

13 VAC 5-61-10. Incorporation by reference. (Repealed.)

~~A. The following document is adopted and incorporated by reference to be an enforceable part of this chapter:~~

~~The BOCA National Building Code/1996, Thirteenth Edition hereinafter referred to as "BNBC," published by Building Officials and Code Administrators International, Inc., 4051 W. Flossmoor Rd., Country Club Hills, IL 60478-5795.~~

~~B. The following changes shall be made to the BNBC for its use as an incorporated document in this chapter.~~

13 VAC 5-61-20. BNBC Section 101.0 Scope. (Repealed.)

~~A. Change subsection 101.1 to read:~~

~~101.1. Title: These regulations shall be known as the Virginia Uniform Statewide Building Code, hereinafter referred to as "this code." This code contains provisions of the BNBC as published by BOCA International, Inc. and provisions adopted by the Virginia Board of Housing and Community Development which change provisions of the BNBC. Where conflicts occur between unchanged and changed provisions of the BNBC, the changed provisions shall govern.~~

~~Note: The Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.) as on file with the Virginia Code Commission sets out the changed sections of the BNBC using the Virginia Administrative Code (VAC) section numbering and correlates those changes to conform to the BNBC section numbering. Replacement pages for the BNBC containing the changed sections marked in the margin with a double line may be obtained from DHCD.~~

~~B. Change subsection 101.2 to read:~~

~~101.2. Scope: This code prescribes building regulations to be complied with in the construction and maintenance of structures and the equipment therein including provisions for administration and enforcement. To the extent that any provisions of this code are not within this scope, those provisions are considered to be invalid.~~

~~Note: The BNBC and its referenced standards contain some areas of regulation outside of the scope of this code, as established under state law. Examples are certain worker protection requirements, private sewage disposal system criteria and certain functional design considerations. Where conflicts have been readily noted, changes have been made to the BNBC to bring it within the scope of authority, however, in some areas, judgement will have to be made as to whether the provisions of the BNBC and its referenced standards are fully applicable. Code officials may request the TRB to give guidance in these areas and should consider precedent established through appeal decisions rendered by the TRB.~~

~~C. Add subsection 101.2.1 to read:~~

~~101.2.1. State structures: This code shall be applicable to all state owned structures, with the exception that §§ 2.1-514 through 2.1-521.1 of the Code of Virginia shall provide the standards for ready access to and use of state owned buildings by the physically handicapped.~~

~~Any state owned structure for which preliminary plans were prepared or on which construction commenced after the initial effective date of this code, shall remain subject to the provisions of this code that were in effect at the time such plans were completed or such construction commenced. Subsequent reconstruction, renovation or demolition of such structures shall be subject to the pertinent provisions of this code.~~

~~Acting through the Division of Engineering and Buildings, the Virginia Department of General Services shall function as the code official for state owned buildings as prescribed by § 36-98.1 of the Code of Virginia.~~

~~D. Delete subsection 101.4.~~

13 VAC 5-61-30. BNBC Section 102.0 Applicability. (Repealed.)

~~A. Change subsection 102.2 to read:~~

~~102.2. When applicable; existing structures: Construction for which a permit application is submitted to the code official after April 15, 1997, shall comply with the provisions of this code, except when construction documents for proposed construction were substantially complete prior to the above date and a permit application is submitted to the code official within one year after the above date. In such cases, construction shall comply with either the provisions of this code or the provisions of this code in effect immediately prior to April 15, 1997.~~

~~All structures shall comply with the applicable requirements of this code for the maintenance of existing structures.~~

~~B. Change subsection 102.3 to read:~~

~~102.3. Exemptions: The following are exempt from this code.~~

- ~~1. Equipment controlled by a publicly regulated utility service and located on property by established rights.~~
- ~~2. Manufacturing and processing machines including the following service equipment associated with the manufacturing or processing machines:
 - ~~a. Electrical equipment connected after the last disconnecting means;~~
 - ~~b. Plumbing piping and equipment connected after the last shutoff valve or backflow device or before the equipment drain trap; and~~
 - ~~c. Gas piping and equipment connected after the outlet shutoff valve.~~~~
- ~~3. Parking lots and sidewalks which are not part of an accessible route.~~
- ~~4. Recreational equipment such as swing sets, sliding boards, climbing bars, jungle gyms, skateboard ramps, and similar equipment when such equipment is not regulated by the Virginia Amusement Device Regulations (13 VAC 5-31-10 et seq.).~~
- ~~5. Industrialized buildings; however, applicable requirements of this code affecting site preparation, utility connections and maintenance of the unit remain in full force and effect.~~
- ~~6. Manufactured homes; however, applicable requirements of this code affecting site preparation, utility connections, skirting installation, and maintenance of the manufactured home remain in full force and effect.~~

13 VAC 5-61-40. ~~BNBC Section 103.0 Validity. (Repealed.)~~

~~A. Change section 103.0 title to "Enforcement."~~

~~B. Change subsection 103.1 to read:~~

~~103.1. Responsibility for enforcement: Enforcement of the provisions of this code governing construction is the responsibility of the department of building inspection. Whenever a county or a municipality does not have such a department, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the DHCD for such enforcement. Towns with a population of less than 3,500 may elect to administer and enforce this code; however, where the town does not elect to administer and enforce this code, the county in which the town is situated shall administer and enforce this code for the town. In the event such town is situated in two or more counties, those counties shall administer and enforce this code within their respective boundaries.~~

~~C. Change subsection 103.2 to read:~~

~~103.2. Authority to defray cost; fee levy: Fees may be levied by the local governing body in order to defray the cost of enforcement and appeals pursuant to this code. The department of building inspection shall collect a 1.0% levy of fees charged for building permits issued under this code and transmit it quarterly to the DHCD to support training programs of the Virginia Building Code Academy. Localities which maintain individual or regional training academies accredited by the DHCD shall retain such levy.~~

~~D. Change subsection 103.3 to read:~~

~~103.3. Existing structures: The local governing body may inspect and enforce the provisions of this code for the maintenance of existing structures, whether occupied or not. The local governing body shall inspect and enforce the provisions of this code for the maintenance of existing elevators except for elevators in single and two family homes and townhouses. Such inspection and enforcement shall be carried out by an agency or department designated by the local governing body. However, upon a finding by the local building department, following a complaint by a tenant of a residential rental unit which is the subject of such complaint, that the structure is unsafe, the local building department shall enforce the provisions of this code relating to unsafe structures.~~

13 VAC 5-61-50. ~~BNBC Section 104.0 Department of Building Inspection. (Repealed.)~~

~~A. Add subsection 104.1.1 to read:~~

~~104.1.1. Code official for existing structure provisions: A separate department of building inspection may be created for enforcement of the provisions of this code for the maintenance of existing structures and the executive official in charge thereof shall also be known as the code official.~~

~~B. Add subsection 104.2.1 to read:~~

~~104.2.1. Certification: The code official shall obtain a certificate of competence from the Virginia Board of Housing and Community Development within one year after appointment unless appointed prior to April 1, 1983, with continued appointment or appointed prior to~~

~~April 1, 1995, with continued appointment for enforcement of the provisions of this code for the maintenance of existing structures.~~

~~C. Add subsection 104.2.2 to read:~~

~~104.2.2. Training: A code official who has not been certified shall attend the core module of the Virginia Building Code Academy or its equivalent in an individual or regional training academy accredited by the DHCD within 90 days after appointment.~~

~~D. Add subsection 104.2.3 to read:~~

~~104.2.3. Notification of appointment: The appointing authority of the jurisdiction shall notify the DHCD of the appointment of a code official within 30 days after such appointment.~~

~~E. Add subsection 104.3.1 to read:~~

~~104.3.1. Certification: The inspector or technical assistant shall obtain a certificate of competence in the appropriate subject areas from the Virginia Board of Housing and Community Development within three years after appointment unless appointed prior to March 1, 1988, with continued appointment or appointed prior to April 1, 1995, with continued appointment for enforcement of the provisions of this code for the maintenance of existing structures.~~

~~F. Change subsection 104.5 to read:~~

~~104.5. Continuing education: Code officials, inspectors and technical assistants enforcing this code shall attend periodic training courses as designated and provided by the DHCD.~~

~~G. Delete subsection 104.7~~

13 VAC 5-61-60. ~~BNBC Section 105.0 Duties and Powers of the Code Official. (Repealed.)~~

~~A. Change subsection 105.6 to read:~~

~~105.6. Delegation of duties and powers: The code official is permitted to delegate duties and powers subject to any limitations imposed by the appointing authority and shall be responsible for assuring that delegated duties and powers are carried out in accordance with this code.~~

~~B. Change subsection 105.7 to read:~~

~~105.7. Department records: The code official shall keep official records of applications received, permits and certifications issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records or shall be permitted to be disposed of in accordance with General Schedule Number Six available from the Library of Virginia.~~

13 VAC 5-61-70. ~~BNBC Section 106.2 Modifications. (Repealed.)~~

~~Change subsection 106.2 to read:~~

~~106.2. Modifications: When there are practical difficulties involved in carrying out provisions of this code, the code official shall have the right to modify such provisions upon application of the owner or the owner's representative, provided that the spirit and intent of the law is observed and that the public health, safety and welfare is assured.~~

13 VAC 5-61-80. BNBC Section 107.0 Application for Permit. (Repealed.)

A. ~~Add exceptions to subsection 107.1 to read:~~

~~Exceptions:~~

- ~~1. Installation of wiring and equipment which operates at less than 50 volts provided the installation is not located in a noncombustible plenum or penetrating an assembly required to have a fire resistance rating.~~
- ~~2. Construction of detached utility sheds not exceeding 150 square feet (14 m²) of building area and 102 inches (2591 mm) in wall height and when accessory to any use group building except Use Group F or H.~~
- ~~3. Tents and air supported structures that cover an area of 900 square feet (84 m²) or less, including all connecting areas or spaces with a common means of egress or entrance and with an occupant load of 50 or less persons.~~
- ~~4. Replacement of plumbing and electrical fixtures, fixture fittings, appurtenances, plumbing and electrical appliances including electric water heaters, fans, humidifiers, dehumidifiers, air cleaners and similar mechanical equipment, windows and doors with that of similar capacity in the same location in Use Groups R2 (four stories or less), R3 and R4. Changes to duct systems, plumbing supply, drain, waste and vent piping, electrical circuits, appliance vent systems and gas piping, other than reconnection to replacement equipment, appliances and fixtures require a permit.~~
- ~~5. Application or notice to the code official is not required for ordinary repairs to structures. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or loadbearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repair include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.~~
- ~~6. Work which the code official has authorized pending receipts of an application.~~

B. ~~Delete subsection 107.1.1.~~

C. ~~Change subsection 107.3 to read:~~

~~107.3. By whom application is made: Application for a permit shall be made by the owner or lessee of the building or structure, or agent of either, or by the registered design professional employed in connection with the proposed work. The full names and addresses of the owner, lessee, applicant, and the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application. The code official shall accept and process permit applications through the mail.~~

D. ~~Add subsection 107.3.1 to read:~~

~~107.3.1. Application by contractors: The code official shall require the applicant for a permit to furnish, prior to the issuance of the permit, that person's license or certification number issued pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia or evidence of being exempt from the provisions of that chapter.~~

~~E. Add exception to subsection 107.6 to read:~~

~~Exception: The code official is permitted to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when otherwise warranted.~~

~~F. Delete subsection 107.6.1.~~

~~G. Change subsection 107.7 to read:~~

~~107.7. Engineering details: The code official shall require to be filed adequate details of structural, mechanical, plumbing, and electrical work, which may include computations, stress diagrams and other essential technical data. All engineering plans and computations shall bear the signature and seal of the engineer or architect responsible for the design as required by Section 114.1.~~

13 VAC 5-61-90. BNBC Section 108.0 Permits. (Repealed.)

~~A. Change subsection 108.2 to read:~~

~~108.2. Suspension of permit: Any permit issued shall become invalid if the authorized work on the site is not commenced within six months after issuance of the permit, or if the authorized work on the site is suspended or abandoned for a period of six months after the time of commencing the work. The burden of proof that the authorized work on the site has not been suspended or abandoned shall be on the permit holder, owner of the property or other person affected by such determination of the code official. The code official may grant one or more extensions to the six month time period, not to exceed six months per extension.~~

~~B. Change subsection 108.3 to read:~~

~~108.3. Separate, combined and annual permits: The code official is permitted to require separate or combined permits for different areas of construction such as building construction, plumbing, electrical, and mechanical work. The code official is permitted to issue an annual permit for alterations to an existing structure. The holder of the annual permit or the owner of the structure for which the annual permit is issued shall maintain a detailed record of all alterations made under the annual permit. Such record shall be available to the code official and shall be submitted to the department of building inspection if requested by the code official.~~

~~C. Change subsection 108.9 to read:~~

~~108.9. Mechanics' lien agent designation: A building permit issued for any one or two family residential dwelling unit shall at the time of issuance contain, at the request of the applicant, the name, mailing address, and telephone number of the mechanics' lien agent as defined in § 43-1 of the Code of Virginia. If the designation of a mechanics' lien agent is not so requested by the applicant, the permit shall at the time of issuance state that none has been designated with the words "None Designated."~~

~~D. Add subsection 108.10 to read:~~

~~108.10. Asbestos inspection prior to permit issuance; certification for reoccupancy: The code official shall not issue a building permit allowing a building for which an initial building permit was issued before January 1, 1985, to be renovated or demolished until the code official receives certification from the owner or his agent that the affected portions of the building have been inspected for the presence of asbestos by an individual licensed to~~

~~perform such inspections pursuant to § 54.1-503 of the Code of Virginia and that no asbestos-containing materials were found or that appropriate response actions will be undertaken in accordance with the requirements of the Clean Air Act National Emission Standard for the Hazardous Air Pollutant (NESHAPS; 40 CFR Part 61, Subpart M), and the asbestos worker protection requirements established by the U.S. Occupational Safety and Health Administration for construction workers (29 CFR 1926.58). Local educational agencies that are subject to the requirements established by the Environmental Protection Agency under the Asbestos Hazard Emergency Response Act (AHERA) shall also certify compliance with 40 CFR Part 763 and subsequent amendments thereto.~~

~~To meet the inspection requirements above, except with respect to schools, asbestos inspection of renovation projects consisting only of repair or replacement of roofing, floorcovering, or siding materials may be satisfied by a statement that the materials to be repaired or replaced are assumed to contain asbestos and that asbestos installation, removal, or encapsulation will be accomplished by a licensed asbestos contractor. The provisions of Section 108.10 shall not apply to single family dwellings or residential housing with four or fewer units, unless the renovation or demolition of such buildings is for commercial or public-development purposes. The provisions of Section 108.10 shall not apply if the combined amount of regulated asbestos-containing material involved in the renovation or demolition is less than 260 linear feet on pipes or less than 160 square feet on other facility components or less than 35 cubic feet off facility components where the length or area could not be measured previously.~~

~~An abatement area shall not be reoccupied until the code official receives certification from the owner that the response actions will be completed and final clearances will be measured. The final clearance levels for reoccupancy of the abatement area shall be 0.01 or fewer asbestos fibers per cubic centimeter if determined by Phase Contrast Microscopy analysis (PCM) or 70 or fewer structures per square millimeter if determined by Transmission Electron Microscopy analysis (TEM).~~

13 VAC 5-61-100. BNBC Section 109.0 Temporary Structures. (Repealed.)

~~A. Change subsection 109.1 to read:~~

~~109.1. General: The code official may issue a permit for temporary construction. Such permit shall be limited as to time of service, but such temporary construction shall not be permitted for more than one year.~~

~~B. Change subsection 109.3 to read:~~

~~109.3. Termination of approval: The code official is hereby authorized to terminate such special approval and to order the demolition of any such construction at his discretion.~~

13 VAC 5-61-110. BNBC Section 112.0 Fees. (Repealed.)

~~A. Add exception to subsection 112.1 to read:~~

~~Exception: The code official is permitted to authorize delayed payment of fees.~~

~~B. Change subsection 112.3 to read:~~

~~112.3. Fee schedule: The code official shall establish a fee schedule for fees to be charged for enforcement activities under this code. The fee schedule shall be subject to approval of~~

~~the local governing body and shall be based on square footage, cubic footage, cost of construction or other appropriate criteria.~~

~~C. Delete subsection 112.3.1.~~

~~D. Delete subsection 112.4.~~

13 VAC 5-61-120. BNBC Section 113.0 Inspections. (Repealed.)

~~A. Change subsection 113.2 to read:~~

~~113.2. Inspections: The permit holder shall assure that the following inspections have been conducted and approved by the code official when applicable to the construction:~~

- ~~1. Inspection of footing excavations and reinforcement material for concrete footings prior to the placement of concrete.~~
- ~~2. Inspection of foundation systems during phases of construction necessary to assure compliance with this code.~~
- ~~3. Inspection of preparatory work prior to the placement of concrete.~~
- ~~4. Inspection of structural members and fasteners prior to concealment.~~
- ~~5. Inspection of electrical, mechanical and plumbing materials and systems prior to concealment.~~
- ~~6. Inspection of energy conservation material prior to concealment.~~

~~The code official is permitted to designate additional inspections to be conducted during the construction of a structure and shall so notify the permit holder, person in charge of the work or other appropriate person. The code official shall be notified when the construction reaches the stage of completion for an inspection. The person requesting an inspection shall provide the code official with any ladder, scaffolding or test equipment necessary to conduct the requested inspection. A record of all such examinations and inspections and of all violations of this code shall be maintained by the code official and shall be communicated promptly in writing to the permit holder, person in charge of the work or other appropriate person. The owner shall provide for special inspections in accordance with Section 1705.0.~~

~~Exception: Where the construction cost is less than \$2,500, the inspection shall be permitted, at the discretion of the code official, to be waived.~~

~~B. Change subsection 113.2.2 to read:~~

~~113.2.2. Plant inspection: Where required by the provisions of this code or where determined necessary by the code official, materials or assemblies shall be inspected at the point of manufacture or fabrication in accordance with Section 1703.3.~~

~~C. Change subsection 113.3 to read:~~

~~113.3. Final inspection: Upon completion of the building or structure, and before issuance of the certificate of occupancy required by Section 118.0, a final inspection shall be made and approved. All violations of the approved construction documents and permit shall be noted and the holder of the permit shall be notified of the discrepancies.~~

13 VAC 5-61-130. BNBC Section 114.0. (Repealed.)

Change subsection 114.1 to read:

~~114.1. General: Where required by law or where determined necessary by the code official, all construction documents required for a building permit application shall be prepared by a registered design professional licensed in this Commonwealth. The code official shall establish a procedure to ensure that construction documents are prepared by a registered design professional licensed in this Commonwealth where required by law. In the case where construction documents are not required under law or by the code official to be prepared by a registered design professional licensed in this Commonwealth, the construction documents shall bear the name, address and occupation of the author.~~

13 VAC 5-61-140. BNBC Section 116.0 Violations. (Repealed.)

A. Change subsection 116.2 to read:

~~116.2. Notice of violation: The code official shall serve a notice of violation to the responsible party as determined by Section 116.1 if the violation has not been remedied within a reasonable time. The notice shall reference the code section that serves as the basis for the violation and direct the discontinuance and abatement of the violation. The notice shall be in writing and be served by either delivering a copy to the responsible party by mail to the last known address or delivering the notice in person or by leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place at the entrance door or access way if the person in charge of the premises cannot be found. The notice of violation shall indicate the right of appeal by reference to Section 121.1.~~

B. Add subsection 116.2.1 to read:

~~116.2.1. Limitation of notice: When a violation relating to construction is discovered more than two years after either (i) the certificate of occupancy is issued, or the date of initial occupancy, whichever is later, or (ii) the final inspection for an alteration or renovation, a notice of violation shall only be issued upon advice from legal counsel to the jurisdiction that action may be taken to compel correction of the violation. The code official shall document violations of the applicable edition of the USBC once compliance can no longer be compelled by prosecution under § 36-106 of the Code of Virginia.~~

C. Change subsection 116.4 to read:

~~116.4. Violation penalties: Penalties for violations of this code shall be as set out in § 36-106 of the Code of Virginia.~~

13 VAC 5-61-150. BNBC Section 117.0 Stop Work Order. (Repealed.)

Delete subsection 117.2.

13 VAC 5-61-160. BNBC Section 118.0 Certificate of Occupancy. (Repealed.)

A. Change subsection 118.1 to read:

~~118.1. General: A certificate of occupancy, indicating completion of the work for which a permit was issued, shall be obtained prior to any occupancy of a structure except as provided for in Section 118.2. Final inspection approval or approvals shall be permitted to serve as the~~

~~certificate of occupancy for any addition or alteration to a structure for which a certificate of occupancy has already been issued.~~

~~B. Change subsection 118.2 to read:~~

~~118.2. Temporary occupancy: Upon the request of the holder of a permit, a temporary certificate of occupancy shall be permitted to be issued before the completion of the entire work covered by the permit provided that such portion or portions shall be occupied safely prior to full completion of the structure without endangering life or public welfare.~~

~~C. Change subsection 118.3 to read:~~

~~118.3. Existing structures: Upon written request from the owner or as otherwise determined necessary by the code official, a certificate of occupancy shall be issued for an existing structure provided the structure is in substantial compliance with applicable provisions of this code. The code official is not permitted to require the removal, alteration or abandonment of, or prevent the continuance of, the occupancy of an existing structure except under conditions provided for in this code.~~

~~D. Change subsection 118.4 to read:~~

~~118.4. Contents of certificate: When a structure is entitled thereto, the code official shall issue a certificate of occupancy within 10 days after written application. Upon completion of the final inspection in accordance with Section 113.3 and correction of the violations and discrepancies, the certificate of occupancy shall be issued. The certificate of occupancy shall specify the following:~~

- ~~1. The edition of the code under which the permit is issued.~~
- ~~2. The use group and occupancy in accordance with the provisions of Chapter 3.~~
- ~~3. The type of construction as defined in Chapter 6.~~
- ~~4. If an automatic sprinkler system is provided, whether the sprinkler system is required.~~
- ~~5. Any special stipulations and conditions of the building permit.~~

~~E. Add subsection 118.5 to read:~~

~~118.5. Posting structures: Structures classified in Use Groups B, F, H, M or S shall be posted with a sign approved by the code official stating the use group and occupancy, live load, occupant load, and date of posting.~~

~~F. Add subsection 118.6 to read:~~

~~118.6. Street numbers: Each structure to which a street number has been assigned shall have the number displayed so as to be readable from the public way.~~

13 VAC 5-61-170. BNBC Section 119.0 Conditions. (Repealed.)

~~Change subsection 119.1 to read.~~

~~119.1. Conditions: All structures or existing equipment which, during construction, are or hereafter become unsafe, unsanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. All~~

~~unsafe structures shall be taken down and removed or made safe, as the code official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.~~

13 VAC 5-61-180. ~~BNBC Section 120.0 Emergency Measures. (Repealed.)~~

~~A. Change subsection 120.1 to read:~~

~~120.1. Imminent danger: When, during construction, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure or any part thereof which endangers life, or when, during construction, any structure or part of a structure has fallen and life is endangered by the occupation of the building or structure, the code official is hereby authorized and empowered to order and require the occupants to vacate the same forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure is Unsafe and its Occupancy has been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of making the required repairs or of demolishing the same.~~

~~B. Delete subsection 120.5.~~

13 VAC 5-61-190. ~~BNBC Section 121.0 Means of Appeal. (Repealed.)~~

~~A. Change subsection 121.1 to read:~~

~~121.1. Application for appeal: Appeals from the local building department concerning application of this code or refusal to grant a modification to the provisions of this code covering the manner of construction or materials to be used in the erection, alteration or repair of a structure shall first lie to the local board of building code appeals established in this section. Appeals relating to construction shall be submitted within 30 days and appeals relating to maintenance shall be submitted within 21 days.~~

~~121.1.1. State owned buildings: Appeals by the involved state agency from the decision of the code official for state owned buildings shall be made directly to the TRB within 21 days of the application of this code or the refusal to grant a modification to the provisions of this code.~~

~~B. Change subsection 121.2 to read:~~

~~121.2. Board of appeals: There shall be established within each department of building inspection a board of appeals. A separate board of appeals may be established for different areas of enforcement of this code provided each board of appeals complies with this section. The board of appeals shall consist of at least five members appointed by the chief appointing authority. Whenever a county or a municipality does not have a board of building code appeals, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the DHCD for such appeals.~~

~~C. Change subsection 121.2.1 to read:~~

~~121.2.1. Qualifications: To the extent such persons may be available, the board of appeals shall consist of individuals from each of the following professions or disciplines.~~

- ~~1. Registered design professional who is a registered architect, or a builder or superintendent of building construction with at least 10 years experience, five of which shall have been in responsible charge of work.~~
- ~~2. Registered design professional with structural engineering or architectural experience.~~
- ~~3. Registered design professional with mechanical or plumbing engineering experience, or a mechanical or plumbing contractor with at least 10 years experience, five of which shall have been in responsible charge of work.~~
- ~~4. Registered design professional with electrical engineering experience, or an electrical contractor with at least 10 years experience, five of which shall have been in responsible charge of work.~~
- ~~5. Registered design professional with fire protection engineering experience, or a fire protection contractor with at least 10 years experience, five of which shall have been in responsible charge of work.~~

~~The code official, technical assistants, inspectors or other employees of the department of building inspection shall not serve as members of the board of appeals.~~

~~D. Change subsection 121.2.2 to read:~~

~~121.2.2. Alternate members: The chief appointing authority shall be permitted to appoint two alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.~~

~~E. Delete subsection 121.2.6.~~

~~F. Change subsection 121.3 to read:~~

~~121.3. Notice of meeting: The board shall meet upon notice from the chairman, within 30 days of the filing of an appeal, or at stated periodic meetings.~~

~~G. Change subsection 121.5 to read:~~

~~121.5. Postponed hearing: When a quorum of the board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.~~

~~H. Change subsection 121.6 to read:~~

~~121.6. Board decision: The board shall rule by a concurring vote of a majority of members present.~~

~~I. Change subsection 121.6.1 to read:~~

~~121.6.1. Resolution: The decision of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the code official. The resolution shall contain a statement indicating that if further appeal is sought, application shall be made to the TRB within 21 days of receipt of the resolution.~~

~~J. Change subsection 121.7 to read:~~

~~121.7. Appeal to the TRB: No appeal to the TRB shall lie prior to a final determination by the board of appeals. Application shall be made to the TRB within 21 days of receipt of the resolution of the board of appeals.~~

~~Exception: Appeals by the involved state agency from the decision of the code official for state owned buildings shall be made directly to the TRB within 21 days of the application of this code or the refusal to grant a modification to the provisions of this code.~~

PART I.
GENERAL.

13 VAC 5-61-11. Section 101.0 Designation of Chapter 1, Administration; scope.

A. 101.1. Title: *These regulations shall be known as the Virginia Uniform Statewide Building Code (USBC), hereinafter referred to as "this code" or "USBC." The term "chapter" means a chapter in the USBC. Chapter 1, Administration, of the USBC is comprised of Parts I (13 VAC 5-61-11), II (13 VAC 5-61-15 et seq.), and III (13 VAC 5-61-121 et seq.) of this code.*

B. 101.2. Scope: *The USBC prescribes mandatory building regulations for the construction and local option building regulations in the maintenance of structures and the equipment therein including provisions for administration and enforcement. To the extent that any provisions of this code or the referenced codes or standards are not within the scope of this chapter, those provisions are considered to be invalid. Inspections under the USBC are a governmental responsibility.*

C. 101.3. General: *The USBC is divided into four parts: Part I sets forth the general scope of the USBC, Part II sets forth the scope, administration and enforcement procedures for the mandatory enforcement of the construction provisions of the USBC, Part III sets forth the scope, administration and enforcement procedures for the local option enforcement of the maintenance provisions of the USBC, and Part IV (13 VAC 5-61-200 et seq.) sets forth the technical amendments to the model codes and standards referenced in Parts II and III of this code.*

PART II.
CONSTRUCTION.

13 VAC 5-61-15. Section 102.0 Purpose.

102.1. Purpose: *The purpose of this part of the USBC is to ensure safety to life and property from all hazards incident to structure design, construction, occupancy, repair, removal or demolition. Structures shall be permitted to be constructed at the least possible cost consistent with nationally recognized standards for health, safety, energy conservation, water conservation, adequate egress facilities, sanitary equipment, light and ventilation, fire safety, structural strength, and physically handicapped and aged accessibility. As provided in the Uniform Statewide Building Code Law (§ 36-97 et seq. of the Code of Virginia), the USBC supersedes the building codes and regulations of the counties, municipalities and other political subdivisions and state agencies, relating to any construction, reconstruction, alterations, conversion, repair or use of structures and installation of equipment therein. The USBC does not supersede zoning ordinances or other land use controls that do not affect the manner of construction or materials to be used in the construction, alteration or repair of a structure.*

13 VAC 5-61-21. Section 103.0 Applicability.

A. 103.1. *General: The provisions of this part of the USBC shall apply to the construction of all structures. Subsequent changes of occupancy, reconstruction, renovation, repair or demolition of existing structures shall comply with the USBC.*

B. 103.2. *When applicable: Any structure for which a building permit has been issued or on which construction has commenced or for which working drawings have been prepared in the year prior to the effective date of the USBC, shall remain subject to the building regulations in effect at the time of such issuance or commencement of construction. In such cases, proposed construction may comply with either this edition of the USBC or the previous edition of the USBC. This provision shall also apply to subsequent amendments to the USBC based on the effective dates of such amendments.*

C. 103.3. *Exemptions: The following are exempt from this code:*

1. *Equipment installed by a provider of publicly regulated utility service and electrical equipment used for radio, telecommunications and television transmission. The exempt equipment shall be under the exclusive control of the public service agency and located on property by established rights; however, the structures, including their service equipment, housing such public service agencies shall be subject to the USBC.*
2. *Manufacturing and processing machines, including the following service equipment associated with the manufacturing or processing machines:*
 - a. *Electrical equipment connected after the last disconnecting means;*
 - b. *Plumbing piping and equipment connected after the last shutoff valve or backflow device and before the equipment drain trap; and*
 - c. *Gas piping and equipment connected after the outlet shutoff valve.*
3. *Surface parking lots and sidewalks, which are not parts of an accessible route.*
4. *Recreational equipment such as swing sets, sliding boards, climbing bars, jungle gyms, skateboard ramps, and similar equipment when such equipment is not regulated by the Virginia Amusement Device Regulations (13 VAC 5-31-10 et seq.).*
5. *Industrialized buildings; except, the applicable requirements of this code affecting local option maintenance (Part III (13 VAC 5-61-121 et seq.) of this code), site preparation, footings, foundations, proper anchoring and utility connections of the unit remain in full force and effect, including issuing permits and certificates of occupancy.*
6. *Manufactured homes; except, the applicable requirements of this code affecting local option maintenance (Part III of this code), site preparation, skirting installation, footings, foundations, proper anchoring and utility connections of the manufactured home remain in full force and effect, including issuing permits and certificates of occupancy.*
7. *Farm buildings and structures not used for residential purposes, located on property where farming operations take place, and used primarily for any of the following uses or combination thereof:*
 - a. *Storage, handling, production, display, sampling or sale of agricultural, horticultural, floricultural or silvicultural products produced in the farm;*

- b. Sheltering, raising, handling, processing or sale of agricultural animals or agricultural animal products;*
- c. Business or office uses relating to the farm operations;*
- d. Use of farm machinery or equipment, or maintenance or storage of vehicles, machinery or equipment on the farm;*
- e. Storage or use of supplies and materials used on the farm; or*
- f. Implementation of best management practices associated with farm operations.*

Exception: Farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to flood proofing regulations or mudslide regulations, as applicable.

D. 103.4. Nonrequired equipment: Building owners may install partial or full fire alarms or other safety equipment that was not required by the USBC in effect at the time a structure was constructed without meeting current USBC requirements, provided the installation does not create a hazardous condition. Permits for such installations shall be obtained in accordance with the USBC.

E. 103.5. State-owned structures: In accordance with § 36-98.1 of the Code of Virginia the USBC shall be applicable to all state-owned structures, with the exception that §§ 2.1-514 through 2.1-521.1 of the Code of Virginia shall provide the standards for ready access to and use of state-owned buildings by the physically handicapped. Any state-owned building or structure for which preliminary plans were prepared or on which construction commenced after the initial effective date of the USBC, shall remain subject to the provisions of the USBC that were in effect at the time such plans were completed or such construction commenced. Subsequent reconstruction, renovation or demolition of such building or structure shall be subject to the pertinent provisions of the USBC.

13 VAC 5-61-25. Section 104.0 Incorporation by reference.

A. 104.1. Adoption: The following document is adopted and incorporated by reference to be an enforceable part of the USBC:

The BOCA National Building Code/1996, Thirteenth Edition, hereinafter referred to as "BNBC," published by Building Officials and Code Administrators International, Inc., 4051 W. Flossmoor Rd., Country Club Hills, IL 60478-5795, toll free number 1-800-323-1103. Included in the BNBC as major referenced standards are the following:

1995 ICC International Plumbing Code - with 1996 Supplement; 1996 ICC International Mechanical Code; 1996 National Electrical Code; and 1995 CABO One- & Two-Family Dwelling Code

B. 104.1.1. Deletion: Delete BNBC Chapter 1.

C. 104.2. Amendments: All requirements of the referenced codes and standards that relate to fees, permits, certification of fitness, unsafe notices, unsafe conditions, maintenance, disputes, condemnation, inspections, existing structures, certification of compliance, approval of construction documents and all other procedural, administrative and enforcement matters are deleted and replaced by the provisions of Chapter 1 (Parts I, II, and III) of the USBC. The purpose of this provision is to eliminate overlap, conflict and duplication by providing a single standard for administration and enforcement of this part of the USBC.

D. 104.2.1. Other amendments: The USBC contains provisions adopted by the Virginia Board of Housing and Community Development (BHCD), some of which change or amend provisions of the BNBC and referenced standards. Where conflicts occur between such changed provisions and the unchanged provisions of the BNBC and referenced standards, the provisions changed by the BHCD shall govern.

Note: The BNBC and its referenced standards contain some areas of regulation outside the scope of the USBC, as established by the BHCD and under state law. Where conflicts have been readily noted, changes have been made to the BNBC and its referenced standards to bring it within the scope of authority; however, in some areas, judgments will have to be made as to whether the provisions of the BNBC and its referenced standards are applicable.

13 VAC 5-61-31. Section 105.0 Enforcement.

A. 105.1. Enforcement responsibility: Enforcement of the provisions of the USBC governing construction is mandatory and the responsibility of the local building department. Whenever a county or a municipality does not have such department, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the DHCD for such enforcement. Towns with a population of less than 3,500 may elect to administer and enforce this code; however, where the town does not elect to administer and enforce the USBC, the county in which the town is situated shall administer and enforce the USBC for the town. In the event, such town is situated in two or more counties; those counties shall administer and enforce the USBC within their respective boundaries.

B. 105.1.1. Existing structures: Upon a finding by the local building department, following a complaint by a tenant of a residential rental unit which is the subject of such complaint, that such structure is unsafe, the local building department shall enforce the provisions of Part III (13 VAC 5-61-121 et seq.) of this code relating to unsafe existing structures. The local governing body shall inspect and enforce the provisions of Part III of this code relating to the maintenance of existing elevators except for elevators in single and two-family homes and townhouses.

Exception: Following official action by the local governing body, enforcement of the provisions of this section shall be permitted to be the responsibility of the local enforcing agency designated to enforce Part III, the maintenance provisions of the USBC.

C. 105.1.2. Retrofitting: The local building department shall enforce the applicable provisions mandated in the BHCD technical amendments (Part IV (13 VAC 51-61-200 et seq.) of this code) to Chapter 34 (Section 3402.0) relating to specific existing structures.

D. 105.2. State buildings: Acting through the Division of Engineering and Buildings, the Virginia Department of General Services (DGS) shall function as the code official for state-owned buildings as prescribed by § 36-98.1 of the Code of Virginia.

E. 105.2.1. Review and approval: The Virginia Department of General Services (DGS) shall review and approve plans and specifications, grant modifications, and establish such rules and regulations as may be necessary to implement the USBC. The DGS shall provide for the inspection of state-owned buildings and enforcement of the USBC and standards for access by the physically handicapped by delegating inspection and USBC enforcement duties to the State Fire Marshal's Office, to other appropriate state agencies having needed expertise, and to local

building departments, all of which shall provide such assistance within a reasonable time and in the manner requested. State agencies and institutions occupying buildings shall pay to the local building department the same fees as would be paid by a private citizen for the services rendered when such services are requested by the DGS. The DGS may alter or overrule any decision of the local building department after having first considered the local building department's report or other rationale given for its decision. When altering or overruling any decision of a local building department, the DGS shall provide the local building department with a written summary of its reasons for doing so.

13 VAC 5-61-35. Section 106.0 Department of Building Inspection.

A. 106.1. Building code official: Each local building department shall have an executive official in charge, hereinafter referred to as the "code official" or "building code official."

B. 106.1.1. Appointment: The building code official shall be appointed in a manner selected by the local governing body. After appointment, the building code official shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority.

C. 106.1.2. Notification: The local governing body shall notify the DHCD within 30 days of the appointment or release of the building code official

D. 106.3. Qualifications: The building code official shall have at least five years of building experience as a licensed professional engineer or architect, building inspector, contractor or superintendent of building construction, with at least three years in responsible charge of work. Any combination of education and experience, which would confer equivalent knowledge and ability, shall be deemed to satisfy this requirement. The building code official shall have general knowledge of sound engineering practice in respect to the design and construction of structures, the basic principles of fire prevention, the accepted requirements for means of egress and the installation of elevators and other service equipment necessary for the health, safety and general welfare of the occupants and the public. The local governing body may establish additional qualification requirements.

E. 106.3.1. Certification: The building code official shall obtain certification from the BHCD in accordance with the Virginia Certification Standards (13 VAC 5-21-10 et seq.) within one year after appointment.

Exception: Continuous employment by the same local governing body as the building code official since before April 1, 1983; however, such exempt building code officials shall comply with required DHCD training under the Virginia Certification Standards (13 VAC 5-21-10 et seq.).

F. 106.3.2. Noncertified: After appointment, a non-BHCD certified building code official shall complete a DHCD orientation seminar within 60 days. In addition, within 180 days, such code official shall attend the core program of the Virginia Building Code Academy, or its equivalent in a DHCD accredited academy.

G. 106.4. Technical assistants: The building code official shall, subject to any limitations imposed by the local governing body, appoint such number of technical assistants as are necessary for the administration and enforcement of the USBC.

H. 106.4.1. Qualifications: A technical assistant shall have at least three years of experience in general building construction. Any combination of education and experience, which would confer equivalent knowledge and ability, shall be deemed to satisfy this requirement. The local governing body may establish additional qualification requirements.

I. 106.4.2. Certification: Any person employed by, or under contract to, a local building department for enforcement of the USBC shall be certified in the appropriate subject areas in accordance with the Virginia Certification Standards (13 VAC 5-21-10 et seq.) within three years from the date of employment.

Exception: If continuously employed or under contract to such department since before March 1, 1988; however, such exempt persons shall comply with required DHCD training under Virginia Certification Standards (13 VAC 5-21-10 et seq.).

J. 106.5. Continuing education: Any person employed by, or under contract to, a local building department for enforcement of the USBC shall attend periodic training courses as designated by the DHCD and such other training as designated by the local governing body.

K. 106.7. Control of conflict of interest: The minimum standards of conduct for code officials and technical assistants shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act (§ 2.1-639.1 et seq. of the Code of Virginia).

13 VAC 5-61-41. Section 107.0 Duties and powers of the code official.

A. 107.1. General: The building code official shall enforce the provisions of the USBC as provided herein, and as interpreted by the State Building Code Technical Review Board (TRB).

B. 107.2. Modifications: Upon application by the owner or the owner's agent, the code official shall be permitted to grant modification to any of the provisions of the USBC, provided the spirit and intent of the USBC are observed and public health, welfare and safety are assured.

Note: The current editions of many nationally recognized model codes and standards are referenced by the USBC. Future amendments to such codes and standards do not automatically become part of the USBC; however, the code official should consider such amendments in deciding whether a modification request should be granted.

C. 107.2.1. Supporting data: The code official is authorized to require the application to include architectural and engineering plans and specifications that include the seal of a professional engineer or architect. The code official is permitted to require and consider a statement from a professional engineer, architect or other competent person as to the equivalency of the proposed modification.

D. 107.2.2. Records: The application for modification and the final decision of the code official shall be in writing and shall be recorded with the certificate of occupancy in the permanent records of the local building department.

E. 107.3. Delegation of duties and powers: The code official is permitted to delegate duties and powers subject to any limitations imposed by the local governing body and shall be responsible for assuring that delegated duties and powers are carried out in accordance with the USBC.

F. 107.4. Department records: The code official shall keep official records of applications received, permits and certifications issued, fees collected, reports of inspections, and notices,

modifications and orders issued. Such records shall be retained in the official records or shall be permitted to be disposed of in accordance with General Schedule Number Six available from the Library of Virginia.

13 VAC 5-61-45. Section 108.0 Fees.

A. 108.1. Fees and fee levy: Fees shall be permitted to be levied by the local governing body in order to defray the cost of enforcement and appeals pursuant to the USBC. The local building department shall collect a 1.0% levy of fees charged for building permits issued under this code and transmit it quarterly to the DHCD to support training programs of the Virginia Building Code Academy. Localities, which maintain a DHCD accredited training academy, shall retain such levy.

B. 108.2. Fee schedule: The local governing body shall establish a fee schedule. The schedule shall incorporate unit rates, which may be based on square footage, cubic footage, cost of construction or other appropriate criteria.

C. 108.3. When payable: A permit shall not be issued until the fees prescribed by the local governing body have been paid to the authorized agency, nor shall an amendment to a permit be approved until any required additional fee has been paid. The local governing body may authorize delayed payment of fees.

D. 108.4. Refunds: In the case of a revocation of a permit or abandonment or discontinuance of a building project, the local governing body shall provide fee refunds for the portion of the work that was not completed, when requested in writing by the permit holders.

13 VAC 5-61-51. Section 109.0 Application for permit.

A. 109.1. When required: Written application for permit shall be made to the code official and an approved permit issued by the code official before any of the following actions may be commenced:

- 1. Constructing, enlarging, altering, or demolishing a structure.*
- 2. Changing the use of a structure either within the same use group or to a different use group when the new use requires greater degrees of structural strength, fire protection, exit facilities, ventilation or sanitary provisions.*
- 3. Installing or altering any equipment which is regulated by the USBC.*
- 4. Removing or disturbing any asbestos or lead containing materials during demolition, alteration, renovation of or additions to structures.*
- 5. Moving a lot line which affects an existing structure.*

Exceptions:

- 1. Installation of wiring and equipment which operates at less than 50 volts, except when the installation is located in a noncombustible plenum or penetrates a fire-resistance rated assembly.*
- 2. Detached utility sheds not exceeding 150 square feet (14 m²) of building area and 102 inches (2591 mm) in wall height, except when accessory to Use Group F or H structures.*

3. *Tents and air-supported structures that cover an area of 900 square feet (84 m²) or less, including all connecting areas or spaces with a common means of egress or entrance and with an occupant load of 50 or less persons.*
4. *Work which the code official has authorized pending receipt of an application.*
5. *Ordinary repairs which include, but are not be limited to, the following:*
 - a. *Replacement of mechanical or plumbing equipment and appliances, except those fueled by gas, within the dwelling unit in occupancies of Use Group R-2 which are four stories or less in height and in occupancies of Use Groups R-3 and R-4.*
 - b. *Replacement of roof coverings not exceeding 100 square feet (9.3 m²).*
 - c. *Installation of cabinets in residential occupancies and replacement of floor coverings and porch flooring in all occupancies.*
 - e. *Painting any portion of a structure, repair of plaster, interior tile and other wall coverings in all occupancies.*
 - f. *Replacement of windows and doors and electrical switches, outlets, light fixtures and ceiling fans, within the dwelling unit in occupancies of Use Group R2 which are four stories or less in height and in occupancies of Use Groups R-3 and R-4.*

Ordinary repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or loadbearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

C. 109.2. Permit applicant: Application for a permit shall be made by the owner or lessee of the structure or agent of either, or by the licensed architect, professional engineer, contractor or subcontractor (or their respective agents) employed in connection with the proposed work. If the application is made by a contractor or subcontractor (or any of their respective agents), the code official shall verify that the applicant is either licensed and certified to practice in Virginia, or is exempt from licensing under the Code of Virginia. The full names and addresses of the owner, lessee and the applicant, and of the responsible officers if the owner or lessee is a corporate body, shall be stated in the application. The code official shall accept and process applications for permit through the mail. The code official shall not require the permit applicant to appear in person.

Note: Information on the types of construction exempted from the requirement for a architect's or professional engineer's seal and signature is included in the "Related Laws Package" available from DHCD.

D. 109.2.1. One- and two-family dwelling option: The permit applicant shall have the option to select the amended one- and two-family dwelling code listed in Chapter 35 as an acceptable alternative standard to the BNBC for design and construction of detached one- or two-family dwellings not more than three stories in height, and the accessory structures as indicated in such one- and two-family dwelling code.

E. 109.2.2. Mechanics' lien agent designation: At the request of the applicant, an application for a permit for a one-or two-family residential dwelling unit shall contain, the name, mailing address, and telephone number of the mechanics' lien agent as defined in § 43-1 of the Code of Virginia. If the designation of a mechanics' lien agent is not so requested by the applicant, the application for permit shall state "None Designated."

F. 109.3. Form of application: The application for permit shall be submitted on forms supplied by the code official.

G. 109.4. Description of work: The application for permit shall contain a general description of the proposed work, its location and such additional information as required by the code official.

H. 109.5. Construction documents: The application for permit shall be accompanied by not less than two sets of construction documents.

Exceptions:

1. The code official may waive the requirement for filing construction documents when the work involved is of a minor nature.

2. Duplicate construction documents shall not be required where identical structures will be constructed in a particular development, provided the accompanying site plan is approved and the approved construction documents, in compliance with the USBC, are on file in the local building department.

3. The code official shall accept construction documents for one- and two-family dwellings with reverse floor plans, provided the accompanying site plan is approved.

I. 109.5.1. Site plan: When required by the code official, the application for permit shall also be accompanied by a site plan showing to scale the size and location of all the proposed new construction and all existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades. The code official may require that the application contain the elevation of the lowest floor of the building. It shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show all construction to be demolished and the location and size of all existing structures that are to remain on the site. In the case of alterations, renovations, repairs and installation of equipment, the code official shall be permitted to waive submission of the site plan or any parts thereof.

J. 109.5.2. Engineering details: The code official may require adequate details of structural, mechanical, plumbing, and electrical work to be filed, including computations, stress diagrams and other essential technical data. All engineering plans and computations shall include the signature of the professional engineer or architect responsible for the design. For buildings more than two stories in height, the code official may require that plans indicate where floor penetrations will be made for pipes, wires, conduits, and other components of the electrical, mechanical and plumbing systems when required. The construction documents shall show the materials and methods for protecting such openings, in order to maintain the required structural integrity, fire-resistance ratings, and firestopping affected by such penetrations.

K. 109.5.3. Construction document review: The code official shall cause to be examined all construction documents, site plans and applications for permits within a reasonable time after filing. If the application, site plan or the construction documents do not conform to the

requirements of the USBC, the code official shall reject such application in writing, stating the reasons for rejection. Any construction document review comments requiring additional information, engineering details, or stating reasons for rejection of construction documents, shall be made in writing to the permit applicant.

L. 109.5.3.1. Expedited construction document review: The code official may accept reports from an approved person or agency that the construction documents have been examined and conform to the requirements of the USBC and may establish requirements for the person or agency submitting such reports. In addition, where such reports have been submitted, the code official may expedite the issuance of the permit.

M. 109.5.4. Approved construction documents: The code official shall stamp "Approved" or provide an endorsement in writing on both sets of construction documents when approved. One set of such approved construction documents shall be retained by the code official. The other set shall be kept at the building site, open to inspection by the code official at all reasonable times.

N. 109.5.4.1. Approval of partial construction documents: The code official may issue a permit for the construction of foundations or any other part of a structure before the construction documents for the entire structure have been submitted, provided adequate information and detailed statements have been filed indicating compliance with the pertinent requirements of the USBC. The holder of such permit for the foundations or other part of a structure shall proceed with construction operations at the holder's risk, and without assurance that a permit for the entire structure will be granted.

O. 109.5.4.2. Construction document approval limited: The code official's approval of construction documents shall be limited only to those items within the scope of the USBC.

P. 109.6. Existing structures continued use: Following an inspection and provided there are no violations of Part III (13 VAC 5-61-121 et seq.) of this chapter and the Virginia Statewide Fire Prevention Code (13 VAC 5-51-10 et seq.) and the structure's use has not changed, such structure shall not be prevented from continued use and the code official shall issue a certificate of occupancy upon written request from the owner or his agent.

Q. 109.6.1. Change in use: The owner or his agent shall, in writing, apply to and obtain from the code official a new certificate of occupancy prior to a change of occupancy of a structure. When the current USBC requires a greater degree of structural strength, fire protection, means of egress, ventilation or sanitary provision for the new occupancy, the owner or his agent shall, in writing, apply and obtain a permit from the code official. When it is impractical to achieve compliance with the USBC, the code official shall issue, upon application, modifications as provided in the USBC.

R. 109.6.2. Reconstruction, alteration or repair: Reconstruction, alteration or repair shall not adversely affect the performance of, or cause the structure to become unsafe and shall not be used as justification for requiring any other part of the structure to be brought into compliance with the current USBC. Work shall be done in such a way so as not to lower existing levels of health and safety. The installation of material and equipment that is neither required nor prohibited need only comply with the USBC requirements that regulate a safe installation. Material and equipment may be replaced with material and equipment of a similar kind or with greater capacity in the same location. Used material and equipment may be used as approved by the code official.

S. 109.7. Functional design approval: Pursuant to § 36-98 of the Code of Virginia, certain state agencies have statutory authority to approve functional design and operation of building related activities not covered by the USBC. The code official may refuse to issue a permit until the applicant has supplied certificates of functional design approval from the appropriate state agency or agencies. For purposes of coordination, the local governing body may require reports to the code official by other departments as a condition for issuance of a building permit or certificate of occupancy. Such reports shall be based upon review of the plans or inspection of the project as determined by the local governing body.

Note: Identified state agencies with functional design approval are listed in the "Related Laws Package" which is available from DHCD.

T. 109.8. Amendments to application: Amendments to the application, construction documents or other records accompanying the application for permit shall be filed at any time before completion of the work for which the permit is sought or issued. Such amendments shall be considered part of the original application and shall be filed as such.

U. 109.9. Time limitation of application: An application for a permit shall be considered to have been abandoned six months after notification by the code official that the application is defective, unless the applicant has diligently sought to resolve any problems that are delaying issuance of the permit; except that for reasonable cause, the code official shall grant one or more extensions of time.

13 VAC 5-61-55. Section 101.0 Permits.

A. 110.1. Issuance of permits: For the purpose of establishing USBC compliance, the code official shall cause to be examined all applications for permit, construction documents and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of all pertinent laws and ordinances, the code official shall reject such application in writing, stating the reasons therefor. If the code official is satisfied that the proposed work conforms to the requirements of the USBC, and all applicable laws and ordinances, a permit shall be issued as soon as practicable. The code official may authorize work to commence prior to the issuance of the permit. Any special requirements relating to inspections shall be determined by the code official prior to the issuance of the building permit, and the permit applicant so informed.

B. 110.1.1. Separate and combined permits: The code official may require separate or combined permits for different areas of construction such as building construction, plumbing, electrical, and mechanical work. Permits for two or more structures on the same lot may be combined. Separate permits may be required for special construction considered appropriate by the local governing body.

C. 110.1.2. Annual permits: The code official may issue an annual permit for alterations to an existing structure. The annual permit holder shall maintain a detailed record of all alterations made under the annual permit. Such record shall be available to the code official and shall be submitted to the local building department if requested by the code official.

D. 110.1.3. Asbestos inspection prior to permit issuance; certification for reoccupancy: The code official shall not issue a building permit allowing a building for which an initial building permit was issued before January 1, 1985, to be renovated or demolished until the code official receives certification from the owner or his agent that the affected portions of the building have

been inspected for the presence of asbestos by an individual licensed to perform such inspections pursuant to § 54.1-503 of the Code of Virginia and that no asbestos-containing materials were found or that appropriate response actions will be undertaken in accordance with the requirements of the Clean Air Act National Emission Standard for the Hazardous Air Pollutant (NESHAPS; 40 CFR Part 61, Subpart M), and the asbestos worker protection requirements established by the U.S. Occupational Safety and Health Administration for construction workers (29 CFR 1926.58). Local educational agencies that are subject to the requirements established by the Environmental Protection Agency under the Asbestos Hazard Emergency Response Act (AHERA) shall also certify compliance with 40 CFR Part 763 and subsequent amendments thereto. To meet the inspection requirements above, except with respect to schools, asbestos inspection of renovation projects consisting only of repair or replacement of roofing, floorcovering, or siding materials may be satisfied by a statement that the materials to be repaired or replaced are assumed to contain asbestos and that asbestos installation, removal, or encapsulation will be accomplished by a licensed asbestos contractor. The provisions of this section shall not apply to single-family dwellings or residential housing with four or fewer units, unless the renovation or demolition of such buildings is for commercial or public development purposes. The provisions of this section shall not apply if the combined amount of regulated asbestos-containing material involved in the renovation or demolition is less than 260 linear feet on pipes or less than 160 square feet on other facility components or less than 35 cubic feet off facility components where the length or area could not be measured previously. An abatement area shall not be reoccupied until the code official receives certification from the owner that the response actions will be completed and final clearances will be measured. The final clearance levels for reoccupancy of the abatement area shall be 0.01 or fewer asbestos fibers per cubic centimeter if determined by Phase Contrast Microscopy analysis (PCM) or 70 or fewer structures per square millimeter if determined by Transmission Electron Microscopy analysis (TEM).

E. 110.2. Signature on permit: The signature of the code official or authorized representative shall be attached to every permit.

F. 110.3. Posting of permit: A copy of the building permit shall be posted on the construction site for public inspection until the work is completed.

G. 110.4. Previous permits: No changes shall be required in the plans, construction or designated use of a building for which a permit has been properly issued under a previous edition of the USBC, provided the permit has not been revoked or suspended.

H. 110.5. Revocation of permit: The code official may revoke a permit or approval issued under the provisions of the USBC in case of any false statement, misrepresentation of fact or incorrect information supplied by the applicant in the application or construction documents on which the permit or approval was based.

I. 110.6. Suspension of permit: Any permit issued shall become invalid if work on the site authorized by the permit is not commenced within six months after issuance of the permit, or if the authorized work on the site is suspended or abandoned for a period of six months after the time of commencing the work; however, permits issued for building equipment such as plumbing, electrical and mechanical work shall not become invalid if the building permit is still in effect. It shall be the responsibility of the permit applicant to prove to the code official that work has not

been suspended or abandoned. Upon written request, the code official may grant one or more extensions of time, not to exceed one year per extension.

J. 110.7. Compliance with code: The approved permit shall be a license to proceed with the work in accordance with the USBC, the application for permit and any approved amendments thereto. The approved permit shall not be construed as authority to omit or amend any of the provisions of the USBC, except when modification is granted in accordance with this chapter.

13 VAC 5-61-61. Section 111.0 Professional engineering and architectural services.

A. 111.1. General: Where required by law or where determined necessary by the code official, all construction documents required for a building permit application shall be prepared by a registered design professional licensed in this Commonwealth. The code official shall establish a procedure to ensure that construction documents are prepared by a registered design professional licensed in this Commonwealth where required by law. In the cases where construction documents are not required to be prepared by a registered design professional licensed in this Commonwealth, the construction documents shall bear the name, address and occupation of the author.

Note: Information on the types of construction exempted from the requirement for a professional engineer's or architect's seal and signature is included in the "Related Laws Package" available from DHCD.

B. 111.2. Special inspections: Special inspections shall be made in accordance with Section 1705.0.

C. 111.2.1. Permit requirement: This special inspection requirement shall be determined prior to the issuance of the permit and shall be a requisite for the permit issuance as described in this chapter.

D. 111.2.2. Attendant fees and costs: All fees and costs related to the performance of special professional services shall be the responsibility of the building owner.

13 VAC 5-61-65. Section 112.0 Approval of materials and equipment.

A. 112.1. Performance: Where practical, under § 36-99 of the Code of Virginia, provisions of the USBC have been stated in terms of required level of performance, to facilitate the prompt acceptance of new building materials and methods. The provisions of the USBC are not intended to prohibit the use of any material or method of construction not specifically prescribed by the USBC, provided any such alternative has been approved. An alternative material or method of construction shall be approved when the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of the USBC, and that the material, method or work offered is, for the purpose intended, substantially the equivalent of that prescribed by the USBC in quality, strength, effectiveness, fireresistance, durability and safety.

B. 112.2. Basis and approval of materials: The building code official shall require that sufficient technical data be submitted to substantiate the proposed use of any material, equipment, device or assembly. If it is determined that the evidence submitted is satisfactory proof of performance for the use intended, the code official may approve its use subject to the requirements of the USBC. In determining whether any material, equipment, device or assembly complies with the USBC, the code official shall approve items listed by nationally recognized

independent testing laboratories or may consider the recommendations of architects and engineers licensed in this Commonwealth.

C. 112.3. Used materials and equipment: Used materials, equipment and devices may be used provided they have been reconditioned, tested or examined and found to be in good and proper working condition and approved for use by the code official.

D. 112.4. Approved materials and equipment: All materials, equipment, devices and assemblies approved for use by the code official shall be constructed and installed in accordance with the conditions of such approval.

13 VAC 5-61-71. Section 113.0 Execution of work.

A. 113.1. Performance: All construction work shall be performed and completed to secure the results intended by the USBC.

B. 113.2. Responsibility: It shall be the duty of every person who performs work regulated by the USBC, including but not limited to the construction, installation or repair of a structure or equipment, to comply with the USBC.

13 VAC 5-61-75. Section 114.0 Inspections.

A. 114.1. Right of entry: The code official and technical assistants may inspect structures for the purpose of enforcing the USBC in accordance with the authority granted by § 36-105 of the Code of Virginia. The code official and technical assistants shall carry proper credentials of office when inspecting structures in the performance of their duties under the USBC.

Note: Section 36-105 of the Code of Virginia provides, when enforcing the USBC, that any structure may be inspected at any time before completion. It also permits a local governing body to provide for the reinspection of existing structures (see Part III (13 VAC 5-61-121 et seq.) of this chapter).

B. 114.2. Waived inspections: At the discretion of the inspecting authority, inspection may be waived, when the construction cost is less than \$2,500.

C. 114.3. Preliminary inspection: Before issuing a permit, the building code official may examine all structures and sites for which an application for a permit has been filed.

D. 114.4. Minimum inspections: The permit holder shall assure that the following minimum inspections have been conducted and approved by the building code official when applicable to the construction or permit:

- 1. Inspection of footing excavations and reinforcement material for concrete footings prior to the placement of concrete.*
- 2. Inspection of foundation systems during phases of construction necessary to assure compliance with this code.*
- 3. Inspection of preparatory work prior to the placement of concrete.*
- 4. Inspection of structural members and fasteners prior to concealment.*
- 5. Inspection of electrical, mechanical and plumbing materials, equipment and systems prior to concealment.*
- 6. Inspection of energy conservation material prior to concealment.*

E. 114.5. Additional inspections: The building code official may designate additional inspections and tests to be conducted during the construction of a structure and shall so notify the permit holder. The code official shall be notified by the permit holder when construction reaches a stage of completion, which requires an inspection. The permit holder requesting an inspection shall provide the code official with any ladder, scaffolding or test equipment necessary to conduct the requested inspection.

F. 114.6. Special inspections: Special inspections required by the USBC shall be limited to only those required by Section 1705.0.

G. 114.7. In-plant inspections: When required by the provisions of the USBC, materials, equipment or assemblies shall be inspected at the point of manufacture or fabrication. The code official shall require the submittal of an evaluation report of such materials, equipment or assemblies. The evaluation report, indicating the complete details of the assembly, including a description of the assembly and its components, the basis upon which the assembly is being evaluated, test results, and other data as necessary for the code official to determine conformance with the USBC.

H. 114.7.1. Factory inspection: An identifying label or stamp permanently affixed to materials, equipment or assemblies indicating that a factory inspection has been made, shall be accepted instead of a written inspection report, if the intent or meaning of such identifying label or stamp is properly substantiated.

I. 114.8. Coordination with other agencies: The building code official shall cooperate with fire, health and other state and local agencies having related maintenance, inspection or functional design responsibilities. The building code official shall coordinate all reports of inspections for compliance with the USBC, with inspections of fire and health officials delegated such authority, prior to issuance of a certificate of occupancy.

J. 114.9. Reports of inspections: The building code official shall either approve the work in writing or give written notice of defective work to the permit holder. Such defects shall be corrected and reinspected before any work proceeds that would conceal such defects. A record of all reports of inspections, tests, examinations, discrepancies and approvals with the USBC, shall be maintained by the code official and shall be communicated promptly in writing to the permit holder.

K. 114.9.1. Approved inspection agencies: The building code official may accept reports of inspections and tests from approved individuals or approved inspection agencies, which satisfy qualifications and reliability requirements. Under circumstances where the building code official is unable to make the inspection or test within 48 hours of a request or an agreed upon date, the building code official shall accept such reports. Such reports shall be in writing and shall be certified by the individual inspector or by the responsible officer when the report is from an agency.

L. 114.9. Final inspection: Upon completion of the structure, and before issuance of the certificate of occupancy, a final inspection shall be made to ensure that any defective work or discrepancies have been corrected and all work conforms with the USBC and is approved.

13 VAC 5-61-81. Section 115.0 Temporary structures.

A. 115.1. General: The building code official may approve and issue a permit for temporary construction. Such permit shall be limited as to time, but such temporary construction shall not

be permitted for more than one year. Upon the permit holder's written request, the code official may grant one or more extensions of time, not to exceed one year per extension.

B. 115.2. Termination of approval: The building code official may terminate such approval and order the demolition or removal of any such temporary construction.

13 VAC 5-61-85. Section 116.0 Moved structures.

A. 116.1. General: Any structure moved into or within the jurisdiction shall be brought into compliance with the USBC unless it meets the following requirements after relocation:

- 1. No change has been made in the use of the structure.*
- 2. The structure complies with all state and local requirements that were applicable to it in its previous location and that would have been applicable to it if it had originally been constructed in the new location.*
- 3. The structure did not become unsafe during the moving process due to structural damage or for other reasons.*
- 4. Any alterations, reconstruction, renovations or repairs made pursuant to the move have been done in compliance with the USBC.*

B. 116.2. Certificate of occupancy: Any moved structure shall not be used until a certificate of occupancy is issued for the new location.

13 VAC 5-61-91. Section 117.0 Demolition of structures.

A. 117.1. General: Demolition permits shall not be issued until the code official receives certification from the owner or the owner's agent that the following actions have been completed:

- 1. The owner or the owner's agent has obtained a release from all utilities having service connections to the building or structure stating that all service connections and appurtenant equipment have been removed or sealed and plugged in a safe manner.*
- 2. The owner or owner's agent has given written notice to the owners of adjoining lots and to the owners of other lots affected by the temporary removal of utility wires or other facilities caused by the demolition.*

B. 117.2. Hazard prevention: When a structure is demolished or removed, the established grades shall be restored and any necessary retaining walls and fences shall be constructed as required by the provisions of Chapter 33 of this code.

13 VAC 5-61-95. Section 118.0 Certificate of occupancy.

A. 118.1. General: A certificate of occupancy, indicating completion of the work for which a permit was issued, in accordance with this code and any pertinent laws and ordinances, shall be obtained prior to any occupancy of a structure except as provided for in this section. Final inspection approval or approvals may serve as the certificate of occupancy for any addition or alteration to a structure for which a certificate of occupancy has already been issued.

B. 118.2. Temporary occupancy: Upon the request of the permit holder, a temporary certificate of occupancy may be issued before the completion of the entire work covered by the permit provided that such portion or portions may be occupied safely prior to full completion of the structure without endangering life or public welfare.

C. 118.3. *Existing structures:* Upon written request from the owner or as otherwise determined necessary by the code official, a certificate of occupancy shall be issued for an existing structure as provided for in the USBC.

D. 118.4. *Contents of certificate:* When a structure is entitled thereto, the code official shall issue a certificate of occupancy within five days after written application. Upon completion and approval of the final inspection, the certificate of occupancy shall be issued. The certificate of occupancy shall specify the following:

1. The edition of the USBC under which the permit is issued.
2. The use group and occupancy in accordance with the provisions of Chapter 3.
3. The type of construction as defined in Chapter 6.
4. If an automatic sprinkler system is provided, whether the sprinkler system is required.
5. Any special stipulations and conditions of the building permit.

E. 118.5. *Posting structures:* Structures classified in Use Groups B, F, H, M or S shall be posted with an approved sign stating the use group and occupancy, live load, occupant load, and date of posting.

F. 118.6. *Street numbers:* Each structure to which a street number has been assigned shall have the number displayed so as to be readable from the public way.

G. 118.7. *Suspension or revocation of certificate of occupancy:* The code official may suspend or revoke the certificate of occupancy or the temporary certificate of occupancy for failure to correct repeated violations in disregard for the provisions of the USBC.

13 VAC 5-61-101. Section 119.0 Stop work order.

A. 119.1. *Notice to owner:* When the code official finds that work on any structure is being executed contrary to the provisions of the USBC or any pertinent laws and ordinances or in a manner endangering the general public, an order may be issued to stop such work immediately. The stop work order shall be in writing. It shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. It shall state the conditions under which work may be resumed. No work covered by a stop work order shall be continued after issuance, except under the conditions stated in the order.

B. 119.2. *Application of order limited:* The stop work order shall apply only to the work that was being performed contrary to the USBC or in a manner endangering the general public, provided other work in the area would not cause concealment of the work for which the stop work order was issued.

13 VAC 5-61-105. Section 120.0 Unsafe structures.

A. 120.1. *Right of condemnation before completion:* Any structure under construction that fails to comply with the USBC through deterioration, improper maintenance, faulty construction, or for other reasons, and thereby becomes unsafe, unsanitary, or deficient in adequate exit facilities, and which constitutes a fire hazard, or is otherwise dangerous to human life or the public welfare, shall be deemed either a public nuisance or an unsafe structure. Any such unsafe structure shall be made safe through compliance with the USBC or shall be taken down and

removed, as the code official may deem necessary, according to authority granted by the local governing body.

B. 120.1.1. Inspection of unsafe structures; records: The code official shall examine every structure under construction reported as unsafe, and shall prepare a report to be filed in the records of the local building department. In addition to a description of unsafe conditions found, the report shall include the use of the structure, and nature and extent of damages, if any, caused by a collapse or failure.

C. 120.1.2. Notice of unsafe structure: If a structure under construction is found to be unsafe the code official shall serve a written notice of unsafe structure on the owner and the permit holders, describing the unsafe condition and specifying the required repairs or improvements to be made to render the structure safe, or requiring the unsafe structure or portion thereof to be taken down and removed within a stipulated time. Such notice shall require the person thus notified to declare immediately to the code official the acceptance or rejection of the terms of the notice.

D. 120.1.3. Posting of unsafe structure notice: If the persons named in the notice of unsafe structure, under construction, cannot be found after diligent search, such notice shall be sent by registered or certified mail to the last known address of such persons and a copy of the notice shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.

E. 120.1.4. Disregard of notice: Upon refusal or neglect of the persons served with a notice of unsafe structure to comply with the requirement of the notice to abate the unsafe condition, the legal counsel of the local governing body shall be advised of all the facts and shall be requested to institute the appropriate legal action to compel compliance.

F. 120.1.5. Vacating structure: When during construction, in the opinion of the code official, there is actual and immediate danger of failure or collapse of a structure, or any part thereof, which would endanger life, or when any structure or part of a structure has fallen and life is endangered by occupancy of the structure, the code official may order the occupants to vacate the structure forthwith. The code official shall cause a notice to be posted at each entrance to such structure reading as follows: "This Structure is Unsafe and its Use or Occupancy has been Prohibited by the Code Official." No person shall thereafter enter such structure except for one of the following purposes: (i) to make the required repairs; (ii) to take the structure down and remove it; or (iii) to make inspections authorized by the code official.

G. 120.1.6. Temporary safeguards and emergency repairs: When, in the opinion of the code official, there is immediate danger of collapse or failure of a structure under construction or any part thereof which would endanger life, or when a violation of this code results in a fire hazard that creates an immediate, serious and imminent threat to the life and safety of the occupants; the code official shall cause the necessary work to be done to the extent permitted by the local governing body to render such structure or part thereof temporarily safe, whether or not legal action to compel compliance has been instituted.

H. 120.2. Right of condemnation after completion: Authority to condemn unsafe structures on which construction has been completed and a certificate of occupancy has been issued, or which have been occupied, is permitted to be exercised after official action by the local

governing body under § 36-105 of the Code of Virginia (see Part III (13 VAC 5-61-121 et seq.) of this chapter).

I. 120.3. Abatement or removal: Whenever the owner, of a structure under construction that has been deemed to be a public nuisance or unsafe, under Section 120.1 or Section 120.2, fails to comply with the requirements of the notice to abate, the code official may cause the structure to be razed or removed, according to authority granted to the building code official by the local governing body.

Note: A local governing body may, after official action under § 15.2-900, 15.2-906 or 15.2-1115 of the Code of Virginia, maintain an action to compel a responsible party to abate, raze, or remove a public nuisance. If the public nuisance presents an imminent and immediate threat to life or property, then the local governing body may abate, raze, or remove such public nuisance, and the local governing body may bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any such public nuisance.

13 VAC 5-61-111. Section 121.0 Violations.

A. 121.1. Unlawful acts: It shall be unlawful for any person, firm or corporation to construct, alter, remove, demolish or occupy any structure or equipment regulated by the USBC, or cause same to be done, in conflict with or in violation of any of the provisions of the USBC.

B. 121.2. Notice of violation: The code official shall serve a notice of violation to the responsible party as determined by Section 121.1 if (i) the defective work has not been remedied within a reasonable time following an inspection report or (ii) any other directive or order of the code official has not been complied with within a reasonable time. The notice shall reference the USBC section that serves as the basis for such notice and direct the discontinuance and abatement of the alleged violation. The notice shall be in writing and be served by either delivering a copy to the responsible party by mail to the last known address or delivering the notice in person or by leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place at the entrance door or access way if the person in charge of the premises cannot be found. The notice of violation shall indicate the right of appeal by reference to the appeals section.

C. 121.2.1. Copies of notice: A copy of the notice shall be delivered to the owner and the permit holders under which the alleged violation falls, when not the cited responsible party, as applicable.

D. 121.2.2. Limitation of notice: When an alleged violation relating to construction is discovered more than two years after either (i) the certificate of occupancy is issued or the date of initial occupancy, whichever is later, or (ii) the final inspection for an alteration or renovation, a notice of violation shall only be issued upon advice from legal counsel to the local governing body that action may be taken to compel correction of the violation. The code official shall document alleged violations of the applicable edition of the USBC once compliance can no longer be compelled by prosecution under § 36-106 of the Code of Virginia.

E. 121.3. Prosecution of violation: If the responsible party has not complied with the notice of violation, the code official shall request, in writing, the legal counsel of the local governing body to institute the appropriate legal proceedings to restrain, correct or abate such alleged violation or to require the removal or termination of the use of the structure in violation of the

provisions of the USBC. Compliance with a notice of violation notwithstanding, the code official may request legal proceedings be instituted for prosecution when a person, firm or corporation is served with three or more notices of violation within one calendar year for failure to obtain a required construction permit prior to commencement of work regulated under the USBC.

F. 121.3.1. Civil penalties: Under § 36-106 of the Code of Virginia, any locality may adopt an ordinance which establishes a uniform schedule of civil penalties for violations of specified provisions of the USBC which are not abated or remedied promptly after receipt of notice of violation from the code official.

G. 121.4. Violation penalties: Penalties, upon conviction, for violations of the USBC shall be as set out in § 36-106 of the Code of Virginia.

H. 121.5. Abatement of violation: Conviction of a violation of the USBC shall not preclude the institution of appropriate legal action to require correction or abatement of the violation.

13 VAC 5-61-115. Section 122.0 Appeals.

A. 122.1. Local Board of Building Code Appeals (BBCA): Each local governing body shall have a BBCA to hear appeals as authorized herein; or it shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the DHCD, to act on appeals. The BBCA shall be permitted to also hear appeals under Part III (13 VAC 5-61-121 et seq.) of this chapter, if the local governing body has elected to enforce such part, or the local governing body may have a separate BBCA provided that each BBCA complies with this section. An appeal case decided by a BBCA or a separate BBCA shall constitute an appeal in accordance with this section and shall be final unless appealed to the State Building Code Technical Review Board (TRB).

B. 122.2. Membership of BBCA: The BBCA shall consist of at least five members appointed by the local governing body and having terms of office established by written policy. Alternate members may be appointed to serve in the absence of any regular members and as such, shall have the full power and authority of the regular members. Regular and alternate members may be reappointed. Written records of current membership, including a record of the current chairman and secretary shall be maintained in the office of the local governing body. In order to provide continuity, the terms of the members may be of different length so that less than half will expire in any one-year period.

C. 122.2.1. Chairman: The BBCA shall annually select one of its regular members to serve as chairman. In case of the absence of the chairman at a hearing, the members present shall select an acting chairman.

D. 122.2.2. Secretary: The local governing body shall appoint a secretary to the BBCA to maintain a detailed record of all proceedings.

E. 122.3. Qualifications of BBCA members: BBCA members shall be selected by the local governing body on the basis of their ability to render fair and competent decisions regarding application of the USBC and shall to the extent possible, represent different occupational or professional fields relating to the construction industry. At least one member should be an experienced builder and one member a licensed architect or professional engineer. Employees or officials of the local governing body shall not serve as members of the BBCA.

F. 122.4. Disqualification of member: A member shall not hear an appeal in which that member has conflict of interest in accordance with the State and Local Government Conflict of Interests Act (§ 2.1-639 et seq. of the Code of Virginia).

G. 122.5. Application for appeal: The owner of a structure, the owner's agent or any other person involved in the design, construction or maintenance of the structure pursuant to Part III of this chapter may appeal the code official's decision concerning application of the USBC or refusal to grant modification to the provisions of the USBC covering the manner of construction or materials to be used in the erection, alteration, repair or maintenance (pursuant to Part III) of that structure. The applicant shall submit a written request for appeal to the BBCA within 90 (21 calendar days for maintenance Part III) calendar days from the receipt of the decision to be appealed. The application shall contain the name and address of the owner of the structure and the person appealing if not the owner. A copy of the code official's decision shall be submitted along with the application for appeal and maintained as part of the record. The application shall be marked by the BBCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of the code official's decision.

H. 122.6. Notice of meeting: The BBCA shall meet within 30 calendar days after the date of receipt of the application for appeal. Notice indicating the time and place of the hearing shall be sent to the parties in writing to the addresses listed on the application at least 14 calendar days prior to the date of the hearing. Less notice may be given if agreed upon by the applicant.

I. 122.7. Hearing procedures: All hearings before the BBCA shall be open to the public. The appellant, the appellant's representative, the local governing body's representative and any person whose interests are affected shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings.

J. 122.7.1. Postponement: When a quorum of the BBCA is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing. The BBCA shall reschedule the appeal within 30 calendar days of the postponement.

K. 122.8. Decision: The BBCA shall have the power to uphold, reverse or modify the decision of the code official by a concurring vote of a majority of those present. Decisions of the BBCA shall be final if no appeal is made therefrom and the appellant and the code official shall act accordingly.

L. 122.8.1. Resolution: The decision of the BBCA shall be by resolution signed by the chairman and retained as part of the record by the BBCA. The following wording shall be part of the resolution:

"Upon receipt of this resolution, any person who was a party to the appeal may appeal to the State Building Code Technical Review Board by submitting an application to such Board within 21 calendar days. Application forms are available from the Office of the State Building Code Technical Review Board, 501 North Second Street, Richmond, Virginia 23219, (804) 371-7180."

Copies of the resolution shall be furnished to all parties.

M. 122.9. Appeal to the TRB: After final determination by the BBCA, any person who was a party to the BBCA appeal may appeal to the TRB. Appeals from the decision of the code official for state-owned structures shall be made directly to the TRB. Application shall be made to the TRB within 21 calendar days of receipt of the decision to be appealed. Failure to submit an application for appeal within the time limit established by this section shall constitute an acceptance of the BBCA's resolution or code official's decision.

N. 122.9.1. Information to be submitted: Copies of the code official's decision and the resolution of the BBCA shall be submitted with the application for appeal to the TRB. Upon request by the Office of the TRB, the BBCA shall submit a copy of all pertinent information from the record of the appeal. In the case of state-owned buildings, the involved state agency shall submit a copy of the code official's decision and other relevant information.

O. 122.9.2. Decision of TRB: Procedures of the TRB are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the TRB shall be final if no appeal is made therefrom and the appellant and the code official shall act accordingly.

PART III.
MAINTENANCE OF EXISTING STRUCTURES.

13 VAC 5-61-121. Section 123.0 Scope.

A. 123.1. General: The provisions of this part of this chapter of the USBC prescribe building maintenance regulations to be complied with in the maintenance and repair of existing structures and equipment. Such provisions are only enforceable following official action by the local governing body. The official action shall (i) require compliance with "any or all maintenance provisions of this part of this chapter of the USBC " and (ii) assign enforcement responsibility to the local agency or agencies of its choice. The terms "local enforcing agency" and "building maintenance code official" are intended to apply to the agency or agencies to which responsibility for enforcement of this part has been assigned. The terms "building code official" or "local building department" apply only to the local building code official or local building department.

B. 123.2. Purpose: The purpose of this part of this chapter is to ensure public safety, health and welfare through proper building maintenance, repair, use and continued compliance with minimum standards of building construction, energy conservation, water conservation, and physically handicapped and aged accessibility. Proper building maintenance and repair shall be deemed to include the maintenance, repair, testing and inspection of equipment as defined by the Uniform Statewide Building Code (§ 36-97 et seq. of the Code of Virginia).

13 VAC 5-61-125. Section 124.0 Applicability.

A. 124.1. Effect on other codes: This part of Chapter 1 of the USBC shall apply to all existing structures as defined in the Uniform Statewide Building Code Law (§ 36-97 et seq. of the Code of Virginia). This part of Chapter 1 of the USBC supersedes all building maintenance codes and regulations of the counties, municipalities, political subdivisions and state agencies that have been or may be enacted or adopted. However, this will not prevent adoption in accordance with Title 15.2 of the Code of Virginia or other special or general legislation, other requirements by a local governing body which do not affect the manner of construction or materials to be used in the erection, alteration, repair, maintenance or use of a structure.

B. 124.2. Pre-USBC structures: Following official action by the local governing body, existing structures or portions thereof constructed, altered or occupancy converted prior to September 1, 1973, shall be maintained in compliance with the provisions of this part of this chapter. No provisions of this part of this chapter shall require alterations to structures or equipment unless an unsafe or unhealthy condition exists.

C. 124.2.1. Post-USBC structures: Following official action by the local governing body, existing structures or portions thereof and equipment, subject to the USBC when constructed, altered or occupancy converted shall be maintained and repaired in compliance with this part of this chapter and the USBC edition in effect when constructed, altered or converted.

D. 124.3. Limitation of application: No provision of this part of this chapter and the standards referenced therein may be used to require alterations to the design or equipment or any portion of a structure that was subject to the USBC when constructed, altered or converted as to use group, and which is occupied in accordance with the certificate of occupancy issued under the applicable edition of the USBC.

E. 124.4. Exemptions: Exemptions from application of this part of this chapter of the USBC shall be in accordance with the exemptions from application of Part II (13 VAC 5-61-15 et seq.) of this chapter of the USBC.

Exceptions: Industrialized buildings and manufactured homes.

13 VAC 5-61-131. Section 125.0 Incorporation by reference.

A. 125.1. Adoption: The following document is adopted and incorporated by reference to be an enforceable part of the USBC:

The BOCA National Property Maintenance Code/1996, Fifth Edition, hereinafter referred to as "BNPMC," published by Building Officials and Code Administrators International, Inc., 4051 W. Flossmoor Rd., Country Club Hills, IL 60478-5795, toll free number 1-800-323-1103.

B. 125.1.1. Deletion: Delete BNPMC Chapter 1.

C. 125.2. Administrative and enforcement amendments: All requirements of the BNPMC and the standards referenced therein that relate to administrative and enforcement and all other procedural matters are deleted and replaced by this part of this chapter of the USBC. The provisions of this part of this chapter shall be used by enforcement personnel. The purpose of this provision is to eliminate overlap, conflict and duplication by providing a single standard for administration and enforcement of this part of the USBC.

Note: The BNPMC and its referenced standards contain some areas of regulation outside of the scope of the USBC, as established by the BHCD and under state law. Where conflicts have been readily noted, changes have been made to the BNPMC its referenced standards to bring it within the scope of authority; however, in some areas, judgments will have to be made as to whether the provisions of the BNPMC and its referenced standards are applicable.

D. 125.3. Other amendments: The USBC amendments (Part IV (13 VAC 5-61-200 et seq.) of this code) noted in BNBC, Chapter 34, Existing Structures, shall be made to the BNPMC and its referenced standards for use as part of this part. The USBC contains provisions adopted by the BHCD, some of which change or amend provisions of the BNPMC and its referenced standards.

Where conflicts occur between such changed provisions and the unchanged provisions of the BNPMP and its referenced standards, the provisions changed by the BHCD shall govern.

13 VAC 5-61-135. Section 126.0 Enforcement.

A. 126.1. General: Following official action by the local governing body, enforcement of the provisions of the USBC governing maintenance is the responsibility of the local enforcing agency.

B. 126.2. Interagency coordination: When enforcement of any portion of this part of this chapter is assigned to an agency other than the local building department, that local enforcing agency shall coordinate its reports of inspection with the local building department.

C. 126.3. Permits: Alterations, repairs, installations, construction or demolition shall be subject to the building permit, certificate of occupancy and other provisions of Part II of this chapter of the USBC.

D. 126.4. Fees: Section 36-105 of the Code of Virginia provides that fees are permitted to be levied by the local governing body in order to defray the cost of enforcement and appeals.

13 VAC 5-61-141. Section 127.0 Local enforcing agency.

A. 127.1. Code official: Each local enforcing agency shall have an executive official in charge, hereinafter referred to as the "building maintenance code official" or "code official."

B. 127.1.1. Appointment: The building maintenance code official shall be appointed in a manner selected by the local governing body. After appointment, the building maintenance code official shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority.

C. 127.1.2. Notification: The local governing body shall notify the DHCD within 30 days of the appointment or release of the building maintenance code official

D. 127.1.2. Qualifications: The building maintenance code official shall have at least five years of experience as a licensed professional engineer, building inspector, fire inspector, housing inspector, contractor or superintendent of building construction, with at least three years in responsible charge of work, or shall have any combination of education and experience which would confer equivalent knowledge and ability. The code official shall have general knowledge with respect to the design and construction of buildings, the basic principles of fire prevention, plumbing, electrical and mechanical systems, building safety, and other accepted requirements for the health, safety and general welfare of the occupants and the public. The local governing body may establish additional qualification requirements.

E. 127.1.3. Certification: The building maintenance code official shall be certified in accordance with the Virginia Certification Standards (13 VAC 5-21-10 et seq.) within one year from the date of employment, unless appointed prior to April 1, 1995, with continued appointment.

F. 127.1.4. Noncertified: After appointment, a non-BHCD certified building maintenance code official shall complete a DHCD orientation seminar within 60 days. In addition, within 180 days, such code official shall attend the core program of the Virginia Building Code Academy, or its equivalent in a DHCD accredited academy.

G. 127.2. Technical assistants: The building maintenance code official shall, subject to any limitations imposed by the local governing body, appoint such number of building maintenance technical assistants as are necessary for the administration and enforcement of the USBC.

H. 127.2.1. Qualifications: A building maintenance technical assistant shall have at least three years in general building construction, building, fire or housing inspections, and general knowledge of plumbing, electrical and mechanical systems. Any combination of education and experience, which would confer equivalent knowledge and ability, shall be deemed to satisfy this requirement. The local governing body may establish additional qualification requirements.

I. 127.2.2. Certification: Any person employed by, or under contract to, a local enforcing agency for determining compliance with the USBC shall be certified in the appropriate subject areas, in accordance with the Virginia Certification Standards (13 VAC 5-21-10 et seq.) within three years from the date of employment, unless appointed prior to April 1, 1995, with continued appointment.

J. 127.3. Continuing education: Building maintenance code officials and technical assistants enforcing the USBC shall attend periodic training courses as designated by the DHCD and such other training as designated by the local governing body.

K. 127.4. Control of conflict of interest: The minimum standards of conduct for officials and employees of the local enforcing agency shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act (§ 2.1-639.1 et seq. of the Code of Virginia).

13 VAC 5-61-145. Section 128.0 Duties and powers of the code official.

A. 128.1. General: The building maintenance code official shall enforce the provisions of Part III of this chapter of the USBC as provided herein and as interpreted by the TRB.

B. 128.1.2. Right of inspection: The building maintenance code official may inspect existing structures and equipment to enforce this part of this chapter as authorized by § 36-105 of the Code of Virginia. The building maintenance code official and assistants shall carry proper credentials of office when inspecting structures and equipment in the performance of duties under the USBC.

C. 128.1.2.1. Records: The code official shall approve the maintenance or use in writing or give written notice of defective maintenance or use to the owner and the person responsible for maintenance or use of a structure. Such defects shall be corrected within a reasonable time and reinspected. Records of all reports of inspections, tests, examinations, discrepancies, notices, approvals, modifications and orders issued shall be communicated promptly in writing to the owner and the person responsible for maintenance or use of a structure.

D. 128.2. Modifications: The code official may grant modification to any provision of this part upon application by the owner or the owner's agent provided the spirit and intent of the USBC are observed and public health, welfare, and safety are assured.

E. 128.2.1. Supporting data: The code official may also require and consider a statement from an architect, professional engineer or other competent person as to the equivalency of the proposed modification.

F. 128.2.2. Records: The application for modification and the final decision of the code official shall be in writing and shall be recorded in the permanent records of the local enforcing agency.

G. 128.3. Delegation of duties and powers: The code official may delegate duties and powers subject to any limitations imposed by the local governing body, but shall be responsible that any such powers and duties are carried out in accordance with the USBC.

H. 128.4. Enforcing agency records: The code official shall keep records of; reports of inspections, tests, examinations, discrepancies, notices, approvals, fees collected, modifications and orders issued and such other matters as directed by the local governing body. Such records shall be retained in the official records or shall be disposed of in accordance with General Schedule Number Six available from the Library of Virginia.

I. 128.5. Coordination with other agencies. The building maintenance code official shall cooperate with fire, health and other state and local agencies having related maintenance, inspection or functional design responsibilities, and shall coordinate required inspections. The building maintenance code official shall coordinate all reports of inspections for compliance with Part III of the USBC, with inspections of fire and health officials delegated such authority.

13 VAC 5-61-151. Section 129.0 Unsafe structures.

A. 129.1. General: This section shall apply to existing structures and equipment that fail to comply with this part of the USBC through damage, deterioration, infestation, improper maintenance, or for other reasons, and thereby become unsafe, unsanitary, or deficient in adequate exit facilities, or which constitute a hazard or public nuisance, or are otherwise dangerous to human life, health or safety, or the public welfare. All such structures declared by the code official to be a public nuisance or unfit for human habitation shall either: (i) be made safe through compliance with this code, or (ii) be vacated and secured against public entry, or (iii) be taken down and removed as determined by the building maintenance code official. Such work shall comply with the requirements of Part II (13 VAC 5-61-15 et seq.) of this chapter of the USBC. A vacant structure, unsecured or open at door or window, shall be deemed a fire hazard and unsafe within the meaning of this section.

B. 129.1.1. Unsafe conditions not related to maintenance: When the code official finds a condition that constitutes a serious and dangerous hazard to life or health in an existing structure which was constructed, altered, converted, or repaired before the effective date of the initial edition of the USBC, and when such condition was not caused by faulty maintenance, or by failure to comply with the applicable state and local regulations that were in effect at the time, the building maintenance code official is permitted to order the minimum changes needed to remedy the hazardous condition. Such work shall comply with the requirements of Part II of this chapter of the USBC.

C. 129.1.2. Retrofitting: This part of this chapter of the USBC does not generally provide for retrofitting of an existing structure. However, conditions may exist in older structures, because of faulty design or equipment, which constitute such serious and dangerous hazards that correction is necessary to protect life and health. It is not the intent of this section that such changes comply fully with the requirements of the current edition of the USBC (Part II). Only those changes that are needed to remedy the serious and dangerous hazards to life or health may be required by the building maintenance code official.

D. 129.2. Inspection of unsafe structures: The code official shall examine any existing structure reported as unsafe, and shall prepare a report to be filed in the records of the local enforcing agency and a copy served to the owner. In addition to a description of unsafe

conditions found, the report shall include the use of the structure, and nature and extent of damages, if any caused by a collapse or failure.

E. 129.3. Notice of unsafe structures: If an existing structure is found to be unsafe, the code official shall serve a notice on the owner, the owner's agent or person in control of the unsafe existing structure. The notice shall specify the required repairs or improvements to be made to the structure, or require the unsafe structure, or portion of the structure to be taken down and removed within a stipulated time. Such work shall comply with the requirements of Part II of this chapter of the USBC. Such notice shall require the owner to declare to the code official without delay acceptance or rejection of the terms of the notice.

Note: Whenever possible, the notice of unsafe structure should also be given to the tenants of the unsafe structure.

F. 129.4. Posting of unsafe structure notice: If the person named in the notice of unsafe structure and the owner cannot be found, the notice shall be sent by registered or certified mail to the last known address of such persons. A copy of the notice shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.

G. 129.5. Disregard of notice: If the person served with a notice of unsafe structure and the owner refuses or fails to comply with requirements of the notice to abate the unsafe condition, the code official may revoke the certificate of occupancy. In the case of a vacant structure, including one vacated through revocation of the certificate of occupancy, the code official may cause the structure to be closed through any available means, according to authority granted by the local governing body.

H. 129.6. Authority to vacate structure: When in the opinion of the code official, there is actual and immediate danger of failure or collapse of an existing structure or any part thereof which would endanger life; or when any structure or part thereof has fallen and life is endangered by occupancy of the structure; or when any other hazardous condition poses an immediate and serious threat to life; or when a structure is declared a public nuisance, or unfit for human habitation, the code official may order the occupants to vacate the structure. The code official shall post a notice at each entrance to such structure that reads: "THIS STRUCTURE IS UNSAFE OR UNFIT FOR HABITATION AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL." Upon the posting of the notice, no person shall enter such structure except upon authorization by the code official for one of the following purposes: (i) to make the required repairs, (ii) to take the structure down and remove it, or (iii) to make inspections.

I. 129.7. Temporary safeguards and emergency repairs: When, in the opinion of the code official, there is immediate danger of collapse or failure of an existing structure or any part thereof which would endanger life, or when a violation of this part of this chapter of the USBC results in a hazard that creates an immediate, serious and imminent threat to the life and safety of the occupants, the code official shall have the necessary work done to the extent permitted by the local governing body to make such structure or part thereof temporarily safe, whether or not legal action to compel compliance has been instituted.. Such work shall comply with the requirements of Part II of this chapter of the USBC.

J. 129.8. Abatement or removal: Whenever the owner, of a structure that has been deemed to be a public nuisance under Section 129.1, fails to comply with the requirements of the notice to

abate, the code official may cause the structure to be razed or removed, according to authority granted by the local governing body. Such work shall comply with the requirements of Part II of this chapter of the USBC. A local governing body may, after official action under § 15.2-900, 15.2-906 or 15.2-1115 of the Code of Virginia, maintain an action to compel a responsible party to abate, raze, or remove a public nuisance. If the public nuisance presents an imminent and immediate threat to life or property, then the local governing body may abate, raze, or remove such public nuisance, and bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any such public nuisance.

13 VAC 5-61-155. Section 130.0 Demolition.

130.1. Procedures: Whenever a structure is to be demolished the work shall be carried out in compliance with the requirements of Part II (13 VAC 5-61-15 et seq.) of this chapter of the USBC.

13 VAC 5-61-161. Section 131.0 Dangerous and dilapidated structures.

A. 131.1. General: The code official shall order the owner of any premises upon which is located any dangerous and dilapidated structure to repair and rehabilitate the structure in accordance with this code or to demolish and to remove such structure.

B. 131.2. Dangerous buildings as public nuisances: All dangerous or dilapidated structures as defined by this code are hereby determined to be public nuisances and shall be abated by alteration, repair, rehabilitation, demolition or removal in accordance with the procedures specified in this code.

C. 131.3. Failure to comply: If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be razed and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be collected in a manner allowed by law.

13 VAC 5-61-165. Section 132.0 Violations.

A. 132.1. Unlawful acts: It shall be unlawful for any person, firm or corporation to use or not maintain any structure or equipment regulated by this part of this chapter of the USBC, or cause same to be done, in conflict with or in violation of any of the provisions of this part of this chapter of the USBC.

B. 132.2. Notice of violation: The code official shall serve a notice of violation to the responsible party as determined by Section 132.1 if (i) the defective maintenance or use has not been remedied within a reasonable time following the report or notice issued under Section 128.0 or (ii) any other directive or order of the code official has not been complied with within a reasonable time. The notice of violation shall reference the code section that serves as the basis for the notice and direct the discontinuance and abatement of the alleged violation. The notice shall be in writing and be served by either delivering a copy to the responsible party and the owner by mail to the last known address or delivering the notice in person or by leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place at the entrance door or access way if the person in charge of the premises cannot be found. The notice of violation shall state the right of appeal by reference to the appeals section.

C. 132.3. Prosecution of violation: If the responsible party has not complied with the notice of violation, the code official shall request, in writing, the legal counsel of the local governing body to institute the appropriate legal proceedings to restrain, correct or abate such alleged violation or to require the removal or termination of the use of the structure in violation of the provisions of the USBC.

D. 132.3.1. Civil penalties: Civil penalties shall be in accordance with the provisions of Part II (13 VAC 5-61-15 et seq.) of this chapter for civil penalties.

E. 132.4. Violation penalties: Penalties upon conviction of violating the USBC shall be as required in § 36-106 of the Code of Virginia.

F. 132.5. Abatement of violation: Conviction of a violation of the USBC shall not preclude the institution of appropriate legal action to require correction or abatement of the violation.

G. 132.6. Suspension or revocation of certificate of occupancy: The code official may suspend or revoke the certificate of occupancy for failure to correct repeated violations in disregard for the provisions of the USBC.

13 VAC 5-61-171. Section 133.0 Appeals.

133.1. General: Appeals arising from application of this part of this chapter of the USBC shall be in accordance with the provisions of Part II (13 VAC 5-61-15 et seq.) of this chapter for appeals.

Exception: The applicant shall submit a written request for appeal to the BBCA within 21 calendar days from the receipt of the decision to be appealed.

**PART IV.
TECHNICAL AMENDMENTS.**

13 VAC 5-61-200. BNBC Section 202.0 General definitions.

A. Change the following definitions to read:

Building: A combination of any materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons, or property; ~~however, farm buildings not used for residential purposes and frequented generally by the owner, members of his family and farm employees shall be exempt from this code, but such buildings lying within a flood plain or in a mudslide prone area shall be subject to flood proofing regulations or mudslide regulations, as applicable.~~ The word "building" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. For application of this code, each portion of a building which is completely separated from other portions by fire walls complying with Section 707.0 shall be considered as a separate building.

Jurisdiction: *The governing body of any city, county or town in this Commonwealth. See local governing body.*

Owner: The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee or lessee in control of a building or structure.

Structure: An assembly of materials forming a construction for occupancy or use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, storage tanks (underground and aboveground), trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature but excluding water wells. ~~Farm structures not used for residential purposes shall be exempt from the provisions of this code, but such structures lying within a flood plain or in a mudslide prone area shall be subject to flood proofing regulations or mudslide regulations, as applicable.~~ The word "structure" shall be construed as though followed by the words "or part or parts thereof" *and "or equipment"* unless the context clearly requires a different meaning.

B. Add the following definitions to read:

Breezeway: See Section 1002.0.

Building regulations: Any law, rule, resolution, regulation, ordinance or code, general or special, or compilation thereof, heretofore or hereafter enacted or adopted by the Commonwealth or any county or municipality, including departments, boards, bureaus, commissions, or other agencies thereof, relating to construction, reconstruction, alteration, conversion, repair, maintenance, or use of structures and buildings and installation of equipment therein. The term does not include zoning ordinances or other land use controls that do not affect the manner of construction or materials to be used in the erection, alteration or repair of a building or structure.

Code official:

Building code official: The officer or other designated authority charged with the administration and enforcement of the USBC or a duly authorized representative.

Building maintenance code official: The officer or other designated authority charged with the administration and enforcement of the maintenance provisions of the USBC for existing structures or a duly authorized representative.

Construction: The construction, reconstruction, alteration, repair, or conversion of buildings and structures.

Day-night average sound level (Ldn): See Section 1202.0.

DHCD: The Virginia Department of Housing and Community Development.

Equipment: Plumbing, heating, electrical, ventilating, air-conditioning and refrigeration equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

~~Farm structure: A structure located on a farm utilized for either the storage, handling or production of agricultural, horticultural or floricultural products or the sheltering, raising or processing of farm animals or farm animal products, which products or animals are normally intended for sale to domestic or foreign markets. The term shall include structures used for the maintenance, storage or use of farm equipment.~~

Industrialized building: A combination of one or more sections or modules, subject to state regulations and including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or

erection, with or without other specified components, to comprise a finished building. Manufactured homes shall not be considered industrialized buildings for the purpose of this code.

Local building department: The agency or agencies of any local governing body charged with the administration, supervision or enforcement of ~~this code~~ *the provisions of Part II (13 VAC 5-61-15 et seq.) of Chapter 1 of the USBC, including but not limited to approval of plans, inspection of buildings structures or issuance of permits, licenses, certificates, or similar documents. For application of this code the USBC, the term "department of building inspection" shall mean the local building department.*

Local enforcing agency: The local agency or agencies charged by the local governing body with the administration, supervision or enforcement of the provisions of Part III (13 VAC 5-61-121 et seq.) of Chapter 1 of the USBC. The local governing body is permitted to assign "local enforcing agency" responsibility to the "local building department."

Local governing body: The governing body of any city, county or town in this Commonwealth. See jurisdiction.

Manufactured home: A structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

Skirting: A weather-resistant material used to enclose the space from the bottom of the manufactured home to grade.

State-regulated care facility (SRCF): A building or part thereof occupied by persons in the care of others where program regulatory oversight is provided by the Virginia Department of Social Services; Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services; Virginia Department of Education; or Virginia Department of Juvenile Justice (Use groups R-2, R-3 and R-4 only).

Sound transmission class (STC) rating: See Section 1202.0.

Technical assistant: Any person employed by, or under contract to, a local building department or local enforcing agency for enforcing the USBC, including but not limited to inspectors and plans reviewers.

TRB: The Virginia State Building Code Technical Review Board.

C. Delete the ~~definition~~ *following definitions:*

"Agricultural building."

"Approved rules."

"Structure, existing."

13 VAC 5-61-220. BNBC Section 310.0 Residential use groups.

A. Change subsection 310.1 to read:

310.1. General: All structures in which sleeping accommodations are provided, excluding those that are classified as institutional occupancies, shall be classified as Use Group R-1, R-2, R-3 or R-4. The term "Use Group R" shall include Use Groups R-1, R-2, and R-3. Family day homes licensed or certified by the Virginia Department of Social Services shall be permitted to accommodate the numbers of children permitted under the licensing restrictions and shall be classified as a residential use group.

B. Change subsection 310.6 to read:

310.6. Use Group R-4 structures: This use group shall include all detached one- or two-family dwellings and one-family townhouses not more than three stories in height, and the accessory structures as indicated in the CABO One- and Two-Family Dwelling Code listed in Chapter 35 of this code. All such structures shall be designed in accordance with the CABO One- and Two-Family Dwelling Code listed in Chapter 35 of this code or in accordance with the requirements of this code applicable to Use Group R-3.

Exceptions:

- ~~1. Structures classified as Use Group R-4 shall comply with applicable requirements of Section 3107.0 of this code.~~
- ~~2. Structures classified as Use Group R-4 shall comply with the requirements of Section 1214.4 of this code, when applicable.~~

C. Add subsection 310.6.1 to read:

310.6.1. Amendments to the CABO Code: The following changes shall be made to the CABO One- and Two-Family Dwelling Code listed in Chapter 35 of this code:

1. Delete the note in CABO subsection 114.1.
2. Change CABO subsection 115.1 to read:

115.1. General: Swimming pools, spas and hot tubs shall comply with the provisions in Appendix D.
3. Change CABO subsection 119.1 to read:

119.1. General: The provisions for energy conservation contained in Appendix E shall be part of this code.
4. Add exception to CABO subsection 301.2 to read:

Exception: Heating facilities shall be required in accordance with Section 303.6. The winter design temperature for heating facilities required or provided shall be established by the jurisdiction in accordance with this section.
5. Add CABO subsection 301.7 to read:

301.7. Airport noise attenuation standards: Following official action by the local governing body under § 15.2-2295 of the Code of Virginia, all structures to be located in areas affected by above average noise levels from aircraft due to their proximity to flight operations at nearby airports as determined by the governing body having jurisdiction shall have acoustical treatment measures in accordance with the provisions of Section 3107.0 of the BNBC.

6. Add CABO subsection 301.8 to read:

301.8. Floodproofing: All structures to be located in areas prone to flooding as determined by the local governing body shall be floodproofed in accordance with the provisions of Section 3107.0 of the BNBC.

~~5.~~ 7. Change CABO subsection 303.6 to read:

303.6. Required heating: Every dwelling unit or portion thereof which is to be rented, leased or let on terms either expressed or implied to furnish heat to the occupants thereof shall be provided with heating facilities capable of maintaining the room temperatures at 65°F (18°C) during the period from October 4¹⁵ to May 4⁵ 1 during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60°F (16°C) during other hours when measured at a point three feet (914 mm) above the floor and three feet (914 mm) from the exterior walls. The capability of the heating system shall be based on the winter design temperature for heating facilities established by the jurisdiction.

~~6.~~ 8. Add CABO subsection 303.7 to read:

303.7. Insect screens: Every door, window and other outside opening required for ventilation purposes shall be supplied with approved tightly fitted screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device.

~~7.~~ 9. Add CABO subsection 306.5 to read:

306.5. Approval: Water supply sources and sewage disposal systems are regulated and approved by the Virginia Department of Health.

10. Change CABO subsection 310.2 to read:

310.2. Emergency egress required: Every sleeping room shall have at least one operable window or exterior door approved for emergency egress or rescue. The units must be operable from the inside to a full clear opening, including an operable sash without the use of a key or tool. Where windows are provided as a means of egress or rescue, they shall have a sill height of not more than 44 inches (1118 mm) above the floor.

~~8.~~ 11. Change CABO subsection 310.4 to read:

310.4. Type of lock or latch: All egress doors shall be readily openable from the inside without the use of a key unless the key cannot be removed from the lock when the door is locked from the inside.

~~9.~~ 12. Change CABO subsection 314.2 to read:

314.2. Treads and risers: The maximum riser height shall be ~~8~~ eight inches (~~210~~ 203 mm) and the minimum tread depth shall be nine inches (229 mm). The riser height shall be measured vertically between leading edges of the adjacent treads. The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The walking surface of treads and landings of a stairway shall be sloped no steeper than one unit vertical in 48 units horizontal (2.0% slope). The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

~~10.~~ 13. Change CABO subsection 314.4 to read:

314.4. Winders: Winders are permitted, provided that the width of the tread at a point not more than 12 inches (305 mm) from the side where the treads are narrower is not less than nine inches (229 mm) and the minimum width of any tread is not less than six inches (153 mm). The continuous handrail required by Section 314.1 shall be located on the side where the tread is narrower.

~~11.~~ 14. Change CABO subsection 314.6 to read:

314.6. Circular stairways: Circular stairways shall have a minimum tread depth and a maximum riser height in accordance with Section 314.2 and the smaller radius shall not be less than twice the width of the stairway. The minimum tread depth of nine inches (229 mm) shall be measured from the narrower end.

~~12.~~ 15. Change subsection 315.2 to read:

315.2. Handrail grip size: The handgrip portion of the handrails shall not be more than 2-5/8 inches (66.7 mm) in cross-sectional dimension, or the shape shall provide an equivalent gripping surface. The handgrip portion of handrails shall have a smooth surface with no sharp corners.

~~13.~~ 16. Delete CABO subsection 316.1.1.

~~14.~~ Delete CABO Section 324 Protection Against Radon.

~~15.~~ 17. Change subsection 401.4 to read:

401.4. Soil tests: Localities having 20% and greater moderate and high shrink/swell potential of the jurisdictional land area shall implement an expansive soil test policy. Localities having less than 20% moderate and high shrink/swell potential of the jurisdictional land area may adopt a soil test policy. The policy shall establish minimum criteria to determine the circumstances which require testing for expansive soils and the minimum testing requirements. The policy shall be established in a manner selected by the local government having jurisdiction. All localities shall obtain and retain as a reference guide a copy of the applicable National Cooperative Soil Survey produced cooperatively by the Natural Resources Conservation Service and the Virginia Polytechnic Institute and State University, where this survey is available. Figures 401.4a and 401.4b shall be used to determine the percentage of jurisdictional land area which has moderate or high shrink/swell potential.

Exception: For additions to one- and two-family dwellings or slab-on-grade accessory structures and decks where there is no indication of a shrink-swell condition for the area.

18. Add CABO subsection 703.9 to read:

703.9. *Exterior insulation and finish systems (EIFS): Exterior insulation and finish systems (EIFS) shall comply with BNBC Section 1405.8.*

19. Add CABO subsection 3903.1.1 to read:

3903.1.1. *Electrical service equipment: The code official shall give permission to energize the electrical service equipment of a one- or two-family dwelling unit when all of the following requirements have been approved:*

1. *The service wiring and equipment, including the meter socket enclosure, shall be installed and the service wiring terminated.*
2. *The grounding electrode system shall be installed and terminated.*
3. *Grounding and grounded conductors shall be terminated in the service equipment.*
4. *At least one receptacle outlet on a ground fault protected circuit shall be installed and the circuit wiring terminated.*
5. *Service equipment covers shall be installed.*
6. *The building roof covering shall be installed.*

13 VAC 5-61-225. BNBC Section 312.0 Utility and miscellaneous use group.

Change subsection 312.1 to read:

312.1. General: Buildings and structures of an accessory character and miscellaneous structures not classified in any specific use group shall be constructed, equipped and maintained to conform to the requirements of this code commensurate with the fire and life hazard incidental to their occupancy. Use Group U shall include fences over six feet (1829 mm) high, tanks, cooling towers, retaining walls and buildings such as private garages, carports, sheds and agricultural buildings.

13 VAC 5-61-245. BNBC Chapter 7 Fire-resistant Materials and Construction.

A. Add subsection 707.11 to read:

707.11. Marking of fire walls: Fire walls shall be so designated by signage having letters no smaller than one inch (25.4 mm) in height indicating the fire-resistance rating at horizontal intervals of no more than eight feet (2438 mm). Such signage is permitted to be located above the ceiling level and shall be located at all ceiling access doors in continuous ceilings.

B. Add subsection 709.8 to read:

709.8. Marking of fire separation assemblies: Vertical fire separation assemblies shall be so designated by signage having letters no smaller than one inch (25.4 mm) in height indicating the fire-resistance rating at horizontal intervals of no more than eight feet (2438 mm). Such signage is permitted to be located above the ceiling level and shall be located at all ceiling access doors in continuous ceilings.

C. Add subsection 711.8 to read:

711.8. Marking of fire partitions: Fire partitions shall be so designated by signage having letters no smaller than one inch (25.4 mm) in height indicating the fire-resistance rating at horizontal intervals of no more than eight feet (2438 mm). Such signage is permitted to be located above the ceiling level and shall be located at all ceiling access doors in continuous ceilings.

D. Add subsection 712.6 to read:

712.6. Marking of smoke barriers: Smoke barriers shall be so designated by signage having letters no smaller than one inch (25.4 mm) in height indicating the fire-resistance rating at horizontal intervals of no more than eight feet (2438 mm). Such signage is permitted to be

located above the ceiling level and shall be located at all ceiling access doors in continuous ceilings.

13 VAC 5-61-255. BNBC Section 906.0 Fire sprinkler system.

Add exception to subsection 906.2.1 to read:

3. In occupancies in Use Group R-2, sprinklers shall not be required in:

a. Bathrooms not exceeding 55 square feet (5.12 m²) in area. In new buildings, these bathrooms must have noncombustible bathtubs, bathtub enclosures, and shower enclosures to meet this exception.

b. Closets where the least dimension does not exceed three feet (914 mm) and which do not contain mechanical or electrical equipment, such as washers, dryers, hot water heaters, furnaces, or heat pumps.

13 VAC 5-61-290. BNBC Section ~~104.0~~ 1014.0 Stairways.

A. Add exception to subsection 1014.11 to read:

7. Stairways connected to exit access breezeways complying with Section 1011.6 are not required to be enclosed.

B. Add exception to subsection 1014.12.2 to read:

4. When the open exterior side or sides of the stairs are at an angle of or greater than 180 degrees from the exterior wall of the building, protection shall not be required for the exterior wall.

13 VAC 5-61-310. BNBC Section 1103.0 Applicability.

A. Add exception to subsection 1103.1 to read:

6. Pulpit, choir, baptismal and similar areas in Use Group A-4 structures are not required to be accessible.

B. Add subsection 1103.1.1 to read:

1103.1.1. Identification of accessible parking spaces: In addition to complying with applicable provisions of this chapter, all accessible parking spaces shall be identified by above grade signs. A sign or symbol painted or otherwise displayed on the pavement of a parking space shall not constitute an above grade sign. All above grade parking space signs shall have the bottom edge of the sign no lower than four feet (1219 mm) nor higher than seven feet (2133 mm) above the parking surface. *All disabled parking signs shall include the following language: PENALTY, \$100-500 Fine, TOW-AWAY ZONE. Such language may be placed on a separate sign and attached below existing above grade disabled parking signs, provided that the bottom edge of the attached sign is no lower than four feet above the parking surface.*

13 VAC 5-61-315. BNBC Section 1104.0 Accessible route.

Change exception # 2 to subsection 1104.2 to read:

2. In other than the offices of health care providers (Use Group B), passenger transportation facilities and airports (Use Group A-3), and Use Group M occupancies with five or more tenant spaces, buildings less than three stories in height or less than 3,000 square feet (279

m²) per floor are not required to have an accessible route to floors above or below the accessible entrance level.

13 VAC 5-61-317. BNBC Section 1110.0 Existing facilities.

Add exception to subsection 1110.2 to read:

2. Occupancies in Use Group R-2 containing four or more dwelling units and occupancies in Use Group R-3 where there are four or more dwelling units in a single structure.

13 VAC 5-61-340. BNBC Section 1214.0 Sound transmission control in residential buildings.

A. Add exception to subsection 1214.1 to read:

Exception: Section 1214.4 applies to the construction of the exterior envelope of residential structures and shall be enforced only after action by the *local* governing body of any county, city or town pursuant to under § ~~15.1-491.03~~ 15.2-2295 of the Code of Virginia.

B. Add subsection 1214.4 to read:

1214.4. Airport noise attenuation standards: Where the Ldn is determined to be 65 dBA or greater, the minimum STC rating of structure components shall be provided in compliance with Table 1214.4. As an alternative to compliance with Table 1214.4, structures shall be permitted to be designed and constructed so as to limit the interior noise level to no greater than 45 Ldn. Exterior structures, terrain and permanent plantings shall be permitted to be included as part of the alternative design. The alternative design shall be certified by a registered design professional.

C. Add Table 1214.4 to read:

TABLE 1214.4.
AIRPORT NOISE ATTENUATION STANDARDS.

| Ldn | STC of exterior walls and roof/ceiling assemblies | STC of doors and windows |
|---------------|---|--------------------------|
| 65-69 | 39 | 25 |
| 70-74 | 44 | 33 |
| 75 or greater | 49 | 38 |

13 VAC 5-61-345. BNBC Section 1405.0 Veneers.

Change subsection 1405.8 to read:

1405.8. Exterior insulation and finish systems (EIFS): Special inspections shall be required for EIFS applications in accordance with Section 1705.1. Exceptions 2 and 3 shall not apply.

Exceptions:

1. Special inspections shall not be required for EIFS applications installed over a water-resistive barrier with a means of draining moisture to the exterior in accordance with Section 1403.3.

2. Special inspections shall not be required for EIFS applications installed over masonry or concrete walls.

13 VAC 5-61-360. BNBC Section 1705.0 Special inspections.

A. Change subsection 1705.1 to read:

1705.1. General: The permit applicant shall provide special inspections where application is made for construction as described in this section. The special inspectors shall be provided by the owner and shall be qualified and approved for the inspection of the work described herein.

B. Change subsection 1705.13 to read:

1705.13. Exterior insulation and finish systems (EIFS): Special inspections shall be based upon the information provided in the manufacturer's installation instructions and the construction documents. The manufacturer's installation instructions shall include criteria for the conditions of the substrate; foam plastic material and application; mesh application; base coat application, including thickness, ambient conditions and cure; sealant requirements; finish coat application; details for joints and flashing at windows, doors; joints in the system, eaves, corners, penetrations, and any other criteria necessary for the proper installation of the EIF system.

13 VAC 5-61-390. BNBC Section 2701.0 General.

Add subsection 2701.1.1 to read:

2701.1.1. Amendments to NFPA 70: The following change shall be made to NFPA 70 listed in Chapter 35 of this code:

Change subsection 336-5 (a) (1) to read:

(1). In any dwelling or structure exceeding four floors above grade.

13 VAC 5-61-395. BNBC Section 2705.0 Temporary use.

Add subsection 2705.1.1 to read:

2705.1.1. One- and two-family dwellings: The code official shall give permission to energize the electrical service equipment of a one- or two-family dwelling unit when all of the following requirements have been approved:

- 1. The service wiring and equipment, including the meter socket enclosure, shall be installed and the service wiring terminated.*
- 2. The grounding electrode system shall be installed and terminated.*
- 3. Grounding and grounded conductors shall be terminated in the service equipment.*
- 4. At least one receptacle outlet on a ground fault protected circuit shall be installed and the circuit wiring terminated.*
- 5. Service equipment covers shall be installed.*
- 6. The building roof covering shall be installed.*

13 VAC 5-61-400. BNBC Section 2801.0 General.

A. Add exception to subsection 2801.1 to read:

Exception: This code shall not govern the installation, alteration and repair of water heaters, boilers and pressure vessels to the extent which they are regulated by the Virginia Boiler and Pressure Vessel Regulations (16 VAC 25-50-10 et seq.). However, the code official may require the owner of a structure to submit documentation to substantiate compliance with those regulations.

B. Add subsection 2801.1.1 to read:

2801.1.1. Heating facilities: Heating facilities shall be provided in structures as follows:

1. Every dwelling unit or portion thereof which is to be rented, leased or let on terms, either expressed or implied, to furnish heat to the occupants thereof shall be provided with heating facilities capable of maintaining the room temperature at 65°F (18°C) during the period from October 1 to May 15 during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60°F (16°C) during other hours when measured at a point three feet (914 mm) above the floor and three feet (914 mm) from the exterior walls. The capability of the heating system shall be based on the outside design temperature required for the locality by this code.

2. Every enclosed occupied work space in nonresidential structures shall be provided with heating facilities capable of producing sufficient heat during the period from October 1 to May 15 to maintain a temperature of not less than 65°F (18°C) during all working hours. The required room temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from the exterior walls.

Processing, storage and operation areas that require cooling or special temperature conditions and areas in which persons are primarily engaged in vigorous physical activities are exempt from these requirements.

C. Add subsection 2801.2.1 to read:

2801.2.1. Fuel gas equipment and systems: All fuel gas equipment and systems shall be constructed, installed and maintained in accordance with the fuel gas code listed in Chapter 35.

13 VAC 5-61-410. BNBC Section 2901.1 General.

A. Change subsection 2901.1 to read:

2901.1. Scope: The design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies and storm water and sewage disposal in buildings, shall comply with the requirements of this chapter and the plumbing code listed in Chapter 35.

Water supply sources and sewage disposal systems are regulated and approved by the Virginia Department of Health. Plumbing fixtures shall be connected to an approved water supply source and to an approved sanitary sewer or private sewage disposal system. Approval of pumping and electrical equipment shall be the responsibility of the code official.

B. Add subsection 2901.1.1 to read:

2901.1.1. Amendments to the plumbing code: The following changes shall be made to the plumbing code listed in Chapter 35:

Add exception to subsection 404.2 to read:

4. *Separate facilities shall not be required in mercantile occupancies in which the structure or tenant space is 5,000 square feet (466.6 m²) or less.*

Change subsection 404.5 to read:

404.5. Customer facilities: Customers, patrons and visitors shall be provided with public toilet facilities in structures and tenant spaces utilized as restaurants, nightclubs, places of assembly and mercantile occupancies. Customer toilet facilities shall be located not more than one story above or below the space required to be provided with customer toilet facilities and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). In covered mall buildings, required facilities shall be based on total square footage, and facilities shall be installed in each individual store or in a central toilet area located in accordance with this section. The maximum travel distance to the central toilet facilities in covered mall buildings shall be measured from the main entrance of any store or tenant space.

Exception: Customer facilities are not required in structures or tenant spaces with a customer occupant load of less than 150 and which do not serve food or beverages to be consumed within the structure or tenant space.

13 VAC 5-61-415. BNBC Chapter 30 Elevators and Conveying Systems.

Add subsection 3007.8 to read:

3007.8. Elevator car to accommodate ambulance stretcher: In buildings four stories in height or more, at least one elevator shall be provided for fire department emergency access to all floors. Such elevator car shall be of such a size and arrangement to accommodate a 24-inch by 76.5-inch (610-mm by 1943-mm) ambulance stretcher in the horizontal, open position and shall be identified by the international symbol for emergency medical services (star of life). The symbol shall be placed inside on both sides of the hoistway door frame.

13 VAC 5-61-430. BNBC Section 3401.0 General.

A. ~~Change subsection~~ *Delete subsections 3401.2 to read, 3401.3 and 3401.4.*

~~3401.2. Maintenance and repairs: The owner shall be responsible for the maintenance and repair of structures in accordance with the maintenance requirements of this code and the property maintenance code listed in Chapter 35 of this code. Equipment, systems, devices, and safeguards relating to the construction of the structure and the equipment therein, to the extent which were provided when constructed, shall be maintained. Such structures, if subject to the state fire and public building regulations in effect prior to March 31, 1986, shall also be maintained in accordance with those regulations. The provisions in the property maintenance code listed in Chapter 35 of this code for unsafe structures (Sections PM 108.0, PM 109.0 and PM 110.0) shall be considered part of the provisions of this code for the maintenance of existing structures.~~

B. Add subsection ~~3401.2.1~~ *3401.1.1* to read:

~~3401.2.1. 3401.1.1. Amendments to the property maintenance code: Under Part III (13 VAC 5-61-121 et seq.) of Chapter 1 of the USBC, the following changes shall be made to the property maintenance code (BNPMC) listed in Chapter 35 of this code:~~

1. ~~Change subsection PM 101.1 to read:~~

~~PM 101.1 Title and use: These regulations shall be known as the Property Maintenance Code hereinafter referred to as "this code." Any provisions of this code which are in conflict with, or exceed the scope of, the Virginia Uniform Statewide Building Code shall be invalid.~~

1. *BNPMC Chapter 1 was deleted in Part III of Chapter 1 of the USBC.*

2. *Add the following definition to Section PM-202.0 General Definitions to read:*

Dangerous and dilapidated structure: A building or structure which has any of the following defects or conditions:

- 1. Whenever any structure or part thereof, which in the code official's judgement is old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use, and so that it would be unreasonable to repair the same, to raze and remove such structure or part thereof; or if it can be made safe by repairs, to repair and make safe and sanitary or to raze and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to raze and remove such structure or parts thereof.*
- 2. Whenever the code official determines that the cost of such repairs would exceed 100% of the true cash value of such structure, such repairs shall be presumed unreasonable and it shall be presumed for the purpose of this definition that such structure is a public nuisance which shall be ordered razed without option on the part of the owner to repair in accordance with the procedures set forth in this code.*
- 3. Whenever any portion has been damaged by wind, flood or by any other cause in such manner that the structural strength or stability is appreciably less than it was before such catastrophe and is less than the minimum requirements of this code.*
- 4. Whenever any portion, member or appurtenance is likely to fall or become detached or dislodged, or to collapse, and thereby injure persons or damage property.*
- 5. Whenever any portion has settled to such an extent that the walls or other structural portions have materially less resistance to wind than is required in the case of new construction by this code.*
- 6. Whenever the building or structure or any part because of dilapidation, deterioration, decay, faulty construction or because of the removal or movement of some portion of the ground necessary for the purposes of supporting such building or portion thereof, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or give way.*
- 7. Whenever for any reason whatsoever that the building or structure or any portion is manifestly unsafe for the purpose for which it is used.*
- 8. Whenever the building or structure has been damaged by fire, wind or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play therein or as to afford a harbor for disorderly persons.*

9. *Whenever a building or structure used or intended to be used for dwelling purposes because of dilapidation, decay, damage or faulty construction or arrangement or otherwise is unsanitary or unfit for human habitation, or is in a condition that is likely to cause sickness or disease, or is likely to work injury to the health, safety or general welfare of those living within.*

10. *Whenever any building becomes vacant, dilapidated and open at the doors or windows thereof, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.*

11. *Whenever a building or structure designed or zoned for use as a residence has remained vacant and boarded up for a period in excess of six continuous months and has been found to be unfit for human habitation after inspection by the code official.*

12. *Whenever the code official is able to establish that as to a particular dilapidated vacant structure there has existed a pattern where such structure has frequently remained open at the doors or windows leaving the interior of the building accessible to entrance by trespassers.*

~~2.~~ 3. Add the date "April 1" to the first bracketed DATE area and "December 1" to the second bracketed DATE area in *BNPMC* subsection PM-304.14.

~~3.~~ 4. Add the date "October 1" to the first bracketed DATE area and "May 1" to the second bracketed DATE area in *BNPMC* subsection PM-602.2.1.

~~4.~~ 5. Add the date "October 1" to the first bracketed DATE area and "May 15" to the second bracketed DATE area in *BNPMC* subsection PM-602.3.

~~5.~~ 6. Add *BNPMC* subsection PM-606.3 to read:

PM-606.3. Inspection standard: Routine and periodic inspections shall be performed in accordance with Part X of ASME A-17.1 listed in Chapter 8 of ~~this code~~ *the BNPMC*. The code official may also provide for such inspection by an approved agency or through agreement with other local certified elevator inspectors. An approved agency includes any individual, partnership or corporation who has met the certification requirements established by Virginia Certification Standards (13 VAC 5-21-10 et seq.).

13 VAC 5-61-440. BNBC Section 3402.0 General requirements.

A. *Change subsection 3402.1 to read:*

3402.1. Application: The requirements of this section shall be mandatory for existing structures.

B. *Change subsection 3402.2 to read:*

3402.2. Replacement glass: Any replacement glass installed in buildings constructed prior to the initial effective date of this code shall meet the quality and installation standards for glass installed in new buildings as are in effect at the time of installation.

~~B.~~ C. *Change subsection 3402.3 to read:*

3402.3. Smoke detectors in colleges and universities: College and university buildings containing dormitories for sleeping purposes shall be provided with battery-powered or AC-powered smoke detector devices installed therein in accordance with this code in effect

on July 1, 1982. All public and private college and university dormitories shall have installed and use due diligence in maintaining in good working order such detectors regardless of when the building was constructed.

The chief administrative office of the college or university shall obtain a certificate of compliance with the provisions of this subsection from the building official of the locality in which the college or university is located or in the case of state-owned buildings, from the Director of the Virginia Department of General Services.

The provisions of this section shall not apply to any dormitory at a state-supported military college or university which is patrolled 24 hours a day by military guards.

~~C.~~ *D.* Change subsection 3402.4 to read:

3402.4. Smoke detectors in certain juvenile care facilities: Battery-powered or AC-powered smoke detectors shall be installed and maintained in all local and regional detention homes, group homes, and other residential care facilities for children and juveniles which are operated by or under the auspices of the Virginia Department of Juvenile Justice, regardless of when the building was constructed, by July 1, 1986, in accordance with the provisions of this code that were in effect on July 1, 1984. Administrators of such homes and facilities shall be responsible for the installation and maintenance of the smoke detector devices.

~~D.~~ *E.* Change subsection 3402.5 to read:

3402.5. Smoke detectors for the deaf and hearing impaired: Smoke detectors providing an effective intensity of not less than 100 candela to warn a deaf or hearing-impaired individual shall be provided, upon request by the occupant to the landlord or proprietor, to any deaf or hearing-impaired occupant of any of the following occupancies, regardless of when constructed:

1. All dormitory buildings arranged for the shelter and sleeping accommodations of more than 20 individuals;
2. All multiple-family dwellings having more than two dwelling units, including all dormitories, boarding and lodging houses arranged for shelter and sleeping accommodations of more than five individuals; or
3. All buildings arranged for use of one-family or two-family dwelling units.

A tenant shall be responsible for the maintenance and operation of the smoke detector in the tenant's unit.

A hotel or motel shall have available no fewer than one such smoke detector for each 70 units or portion thereof, except that this requirement shall not apply to any hotel or motel with fewer than 35 units. The proprietor of the hotel or motel shall post in a conspicuous place at the registration desk or counter a permanent sign stating the availability of smoke detectors for the hearing impaired. Visual detectors shall be provided for all meeting rooms for which an advance request has been made.

~~E.~~ *F.* Change subsection 3402.6 to read:

3402.6. Smoke detectors in adult care residences, adult day care centers and nursing homes and facilities: Battery-powered or AC-powered smoke detector devices shall be installed in all adult care residences and adult day care centers licensed by the Virginia Department of

Social Services, regardless of when the building was constructed. The location and installation of the smoke detectors shall be determined by the provisions of this code in effect on October 1, 1990.

The licensee shall obtain a certificate of compliance from the building official of the locality in which the residence or center is located, or in the case of state-owned buildings, from the Director of the Virginia Department of General Services.

The licensee shall maintain the smoke detector devices in good working order.

Fire alarm or fire detector systems, or both, as required by the edition of this code in effect on October 1, 1990, shall be installed in all nursing homes and nursing facilities licensed by the Virginia Department of Health by August 1, 1994, and shall be maintained in good working order.

G. Add subsection 3402.6.1 to read:

3402.6.1. Smoke detectors in buildings containing dwelling units: AC-powered smoke detectors with battery backup or an equivalent device shall be required to be installed to replace a defective or inoperative battery-powered smoke detector located in buildings containing one or more dwelling units or rooming houses offering to rent overnight sleeping accommodations, when it is determined by the code official that the responsible party of such building or dwelling unit is unwilling or unable to maintain battery-powered smoke detectors in working condition.

~~F. H.~~ Change subsection 3402.7 to read:

3402.7. Fire suppression systems in nursing homes and facilities: Fire suppression systems as required by the edition of this code in effect on October 1, 1990, shall be installed in all nursing facilities licensed by the Virginia Department of Health by January 1, 1993, regardless of when such facilities or institutions were constructed, and shall be maintained in good working order. Units consisting of certified long-term care beds located on the ground floor of general hospitals shall be exempt from the requirements of this section.

~~G. I.~~ Delete subsection 3402.9.

~~H. J.~~ Add subsection 3402.10 to read:

3402.10. Fire suppression systems in hospitals: Fire suppression systems shall be installed in all hospitals licensed by the Virginia Department of Health as required by the edition of this code in effect on October 1, 1995, regardless of when such facilities were constructed, and shall be maintained in good working order.

~~I. K.~~ Add subsection 3402.11 to read:

3402.11. Identification of handicapped parking spaces by above grade signs: All parking spaces reserved for the use of handicapped persons shall be identified by above grade signs, regardless of whether identification of such spaces by above grade signs was required when any particular space was reserved for the use of handicapped persons. A sign or symbol painted or otherwise displayed on the pavement of a parking space shall not constitute an above grade sign. Any parking space not identified by an above grade sign shall not be a parking space reserved for the handicapped within the meaning of this section.

All above grade handicapped parking space signs shall have the bottom edge of the sign no lower than four feet (1219 mm) nor higher than seven feet (2133 mm) above the parking surface. Such signs shall be designed and constructed in accordance with the provisions of Chapter 11 of this code. *All disabled parking signs shall include the following language: PENALTY, \$100-500 Fine, TOW-AWAY ZONE. Such language may be placed on a separate sign and attached below existing above grade disabled parking signs, provided that the bottom edge of the attached sign is no lower than four feet above the parking surface.*

~~J.~~ L. Add subsection 3402.12 to read:

3402.12. Smoke detectors in hotels and motels: Smoke detectors shall be installed in hotels and motels as required by the edition of VR 394-01-22, USBC, Volume II, in effect on March 1, 1990, by the dates indicated, regardless of when constructed, and shall be maintained in good working order.

~~K.~~ M. Add subsection 3402.13 to read:

3402.13. Sprinkler systems in hotels and motels: By September 1, 1997, an automatic sprinkler system shall be installed in hotels and motels as required by the edition of VR 394-01-22, USBC, Volume II, in effect on March 1, 1990, regardless of when constructed, and shall be maintained in good working order.

~~L.~~ N. Add subsection 3402.14 to read:

3402.14. Fire suppression systems in dormitories: An automatic fire suppression system shall be provided throughout all buildings having a Use Group R-2 fire area which are more than 75 feet (22,860 mm) or six stories above the lowest level of exit discharge and which are used, in whole or in part, as a dormitory to house students by any public or private institution of higher education, regardless of when such buildings were constructed, in accordance with the requirements of this code and Section 906.2.1. The automatic fire suppression system shall be installed by September 1, 1999. The chief administrative office of the college or university shall obtain a certificate of compliance from the code official of the locality in which the college or university is located or in the case of state-owned buildings, from the Director of the Virginia Department of General Services.

Exceptions:

1. Buildings equipped with an automatic fire suppression system in accordance with Section 906.2.1 or the 1983 or later editions of NFPA 13.
2. Where the requirements of this section are modified by Section 3402.14.1.
3. Any dormitory at a state-supported military college or university which is patrolled 24 hours a day by military guards.

~~O.~~ Add subsection 3402.14.1 to read:

3402.14.1. Modifications to requirements of Section 3402.14: The application of the requirements of Section 3402.14 shall be modified in accordance with this section.

1. Building systems, equipment or components other than the fire suppression system shall not be required to be added or upgraded except as necessary for the installation of the fire suppression system and shall only be required to be added or upgraded where the installation of the fire suppression system creates an unsafe condition.

2. Residential sprinklers shall be used in all sleeping rooms. Other sprinklers shall be quick response or residential unless deemed unsuitable for a space. Standard response sprinklers shall be used in elevator hoist ways and machine rooms.
3. Sprinklers shall not be required in wardrobes in sleeping rooms which are considered part of the building construction or in closets in sleeping rooms, when such wardrobes or closets (i) do not exceed 24 square feet (2.23 m²) in area, (ii) have the smallest dimension less than 36 inches (914 mm), and (iii) comply with the following:
 - a. A single station smoke detector monitored by the building fire alarm system is installed in the room containing the wardrobe or closet which will activate the general alarm for the building if the single station smoke detector is not cleared within five minutes after activation;
 - b. The minimum number of sprinklers required for calculating the hydraulic demand of the system for the room shall be increased by two and the two additional sprinklers shall be corridor sprinklers where the wardrobe or closet is used to divide the room. Rooms divided by a wardrobe or closet shall be considered one room for the purpose of this requirement; and
 - c. The ceiling of the wardrobe, closet or room shall have a fire resistance rating of not less than hour.
4. Not more than one sprinkler shall be required in bathrooms within sleeping rooms or suites having a floor area between 55 square feet (5.12 m²) and 120 square feet (11.16 m²) provided the sprinkler is located to protect the lavatory area and the plumbing fixtures are of a noncombustible material.
5. Existing standpipe residual pressure shall be permitted to be reduced when the standpipe serves as the water supply for the fire suppression system provided the water supply requirements of NFPA 13 listed in Chapter 35 are met.
6. Limited service controllers shall be permitted for fire pumps when used in accordance with their listing.
7. Where a standby power system is required, a source of power in accordance with Section 701-11 (d) or 701-11 (e) of NFPA 70 listed in Chapter 35 shall be permitted.

P. Add subsection 3402.15 to read:

3402.15. Fire extinguishers and smoke detectors in state-regulated care facilities: On each floor there shall be installed and maintained at least one approved type ABC portable fire extinguisher having at least a 2A rating. The facility shall provide and maintain at least one approved properly installed smoke detector (i) in each bedroom hallway, (ii) at the top of each interior stairway, (iii) in each area designated for smoking and (iv) in or immediately adjacent to each room with a furnace or other heat source. Smoke detectors shall be tested each month and a record of the tests shall be maintained for two years.

Q. Add subsection 3402.16 to read:

3402.16. Smoking prohibited: Smoking shall be prohibited in all Use Group R-2 buildings having occupied floors located more than 75 feet (22860 mm) above the lowest level of fire department vehicle access and having inter-connecting dwelling unit air distribution systems.

13 VAC 5-61-447. BNBC Section 3405.0 Change of occupancy.

Add subsection 3405.1.1 to read:

3405.1.1. Application: The owner or his agent shall, in writing, apply to and obtain from the building code official a new certificate of occupancy prior to changing the occupancy of a structure. When the current USBC requires a greater degree of structural strength, fire protection, means of egress, ventilation or sanitary provision for the new use, the owner or his agent shall, in writing, apply and obtain a permit from the building code official. When it is impractical to achieve compliance with the USBC, the building code official shall, upon application, issue modifications as provided in Part II of Chapter 1.

13 VAC 5-61-450. BNBC Section 3408.0 Compliance alternatives.

A. Change subsection 3408.2 to read:

3408.2. Applicability: The provisions in Sections 3408.2.1 through 3408.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be in Use Groups A, B, E, F, M, R and S. These provisions shall not apply to buildings with occupancies in Use Groups H or I.

B. Change subsection 3408.2.5 to read:

3408.2.5. Accessibility requirements: All portions of buildings altered shall conform to the accessibility provisions of Section 1110.2.

13 VAC 5-61-460. BNBC Chapter 35 Referenced Standards.

Add the following referenced standard to "CODES" to read:

| <i>Standard reference number</i> | <i>Title</i> | <i>Referenced in code section number</i> |
|----------------------------------|------------------------------------|--|
| <i>IFGC-97</i> | <i>International Fuel Gas Code</i> | <i>2801.3</i> |