

# CHAPTER 1

## ADMINISTRATION

*DHCD Note: As the Virginia Uniform Statewide Building Code uses the scoping provision of the International Residential Code in determining which buildings may be constructed under it, Section R101.2 of the International Residential Code is reprinted below for use with the Virginia Residential Code.*

*R101.2 Scope. The provisions of the International Residential Code for One- and Two-family Dwellings shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures.*

*Exception: Live/work units complying with the requirements of Section 419 of the International Building Code shall be permitted to be built as one- and two-family dwellings or townhouses. Fire suppression required by Section 419.5 of the International Building Code when constructed under the International Residential Code for One- and Two-family Dwellings shall conform to Section 903.3.1.3 of the International Building Code.*

### SECTION 101 GENERAL

**101.1 Short title.** The *Virginia Uniform Statewide Building Code*, Part I, Construction, may be cited as the *Virginia Construction Code*. The term “USBC” shall mean the *Virginia Construction Code* unless the context in which the term is used clearly indicates it to be an abbreviation for the entire *Virginia Uniform Statewide Building Code* or for a different part of the *Virginia Uniform Statewide Building Code*.

### SECTION 102 PURPOSE AND SCOPE

**102.1 Purpose.** In accordance with Section 36-99 of the Code of Virginia, the purpose of the USBC is to protect the health, safety and welfare of the residents of the Commonwealth of Virginia, provided that buildings and structures should be permitted to be constructed at the least possible cost consistent with recognized standards of health, safety, energy conservation and water conservation, including provisions necessary to prevent overcrowding, rodent or insect infestation, and garbage accumulation; and barrier-free provisions for the physically handicapped and aged.

**102.2 Scope.** This section establishes the scope of the USBC in accordance with Section 36-98 of the Code of Virginia. The USBC shall supersede the building codes and regulations of the counties, municipalities and other political subdivisions and state agencies. This code also shall supersede the provisions of local ordinances applicable to single-family residential construction that (i) regulate dwelling foundations or crawl spaces, (ii) require the use of specific building materials or finishes in construction, or (iii) require minimum surface area or numbers of windows; however, this 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 Section 15.2-2242 of the Code of Virginia or subdivision A 12 of Section 15.2-2286 of the Code of Virginia, or land use requirements in airport or highway overlay districts, or historic districts created pursuant to Section 15.2-2306 of the Code of Virginia, or local flood plain regulations adopted as

a condition of participation in the National Flood Insurance Program.

**Note:** Requirements relating to functional design are contained in Section 103.11 of this code.

**102.2.1 Invalidity of provisions.** To the extent that any provisions of this code are in conflict with Chapter 6 (Section 36-97 et seq.) of Title 36 of the Code of Virginia or in conflict with the scope of the USBC, those provisions are considered to be invalid to the extent of such conflict.

### SECTION 103 APPLICATION OF CODE

**103.1 General.** In accordance with Section 36-99 of the Code of Virginia, the USBC shall prescribe building regulations to be complied with in the construction and rehabilitation of buildings and structures, and the equipment therein.

**103.2 When applicable to new construction.** Construction for which a permit application is submitted to the local building department after the effective date of the 2009 edition of the code, shall comply with the provisions of this code, except for permit applications submitted during a one-year period after the effective date of the 2009 edition of the code. The applicant for a permit during such one-year period shall be permitted to choose whether to comply with the provisions of this code or the provisions of the 2009 edition of the code in effect immediately prior to the 2009 edition. This provision shall also apply to subsequent amendments to this code based on the effective date of such amendments. In addition, when a permit has been properly issued under a previous edition of this code, this code shall not require changes to the approved construction documents, design or construction of such a building or structure, provided the permit has not been suspended or revoked.

**103.3 Change of occupancy.** No change of occupancy shall be made in any structure when the current USBC requires a greater degree of accessibility, structural strength, fire protection, means of egress, ventilation or sanitation. When such a greater degree is required, the owner or the owner’s agent shall make written application to the local building department for a new certificate of occupancy and shall obtain the new certificate of occupancy prior to the new use of the structure. When impractical to achieve compliance with this code for the new

occupancy classification, the building official shall consider modifications upon application and as provided for in Section 106.3.

**Exception:** This section shall not be construed to permit noncompliance with any applicable flood load or flood-resistant construction requirements of this code.

**103.4 Additions.** Additions to buildings and structures shall comply with the requirements of this code for new construction and an existing building or structure plus additions shall comply with the height and area provisions of Chapter 5. Further, this code shall not require changes to the design or construction of any portions of the building or structure not altered or affected by an addition, unless the addition has the effect of lowering the current level of safety.

**Exception:** This section shall not be construed to permit noncompliance with any applicable flood load or flood-resistant construction requirements of this code.

**103.5 Reconstruction, alteration or repair.** The following criteria is applicable to reconstruction, alteration or repair of buildings or structures:

1. Any reconstruction, alteration or repair shall not adversely affect the performance of the building or structure, or cause the building or structure to become unsafe or lower existing levels of health and safety.
2. Parts of the building or structure not being reconstructed, altered or repaired shall not be required to comply with the requirements of this code applicable to newly constructed buildings or structures.
3. The installation of material or equipment, or both, that is neither required nor prohibited shall only be required to comply with the provisions of this code relating to the safe installation of such material or equipment.
4. Material or equipment, or both, may be replaced in the same location with material or equipment of a similar kind or capacity.

**Exceptions:**

1. This section shall not be construed to permit noncompliance with any applicable flood load or flood-resistant construction requirements of this code.
2. Reconstructed decks, balconies, porches and similar structures located 30 inches (762 mm) or more above grade shall meet the current code provisions for structural loading capacity, connections and structural attachment. This requirement excludes the configuration and height of handrails and guardrails.

**103.8 Nonrequired equipment.** The following criteria for nonrequired equipment is in accordance with Section 36-103 of the Code of Virginia. Building owners may elect to install partial or full fire alarms or other safety equipment that was not required by the edition of the USBC in effect at the time a building was constructed without meeting current requirements of the code, provided the installation does not create a hazardous condition. Permits for installation shall be obtained in accordance with this code. In addition, as a requirement of this code, when such nonrequired equipment is to be installed, the building official shall notify the appropriate fire official or fire chief.

**103.8.1 Reduction in function or discontinuance of nonrequired fire protection systems.** When a nonrequired fire protection system is to be reduced in function or discontinued, it shall be done in such a manner so as not to create a false sense of protection. Generally, in such cases, any features visible from interior areas shall be removed, such as sprinkler heads, smoke detectors or alarm panels or devices, but any wiring or piping hidden within the construction of the building may remain. Approval of the proposed method of reduction or discontinuance shall be obtained from the building official.

**103.9 Equipment changes.** Upon the replacement or new installation of any fuel-burning appliances or equipment in existing buildings, an inspection or inspections shall be conducted to ensure that the connected vent or chimney systems comply with the following:

1. Vent or chimney systems are sized in accordance with either the *International Residential Code*, the *International Mechanical Code* or the *International Fuel Gas Code*, depending on which is applicable based on the fuel source and the occupancy classification of the structure.
2. Vent or chimney systems are clean, free of any obstruction or blockages, defects or deterioration and are in operable condition.

Where not inspected by the local building department, persons performing such changes or installations shall certify to the building official that the requirements of Items 1 and 2 of this section are met.

**103.11 Functional design.** The following criteria for functional design is in accordance with Section 36-98 of the Code of Virginia. The USBC shall not supersede the regulations of other state agencies that require and govern the functional design and operation of building related activities not covered by the USBC, including but not limited to (i) public water supply systems, (ii) waste water treatment and disposal systems, (iii) solid waste facilities, nor shall state agencies be prohibited from requiring, pursuant to other state law, that buildings and equipment be maintained in accordance with provisions of this code. In addition, as established by this code, the building official may refuse to issue a permit until the applicant has supplied certificates of functional design approval from the appropriate state agency or agencies. For purposes of coordination, the locality may require reports to the building official by other departments or agencies indicating compliance with their regulations applicable to the functional design of a building or structure as a condition for issuance of a building permit or certificate of occupancy. Such reports shall be based upon review of the plans or inspection of the project as determined by the locality. All enforcement of these conditions shall not be the responsibility of the building official, but rather the agency imposing the condition.

**Note:** Identified state agencies with functional design approval are listed in the "Related Laws Package," which is available from DHCD.

**103.13 State buildings and structures.** This section establishes the application of the USBC to state-owned buildings and structures in accordance with Section 36-98.1 of the Code of Virginia. The USBC shall be applicable to all state-owned

buildings and structures, with the exception that Sections 2.2-1159, 2.2-1160 and 2.2-1161 of the Code of Virginia shall provide the standards for ready access to and use of state-owned buildings by the physically handicapped.

Any state-owned building or structure for which preliminary plans were prepared or on which construction commenced after the initial effective date of the USBC, shall remain subject to the provisions of the USBC that were in effect at the time such plans were completed or such construction commenced. Subsequent reconstruction, renovation or demolition of such building or structure shall be subject to the pertinent provisions of this code.

Acting through the Division of Engineering and Buildings, the Virginia Department of General Services shall function as the building official for state-owned buildings. The department shall review and approve plans and specifications, grant modifications, and establish such rules and regulations as may be necessary to implement this section. It shall provide for the inspection of state-owned buildings and enforcement of the USBC and standards for access by the physically handicapped by delegating inspection and USBC enforcement duties to the State Fire Marshal's Office, to other appropriate state agencies having needed expertise, and to local building departments, all of which shall provide such assistance within a reasonable time and in the manner requested. State agencies and institutions occupying buildings shall pay to the local building department the same fees as would be paid by a private citizen for the services rendered when such services are requested by the department. The department may alter or overrule any decision of the local building department after having first considered the local building department's report or other rationale given for its decision. When altering or overruling any decision of a local building department, the department shall provide the local building department with a written summary of its reasons for doing so.

Notwithstanding any provision of this code to the contrary, roadway tunnels and bridges owned by the Virginia Department of Transportation shall be exempt from this code. The Virginia Department of General Services shall not have jurisdiction over such roadway tunnels, bridges and other limited access highways; provided, however, that the Department of General Services shall have jurisdiction over any occupied buildings within any Department of Transportation rights-of-way that are subject to this code.

Except as provided in Section 23-38.109 D of the Code of Virginia, and notwithstanding any provision of this code to the contrary, at the request of a public institution of higher education, the Virginia Department of General Services, as further set forth in this provision, shall authorize that institution of higher education to contract with a building official of the locality in which the construction is taking place to perform any inspection and certifications required for the purpose of complying with this code. The department shall publish administrative procedures that shall be followed in contracting with a building official of the locality. The authority granted to a public institution of higher education under this provision to contract with a building official of the locality shall be subject to the institution meeting the conditions prescribed in Section 23-38.88 B of the Code of Virginia.

**Note:** In accordance with Section 36-98.1 of the Code of Virginia, roadway tunnels and bridges shall be designed, constructed and operated to comply with fire safety standards based on nationally recognized model codes and standards to be developed by the Virginia Department of Transportation in consultation with the State Fire Marshal and approved by the Virginia Commonwealth Transportation Board. Emergency response planning and activities related to the standards approved by the Commonwealth Transportation Board shall be developed by the Department of Transportation and coordinated with the appropriate local officials and emergency service providers. On an annual basis, the Department of Transportation shall provide a report on the maintenance and operability of installed fire protection and detection systems in roadway tunnels and bridges to the State Fire Marshal.

**103.13.1 Certification of state enforcement personnel.** State enforcement personnel shall comply with the applicable requirements of Section 105 for certification, periodic maintenance training, and continuing education.

## SECTION 104 ENFORCEMENT, GENERALLY

**104.1 Scope of enforcement.** This section establishes the requirements for enforcement of the USBC in accordance with Section 36-105 of the Code of Virginia. Enforcement of the provisions of the USBC for construction and rehabilitation shall be the responsibility of the local building department. Whenever a county or municipality does not have such a building department, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by DHCD for such enforcement. For the purposes of this section, towns with a population of less than 3,500 may elect to administer and enforce the USBC; however, where the town does not elect to administer and enforce the code, the county in which the town is situated shall administer and enforce the code for the town. In the event such town is situated in two or more counties, those counties shall administer and enforce the USBC for that portion of the town situated within their respective boundaries.

Upon a finding by the local building department, following a complaint by a tenant of a residential rental unit that is the subject of such complaint, that there may be a violation of the unsafe structures provisions of Part III of the *Virginia Uniform Statewide Building Code*, also known as the "*Virginia Maintenance Code*," the local building department shall enforce such provisions.

If the local building department receives a complaint that a violation of the *Virginia Maintenance Code* exists that is an immediate and imminent threat to the health or safety of the owner or tenant of a residential dwelling unit or a nearby residential dwelling unit, and the owner or tenant of the residential dwelling unit that is the subject of the complaint has refused to allow the local building official or his agent to have access to the subject dwelling, the local building official or his agent may present sworn testimony to a court of competent jurisdiction and request that the court grant the local building official or his

agent an inspection warrant to enable the building official or his agent to enter the subject dwelling for the purpose of determining whether violations of the *Virginia Maintenance Code* exist. The local building official or his agent shall make a reasonable effort to obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection warrant under this section.

The local governing body shall inspect and enforce the provisions of the *Virginia Maintenance Code* for elevators except for elevators in single and two-family homes and townhouses. Such inspection and enforcement shall be carried out by an agency or department designated by the local governing body.

**104.2 Interagency coordination.** When any inspection functions under this code are assigned to a local agency other than the local building department, such agency shall coordinate its reports of inspection with the local building department.

**104.3 Transfer of ownership.** If the local building department has initiated an enforcement action against the owner of a building or structure and such owner subsequently transfers the ownership of the building or structure to an entity in which the owner holds an ownership interest greater than 50 percent, the pending enforcement action shall continue to be enforced against the owner.

## SECTION 105 LOCAL BUILDING DEPARTMENT

**105.1 Appointment of building official.** Every local building department shall have a building official as the executive official in charge of the department. The building official shall be appointed in a manner selected by the local governing body. After permanent appointment, the building official shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority. DHCD shall be notified by the appointing authority within 30 days of the appointment or release of a permanent or acting building official.

**Note:** Building officials are subject to sanctions in accordance with the VCS.

**105.1.1 Qualifications of building official.** The building official shall have at least five years of building experience as a licensed professional engineer or architect, building, fire or trade inspector, contractor, housing inspector or superintendent of building, fire or trade construction or at least five years of building experience after obtaining a degree in architecture or engineering, with at least three years in responsible charge of work. Any combination of education and experience that would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The building official shall have general knowledge of sound engineering practice in respect to the design and construction of structures, the basic principles of fire prevention, the accepted requirements for means of egress and the installation of elevators and other service equipment necessary for the health, safety and general welfare of the occupants and the public. The local governing body may establish additional qualification requirements.

**105.1.2 Certification of building official.** An acting or permanent building official shall be certified as a building official in accordance with the VCS within one year after being appointed as acting or permanent building official.

**Exception:** A building official in place prior to April 1, 1983, shall not be required to meet the certification requirements in this section while continuing to serve in the same capacity in the same locality.

**105.1.3 Noncertified building official.** Except for a building official exempt from certification under the exception to Section 105.1.2, any acting or permanent building official who is not certified as a building official in accordance with the VCS shall attend the core module of the Virginia Building Code Academy or an equivalent course in an individual or regional code academy accredited by DHCD within 180 days of appointment. This requirement is in addition to meeting the certification requirement in Section 105.1.2.

**105.1.4 Requirements for periodic maintenance and continuing education.** Building officials shall attend periodic maintenance training as designated by DHCD. In addition to the periodic maintenance training required above, building officials shall attend 16 hours of continuing education every two years as approved by DHCD. If a building official possesses more than one BHCD certificate, the 16 hours shall satisfy the continuing education requirement for all BHCD certificates.

**105.2 Technical assistants.** The building official, subject to any limitations imposed by the locality, shall be permitted to utilize technical assistants to assist the building official in the enforcement of the USBC. DHCD shall be notified by the building official within 60 days of the employment of, contracting with or termination of all technical assistants.

**Note:** Technical assistants are subject to sanctions in accordance with the VCS.

**105.2.1 Qualifications of technical assistants.** A technical assistant shall have at least three years of experience and general knowledge in at least one of the following areas: building construction; building, fire or housing inspections; plumbing, electrical or mechanical trades; or fire protection, elevator or property maintenance work. Any combination of education and experience that would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The locality may establish additional qualification requirements.

**105.2.2 Certification of technical assistants.** A technical assistant shall be certified in the appropriate subject area within 18 months after becoming a technical assistant. When required by local policy to have two or more certifications, a technical assistant shall obtain the additional certifications within three years from the date of such requirement.

**Exception:** A technical assistant in place prior to March 1, 1988, shall not be required to meet the certification requirements in this section while continuing to serve in the same capacity in the same locality.

**105.2.3 Requirements for periodic maintenance and continuing education.** Technical assistants shall attend periodic maintenance training as designated by DHCD. In

addition to the periodic maintenance training required above, technical assistants shall attend 16 hours of continuing education every two years as approved by DHCD. If a technical assistant possesses more than one BHCD certificate, the 16 hours shall satisfy the continuing education requirement for all BHCD certificates.

**105.3 Conflict of interest.** The standards of conduct for building officials and technical assistants shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act, Chapter 31 (Section 2.2-3100 et seq.) of Title 2.2 of the Code of Virginia.

**105.4 Records.** The local building department shall retain a record of applications received, permits, certificates, notices and orders issued, fees collected and reports of inspection in accordance with The Library of Virginia's General Schedule Number Six.

### SECTION 106 POWERS AND DUTIES OF THE BUILDING OFFICIAL

**106.1 Powers and duties, generally.** The building official shall enforce this code as set out herein and as interpreted by the State Review Board.

**106.2 Delegation of authority.** The building official may delegate powers and duties except where such authority is limited by the local government. However, such limitations of authority by the local government are not applicable to the third-party inspector policy required by Section 113.7.1 nor shall such limitations of authority by the local government have the effect of altering the provisions of this code or creating building regulations. When such delegations are made, the building official shall be responsible for assuring that they are carried out in accordance with the provisions of this code.

**106.3 Issuance of modifications.** Upon written application by an owner or an owner's agent, the building official may approve a modification of any provision of the USBC provided the spirit and functional intent of the code are observed and public health, welfare and safety are assured. The decision of the building official concerning a modification shall be made in writing and the application for a modification and the decision of the building official concerning such modification shall be retained in the permanent records of the local building department.

**Note:** The USBC references nationally recognized model codes and standards. Future amendments to such codes and standards are not automatically included in the USBC; however, the building official should give them due consideration in deciding whether to approve a modification.

**106.3.1 Substantiation of modification.** The building official may require or may consider a statement from an RDP or other person competent in the subject area of the application as to the equivalency of the proposed modification. In addition, the building official may require the application to include construction documents sealed by an RDP.

**106.3.2 Use of performance code.** Compliance with the provisions of a nationally recognized performance code

when approved as a modification shall be considered to constitute compliance with this code. All documents submitted as part of such consideration shall be retained in the permanent records of the local building department.

### SECTION 107 FEES

**107.1 Authority for charging fees.** In accordance with Section 36-105 of the Code of Virginia, fees may be levied by the local governing body in order to defray the cost of enforcement of the USBC.

**107.1.1 Fee schedule.** The local governing body shall establish a fee schedule incorporating unit rates, which may be based on square footage, cubic footage, estimated cost of construction or other appropriate criteria. A permit or any amendments to an existing permit shall not be issued until the designated fees have been paid, except that the building official may authorize the delayed payment of fees.

**107.1.2 Refunds.** When requested in writing by a permit holder, the locality shall provide a fee refund in the case of the revocation of a permit or the abandonment or discontinuance of a building project. The refund shall not be required to exceed an amount which correlates to work not completed.

**107.2 Code academy fee levy.** In accordance with subdivision 7 of Section 36-137 of the Code of Virginia, the local building department shall collect a 2.0 percent levy of fees charged for permits issued under this code and transmit it quarterly to DHCD to support training programs of the Virginia Building Code Academy. Localities that maintain individual or regional training academies accredited by DHCD shall retain such levy.

### SECTION 108 APPLICATION FOR PERMIT

**108.1 When applications are required.** Application for a permit shall be made to the building official and a permit shall be obtained prior to the commencement of any of the following activities, except that applications for emergency construction, alterations or equipment replacement shall be submitted by the end of the first working day that follows the day such work commences. In addition, the building official may authorize work to commence pending the receipt of an application or the issuance of a permit.

1. Construction or demolition of a building or structure. Installations or alterations involving (i) the removal or addition of any wall, partition or portion thereof, (ii) any structural component, (iii) the repair or replacement of any required component of a fire or smoke rated assembly, (iv) the alteration of any required means of egress system, (v) water supply and distribution system, sanitary drainage system or vent system, (vi) electric wiring, (vii) fire protection system, mechanical systems, or fuel supply systems, or (viii) any equipment regulated by the USBC.

2. For change of occupancy, application for a permit shall be made when a new certificate of occupancy is required under Section 103.3.
3. Movement of a lot line that increases the hazard to or decreases the level of safety of an existing building or structure in comparison to the building code under which such building or structure was constructed.
4. Removal or disturbing of any asbestos containing materials during the construction or demolition of a building or structure, including additions.

**108.2 Exemptions from application for permit.** Notwithstanding the requirements of Section 108.1, application for a permit and any related inspections shall not be required for the following; however, this section shall not be construed to exempt such activities from other applicable requirements of this code. In addition, when an owner or an owner's agent requests that a permit be issued for any of the following, then a permit shall be issued and any related inspections shall be required.

1. Installation of wiring and equipment that (i) operates at less than 50 volts, (ii) is for network powered broadband communications systems, or (iii) is exempt under Section 102.3(1), except when any such installations are located in a plenum, penetrate fire rated or smoke protected construction or are a component of any of the following:
  - 1.1. Fire alarm system.
  - 1.2. Fire detection system.
  - 1.3. Fire suppression system.
  - 1.4. Smoke control system.
  - 1.5. Fire protection supervisory system.
  - 1.6. Elevator fire safety control system.
  - 1.7. Access or egress control system or delayed egress locking or latching system.
  - 1.8. Fire damper.
  - 1.9. Door control system.
2. One story detached accessory structures used as tool and storage sheds, playhouses or similar uses, provided the floor area does not exceed 200 square feet (18 m<sup>2</sup>) and the structures are not classified as a Group F-1 or H occupancy.
3. Detached prefabricated buildings housing the equipment of a publicly regulated utility service, provided the floor area does not exceed 150 square feet (14 m<sup>2</sup>).
4. Tents or air-supported structures, or both, that cover an area of 900 square feet (84 m<sup>2</sup>) or less, including within that area all connecting areas or spaces with a common means of egress or entrance, provided such tents or structures have an occupant load of 50 or less persons.
5. Fences and privacy walls not part of a building, structure or of the barrier for a swimming pool, provided such fences and privacy walls do not exceed 6 feet (1828.8 mm) in height above the finished grade. Ornamental post caps shall not be considered to contribute to

the height of the fence or privacy wall and shall be permitted to extend above the 6 feet (1828.8 mm) height measurement.

6. Retaining walls supporting less than 2 feet (609.6 mm) of unbalanced fill. This exemption shall not apply to any wall impounding Class I, II or III-A liquids or supporting a surcharge other than ordinary unbalanced fill.
7. Swimming pools that have a surface area not greater than 150 square feet (13.95 m<sup>2</sup>), do not exceed 5,000 gallons (19 000 L) and are less than 24 inches (610 mm) deep.
8. Signs under the conditions in Section H101.2 of Appendix H.
9. Replacement of above-ground existing LP-gas containers of the same capacity in the same location and associated regulators when installed by the serving gas supplier.
10. Ordinary repairs that include the following:
  - 10.1. Replacement of windows and doors with windows and doors of similar operation and opening dimensions that do not require changes to the existing framed opening and that are not required to be fire rated in Group R-2 where serving a single dwelling unit and in Groups R-3, R-4 and R-5.
  - 10.2. Replacement of plumbing fixtures in all groups without alteration of the water supply and distribution systems, sanitary drainage systems or vent systems.
  - 10.3. Replacement of general use snap switches, dimmer and control switches, 125 volt-15 or 20 ampere receptacles, luminaries (lighting fixtures) and ceiling (paddle) fans in Group R-2 where serving a single dwelling unit and in Groups R-3, R-4 and R-5.
  - 10.4. Replacement of mechanical appliances provided such equipment is not fueled by gas or oil in Group R-2 where serving a single family dwelling and in Groups R-3, R-4 and R-5.
  - 10.5. Replacement of an unlimited amount of roof covering or siding in Groups R-3, R-4 or R-5 provided the building or structure is not in an area where the design (3-second gust) wind speed is greater than 100 miles per hour (160 km/hr) and replacement of 100 square feet (9.29 m<sup>2</sup>) or less of roof covering in all groups and all wind zones.
  - 10.6. Replacement of 100 square feet (9.29 m<sup>2</sup>) or less of roof decking in Groups R-3, R-4 or R-5 unless the decking to be replaced was required at the time or original construction to be fire-retardant-treated or protected in some other way to form a fire-rated wall termination.
  - 10.7. Installation or replacement of floor finishes in all occupancies.

- 10.8. Replacement of Class C interior wall or ceiling finishes installed in Groups A, E and I and replacement of all classes of interior wall or ceiling finishes in other groups.
- 10.9. Installation of replacement cabinetry or trim.
- 10.10. Application of paint or wallpaper.
- 10.11. Other repair work deemed by the building official to be minor and ordinary which does not adversely affect public health or general safety.

**Exception:** Application for a permit may be required by the building official for the installation of replacement siding, roofing and windows in buildings within a historic district designated by a locality pursuant to Section 15.2-2306 of the Code of Virginia.

**108.3 Applicant information, processing by mail.** Application for a permit shall be made by the owner or lessee of the relevant property or the agent of either or by the RDP, contractor or subcontractor associated with the work or any of their agents. The full name and address of the owner, lessee and applicant shall be provided in the application. If the owner or lessee is a corporate body, when and to the extent determined necessary by the building official, the full name and address of the responsible officers shall also be provided.

A permit application may be submitted by mail and such permit applications shall be processed by mail, unless the permit applicant voluntarily chooses otherwise. In no case shall an applicant be required to appear in person.

The building official may accept applications for a permit through electronic submissions provided the information required by this section is obtained.

**108.4 Prerequisites to obtaining permit.** In accordance with Section 54.1-1111 of the Code of Virginia, any person applying to the building department for the construction, removal or improvement of any structure shall furnish prior to the issuance of the permit either (i) satisfactory proof to the building official that he is duly licensed or certified under the terms of Chapter 11 (Section 54.1-1000 et seq.) of Title 54.1 of the Code of Virginia to carry out or superintend the same or (ii) file a written statement, supported by an affidavit, that he is not subject to licensure or certification as a contractor or subcontractor pursuant to Chapter 11 of Title 54.1 of the Code of Virginia. The applicant shall also furnish satisfactory proof that the taxes or license fees required by any county, city, or town have been paid so as to be qualified to bid upon or contract for the work for which the permit has been applied.

**108.5 Mechanics' lien agent designation.** In accordance with Section 36-98.01 of the Code of Virginia, a building permit issued for any one- or two-family residential dwelling shall at the time of issuance contain, at the request of the applicant, the name, mailing address, and telephone number of the mechanics' lien agent as defined in Section 43-1 of the Code of Virginia. If the designation of a mechanics' lien agent is not so requested by the applicant, the building permit shall at the time of issuance state that none has been designated with the words "None Designated."

**Note:** In accordance with Section 43-4.01A of the Code of Virginia, a permit may be amended after it has been initially issued to name a mechanics' lien agent or a new mechanics' lien agent.

**108.6 Application form, description of work.** The application for a permit shall be submitted on a form or forms supplied by the local building department. The application shall contain a general description and location of the proposed work and such other information as determined necessary by the building official.

**108.7 Amendments to application.** An application for a permit may be amended at any time prior to the completion of the work governed by the permit. Additional construction documents or other records may also be submitted in a like manner. All such submittals shall have the same effect as if filed with the original application for a permit and shall be retained in a like manner as the original filings.

**108.8 Time limitation of application.** An application for a permit for any proposed work shall be deemed to have been abandoned six months after the date of filing unless such application has been pursued in good faith or a permit has been issued, except that the building official is authorized to grant one or more extensions of time if a justifiable cause is demonstrated.

## SECTION 109 CONSTRUCTION DOCUMENTS

**109.1 Submittal of documents.** Construction documents shall be submitted with the application for a permit. The number of sets of such documents to be submitted shall be determined by the locality. Construction documents for one- and two-family dwellings may have floor plans reversed provided an accompanying site plan is approved.

**Exception:** Construction documents do not need to be submitted when the building official determines the proposed work is of a minor nature.

**Note:** Information on the types of construction required to be designed by an RDP is included in the "Related Laws Package" available from DHCD.

**109.2 Site plan.** When determined necessary by the building official, a site plan shall be submitted with the application for a permit. The site plan shall show to scale the size and location of all proposed construction, including any associated wells, septic tanks or drain fields. The site plan shall also show to scale the size and location of all existing structures on the site, the distances from lot lines to all proposed construction, the established street grades and the proposed finished grades. When determined necessary by the building official, the site plan shall contain the elevation of the lowest floor of any proposed buildings. The site plan shall also be drawn in accordance with an accurate boundary line survey. When the application for a permit is for demolition, the site plan shall show all construction to be demolished and the location and size of all existing structures that are to remain on the site.

**Note:** Site plans are generally not necessary for alterations, renovations, repairs or the installation of equipment.

**109.3 Engineering details.** When determined necessary by the building official, construction documents shall include adequate detail of the structural, mechanical, plumbing or electrical components. Adequate detail may include computations, stress diagrams or other essential technical data and when proposed buildings are more than two stories in height, adequate detail may specifically be required to include where floor penetrations will be made for pipes, wires, conduits, and other components of the electrical, mechanical and plumbing systems and how such floor penetrations will be protected to maintain the required structural integrity or fire-resistance rating, or both. All engineered documents, including relevant computations, shall be sealed by the RDP responsible for the design.

**109.4 Examination of documents.** The building official shall examine or cause to be examined all construction documents or site plans, or both, within a reasonable time after filing. If such documents or plans do not comply with the provisions of this code, the permit applicant shall be notified in writing of the reasons, which shall include any adverse construction document review comments or determinations that additional information or engineering details need to be submitted. The review of construction documents for new one- and two-family dwellings for determining compliance with the technical provisions of this code not relating to the site, location or soil conditions associated with the dwellings shall not be required when identical construction documents for identical dwellings have been previously approved in the same locality under the same edition of the code and such construction documents are on file with the local building department.

**109.4.1 Expedited construction document review.** The building official may accept reports from an approved person or agency that the construction documents have been examined and conform to the requirements of the USBC and may establish requirements for the person or agency submitting such reports. In addition, where such reports have been submitted, the building official may expedite the issuance of the permit.

**109.5 Approval of construction documents.** The approval of construction documents shall be limited to only those items within the scope of the USBC. Either the word "Approved" shall be stamped on all required sets of approved construction documents or an equivalent endorsement in writing shall be provided. One set of the approved construction documents shall be retained for the records of the local building department and one set shall be kept at the building site and shall be available to the building official at all reasonable times.

**109.6 Phased approval.** The building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted.

## SECTION 110 PERMITS

**110.1 Approval and issuance of permits.** The building official shall examine or cause to be examined all applications for permits or amendments to such applications within a reasonable time after filing. If the applications or amendments do not comply with the provisions of this code or all pertinent laws and ordinances, the permit shall not be issued and the permit applicant shall be notified in writing of the reasons for not issuing the permit. If the application complies with the applicable requirements of this code, a permit shall be issued as soon as practicable. The issuance of permits shall not be delayed in an effort to control the pace of construction of new detached one- or two-family dwellings.

**110.2 Types of permits.** Separate or combined permits may be required for different areas of construction such as building construction, plumbing, electrical, and mechanical work, or for special construction as determined appropriate by the locality. In addition, permits for two or more buildings or structures on the same lot may be combined. Annual permits may also be issued for any construction regulated by this code. The annual permit holder shall maintain a detailed record of all alterations made under the annual permit. Such record shall be available to the building official and shall be submitted to the local building department if requested by the building official.

**110.3 Asbestos inspection in buildings to be renovated or demolished; exceptions.** In accordance with Section 36-99.7 of the Code of Virginia, the local building department shall not issue a building permit allowing a building for which an initial building permit was issued before January 1, 1985, to be renovated or demolished until the local building department receives certification from the owner or his agent that the affected portions of the building have been inspected for the presence of asbestos by an individual licensed to perform such inspections pursuant to Section 54.1-503 of the Code of Virginia and that no asbestos-containing materials were found or that appropriate response actions will be undertaken in accordance with the requirements of the Clean Air Act National Emission Standard for the Hazardous Air Pollutant (NESHAPS) (40 CFR Part 61, Subpart M), and the asbestos worker protection requirements established by the U.S. Occupational Safety and Health Administration for construction workers (29 CFR 1926.1101). Local educational agencies that are subject to the requirements established by the Environmental Protection Agency under the Asbestos Hazard Emergency Response Act (AHERA) shall also certify compliance with 40 CFR Part 763 and subsequent amendments thereto.

To meet the inspection requirements above, except with respect to schools, asbestos inspection of renovation projects consisting only of repair or replacement of roofing, floorcovering, or siding materials may be satisfied by a statement that the materials to be repaired or replaced are assumed to contain friable asbestos and that asbestos installation, removal, or encapsulation will be accomplished by a licensed asbestos contractor.

The provisions of this section shall not apply to single-family dwellings or residential housing with four or fewer units unless the renovation or demolition of such buildings is for



commercial or public development purposes. The provisions of this section shall not apply if the combined amount of regulated asbestos-containing material involved in the renovation or demolition is less than 260 linear feet (179.2 linear m) on pipes or less than 160 square feet (14.86 m<sup>2</sup>) on other facility components or less than 35 cubic feet (0.82 m<sup>3</sup>) off facility components where the length or area could not be measured previously.

An abatement area shall not be reoccupied until the building official receives certification from the owner that the response actions have been completed and final clearances have been measured. The final clearance levels for reoccupancy of the abatement area shall be 0.01 or fewer asbestos fibers per cubic centimeter if determined by Phase Contrast Microscopy analysis (PCM) or 70 or fewer structures per square millimeter if determined by Transmission Electron Microscopy analysis (TEM).

**110.4 Fire apparatus access road requirements.** The permit applicant shall be informed of any requirements for providing or maintaining fire apparatus access roads prior to the issuance of a building permit.

**110.5 Signature on and posting of permits; limitation of approval.** The signature of the building official or authorized representative shall be on or affixed to every permit. A copy of the permit shall be posted on the construction site for public inspection until the work is completed. Such posting shall include the street or lot number, if one has been assigned, to be readable from a public way. In addition, each building or structure to which a street number has been assigned shall, upon completion, have the number displayed so as to be readable from the public way.

A permit shall be considered authority to proceed with construction in accordance with this code, the approved construction documents, the permit application and any approved amendments or modifications. The permit shall not be construed to otherwise authorize the omission or amendment of any provision of this code.

**110.6 Abandonment of work.** A building official shall be permitted to revoke a permit if work on the site authorized by the permit is not commenced within six months after issuance of the permit, or if the authorized work on the site is suspended or abandoned for a period of six months after the permit is issued; however, permits issued for plumbing, electrical and mechanical work shall not be revoked if the building permit is still in effect. It shall be the responsibility of the permit applicant to prove to the building official that authorized work includes substantive progress, characterized by approved inspections as specified in Section 113.3 of at least one inspection within a period of six months or other evidence that would indicate substantial work has been performed. Upon written request, the building official may grant one or more extensions of time, not to exceed one year per extension.

**110.7 Single-family dwelling permits.** The building official shall be permitted to require a three year time limit to complete construction of new detached single-family dwellings, additions to detached single-family dwellings and residential accessory structures. The time limit shall begin from the issuance date of the permit. The building official may grant exten-

sions of time if the applicant can demonstrate substantive progress, characterized by approved inspections as specified in Section 113.3 of at least one inspection within a period of six months or other evidence that would indicate substantial work has been performed.

**110.8 Revocation of a permit.** The building official may revoke a permit or approval issued under this code in the case of any false statement, misrepresentation of fact, abandonment of work, failure to complete construction as required by Section 110.7 or incorrect information supplied by the applicant in the application or construction documents on which the permit or approval was based.

## SECTION 111 RDP SERVICES

**111.1 When required.** In accordance with Section 54.1-410 of the Code of Virginia and under the general authority of this code, the local building department shall establish a procedure to ensure that construction documents under Section 109 are prepared by an RDP in any case in which the exemptions contained in Section 54.1-401, 54.1-402 or 54.1-402.1 of the Code of Virginia are not applicable or in any case where the building official determines it necessary. When required under Section 54.1-402 of the Code of Virginia or when required by the building official, or both, construction documents shall bear the name and address of the author and his occupation.

**Note:** Information on the types of construction required to be designed by an RDP is included in the "Related Laws Package" available from DHCD.

## SECTION 112 WORKMANSHIP, MATERIALS AND EQUIPMENT

**112.1 General.** It shall be the duty of any person performing work covered by this code to comply with all applicable provisions of this code and to perform and complete such work so as to secure the results intended by the USBC.

**112.2 Alternative methods or materials.** In accordance with Section 36-99 of the Code of Virginia, where practical, the provisions of this code are stated in terms of required level of performance so as to facilitate the prompt acceptance of new building materials and methods. When generally recognized standards of performance are not available, this section and other applicable requirements of this code provide for acceptance of materials and methods whose performance is substantially equal in safety to those specified on the basis of reliable test and evaluation data presented by the proponent. In addition, as a requirement of this code, the building official shall require that sufficient technical data be submitted to substantiate the proposed use of any material, equipment, device, assembly or method of construction.

**112.3 Documentation and approval.** In determining whether any material, equipment, device, assembly or method of construction complies with this code, the building official shall approve items listed by nationally recognized testing laboratories (NRTL), when such items are listed for the intended use and application, and in addition, may consider the recommen-

dations of RDPs. Approval shall be issued when the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code and that the material, equipment, device, assembly or method of construction offered is, for the purpose intended, at least the equivalent of that prescribed by the code. Such approval is subject to all applicable requirements of this code and the material, equipment, device, assembly or method of construction shall be installed in accordance with the conditions of the approval and their listings. In addition, the building official may revoke such approval whenever it is discovered that such approval was issued in error or on the basis of incorrect information, or where there are repeated violations of the USBC.

**112.3.1 Conditions of listings.** Where conflicts between this code and conditions of the listing or the manufacturer's installation instructions occur, the provisions of this code shall apply.

**Exception:** Where a code provision is less restrictive than the conditions of the listing of the equipment or appliance or the manufacturer's installation instructions, the conditions of the listing and the manufacturers installation instructions shall apply.

**112.4 Used material and equipment.** Used materials, equipment and devices may be approved provided they have been reconditioned, tested or examined and found to be in good and proper working condition and acceptable for use by the building official.

## SECTION 113 INSPECTIONS

**113.1 General.** In accordance with Section 36-105 of the Code of Virginia, any building or structure may be inspected at any time before completion, and shall not be deemed in compliance until approved by the inspecting authority. Where the construction cost is less than \$2,500, however, the inspection may, in the discretion of the inspecting authority, be waived. The building official shall coordinate all reports of inspections for compliance with the USBC, with inspections of fire and health officials delegated such authority, prior to the issuance of an occupancy permit.

**113.1.1 Equipment required.** Any ladder, scaffolding or test equipment necessary to conduct or witness a requested inspection shall be provided by the permit holder.

**113.1.2 Duty to notify.** When construction reaches a stage of completion that requires an inspection, the permit holder shall notify the building official.

**113.1.3 Duty to inspect.** Except as provided for in Section 113.7, the building official shall perform the requested inspection in accordance with Section 113.6 when notified in accordance with Section 113.1.2.

**113.2 Prerequisites.** The building official may conduct a site inspection prior to issuing a permit. When conducting inspections pursuant to this code, all personnel shall carry proper credentials.

**113.3 Minimum inspections.** The following minimum inspections shall be conducted by the building official when applicable to the construction or permit:

1. Inspection of footing excavations and reinforcement material for concrete footings prior to the placement of concrete.
2. Inspection of foundation systems during phases of construction necessary to assure compliance with this code.
3. Inspection of preparatory work prior to the placement of concrete.
4. Inspection of structural members and fasteners prior to concealment.
5. Inspection of electrical, mechanical and plumbing materials, equipment and systems prior to concealment.
6. Inspection of energy conservation material prior to concealment.
7. Final inspection.

**113.4 Additional inspections.** The building official may designate additional inspections and tests to be conducted during the construction of a building or structure and shall so notify the permit holder.

**113.5 In-plant and factory inspections.** When required by the provisions of this code, materials, equipment or assemblies shall be inspected at the point of manufacture or fabrication. The building official shall require the submittal of an evaluation report of such materials, equipment or assemblies. The evaluation report shall indicate the complete details of the assembly including a description of the assembly and its components, and describe the basis upon which the assembly is being evaluated. In addition, test results and other data as necessary for the building official to determine conformance with the USBC shall be submitted. For factory inspections, an identifying label or stamp permanently affixed to materials, equipment or assemblies indicating that a factory inspection has been made shall be acceptable instead of a written inspection report, provided the intent or meaning of such identifying label or stamp is properly substantiated.

**113.6 Approval or notice of defective work.** The building official shall either approve the work in writing or give written notice of defective work to the permit holder. Upon request of the permit holder, the notice shall reference the USBC section that serves as the basis for the defects and such defects shall be corrected and reinspected before any work proceeds that would conceal such defects. A record of all reports of inspections, tests, examinations, discrepancies and approvals issued shall be maintained by the building official and shall be communicated promptly in writing to the permit holder. Approval issued under this section may be revoked whenever it is discovered that such approval was issued in error or on the basis of incorrect information, or where there are repeated violations of the USBC.

**113.7 Approved inspection agencies.** The building official may accept reports of inspections and tests from individuals or inspection agencies approved in accordance with the building official's written policy required by Section 113.7.1. The individual or inspection agency shall meet the qualifications and

reliability requirements established by the written policy. Under circumstances where the building official is unable to make the inspection or test required by Section 113.3 or 113.4 within two working days of a request or an agreed upon date or if authorized for other circumstances in the building official's written policy, the building official shall accept reports for review. The building official shall approve the report from such approved individuals or agencies unless there is cause to reject it. Failure to approve a report shall be in writing within two working days of receiving it stating the reason for the rejection. Reports of inspections conducted by approved third-party inspectors or agencies shall be in writing, shall indicate if compliance with the applicable provisions of the USBC have been met and shall be certified by the individual inspector or by the responsible officer when the report is from an agency.

**Note:** Photographs, videotapes or other sources of pertinent data or information may be considered as constituting such reports and tests.

**113.7.1 Third-party inspectors.** Each building official charged with the enforcement of the USBC shall have a written policy establishing the minimum acceptable qualifications for third-party inspectors. The policy shall include the format and time frame required for submission of reports, any prequalification or preapproval requirements before conducting a third-party inspection and any other requirements and procedures established by the building official.

**113.7.2 Qualifications.** In determining third-party inspector qualifications, the building official may consider such items as DHCD inspector certification, other state or national certifications, state professional registrations, related experience, education and any other factors that would demonstrate competency and reliability to conduct inspections.

**113.8 Final inspection.** Upon completion of a building or structure and before the issuance of a certificate of occupancy, a final inspection shall be conducted to ensure that any defective work has been corrected and that all work complies with the USBC and has been approved, including any work associated with modifications under Section 106.3. The approval of a final inspection shall be permitted to serve as the new certificate of occupancy required by Section 116.1 in the case of additions or alterations to existing buildings or structures that already have a certificate of occupancy.

## SECTION 114 STOP WORK ORDERS

**114.1 Issuance of order.** When the building official finds that work on any building or structure is being executed contrary to the provisions of this code or any pertinent laws or ordinances, or in a manner endangering the general public, a written stop work order may be issued. The order shall identify the nature of the work to be stopped and be given either to the owner of the property involved, to the owner's agent or to the person performing the work. Following the issuance of such an order, the affected work shall cease immediately. The order shall state the conditions under which such work may be resumed.

**114.2 Limitation of order.** A stop work order shall apply only to the work identified in the order, provided that other work on the building or structure may be continued if not concealing the work covered by the order.

## SECTION 115 VIOLATIONS

**115.1 Violation a misdemeanor; civil penalty.** In accordance with Section 36-106 of the Code of Virginia, it shall be unlawful for any owner or any other person, firm or corporation, on or after the effective date of any code provisions, to violate any such provisions. Any locality may adopt an ordinance that establishes a uniform schedule of civil penalties for violations of specified provisions of the code that are not abated or remedied promptly after receipt of a notice of violation from the local enforcement officer.

**Note:** See the full text of Section 36-106 of the Code of Virginia for additional requirements and criteria pertaining to legal action relative to violations of the code.

**115.2 Notice of violation.** The building official shall issue a written notice of violation to the responsible party if any violations of this code or any directives or orders of the building official have not been corrected or complied with in a reasonable time. The notice shall reference the code section upon which the notice is based and direct the discontinuance and abatement of the violation or the compliance with such directive or order. The notice shall be issued by either delivering a copy to the responsible party by mail to the last known address or delivering the notice in person or by leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place if the person in charge of the premises cannot be found. The notice of violation shall indicate the right of appeal by referencing the appeals section. When the owner of the building or structure, or the permit holder for the construction in question, or the tenants of such building or structure, are not the responsible party to whom the notice of violation is issued, then a copy of the notice shall also be delivered to the such owner, permit holder or tenants.

**115.2.1 Notice not to be issued under certain circumstances.** When violations are discovered more than two years after the certificate of occupancy is issued or the date of initial occupancy, whichever occurred later, or more than two years after the approved final inspection for an alteration or renovation, a notice of violation shall only be issued upon advice from the legal counsel of the locality that action may be taken to compel correction of the violation. When compliance can no longer be compelled by prosecution under Section 36-106 of the Code of Virginia, the building official, when requested by the building owner, shall document in writing the existence of the violation noting the edition of the USBC the violation is under.

**115.3 Further action when violation not corrected.** If the responsible party has not complied with the notice of violation, the building official shall submit a written request to the legal counsel of the locality to institute the appropriate legal proceedings to restrain, correct or abate the violation or to require the removal or termination of the use of the building or struc-

ture involved. In cases where the locality so authorizes, the building official may issue or obtain a summons or warrant. Compliance with a notice of violation notwithstanding, the building official may request legal proceedings be instituted for prosecution when a person, firm or corporation is served with three or more notices of violation within one calendar year for failure to obtain a required construction permit prior to commencement of work subject to this code.

**Note:** See Section 19.2-8 of the Code of Virginia concerning the statute of limitations for building code prosecutions.

**115.4 Penalties and abatement.** Penalties for violations of the USBC shall be as set out in Section 36-106 of the Code of Virginia. The successful prosecution of a violation of the USBC shall not preclude the institution of appropriate legal action to require correction or abatement of a violation.

**115.5 Transfer of ownership.** In accordance with Section 36-105 of the Code of Virginia, if the local building department has initiated an enforcement action against the owner of a building or structure and such owner subsequently transfers the ownership of the building or structure to an entity in which the owner holds an ownership interest greater than 50%, the pending enforcement action shall continue to be enforced against the owner.

## SECTION 116 CERTIFICATES OF OCCUPANCY

**116.1 General; when to be issued.** A certificate of occupancy indicating completion of the work for which a permit was issued shall be obtained prior to the occupancy of any building or structure, except as provided for in this section generally and as specifically provided for in Section 113.8 for additions or alterations. The certificate shall be issued after completion of the final inspection and when the building or structure is in compliance with this code and any pertinent laws or ordinances, or when otherwise entitled. The building official shall, however, issue a certificate of occupancy within five working days after being requested to do so, provided the building or structure meets all of the requirements for a certificate.

**Exception:** A certificate of occupancy is not required for an accessory structure as defined in the *International Residential Code*.

**116.1.1 Temporary certificate of occupancy.** Upon the request of a permit holder, a temporary certificate of occupancy may be issued before the completion of the work covered by a permit, provided that such portion or portions of a building or structure may be occupied safely prior to full completion of the building or structure without endangering life or public safety.

**116.3 Suspension or revocation of certificate.** A certificate of occupancy may be revoked or suspended whenever the building official discovers that such certificate was issued in error or on the basis of incorrect information, or where there are repeated violations of the USBC after the certificate has been issued or when requested by the code official under Section 105.7 of the *Virginia Maintenance Code*. The revocation or suspension shall be in writing and shall state the necessary cor-

rections or conditions for the certificate to be reissued or reinstated in accordance with Section 116.3.1.

**116.3.1 Reissuance of reinstatement of certificate of occupancy.** When a certificate of occupancy has been revoked or suspended, it shall be reissued or reinstated upon correction of the specific condition or conditions cited as the cause of the revocation or suspension and the revocation or suspension of a certificate of occupancy shall not be used as justification for requiring a building or structure to be subject to a later edition of the code than that under which such building or structure was initially constructed.

**116.4 Issuance of certificate for pre-USBC buildings or structures.** When a building or structure was constructed prior to being subject to the initial edition of the USBC and the local building department does not have a certificate of occupancy for the building or structure, the owner or owner's agent may submit a written request for a certificate to be created. The building official, after receipt of the request, shall issue a certificate provided a determination is made that there are no current violations of the *Virginia Maintenance Code* or the *Virginia Statewide Fire Prevention Code* (13 VAC 5-51) and the occupancy classification of the building or structure has not changed. Such buildings and structures shall not be prevented from continued use.

**Exception:** When no certificate exists, but the local building department has records indicating that a certificate did exist, then the building official may either verify in writing that a certificate did exist, or issue a certificate based upon the records.

## SECTION 117 TEMPORARY AND MOVED BUILDINGS AND STRUCTURES; DEMOLITION

**117.1 Temporary building and structures.** The building official is authorized to issue a permit for temporary buildings or structures. Such permits shall be limited as to time of service, but shall not be permitted for more than one year, except that upon the permit holder's written request, the building official may grant one or more extensions of time, not to exceed one year per extension. The building official is authorized to terminate the approval and order the demolition or removal of temporary buildings or structures during the period authorized by the permit when determined necessary.

**117.2 Moved buildings and structures.** Any building or structure moved into a locality or moved to a new location within a locality shall not be occupied or used until a certification of occupancy is issued for the new location. Such moved buildings or structures shall be required to comply with the requirements of this code for a newly constructed building or structure unless meeting all of the following requirements relative to the new location:

1. There is no change in the occupancy classification from its previous location.
2. The building or structure was in compliance with all state and local requirements applicable to it in its previous location and is in compliance with all state and local

requirements applicable if originally constructed in the new location.

3. The building or structure did not become unsafe during the moving process due to structural damage or for other reasons.
4. Any alterations, reconstruction, renovations or repairs made pursuant to the move are in compliance with applicable requirements of this code.

**117.3 Demolition of buildings and structures.** Prior to the issuance of a permit for the demolition of any building or structure, the owner or the owner's agent shall provide certification to the building official that all service connections of utilities have been removed, sealed or plugged satisfactorily and a release has been obtained from the associated utility company. The certification shall further provide that written notice has been given to the owners of adjoining lots and any other lots that may be affected by the temporary removal of utility wires or the temporary disconnection or termination of other services or facilities relative to the demolition. In addition, the requirements of Chapter 33 of the IBC for any necessary retaining walls or fences during demolition shall be applicable and when a building or structure is demolished or removed, the established grades shall be restored.

## SECTION 118 BUILDINGS AND STRUCTURES BECOMING UNSAFE DURING CONSTRUCTION

**118.1 Applicability.** This section applies to buildings and structures for which a construction permit has been issued under this code and construction has not been completed or a certificate of occupancy has not been issued, or both. In addition, this section applies to any building or structure that is under construction or that was constructed without obtaining the required permits under this edition or any edition of the USBC.

**Note:** Existing buildings and structures other than those under construction or subject to this section are subject to the *Virginia Maintenance Code* that also has requirements for unsafe conditions.

**118.2 Repair or removal of unsafe buildings or structures.** Any building or structure subject to this section that is either deteriorated, improperly maintained, of faulty construction, deficient in adequate exit facilities, a fire hazard or dangerous to life or the public welfare, or both, or any combination of the foregoing, is an unsafe building or structure and shall be made safe through compliance with this code or shall be taken down and removed if determined necessary by the building official.

**118.3 Inspection report and notice of unsafe building or structure.** The building official shall inspect any building or structure reported to be unsafe and shall prepare a report to be filed in the records of the local building department. In addition to a description of any unsafe conditions found, the report shall include the occupancy classification of the building or structure and the nature and extent of any damages caused by collapse or failure of any building components. If the building or

structure is determined by the building official to be unsafe, a notice of unsafe building or structure shall be issued in person to the owner and any permit holder. The notice shall describe any unsafe conditions and specify any repairs or improvements necessary to make the building or structure safe, or alternatively, when determined necessary by the building official, require the unsafe building or structure, or any portion of it, to be taken down and removed. The notice shall stipulate a time period for the repair or demolition of the unsafe building or structure and contain a statement requiring the person receiving the notice to determine whether to accept or reject the terms of the notice. If any persons to which the notice of unsafe building or structure is to be issued cannot be found after diligent search, as equivalent service, the notice shall be sent by registered or certified mail to the last known address of such persons and a copy of the notice posted in a conspicuous place on the premises.

**118.4 Vacating the unsafe building or structure.** If any portion of an unsafe building or structure has collapsed or fallen, or if the building official determines there is actual and immediate danger of any portion collapsing or falling, and when life is endangered by the occupancy of the unsafe building or structure, the building official shall be authorized to order the occupants to immediately vacate the unsafe building or structure. When an unsafe building or structure is ordered to be vacated, the building official shall post a notice at each entrance that reads as follows:

“This Building (or Structure) is Unsafe and its Occupancy (or Use) is Prohibited by the Building Official.”

After posting, occupancy or use of the unsafe structure shall be prohibited except when authorized to enter to conduct inspections, make required repairs or as necessary to demolish the building or structure.

**118.5 Emergency repairs and demolition.** To the extent permitted by the locality, the building official may authorize emergency repairs to unsafe buildings or structures when it is determined that there is an immediate danger of any portion of the unsafe building or structure collapsing or falling and when life is endangered. Emergency repairs may also be authorized when there is a code violation resulting in the immediate, serious and imminent threat to the life and safety of the occupants. The building official shall be permitted to authorize the necessary work to make the building or structure temporarily safe whether or not legal action to compel compliance has been instituted.

In addition, whenever an owner of an unsafe building or structure fails to comply with a notice to demolish issued under Section 118.3 in the time period stipulated, the building official shall be permitted to cause the unsafe building or structure to be demolished. In accordance with Sections 15.2-906 and 15.2-1115 of the Code of Virginia, the legal counsel of the locality may be requested to institute appropriate action against the property owner to recover the costs associated with any such emergency repairs or demolition and every such charge that remains unpaid shall constitute a lien against the property on which the emergency repairs or demolition were made and

shall be enforceable in the same manner as provided in Articles 3 (Section 58.1-3940 et seq.) and 4 (Section 58.1-3965 et seq.) of Chapter 39 of Title 58.1 of the Code of Virginia.

**Note:** Building officials and local governing bodies should be aware that other statutes and court decisions may impact on matters relating to demolition, in particular whether newspaper publication is required if the owner cannot be located and whether the demolition order must be delayed until the owner has been given the opportunity for a hearing.

## SECTION 119 APPEALS

**119.1 Establishment of appeals board.** In accordance with Section 36-105 of the Code of Virginia, there shall be established within each local building department a LBBCA. Whenever a county or a municipality does not have such a LBBCA, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by DHCD for such appeals resulting therefrom. Fees may be levied by the local governing body in order to defray the cost of such appeals. In addition, as an authorization in this code, separate LBBCAs may be established to hear appeals of different enforcement areas such as electrical, plumbing or mechanical requirements. Each such LBBCA shall comply with the requirements of this section.

**119.2 Membership of board.** The LBBCA shall consist of at least five members appointed by the locality for a specific term of office established by written policy. Alternate members may be appointed to serve in the absence of any regular members and as such, shall have the full power and authority of the regular members. Regular and alternate members may be reappointed. Written records of current membership, including a record of the current chairman and secretary shall be maintained in the office of the locality. In order to provide continuity, the terms of the members may be of different length so that less than half will expire in any one-year period. The LBBCA shall meet at least once annually to assure a duly constituted board, appoint officers as necessary, and receive such training on the code as may be appropriate or necessary from staff of the locality.

**119.3 Officers and qualifications of members.** The LBBCA shall annually select one of its regular members to serve as chairman. When the chairman is not present at an appeal hearing, the members present shall select an acting chairman. The locality or the chief executive officer of the locality shall appoint a secretary to the LBBCA to maintain a detailed record of all proceedings. Members of the LBBCA shall be selected by the locality on the basis of their ability to render fair and competent decisions regarding application of the USBC and shall to the extent possible, represent different occupational or professional fields relating to the construction industry. At least one member should be an experienced builder; at least one member should be an RDP, and at least one member should be an experienced property manager. Employees or officials of the locality shall not serve as members of the LBBCA.

**119.4 Conduct of members.** No member shall hear an appeal in which that member has a conflict of interest in accordance with the State and Local Government Conflict of Interests Act (Section 2.2-3100 et seq. of the Code of Virginia). Members shall not discuss the substance of an appeal with any other party or their representatives prior to any hearings.

**119.5 Right of appeal; filing of appeal application.** Any person aggrieved by the local building department's application of the USBC or the refusal by to grant a modification to the provisions of the USBC may appeal to the LBBCA. The applicant shall submit a written request for appeal to the LBBCA within 30 calendar days of the receipt of the decision being appealed. The application shall contain the name and address of the owner of the building or structure and in addition, the name and address of the person appealing, when the applicant is not the owner. A copy of the building official's decision shall be submitted along with the application for appeal and maintained as part of the record. The application shall be marked by the LBBCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of a building official's decision.

**Note:** To the extent that a decision of a building official pertains to amusement devices there may be a right of appeal under the VADR.

**119.6 Meetings and postponements.** The LBBCA shall meet within 30 calendar days after the date of receipt of the application for appeal, except that a longer time period shall be permitted if agreed to by all the parties involved in the appeal. A notice indicating the time and place of the hearing shall be sent to the parties in writing to the addresses listed on the application at least 14 calendar days prior to the date of the hearing, except that a lesser time period shall be permitted if agreed to by all the parties involved in the appeal. When a quorum of the LBBCA is not present at a hearing to hear an appeal, any party involved in the appeal shall have the right to request a postponement of the hearing. The LBBCA shall reschedule the appeal within 30 calendar days of the postponement, except that a longer time period shall be permitted if agreed to by all the parties involved in the appeal.

**119.7 Hearings and decision.** All hearings before the LBBCA shall be open meetings and the appellant, the appellant's representative, the locality's representative and any person whose interests are affected by the building official's decision in question shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings. The LBBCA shall have the power to uphold, reverse or modify the decision of the official by a concurring vote of a majority of those present. Decisions of the LBBCA shall be final if no further appeal is made. The decision of the LBBCA shall be by resolution signed by the chairman and retained as part of the record of the appeal. Copies of the resolution shall be sent to all parties by certified mail. In addition, the resolution shall contain the following wording:

"Any person who was a party to the appeal may appeal to the State Review Board by submitting an application to such Board within 21 calendar days upon receipt by certified mail of this

resolution. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, Virginia 23219, (804) 371-7150.”

**119.8 Appeals to the State Review Board.** After final determination by the LBBCA in an appeal, any person who was a party to the appeal may further appeal to the State Review Board. In accordance with Section 36-98.2 of the Code of Virginia for state-owned buildings and structures, appeals by an involved state agency from the decision of the building official for state-owned buildings or structures shall be made directly to the State Review Board. The application for appeal shall be made to the State Review Board within 21 calendar days of the receipt of the decision to be appealed. Failure to submit an application within that time limit shall constitute an acceptance of the building official’s decision. For appeals from a LBBCA, a copy of the building official’s decision and the resolution of the LBBCA shall be submitted with the application for appeal to the State Review Board. Upon request by the office of the State Review Board, the LBBCA shall submit a copy of all pertinent information from the record of the appeal. In the case of appeals involving state-owned buildings or structures, the involved state agency shall submit a copy of the building official’s decision and other relevant information with the application for appeal to the State Review Board. Procedures of the State Review Board are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the State Review Board shall be final if no further appeal is made.

