

Meeting Summary
Agritourism Event Structure Technical Advisory Committee
August 4, 2022
11:00 am
Virginia Housing Center
Glen Allen, VA

Committee Members Present

- Stefanie Taillon, VA Farm Bureau (Representative)
- Skip Causey, VA Wineries Association
- Shawn Maddox, VA Fire Prevention Association
- Chris Barry, VA Fire Services Board
- Janell Zurschmeide, Craft Beverage Manufacturer
- Joe Lerch, VA Association of Counties
- Brett Vassey, VA Craft Brewers Guild (Representative)

Other Attendees

- Keith Johnson, Board of Housing and Community Development
- Sean Farrell, Board of Housing and Community Development
- Anne Leigh Kerr, VA Wineries Association
- Kyle Flanders, Dept. of Housing and Community Development
- Cindy Davis, Dept. of Housing and Community Development
- Jeff Brown, Dept. of Housing and Community Development
- Chase Sawyer, Dept. of Housing and Community Development

Key Takeaways

- Important safety considerations for these structures include the exiting of attendees and the entering of first responders; staff should also be trained and knowledgeable of emergency plans and procedures
- Definitions and requirements should be clear, allowing for consistent interpretation and implementation across all localities
- Needs to be a balance of health and safety factors without overburdening businesses; maintain flexibility in how a business is able to comply with regulations

Note: Please note the summary and notes included do not include a specific endorsement or the opinion of the committee or any one-committee member.

Summary

Department of Housing and Community Development (DHCD) staff provided an overview of the legislation ([SB400](#)), as well as the current status of the Uniform Statewide Building Code (USBC) as it relates to farm structures. Currently, agritourism event structures are exempt from regulation under the USBC. USBC Chapter 2 defines “farm building or structure” and VA Code [3.2-6400](#) defines “agricultural products” and “agritourism activity.” However, at this time, the term “primary use” as it related to agritourism and farm buildings is not defined.

DHCD staff guided the committee through discussion questions starting with the consideration of key safety features an agritourism event structure should include. There was consensus that two of the most important considerations are the ability of attendees to exit the building/property and for first responders to enter the building/property. Additionally, it was emphasized that event staff should be adequately trained on the emergency plans and procedures. It was suggested that regardless of the requirements, businesses should work with their respective local public safety officials to develop an understanding of the business and the emergency plans in place.

Some foreseen challenges with building/fire code compliance that were discussed by the committee include the consistent interpretation and implementation of regulations across all localities. The goal would be to close loopholes being used by bad actors and focus on regulating the true commercial operations. Some members noted there may need to be a scalability element in order to avoid overburdening smaller businesses, while also properly regulating larger businesses. Some committee member expressed the need to balance health and safety factors while maintaining flexibility in how a business is able to operate and evolve.

There was discussion as to whether one restroom for a gathering of 300 people would be sufficient to address health and sanitation concerns. Furthermore, there were questions as to whether restrooms would have to be permanent or temporary units, as well as whether they have to be attached to the structure. It was suggested the restroom requirement could be tiered based on occupancy levels. However, there may be difficulty determining occupancy limits as there are currently no occupancy permits being issued because these structures are exempt from inspections. It was stressed that the focus of this requirement should be placed on the function, not the form of the restrooms, and some committee members noted there should be flexibility within the regulations for businesses to comply.

Additionally, the outward swinging door requirement of SB400 was discussed by the committee. Committee members recommended that there should be allowable exceptions for this requirement as it may be redundant or unnecessary in some situations. For example, it would not make sense to require an outward swinging door when the structure has a wide, permanent opening.

As defined by SB400, these regulations would pertain to the “construction and rehabilitation of agritourism event buildings.” There may be difficulty in determining whether a structure is new or existing as these structures were previously exempted from inspections and the exemption status is not currently required to be documented by a locality. Some members expressed that requiring compliance for new/rehabilitated structures could create an unfair burden for new business and lead to local enforcement challenges. Committee members noted that legislation in the General Assembly would be unlikely to pass if the regulations were applied retroactively.

Future Considerations

- Incorporating/leveraging other safety standards (OSHA requirements, insurability standard)
- Enforcement/compliance mechanisms; ensuring consistency across all localities
- Should the regulations be included in the USBC or standalone requirements?

- Defining key terms
- Ability to scale requirements based on size of structure and/or gathering

Notes

- Overview from DHCD, State Building Codes Office; some key terms related to [SB400](#) are not defined
 - USBC Chapter 2 defines farm building or structure
 - VA Code [3.2-6400](#) defines “agricultural products” and “agritourism activity”
- Key item when considering safety is the ability for people to exit and for first responders to enter; also important for staff to be trained on safety procedures
 - Work with respective local public safety officials to develop understanding of business and the emergency plans in place
 - Emphasize training and having a plan
 - Emergency response plan vs. fire response plan
 - Not always a water system available for rural developments
- Differentiation between new structures and existing structures; would these regulations apply retroactively or only to new/rehabilitated structures
 - May be difficult to determine new/existing since exempted and not always documentation of exempt status
 - Only requiring compliance for new structures could create burden for new businesses; could lead to local enforcement challenges
 - Committee members noted legislation would be unlikely to pass if applied retroactively
 - SB400 states “construction and rehabilitation of agritourism event buildings”
 - Ability to maintain historic structure of building
 - Committee members indicated the legislative intent was not to be retroactive
- Consistent interpretation and implementation across all localities; regulations should be clear
 - Close loopholes being used by bad actors to focus on enforcing for true commercial operations
- Report from Virginia Tech
- Insurability standard
- OSHA requirements
- Zoning/permitting requirements vs. ongoing compliance
- Balance between health/safety and allowing business to be flexible
- Importance of definitions
 - Emergency access means different things in different environments
 - Definition of agritourism
 - What constitutes “primary use”
- Thoughts regarding six (6) requirements in SB400
 - Restrooms (#3)
 - Is 1 restroom for 300 people enough?; not likely to stay in business if only have 1:300 ratio, but creates a minimum standard
 - Permanent vs. temporary restrooms; requirement to be attached would be burdensome, and in some instance, impossible

- Restroom requirement as a part of public health consideration, sanitation
 - Could tier restroom requirements based on occupancy levels, but there are currently no occupancy permits being issued b/c exempt; no occupancy permit, so no VDH review
 - Flexibility for businesses to comply is important
 - Focus on function, not form
 - Outward swinging doors (#1)
 - Should be allowable exceptions for this requirement; may be redundant or unnecessary in some situations (why require human swinging door when next to large opening)
 - Scalability
 - In the absence of regulations, most new buildings are being designed and built to code anyways
 - Look at business opportunities and flexibility for success
- Reenactment clause for Sections A&C of SB400; bill must be introduced in 2023 Session
- Future considerations (definitions, consistency, scale)
 - Occupancy tiers
 - Enforcement/compliance mechanism
 - Consider new inspection certification for agritourism
 - Needs to be an administrative package associated with regulations
 - Incorporate into USBC or standalone regulation