



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	Board of Housing and Community Development
VAC Chapter Number:	13 VAC 62-10 et seq.
Regulation Title:	Virginia Uniform Statewide Building Code
Action Title:	Proposed
Date:	9/25/02

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The substantive amendments to this regulation proposed by the Board of Housing and Community Development (Board) are as follows:

To update the referenced 1996 Building Officials and Code Administrators International, Inc. (BOCA) construction model codes and standards to the 2000 editions of the International Code Council (ICC).

To add a provision from statute (§ 36-98.3 of the Code of Virginia) that to the extent the provisions of Chapter 6 of Title 36 of the Code of Virginia and the USBC are not superseded by the provisions of § 36-98.3 of the Code of Virginia and the VADR (13 VAC 5-31-10 et seq.), the

provisions of Chapter 6 of Title 36 of the Code of Virginia and the USBC shall apply to amusement devices.

To add a provision that in accordance with sanctions prescribed by the Virginia Certification Standards (13 VAC 5-21-10 et seq.) the building official/building maintenance official and technical assistants may be held responsible for failure to discharge any duty required by law or by the USBC.

To add a requirement that the building official/building maintenance official notify the DHCD within 60 days of the employment or contract of technical assistants for enforcement of the USBC.

To change the time allowed for a person employed by, or under contract to, a local building department for enforcement of the USBC to become certified in the appropriate subject area in accordance with the Virginia Certification Standards (13 VAC 5-21-10 et seq.) from three years to one and a half years.

To add a requirement that the building official notify the fire official or fire chief when an elective partial or full fire protection system or other safety equipment, not required by the USBC, is to be installed.

To add a requirement that localities to adopt local ordinances that establish fire apparatus access road requirements and that such requirements be identified to the owner prior to the issuance of a building permit.

To add a requirement that when there is a change in the fuel source involving the installation of new equipment, the flue liner of the chimney is certified to the building official as safe to operate with the new fuel and equipment.

To add defining terms (related to the location, design or construction of the proposed structure) to what are "all pertinent laws and ordinances", regarding the issuance of building permits. Similar defining terms were added to the issuance of a certificate of occupancy.

To amend the provisions setting the time limits for certain reviews and issuance of an approved building permit as follows:

That following the building official being satisfied that the proposed work conforms to the requirements of the USBC, and all pertinent laws and ordinances (related to the location, design or construction of the proposed structure), the building permit shall be issued as no later than fifteen working days after the application has been filed for a new detached one-and-two family dwelling. Construction documents for new, detached one-and-two family dwellings, which have been revised in response to rejection comments, shall be reviewed within seven working days after submittal. Submittals for all other revisions for new, detached one-and-two family dwellings shall be reviewed within fifteen working days.

To add a provision, which allows the permit holder to request that reports of inspection reference the section that serves as the basis for the defects.

To add a provision, which allows footings for light weight small one-story detached *accessory structures* used as tool and storage sheds, playhouses and similar uses, under certain conditions, to be supported on structural elements placed on level firm soil.

To add a provision, which allows "blast furnace slag" to be used as fill material only when accompanied by a certification from a reregistered design professional and approved by the building official.

To amend the 2000 International Building Code to maintain the existing status quo in Virginia regarding emergency escape and rescue window or exterior door openings for sleeping rooms in basements.

To delete requirements for "Arc-Fault Circuit Interrupter" from the provisions of the new referenced standards.

To add a provision that allows airport facilities to use delayed egress locks which are approved and listed.

To add a provision that allows means of egress doors in penal facilities to be locked when equipped with certain egress control devices.

To clarified with a provision that equipment, systems, devices, and safeguards that were required, provided and approved when constructed be maintained, and that no provisions shall require alterations to structures or equipment unless an unsafe or unhealthy condition exists.

To add a requirement that maintenance inspection and testing of plumbing backflow prevention assemblies be conducted at least annually.

To add a requirement that every owner and operator of an apartment building who rents, leases or lets one or more dwelling units, rooming units or guestrooms on terms, either expressed or implied, to furnish cooling to the occupants thereof shall supply cooling during the period from May 15 to October 1 to maintain a temperature of not more than 80°F (27°C) in all habitable rooms.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

There is no federal source of legal authority to promulgate the regulation.

The statutory authority for the Board of Housing and Community Development to promulgate the regulations is found in the General Assembly's mandate to the Board in § 36-98 of the Code of Virginia, which directs and empowers the Board to adopt and promulgate a Uniform Statewide Building Code and that such building code shall supersede the building codes and regulations of the counties, municipalities and other political subdivisions and state agencies.

§ 36-98. Board to promulgate Statewide Code; other codes and regulations superseded; exceptions.

The Board is hereby directed and empowered to adopt and promulgate a Uniform Statewide Building Code. Such building code shall supersede the building codes and regulations of the counties, municipalities and other political subdivisions and state agencies.

However, such Code shall not supersede the regulations of other state agencies which require and govern the functional design and operation of building related activities not covered by the Uniform Statewide Building Code including but not limited to (i) public water supply systems, (ii) waste water treatment and disposal systems, and (iii) solid waste facilities. Nor shall state agencies be prevented from requiring, pursuant to other state law, that buildings and equipment be maintained in accordance with provisions of the Uniform Statewide Building Code.

Such Code also shall supersede the provisions of local ordinances applicable to single-family residential construction that (a) regulate dwelling foundations or crawl spaces, (b) require the use of specific building materials or finishes in construction, or (c) require minimum surface area or numbers of windows; however, such Code shall not supersede proffered conditions accepted as a part of a rezoning application, conditions imposed upon the grant of special exceptions, special or conditional use permits or variances, conditions imposed upon a clustering of single-family homes and preservation of open space development through standards, conditions, and criteria established by a locality pursuant to subdivision 8 of § 15.2-2242 or subdivision A 12 of § 15.2-2286, or land use requirements in airport or highway overlay districts, or historic districts created pursuant to § 15.2-2306, or local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program.

(1972, c. 829; 1977, c. 613; 1979, c. 718; 1980, c. 104; 1982, c. 267; 2001, c. 525; 2002, c. 703.)

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+36-98>

The Office of the Attorney General has certified that the Board of Housing and Community Development has the statutory authority to promulgate the proposed amendments.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The rationale for the substantive changes to this regulation being proposed by the Board is as follows:

To update the referenced 1996 Building Officials and Code Administrators International, Inc. (BOCA) construction model codes and standards to the 2000 editions of the International Code Council (ICC).

To add a provision from statute (§ 36-98.3 of the Code of Virginia) that to the extent the provisions of Chapter 6 of Title 36 of the Code of Virginia and the USBC are not superseded by the provisions of § 36-98.3 of the Code of Virginia and the VADR (13 VAC 5-31-10 et seq.), the provisions of Chapter 6 of Title 36 of the Code of Virginia and the USBC shall apply to amusement devices.

To add a provision that in accordance with sanctions prescribed by the Virginia Certification Standards (13 VAC 5-21-10 et seq.) the building official/building maintenance official and technical assistants may be held responsible for failure to discharge any duty required by law or by the USBC.

To add a requirement that the building official/building maintenance official notify the DHCD within 60 days of the employment or contract of technical assistants for enforcement of the USBC.

To change the time allowed for a person employed by, or under contract to, a local building department for enforcement of the USBC to become certified in the appropriate subject area in accordance with the Virginia Certification Standards (13 VAC 5-21-10 et seq.) from three years to one and a half years.

To add a requirement that the building official notify the fire official or fire chief when an elective partial or full fire protection system or other safety equipment, not required by the USBC, is to be installed.

To add a requirement that localities to adopt local ordinances that establish fire apparatus access road requirements and that such requirements be identified to the owner prior to the issuance of a building permit.

To add a requirement that when there is a change in the fuel source involving the installation of new equipment, the flue liner of the chimney is certified to the building official as safe to operate with the new fuel and equipment.

To add defining terms (related to the location, design or construction of the proposed structure) to what are "all pertinent laws and ordinances", regarding the issuance of building permits. Similar defining terms were added to the issuance of a certificate of occupancy.

To amend the provisions setting the time limits for certain reviews and issuance of an approved building permit as follows:

That following the building official being satisfied that the proposed work conforms to the requirements of the USBC, and all pertinent laws and ordinances (related to the location, design or construction of the proposed structure), the building permit shall be issued as no later than fifteen working days after the application has been filed for a new detached one-and-two family dwelling. Construction documents for new, detached one-and-two family dwellings, which have been revised in response to rejection comments, shall be reviewed within seven working days after submittal. Submittals for all other revisions for new, detached one-and-two family dwellings shall be reviewed within fifteen working days.

To add a provision, which allows the permit holder to request that reports of inspection reference the section that serves as the basis for the defects.

To add a provision, which allows Footings for of light weight small one-story detached *accessory structures* used as tool and storage sheds, playhouses and similar uses, under certain conditions, to be supported on structural elements placed on level firm soil.

To add a provision, which allows "blast furnace slag" to be used as fill material only when accompanied by a certification from a reregistered design professional and approved by the building official.

To amend the 2000 International Building Code to maintain the existing status quo in Virginia regarding emergency escape and rescue window or exterior door openings for sleeping rooms in basements.

To delete requirements for "Arc-Fault Circuit Interrupter" from the provisions of the new referenced standards.

To add a provision that allows airport facilities to use delayed egress locks which are approved and listed.

To add a provision that allows means of egress doors in penal facilities to be locked when equipped with certain egress control devices.

To clarified with a provision that equipment, systems, devices, and safeguards that were required, provided and approved when constructed be maintained, and that no provisions shall require alterations to structures or equipment unless an unsafe or unhealthy condition exists.

To add a requirement that maintenance inspection and testing of plumbing backflow prevention assemblies be conducted at least annually.

To add a requirement that every owner and operator of an apartment building who rents, leases or lets one or more dwelling units, rooming units or guestrooms on terms, either expressed or implied, to furnish cooling to the occupants thereof shall supply cooling during the period from May 15 to October 1 to maintain a temperature of not more than 80°F (27°C) in all habitable rooms.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

The key provisions of the regulation that changes the current status of law are the following:

To update the referenced 1996 Building Officials and Code Administrators International, Inc. (BOCA) construction model codes and standards to the 2000 editions of the International Code Council (ICC).

To add a provision that in accordance with sanctions prescribed by the Virginia Certification Standards (13 VAC 5-21-10 et seq.) the building official/building maintenance official and technical assistants may be held responsible for failure to discharge any duty required by law or by the USBC.

To add a requirement that the building official/building maintenance official notify the DHCD within 60 days of the employment or contract of technical assistants for enforcement of the USBC.

To change the time allowed for a person employed by, or under contract to, a local building department for enforcement of the USBC to become certified in the appropriate subject area in accordance with the Virginia Certification Standards (13 VAC 5-21-10 et seq.) from three years to one and a half years.

To add a requirement that the building official notify the fire official or fire chief when an elective partial or full fire protection system or other safety equipment, not required by the USBC, is to be installed.

To add a requirement that localities to adopt local ordinances that establish fire apparatus access road requirements and that such requirements be identified to the owner prior to the issuance of a building permit.

To add a requirement that when there is a change in the fuel source involving the installation of new equipment, the flue liner of the chimney is certified to the building official as safe to operate with the new fuel and equipment.

To add defining terms (related to the location, design or construction of the proposed structure) to what are "all pertinent laws and ordinances", regarding the issuance of building permits. Similar defining terms were added to the issuance of a certificate of occupancy.

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That following the building official being satisfied that the proposed work conforms to the requirements of the USBC, and all pertinent laws and ordinances (related to the location, design or construction of the proposed structure), the building permit shall be issued as no later than fifteen working days after the application has been filed for a new detached one-and-two family dwelling. Construction documents for new, detached one-and-two family dwellings, which have been revised in response to rejection comments, shall be reviewed within seven working days after submittal. Submittals for all other revisions for new, detached one-and-two family dwellings shall be reviewed within fifteen working days.

To add a provision, which allows the permit holder to request that reports of inspection reference the section that serves as the basis for the defects.

To add a provision, which allows Footings for of light weight small one-story detached *accessory structures* used as tool and storage sheds, playhouses and similar uses, under certain conditions, to be supported on structural elements placed on level firm soil.

To add a provision, which allows "blast furnace slag" to be used as fill material only when accompanied by a certification from a reregistered design professional and approved by the building official.

To amend the 2000 International Building Code to maintain the existing status quo in Virginia regarding emergency escape and rescue window or exterior door openings for sleeping rooms in basements.

To delete requirements for "Arc-Fault Circuit Interrupter" from the provisions of the new referenced standards.

To add a provision that allows airport facilities to use delayed egress locks which are approved and listed.

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Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term “issues” means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The primary advantage for the public of implementing the new regulation will be the updating of referenced model codes and standards up to the latest editions, which should be less burdensome and intrusive. The agency sees no disadvantages for the public or the Commonwealth.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency’s best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

The minimum included identity of anticipated fiscal impacts for the proposed regulation as are being proposed are as follows:

- (a) The projected cost increase to the state to implement and enforce the proposed regulation is zero.
 - (i) The fund source / fund detail is not applicable.
 - (ii) The budget activity with a cross-reference to program and subprogram is not applicable.
 - (iii) The delineation of one-time versus on-going expenditures is not applicable.
- (b) The projected cost of the regulation on localities may be zero.
- (c) A description of the individuals, businesses or other entities that are likely to be affected by the regulation is unknown.
- (d) The agency’s best estimate of the number of such entities that will be affected is unknown.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

All of the substantive changes to this regulation being proposed by the Board are the following:

To update the referenced 1996 Building Officials and Code Administrators International, Inc. (BOCA) construction model codes and standards to the 2000 editions of the International Code Council (ICC).

To add a provision from statute (§ 36-98.3 of the Code of Virginia) that to the extent the provisions of Chapter 6 of Title 36 of the Code of Virginia and the USBC are not superseded by the provisions of § 36-98.3 of the Code of Virginia and the VADR (13 VAC 5-31-10 et seq.), the provisions of Chapter 6 of Title 36 of the Code of Virginia and the USBC shall apply to amusement devices.

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Alternatives

Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

During the proposed adoption phase of this regulatory action the Board of Housing and Community Development (Board) asks various groups to review the provisions of this regulation and offer comments and suggestions for specific alternatives.

The Board decided to adopt as proposed regulations, most of the suggestions submitted to the Board for improvement, in order to provide a public review of the format, arrangement and the amendments. The rationale of this procedure forms the basis of the process used by the Board to select the least burdensome and intrusive alternatives that meets the essential purpose of this regulatory action.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

The agency received no public comment during the NOIRA comment period.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

Based on the Board's thorough examination of this regulation and relevant public comments received on the draft proposed regulation, the Board has determined that the proposed regulation is clearly written and easily understandable by the individuals and entities affected.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable

regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

The Board will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. Such a review will take place no later than three years after the final regulation becomes effective. And the specific and measurable regulatory goals will be:

1. A regulation that represents the least burdensome or intrusive alternative that meets the essential purpose required of that regulation, and
2. A regulation that is clearly written and easily understandable by the individuals and entities affected.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which 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.

N/A