

22803

**BEFORE THE COUNTY COUNCIL
OF
BERKELEY COUNTY, WEST VIRGINIA**

**IN RE: AMENDMENT AND RE-ADOPTION OF WEST VIRGINIA BUILDING
CODE AS BERKELEY COUNTY BUILDING CODE ORDINANCE**

On this the 30th day of July, 2020, in regular session, the Council does hereby amend said code as set forth at Section 11, 2017 Edition, National Electric Code, NFPA 70, effective August 1, 2020, and, further, adopts the West Virginia State Building Code, all other component parts to become effective immediately. The Code is comprised of the national standards and Codes as listed herein below and as published by the International Code Council, American National Standards Institute, and the National Fire Protection Association. They are adopted in full, as amended with exceptions, and shall have the same force and effect as if set out verbatim in this Ordinance. Those standards and Codes are as follows, including amendments:

1. **2015 Edition, International Building Code** with the following exceptions:
 - a. Section 101.1 Title. These regulations shall be known as the Building Code of Berkeley County, hereinafter referred to as this code.
 - b. The section entitled “Fire Prevention” and identified as Section 101.4.5 is deleted and not considered to be a part of this rule.
 - c. The entire subsection entitled “Qualifications” and identified as Section 113.3 is deleted and replaced with the following:

Section 113.3 Board of Appeals

113.3 Qualifications. The board of appeals shall consist of five members, with up to three alternates, who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction. They may include, but are not limited to, a WV Registered Professional Architect or Engineer, or a WV Licensed General Building, Residential, Electrical, Piping, Plumbing, Mechanical or Fire Protection Contractor, with at least 10 years experience, five of which shall be in responsible charge of work. No less than one of the members of such Board of Appeals shall be a WV Registered Professional Architect or Engineer, or a WV Licensed General Building, Residential, Electrical, Piping, Plumbing, Mechanical or Fire Prevention Contractor.

- d. Section 114.4 Violation Penalties is amended by adding the following new paragraph:

Such violations and/or failures of compliance by any person shall cause such person to be guilty of a misdemeanor punishable by a fine of not less than \$50.00 or more than \$500.00. Each day of violation shall be considered a separate offense.

- e. Section 115.3 Unlawful Continuance is amended by adding the following new paragraph:

Any such person shall be guilty of a misdemeanor punishable by a fine of not less than \$75.00 nor more than \$750.00. Each day of violation shall be considered a separate offense.

2. **2015 Edition, International Plumbing Code.**

- a. Section 101.1 Title. These regulations shall be known as the International Plumbing Code of Berkeley County hereinafter referred to as this code.
- b. Section 106.6.2 Fee Schedule. The fees for all plumbing work shall be as set forth in Attachment A.
- c. Section 106.6.3 Fee Refunds The code official shall authorize the refunding of fees as follows:
 - 1. The full amount of any fee paid hereunder that was erroneously paid or collected.
 - 2. Not more than 5% of the permit fee paid when plan review has been undertaken but no work has been done pursuant to a permit issued in accordance with this Code.
 - 3. Not more than 100% of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.
 - 4. The Code official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 180 days after the date of fee payment.
- d. Section 108.4 Violation Penalties. Any person who shall violate a provision of this code or who shall erect, install, alter or repair plumbing work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than \$500.00. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

- e. Section 108.5 Stop Work Orders. Upon notice from the code official, work on any plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than \$75.00 or more than \$750.00.
- f. Section 305.4.1 Sewer Depth. Building sewers that connect to private sewage disposal systems shall be installed not less than 28 inches (710 mm) below finished grade at the point of septic tank connection. Building sewers shall be a minimum of 28 inches (710 mm) below grade.
- g. Section 903.1 Roof Extensions Open vent pipes that extend through a roof shall be terminated not less than 12 inches (300 mm) above the roof. Where a roof is to be used for assembly or as a promenade, observation deck, sunbathing deck or similar purposes, open vent pipes shall terminate not less than 7 feet (2134 mm) above the roof.

3. **2015 Edition, International Mechanical Code.**

- a. Section 101.1 Title. These regulations shall be known as the Mechanical Code of Berkeley County, hereinafter referred to as this code.
- b. Section 106.5.2 Fee Schedule. The fees for mechanical work shall be as set forth in Attachment A.
- c. Section 106.5.3 Fee Refunds The code official shall authorize the refunding of fees as follows:
 - 1. The full amount of any fee paid hereunder which was erroneously paid or collected.
 - 2. Not more than 5% of the permit fee paid when plan review has been undertaken but no work has been done pursuant to a permit issued in accordance with this Code.
 - 3. Not more than 100% of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

4. The code official shall not authorize the refunding of any fee paid, except upon written application filed by the original permittee not later than 180 days after the date of fee payment.
- d. Section 108.4 Violation Penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair mechanical work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than \$500.00. Each day that a violation continues after due notice has been served shall be deemed a separate offense.
 - e. Section 108.5 Stop Work Orders. Upon notice from the code official that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than \$75.00 or more than \$750.00.
4. **2012 Edition, International Fuel Gas Code**, with the following exceptions:
 - a. Section 101.1 Title. These regulations shall be known as the Fuel Gas Code of Berkeley County, hereinafter referred to as this code.
 - b. Section 106.6.2 Fee Schedule. The fees for work shall be as indicated in Attachment A.
 - c. Section 106.6.3 Fee Refunds The code official shall authorize the refunding of fees as follows:
 1. The full amount of any fee paid hereunder which was erroneously paid or collected.
 2. Not more than 5% of the permit fee paid when plan review has been undertaken but no work has been done under a permit issued in accordance with this Code.
 3. Not more than 100% of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

- d. Section 108.4 Violation Penalties. Persons who shall violate a provision of this code, fail to comply with any of the requirements thereof or erect, install, alter or repair work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than \$500.00. Each day that a violation continues after due notice has been served shall be deemed a separate offense.
 - e. Section 108.5 Stop Work Orders. Upon notice from the code official that work is being done contrary to the provision of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, the owner's agent, or the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than \$75.00 or more than \$750.00.
 - f. Section 404.12 Minimum burial depth. Underground piping systems shall be installed a minimum depth of 12 inches (305 mm) below grade. If the minimum depth cannot be maintained, the piping system shall be installed in conduit or shielded in an approved manner.
5. **2015 Edition, International Property Maintenance Code**, with the following exceptions:
- a. Section 101.1 Title. These regulations shall be known as the International Property Maintenance Code of Berkeley County, hereinafter referred to as this code.
 - b. Section 103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in Attachment A.
 - c. Section 106.4 Violation Penalties. This Section shall be amended by adding a new paragraph as follows:

Any such person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be guilty of a misdemeanor, punishable by a fine of not less than \$50.00 nor more than \$500.00.

- d. Section 110.3. Failure to comply. Unless authorized by W.Va. Code § 8-12-16, or absent the express consent of the owner, if the owner of a premises fails to comply with a demolition order within the time prescribed, the legal counsel of the jurisdiction shall institute appropriate action in the Circuit Court of the County in which the property is located against the owner of the premises where the structure is or was located seeking an Order causing the structure to be demolished and removed. Thereafter, the local jurisdiction, through an available public agency or by contract or arrangement with private persons, shall demolish and remove the structure and the costs thereof, as well as all fees and costs incurred in the legal action, shall be a lien upon such real estate.

- e. Section 112.4 Failure To Comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than \$75.00 or more than \$750.00.

- f. Section 302.4 Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of 10 inches in height. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided, however, this term shall not include cultivated flowers and gardens.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

- g. Section 304.14 Insect Screens. During the period from January 1 to December 31, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

- h. Section 602.3 Heat Supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from September 01 to May 31 to maintain a temperature of not less than 68 degrees Fahrenheit (20 degrees Celsius) in all habitable rooms, bathrooms and toilet rooms.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.
2. In areas where the average monthly temperature is above 30 degrees Fahrenheit (-1 degree Celsius) a minimum temperature of 65 degrees Fahrenheit (18 degrees Celsius) shall be maintained.

- i. Section 602.4 Occupiable Work Spaces. Indoor occupiable work spaces shall be supplied with heat during the period from September 01 to May 31 to maintain a temperature of not less than 65 degrees Fahrenheit (18 degrees Celsius) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

- 6. **2009 Edition, International Energy Conservation Code** for residential buildings, with the following exceptions:

- a. Section 101.1 Title. This code shall be known as the International Energy Conservation Code of Berkeley County, and shall be cited as such. It is referred to herein as this code.
- b. Section 107.2 Schedule of Permit Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in Attachment A.
- c. Section 108.4 Failure to Comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than \$75.00 or more than \$750.00.

7. **ANSI/ASHRAE/IESNA Standard 90.1-2010** edition for commercial buildings.
8. **2015 Edition, International Residential Code for One and Two Family Dwellings**, with the following exceptions:
 - a. Section 101.1 Title These provisions shall be known as the Residential Code for One – and Two – Family Dwellings of Berkeley County; and shall be cited as such and will be referred to herein as this code.
 - b. Chapter 11 of this code, entitled “Energy Efficiency” is hereby deleted.
 - c. Section G2415.12 (404.12) Minimum Burial Depth. Underground piping systems shall be installed a minimum depth of 12 inches (305 mm) below grade. If the minimum depth cannot be maintained, the piping system shall be installed in conduit or shielded in an approved manner.
 - d. Section R311.7.5 Stair Treads and Risers
 - e. Section R311.7.5.1 Riser Heights. The maximum riser height shall be eight and one-quarter (8¹/₄) inches.
 - f. Section R311.7.5.2 Tread Depth. The minimum tread depth shall be nine (9) inches.
 - g. Section R403.1.7.1 Building Clearances From Ascending Slopes is Not Applicable to This Rule.
 - h. Section R403.1.7.2 Footings Setbacks From Descending Slope Surfaces is Not Applicable to This Rule.
9. **2009 ICC/ANSI A117.1 American National Standards for Accessibility & Usable Buildings & Facilities**.
10. **2015 International Existing Building Code**, with the following exceptions:
 - a. Omit reference to International Fire Code and substitute NFPA Life Safety Code 2015 edition.
 - b. Section 101.1 Title. These regulations shall be known as the Existing Building Code of Berkeley County, hereinafter referred to as this code.
 - c. Section 113.4 Violation Penalties. This section of the Code is amended by adding a new paragraph as follows:

Such violations and/or failures of compliance by any person shall cause such person to be guilty of a misdemeanor punishable by a fine of not less than \$50.00 or more than \$500.00. Each day of violation shall be considered a separate offense.

d. Section 114.3 Unlawful Continuance Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a misdemeanor, punishable by fine of not less than \$75.00 and not more than \$750.00. Each day of violation shall be deemed a separate offense.

e.

11. **2017 Edition, National Electric Code, NFPA 70.**

12. **2015 Edition, International Swimming Pool and Spa Code.**

13. Wherever referenced in the several ICC codes adopted above, any reference to the International Fire Code should be substituted with the NFPA Life Safety Code 2015 edition.

14. Whenever a certificate of occupancy is required of a commercial structure greater in size than 7,600 feet, the project documents shall be designed by an Architect licensed by the WV Board of Architects, or a Professional Engineer licensed by the WV State Board of Registration for Professional Engineers.

15. W.Va. C.S.R. § 87-4-5.1 Fire Protection of Floors in Residential Buildings. New One and Two Family Dwellings over one level in height, New One and Two Family Dwellings containing a basement, and New One and Two Family Dwellings containing a crawl space containing a fuel burning appliance below the first floor, shall provide one of the following methods for fire protection of floors: (1) A 1/2 inch (12.7 mm) gypsum wallboard membrane, 5/8 inch (16mm) wood structural panel membrane, or equivalent on the underside of the floor framing member; (2) Wood floor assemblies using dimension lumber or structural composite lumber equal or greater than 2 inch by 10 inch (50.8 mm by 254 mm) nominal dimension, or other approved floor assemblies demonstrating equivalent fire performance; or (3) An Automatic Fire Sprinkler System as set forth in section R313.1 or R313.2 of the 2015 edition of the International Residential Code for One and Two Family Dwellings: *Provided*, That floor assemblies located directly over a space protected by an automatic sprinkler system as set forth in section R313.1 or R313.2 of the 2015 edition of the International Residential Code for One and Two Family Dwellings are exempt from this requirement.

5.2 Townhouses meeting the Fire Resistant Construction Standard R302.2 will be treated as New One and Two Family Dwellings and shall comply with Section 5.1 above.

16. W.Va. C.S.R. § 87-4-6 Exceptions.

6.1. The following structures are not subject to inspection by local jurisdictions (Berkeley County):

6.1.a Group U utility structures and storage sheds comprising an area not more than 200 sq. ft. which have no plumbing or electrical connections and are used only for residential storage purposes. (Examples include sheds that are for the residential storage of lawnmowers, tools, bicycles or furniture.) Not included are those utility structures and storage sheds which have plumbing or electrical connections and are a non-residential use or for the storage of explosives or other hazardous or explosive materials.

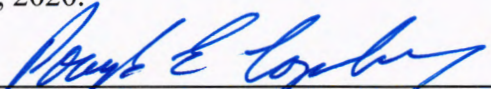
General Exceptions and Miscellaneous Provisions:

Each of the national codes adopted herein provides for a separate appeals board. However, the language in Section 113 of the International Building Code is hereby adopted for use for appeals related to any and all of the Codes which comprise the Berkeley County Building Code Ordinance.

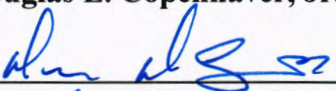
Appendices of all Codes and Standards herein incorporated, except Appendix L, are hereby adopted and made a part hereof, as though the same were set out in full in this Ordinance.

This Ordinance comprised of the several Codes and Standards referenced herein and the appendices relative to those same Codes and Standards, plus the amendments and exceptions set out herein, is adopted for the benefit, health and welfare of the people of Berkeley County.

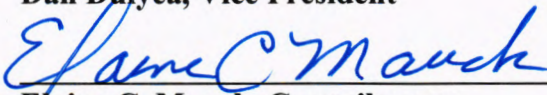
Entered this the 30th day of July, 2020. All amendments of this Ordinance shall become effective on August 1, 2020.



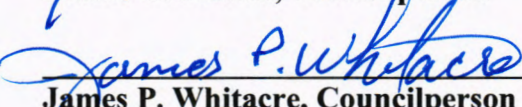
Douglas E. Copenhaver, Jr., President



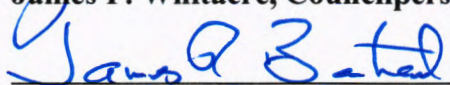
Dan Dulyea, Vice President



Elaine C. Mauck, Councilperson



James P. Whitacre, Councilperson



James R. Barnhart, Councilperson

ATTEST:

John W. Small, Jr.

John W. Small, Jr., Clerk

