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## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Board of Housing and Community Development (BHCD)
<b>Virginia Administrative Code (VAC) citation(s)</b>	<u>13 VAC 5 - 63</u>
<b>Regulation title(s)</b>	Uniform Statewide Building Code (USBC)
<b>Action title</b>	Update the USBC
<b>Final agency action date</b>	October 16, 2017
<b>Date this document prepared</b>	October 19, 2017

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The 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 substantive changes to the USBC in this regulatory action are summarized as follows:

13VAC5-63-20: Clarification of the language for power companies, wireless, and cable, and added an exemption for direct burial utility poles.

13VAC5-63-30 B: Provides that Part II of the Virginia Uniform Statewide Building Code shall be referred to as the "Virginia Existing Building Code" and shall apply to construction and rehabilitation activities in existing buildings and structures.

13VAC5-63-50 F and G: Provides clarification that permit technicians are technical assistants and therefore require the same certification mandates as other technical assistants. Also provides a grandfathering provision for any permit technician prior to the effective date of this regulation.

13VAC5-63-80: B Adds an exception for permit exemptions to allow local jurisdictions to require a permit for exempted items located in a special flood hazard area and increases the maximum amount of roof decking replacement that can be done before a building permit is required from 100 square feet to 256 square feet.

13VAC5-63-130 G and K: Adds the requirement for inspections for any fuel-burning appliances or equipment being replaced in existing single family dwellings to ensure proper sizing of vent or chimney systems and to ensure that vents and chimneys are free from blockage, defects or deterioration and are in operable condition. Allows inspection by others but requires certification to the building official that the requirements have been met. Subsection K provides that a licensed mechanical contractor may perform duct testing required by section R403.3.3 of the IECC or Section N1103.3.3 of the IRC.

13VAC5-63-150: B: Provides a requirement that a notice of violation must specify a reasonable time period within which the corrections or compliance must occur and further clarifies that unsafe building or structures that become unsafe during the construction process follow a separate path of abatement under Section 118.

13VAC5-63-190 G: Changes the requirement for a decision by the LBBCA to be a written decision as opposed to a resolution. Also adds that the decision shall be explained in writing. Further substitutes throughout the appeals section "written decision" where now exists "resolution".

13VAC5-63-200 A and B: Changes the following definitions: In subsection A, Permit Technicians have been added to the definition of Technical Assistant and in subsection B Change of Occupancy has been changed to read "See section 202 of the VEBC" for the purpose of ensuring the term is used consistently throughout the USBC.

13VAC5-63-210 T.12, 29, 44, 51, 53, 60, 68 and 70 (Changes to the IRC): Subsection T.12 Clarifies the language for hazardous locations for glazing to be less than 60 inches measured horizontally in a straight line from the water's edge and the bottom exposed edge of the glazing is less than 60 inches measured vertically above any standing or walking surface. Subsection T.29 adds language to clarify that a swimming pool barrier can be located on the property line and providing a prohibition for pool equipment such as pumps, filters and heaters may not be within three feet of the exterior of the barrier when located on the same property. Subsection T.44 provides clarification that the intent of openings to an underfloor space is to provide cross ventilation and that when cross ventilation has been provided, openings are not

required to be within three feet of each corner. Subsection T.51 provides requirements for braced wall panel support. Subsection T.53 is a reformatting of the roof construction section. Subsection T.60 clarifies that the REScheck compliance software developed by the U.S. Department of Energy shall be an acceptable method of determining energy code compliance. Subsection T.68 eliminates the visual inspection option for duct testing and requires a pressure test to be conducted with the results forwarded to the code official. Subsection T.70 provides an energy compliance alternative using the ERI index and provides for trade-offs when using renewable energy sources.

13VAC5-63-230 F: Subsection F adds a requirement for HVAC system shutdown by one of three different methods. A duct detector installed in the return duct, an area smoked detector interlocked with the VAC equipment or a listed heat sensor installed in the return duct.

13VAC5-63-240, I, L and T: Subsection I increases the number of sprinkler heads permitted on a limited area sprinkler system from 6 to 20. Subsection L eliminates a Virginia amendment on standpipes and incorporates new language for the existing pressure exemption for buildings up to 150 feet and alleviates the need for the exception regarding residual pressure and also eliminates the potential issue of pressure being waived but not volume. Subsection T requires fire department connections to be unobstructed by fences, bushes, trees, walls or any other fixed or moveable objects.

13VAC5-63-245 R, W, and AA: Subsection R eliminates the requirement for ladders in limited areas to be constructed in accordance with the International Mechanical Code. This was removed due to technically infeasible and conflicting language. Subsection W provides an exception to allow structural members supporting a roof to penetration rated stair enclosures under certain conditions. Subsection AA adds the use group R-4 to the list of use groups required to provide emergency escape and rescue openings.

13VAC5-63-264. 1, 2, 3, 5, 7, 15 and 17. (Changes to IECC): Subsection 1, 2 and 3 keep the current energy efficiency requirements related to projection factor and simple solar heat gain coefficient of windows. Adoption of the 2015 model code without amending this section would result in lower energy efficiency. Subsection 5 requires mechanical ventilation to be provided for Group R (residential) occupancies constructed under the IBC to ensure minimum acceptable indoor air quality in dwellings that have limited air infiltration as a result of meeting minimum energy efficiency requirements. Subsection 7 clarifies that the REScheck compliance software developed by the U.S. Department of Energy shall be an acceptable method of determining energy code compliance. Subsection 15 eliminates the visual inspection option for duct testing and requires a pressure test to be conducted with the results forwarded to the code official. Subsection 17 provides an energy compliance alternative using the ERI index and provides for trade-offs when using renewable energy sources. A state amendment was also deleted that established a fixed 15% fenestration area when utilizing the performance path method of energy efficiency compliance of the IECC for residential structures.

13VAC5-63-280, D: Eliminates the need to determine whether professional design is required as the basis for determining when special inspections are required for a project. Instead, the threshold is based on size and height of the proposed structure.

13VAC5-63-298: Exempts one story buildings that have non-combustible exterior wall covering from complying with NFPA 285 testing.

13VAC5-63-310, D.2 and 4: Adds minimum mechanical ventilation requirements for dwelling units in the IMC to ensure minimum acceptable indoor air quality in dwellings that have limited air infiltration as a result of meeting minimum energy efficiency requirements.

13VAC5-63-320, B.16, 17, 18 and 19: Keeps the current IPC storm drain sizing tables.

13VAC5-63-400 through 443: Extensive rewrite to rearrange and consolidate the Virginia Rehabilitation Code to become the Virginia Existing Building Code. Provides clarification on how to apply the VEBC code and simplifies scoping.

13VAC5-63-470, E: Clarifies who is responsible for the maintenance of a building, structure, system, facility and associated equipment.

13VAC5-63-480, U: Requires manufactured home park tenants to be notified if a notice of violation is issued to an owner for violations that jeopardize their health or safety.

13VAC5-63-490: Creates a new section related to violations of the Virginia Maintenance Code. Clarifies that it is unlawful to violate the code.

13VAC5-63-510, C: Added definitions for applicable building code and maintained for consistency with other codes.

13VAC5-63-530, D.7: Requires maintenance of nonpotable water reuse systems. Provides provisions for safely abandoning a system that is no longer in use.

13VAC5-63-540, B.17: Clarifies that the owner has three options for displaying the elevator, escalator or dumbwaiter certificate of inspection.

### Statement of final agency action

*Please 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.*

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The BHCD approved final regulations on October 16, 2017 for the USBC.

### Family impact

*Please assess the impact of this 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 final regulations do not have an impact on the institution of family and family stability.