

**VIRGINIA DEPARTMENT OF HOUSING
AND COMMUNITY DEVELOPMENT**

Partners for Better Communities¹

2024 Code Development Cycle

General Information



Jeff Brown, Deputy Director of Building and Fire Regulation

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Paul Messplay, Code & Regulation Specialist

Chris Scott, Code & Regulation Specialist

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2024 Code Development Cycle (tentative dates)



April 1st: cdpVA opened for submission of code change proposals

June: Notices of Intended Regulatory Action (NOIRAs) published

June - July: Study Groups and Sub-Workgroups begin meeting

July 14th: BHCD Public Hearing (with VFSB for SFPC)

October 10th: Deadline for submission of proposals for the 2024 CDC

July – November 2025: Stakeholder Workgroup meetings on proposals

March 2026: BHCD meets to consider proposals

September 2026: BHCD meets to consider proposed regulations

March 2027: BHCD meets to consider final regulations

October 2027: 2024 Virginia Codes Effective

codes.iccsafe.org/codes/Virginia

**Free Online Access to
Virginia and ICC Code books**



va.cdpassess.com Virginia's online code development System

Virginia DHCD



Virginia's Online Code Development Process

The cdpVA® system is Virginia's new online Code Development Process. cdpVA® allows you to create code change proposals, submit public comments and access any information about the Virginia Code Change Process. Virginia is a leader in building and fire code regulations, and stakeholder input is vital to Virginia's code development process. We encourage participation in this process through cdpVA®, and ask that you invite colleagues and peers with an interest in the Virginia Code Change Process to participate.

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HOW IT WORKS

Meeting Information

Information regarding workgroup meetings, including date, time, location and agendas, will be available through cdpVA®.

All information is listed under each workgroup, so be sure to follow the workgroups that you are most interested in, and plan to attend meetings throughout the Code Change Process.

Online Code Access

In cdpVA®, you will be able to access both the current Virginia Building Codes, as well as the International Codes.

Having both sets of online codes offers the ability to create a proposal by modifying existing state amendments to the International Codes or to change the text of the International Codes.

Need Assistance?

For information about the Virginia Code Change Process, contact:
Virginia Department of Housing and Community Development (DHCD)
(804) 371-7150
sbco@dhcd.virginia.gov

Tutorial videos and how-to guides about cdpVA® are available online. For issues with cdpVA®, contact: cdpassess@iccsafe.org

Get started with cdpVA - Powered by ICC cdpACCESS by registering your FREE account.

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LINKS

[Code Development Process Flowchart](#)

[2024 Code Development Cycle Documents](#)

[2021 Code Development Cycle Documents](#)

<https://www.dhcd.virginia.gov/2024-code-development-cycle>

- Workgroup documents (agendas, meeting summaries, etc.)
- Sub-workgroup documents (agendas, meeting summaries, etc.)
- Study Group documents (agendas, meeting summaries, etc.)
- General Information (memos, schedules, process flow chart, etc.)
- 2024 Base Documents

<https://www.dhcd.virginia.gov/2024-code-development-cycle>

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|---|---|
| GENERAL STAKEHOLDER WORKGROUP July 29, 2025 General Stakeholder Workgroup Meeting: Agenda Summary Documents | SINGLE EXIT STAIR STUDY GROUP June 24, 2025 Single Exit Stair Study Group Meeting: Agenda Summary Documents |
| EXPEDITING PERMITS AND COS STUDY GROUP June 25, 2025 Expediting Permits and COs Study Group Meeting: Agenda Summary Documents | HEATING & COOLING STUDY GROUP June 23, 2025 Heating and Cooling Study Group Meeting: Agenda Summary Documents |
| UNSAFE STRUCTURES STUDY GROUP August 27, 2025 Unsafe Structures Study Group Meeting: Agenda Summary Documents | SFPC SUB- WORKGROUP July 8, 2025 SFPC Sub- Workgroup Meeting: Agenda Summary Documents |

- All meetings are open to attendance and participation by anyone
- Review and discuss all submitted code change proposals, including all proposals and recommendations from Study Groups and Sub-Workgroups
- A workgroup recommendation is determined for each proposal and the recommendation is provided to the Board of Housing and Community Development
- Workgroup recommendations are classified as follows:

Consensus for Approval: No workgroup participant expressed opposition to the proposal

Non-Consensus: Any workgroup participant expressed opposition to the proposal

- First General Stakeholder Workgroup meeting(s) – July 29, 2025
- Second General Stakeholder Workgroup meeting – October 3, 2025
- Proposal Submission Deadline for the 2024 Code Development Cycle
October 10, 2025
- Final General Stakeholder Workgroup meeting(s) will be mid-November

- Study specific topics that require additional review and discussion
- Identify areas of consensus and disagreement
- Determine if code change proposals or other solutions are appropriate
- May review proposals, provide analysis, make recommendations, and/or develop code change proposals
- All code change proposals and any recommendations on code change proposals are reviewed by the General Workgroups and assigned a Workgroup recommendation prior to BHCD consideration

- Review and discuss code change proposals within their subject matter prior to the proposals being considered by the General Stakeholder Workgroup
- Address questions and concerns related to proposals to identify areas for compromise, where appropriate, in an effort to reach consensus
- May develop new code change proposals as determined appropriate
- Members may support proposals by joining the proposal as a proponent
- All code change proposals are reviewed by the General Workgroups and assigned a Workgroup recommendation prior to BHCD consideration

2024 Code Development Cycle Study Groups:

- Single Exit Stair Buildings
- Expediting Permits and Certificates of Occupancy
- Heating and Cooling
- Unsafe Structures

2024 Code Development Cycle Sub-workgroups:

- Energy
- Statewide Fire Prevention Code



Division of Building and Fire Regulations

State Building Codes Office

codedevelopment@dhcd.virginia.gov

804-371-7150



cdpVA

25102726D

HOUSE BILL NO. 2577

Offered January 13, 2025

Prefiled January 12, 2025

A BILL to amend and reenact § 36-99 of the Code of Virginia, relating to Uniform Statewide Building Code; unsafe structures.

 Patron—Leftwich

 Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 36-99 of the Code of Virginia is amended and reenacted as follows:****§ 36-99. Provisions of Code; modifications.**

A. The Building Code shall prescribe building regulations to be complied with in the construction and rehabilitation of buildings and structures, and the equipment therein as defined in § 36-97, and shall prescribe regulations to ensure that such buildings and structures are properly maintained, and shall also prescribe procedures for the administration and enforcement of such regulations, including procedures to be used by the local building department in the evaluation and granting of modifications for any provision of the Building Code, provided the spirit and functional intent of the Building Code are observed and public health, welfare and safety are assured. The provisions of the Building Code and modifications thereof shall be such as to protect the health, safety and welfare of the residents of the Commonwealth, provided that buildings and structures should be permitted to be constructed, rehabilitated and maintained 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 individuals with physical disabilities and aged individuals. Such regulations shall be reasonable and appropriate to the objectives of this chapter.

B. In formulating the Code provisions, the Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations, including, but not limited to, the standards of the International Code Council and the National Fire Protection Association. Notwithstanding the provisions of this section, farm buildings and structures shall be exempt from the provisions of the Building Code, except for a building or a portion of a building located on a farm that is operated as a restaurant as defined in § 35.1-1 and licensed as such by the Board of Health pursuant to Chapter 2 (§ 35.1-11 et seq.) of Title 35.1. However, farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to flood-proofing regulations or mudslide regulations, as applicable. However, any farm building or structure (i) where the public is invited to enter for an agritourism activity, as that term is defined in § 3.2-6400, for recreational, entertainment, or educational purposes and (ii) that is used for display, sampling, or sale of agricultural, horticultural, floricultural, or silvicultural products produced on the farm or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation shall have:

1. Portable fire extinguishers for the purpose of fire suppression;
2. A simple written plan in case of an emergency, but such plan shall not be construed to be interpreted as a fire evacuation plan under the Uniform Statewide Building Code or any other local requirements; and

3. A sign posted in a conspicuous place upon entry to the farm building or structure that states that "This building is EXEMPT from the Uniform Statewide Building Code. Be alert to exits in the event of a fire or other emergencies." Such sign shall be placed in a clearly visible location near the entrance to such farm building or structure. The notice shall consist of a sign no smaller than 24 inches by 36 inches with clearly legible black letters, with each letter to be a minimum of one inch in height.

C. Where practical, the Code provisions shall be 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, such provisions shall provide for acceptance of materials and methods whose performance has been found by the local building department, on the basis of reliable test and evaluation data, presented by the proponent, to be substantially equal in safety to those specified.

D. The Board, upon a finding that sufficient allegations exist regarding failures noted in several localities of performance standards by either building materials, methods, or design, may conduct hearings on such allegations if it determines that such alleged failures, if proven, would have an adverse impact on the health, safety, or welfare of the citizens of the Commonwealth. After at least 21 days' written notice, the Board shall convene a hearing to consider such allegations. Such notice shall be given to the known manufacturers of the subject building material and as many other interested parties, industry representatives, and trade groups as can reasonably be identified. Following the hearing, the Board, upon finding that (i) the current technical or administrative Code provisions allow use of or result in defective or deficient building materials, methods, or

INTRODUCED

HB2577

59 designs, and (ii) immediate action is necessary to protect the health, safety, and welfare of the citizens of the
60 Commonwealth, may issue amended regulations establishing interim performance standards and Code
61 provisions for the installation, application, and use of such building materials, methods or designs in the
62 Commonwealth. Such amended regulations shall become effective upon their publication in the Virginia
63 Register of Regulations. Any amendments to regulations adopted pursuant to this subsection shall become
64 effective upon their publication in the Virginia Register of Regulations and shall be effective for a period of
65 24 months or until adopted, modified, or repealed by the Board.

66 *E. For any structure deemed unsafe under the Building Code, and therefore eligible for demolition upon*
67 *the unsafe notice process being completed, the owner or his agent may temporarily overcome the unsafe*
68 *structure designation by vacating and securing the structure by board up of all access points.*

69 *After six months have elapsed from the time the board up was first learned of and internally recorded by*
70 *the locality, if the structure would still otherwise be considered an unsafe structure, the locality may issue*
71 *and send a written notice to the owner that if the other conditions specified in the notice are not adequately*
72 *improved, or an appeal not received, within two months, the unsafe designation will once again come into*
73 *effect. That notice may be appealed in the same manner as any other formal building determination, and the*
74 *owner may receive additional time from the local board of Building Code appeals if he demonstrates in*
75 *writing that additional time is likely to result in the resolution of the unsafe condition. Upon the expiration of*
76 *the two months, or upon the denial of the appeal by the local board of Building Code appeals, whichever*
77 *occurs later, the structure shall again be deemed unsafe, and upon notice to the owner, the locality may*
78 *resume its unsafe process at the stage at which it was paused by the securing and vacating of the property.*
79 *Once the securing, board up, and vacating process has occurred once, it cannot be used again to overcome*
80 *the unsafe designation during the pendency of that specific unsafe designation.*

81 *The unsafe designation will continue to be in effect in the event that it is the locality that secured the*
82 *structure, and not the owner or his agent.*

83 *Notwithstanding the provisions of this subsection, when the building code official determines that an*
84 *unsafe structure constitutes such a hazard that it should be demolished, then the building code official shall*
85 *be permitted to order the demolition of such structure in accordance with applicable requirements of law.*

86 *If a locality demolishes a structure under an unsafe designation after it was secured and vacated by the*
87 *owner pursuant to the provisions of this section, the property will not lose any legal nonconformity as a result*
88 *of that demolition.*

89 *For purposes of this subsection, "notice" means sent by certified mail, return receipt requested.*



COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND

JAMES A. "JAY" LEFTWICH, JR.
308 CEDAR LAKES DRIVE, 2ND FLOOR
CHESAPEAKE, VIRGINIA 23322

NINETIETH DISTRICT

COMMITTEE ASSIGNMENTS:
PRIVILEGES AND ELECTIONS
COURTS OF JUSTICE
GENERAL LAWS

May 12, 2025

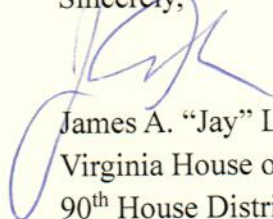
The Hon. Marcus Simon
P.O. Box 958
Falls Church, VA 22040

Dear Chairman Simon,

In accordance with discussion during the 2025 Session when House Bill 2577 was docketed to be heard, please refer this legislation to the Department of Housing and Community Development (DHCD) Local Government Commission for evaluation.

As you may recall, HB2577 dealt with the procedures followed by local governments to demolish an unsafe structure. A review by the Commission would provide insight for any future consideration of this legislation. Please let me know if there is any further information or documentation needed to advance this referral.

Sincerely,



James A. "Jay" Leftwich, Jr.
Virginia House of Delegates
90th House District

CC: Andy Meyer, Esquire
Chesapeake City Attorney's office

B118.4-24

VCC: 115.2, 118.3.1, 118.4, 118.5, 118.4.1 (New), 118.6, 118.7

Proponents: Ron Clements, Chesterfield, representing Building Inspection Department (clementsro@chesterfield.gov)

2021 Virginia Construction Code

Revise as follows:

115.2 Notice of violation. The building official shall issue a written notice of violation to the *permit holder* if any violations of this code or any directives or orders of the building official have not been corrected or complied with within a reasonable time. The building official may also issue a notice of violation to other persons found to be responsible in addition to the *permit holder*. If the violations, directives, or orders involve work without a permit, the notice of violation shall be issued to the responsible party. The notice shall reference the code section upon which the notice is based and direct the correction of the violation or the compliance with such directive or order and specify a reasonable time period within which the corrections or compliance must occur. The notice shall be issued by either delivering a copy by mail to the last known address of the *permit holder* or responsible party, by delivering the notice in person, 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 tenants of such *building or structure* are not the party to whom the notice of violation is issued, then a copy of the notice shall also be delivered to the *owner* or tenants. ~~**Note:** A notice of unsafe *building or structure* for *structures* that become unsafe during the *construction* process are issued in accordance with Section 118.~~

~~**118.3-118.4 Vacating unsafe the building or structure.** If the building official determines there is actual and immediate danger to the occupants or public, or when life is endangered by the occupancy of an unsafe and the *building or structure under construction is occupied*, the building official shall be authorized to order the occupants to immediately vacate the unsafe *building or structure*. When an unsafe the *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."~~ include the order in the correction notice, notice of violation, or issue a separate order. ~~After posting, occupancy or use of the unsafe *building or structure* shall be prohibited except when authorized to enter to conduct inspections, make required repairs, or as necessary to demolish the *building or structure*.~~

Delete without substitution:

~~**118.4 Posting of notice.** The notice shall be sent by registered or certified mail to the last known address of the responsible party and a copy of the notice shall be posted in a conspicuous place on the premises.~~

~~**118.5 Posting of placard.** In the case of an unsafe *building or structure*, if the notice is not complied with, a placard with the following wording shall be posted at the entrance to the *building or structure*:~~

~~"This Building (or Structure) is Unfit for Habitation and its Use or Occupancy has been Prohibited by the Building Official."~~

~~After an unsafe *building or structure* is placarded, entering the unsafe *building or structure* shall be prohibited except as authorized by the building official to make inspections, to perform required repairs, or to demolish the unsafe *building or structure*. In addition, the placard shall not be removed until the unsafe *building or structure* is determined by the building official to be safe to occupy. The placard shall not be defaced.~~

Add new text as follows:

118.4.1 Posting of placard. If the building or structure has been issued an order to vacate a placard shall be posted with the following wording at each entrance to the structure: "THIS STRUCTURE IS AN IMMEDIATE THREAT TO PUBLIC SAFETY AND ITS USE OR

OCCUPANCY HAS BEEN PROHIBITED BY THE BUILDING OFFICIAL.” After a structure is placarded, entering the structure shall be prohibited except as authorized by the building official to make inspections, to perform required repairs or to demolish the structure. The placard shall not be tampered with, nor shall it be removed until the structure is determined by the building official to no longer be a threat to public safety.

Revise as follows:

~~118.6~~118.5 Emergency repairs and demolition. To the extent permitted by the *locality*, the building official may authorize emergency repairs or securing of the site when it is determined that there is an imminent threat to the life and safety of the public. The building official shall be permitted to authorize the necessary work to make the *structure* temporarily safe whether or not legal action to compel compliance has been instituted.

In addition, if the notice of violation included an order to demolish the *structure* and the demolition has not occurred in the time period stipulated, the building official shall be permitted to cause the ~~unsafe-structure~~ to be demolished. In accordance with §§ 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 (§ 58.1-3940 et seq.) and 4 (§ 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.

~~118.7~~118.6 Closing of streets. When necessary for public safety, the building official shall be permitted to order the temporary closing of sidewalks, streets, public ways, or premises adjacent to a *structure* that has become a threat to public safety during *construction*.

Reason Statement:

This proposal is supported by VBCOA.

In general, this code change removes some remaining old VPMC terminology references to “unsafe buildings” replacing terminology where needed to be consistent with the threat to public safety terminology established in 118.1, and further simplifies and condenses the section.

115.2- The note to Section 115.2 is proposed for deletion as Section 118.3 has the cross reference back to 115 and the note uses the old unsafe terminology. 118.3.1 (proposed 118.4)- The proposed revision removes some references to the old unsafe terminology and the added text clearly states how the order to vacate is to be provided either included with the correction notice or notice of violation, or as a separate order.

Posting 118.3.1, 118.4, 118.5 (proposed 118.4.1) - The current provisions have two different methods of posting the notice to vacate, a hold-over from past VPMC methodology that has also been cleaned up in the VPMC. It is convoluted in that you post a notice to vacate, then if that notice is not complied with you post a placard. The deleted text removes the two posting methods, and the new text gives a single clear requirement for posting the structure with a placard; and the placard terminology has been corrected.

The section has been renumbered to accommodate the proposed changes.

Cost Impact: The code change proposal will not increase or decrease the cost

This code change is editorial and affects administrative processes, and does not impact construction or cost of construction.

B118-21

VCC: SECTION 202, SECTION 118, 118.1, 118.2, 118.3, 118.4, 118.7, 118.8

Proponents:

2018 Virginia Construction Code

Delete without substitution:

UNSAFE BUILDING OR STRUCTURE. ~~Any building or structure that is under construction and has not received a permanent certificate of occupancy, final inspection, or for which a permit was never issued or has expired and has been determined by the building official to be of faulty construction that is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that partial or complete collapse is likely, or any unfinished construction that does not have a valid permit, or the permit has been revoked, and the condition of the unfinished construction presents an immediate serious and imminent threat to the life and safety of the occupants or the public.~~

Revise as follows:

SECTION 118

UNSAFE BUILDINGS OR STRUCTURES THAT BECOME A THREAT TO PUBLIC SAFETY DURING CONSTRUCTION

118.1 Applicability General. ~~This section applies to unsafe buildings or structures.~~ Any building or structure that is under construction and has not received a permanent certificate of occupancy, or final inspection if a CO will not be issued, that has been determined by the building official to be an immediate threat to public safety due to faulty construction, deterioration, damage, or structural instability, shall be made safe through compliance with this code or shall be demolished and removed if determined necessary by the building official.

Note: ~~Existing buildings and structures other than those under construction or subject to this section are subject to the VMC, which also has requirements for unsafe conditions.~~

Delete without substitution:

118.2 Repair or removal of unsafe buildings or structures. ~~Any unsafe building or structure shall be made safe through compliance with this code or shall be taken down and removed if determined necessary by the building official.~~

Revise as follows:

~~118.3~~ **118.2 Inspection report** **Correction notice.** The building official shall inspect any reported unsafe building or structure 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. issue a correction notice that describes the condition of the structure that is the basis for the determination that a violation of section 118 exists. The correction notice shall state what is required to correct the violation and provide a reasonable time to make the corrections; or, if the structure is required to be demolished, the notice shall specify the time period within which the demolition must occur.

~~118.4~~ **118.3 Notice of unsafe building or structure** **violation.** When a building or structure is determined by the building official to be an unsafe building or structure, a written notice of unsafe building or structure shall be issued by personal service to the owner, the owner's agent, or the person in control of such building or structure. The notice shall specify the corrections necessary to comply with this code and specify the time period within which the repairs must occur, or if the notice specifies that the unsafe building or structure is required to be demolished, the notice shall specify the time period within which demolition must occur. the violation has not been corrected in accordance with the correction notice issued per Section 118.2, the building official is authorized to issue a notice of violation in

accordance with section 115 of this code.

~~**Note:** Whenever possible, the notice should also be given to any tenants or occupants of the *unsafe building or structure*.~~

~~118.7~~**118.4 Emergency repairs and demolition.** To the extent permitted by the *locality*, the *building official* may authorize emergency repairs to ~~*unsafe buildings or structures*~~ when or securing the site 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 a serious and imminent threat to the life and safety of the occupants or public.~~ The *building official* shall be permitted to authorize the necessary work to make the ~~*unsafe 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 118.4 in the~~ if the notice of violation included an order to demolish the structure and the demolition has not occurred in the time period stipulated, the *building official* shall be permitted to cause the ~~*unsafe building or structure*~~ to be demolished. In accordance with §§ 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 (§ 58.1-3940 et seq.) and 4 (§ 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.

~~118.8~~**118.5 Closing of streets.** When necessary for public safety, the *building official* shall be permitted to order the temporary closing of sidewalks, streets, *public ways*, or premises adjacent to ~~*unsafe buildings or structures*~~ and prohibit the use of such spaces ~~a structure that has become a threat to public safety during construction.~~

Reason Statement:

This section creates a second, VCC, version of "unsafe building or structure", which causes confusion with regards to unsafe building or structure in the VMC. This code change is an attempt to get rid of the third flavor of unsafe structures that is redundant and confusing so the VCC definition is proposed to be deleted since it is not necessary with the proposed format. Section 118.1 establishes that a structure, which becomes a threat to public safety during construction, is a violation of the VCC. Proposed 118.1 sets the condition as a violation and does away with the need for another unsafe structure definition. Section 118.2 addresses issuance of a correction notice for the violation. Section 118.3 addresses issuing an NOV if the correction notice is not complied with and uses existing VCC Section 115 for that purpose. Section 118.4, 118.5 and 118.6 provide a group of provisions for vacating a VCC unsafe structure, though these structures have not received a certificate of occupancy. Any building that is occupied without a CO is in violation of VCC 116.1 and such unlawful occupancy can be addressed through issuing and NOV for the 116.1 violation; therefore, these sections are proposed to be deleted. Renumbered sections 118.4 and 118.5 have been edited to be consistent with the change in terminology.

Cost Impact: The code change proposal will not increase or decrease the cost

This is editorial.

PM103.2-21

VMNC: SECTION 202, 103.2, 105.2, 105.4, 105.6, 105.6.1, SECTION 106, 106.1, 106.2, 106.3, 106.3.1, 106.4, 106.5, 106.6, 106.7, 106.8, 106.9

Proponents:

2018 Virginia Maintenance Code

Delete without substitution:

STRUCTURE UNFIT FOR HUMAN OCCUPANCY. An existing ~~structure~~ determined by the ~~code official~~ to be dangerous to the health, safety and welfare of the ~~occupants~~ of the ~~structure~~ or the public because (i) of the degree to which the ~~structure~~ is in disrepair or lacks maintenance, ventilation, illumination, sanitary or heating facilities or other essential equipment, or (ii) the required plumbing and sanitary facilities are inoperable.

Revise as follows:

UNSAFE STRUCTURE. An existing ~~structure~~ (i) determined by the *code official* to be dangerous to the health, safety and welfare of the *occupants* of the *structure* or the public, ~~(ii) that contains unsafe equipment, or (iii) that because of, but not limited to, any of the following conditions:~~

1. The structure contains unsafe equipment;

2. The structure is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is likely;

3. The structure is unsecured or open;

4. The degree to which the structure is in disrepair or lacks maintenance, ventilation, illumination, sanitary or heating facilities or other essential equipment;

5. The required plumbing and sanitary facilities are inoperable.

~~shall be deemed to be an unsafe structure. likely. A vacant existing structure~~

103.2 Maintenance requirements. Buildings, *structures* and systems shall be *maintained* and kept in good repair in accordance with the requirements of this code and when applicable in accordance with the USBC under which such building or structure was constructed. No provision of this code shall require alterations to be made to an existing building or *structure* or to equipment unless conditions are present which meet the definition of an *unsafe structure* ~~or a structure unfit for human occupancy.~~

105.2 Notices, reports and orders. Upon findings by the *code official* that violations of this code exist, the *code official* shall issue a correction notice or notice of violation to the *owner, tenant* or the person responsible for the maintenance of the *structure; or, a notice of unsafe structure* in accordance with Section 106 when a building or structure is determined by the code official to be an unsafe structure. Work done to correct violations of this code subject to the permit, inspection and approval provisions of the VCC shall not be construed as authorization to extend the time limits established for compliance with this code. When the *owner* is not the responsible party to whom the notice of violation or correction notice is issued, a copy of the notice shall also be delivered to the *owner*.

105.4 Notice of violation. If the *code official* determines there are violations of this code a written notice of violation may be issued to the *owner, tenant* or the person responsible for the maintenance or use of the building or *structure* in lieu of a correction notice as provided for in Section 105.3. In addition, the *code official* shall issue a notice of violation for any uncorrected violation remaining from a correction notice established in Section 105.3. The *code official* shall provide the section numbers for any code provisions cited in the notice of violation to the *owner, tenant* or the person responsible for the maintenance or use of the building or *structure*. The notice shall require correction of the violation within a reasonable time. The *owner, tenant* or person to whom the notice of violation has been issued shall be responsible for contacting the *code official* within the timeframe established for any reinspections to assure the violations have been corrected. The *code official* will be responsible for making such inspection and verifying the violations have been corrected. In addition, the notice of violation shall indicate the right of appeal by referencing the appeals section of this code.

Exceptions:

- ~~1. Notices issued and legal proceedings or emergency actions taken under Section 106 for *unsafe structures, unsafe equipment, or structures unfit for human occupancy*.~~
2. Notices issued for failing to maintain buildings and structures as required by Section 103.2, as evidenced by multiple or repeated violations on the same property are not required to include a compliance deadline for correcting defects.

105.6 Further action when violation not corrected. If the responsible party has not complied with the notice of violation or notice of *unsafe structure*, the code official may request 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 *structure* involved. In cases where the locality or legal counsel so authorizes, the code official may issue or obtain a summons or warrant.

105.6.1 Further action for corrected violations. Compliance with a notice of violation or notice of *unsafe structure* notwithstanding, the *code official* may request legal proceedings be instituted for prosecution when a responsible party is served with three or more separate notices of violation or notice of *unsafe structure* for the same property within any 5 consecutive years. Legal proceedings shall not be instituted under this section for violation notices issued pursuant to the initial inspection of the property. Legal proceedings for violations that have been abated in residential rental *dwelling units* within a multifamily apartment development may only be instituted for such violations that affect safe, decent, or sanitary living conditions.

Exception: Legal proceedings shall not be instituted for violations that have been abated on owner-occupied single family dwellings.

SECTION 106

~~UNSAFE STRUCTURES OR STRUCTURES UNFIT FOR HUMAN OCCUPANCY~~ STRUCTURES

106.1 General. This section shall apply to existing *structures* which are classified as ~~unsafe or unfit for human occupancy~~unsafe. All conditions causing such *structures* to be classified as ~~unsafe or unfit for human occupancy~~unsafe shall be remedied or as an alternative to correcting such conditions, the *structure* may be vacated and secured against public entry or razed and removed. Vacant and secured *structures* shall still be subject to other applicable requirements of this code. Notwithstanding the above, when the *code official* determines that an *unsafe structure* ~~or a structure unfit for human occupancy~~constitutes such a hazard that it should be ~~razed or removed~~demolished, then the *code official* shall be permitted to order the demolition of such *structures* in accordance with applicable requirements of this code.

Note: *Structures* which become unsafe during construction are regulated under the VCC.

Delete without substitution:

~~**106.2 Inspection of unsafe or unfit structures.** The *code official* shall inspect any *structure* reported or discovered as unsafe or unfit for human habitation and shall prepare a report to be filed in the records of the local enforcing agency and a copy issued to the owner. The report shall include the use of the *structure* and a description of the nature and extent of any conditions found.~~

Revise as follows:

106.3 Notice of ~~unsafe structure or structure unfit for human occupancy~~unsafe structure. When a *structure* is determined to be ~~unsafe or unfit for human occupancy~~unsafe by the *code official* to be an *unsafe structure*, a written notice of *unsafe structure* ~~or structure unfit for human occupancy~~ shall be issued by personal service to the *owner*, the owner's agent or the person in control of such ~~structure~~structure. If the notice is unable to be issued by personal service, then the notice shall be sent by registered or certified mail to the last known address of the responsible party and a copy of the notice shall be posted in a conspicuous place on the premises. The notice shall specify the section numbers for any code provisions cited, the corrections necessary to comply with this code, or if the *structure* is required to be demolished, the notice shall specify the time period within which the demolition must occur. ~~Requirements in Section 105.2 for notices of violation are also applicable to notices issued under this section to the extent that any such requirements are not in conflict with the requirements of this section occur.~~ The notice of *unsafe structure* shall indicate the right of appeal by referencing the appeals section of this code. The person to whom the notice has been issued shall be responsible for contacting the *code official* within the timeframe

established for any re-inspections to assure the violations have been corrected. The *code official* will be responsible for making such inspection and verifying the violations have been corrected.

Note: Whenever possible, the notice should also be given to any *tenants* of the affected *structure*.

~~106.3-106.4 Vacating unsafe structure. If the~~ The *code official* determines there is actual and immediate danger to the *occupants* or public, or when life is endangered by the *occupancy* of an *unsafe structure*, the *code official* shall be authorized to order the *occupants* to immediately vacate the unsafe structure. ~~When structure or prohibit occupancy of the unsafe structure. When an unsafe structure is ordered to be vacated or prohibited from occupancy, the code official shall post a notice with the following wording at each entrance: "THIS STRUCTURE IS UNSAFE AND ITS OCCUPANCY (OR USE) IS PROHIBITED BY THE CODE 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 structure include the order in the notice of unsafe structure, or issue a separate order.~~

Delete without substitution:

~~106.4 Posting of notice. If the notice is unable to be issued by personal service as required by Section 106.3, then the notice shall be sent by registered or certified mail to the last known address of the responsible party and a copy of the notice shall be posted in a conspicuous place on the premises.~~

Revise as follows:

106.5 Posting of placard. In the case of a *structure* unfit for human habitation, at the time the notice is issued, a placard ~~An *unsafe structure* that has been issued an order to vacate or prohibited from occupancy shall be posted with the following wording shall be posted at the each entrance to the structure: "THIS STRUCTURE IS UNFIT FOR HABITATION UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL." In the case of an unsafe structure, if the notice is not complied with, a placard with the above wording shall be posted at the entrance to the structure.~~ After a *structure* is placarded, entering the *structure* shall be prohibited except as authorized by the *code official* to make inspections, to perform required repairs or to demolish the *structure*. In addition, the placard shall not be removed until the *structure* is determined by the *code official* to be safe to occupy, nor shall the placard be defaced.

106.6 Revocation of certificate of occupancy. If a notice of *unsafe structure* or *structure* unfit for human habitation is is not complied with within the time period stipulated on the notice, the *code official* shall be permitted to request the local building department to revoke the certificate of occupancy issued under the VCC.

106.7 Vacant and open structures. When an *unsafe structure* or a *structure* unfit for human habitation is open for public entry at the time a placard is issued under Section 106.5, the *code official* shall be permitted to authorize the necessary work to make such *structure* secure against public entry whether or not legal action to compel compliance has been instituted.

106.8 Emergency repairs and demolition. To the extent permitted by the locality, the *code official* may authorize emergency repairs to ~~unsafe structures structures or structures~~ unfit for human habitation when it is determined that there is an imminent danger of any portion of the *unsafe structure* or *structure* unfit for human habitation collapsing or falling and when life is endangered. Emergency repairs may also be authorized where there is a code violation resulting in the immediate serious and imminent threat to the life and safety of the *occupants*. The *code official* shall be permitted to authorize the necessary work to make the *structure* temporarily safe whether or not legal action to compel compliance has been instituted. In addition, whenever an *owner* of an *unsafe structure* or *structure* unfit for human habitation fails to comply with a notice to demolish issued under Section 106.3 in the time period stipulated, the *code official* shall be permitted to cause the structure to be demolished. In accordance with §§ 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 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1 of the Code of Virginia.

Note: *Code 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. In addition, *historic building* demolition may be prevented by authority granted to local historic review boards in accordance with § 15.2-2306 of the Code of

Virginia unless determined necessary by the *code official*.

106.9 Closing of streets. When necessary for public safety, the *code official* shall be permitted to order the temporary closing of sidewalks, streets, public ways or *premises* adjacent to unsafe or ~~unfit~~ structures and prohibit the use of such spaces.

Reason Statement:

The overall intent of this code change is to simplify the unsafe building provisions of the VMC and get rid of the two version of “unsafe”, unsafe structure and structure unfit for human occupancy, and combine them into one definition and process.

Unsafe Structure and Structure Unfit for Human Occupancy definitions- The two definitions are a distinction without a difference. Both definitions are defining structures that are "determined by the code official to be dangerous to the health, safety, and welfare of the occupants of the structure or the public." That is the base definition in both definitions. They are the same. Technically, unfit for human occupancy is a subset of unsafe structure. If you declare a building unfit for human occupancy, since it is then by definition dangerous to the health, safety, and welfare of the occupants of the structure or the public, it is also by definition an unsafe structure. Where they differ is in what constitutes the quoted phrase in each definition. Why does it matter? Dangerous is dangerous. To correct this both definitions have been combined into the definition of Unsafe structure, and Structure Unfit for Human occupancy has been deleted. The new list in the unsafe structure definition is a combination of both lists from both definitions. With the deletion of the Unfit for Human Occupancy definition, the term has been deleted throughout the code sections.

The Virginia Maintenance Code has included structures unfit for human habitation (or occupancy) within the Unsafe Building (later Unsafe Structure) section as a descriptor of unsafe buildings/structures until the 2003 edition of the USBC when the title of the section was changed to Unsafe Structures or Structures unfit for Human Habitation and some minor distinctions in the section were created. Even in the current 2018 code the two are somewhat blurred together in section 106 and the terms unfit for human habitation and unfit for human occupancy are still used haphazardly and interchangeably. The difference in code application between the two definition is subtle and hard to justify, as detailed below:

“Structure Unfit for Human occupancy” verses “unsafe structures”

106.1 - No difference in code application

106.2 - No difference in code application

106.3 - No difference in code application

106.3.1 - Grants code official authority to vacate an unsafe structure if there is an immediate danger, or life is endangered, which is always the case if a building meets the definition of unsafe structure. Vacating a structure unfit for human habitation (occupancy) is addressed in section 106.5 with a very slight difference in it is based on posting the placard.

106.4 - No difference in code application

106.5 - Refers to structure unfit for human habitation, if you assume that unfit for human habitation is a synonym for unfit for human occupancy (which is defined) then the difference between unfit for human occupancy and unsafe structure is that if it is unfit you must post the placard, if it is unsafe, you post the placard if the notice is not complied with.

106.6 - No difference in code application

106.7 - No difference in code application

106.8 - No difference in code application

106.9 - No difference in code application

As detailed in the above list the only difference in code application is in 106.3.1 and 106.5. 106.3.1 grants authority to vacate and unsafe structure and 106.5 implies based on placarding an unfit structure that entering the unfit structure is prohibited. Effectively what is the difference? The difference is subtle to negligible. Clearly not enough to justify separate definitions and subtle differences in code provisions that make little sense. The other difference is the requirement to immediately placard if unfit verses placard if notice is not complied with for unsafe. Why the difference?

Lastly there has been some confusion regarding application of the USBC (VCC) section 104.1 provision in the second paragraph of the section. In VCC section 104 it states that following: upon a finding by the local building department, following a complaint by a tenant of a residential dwelling unit that is the subject of such complaint, that there may be a violation of the unsafe structures provisions of part III of the USBC, also known as the VMC, the local building department shall enforce such provisions. The confusion is that some localities

have interpreted this to mean that this provision only applies to "unsafe structures" and not "structures unfit for human occupancy." The first error in this interpretation is that all unfit structures are also, by definition unsafe. Further investigation into the legislative and code development history shows that the legislative intent was to enforce all unsafe provisions on tenant occupied property, including structures unfit for human occupancy. Please see the attached documentation (Files attached to this code change in cdpVA) that chronicles the legislative actions that created this requirement and the associated code provisions that were in effect when each bill was enacted. It is clear that the legislature intended for all unsafe and unfit conditions to be addressed in what is now VCC section 104.1. When the legislation was passed to create the requirement that is now in VCC 104.1, unfit for human habitation was a descriptor of unsafe buildings (the terms at the time) in the Unsafe Buildings section of USBC Volume 2. So clearly the legislative intent was to apply the requirement to enforce unsafe and unfit building provisions for both conditions, not just unsafe buildings. The next bill that was passed, which affected the unsafe building provisions was HB2109. Originally in HB2109 the law referenced a specific section number in USBC volume two. At the time HB 2344, which addressed search warrants and inspection, was presented the section number in the code for unsafe building had changed so the bill included a cleanup of the statute to remove the USBC section number (which is subject to change) and just refer to the section title "unsafe structure". It was not until the 2003 edition of the USBC, without any additional changes to the statute, that structures unfit for human habitation was pulled into the section title and treated as a separate companion term to unsafe structure. Clearly unfit for human habitation was not broken out by the General Assembly to limit application of VCC section 104.1 as is the assumption used for the incorrect interpretation.

I asked DHCD staff for their opinion on this matter and Jeff Brown informed me that the question had previously been raised to DHCD staff and he provided me the following email regarding application of VCC 104.1 to structures unfit for human occupancy. I also asked if DHCD had a documented reason statement or any other documentation that described the intent of the code change that added unfit for human habitation to the title of the unsafe structures section in the 2003 USBC and Jeff informed me that DHCD did not have any such documentation.

----- Forwarded message -----

From: Brown, Jeffrey <jeff.brown@dhcd.virginia.gov>

Date: Fri, Jul 12, 2019 at 2:15 PM

Subject: Re: FW: USBC 104.1, complaints by tenants of residential dwelling units

To: REDACTED

Cc: Potts Richard ilv62300 <richard.potts@dhcd.virginia.gov>, King, Thomas <thomas.king@dhcd.virginia.gov>, Harper Roger hqb65995 <skip.harper@dhcd.virginia.gov>, Cindy Davis <cindy.davis@dhcd.virginia.gov>

Hi REDACTED,

The requirement in VCC 104.1 comes from state law. See § 36-105(C)(2) of the Code of Virginia:

2. Complaints by tenants. However, upon a finding by the local building department, following a complaint by a tenant of a residential dwelling unit that is the subject of such complaint, that there may be a violation of the unsafe structures provisions of the Building Code, the local building department shall enforce such provisions.

My first thought was that since the VMC (and the state law where the language comes from) is specific to "unsafe structures", it wouldn't apply to "unfit structures"....then I did some historical research and went back to the 1996 USBC (link below):

<https://www.dhcd.virginia.gov/sites/default/files/Docx/building-codes-regulations/archive-codes/1996/1996-virginia-uniform-statewide-building-code.pdf>

See Section 105.1.1 of Part I (USBC) and then see Section 129.1 of Part II (VMC). It appears that when the state law was passed, the unsafe/unfit provisions were not so separate/distinct. Also at the time the original law was passed, the law said "section 105" and not "unsafe provisions", so it would have been clear at that time that it applied to both unsafe and unfit. In 2001 (while the 1996 USBC was in effect) the language was amended to say "the unsafe provisions", but again, at that time a structure unfit for human habitation was an unsafe structure. Here is a link to the bill from 2001:

<http://lis.virginia.gov/cgi-bin/legp604.exe?011+sum+HB2344>

HB2344 was really related to warrants and it looks like they were just trying to clean up the reference to the unsafe section so that it

wasn't tied to a specific USBC section number. I don't think the intent was to limit it any further, because again at that time, there was no clear distinction between unsafe/unfit.

Over the years, changes have been made to the VMC to make them distinct, but it appears to me that when the law was passed, it would have applied to what we now call unfit structures as well. If the requirement was only in the VMC, I would say it definitely only applies to unsafe and not unfit. Since it is a law, just because we monkeyed around with the unsafe provisions and created a separate definition and notice requirements for unfit structures, I am not sure it should make the law not apply to unfit structures now.

As a side note....In my opinion, if a BO in a locality that does not enforce the VMC, gets a complaint from a tenant of a rental dwelling unit and they allege the dwelling is unsafe, the BO has an obligation to inspect and prepare a report per section 106.2. That decision can then be appealed by the tenant if they are aggrieved.

Those are my thoughts, but I've copied some others to chime in if they have differing opinions...

Sincerely,

JEFF BROWN, MCP

Director of State Building Codes Office

Section specific change reason statements:

103.2- Removed reference to *structure unfit for human occupancy*.

105.2- Since an unsafe structure is a violation requiring notice, and this is a general section on notices, reports and orders, the unsafe structure notice is proposed to be added to the list of notices detailed in this section.

105.4 Exception #1 deletion- Exception #1 does not provide a definable exception. It does not specify what it is exempting. The proposed amendments to section 106 address the provisions addressed in this section relatable to unsafe structures so that Section 106 will stand on its own.

105.6 and 105.6.1- Since an unsafe structure is a violation and a notice of unsafe structures is equivalent to a notice of violation, the unsafe structure notice is proposed to be added to this section. This is further supported by the current reference in section 106.3 that the requirements of Section 105.2 for notices of violation are also applicable.

106 (Title)- Removed reference to *structure unfit for human occupancy*.

106.1- Removed reference to *structure unfit for human occupancy*. The terminology "razed or removed" was replaced with the term "demolished" for consistency because the term demolished is used in other sections within Section 106.

106.2- This section is proposed for deletion. Inspections are addressed in section 104.5.3. Taken literally, which is the intent of code language, this section assumes someone other than the code official can discover an unsafe/unfit structure and then based on that discovery the code official is compelled to inspect and prepare a report on the conditions, not determine if it is unsafe or unfit for occupancy. Someone other than the code official cannot determine if a structure is unsafe or unfit for human occupancy; therefore, the validity of this section is questionable.

106.3- Removed references to *structure unfit for human occupancy*. This section relies on a very interpretive reference back to 105.2 "to the extent that such reference does not conflict with this requirement." I also question if the referenced section number is complete or correct as other section of 105 should be applicable. To clean this up and make it clear the reference to 105.2 has been replaced by bringing the necessary requirements from 105 over to 106.3 that includes: the right of appeal, responsibility of the person issued the notice, the timeframe to correct, the responsibility of the code official to reinspect. Additionally, since this section addresses service, and section 106.4 also addresses service, the provisions of section 106.4 that addresses when the notice is unable to be served by personal service are proposed to be relocated in this section so that all of the service options are available in the one section.

106.3.1, 106.4- With the service provision in 106.4 proposed to be relocated to 106.3 and the fact that vacating an unsafe structure is a stand-alone provision, 106.3.1 is proposed to be renumbered 106.4. Additionally, the statement about actual and immediate danger is proposed to be removed because the other qualifier is "or when life is endangered by occupancy". Since the definition of Unsafe structure is "dangerous to the health safety and welfare of the occupants" any declaration of unsafe structure is going to establish the structure is dangerous or endangers life. All of the phrasings of dangerous are synonymous. The phrase "prohibit occupancy" was added as that language is used on the required placard in current sections 106.3.1 and 106.5. The requirement to post the placard is proposed for deletion and the placard requirement in 106.5 will remain and be used; there is no need to have two separate slightly different placard wording requirements. Lastly, the last sentence is proposed to clearly state that an order to vacate an unsafe structure shall be included

in the notice or issued in a separate notice.

106.5- Removed references to *structure unfit for human occupancy* and added the reference to unsafe structures. The section already applied to unsafe structures where the notice of unsafe structures had not been complied with (even though the placard refers to "Structure unfit for human habitation"). This proposed change removes the reference to unfit and moves the requirement to placard from 106.4 (prior 106.3.1) to this section. Basically this is a consolidation of current sections 106.3.1 and 106.5.

106.6- Removed references to *structure unfit for human occupancy*.

106.7- Removed references to *structure unfit for human occupancy*. The at the time a placard is issued qualifier to authorize securing the property against entry is proposed to be deleted because in most vacant building cases the initial securing of the building gets defeated by vandals or squatters and has to be re-installed.

106.8- Removed references to *structure unfit for human occupancy*.

106.9- Removed references to *structure unfit for human occupancy*.

Cost Impact: The code change proposal will not increase or decrease the cost

This is an editorial code change and has no impact on construction cost.

Attached Files

- **Unsafe.Unfit code change documentation part 2.pdf**
<https://va.cdpaccess.com/proposal/1128/1531/files/download/666/>
- **Unsafe.Unfit code change documentation part 1.pdf**
<https://va.cdpaccess.com/proposal/1128/1531/files/download/665/>