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## Exempt Action Proposed Regulation Agency Background Document

<b>Agency name</b>	Board of Housing and Community Development (BHCD)
<b>Virginia Administrative Code (VAC) citation(s)</b>	13VAC5-63
<b>Regulation title(s)</b>	Uniform Statewide Building Code (USBC)
<b>Action title</b>	Update the USBC
<b>Date this document prepared</b>	December 2019

While 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 (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

### Brief Summary

*Please 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 Uniform Statewide Building Code (USBC) is a regulation governing the construction, maintenance and rehabilitation of new and existing building and structures. The USBC uses 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 client groups 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 clients group participants 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 codes and standards 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 for additional proposals to be submitted and to comment on the proposed regulation and an additional public hearing is held. The BHCD then meets to consider proposals and public comments to develop a final regulation to complete the regulatory process.

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

13VAC5-63

Updated references to current ANSI standards

13VAC5-63-30

Updates the edition year to 2018.

13VAC5-63-50

Adds high school technical training programs and college fields to the list of education and experience requirements that would meet qualification standards for technical assistants.

13VAC5-63-60

Adds a provision for allowing the building official to consider other nationally recognized guidelines where deciding to approve a code modification.

13VAC5-63-80

Adds emergency supplemental hardware language to permit application requirement.

Code was changed to comply with current law, which removes the requirement for an affidavit to obtain a permit.

13VAC5-63-100

Adds requirements for building official to consult and notify fire official prior to the approval of emergency supplemental hardware.

Removes the requirement that the signature of the building official be on the physical permit as they are mostly printed with a digital signature.

Adds "non-compliance with provisions of the code" as a reason for revocation of a permit.

Adds a requirement for the name and certification number of the elevator mechanic performing the tests on the elevator.

Removes the requirement that a certificate of occupancy be issued within 5 working days.

Adds a provision that the notice of violation can be issued to other persons deemed responsible in addition to the person performing the work.

Adds a provision that "when no certificate exists" a building department can verify in writing that a certificate did exist at one point.

Allows for applications to be submitted electronically.

13VAC5-63-130

Adds requirement to include the name and certification number of the elevator mechanic performing tests on elevators, escalators and other related conveyances.

13VAC5-63-160

Add an exception for the issuance of a certificate of occupancy for additions to R-5 (one and two-family homes) where a certificate of occupancy already exists.

13VAC5-63-210

Several changes to the Residential Code, including updating REScheck to the 2018 IECC,

Eliminates the deletion of the energy certificate requirement. Revises section to allow the certificate to be kept at an offsite location for multifamily buildings.

Removes visual option and requires blower door testing for air leakage rate of buildings (5 air changes)  
Removes prohibition against using building cavities as plenums.  
Removes the requirement for residential exhaust hoods in kitchens for grease laden vapors as the requirements for this are specified in the IMC, and don't belong in the IECC.  
Revises landing/floor height requirement for exterior doors from 7 3/4 to 8 1/4.  
Allows the use of appendix Q for tiny houses (dwellings 400 square feet or less).  
Revises foundation anchorage language to match International Building Code.  
Clarifies that only one foundation vent is required within 3 feet of each corner.  
Adds an option for relining existing building sewers and building draining piping.  
Adds option to provide a notice by electronic means for the Local Board of Building Code Appeals hearing.  
Changes minimum slope from 2 percent to 1 percent for drainage on impervious surfaces within 10 feet of the building foundation.

**13VAC5-63-220**

Changes the section reference for short term holding areas.

**13VAC5-63-230**

Updates section reference for fire resistance alternative protection methods.

**13VAC5-63-240**

Adds additional benchmark of four or more stories for Class III standpipes.  
Remove an exception from the VCC for Visible Alarm notification appliances in alterations where a fire alarm system is replaced or upgraded, since this falls within the purview of the VEBC.  
Removes Section 912.2.2 of the VCC which is duplicated in the SFPC.  
Adds exception to infrastructure for public safety wireless communications where localities do not provide the additional communication equipment required for the operation of the system.  
Adds provisions and parameters to allow the use of emergency supplemental hardware.

**13VAC5-63-245**

Clarifies that protection is provided for increased occupants in compartments at each story with a horizontal exit.  
Removes operational constrains for grills/grates/bars placed over emergency escapes from the VCC and moves it to the VEBC.  
Deletes an exception for tread depth and height requirements for stair risers.

**13VAC5-63-250**

Permits portions of areas in places of religious worship to not be accessible in areas primarily for performance of religious ceremonies

**13VAC5-63-330**

Adds definition for service sink.  
Requires footbaths and pedicure baths to be protected against backflow.  
Removes a conflict regarding an exception for using primer for solvent cement on pipe joints.  
Adds an option for relining existing building sewers and building draining piping.  
Adds standard for rainwater harvesting.  
Brings VCC closer to IBC for elevator machine rooms, exceptions for fire barriers and stickers for such.

**13VAC5-63-336**

Deleted "Relocatable Buildings" from VCC/IBC language since it is located both in the Manufactured Housing regs and VEBC.

**13VAC5-63-340**

Deleted "Alterations, repairs and additions" sections which belong in the VEBC, not the VCC  
Deletes several provisions within the VCC that belong in the VEBC.

13VAC5-63-431

Deleted some provisions that could be interpreted as a retrofit requirement.  
Combines some redundant sections into a single section within the VEBC for replacement glass.  
Includes references from the VCC and VRC for replacement window emergency escape openings.  
Reformats the 'roof recover' section to specify what is permitted and what's an exception.

13VAC5-63-433.3

Updated the Level 1 and Level 2 alteration definitions.  
Changed the compliance for Interior finishes in historic buildings to a Table in the VCC rather than the ASTM standard.

13VAC5-63-434.5

Deleted section 904 Fire Safety from Historic Buildings and moved it to 906.  
Allowed any existing guard heights to be acceptable rather than having to comply with a specific section.

13VAC5-63-438

Deleted the Demolition section from the VCC and reproduced it in the VEBC as Section 1210.

13VAC5-63-470

Added a note that points to the new Landlord Tenant Act for responsible parties for a violation.

13VAC5-63-480

Required elevator inspections to include the name and certification number of the elevator mechanic.

13VAC5-63-520

Updated rodent harborage and infestation requirements to, State, Federal and Virginia Dept of Health standards.

13VAC5-63-540

Adds language to address fuel oil and propane tanks.

13VAC5-63-545

Deletes a provision that could be interpreted as a retrofit.

## Mandate and Impetus

*Please 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, board decision, etc.). "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."*

The promulgation of the USBC is required per section 36-98 of the Code of Virginia. Further, Section 36-99 indicates that modifications and provisions of the USBC should have due regard for, "generally accepted standards as recommended by nationally recognized organizations". The USBC uses 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 client groups and the public.

## Periodic Review

### Small Business Impact Review Report of Findings

*If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA, please indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.*

*In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) 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.*

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The regulation is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses, and is clearly written and easily understandable.

- 1) The regulation ensures the safe construction and maintenance of structures in Virginia.
- 2) There were limited, specific, comments submitted during the Periodic Review/NOIRA comment period. The comments were not submitted as a result of the Notice of Periodic Review of Regulation or NOIRA but rather as a result of a regulatory concern that occurred during that timeframe. Staff responded to each comment with additional information about opportunities for public comment and the process for initiating code changes. The comments were also forwarded to the Board.
- 3) The regulation is based on national model codes and standards.
- 4) The regulation does not appear to overlap with state or federal law or regulation.
- 5) The regulation was last evaluated and updated in 2018.

## Public Participation

*Please include a statement that in addition to any other comments on the regulatory change, the agency is seeking comments on the costs and benefits of the regulatory change and the impacts of the regulated community. Also, indicate whether a public hearing will be held to receive comments.*

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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>. Written comments must include the name and address of the commenter. 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](mailto: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.