

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(5) International Mechanical Code 2006 (International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, Virginia 22041-3401).

**.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 modifications related to building standards, as adopted under COMAR 05.02.07.04,

(b) International Plumbing Code with the following modification: Delete all of §404.0 — the subject matter is covered by Maryland Accessibility Code, COMAR 05.02.02,

(c) National Electrical Code,

(d) International Mechanical Code, and

(e) International Residential Code for One- and Two-Family Dwellings with modifications related to building standards, as adopted under COMAR 05.02.07.04;

(2) For all other building construction:

(a) The International Building Code with modifications related to building standards, as adopted under COMAR 05.02.07.04,

(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, and

(e) The International Residential Code for One- and Two-Family Dwellings with modifications related to building standards, as adopted under COMAR 05.02.07.04.

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B. The incorporated documents listed above are on deposit in the following public libraries:

(1) Maryland Department of Legislative Reference Library, 90 State Circle, Annapolis, MD 21401, Monday through Friday, 8:30 am—4:30 pm;

(2) State Library Resource Center, Enoch Pratt Central, Maryland Department, Cathedral Street, Baltimore, MD 21201, Monday through Thursday, 9 am—9 pm; Friday and Saturday, 9 am—5 pm; Sunday (October—May), 1 pm—5 pm;

(3) Frostburg State University Library, Midlothian Road and Center Street, Frostburg, MD 21532, Monday through Thursday, 3:30—12 midnight; Friday, 3:30—10 pm; Saturday, 8:30 am—5 pm; Sunday, 1 pm—12 midnight;

(4) Southern Maryland Regional Library, Charles County Public Library Building, Charles and Garrett Streets, La Plata, MD 20642, Monday through Thursday, 9 am—8 pm; Friday, 12 pm—5 pm; Saturday (during school year), 9 am—5 pm;

(5) Salisbury State University Library, College and Camden Avenues, Salisbury, MD 21801, Monday—Friday, 8 am—10 pm; Saturday, 10 am—10 pm; Sunday, 12 pm—10 pm (library closed when school not in session);

(6) Library of Congress, Gifts and Exchanges Division, 10 First Street S.E., Washington, DC 20540, Monday through Friday, 8 am—4:30 pm;

(7) Division of State Documents, 1700 Margaret Avenue, Annapolis, MD 21401, Monday through Friday, 9 am—5 pm;

(8) State Law Library, Courts of Appeal Building, 361 Rowe Boulevard, Annapolis, MD 21401, Monday, Wednesday, and Friday, 8:30 am—4:30 pm; Tuesday and Thursday, 8:30 am—9 pm; Saturday, 9 am—4 pm.

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

A. As stated in Regulation .02B, 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 2006 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.

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(2) If requested by the aggrieved party before commencement of appeal procedures provided by the subdivision. In that case, the Director of Codes Administration may, in his 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 Codes Administration in the Department, together with a full statement of the circumstances and the reasons for challenge.

D. The Director of 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 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 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.**

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In order to assist local jurisdictions to effectively administer the Model 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)**

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**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)**

**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)**

**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 .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)**

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