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Exempt Action: Proposed Regulation Agency Background Document

Agency name	Board of Housing and Community Development
Virginia Administrative Code (VAC) Chapter citation(s)	13VAC5-51; 13VAC5-52
VAC Chapter title(s)	Statewide Fire Prevention Code (SFPC)
Action title	Update the SFPC
Date this document prepared	January 5, 2023

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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.

The Statewide Fire Prevention Code (SFPC) is a regulation governing the maintenance of the fire protection aspects of existing structures and operational functions relating to fire safety wherever located, including the regulation of the use of explosives and blasting and fireworks displays. The SFPC uses a nationally recognized model code produced by the International Code Council as the basis for the technical provisions of the regulation. Every three years, a new edition of the model code becomes available. At that time, the BHCD initiates a regulatory action to incorporate the newest edition of the model code into the regulation as well as accepting proposals for changes to the regulation from stakeholders and the public. The Department of Housing and Community Development staff maintains mailing lists for workgroups involving different subject areas of regulation and conducts workgroup meetings attended by stakeholders and the public to develop consensus recommendations, when possible, concerning proposals which have been submitted. The Department uses an online program incorporating the provisions of the regulation and the model code to facilitate the submittal of proposals. A public hearing is held during the workgroup meeting stage of the process and a comment period established. Once workgroup meetings are completed, the BHCD has a series of meetings to consider

each proposal and those proposals approved are incorporated into the proposed regulation. After the publishing of the proposed regulation, the BHCD establishes a comment period and holds an additional public hearing. The BHCD then meets to consider public comments to develop a final regulation to complete the regulatory process.

Different this code development cycle is the repeal and replacement of existing regulation 13VAC5-51 with the new regulation 13VAC5-52. The repeal and replace of the Fire Code does not affect substance and is required to accommodate the technical needs of the Fire Code within the Virginia Administrative Code. [Book 3](#) available on the DHCD website provides details of the changes.

The following are a summary of the substantive changes to the SFPC:

13VAC5-51

Repealed and replaced with the new regulation 13VAC5-52.

13VAC5-52-30

Updates to the 2021 International Fire Code (IFC).

13VAC5-52-70

Adds an operational permit for energy storage systems to Table 107.2.

Adds an operational permit for Industrial Additive Manufacturing to Table 107.2.

Updates the state annual compliance inspection fees to correlate transfer of oversight for Family Day Homes from the Department of Social Services to the Department of Education.

13VAC5-52-110

Allows the option of transmitting a notice of violation via email, if the responsible party is not on site.

13VAC5-52-180

Requires electrical equipment, wiring and systems to be operated and maintained in accordance with this Section and the applicable building code.

Requires electrical equipment, wiring, devices, and appliances to be listed and labeled in accordance with this section and the applicable NFPA 70.

Prohibits the use of electrical wiring, devices, equipment, and appliances that are modified or damaged, and constitute an electrical shock or fire hazard, unless repaired or replaced in accordance with the applicable building code.

Deletes 2021 IFC Section 610.1.1.

13VAC5-52-200

Changes the name of the Section to "Natural Decorative Vegetation in Buildings".

Requires play structures to be maintained in accordance with the applicable building code.

13VAC5-52-210

Requires walls, ceilings, and ceiling tiles to be maintained in place, where such components are required for proper operation of the fire protection system.

Requires fire protection systems subject to an annual inspection or test to be marked with an inspection tag or sticker indicating latest inspection status.

Requires the maintenance of fire protection and life safety systems in accordance with the original installation standards for that system.

Requires the existing fire protection and life safety systems to be maintained in operation during alterations of buildings or structures.

Allows the signal produced at the fire alarm control unit to be a supervisory signal where an emergency alarm system is interfaced with a building's fire alarm system.

13VAC5-52-220

Requires the means of egress to be maintained in accordance with the applicable building code and this chapter.

Requires egress courts serving as an exit discharge component in the means of egress system to be maintained in accordance with the applicable building code.

Requires emergency supplemental hardware to be maintained in accordance with the conditions of their approval (in addition to being required to be maintained in accordance with the code and the manufacturer's instructions which is already stipulated).

13VAC5-52-240

Requires electrical wiring and equipment used in connection with energy systems to be maintained in accordance with this chapter, Section 603, and the applicable building code.

Reinstates IFC Section 1201.3 with minor amendments to account for the "applicable building code" and the correct reference to the appropriate Chapter 1 section.

Requires the maintenance of standby power for mechanical exhaust ventilation systems, irrelevant of whether it was required by the applicable building code or provided voluntarily.

Removes construction related provisions related to energy storage systems and only keeps maintenance and operational requirements.

13VAC5-52-270

Requires openings in enclosed equipment and conveyors to be maintained such that it allows access to all parts of the equipment and conveyors to permit inspection, cleaning, maintenance and the effective use of portable fire extinguishers or hose streams.

Prohibits the operation of electrical motors and components in dust-laden airstream, unless listed for locations in accordance with the applicable building code.

Provides the minimum required separation between portable spark-producing devices and areas requiring classified electrical equipment.

13VAC5-52-360

Adds new table to be used for determining the allowable location for LP-gas containers and tanks utilized in conjunction with tents and membrane structures.

13VAC5-52-380

Removes unenforceable construction provisions from Chapter 33 "Fire Safety During Construction" and correlates with the Virginia Construction Code and Virginia Existing Building Code.

13VAC5-52-440

Requires systems and equipment used for the extraction of oils from plant material to be approved, listed and labeled in accordance with the applicable building code, and be operated and maintained in accordance with the listing and the manufacturer's instructions.

13VAC5-52-450

Provides requirements applicable to the storage of distilled spirits and wines.

13VAC5-52-480

Expands the list of exemptions from compliance with the hazardous material provisions.

Increases the maximum allowable quantity per control area for group M and S, in buildings equipped throughout with an NFPA 13 sprinkler system.

13VAC5-52-530

Adds a new subsection and referenced standard for the sale or retail display of permissible fireworks.

13VAC5-52-540

Revises the scoping provisions of the section to clarify that all alcohol-based hand rub dispensers, not just wall-mounted ones, with Class I or II liquids, are regulated under the SFPC.

Clarifies that normal and emergency vents, serving underground tanks (UT) temporarily out of service and UT out of service for 90 days, must remain open and be maintained.

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). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "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."

Section 27-97 of the Code of Virginia empowers the Board to promulgate the SFPC. In adopting the SFPC the Code states that the, "Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations including, but not limited to, standards of the International Code Council, the National Fire Protection Association, and recognized organizations issuing standards for the protection of the public from the hazards of explosives and blasting agents. Such standards shall be based on the companion document to the model building code referenced by the Uniform Statewide Building Code." The SFPC and USBC use nationally recognized model building codes and standards produced by the International Code Council (ICC) and other standard-writing groups as the basis for the technical provisions of the regulation. Every three years, new editions of the model codes become available. At that time, the BHCD initiates a regulatory action to incorporate the newest editions of the model codes into the regulation as well as accepting proposals for changes to the regulation from affected stakeholders groups and the public. The repeal and replace of the Fire Code does not affect substance and is required to accommodate the technical needs of the Fire Code within the Virginia Administrative Code.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov> . Comments may also be submitted by mail, email or fax to Kyle Flanders, 600 E Main St, St 300, Richmond, VA 23219, 804-786- 6761 (o) 804-371-7090 (f) email kyle.flanders@dhcd.virginia.gov . In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.