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Exempt Action: Final Regulation Agency Background Document

Agency name	Board of Housing and Community Development
Virginia Administrative Code (VAC) Chapter citation(s)	13 VAC 5 – 63
VAC Chapter title(s)	Virginia Uniform Statewide Building Code
Action title	Cooling Temperature Amendment Part 2 of 2 – Permanent Replacement Regulation
Final agency action date	June 26, 2020
Date this document prepared	July 1, 2020

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Currently, section 13VAC5-63-540 B 5 of the Uniform Statewide Building Code (USBC) requires that landlords who provide cooling either expressly or implied must be able to maintain a minimum cooling temperature of 80 degrees Fahrenheit. This provision is part of the Virginia Maintenance Code (VMC), a portion of the USBC that is adopted at the discretion of local governments.

This action is to lower from 80 to 77 degrees Fahrenheit, the required cooling temperature as provided in section 13VAC5-63-540 B 5 of the USBC. This action makes permanent emergency regulations currently in effect with the same provisions. The Board adopted the proposed regulations at their September 16, 2019 meeting and the final regulations at their June 26, 2020

meeting. The final regulations had originally been scheduled to be adopted in March 2020; this was delayed due to COVID-19.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

This action continues the process to make permanent emergency regulations currently in effect with the same provisions. After promulgation of the emergency regulations the Board of Housing and Community Development has offered opportunity to comment through the NOIRA, a public hearing, and a stakeholder input workgroup. Currently, the VMC, a part of the USBC, requires that when cooling is provided to tenants of certain multi-family buildings it must be provided to a temperature of at least 80 degrees Fahrenheit. The current threshold has been identified as a public health concern in multiple localities that adopt the VMC. Residents living in buildings kept at higher temperatures are more likely to experience certain health conditions as a result of the higher temperatures. A change to 77 degrees will assist tenants living in affected buildings to avoid the negative health impacts of the higher indoor temperatures. Negative health impacts as presented during the General Assembly and to the Board include asthma and other respiratory issues, an impact to children and the elderly, as well as potential impact to populations already experiencing illness. This action is largely a result of HB 2000, which was considered during the 2019 session of the General Assembly. While the bill did not move forward, the provisions of the bill largely carried over into the previous emergency action and to the current proposed changes.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

Final action was taken June 26, 2020 by the Board of Housing and Community Development regarding the referenced provision in the Uniform Statewide Building Code.