

**Virginia Department of Health  
Sewage Handling and Disposal Advisory Committee (SHADAC) Meeting  
Meeting Summary**

Date: November 17, 2023  
Time: 10 am to 2 pm  
Primary Location: James Madison Building  
5<sup>th</sup> Floor Main Conference Room  
109 Governor Street  
Richmond, Virginia 23219

**Remote Location:** Webinar using Webex

**SHADAC Members**

Mike Lynn, Chairman – Home Builders Association of Virginia  
Curtis Moore – Virginia Onsite Wastewater Recycling Association  
Lance Gregory – Virginia Department of Health (VDH)  
Cody Vigil- Manufacturer, Association of Soil Engineers  
Matt Tolley – Virginia Association of Professional Soil Scientist  
William Johnson – Consulting Engineers Council of Virginia  
Colin Bishop – Manufacturer System Installer

**List of Attendees at Primary Meeting Location:**

Ryder Bunce	Scott Currie	Andrew Carter
James Strickland	Preston Kirby	Scott Miller

**List of Attendees at Remote Meeting Locations:**

Adam Day	Adam Herman	Anthony Creech
Brianna Heath	Celeste DuFour	Mike Callahan
Darin Doss	Gary Thomas	Shawn Carmen
Steve Elgin	Steve Thomas	James LaRosa
Ivy Osman	Pam Pruett	Eric Smither
Joel Pinnix	Trapper Davis	Josh Hepner
Greg DeBoe	Caroline Glastetter	

**Administrative (15 minutes)**

Chairman Lynn announced call to order.

1. Welcome

Committee members, VDH staff, and the public welcomed to the meeting.

Mr. Moore: proposed to add any updates for Proposed Private Well Regulations to be added to Old Business

Agenda reviewed and approved.

Review summary from July 11, 2023 meeting deferred to next meeting.

### **Public Comment Period**

No comments presented.

### **Old Business**

#### 1. Sewage Handling and Disposal Regulations (SHDR) revision

Mr. Gregory stated the SHDR revisions to begin 2024. Office of Regulatory Management (ORM) required internal counting of regulations to use for meeting goal to reduce regulations by 25 percent. Key point of revisions will be to clarify who is actually being required to act on a regulations. Invitations to be sent in early 2024 for regulation revision workgroups. A fast track regulations may be first action taken.

#### 2. Proposed Private Well Regulations

Mr. Gregory stated process initially began in 2016 to revise the Private Well Regulations; currently now in final stage. Proposed regulations were idle for approximately 3 years prior to being signed, and now awaiting review at Secretary of Health and Human Resources desk. Virginia Department of Health (VDH) recently communicated with ORM to share that these proposed Regulations will help to improve the industry. After Secretary of Health and Human Resources office completes review, regulations will be sent to ORM prior to being sent to the Governor's office. A public comment period would be required afterward review.

### **New Business**

#### 1. Well permits and re-location of permitted well areas

Mr. Miller stated that well permit designs and well locations are now mostly conducted by private Onsite Soil Evaluators (OSE's), then approved by VDH for permits to be issued. Some OSE's design a boxed well location area or a pinpointed well location, and these areas still need to be relocated at times.

An example was presented whereas a well driller may check a site for the proposed well location, physically marks the well site, and after time passes, the septic tank location moves and is relocated affecting the proposed well location. The well driller then needs to relocate the proposed well to meet setbacks, the OSE is contacted and approves relocation. However, VDH may take three weeks to approve the revision. It was stated that it is widely known that septic component relocations are promptly approved, but not well location revisions. Delays are not desirable due to home closings and deadlines. The issue occurs regularly enough to be an issue

and nuisance. Some well drillers have stated that relocating even five inches from a proposed location prompted reprimands.

Some OSE's now showing boxed areas around sources of contamination and the remaining area is the proposed well area.

Pertaining to shared responsibilities, Fairfax and Loudon conduct grout inspections, which ends up being a two-fold process for OSE and Professional Engineer (PE) designs. The local health department (LHD) sets the schedule which doubles the logistics to schedule. It was expressed that there were too many private OSE's for well drillers to contact and the amount of work ends up being doubled. Grout inspections may also end up as partial inspections. Sometimes waiting for inspections causes delays and wells may not be grouted for up to a week or two, in which material may collapse from the sidewall.

Mr. Tolley stated that in Loudon, the driller installs a tremie pipe for grouting, and LHD inspects. Other issues occur with dry wells and when an OSE design has been approved for a permit with the well location in the front of the property, and well is drilled in the rear, the LHD would not accept or approve the well without a new permit and fee.

Ms. Pruett stated that from the private sector point of view, there is a misunderstanding for drillers about inspections, and any party required to inspect has responsibility.

Mr. Gregory remarked that the difference in the Private Well Regulations and the SHDR it is stated for the LHD to inspect all wells, but not private septic designs, but still good practice for all parties to be made aware of any septic system revisions.

Mr. Miller stated the variability of strict inspections or not, Fairfax requires grout and pitless adapter inspections as stated in local ordinances.

Ms. Pruett stated that if there is a space to sign on an inspection form, then she feels responsible.

Mr. Kirby asked why couldn't just exclusion zones be used for well permit designs?

Mr. Moore replied that even exclusion zones could be challenged due to changes onsite, could be challenging from a regulatory aspect and complicated due to topographic features, amendments, etc.

Mr. Miller stated even on permit designs, when all zones are shown, changes are still sometimes needed to be made, that could affect well placement.

Mr. Moore stated that he has clients who prefer well sites and may not want an all inclusive area.

Mr. Miller proposed a solution that the OSE could approve revised well locations.

Mr. Moore replied that SHADAC could advise, but counties with local ordinances would still have local requirements. Also stated that well drillers have the authority to design well permits.

Mr. Miller responded that drillers typically would rather opt to work with the designing OSE's.

Mr. Moore asked if VDH had a mechanism for emergency situations.

Mr. Gregory replied that a key issue is the individual who revises the permit design does not always conduct the inspection, and multiple parties for inspections cause conflicts.

Chairman Lynn asked if there was a regulatory change.

Mr. Carter replied that the Private Well Regulations do not provide much leeway for revisions, but that the SHDR do allow for revisions more easily.

Mr. Moore replied that ultimately it is the property owner that has the responsibility.

Mr. Miller stated the preferred outcome when needing to move proposed well locations, to contact only the designing OSE for approval and one entity for grout inspections, and that the well drillers are responsible for location but property owner is really responsible.

Mr. Davis stated that if a Master Alternative OSE had a well location designed, no other party should make a revision.

Mr. Creech commented that this issue is not addressed by the new Private Well Regulations. The stakeholder regulatory group proposed to not have any substantial compliance when drafting regulation that could have been helpful. May need to look into a fast track regulation to address due to the expense of wells.

## 2. Electrician licensing requirements for onsite sewage disposal systems.

Chairman Lynn recited written statements provided by R. Brian Oxendine, Northern Virginia septic electrical contractor. Mr. Oxendine reported that he had seen issues and questioned localities on whether electrical work for onsite sewage system should be done by a licensed electrician with an electrical permit.

Mr. Gregory responded that Mr. Oxendine stated licensed electricians should be needed.

Mr. Vigil stated electricians install power source to control panels, and septic installers typically conduct all connections from that point on.

Mr. Miller stated well drillers can wire up to point of connection. Several counties require separate permits for water line trenches.

Chairman Lynn stated a Prince William inspector once claimed contractors may be exempt for their specialty work.

Mr. Pinnix responded that there is a Memorandum of Understanding (MOU) that addresses septic systems, and stated Anne Powell once claimed VDH is responsible for septic components 30 inches or greater from a building structure and that a master conventional or alternative installer can conduct work outside the building structure.

Mr. Vigil stated installers are trained to wire pumps and panels.

Chairman Lynn replied that most electricians preferred not to deal with the wiring of septic components.

Mr. Miller stated that a Well Water Service Provider can perform all portions of electrical connections for well installations.

Ms. Pruettt responded that she has heard discussion from different localities on the MOU, when the MOU was developed, who is responsible to inspect connections, and that VDH has mistaken that OSE's know how to inspect electrical components. An older GMP from the 1990's stated VDH is not responsible for electrical inspections, only responsible to inspect that the system functions.

Mr. Moore replied that if the Department of Housing and Community Development states the inspections fall to VDH, then that should take precedence.

Mr. Gregory responded that the inspection process and requirements for electrical connections should be updated.

Mr. Moore stated electrical permits may be needed but the MOU would override.

Mr. Gregory suggested including DPOR in the discussion.

### **New Business**

3. Responsibilities of private and public sector inspections.

Mr. Gregory suggested to table topic for next meeting.

4. SHADAC Virtual Meeting Policy review

Mr. Gregory suggested to table topic mostly for next meeting. Stated that the policy was developed during the Covid pandemic. The draft policy will be sent out to consider.

Mr. Vigil stated that he felt that the meetings were more productive to meet in person.

Chairman Lynn replied that the meetings are more productive due to the group mostly held consistently intact.

5. Sewage and Well Assistance Program (SWAP) Funding

Mr. Gregory stated that an article in the Richmond Times Dispatch on funding statewide showed inaccuracies. He provide the following summary on SWAP funding.

- 350 SWAP applications received, some applications had to be denied.
- Approximately \$3 million spent on projects.
- Currently 17 projects awarded, totaling approximately \$540,000.00.
- Currently 18 projects posted for bidding.
- Costs totaling approximately \$4.6 million.
- Approximately 100 projects needed to go out for bids.
- 182 projects installed and completed.
- Different approaches to distribute projects and funding were initiated.
- \$2 million in funding sent to local partners such as Northern Neck Planning District Commission, the Middle Peninsula Planning District Commission, Rockingham- all localities received \$300,000.00 each.
- Issued permits given directly to localities.
- Some projects bulked together.

Mr. Miller asked what was the mechanism for posting bids.

Mr. Gregory responded bids are posted through Electronic Virginia (EVA).

It was suggested to possibly include a code to highlight EVA emails.

Mr. Gregory noted a focus moving forward is to find new funding. New Hampshire reportedly received \$16 million from the American Rescue Plan Act (ARPA), and 2% of state applied for permits. The wastewater infrastructure needs assessment found \$15 billion would be needed over 20 years in Virginia for wastewater infrastructure.

#### 6. Sewage Handling and Disposal Regulations rewrite

Mr. Gregory stated bullet point texts will be sent out for review and comment. He also noted that VDH submitted a legislative proposal to eliminate the \$1 fee for operation and maintenance reporting as a suggested bill initiative.

**Adjourn**

**Virginia Department of Health  
Sewage Handling and Disposal Advisory Committee (SHADAC) Meeting  
Agenda**

Date: November 17, 2023  
Time: 10 am to 2 pm  
Primary Location: James Madison Building  
5<sup>th</sup> Floor Main Conference Room  
109 Governor Street  
Richmond, Virginia 23219

Remote Location: Webinar using Webex (use instructions below to join)

Join from the meeting link:

<https://vdhoep.webex.com/vdhoep/j.php?MTID=m92342f8c747ea9f2d855f06dd582c8fd>

Meeting number: 2631 768 4030

Join by phone

1-844-992-4726 United States Toll Free

+1-408-418-9388 United States Toll

Access code: 2631 768 4030

**Administrative (15 minutes)**

1. Welcome. (5 minutes)
2. Approve agenda. (5 minutes)
3. Review summary from July 11, 2023 meeting. (5 minutes)

**Public Comment Period (10 minutes)**

**Old Business (15 minutes)**

1. SHDR revision (15 minutes)

**New Business (60 minutes)**

1. Well permits and re-location of permitted well areas (30 minutes)
2. Electrician licensing requirements for onsite sewage disposal systems. (30 minutes)

**Break (10 minutes)**

**New Business (90 minutes)**

3. Responsibilities of private and public sector inspections. (20 minutes)
4. SHADAC Virtual Meeting Policy review (40 minutes)
5. SWAP/Funding (30 minutes)

**Adjourn**

## Statement

This statement is to address the ongoing issue concerning Septic System and Electrical Permitting. The coordination between the Virginia Health Department and Building Officials in the state of Virginia needs to join to enforce the state codes that have been adopted and have been in place for many years. This is not a request to create a new code or regulation concerning both parties but a request to **ENFORCE** the codes and regulations that a licensed electrical contractor must abide by. The building official has the responsibility of issuing and carrying out their inspections on electrical projects.

The Department of Housing and Community Development adopted codes as of July 1, 2021 are the 2018 International Residential Code and the Virginia Administration Code 13VAC5-63-80 , Section 108 Application for Permit and the 2017 National Electrical Code. In short, the permitting code calls for **ANY** electrical to be issued electrical permits and inspections with minor exemptions for small devices/fixtures etc. There is a boundary of 5 feet of around the structure that is covered by the structure permit/trade permit. The well water system and septic systems are beyond the 5 feet boundary and require permitting and trench inspections. Also ditch inspections/certifications are required for plumbing and electrical permits. Septic System Control Wiring has a neutral and ground connection at pump tank including other accessories that are designed in the systems. Classifying this wiring to be permitted and inspected per codes. Safety concerns out at the tank with regards to human safety, animal safety and the presence of dangerous gases county inspections ensure that the safeguards are in place and follow the procedure that is set forth by the state.

The Virginia State Board of Contractors requires **ALL** contractors that are licensed with the tradesman electrical license to apply for permits for said work. Any electrical work above 50 volts requires a licensed electrician. The manufacturers of electrical components of the septic system state in the warranty section that a “qualified licensed electrician” must install and repair electrical components of the septic system/well water systems. Each signature that approves/signs off the septic system regardless of what agency/designer/contractor is responsible for the proper installation and operation.

I would be more than happy to have more discussion and meetings concerning these issues that the state has and can be reached at the contacts below.

Sincerely,

R.Brian Oxendine

Tel: 703-856-0299

Email: oxendine.b@septrical.com





# Codes and Regulations

Virginia's state building codes and regulations are promulgated and regulated by the DHCD. Codes and regulations are adopted by the Board of Housing and Community Development and periodic amendments are utilized to update codes and incorporate new reference standards.

## VIRGINIA BUILDING AND FIRE REGULATIONS

Virginia's state building codes and regulations are administered through the Virginia Uniform Statewide Building Code (USBC), and its associated standards and regulations for industrialized or modular buildings, manufactured homes and amusement devices.

[CLICK HERE](#)

## VIRGINIA CODE COLLECTIONS

Effective July 1, 2021, Virginia adopted the 2018 I-codes as referenced in the Virginia Construction Code Part 1 and the 2018 Statewide Fire Prevention Code; and the 2017 National Electrical Code.

[CLICK HERE](#)

## CODE DEVELOP

The Virginia Building Codes are updated through a public development process. Virginia is a leader in fire code development, and stakeholder input is encouraged and remote participation is encouraged.

[CLICK HERE](#)

2019 IRC

## CHAPTER 1 SCOPE AND ADMINISTRATION

### SECTION R105 PERMITS

#### R105.1 Required.

Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the building official and obtain the required permit.



#### R105.2 Work exempt from permit.

Exemption from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

##### Building:

1. One-story detached accessory structures, provided that the floor area does not exceed 200 square feet (18.58 m<sup>2</sup>).
2. Fences not over 7 feet (2134 mm) high.
3. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.
4. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18 927 L) and the ratio of height to diameter or width does not exceed 2 to 1.
5. Sidewalks and driveways.
6. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
7. Prefabricated swimming pools that are less than 24 inches (610 mm) deep.
8. Swings and other playground equipment.
9. Window awnings supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.
10. Decks not exceeding 200 square feet (18.58 m<sup>2</sup>) in area, that are not more than 30 inches (762 mm) above grade at any point, are not attached to a dwelling and do not serve the exit door required by Section R311.4.

##### Electrical:

1. Listed cord-and-plug connected temporary decorative lighting.
2. Reinstallation of attachment plug receptacles but not the outlets therefor.
3. Replacement of branch circuit overcurrent devices of the required capacity in the same location.
4. Electrical wiring, devices, appliances, apparatus or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of energy.
5. Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

##### Gas:

1. Portable heating, cooking or clothes drying appliances.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
3. Portable-fuel-cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

##### Mechanical:

1. Portable heating appliances.
2. Portable ventilation appliances.
3. Portable cooling units.
4. Steam, hot- or chilled-water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
6. Portable evaporative coolers.
7. Self-contained refrigeration systems containing 10 pounds (4.54 kg) or less of refrigerant or that are actuated by motors of 1 horsepower (746 W) or less.
8. Portable-fuel-cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

##### Plumbing:

1. The stopping of leaks in drains, water, soil, waste or vent pipe; provided, however, that if any concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and

replace the same with new material, such work shall be considered as new work and a *permit* shall be obtained and inspection made as provided in this code.

2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

#### **R105.2.1 Emergency repairs.**

Where *equipment* replacements and repairs must be performed in an emergency situation, the *permit* application shall be submitted within the next working business day to the *building official*.

#### **R105.2.2 Repairs.**

Application or notice to the *building official* is not required for ordinary repairs to structures, replacement of lamps or the connection of *approved* portable electrical *equipment* to *approved* permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include *addition* to, *alteration* of, replacement or relocation of any water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

#### **R105.2.3 Public service agencies.**

A *permit* shall not be required for the installation, *alteration* or repair of generation, transmission, distribution, metering or other related *equipment* that is under the ownership and control of public service agencies by established right.

### **R105.3 Application for permit.**

To obtain a *permit*, the applicant shall first file an application therefor in writing on a form furnished by the department of building safety for that purpose. Such application shall:

1. Identify and describe the work to be covered by the *permit* for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use and occupancy for which the proposed work is intended.
4. Be accompanied by *construction documents* and other information as required in [Section R106.1](#).
5. State the valuation of the proposed work.
6. Be signed by the applicant or the applicant's authorized agent.
7. Give such other data and information as required by the *building official*.

#### **R105.3.1 Action on application.**

The *building official* shall examine or cause to be examined applications for *permits* and amendments thereto within a reasonable time after filing. If the application or the *construction documents* do not conform to the requirements of pertinent laws, the *building official* shall reject such application in writing stating the reasons therefor. If the *building official* is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the *building official* shall issue a *permit* therefor as soon as practicable.

##### **R105.3.1.1 Determination of substantially improved or substantially damaged existing buildings in flood hazard areas.**

For applications for reconstruction, rehabilitation, *addition*, alteration, repair or other improvement of existing buildings or structures located in a flood hazard area as established by [Table R301.2\(1\)](#), the *building official* shall examine or cause to be examined the *construction documents* and shall make a determination with regard to the value of the proposed work. For buildings that have sustained damage of any origin, the value of the proposed work shall include the cost to repair the building or structure to its predamaged condition. If the *building official* finds that the value of proposed work equals or exceeds 50 percent of the market value of the building or structure before the damage has occurred or the improvement is started, the proposed work is a substantial improvement or repair of substantial damage and the *building official* shall require existing portions of the entire building or structure to meet the requirements of [Section R322](#).

For the purpose of this determination, a substantial improvement shall mean any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. Where the building or structure has sustained substantial damage, repairs necessary to restore the building or structure to its predamaged condition shall be considered substantial improvements regardless of the actual repair work performed. The term shall not include either of the following:

1. Improvements to a building or structure that are required to correct existing health, sanitary or safety

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code violations identified by the building official and that are the minimum necessary to ensure safe living conditions.

2. Any alteration of a historic building or structure, provided that the alteration will not preclude the continued designation as a historic building or structure. For the purposes of this exclusion, a historic building shall be any of the following:

- 2.1. Listed or preliminarily determined to be eligible for listing in the National Register of Historic Places.
- 2.2. Determined by the Secretary of the U.S. Department of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined to qualify as an historic district.
- 2.3. Designated as historic under a state or local historic preservation program that is approved by the Department of Interior.

**R105.3.2 Time limitation of application.**

An application for a *permit* for any proposed work shall be deemed to have been abandoned 180 days 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 for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

**R105.4 Validity of permit.**

The issuance or granting of a *permit* shall not be construed to be a *permit* for, or an *approval* of, any violation of any of the provisions of this code or of any other ordinance of the *jurisdiction*. *Permits* presuming to give authority to violate or cancel the provisions of this code or other ordinances of the *jurisdiction* shall not be valid. The issuance of a *permit* based on *construction documents* and other data shall not prevent the *building official* from requiring the correction of errors in the *construction documents* and other data. The *building official* is authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this *jurisdiction*.

**R105.5 Expiration.**

Every *permit* issued shall become invalid unless the work authorized by such *permit* is commenced within 180 days after its issuance or after commencement of work if more than 180 days pass between inspections. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

**R105.6 Suspension or revocation.**

The *building official* is authorized to suspend or revoke a *permit* issued under the provisions of this code wherever the *permit* is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

**R105.7 Placement of permit.**

The building *permit* or a copy shall be kept on the site of the work until the completion of the project.

**R105.8 Responsibility.**

It shall be the duty of every person who performs work for the installation or repair of building, structure, electrical, gas, mechanical or plumbing systems, for which this code is applicable, to comply with this code.

**R105.9 Preliminary inspection.**

Before issuing a *permit*, the *building official* is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

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## CHAPTER 1 SCOPE AND ADMINISTRATION

### SECTION R104 DUTIES AND POWERS OF THE BUILDING OFFICIAL

#### R104.1 General.

The *building official* is hereby authorized and directed to enforce the provisions of this code. The *building official* shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

#### R104.2 Applications and permits.

The *building official* shall receive applications, review *construction documents* and issue *permits* for the erection and *alteration* of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code.

#### R104.3 Notices and orders.

The *building official* shall issue necessary notices or orders to ensure compliance with this code.

#### R104.4 Inspections.

The *building official* shall make the required inspections, or the *building official* shall have the authority to accept reports of inspection by *approved agencies* or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such *approved agency* or by the responsible individual. The *building official* is authorized to engage such expert opinion as deemed necessary to report on unusual technical issues that arise, subject to the approval of the appointing authority.

#### R104.5 Identification.

The *building official* shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

#### R104.6 Right of entry.

Where it is necessary to make an inspection to enforce the provisions of this code, or where the *building official* has reasonable cause to believe that there exists in a structure or upon a premises a condition that is contrary to or in violation of this code that makes the structure or premises unsafe, dangerous or hazardous, the *building official* or designee is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the *building official* shall first make a reasonable effort to locate the owner, the owner's authorized agent, or other person having charge or control of the structure or premises and request entry. If entry is refused, the *building official* shall have recourse to the remedies provided by law to secure entry.

#### R104.7 Department records.

The *building official* shall keep official records of applications received, *permits* and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for the retention of public records.

#### R104.8 Liability.

The *building official*, member of the board of appeals or employee charged with the enforcement of this code, while acting for the *jurisdiction* in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties.

##### R104.8.1 Legal defense.

Any suit or criminal complaint instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by legal representatives of the *jurisdiction* until the final termination of the proceedings. The *building official* or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

#### R104.9 Approved materials and equipment.

Materials, *equipment* and devices *approved* by the *building official* shall be constructed and installed in accordance with such approval.

##### R104.9.1 Used materials and equipment.

Used materials, *equipment* and devices shall not be reused unless *approved* by the *building official*.

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#### **R104.10 Modifications.**

Where there are practical difficulties involved in carrying out the provisions of this code, the *building official* shall have the authority to grant modifications for individual cases, provided the *building official* shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

##### **R104.10.1 Flood hazard areas.**

The *building official* shall not grant modifications to any provisions required in flood hazard areas as established by [Table R301.2\(1\)](#) unless a determination has been made that:

1. There is good and sufficient cause showing that the unique characteristics of the size, configuration or topography of the site render the elevation standards of [Section R322](#) inappropriate.
2. Failure to grant the modification would result in exceptional hardship by rendering the lot undevelopable.
3. The granting of modification will not result in increased flood heights, additional threats to public safety, extraordinary public expense, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
4. The modification is the minimum necessary to afford relief, considering the flood hazard.
5. Written notice specifying the difference between the design flood elevation and the elevation to which the building is to be built, stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation and stating that construction below the design flood elevation increases risks to life and property, has been submitted to the applicant.

##### **R104.11 Alternative materials, design and methods of construction and equipment.**

The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not [specifically prescribed by this code](#). [The building official shall have the authority to approve an alternative material, design or method of construction upon application of the owner or the owner's authorized agent.](#) [The building official shall first find](#) that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, not less than the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. Compliance with the specific performance-based provisions of the International Codes shall be an alternative to the specific requirements of this code. Where the alternative material, design or method of construction is not *approved*, the *building official* shall respond in writing, stating the reasons why the alternative was not *approved*.

##### **R104.11.1 Tests.**

Where there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the *building official* shall have the authority to require tests as evidence of compliance to be made at no expense to the *jurisdiction*. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *building official* shall approve the testing procedures. Tests shall be performed by an *approved* agency. Reports of such tests shall be retained by the *building official* for the period required for retention of public records.

## Virginia Administrative Code

### Title 13. Housing

Agency 5. Department of Housing And Community Development

Chapter 63. Virginia Uniform Statewide Building Code

## 13VAC5-63-80. Section 108 Application for permit.

A. Section 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, including the addition of emergency supplemental hardware, (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 by the VEBC.

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.

B. Section 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 broadband communications systems, (iii) is exempt under Section 102.3(1) or 102.3(4), or (iv) is for monitoring or automation systems in dwelling units, 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 structures used as tool and storage sheds, playhouses or similar uses, provided the building area does not exceed 256 square feet (23.78 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 of any height unless required for pedestrian safety as provided for by Section 3306, or used for the barrier for a swimming pool.
6. Concrete or masonry walls, provided such walls do not exceed six feet in height above the finished grade. Ornamental column caps shall not be considered to contribute to the height of the wall and shall be permitted to extend above the six feet height measurement.
7. Retaining walls supporting less than three feet of unbalanced fill that are not constructed for the purpose of impounding Class I, II or III-A liquids or supporting a surcharge other than ordinary unbalanced fill.
8. 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.
9. Signs under the conditions in Section H101.2 of Appendix H.
10. 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.
11. Flagpoles 30 feet (9144 mm) or less in height.
12. Temporary ramps serving dwelling units in Groups R-3 and R-5 occupancies where the height of the entrance served by the ramp is no more than 30 inches (762 mm) above grade.
13. Construction work deemed by the building official to be minor and ordinary and which does not adversely affect public health or general safety.
14. Ordinary repairs that include the following:
  - 14.1. 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.
  - 14.2. Replacement of plumbing fixtures and well pumps in all groups without alteration of the water supply and distribution systems, sanitary drainage systems or vent systems.
  - 14.3. Replacement of general use snap switches, dimmer and control switches, 125 volt-15 or 20 ampere receptacles, luminaires (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.
  - 14.4. 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.

14.5. Replacement of an unlimited amount of roof covering or siding in Group R-3, R-4 or R-5 provided the building or structure is not in an area where the nominal design wind speed is greater than 100 miles per hour (44.7 meters per second) and replacement of 100 square feet (9.29 m<sup>2</sup>) or less of roof covering in all groups and all wind zones.

14.6. Replacement of 256 square feet (23.78 m<sup>2</sup>) or less of roof decking in Group R-3, R-4 or R-5 unless the decking to be replaced was required at the time of original construction to be fire-retardant-treated or protected in some other way to form a fire-rated wall termination.

14.7. Installation or replacement of floor finishes in all occupancies.

14.8. 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.

14.9. Installation or replacement of cabinetry or trim.

14.10. Application of paint or wallpaper.

14.11. Other repair work deemed by the building official to be minor and ordinary which does not adversely affect public health or general safety.

15. Crypts, mausoleums, and columbaria structures not exceeding 1,500 square feet (139.35 m<sup>2</sup>) in area if the building or structure is not for occupancy and used solely for the interment of human or animal remains and is not subject to special inspections.

16. Billboard safety upgrades to add or replace steel catwalks, steel ladders, or steel safety cable.

Exceptions:

1. 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 § [15.2-2306](#) of the Code of Virginia.

2. Application for a permit may be required by the building official for any items exempted in this section that are located in a special flood hazard area.

C. Section 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.

D. Section 108.4 Prerequisites to obtaining permit. In accordance with § [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 or Chapter 11 (§ [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 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.

E. Section 108.5 Mechanics' lien agent designation. In accordance with § [36-98.01](#) of the Code of Virginia, a building permit issued for any one-family 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 § [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 § [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.

F. Section 108.6 Application form, description of work. The application for a permit shall be submitted on a form 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.

G. Section 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.

H. Section 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.

#### Statutory Authority

§ [36-98](#) of the Code of Virginia.

#### Historical Notes

Derived from Virginia Register [Volume 22, Issue 3](#), eff. November 16, 2005; amended, Virginia Register [Volume 24, Issue 14](#), eff. May 1, 2008; [Volume 27, Issue 2](#), eff. March 1, 2011; Change in Effective Date, 27:5 VA.R. 534 November 8, 2010; amended, Virginia Register [Volume 30, Issue 16](#), eff. July 14, 2014; [Volume 34, Issue 18](#), eff. September 4, 2018; [Volume 37, Issue 14](#), eff. July 1, 2021.

Website addresses provided in the Virginia Administrative Code to documents incorporated by reference are for the reader's convenience only, may not necessarily be active or current, and should not be relied upon. To ensure the information incorporated by reference is accurate, the reader is encouraged to use the source document described in the regulation.

As a service to the public, the Virginia Administrative Code is provided online by the Virginia General Assembly. We are unable to answer legal questions or respond to requests for legal advice, including application of law to specific fact. To understand and protect your legal rights, you should consult an attorney.



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# Memo

To: Interested Parties  
From: Joel S. Pinnix, PE  
Date: November 17, 2023  
Re: VDH-DHCD Memorandum

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Attached is the Memorandum of Understanding (MOU) between VDH and DHCD related to building permits and septic system permits.

Note the MOU explicitly states that:

“The VDH regulations will apply to control panels for the treatment works and its functional treatment components, including electrical devices for pump stations, master disconnect switches, manual override switches, motor control panels, and separate motor control centers when specified by the designer or required by VDH.”

In my opinion – this is a clear statement that simple pump stations for conventional system can be installed by a **Master** Conventional Onsite Sewage System Installer. And, more complex electro-mechanical treatment works for alternative systems can be installed by a **Master** Alternative Onsite Sewage System Installer.

In my experience as an installer, the outside work can be performed by an appropriate Master Sewage System Installer. But, the inside work (power from the building's main panel) requires a licensed tradesman (ie. Master Electrician).

The MOU also states that:

“The building code will apply to all internal service plumbing components of a treatment works up to the point of connection of the building drain to the building sewer.”

As described by VDH's Anne Powell, the above means:

The MOA with DHCD says that VDH's jurisdiction includes the BUILDING SEWER at the point of its connection to the BUILDING DRAIN. So then I look to the building code for definitions of BUILDING SEWER and BUILDING DRAIN...[2018 Virginia Residential Code](#)

**BUILDING DRAIN** = the lowest piping that collects the discharge from all other drainage piping inside the house and extends 30 inches in developed length of pipe, beyond the exterior walls and conveys the drainage to the building sewer

**BUILDING SEWER** = that part of the drainage system that extends from the end of the building drain and conveys its discharge to a public sewer, private sewer, individual sewage disposal system or other point of disposal

Plus, if you continue reading the building code, in Chapter 30 (P3005.2.3) it says a **CLEANOUT** has to be installed at the junction of the BUILDING DRAIN and the BUILDING SEWER (or within 10 feet upstream of the junction).

In summary, the building official (and plumber) handles the building drain up to 30 inches outside the foundation where it is connected to the building sewer and a cleanout installed. After that, the building sewer is handled by VDH (and the septic installer).

Between the Virginia Department of Housing and Community Development (VDHCD)  
and the Virginia Department of Health (VDH)

In accordance with Va. Code §§ 36-98 et seq., 32.1-12, and 32.1-163 et seq., the VDH and the VDHCD agree to coordinate jurisdictional responsibilities through the Virginia Uniform Statewide Building Code (13 VAC 5-62, the "building code") and applicable VDH regulations ("VDH regulations")<sup>1</sup> as follows:

#### Codes and Regulations: Adoption and Enforcement

1. VDHCD adopts and promulgates the building code. The local building department enforces the building code.
2. The Board of Health adopts and promulgates VDH regulations. The Board of Health and VDH jointly enforce VDH regulations.

#### Definitions:

"Alternative Discharging System" means a treatment works that requires a permit from VDH pursuant to 12 VAC5-640.

"Onsite Sewage System" means a conventional or alternative onsite sewage system as defined in Va. Code 32.1-163, which requires a permit from VDH pursuant to 12 VAC5-610 or 12 VAC5-613.

"Treatment works" means any device or system used in the storage, treatment, disposal or reclamation of sewage or combinations of sewage and industrial wastes, including but not limited to pumping, power and other equipment and appurtenances, septic tanks, and any works, including land, that are or will be (i) an integral part of the treatment process or (ii) used for ultimate disposal of residues or effluents resulting from such treatment.

"Graywater system" means treatment works that disperses untreated wastewater from bathtubs, showers, lavatory fixtures, wash basins, washing machines, and laundry tubs. A graywater system does not include wastewater from toilets, urinals, kitchen sinks, dishwashers, or laundry water from soiled diapers.

#### Treatment works applicability

1. The VDHCD and VDH agree on the following interpretation of their relevant regulations: The building code will apply to all internal service plumbing components of a treatment works up to the point of connection of the building drain to the building sewer.

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<sup>1</sup> VDH implements the Sewage Handling and Disposal Regulations (12 VAC 5-610); Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings (12 VAC 5-640); Regulations for Alternative Onsite Sewage systems (12 VAC5-613); Private Well Regulations (12 VAC5-630)

2. The building code will apply to electrical and structural components of a treatment works, except as provided below.
  - a. The VDH regulations will apply to control panels for the treatment works and its functional treatment components, including electrical devices for pump stations, master disconnect switches, manual override switches, motor control panels, and separate motor control centers when specified by the designer or required by VDH.
  - b. VDH regulations and policies do not consider cord and plug connections associated with a treatment works. If allowed by the building code, cord and plug connections for the treatment works must be located in a weather proof box when outside of the wet well to prevent exposure to weather conditions.
3. The VDH regulations will apply to the treatment and functional components of a treatment works regardless of location (inside or outside of the building or structure), except as provided below.
  - a. The building code will apply to graywater systems not regulated by VDH, such as building or structures connected to a public sewer system.
4. The VDH regulations will apply to components of a treatment works that are external to the building or structure. External components include the septic tank, pump station, distribution box or mechanism, piping, or additional treatment devices such as blowers and associated electrical devices.

#### **Reviews pursuant to Va. Code § 32.1-165**

The VDHCD and VDH commit to ensure no county, city, town or employee thereof shall issue a building permit for the construction of a new building designed for human occupancy without the prior written notification of the State Health Commissioner or agent that safe, adequate, and proper sewage treatment is or will be made available to such building.

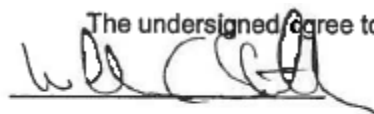
1. VDH approves a treatment works three ways; by issuing: (1) a certification letter that recognizes a treatment works can be designed sometime in the future, which does not expire; (2) a subdivision letter that describes future treatment works for each subdivision lot, which also does not expire; or (3) a construction permit, which describes the actual construction of the treatment works and is valid for 18 months with one 18 month renewal under certain conditions.
2. Pursuant to Va. Code § 32.1-165, the local building official may use the certification letter, subdivision letter, or construction permit to issue a building permit. The local building official understands that a treatment works cannot be constructed until the local health department issues a construction permit. The footprint of the building or structure cannot interfere with the setbacks required by the VDH regulations.

3. Pursuant to Va. Code § 32.1-165, the local building official will contact the local health department as provided by local and routine processes, which might differ in various jurisdictions, upon finding that issuance of the building permit might have an impact on the function of an existing treatment works already installed. If VDH requests an application for review of the installed treatment works, then the application must be completed before VDH can determine whether the treatment works is acceptable.
  - a. If the wastewater flow, capacity, or effluent strength increases for the existing treatment works, then Pursuant to Va. Code § 32.1-165, the building official must rely on a valid construction permit from VDH before issuing the building permit. A certification letter or subdivision approval will not be sufficient.
4. VDH will only approve a treatment works if it complies with VDH regulations and associated policies. VDH will notify the local building official as soon as practical whether a treatment works was installed correctly by issuance of an operation permit. Pursuant to Va. Code § 32.1-165, the local building official will not issue a certificate of occupancy until after VDH has issued the operation permit.

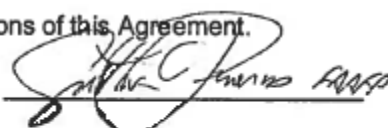
### Conflict Resolution

Both VDH and DHCD will cooperate in resolving any technical conflicts between VDH regulations and the building code. The agencies will develop and implement procedures as needed to ensure collaboration between local building officials and local health departments. Appropriate amendments, edits, additions, or deletions will be made to the VDH regulations and the building code when necessary. This MOA is a statement of the intentions of VHDCD and VDH to coordinate their efforts in order to carry out their statutory duties. It is not a contract and it is not enforceable in any judicial or administrative forum: it does not create any rights or duties of any third party. It does not purport to modify the statutory duty of either signatory agency.

This Agreement is effective as of the date written above and is in effect until terminated either by mutual written consent of the parties or by one signatory party with 60 days' written notice to the other party. This Agreement may be amended by mutual written consent of the parties.

The undersigned agree to the Conditions of this Agreement.  


William, C. Shelton, Director  
 Department of Housing and  
 Community Development



Cynthia Romero, MD, FAAFP  
 State Health Commissioner  
 Department of Health