

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Do Not Mark In This Box

FILED

2012 MAY -2 PM 1:06

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: HEALTH - Bureau for Public Health TITLE NUMBER: 64

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 40

TITLE OF RULE BEING AMENDED: Manufactured Home Communities

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____


TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 245

SECTION §64-5-2(e), PASSED ON March 10, 2012

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: May 2, 2012


Authorized Signature

TITLE 64

LEGISLATIVE RULE

FILED

2012 MAY -2 PM 1:06

DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BUREAU FOR PUBLIC HEALTH

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 40

MANUFACTURED HOME COMMUNITIES

§64-40-1. General.

1.1. Scope. -- This rule establishes the requirements governing the construction, installation and operation of manufactured home communities.

1.2. Authority. -- WV Code §16-1-4.

1.3. Filing Date. -- May 2, 2012

1.4. Effective Date. -- May 2, 2012

§64-40-2. Application and Enforcement.

2.1. Application - This rule applies to the owners and operators of manufactured home communities.

2.2. Enforcement - The enforcement of this rule is vested with the Commissioner of the West Virginia Bureau for Public Health or his or her lawful designee.

§64-40-3. Definitions.

3.1. Approved. -- A procedure of operation, installation, or construction which is in accordance with the standards, specifications, and instructions established by the Commissioner.

3.2. Commissioner.--The Commissioner of the West Virginia Bureau for Public Health or his or her designee.

3.3. Health officer. -- The state health officer or the executive officer of the local board of health or his or her duly authorized representative.

3.4. Management building. -- A building or structure used for supplying essential goods or services for the use of manufactured home community occupants.

3.5. Manufactured Home. --A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty or more feet in length or, when erected on site, is three hundred twenty or more square feet. The structure is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, including the plumbing, heating, air-conditioning and electrical systems contained in the structure. The term includes any structure which meets all the requirements of this definition, except the size requirements and with respect to which the manufacturer voluntarily files a certificate which complies with the applicable federal standards. Calculations used to determine the number of square feet in a structure will

be based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site.

3.6. Manufactured home community. -- Any individual site, area, tract or parcel of land upon which four or more manufactured homes used or occupied for dwelling purposes are parked either free of charge or for monetary consideration and shall include any roadway, building, structure, installation, enclosure, or vehicle used or intended for use as a part of the facilities of the manufactured home community. All existing mobile home parks which meet this definition shall be renamed as "manufactured home communities" by this rule. The Bureau for Public Health legislative rule, Fees for Permits, 64CSR30, establishes a permit fee for mobile home parks. The established fee applies to all manufactured home communities regulated by this rule.

3.7. Manufactured home site. -- A parcel of land for the accommodation of one manufactured home, its accessory building or structures, and accessory equipment for the exclusive use of the occupants.

3.8. Manufactured home stand. -- That part of a manufactured home site which has been reserved for the placement of the manufactured home, appurtenant structures or additions.

3.9. Occupant. -- A person using a manufactured home or a manufactured home community as a dwelling.

3.10. Operator. -- A person who is in charge of the operation of a manufactured home community, or who allows a lot, site, area, tract or parcel of land to be used for the parking or occupancy of four or more manufactured homes.

3.11. Permit. -- A written document issued by the health authority giving a person permission to construct, install, alter, remodel, extend or operate a specific manufactured home community.

3.12. Person.-- An individual, partnership, association, syndicate, company, firm, trust, corporation, government, corporation, institution, department, division, bureau, agency, or any entity recognized by law.

3.13. Potable water. -- Water free from impurities, in amounts sufficient to cause disease or harmful physiological effects. The potable water shall comply with bacteriological, chemical, physical and radiological quality standards established by the Commissioner.

3.14. Sewer connection. -- The connection consisting of all pipes, fittings, and appurtenances from the waste drain outlet of a manufactured home to the inlet pipe of the corresponding sewer riser pipe of the sewage collection system serving a manufactured home community.

3.15. Sewer riser pipe. -- The portion of the sewer system which extends vertically above the ground elevation and terminates at a designated point at each manufactured home site.

3.16. Sewage Collection System. -- The system of piping and appurtenances for the collection and transportation of sewage from the individual manufactured home units to either the designated sewage treatment plant or to approved off-site disposal. Piping within the collection system is referred to as sewer pipe.

3.17. Water connection. -- The connection consisting of all pipes, fittings, and appurtenances from the water connection inlet of a manufactured home to the outlet pipe of the corresponding water riser pipe of the water distribution system serving a manufactured home community.

3.18. Water riser pipe. -- That portion of the water supply system serving a manufactured home community and which extends vertically above the ground elevation and terminates at a designated point at each manufactured home site.

3.19. Water supply system. -- A system of pipes, appurtenances and equipment for the collection, treatment, storage, or distribution of the water from the source of supply to the ultimate consumer.

§64-40-4. Design, Construction, Installation, Maintenance, and Operation of Manufactured Home Communities.

4.1. In addition to meeting all applicable provisions of this rule, all manufactured home communities constructed or installed after the effective date of this rule, shall be constructed or installed in accordance with the plans, specifications, and instructions issued by the Commissioner.

4.2. The design, construction, installation, maintenance, and operation of a manufactured home community shall comply with all applicable provisions of this rule.

§64-40-5. Permits and Notices.

5.1. Construction and installation permits.

5.1.1. On and after the date this becomes effective, except for minor repair, a person shall not construct or install a manufactured home community, or any part thereof, in the State of West Virginia, unless he or she possesses a permit issued by the Commissioner in his or her name for that specific construction or installation. The terms construct and install shall be construed to mean and include the terms extend and alter.

5.1.2. A permit for the construction or installation of a manufactured home community shall not be issued until an application for a construction or installation permit and detailed plans and specifications of the manufactured home community construction or installation have been submitted to the Commissioner for review and approval. Said application, plans, and specifications shall be submitted to the Commissioner at least forty-five (45) days prior to the date on which the action by that agency is desired.

5.1.3. An application for a permit shall be made in writing and submitted to the Commissioner on a form prescribed by the Commissioner, signed by the applicant or his or her authorized agent, and shall contain any information requested by the Commissioner to determine if the manufactured home community construction or installation is in compliance with all applicable provisions of this rule.

5.1.4. When upon review of the plans, specifications, and application for a permit, the Commissioner is satisfied that the proposed design, construction or installation of the manufactured home community is satisfactory, he or she shall issue a permit to proceed with that action.

5.1.5. The Commissioner shall deny a permit if the information on the application form, plans or specifications is incomplete, inaccurate, false or misleading, or indicates that the application provisions of this rule cannot be met. A permit to construct shall be issued or denied within forty-five (45) days of receipt of the completed application. Reasons for denial shall be in writing.

5.1.6. Only a person who complies with all the applicable provisions of this rule is entitled to receive and retain a permit.

5.1.7. When a permit has been suspended or revoked, any construction or installation of the manufactured home community shall immediately cease.

5.1.8. Permits shall not be transferrable or assignable and automatically become invalid upon a change of ownership or upon suspension or revocation.

5.1.9. If the construction or installation activities have not commenced within two (2) years from the date of issuance of a permit, the permit automatically expires.

5.1.10. The manufactured home community shall be constructed or installed in accordance with the plans and specifications as approved by the Commissioner. Any deviation from the approved original plans or specifications must be submitted in writing to the Commissioner for review, and written approval obtained before such changes are made. The Commissioner shall approve or deny requests for any deviation from plans to construct or install within forty-five (45) days of receipt of the revised application.

5.2. Permit to operate.

5.2.1. A person shall not in any manner directly or indirectly conduct, control, manage, maintain, or operate a manufactured home community in the state of West Virginia unless that person a valid permit issued by the health officer to operate the specific manufactured home community.

5.2.2. An application for a permit to operate a manufactured home community shall be made in writing to the health officer on a form prescribed by the Commissioner. The applicant or his or her authorized agent shall sign the application. It shall contain any information requested by the health officer to enable him or her to determine that the facility and its operation is in compliance with the applicable provisions of this rule.

5.2.3. The application for a permit shall be made at least fifteen (15) days before the actual or proposed operation of the manufactured home community is to be effected.

5.2.4. The health officer shall deny a permit if the information on the application form is incomplete, inaccurate, false, or misleading, or indicates that the applicable provisions of this rule cannot be met.

5.2.5. Only persons who comply with the applicable provisions of this rule shall be entitled to receive and retain a permit.

5.2.6. Manufactured home communities in operation at the time this rule becomes effective, and meeting all applicable prior rules, are eligible for a permit to operate: Provided, that any construction or installation taking place after the effective date of this rule shall be in compliance with all applicable provisions of this rule.

5.2.7. Manufactured home communities put into operation after the date this rule becomes effective shall comply in full with all applicable provisions of this rule.

5.2.8. Permits are not transferable or assignable and shall automatically become invalid upon a change of ownership or upon suspension or revocation.

5.2.9. A permit to operate expires at midnight on the 31st day of December following the date of

issuance.

5.2.10. Application for renewal of permit shall be made at least fifteen (15) days prior to expiration date of existing permit.

5.2.11. In the event of a change in ownership of a manufactured home community an application for a permit to operate shall be made to the health officer by the person concerned at least fifteen (15) days before the proposed or actual change is affected.

5.2.12. A permit may be suspended or revoked by the health officer if it is found that the manufactured home community is maintained or operated in violation of this rule, or any law, rule, or ordinance applicable thereto, or in violation of the conditions stated on the permit.

5.2.13. A permit to operate shall not be reinstated until an inspection by the health officer determines that the manufactured home community is in compliance with all applicable provisions of this rule or any orders, rules or instructions issued by the health officer.

5.3. Notices.

Notwithstanding the other provisions of this rule, whenever the health officer finds at a manufactured home community unsanitary conditions or other conditions that may constitute a potential hazard to public health, he or she may without warning, or hearing, issue a written notice to the operator, citing the conditions, specifying the corrective action to be taken, and the time period in which the action shall be taken. If an imminent health hazard exists, the notice shall state that the permit to operate is immediately suspended.

§64-40-6. Inspection.

6.1. Each manufactured home community shall be inspected once a year. The health officer shall also make as many additional inspections of the manufactured home community as he or she considers necessary to determine satisfactory compliance with the provisions of this rule and any orders, notices, instructions, or specifications issued pursuant to this rule.

6.2. A copy of the inspection report shall be filed with the manufactured home community operator.

§64-40-7. Location, Space and Layout.

7.1. General requirements.

7.1.1. Ground and paved surfaces in all parts of manufactured home communities shall be graded and equipped to drain all surface water in a safe and efficient manner.

7.1.2. The area of a manufactured home community shall be large enough to accommodate water supply systems and sewage treatment systems where applicable.

7.2. Space requirements.

7.2.1. Manufactured homes including their porches, canopies, and similar appurtenances, shall be separated from other manufactured homes and from other buildings and structures by the following spacing distances:

7.2.1.a. Ten (10) feet side to side;

7.2.1.b. Eight (8) feet end to side;

7.2.1.c. Six (6) feet end to end;

7.2.1.d. All accessory buildings or structures shall be located to meet the following spacing distances:

7.2.1.d.1 Three (3) feet from adjacent accessory building or structure, and

7.2.1.d.2. Five (5) feet from adjacent lot if constructed of combustible materials

7.2.2. In no event shall any manufactured home site contain less than 3000 square feet or 4,500 square feet for double wide manufactured homes.

7.2.3. The owner of each manufactured home shall place a marker in a visible location on or near the manufactured home. The identification marker shall be clearly visible and at least four (4) inches in height.

7.2.4. An occupied manufactured home shall not be permitted in a manufactured home community, unless the manufactured home is situated on an approved manufactured home stand.

7.2.5. All manufactured homes shall be located at least fifteen (15) feet from any manufactured home community property boundary line abutting upon a public street or highway and at least ten (10) feet from other manufactured home community property boundary lines.

7.2.6. There shall be at least ten (10) feet of space between a manufactured home and any manufactured home community street, common parking area, or other common use areas.

7.3. Manufactured home stands. Manufactured home stands shall be maintained to prevent heaving, shifting, or uneven settling under the weight of the manufactured home due to frost action, drainage, vibration, or forces acting on the superstructure of the manufactured home.

7.4. Streets, roads and walkways. The manufactured home community operator shall maintain all streets, roads and walkways in good repair.

§64-40-8. Water Supply.

8.1. General requirement.

8.1.1. All manufactured home communities shall be provided with an easily accessible, safe, supply of potable water, approved by the Commissioner.

8.1.2. All water supplies, water piping, fixtures or other equipment serving a manufactured home community shall be constructed, installed, maintained operated, and monitored in compliance with all applicable provisions of this rule and Bureau for Public Health legislative rules: Public Water Systems, 64CSR3; Water Well Regulations, 64CSR19; and Cross-Connection Control and Backflow Prevention

Regulations, 64CSR15.

8.1.3. Drinking fountains, if provided, shall be constructed of easily cleanable impervious material, have an angle-jet nozzle protected by a nonoxidizing guard above the overflow rim of the bowl, be equipped with a pressure regulating device and shall be maintained in a sanitary manner.

8.2. Individual water riser pipes and water connections.

8.2.1. Each manufactured home site shall be served by a 3/4 inch in diameter or larger water riser pipe extending vertically at least four (4) inches above ground elevation.

8.2.2. Water riser pipe outlets shall be securely capped when a manufactured home does not occupy the manufactured home site.

§64-40-9. Sewage System.

9.1. General requirements.

9.1.1. All manufactured home communities shall be served by a sewage collection and sewage treatment system that is in compliance with legislative rule, Sewer Systems, Sewage Treatment Systems and Sewage Tank Cleaners, 64CSR9.

9.1.2. All sewage collection or sewage treatment facilities shall be located, maintained, and operated in such a manner as to not create an insanitary condition or a nuisance to the manufactured home community occupants or to the owners or occupants of adjacent property.

9.1.3. All plumbing in the manufactured home community shall be in compliance with all applicable state and local plumbing laws, rules, ordinances and codes.

9.2. Individual sewer connections.

9.2.1. Each manufactured home site shall be provided with a sewer riser pipe having a minimum diameter of four (4) inches and extending at least four (4) inches above the ground.

9.2.2. The sewer riser pipe shall be located within the confines of the manufactured home site, and so located that the sewer connection to the manufactured home sewer outlet will approximate a vertical position.

9.2.3. The sewer riser pipe shall be at least ten (10) feet from the water riser pipe.

9.2.4. All materials used for sewer piping and sewer connections shall be durable, semi-rigid, corrosive resistant, and nonabsorbent. All joints shall be water tight.

9.2.5. Approved fittings shall be provided for the connection between the manufactured home community sewer riser pipe and the manufactured home sewer outlet, and shall be made water and odor tight by the use of approved reinforced, durable, impervious semi-rigid or flexible piping having smooth interior surfaces and not less than three (3) inches internal diameter.

9.2.6. The piping used for sewer connections shall be sealed to prevent odor and no longer than necessary to make the connection between the manufactured home sewer outlet and the manufactured

home community sewer riser pipe.

9.2.7. Sewer riser pipes at unoccupied manufactured home sites shall be tightly plugged or capped in a manner that renders them water tight.

9.2.8. The manufactured home community operator shall keep all occupied manufactured homes properly connected to the sewer riser pipes while the manufactured homes are in the manufactured home community, and to see that all unoccupied manufactured home site sewer riser pipes are plugged or capped in an approved manner.

§64-40-10. Management Buildings and Other Community Service Facilities.

10.1. Management buildings, if provided, shall include, but shall not be limited to the following community services as: management offices, repair shops, storage areas, and toilet, bathing, laundry, recreational and other auxiliary facilities supplying essential goods and services for the use of the manufactured home community occupants.

10.2. The Manufactured Home Community operator shall maintain all floors, walls, ceilings, and attached appurtenances and all fixtures and equipment clean and in good repair.

§64-40-11. Garbage and Refuse.

11.1. The storage, collection, transportation, and/or disposal of garbage and refuse shall be conducted prevent odor, rodents, insects and other nuisance conditions.

11.2. All garbage and refuse containers shall be covered when not in continuous use and maintained in a clean condition and in good repair.

11.3. A sufficient number and capacity of garbage and refuse containers shall be provided to residents to properly contain all waste.

11.4. If a central location is provided for garbage and refuse containers, the location shall be constructed of non-absorbent material, such as concrete or asphalt, shall be smooth, durable and sloped to drain and shall be of sufficient capacity to accommodate all containers.

11.5. All garbage and refuse shall be collected at an interval not to exceed seven (7) days.

11.6. Where approved municipal or private garbage and refuse disposal service is not available, the manufactured home community operator shall dispose of the garbage and refuse in accordance with applicable laws.

§64-40-12. Insect and Rodent Control.

12.1. Grounds, common buildings, and structures shall be maintained free of insect breeding areas, rodent harborage, and infestation of insect or rodents of public health significance.

12.2. All exterior openings of management buildings or other applicable structures shall be effectively screened or insects and rodents excluded by other effective means.

§64-40-13. Fuel Supply and Storage.

13.1. LPG systems (Liquefied Petroleum Gas) or fuel oil systems shall have at least one (1) approved, identified, and readily accessible means of shutting off the entire supply. Such means shall be located outside the manufactured home and shall be maintained in an effective operating condition.

13.2. LPG containers or fuel oil storage containers shall not be located within or beneath any manufactured home, building, or any other type of enclosed structure.

13.3. LPG containers or fuel oil storage containers shall not be located within 5 feet of a door way of a manufactured home, building, or similar structure.

§64-40-14. Registration of Occupants.

14.1. Every manufactured home community operator shall maintain a record identifying manufactured homes and occupants permitted to use the manufactured home community.

14.2. The record of occupants shall be readily available to the health officer. The record shall be preserved for a period of one (1) year and shall contain the name, mailing address, and physical location of all manufactured home occupants.

§64-40-15. Supervision.

15.1. The person to whom a permit to operate a manufactured home community is issued shall operate the manufactured home community in compliance with all applicable provisions of this rule, all other laws and regulations applicable thereto, and shall provide supervision to maintain the manufactured home community and its facilities and equipment in good repair and in a clean and sanitary condition.

15.2. A manufactured home shall not be occupied for dwelling purposes unless it is properly placed on an approved manufactured home site and is properly connected to water, sewage, and other essential utilities.

§64-40-16. Miscellaneous Requirements.

16.1. The operator of a manufactured home community shall make available to the incoming occupants of the manufactured home community a copy of this rule to inform them of their duties and responsibilities under this rule.

16.2. The operator of the manufactured home community may adopt additional requirements of the manufactured home community occupants if the requirements are not in conflict with this rule.

16.3. Persons owning or in charge of a dog, cat or other pet animal shall comply with all applicable laws.

§64-40-17. Penalties.

17.1. Any person who violates any provision of this rule shall be guilty of a misdemeanor and shall upon conviction be punished by a fine of not more than two hundred dollars (\$200) or by imprisonment for not more than thirty (30) days or both fine and imprisonment.

17.2. Each day's failure to comply with any applicable provision of this rule shall constitute a separate offense.

§64-40-18. Administrative Due Process.

Those persons adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in a manner prescribed in the West Virginia Bureau for Public Health's Procedural Rule, Rules of Procedure for Contested Case Hearings and Declaratory Rulings, 64CSR1.