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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Board of Housing and Community Development
<b>Virginia Administrative Code (VAC) citation</b>	<u>13 VAC 5 - 63</u>
<b>Regulation title</b>	Virginia Uniform Statewide Building Code (USBC)
<b>Action title</b>	Periodic review and update of USBC to reference 2009 International Code Council (ICC) model codes and standards.
<b>Date this document prepared</b>	March 24, 2009

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

The regulatory action is to update the regulation to incorporate by reference the newest available nationally recognized model building codes and standards produced by ICC. The ICC International Building Code (IBC), the ICC International Existing Building Code (IEBC), the International Residential Code (IRC) and the International Property Maintenance Code (IPMC) are the major model codes. The IBC further references the ICC mechanical, plumbing, gas and electrical codes. The ICC codes are known collectively as the "I-Codes."

In conjunction with incorporating the newest available I-Codes into the regulation, the entire regulation will be subject to review and change. This is due to the fact that the I-Codes constitute the majority of the regulation and the various parts of the regulation must be coordinated with the use of the I-Codes which necessitates scrutiny of the entire regulation.

This action is exempt from Article 2 of the Administrative Process Act under § 2.2-4406(13) of the Code of Virginia.

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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The statutory authority to update the regulation is contained in § 36-98 of the Code of Virginia. The promulgating agency is the Board of Housing and Community Development (Board).

## Need

*Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.*

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The enabling law for the USBC requires the Board to keep the regulation up to date. The newest model codes become available every three years, so when they become available, the Board initiates a regulatory action to update the USBC to include them. The newest I-Codes are the 2009 editions, which became available in early 2009. The current USBC uses the 2006 editions of the I-Codes.

## Substance

*Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.*

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The proposed regulation will update all references to the I-Codes from the 2006 to the 2009 editions. In addition, any changes to the I-Codes which were made in the current USBC have been reviewed to determine whether the 2009 editions of the I-Codes have consistent provisions. Those changes to the I-Codes which were made in the current USBC and are no longer necessary due to there being consistent provisions in the 2009 I-Codes are deleted in the proposed regulation. The proposed regulation will also contain minor changes to the I-Codes or to the associated administrative provisions of the regulation which have been vetted through the client groups affected by the USBC and have met no opposition.

## Alternatives

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.*

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As the use of the latest I-Codes to encompass the bulk of the regulation is based on statutory requirements, the agency believes this action to be the least burdensome or intrusive method of meeting the essential purpose of the action.

## Public participation

*Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.*

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The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so at the public hearing or by mail, email or fax to Steve Calhoun, 501 N. 2nd Street, Richmond, VA 23219-1321, (804) 371-7018, fax number: (804) 371-7092, email address: [taso@dhcd.virginia.gov](mailto:taso@dhcd.virginia.gov). Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

In addition, the agency is seeking information on 1) the continued need for the regulation; 2) the complexity of the regulation; 3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and 4) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

**A public hearing will be held and notice of the hearing may be found on the Virginia Regulatory Town Hall website ([www.townhall.virginia.gov](http://www.townhall.virginia.gov)) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.**

## Participatory approach

*Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.*

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The agency is using the participatory approach in developing the proposed regulation to the extent that the nature of each particular provision of the regulation permits. In general, the participatory approach has been utilized in developing consensus changes to be made in the proposed regulation in addition to updating to the newer editions of the I-Codes.

## Family impact

*Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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The Department is not aware of any potential impact of this action on the institution of the family or on family stability.