Welcome to the 2018 Annual Conference Educational Sessions
Virginia Maintenance Code
Legislative Authority…

- **Title 36 of VA Code: Housing**
  - 36-97 Board of Housing to Promulgate Uniform Statewide Building Code (VUSBC)
  - 36-99 Purpose to construct and maintain so as to protect the Public H/S/W
  - 36-103 Board may incorporate regulations pertaining to maintenance of existing buildings
  - 36-105 Localities may adopt and inspect regulations for existing buildings
Governance...

- Board of Housing and Community Development (BHCD)
  - A 14 member citizen Board
    - 11 congressional districts
    - Director of Regulatory Compliance VBCOA
    - Rep from VA Fire Services Board
    - Ex. Director VA Housing Dev. Authority
- Promulgates Codes and Effective Dates
- Provides guidance to Department of Housing & Community Development
Oversight...

- Department of Housing and Community Development (DHCD)
  - Facilitates code/regulations development
  - Provides administration and oversight
  - Provides mandatory training
  - Supports the BHCD
  - Supports the State Technical Review Board (appeals and interpretations)
  - Publishes the codes
The VUSBC

- Virginia Uniform Statewide Building Code 3 parts
  - Virginia Construction Code
  - Virginia Rehabilitation Code / Existing Building Code
  - Virginia Maintenance Code
The VUSBC – Construction

How we build:

- State mandate
- Code official identified and reported
The VUSBC – Construction
The VUSBC – Maintenance

How we maintain and use:

- VMC Optional for all localities
- Requires official adoption actions
- Code Officials identified and reported
- SFPC required for all localities
The VUSBC – Maintenance

Referenced Documents
Virginia establishes Chapter 1 Administration based on VA Statutes and Enabling Authority

- Incorporates by reference Chapters 2-8 of the International Property Maintenance Code and sets precedence
  - Chapter 1 Admin governs any conflict
  - State amendments govern IPMC 2-8
  - IMPC 2-8 govern any further references
Purpose and Scope

- Provides for the maintenance of existing buildings and structures
  - AT THE LEAST POSSIBLE COST
  - Includes overcrowding
  - Includes garbage accumulation

- Exemptions: everything exempt from Virginia Construction Code
Application of Code

- Limits the regulations to maintenance of “existing” buildings, structures, equipment
  - In accordance with the code under which constructed
  - Establishes responsibility for maintenance to “Owner”
- Allows for continued approval without retrofit
Rental Inspections

- In 2004, 36-105 was drastically changed to provide detailed requirements pertaining to Rental Inspections.

- These provisions were incorporated into the VMC.
Rental Inspections - Outcomes

- Protects tenants and guests
- Ensures landlord accountability
- Prevents neighborhood deterioration and blight
- Encourages neighborhood stabilization and sustainability
- Supports locality-wide economic development
The local governing body must adopt an ordinance to inspect residential rental dwelling units for compliance with the Rental Inspection Program requirements.
Rental Inspections - Ordinance

- Prior to adoption, the locality shall hold a public hearing.
- Notice of such hearing shall be published in a local newspaper for 2 weeks.
The locality shall make reasonable efforts to notify Residential Rental Unit owners that an ordinance was adopted which requires action from them.
Rental Inspections - Notice

- The notification shall explain the new ordinance, provide all information about the program, and detail the required responsibilities of the owner, including penalties.
Rental Inspections - Districts

- All res. rental dwelling units located within a rental inspection district are subject

- Rental Inspection Districts shall meet these criteria based on a FINDING by the locality:
Rental Inspections - Districts

1. There is a need to protect the public health, safety and welfare of occupants
2. The residential units are:
   a. Deemed blighted or heavily deteriorated; or
   b. Inspection required to prevent deterioration based on age and current conditions
3. Inspection is necessary to maintain safe, decent and sanitary living conditions for tenants and other residents within the District.
Units outside of the designated rental inspection district can be made subject to the ordinance based upon a separate finding for each unit using the same criteria.
Rental Inspections - Owners

- CANNOT require REGISTRATION for the program

- Can require the owner to notify the locality if a unit is defined as a Residential Rental Unit
Minimum of 60 days for owner notification

A fee is NOT authorized for this notification
A $50 civil penalty can be awarded for failure to notify the locality of a Residential Rental Dwelling Unit.
Rental Inspections - Owners

- Maintain property in accordance with the code in affect at the time of construction or occupancy

- Make unit available for inspections
Locality performs initial inspection of all identified Residential Rental Dwelling Units within designated districts and individual units subject to the ordinance.
Rental Inspections - Locality

- For multifamily developments, the locality shall only inspect between 2 - 10% of the total number of units.
Rental Inspections - Violations

- Properties where no violations are found must be granted a minimum 4 year exemption from the ordinance.
Rental Inspections - Violations

- Properties where violations are found are subject to enforcement provisions of the VMC and periodic inspections pursuant to the Rental Inspection Ordinance.
Penalties for violations of these provisions shall be the same as they are provided for in other sections of the VMC.
If violations are found in multifamily developments, the 10% unit threshold no longer applies; Any number of units may be inspected.
Rental Inspections - Violations

- If violations are found in units which are under a 4 year exemption, the exemption can be revoked.
Periodic inspections of Residential Rental Dwelling Units may occur not more than once per year up until exemption status is obtained.
Rental Inspections - Inspections

- Upon the sale of a Residential Rental Dwelling Unit subject to the ordinance the locality may perform a periodic inspection even if exempted.
Rental Inspections - Inspections

- For new units that become subject to the ordinance where a certificate of occupancy has been issued in the last 4 years, an exemption is automatically granted.
Rental Inspections - Fees

- The locality may establish a fee schedule for defraying the costs of these provisions.
Rental Inspections - Fees

- These include a per dwelling unit fee for:
  - Initial inspection
  - Follow-up inspection
  - Periodic inspection
Fees for multifamily developments may not exceed a 10 unit fee unless violations are found, then a per unit fee is applicable.
I think we'll take a 5 minute comfort break Mr Lewis, as my arm is aching.
Enforcement - General

- Search Warrant authorized
- Continued Enforcement when transfer of ownership is less than 50%
  - Disclosure laws apply
Localities are authorized to adopt and establish a schedule of fees to defray the cost of enforcement and appeals.
Enforcement - General

- State owned buildings are subject to this code
- Enforced by state personnel
Enforcement – Code Official

Qualifications of code official:
- 5 years experience as an industry professional or equivalent
- General knowledge of engineering practices
- Basic principles of
  - Fire protection
  - Means of egress
  - Installations of equipment
  - General health, safety and welfare
Enforcement - Certification

- Designated code officials have 1 year to become certified
- Technical Assistants have 18 months to become certified
- Where multiple certifications are required, an additional 18 months are provided
Enforcement - Other

- Standards for conduct: State and Local Gov. Conflict of Interest act
- Records shall be retained and destroyed in accordance with the Library of VA General Schedule 6
Enforcement – Powers and Duties

- Shall issue all necessary notices and orders to ensure compliance

- Can issue modifications when spirit and intent of code are met
  - In writing
  - Maintained in official record
  - Can request statements from industry professionals
Enforcement - Inspections

- Shall inspect building and structures for determination of compliance with code
  - Carry proper credentials
  - Can engage 3rd party expert opinion
  - Report violations of other laws
Enforcement – 3rd Party Agents

- Program and Policy
  - Establishes qualifications into the program
  - Establishes reliability requirements
  - Establishes report criteria and submission timeframe requirements
Enforcement – Man. Home Park

- Notices and orders affecting the entire park require notification to each affected tenant
Violations – Misdemeanor

- 36-106 Deemed unlawful for anyone to violate any provision of the code
- All violations are considered criminal misdemeanors
- Or the locality can adopt a civil schedule of penalties
Violations – Notices and Orders

- Notice shall be issued upon finding a violation
  - Correction notice
  - Violation notice

- Work done to correct violations is subject to the VCC and VFRC
Violations – Correction Notice

- The Correction Notice shall alert to defective conditions
  - In writing
  - State corrective actions
  - State timeframe for compliance
Violations – Violation Notice

- The Violation Notice shall serve as official legal notice of defective conditions
  - In writing
  - To responsible party
    - Registered Agent?
  - Section number
  - State corrective actions
  - State timeframe for compliance
  - Right of appeal
Exception: the timeframe for compliance does not have to be specified on notices citing a failure to maintain property in accordance with Section 103.2 – Purpose and scope.
The code official shall coordinate inspections and administrative orders with any other state and local agencies.
Violations – Further Action

- When the responsible party has not complied with the notice, the code official may:
  - Request counsel to institute legal proceedings
  - Obtain summons
  - Terminate use
  - Removal of building or structure
If the responsible party has complied with the notice, but has been served with 3 or more notices for the same property within a 5 year timeframe, the code official may:

- Request counsel to institute legal proceedings
Violations – Penalties

- 36-106 prescribes the penalties for successful prosecution of violations

- Unclassified misdemeanor $1000

- Civil schedule of penalties as adopted by locality

- Court Ordered abatement
Unsafe / Unfit - General

- All conditions causing a structure to become unsafe or unfit for human occupancy shall be remedied or corrected.
- In lieu of correcting some conditions, the structure may be vacated and secured against entry or razed and removed.
- Locality can raze and remove with imminent danger.
Unsafe / Unfit - Inspections

- Code official shall inspect any structure reported or discovered to be unsafe or unfit for human habitation
- A report identifying the conditions found onsite and any restricted use of the structure shall be filed into the record
- A copy will be sent to the owner
Unsafe / Unfit – Not Maintenance

- Conditions discovered in pre-USBC structures that are deemed a serious hazard for reasons other than failure to maintain (faulty design or equipment):
  - Can require minimum changes to resolve the unsafe condition
  - Does not have to fully comply with VCC or VEBC
The Unsafe/Unfit Notice shall be issued and served

- In writing
- To responsible party
- Registered Agent?
- Section number
- State corrective actions
- State timeframe for compliance/demolition
- Right of appeal
Unsafe / Unfit – Vacating

- Unfit OR
- Immediate and imminent danger present, the code official shall:
  - Post Notice
  - Placard Building
  - Secure if open
  - Close streets if needed
  - Make emergency repairs / demolish
Unsafe / Unfit – Revocation of CO

- If the Unsafe or Unfit Notice is not complied with, the code official may:
  - Revoke the certificate of occupancy
36-105 requires every locality to establish a Local Board of Building Code Appeals.

- Meet as necessary
- Appoint officers
- Receive training
Appeals Board – Membership

- Shall consist of 5 members appointed by locality who:
  - Render fair decisions
  - Serve staggered terms
  - Represent related occupations
    - 1 Builder
    - 1 RDP
    - 1 Property Manager
    - 2 others
Any person aggrieved by decision has right to appeal to LBBCA

- In writing
- Within 14 calendar days of decision
- Name of appellant
- Owner and address of the structure in question
Appeals Board – Meetings

- LBBCA shall meet within 30 days of appeal
- 45 days if regular meetings are occurring
- Extensions are permitted if agreed by all parties
- Notice shall be sent of the date/time
- Postponement may occur without quorum
  - Reschedule within 30 days
Hearings are:

- Open to public
- Shall provide all parties the right to be heard
- Facilitated/directed by Chairperson
  - Rule on evidence
Appeals Board – Decisions

- LBBCA can by majority vote:
  - Uphold
  - Reverse
  - Modify
Appeals Board – Decisions

- Decisions:
  - Be in Writing
  - Signed by Chairman
  - Retained in the record
  - Contain further appeal language to State Technical Review Board
Definitions – New Terms

- Applicable building code – code under which constructed
- Maintained – ties operational aspects of use to technical requirements
- Structure unfit for human occupancy – occupancy prohibited
- Unsafe structure – a condition which may or may not prohibit occupancy
Definitions – Deleted Terms

- Condemn
- Cost of Demo
- Inoperable Vehicles
- Labeled
- Neglect
- Openable Areas
- Pest Elimination
- Strict Liability offense
- Ultimate Deformation
- Workmanlike
- Unsafe
Technical Amendments

- VA amendments relate to narrowing the scope of the section to:
  - The code under which constructed
  - Definition of maintained
  - Only buildings and structures
  - State law and limited retrofitting
  - Operational parameters
Thank You For Attending