



DBHDS Office of Licensing

Guidance for Certificate of Use and Occupancy (CO)

RE: 12VAC35-105-260. Building inspection and classification.

Effective 06/09/2017

In order to assist providers with understanding the Certificate of Use and Occupancy requirement, the following guidance document has been created. This guidance document is based on building regulations outlined within the Virginia Uniform Statewide Building Code (USBC).

The Virginia Uniform Statewide Building Code (USBC) contains the building regulations that must be complied with when constructing a new building, structure, or an addition to an existing building. They must also be used when maintaining or repairing an existing building or renovating or changing the use of a building or structure. Buildings and structures meeting the statewide building code regulations would not need a variance to the licensing regulations.

Guidance for Certificate of Use and Occupancy (CO)

According to Regulation 12VAC35-105-260: All locations shall be inspected and approved as required by the appropriate building regulatory entity. Documentation of approval shall be a Certificate of Use and Occupancy indicating the building is classified for its proposed licensed purpose. The provider shall submit a copy of the Certificate of Use and Occupancy to the department for new locations. *This section does not apply to correctional facilities or home and non-center-based services. Sponsored residential service providers shall certify that their sponsored residential homes comply with this regulation.*

CO USBC Section 116 CO: The CO is issued to the permit holder that can be the owner or tenant. A new building has the CO that is issued to the owner and then to each permit holder (tenant in most cases) so the fire inspector and maintenance inspector and/or public can view. The CO is for the life of the building and each time a tenant changes, the CO on file at the building office is updated. Often owners will have the tenant show or provide a copy of the CO issued. The content of the CO is in 116.2 and includes USBC edition, occupancy, type of construction, sprinklers or not; and any special conditions or stipulations. Local CO's may have some zoning conditions too.

All post-1973 USBC have to have a CO. If it is lost, the owner can request one.

Pre-1973 USBC likely will also have a local CO. One will be required for alterations and additions done after 1973. If a pre-USBC building has no CO, Section 116.4 requires the building official to issue a CO upon request. The building official may verify in writing either that a certificate did exist or issue a certificate based upon the records.

Definition(s):

"Group home or community residential service" means a congregate service providing 24-hour supervision in a community-based home having eight or fewer residents. Services include supervision, supports, counseling, and training in activities of daily living for individuals whose individualized services plan identifies the need for the specific types of services available in this setting. (DBHDS, 2011)

"Home and non-center based" means that a service is provided in the individual's home or other non-center-based setting. This includes non-center-based day support, supportive in-home, and intensive in-home services. (DBHDS, 2011)

"Change of Occupancy" means a change in the use or occupancy of any building or structure that would place the building or structure in a different division of the same group of occupancies or in a different group of occupancies; or a change in the purpose or level of activity within a building or structure that involves a change in application of the requirements of this code. (USBC, 2012)

"Construction" means the construction, reconstruction, alteration, repair, or conversion of buildings and structures. (USBC, 2012)

"Building" means a combination of materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons, or property. The word "building" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. "Building" shall not include roadway tunnels and bridges owned by the Virginia Department of Transportation, which shall be governed by construction and design standards approved by the Virginia Commonwealth Transportation Board. Each portion of a building that is completely separated from other portions by fire walls complying with Section 706 shall be considered as a separate building (see Section 503.1). (USBC, 2012)

"State Regulated Care Facility (SRCF)" means a building with an occupancy in Group R-2, R-3, R-4 or R-5 occupied by persons in the care of others where program oversight is provided by the Virginia Department of Social Services, the Virginia Department of Behavioral Health and Developmental Services, the Virginia Department of Education or the Virginia Department of Juvenile Justice. (USBC, 2012)

“Group Home” means a facility for social rehabilitation or substance abuse or mental health problems that contains a group housing arrangement that provides custodial care but does not provide medical care. (USBC, 2012)

“Owner” means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee or lessee in control of a building or structure. (USBC, 2012)