



Ralph S. Northam
Governor

R. Brian Ball
Secretary of
Commerce and Trade

COMMONWEALTH of VIRGINIA

Erik C. Johnston
Director

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

August 25, 2021

MEMORANDUM

TO: Board of Housing and Community Development Members

FROM: Kyle Flanders

SUBJECT: September 2, 2021 Board of Housing and Community Development Meeting

Enclosed is the agenda and information package for the Board of Housing and Community Development meeting to be held on Thursday, September 2. The Housing and Community Development Committee will meet at 10:00 a.m. followed by the regular meeting of the Board.

The Board meeting will be held **in person** at the Tuckahoe Area Library in Henrico County. The meeting room is immediately to the right as you walk in the building. There will be online listening and public comment options for the public.

The library is located at the following address:

[1901 Starling Drive](#)
[Henrico, VA 23229](#)

The current policy of the meeting location is that masks are required regardless of vaccination status. We will have masks available should anyone need one. Also, current library policy does not permit food or drink in the meeting rooms. We will provide boxed lunches as you leave.

If you will not be able to attend the Board meeting, please contact me as soon as possible. I can be reached by e-mail at kyle.flanders@dhcd.virginia.gov or by telephone at 804-786-6761. Please let me know if you have any questions or if I can be of assistance. We appreciate your patience and flexibility over the past year as we navigate changes to public meeting laws and public health guidance.

Enclosure

AGENDA
BOARD OF HOUSING and COMMUNITY DEVELOPMENT
Housing and Community Development Committee
Thursday, September 2, 2021
10:00 am
Tuckahoe Area Library - Meeting Room
1901 Starling Dr., Henrico, VA 23229

Online meeting information is for public listening/public comment – the Board will meet fully in-person, the meeting location is open to the public.

Link - meet.google.com/hut-hdyj-mhy

Phone Numbers (US) [1 478-331-6124](tel:1478-331-6124)

PIN: 391 319 616#

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|------|--|-------------------|
| I. | OPENING | |
| | a. Call to Order | Chairman |
| | b. Roll Call | Kyle Flanders |
| | | |
| II. | CONSENT AGENDA | Chairman |
| | o <i>Approval of Minutes</i> : May 10, 2021 | |
| | | |
| III. | ENTERPRISE ZONE REGULATIONS | Committee Members |
| | <i>Action Item</i> | |
| | Recommendation to the Board of Housing and Community Development | |
| | | |
| IV. | OTHER BUSINESS | Committee Members |
| | | |
| V. | ADJOURNMENT | Committee Chair |

AGENDA

BOARD OF HOUSING and COMMUNITY DEVELOPMENT

Thursday September 2, 2021

Tuckahoe Area Library - Meeting Room

1901 Starling Dr., Henrico, VA 23229

The meeting will begin at the conclusion of the Housing and Community Development Committee

Online meeting information is for public listening/public comment – the Board will meet fully in-person, the meeting location is open to the public. Registration to speak is not required though it is requested that you contact kyle.flanders@dhcd.virginia.gov if you wish to speak during the public comment period.

Link - meet.google.com/hut-hdyj-mhy

Phone Numbers (US) [1 478-331-6124](tel:1478-331-6124)

PIN: 391 319 616#

- | | | |
|-------|---|-----------------|
| I. | OPENING | |
| | a. Call to Order | Chairman |
| | b. Roll Call | Kyle Flanders |
| | c. Public Comment | Chairman |
| II. | CONSENT AGENDA | Chairman |
| | o <i>Approval of Minutes</i> : May 10, 2021 | |
| III. | ANNUAL ELECTION OF CHAIR AND VICE CHAIR | Erik Johnston |
| IV. | REPORT of the HOUSING and COMMUNITY DEVELOPMENT COMMITTEE | Committee Chair |
| | <i>Action Item</i> | |
| | o Adopt Enterprise Zone Regulations | |
| V. | AMUSEMENT DEVICE TECHNICAL ADVISORY COMMITTEE APPOINTMENT (ADTAC) | Cindy Davis |
| | <i>Action Item</i> | |
| VI. | CODE CYCLE UPDATE | Cindy Davis |
| VII. | BOARD MEMBER WORKGROUP ATTENDANCE POLICY | DHCD Staff |
| | <i>Action Item</i> | |
| VIII. | FIRE INSPECTOR CERTIFICATION and CONTINUING EDUCATION UPDATE | DHCD/DFP Staff |
| IX. | REPORTS AND INFORMATION | |
| | a. Virginia Housing Report | Susan Dewey |
| | b. Report of the Virginia Fire Services Board | Richard Gregory |
| | c. Report of the Director | Erik Johnston |

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| X. | UNFINISHED BUSINESS | Board members |
| XI. | NEW BUSINESS | Board members |
| XII. | BOARD MATTERS | Board members |
| XIII. | FUTURE BOARD MEETING DATES | Erik Johnston |
| | o October 25, 2021 | |
| | o December 13-14, 2021 (Board retreat) | |
| XIV. | ADJOURNMENT | Chairman |

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT
Housing and Community Development Committee
MEETING

10:30 A.M., May 10, 2021

Digital Meeting Only

Due to the COVID-19 pandemic and public health emergency and the need to provide social distancing and prohibit large gatherings, the meeting was held electronically in accordance with the State of Emergency Declared by the Governor and the 2020 amendments to the Appropriations Act. The meeting was held via Google Meet.

Members Present

Sonny Abbasi
Claudia Cotton
Susan Dewey
Andrew Friedman
Richard Gregory
Sylvia Hallock
Mark Jackson
Abigail Johnson
Keith Johnson
Monique Johnson
Brett Meringoff
Patricia “Patty” Shields

Members Absent

Call to Order

Mr. Andrew Friedman, Chair of the Housing and Community Development Committee, called the committee meeting to order at 10:30 a.m.

Roll Call

The roll was called by Mr. Flanders. Mr. Flanders reported that a quorum was present.

Approval of Minutes

A motion was made by Mr. Jackson and properly seconded by Mr. Meringoff to approve the minutes of the March 15, 2021, meeting of the Committee; the motion passed (Yeas: Abbasi, Cotton, Dewey, Friedman, Gregory, Hallock, Jackson, A. Johnson, K. Johnson, M Johnson, Meringoff, Shields; Nays: None).

Review of the Annual
Action Plan

Ms. Pam Kestner, Chief Deputy of the DHCD, gave an overview of the Annual Action Plan.

A motion was made by Mr. Abbasi and seconded by Ms. Hallock to recommend to the Board approval of the Annual Action Plan. The motion passed (Yeas: Abbasi, Cotton, Dewey, Friedman, Gregory, Hallock, Jackson, A. Johnson, K. Johnson, M Johnson, Meringoff, Shields; Nays: None).

Virginia Housing Trust Fund

Ms. Kestner provided an overview of the proposed allocation levels for the Virginia Housing Trust Fund.

A motion was made by Mr. Abbasi and seconded by Mr. Meringoff to recommend to the Board approval of the allocations of the Virginia Housing Trust Fund as presented by staff. the motion passed (Yeas: Abbasi, Cotton, Dewey, Friedman, Gregory, Hallock, Jackson, A. Johnson, K. Johnson, M Johnson, Meringoff, Shields; Nays: None).

Other Business

There was no other business to be discussed.

Adjournment

Upon a motion duly made and seconded, the meeting was adjourned.

**BOARD OF HOUSING AND COMMUNITY DEVELOPMENT
MEETING**

11:15 A.M., May 10, 2021

Digital Meeting Only

Due to the COVID-19 pandemic and public health emergency and the need to provide social distancing and prohibit large gatherings, the meeting was held electronically in accordance with the State of Emergency Declared by the Governor and the 2020 amendments to the Appropriations Act. The meeting was held via Google Meet.

Members Present

Sonny Abbasi
Claudia Cotton
Susan Dewey
Sean Farrell
Andrew Friedman
Sylvia Hallock
Mark Jackson
Abigail Johnson
Keith Johnson
Monique Johnson
Brett Meringoff
Patricia “Patty” Shields

Members Absent

Richard Gregory

Call to Order

Mr. Sonny Abbasi, Chair of the Board of Housing and Community Development, called the meeting of the Board to order at 11:15 a.m.

Roll Call

The roll was called by Mr. Kyle Flanders of the Department of Housing and Community Development’s (DHCD) Policy Office. Mr. Flanders reported that a quorum was present.

Public Comment

Mr. Abbasi opened the floor for public comment.

No member of the public appeared before the Board for public comment. The public comment period was closed.

Consent Agenda

A motion was made by Mr. Mark Jackson and properly seconded by Mr. Sean Farrell to approve the minutes of the March 15, 2021 Board of Housing and Community Development meeting. The motion passed (Yeas: Abbasi, Cotton, Dewey, Farrell, Friedman, Hallock, Jackson, A. Johnson, K. Johnson, M. Johnson, Meringoff, Shields; Nays: None).

Report of the Codes and Standards Committee

Mr. Brett Meringoff, Committee Chair, presented proposed updates to the Statewide Fire Prevention Code; Chapter 12 and Chapter 20 [Energy systems and Aviation facilities] as recommended by the Statewide Fire Prevention Code Committee, the Codes and Standards Committee, and the Joint Board of Housing and Community Development and Virginia Fire Services Board. The changes were presented as a standing motion. The motion was seconded by Mr. Meringoff. The motion passed (Yeas: Abbasi, Cotton, Dewey, Farrell, Friedman, Jackson, A. Johnson, K. Johnson, M. Johnson, Meringoff, Shields; Nays: None).

Report of the Housing and Community Development Committee

Mr. Andrew Friedman, Committee Chair, presented the committee recommendation of approval of the Annual Action Plan. The recommendation was presented as a standing motion. The motion was seconded by Mr. Abbasi. The motion passed (Yeas: Abbasi, Cotton, Dewey, Farrell, Friedman, Hallock, Jackson, A. Johnson, K. Johnson, M. Johnson, Meringoff, Shields; Nays: None).

Mr. Friedman presented recommended Housing Trust Fund Allocations. The recommendation was presented as a standing motion. The motion was seconded by Mr. Abbasi. The motion passed (Yeas: Abbasi, Cotton, Farrell, Friedman, Hallock, Jackson, A. Johnson, K. Johnson, M. Johnson, Meringoff, Shields; Nays: None).

2018 Code Change Cycle Update

Ms. Cindy Davis, Deputy Director of Building and Fire Regulation at DHCD presented a brief overview of the 2018 Code Change Cycle. Ms. Davis noted that changes approved during the present meeting would go into effect at the same time as all other changes approved at previous meetings, which would be July 1, 2021. Ms. Davis also noted that virtual training for these updates are being planned and a number of sessions will have been completed prior to the update becoming affective.

Ms. Davis noted that staff is preparing to move directly into the 2021 Code Update Cycle. It was noted that the number of proposals over the last several cycles has dramatically increased. Discussion ensued amongst the Board about possible process improvements to streamline the code change process. After

discussion, the Board directed staff to form a process improvement proposal for consideration at the next Board meeting.

Reports and Information

Ms. Susan Dewey, Chief Executive Officer of Virginia Housing updated the Board on funding scheduled to be received by Virginia Housing from the American Rescue Plan Act. Funding from the Act will be utilized to prevent foreclosure and displacement of homeowners. The initial 10% of funding will be utilized for a pilot program and the rest will be used to take the project from the pilot stage to a full program.

Ms. Dewey noted that Virginia Housing is prepared to work through public comment to determine if there are any necessary changes needed to the Qualified Allocation Plan, which governs how Low Income Housing Tax Credit allocations are distributed.

Mr. Keith Johnson presented an update from the Virginia Fire Service Board (VFSB), which last met on April 16, 2021. The Board has welcomed three new members: Mr. Steven Sites, Mr. Ryant Washington, and Mr. Ben Reedy. A new chair will be elected at the next meeting. The VFSB is currently working on putting together a proposed new Memorandum of Understanding between VFSB and BHCD.

Mr. Erik Johnston, Director of DHCD, updated the Board on the Rent Relief Program. DHCD has made \$5M available for a grant program seeking to provide outreach to households that may have encountered barriers to accessing the Rent Relief Program.

Mr. Johnston relayed to the Board that the Governor and General Assembly are discussing returning for a special session for the purposes of considering how and where allocations from the American Rescue Plan will be utilized. In addition to the foreclosure prevention program being developed by Virginia Housing with funding from the American Rescue Plan (ARP), DHCD will be applying for an additional \$451M in Emergency Rental Assistance, which is planned to be utilized within the Rent Relief Program.

Mr. Johnston noted that HOME ARP funding resources should also be on the way to DHCD later in the fall. These funds are being

utilized to help with the construction of new affordable housing which serves people experiencing homelessness.

Mr. Johnston also noted that the Governor's emergency order is scheduled to end June 30 and that meetings may return to in person meetings starting in July. Mr. Johnston also expressed that staff is planning a Board retreat in December, which would allow for staff to provide in depth overviews of the various programs administered by DHCD.

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| Unfinished Business | There was no unfinished business. |
| New Business | There was no new business. |
| Board Matters | There were no further board matters. |
| Future Board Meeting Dates | Mr. Johnston noted that the next Board meeting will take place on July 19, at 10:00 a.m. |
| Adjournment | Upon a motion duly made and seconded, the meeting was adjourned. |



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DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

August 25, 2021

Memorandum

To: Board of Housing and Community Development Members

From: Erik C. Johnston, Director

RE: Enterprise Zone Regulations

During the 2021 General Assembly session legislation passed affecting the Enterprise Zone program. The changes altered certain provisions within the Job Creation Grant Program related to the minimum wage and added incentives for Small, Women, and Minority (SWaM) owned businesses. (Chapter 402, 2021 Acts of Assembly). As a result of these changes, the Enterprise Zone regulations (13VAC5-112, Enterprise Zone Grant Program Regulation) must be amended. As the amendments are required by the Code of Virginia, the regulations may follow the abbreviated, “exempt,” regulatory process. The “exempt” process requires that only final regulations be published and no comment period is necessary.

Changes include a new definition of minimum wage, updating qualifying percentages of the minimum wage as related to salaries for eligible Job Creation grant positions, and including an incentive for SWaM businesses. There are related technical updates as well.

Note that the Enterprise Zone grant cycle follows the calendar year and so these changes will not be in effect until January 1, 2022.

Staff recommends the Board approve the regulations as presented.

Enclosure

Project 6801 - Exempt Final**Department Of Housing And Community Development****Enterprise Zone Legislative Update****13VAC5-112-10. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Agreed-upon procedures engagement" means an engagement between an independent certified public accountant licensed by the Commonwealth and the business or zone investor seeking to qualify for Enterprise Zone incentive grants pursuant to § 59.1-549 of the Code of Virginia, whereby the independent certified public accountant, using procedures specified by the department, will test and report on the assertion of the business or zone investor as to their qualification to receive the Enterprise Zone incentive.

"Assumption or acquisition" means, in connection with a trade or business, that the inventory, accounts receivable, liabilities, customer list, and good will of an existing Virginia company has been assumed or acquired by another taxpayer, regardless of a change in federal identification number or employees.

"Average number of permanent full-time employees" means the number of permanent full-time employees during each payroll period of a business firm's taxable year divided by the number of payroll periods. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-20:

1. In calculating the average number of permanent full-time employees, a business firm may count only those permanent full-time employees who worked at least half of their normal workdays during the payroll period. Paid leave time may be counted as work time.
2. For a business firm that uses different payroll periods for different classes of employees, the average number of permanent full-time employees of the firm shall be defined as the sum of the average number of permanent full-time employees for each class of employee.

"Base taxable year" means either of two taxable years immediately preceding the first year of qualification, at the choice of the business firm. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-20.

"Base year" means either of the two calendar years immediately preceding a qualified business firm's first year of grant eligibility, at the choice of the business firm.

"Building" means any construction meeting the common ordinarily accepted meaning of the term (building, a usually roofed and walled structure built for permanent use) where (i) areas separated by interior floors or other horizontal assemblies and (ii) areas separated by fire walls or vertical assemblies shall not be construed to constitute separate buildings, irrespective of having separate addresses, ownership or tax assessment configurations, unless there is a property line contiguous with the fire wall or vertical assembly.

"Business firm" means any corporation, partnership, electing small business (subchapter S) corporation, limited liability company, or sole proprietorship authorized to do business in the Commonwealth of Virginia. This shall also include business and professional organizations and associations whose classification falls under sectors 813910 and 813920 of the North American Industry Classification Systems and that generate the majority of their revenue from customers outside the Commonwealth.

"Capital lease" means a lease that meets one or more of the following criteria and as such is classified as a purchase by the lessee: the lease term is greater than 75% of the property's estimated economic life; the lease contains an option to purchase the property for less than fair market value; ownership of the property is transferred to the lessee at the end of the lease term; or the present value of the lease payments exceed 90% of the fair market value of the property.

"Common control" means those firms as defined by Internal Revenue Code § 52(b).

"Department" means the Department of Housing and Community Development.

"Establishment" means a single physical location where business is conducted or where services or industrial operations are performed.

1. A central administrative office is an establishment primarily engaged in management and general administrative functions performed centrally for other establishments of the same firm.
2. An auxiliary unit is an establishment primarily engaged in performing supporting services to other establishments of the same firm. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-110.

"Existing business firm" means a business firm that was actively engaged in the conduct of trade or

business in an area prior to such an area being designated as an enterprise zone or that was engaged in the conduct of trade or business in the Commonwealth and relocates to begin operation of a trade or business within an enterprise zone. An existing business firm is also one that was not previously conducted in the Commonwealth by such taxpayer who acquires or assumes a trade or business and continues its operations. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-20.

"Expansion" means an increase in square footage or the footprint of an existing nonresidential building via a shared wall, or enlargement of an existing room or floor plan. Pursuant to real property investment grants this shall include mixed-use buildings.

"Facility" means a complex of buildings, co-located at a single physical location within an enterprise zone, all of which are necessary to facilitate the conduct of the same trade or business. This definition applies to new construction, as well as to the rehabilitation and expansion of existing structures.

"Federal minimum wage" means the minimum wage standard as currently defined by the U.S. Department of Labor in the Fair Labor Standards Act, 29 USC § 201 et seq. Such definition applies to permanent full-time employees paid on an hourly or wage basis.

"Food and beverage service" means a business whose classification falls under subsector 722 Food Services and Drinking Places of North American Industry Classification System.

"Full month" means the number of days that a permanent full-time position must be filled in order to count in the calculation of the grant amount under 13VAC5-112-260. A full month is calculated by dividing the total number of days in calendar year by 12. A full month for the purpose of calculating job creation grants is equivalent to 30.416666 days.

"Grant-eligible position" means a new permanent full-time position created above the threshold number at an eligible business firm. Positions in retail, personal service, or food and beverage service shall not be considered grant-eligible positions.

"Health benefits" means that at a minimum medical insurance is offered to employees, and the employer shall offer to pay at least 50% of the cost of the premium at the time of employment and annually thereafter.

"High unemployment area" means enterprise zone localities with unemployment rates one and one-half times or more than the state average based on the most recent annualized unemployment data published

by the Virginia Employment Commission.

"Household" means all the persons who occupy a single housing unit. Occupants may be a single family, one person living alone, two or more families living together, or any group of related or unrelated persons who share living arrangements. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-20.

"Household income" means all income actually received by all household members older than 16 years of age from the following sources. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-20:

1. Gross wages, salaries, tips, commissions, etc. (before deductions);
2. Net self-employment income (gross receipts minus operating expenses);
3. Interest and dividend earnings; and
4. Other money income received from net rents, Old Age and Survivors Insurance, social security benefits, pensions, alimony, child support, and periodic income from insurance policy annuities and other sources.

The following types of income are excluded from household income:

1. Noncash benefits such as food stamps and housing assistance;
2. Public assistance payments;
3. Disability payments;
4. Unemployment and employment training benefits;
5. Capital gains and losses; and
6. One-time unearned income.

When computing household income, income of a household member shall be counted for the portion of the income determination period that the person was actually a part of the household.

"Household size" means the largest number of household members during the income determination period. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-20.

"Housing unit" means a house, apartment, group of rooms, or single room that is occupied or intended

for occupancy as separate living quarters. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-20.

"Income determination period" means the 12 months immediately preceding the month in which the person was hired. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-20.

"Independent certified public accountant" means a public accountant certified and licensed by the Commonwealth of Virginia who is not an employee of the business firm seeking to qualify for state tax incentives and grants under this program.

"Job creation grant" means a grant provided under § 59.1-547 of the Code of Virginia.

"Joint enterprise zone" means an enterprise zone located in two or more adjacent localities.

"Jurisdiction" means the city or county that made the application to have an enterprise zone. In the case of a joint application, it means all parties making the application. Pursuant to enterprise zone designations made prior to July 1, 2005, this shall include towns.

"Large qualified business firm" means a qualified business firm making qualified zone investments in excess of \$15 million when such zone investments result in the creation of at least 50 permanent full-time positions. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-20.

"Large qualified zone resident" means a qualified zone resident making qualified zone investments in excess of \$100 million when such qualified zone investments result in the creation of at least 200 permanent full-time positions. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-110.

"Local zone administrator" means the chief executive of the city or county, in which an enterprise zone is located, or his designee. Pursuant to enterprise zone designations made prior to July 1, 2005, this shall include towns.

"Low-income" means household income was less than or equal to 80% of area median household income during the income determination period. Persons who meet the definition of both low-income and zone resident may not be counted as both for purposes of meeting employment requirements for the general tax credit. Instead, qualifying business firms must claim these persons as either low-income or zone resident. This definition applies only for the purpose of qualifying for Enterprise Zone incentives

pursuant to 13VAC5-112-20.

"Median household income" means the dollar amount, adjusted for household size, as determined annually by the department for the city or county in which the zone is located. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-20.

"Minimum wage" means the federal minimum wage or the Virginia minimum wage, whichever is higher. The department shall determine whichever is higher for the current calendar year as of December 1 of the prior calendar year, and its determination shall be continuously in effect throughout the calendar year, regardless of changes to the federal minimum wage or the Virginia minimum wage during that year.

"Mixed use" means a building incorporating residential uses in which a minimum of 30% of the useable floor space will be devoted to commercial, office, or industrial use. Buildings where less than 30% of the useable floor space is devoted to commercial, office, or industrial use shall be considered primarily residential in nature and shall not be eligible for a grant under 13VAC5-112-330. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-330.

"Net loss" applies to firms that relocate or expand operations and means (i) after relocating into a zone, a business firm's gross permanent employment is less than it was before locating into the zone, or (ii) after a business firm locates or expands within a zone, its gross employment at its nonzone location is less than it was before the zone location occurred.

"New business" means a business not previously conducted in the Commonwealth by such taxpayer and that begins operation in an enterprise zone after the zone was designated. A new business is also one created by the establishment of a new facility and new permanent full-time employment by an existing business firm in an enterprise zone and does not result in a net loss of permanent full-time employment outside the zone. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-20.

"New construction" means a single, nonresidential facility built on previously undeveloped land or a nonresidential structure built on the site or parcel of a previously razed structure with no remnants of the prior structure or physical connection to existing structures or outbuildings on the property. Pursuant to real property investment grants this shall include mixed-use buildings.

"Number of eligible permanent full-time positions" means the amount by which the number of permanent full-time positions at a business firm in a grant year exceeds the threshold number. This

definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-260.

"Payroll period" means the period of time for which a business firm normally pays its employees.

"Permanent full-time employee" means a person employed by a business firm who is normally scheduled to work (i) a minimum of 35 hours per week for the entire normal year of the business firm's operations, which normal year must consist of at least 48 weeks, (ii) a minimum of 35 hours per week for a portion of the taxable year in which the employee was initially hired for, or transferred to the business firm, or (iii) a minimum of 1,680 hours per year if the standard fringe benefits are paid by the business firm for the employee. Permanent full-time employee also means two or more individuals who together share the same job position and together work the normal number of hours a week as required by the business firm for that one position. Seasonal, temporary, leased, or contract labor employees or employees shifted from an existing location in the Commonwealth to a business firm location within an enterprise zone shall not qualify as permanent full-time employees. This definition only applies to business firms for the purpose of qualifying for enterprise zone incentives pursuant to 13VAC5-112-20.

"Permanent full-time position" (for the purpose of qualifying for grants pursuant to § 59.1-547 of the Code of Virginia) means a job of indefinite duration at a business firm located within an enterprise zone requiring the employee to report to work within the enterprise zone; and requiring (i) a minimum of 35 hours of an employee's time per week for the entire normal year of the business firm's operation, which "normal year" must consist of at least 48 weeks, (ii) a minimum of 35 hours of an employee's time per week for the portion of the calendar year in which the employee was initially hired for or transferred to the business firm, or (iii) a minimum of 1,680 hours per year. Such position shall not include (a) seasonal, temporary or contract positions, (b) a position created when a job function is shifted from an existing location in the Commonwealth to a business firm located with an enterprise zone, (c) any position that previously existed in the Commonwealth, or (d) positions created by a business that is simultaneously closing facilities in other areas of the Commonwealth.

"Personal service" means such positions classified under NAICS 812.

"Placed in service" means the final certificate of occupancy has been issued or the final building inspection has been approved by the local jurisdiction for real property improvements or real property investments, or in cases where a project does not require permits, the licensed third party inspector's report that the project was complete; pursuant to 13VAC5-112-110, the first moment that machinery becomes

operational and is used in the manufacturing of a product for consumption; or in the case of tools and equipment, the first moment they are used in the performance of duty or service.

"Qualification year" the calendar year for which a qualified business firm or qualified zone investor is applying for a grant pursuant to 13VAC5-112-260.

"Qualified business firm" means a business firm meeting the business firm requirements in 13VAC5-112-20 or 13VAC5-112-260 and designated a qualified business firm by the department.

"Qualified real property investment" (for purposes of qualifying for a real property investment grant) means the amount expended for improvements to rehabilitate, expand, or construct depreciable real property placed in service during the calendar year within an enterprise zone provided that the total amount of such improvements equals or exceeds (i) \$100,000 with respect to a single building or a facility in the case of rehabilitation or expansion or (ii) \$500,000 with respect to a single building or a facility in the case of new construction. "Qualified real property investment" includes any such expenditure regardless of whether it is considered properly chargeable to a capital account or deductible as a business expense under federal Treasury regulations. Qualified real property investments include expenditures associated with (a) any exterior, interior, structural, mechanical, or electrical improvements necessary to construct, expand, or rehabilitate a building for commercial, industrial or mixed use; (b) excavations; (c) grading and paving; (d) installing driveways; and (e) landscaping or land improvements. Qualified real property investments shall include costs associated with demolition, carpentry, sheetrock, plaster, painting, ceilings, fixtures, doors, windows, fire suppression systems, roofing, flashing, exterior repair, cleaning and cleanup, and installation of solar panels consistent with the provisions of § 59.1-548 of the Code of Virginia and 13VAC5-112-340 A.

Qualified real property investment shall not include:

1. The cost of acquiring any real property or building.
2. Other costs including (i) the cost of furnishings; (ii) any expenditure associated with appraisal, architectural, engineering, surveying, and interior design fees; (iii) loan fees, points, or capitalized interest; (iv) legal, accounting, realtor, sales and marketing, or other professional fees; (v) closing costs, permits, user fees, zoning fees, impact fees, and inspection fees; (vi) bids, insurance, signage, utilities, bonding, copying, rent loss, or temporary facilities incurred during construction; (vii) utility connection or access fees; (viii) outbuildings; (ix) the cost of any well or septic or sewer

system; and (x) roads.

3. The basis of any property (i) for which a grant under this section was previously provided; (ii) for which a tax credit under § 59.1-280.1 of the Code of Virginia was previously granted; (iii) that was previously placed in service in Virginia by the qualified zone investor, a related party as defined by Internal Revenue Code § 267(b), or a trade or business under common control as defined by Internal Revenue Code § 52(b); or (iv) that was previously in service in Virginia and has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person from whom it was acquired or Internal Revenue Code § 1014(a).

"Qualified zone improvements" (for purposes of qualifying for an Investment Tax Credit) means the amount expended for improvements to rehabilitate or expand depreciable nonresidential real property placed in service during the taxable year within an enterprise zone, provided that the total amount of such improvements equals or exceeds (i) \$50,000 and (ii) the assessed value of the original facility immediately prior to the rehabilitation or expansion. "Qualified zone expenditures" includes any such expenditure regardless of whether it is considered properly chargeable to a capital account or deductible as a business expense under federal Treasury regulations. Qualified zone improvements include expenditures associated with any exterior, structural, mechanical, or electrical improvements necessary to construct, expand, or rehabilitate a building for commercial or industrial use.

1. Qualified zone improvements include the costs associated with excavation, grading, paving, driveways, roads, sidewalks, landscaping or other land improvements, demolition, carpentry, sheetrock, plaster, painting, ceilings, fixtures, doors, windows, fire suppression systems, roofing and flashing, exterior repair, cleaning, and clean-up.

2. Qualified zone improvements do not include (i) the cost of furnishings; (ii) any expenditure associated with appraisal, architectural, engineering, and interior design fees; (iii) loan fees, points, or capitalized interest; (iv) legal, accounting, realtor, sales, and marketing or other professional fees; (v) closing costs, permits, user fees, zoning fees, impact fees, or inspection fees; (vi) bids insurance, signage, utilities, bonding, copying, rent loss, or temporary facilities incurred during construction; (vii) utility hook-up or access fees; (viii) outbuildings; (ix) the cost of any well, septic, or sewer system; or (x) cost of acquiring land or an existing building.

3. In the case of new nonresidential construction, qualified zone improvements also do not include land, land improvements, paving, grading, driveway, and interest. This definition applies only for the

purposes of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-110.

"Qualified zone investment" means the sum of qualified zone improvements and the cost of machinery, tools, and equipment used in manufacturing tangible personal property and placed in service on or after July 1, 1995. Machinery, equipment, tools, and real property that are leased through a capital lease and that are being depreciated by the lessee or that are transferred from out-of-state to a zone location by a business firm may be included as qualified zone investment. Such leased or transferred machinery, equipment, tools, and real property shall be valued using the depreciable basis for federal income tax purposes. Machinery, tools, and equipment shall not include the basis of any property (i) for which a credit was previously granted under § 59.1-280.1 of the Code of Virginia; (ii) that was previously placed in service in Virginia by the taxpayer, a related party, as defined by Internal Revenue Code § 267(b), or a trade or business under common control, as defined by Internal Revenue Code § 52(b); or (iii) that was previously in service in Virginia and has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person whom acquired it, or Internal Revenue Code § 1014(a). This definition applies only for the purposes of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-110.

"Qualified zone investor" means an owner or tenant of real property located within an enterprise zone who expands, rehabilitates, or constructs such real property for commercial, industrial, or mixed use. In the case of a tenant, the amounts of qualified zone investment specified in this section shall relate to the proportion of the building or facility for which the tenant holds a valid lease. In the case of an owner of an individual unit within a horizontal property regime, the amounts of qualified zone investments specified in this section shall relate to that proportion of the building for which the owner holds title and not to common elements. Units of local, state, and federal government or political subdivisions shall not be considered qualified zone investors.

"Qualified zone resident" means an owner or tenant of nonresidential real property located in an enterprise zone who expands or rehabilitates such real property to facilitate the conduct of a trade or business by such owner or tenant within the enterprise zone. In the case of a partnership, limited liability company, or S corporation, the term "qualified zone resident" means the partnership, limited liability company, or S corporation. This definition applies only for the purposes of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-110.

"Real property investment grant" means a grant made under § 59.1-548 of the Code of Virginia. This

definition applies only for the purposes of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-330.

"Reduced wage rate threshold" means ~~150%~~ 125% of the ~~federal~~ minimum wage pursuant to 13VAC5-112-270, 13VAC5-112-280, and 13VAC5-112-285 and high unemployment areas.

"Rehabilitation" means the alteration or renovation of all or part of an existing nonresidential building without an increase in square footage. Pursuant to real property investment grants this shall include mixed-use buildings.

"Regular basis" means at least once a month. This definition applies only for the purposes of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-260.

"Related party" means those as defined by Internal Revenue Code § 267(b).

"Report to work" means that the employee filling a permanent full-time position reports to the business' zone establishment on a regular basis.

"Retail" means a business whose classification falls under sectors 44-45 Retail Trade of North American Industry Classification System.

"Same trade or business" means the operations of a single company, related companies, or companies under common control.

"Seasonal employee" means any employee who normally works on a full-time basis and whose customary annual employment is less than nine months. For example, individuals hired by a certified public accountant firm during the tax return season in order to process returns and who work full-time over a three-month period are seasonal employees.

"Small qualified business firm" means any qualified business firm other than a large qualified business firm. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-20.

"Small qualified zone resident" means any qualified zone resident other than a large qualified zone resident. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-350 C.

"Subsequent base year" means the base year for calculating the number of grant-eligible positions in a second or subsequent five consecutive calendar year grant period. If a second or subsequent five-year

grant period is requested within two years after the previous five-year grant period, the subsequent base year will be the last grant year. The calculation of this subsequent base year employment will be determined by the number of permanent full-time positions in the preceding base year, plus the number of threshold positions, plus the number of grant-eligible positions in the final year of the previous grant period. If a business firm applies for subsequent five consecutive calendar-year grant periods beyond the two years immediately following the completion of the previous five-year grant period, the business firm shall use one of the two preceding calendar years as subsequent base year, at the choice of the business firm.

"Tax due" means the amount of tax liability as determined by the Department of Taxation or the State Corporation Commission. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-20 and 13VAC5-112-110.

"Tax year" means the year in which the assessment is made. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-110.

"Taxable year" means the year in which the tax due on state taxable income, state taxable gross receipts, or state taxable net capital is accrued. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-20 and 13VAC5-112-110.

"Threshold number" means an increase of four permanent full-time positions over the number of permanent full-time positions in the base year or subsequent base year.

"Transferred employee" means an employee of a firm in the Commonwealth who is relocated to an enterprise zone facility owned or operated by that firm.

"Useable floor space" means all space in a building finished as appropriate to the use of the building as represented in measured drawings. Unfinished basements, attics, and parking garages would not constitute useable floor space. Finished common areas such as stairwells and elevator shafts should be apportioned appropriately based on the majority use (51%) of that floor.

"Virginia minimum wage" means the applicable minimum wage as determined pursuant to the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.).

"Wage rate" means the hourly wage paid to an employee inclusive of shift premiums and commissions. In the case of salaried employees, the hourly wage rate shall be determined by dividing the annual salary, inclusive of shift premiums and commissions, by 1,820 hours. Bonuses, overtime, and tips are not to be included in the determination of wage rate.

"Zone" means an enterprise zone declared by the Governor to be eligible for the benefits of this program.

"Zone real property investment tax credit" means a credit provided to a large qualified zone resident pursuant to § 59.1-280.1 J of the Code of Virginia. This definition applies only for qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-110.

"Zone resident" means a person whose principal place of residency is within the boundaries of any enterprise zone. Persons who meet the definition of both low-income and zone resident may not be counted as both for purposes of meeting employment requirements for the general tax credit. Instead, qualifying business firms must claim these persons as either low-income or zone resident. Zone residency must be verified annually. This definition applies only for qualifying for Enterprise Zone incentives pursuant to 13VAC5-112-20.

13VAC5-112-270. Computation of grant amount.

A. For any qualified business the grant amount is calculated as follows:

1. \$800 per year for up to five consecutive years for each grant-eligible position that is paid a wage rate during the qualification year that is at least of ~~200%~~ 175% of the ~~federal~~ minimum wage in place during the qualification year, and that is provided with health benefits, or
2. \$500 per year for up to five years for each grant-eligible position that is paid a wage rate during such year that is less than ~~200%~~ 175% of the ~~federal~~ minimum wage, but at least ~~175%~~ 150% of the ~~federal~~ minimum wage or the reduced wage rate threshold if in a high unemployment area or if the business is certified pursuant to 13VAC5-112-285 subsection C, and that is provided with health benefits.

B. A business firm may receive grants for up to a maximum of 350 grant-eligible jobs annually.

C. Job creation grants are based on a calendar year. The grant amount for any permanent full-time position that is filled for less than a full calendar year must be prorated based on the number of full months worked.

1. In cases where a position is grant eligible for only a portion of a qualification year the grant amount will be prorated based on the number of full months the position was grant eligible. This shall include cases where changes in wage rate, health benefits, or the ~~federal~~ minimum wage rate change a position's grant eligibility.

2. In cases where a change in a grant-eligible position's wage rate or the ~~federal~~ minimum wage rate during a qualification year changes the per position maximum grant amount available for that position, the grant amount shall be prorated based on the period the position was paid a minimum of ~~200%~~ 175% of the ~~federal~~ minimum wage rate and the period the position was paid a minimum of ~~175%~~ 150% of the ~~federal~~ minimum wage or the reduced wage rate threshold if in a high unemployment area or if the business is certified pursuant to 13VAC5-112-285 subsection C, but less than ~~200%~~ 175%.

D. The amount of the job creation grant for which a qualified business firm is eligible in any year shall not include amounts for grant-eligible positions in any year other than the preceding calendar year. Job creation grants shall not be available for any calendar year prior to 2005.

E. Permanent full-time positions that have been used to qualify for any other enterprise zone incentive pursuant to former §§ 59.1-270 through 59.1-284.01 of the Code of Virginia shall not be eligible for job creation grants and shall not be counted as a part of the minimum threshold of four new positions.

1. Large qualified business firms and large qualified zone residents may qualify for job creation grants pursuant to this section for permanent full-time positions that have been created above the permanent full-time positions as required by their documented negotiation agreement with the department pursuant to subdivision 2 of 13VAC5-112-20.

2. Small qualified business firms may qualify for job creation grants pursuant to this section for net new permanent full-time positions that have been created above the net new permanent full-time employees in the most recently reported qualification year.

3. Business firms that have previously qualified for department enterprise zone job grants may qualify for job creation grants pursuant to this section for net new permanent full-time positions that have been created above the net new permanent full-time positions in the most recently reported qualification year.

13VAC5-112-280. Eligibility.

A. A business firm shall be eligible to receive job creation grants for five consecutive years beginning with the first year of grant eligibility for permanent full-time positions created above the threshold number. Additional permanent full-time positions created during the remainder of years in the grant period are eligible for additional grant funding over the previous year's level or such positions may be used instead to

begin a subsequent grant period pursuant to subsection B of this section.

B. A business firm may be eligible for subsequent five consecutive calendar-year grant periods if it creates new grant-eligible positions above the threshold number for its subsequent base year.

1. If a second or subsequent five-year grant period is requested within two years of the previous grant period, the subsequent base year will be the last grant year. The calculation of this subsequent base year employment will be determined by the number of permanent full-time positions in the preceding base year, plus the number of threshold positions, plus the number of grant-eligible positions in the final year of the previous grant period.

2. If a business firm applies for subsequent five consecutive calendar-year grant periods beyond the two years immediately following the completion of the previous five-year grant period, the business firm shall use one of the two preceding calendar years as the subsequent base year, at the choice of the business firm.

C. A business firm is eligible to receive enterprise zone job creation grants for any and all years in which the business firm qualifies in the five consecutive calendar years period commencing with the first year of grant eligibility.

D. Job creation grants shall be available beginning with calendar year 2005.

E. Any qualified business firm receiving a major business facility job tax credit pursuant to § 58.1-439 of the Code of Virginia shall not be eligible to receive an enterprise zone job creation grant under this section for any job used to qualify for the major business facility job tax credit.

F. The following positions are not grant eligible:

1. Those in retail, personal service or food and beverage service.

2. Those paying less than ~~475%~~ 150% of the ~~federal~~ minimum wage or that are not provided with health benefits.

3. Notwithstanding subdivision 2 of this subsection, in a high unemployment area those paying less than the reduced wage rate threshold or that are not provided with health benefits.

4. Seasonal, temporary or contract positions.

13VAC5-112-285. Eligibility for reduced wage rate threshold.

A. Prior to each qualification year, the department shall prepare the list of enterprise zone localities that

are high unemployment areas that shall be used in determining eligibility for reduced wage rate thresholds for that qualification year.

B. Qualified business firms located in an enterprise zone listed as a high unemployment area are eligible to use the reduced wage rate threshold (~~150%~~ 125% of ~~federal~~ minimum wage) in qualifying for the \$500 grant amount.

C. Qualified business firms that are certified under regulations adopted by the Director of the Departments of Small Business and Supplier Diversity pursuant to subdivision 8 of § 2.2-1606 of the Code of Virginia, are eligible to use the reduced wage rate threshold (125% of minimum wage) in qualifying for the \$500 grant amount.

CD. Once a qualified business is eligible for the reduced wage rate threshold it remains so through the end of its current five consecutive calendar-year grant period, regardless of changes to the unemployment rate of the enterprise zone locality.



Ralph S. Northam
Governor

COMMONWEALTH of VIRGINIA

Erik C. Johnston
Director

R. Brian Ball
Secretary of
Commerce and Trade

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

August 25, 2021

Memorandum

To: Board of Housing and Community Development Members

From: Erik C. Johnston, Director

RE: ADTAC Appointment

The Amusement Device Technical Advisory Committee (ADTAC) is a board-appointed committee created under §36-98.3 of the Code of Virginia. Currently, there is a vacancy for a code enforcement community position on the committee. The vacancy is due to the resignation of the representative from the Virginia Building and Code Officials Association (VBCOA). The Board’s policy directs staff to seek advisory members, as guided by stakeholder organizations, for the applicable category. The policy outlines that two of the five positions on the ADTAC are to represent the code enforcement community.

DHCD staff, in coordination with the VBCOA, solicited applications from the code enforcement community who have been participating in the Virginia Amusement Device Regulations (VADR) update process. The VBCOA solicited applications, conducted multiple interviews, and selected Michael Dellinger as its recommendation for the Board’s consideration. DHCD staff has advised the applicant of the September 2, 2021 Board of Housing and Community Development meeting where the appointment will be considered. Staff has also advised the applicant that they are welcome to attend and express their interest in serving as an ADTAC member.

The ADTAC has made a recommendation to the Board to appoint Michael Dellinger.

Enclosures

Partners for Better Communities



www.dhcd.virginia.gov



June 15, 2021

Mr. Travis Luter, Sr
Secretary to the State Building Code Technical Review Board
Code and Regulation Specialist
Department of Housing & Community Development
Division of Building & Fire Regulation
State Building Codes Office

Re: Amusement Device Technical Advisory Committee (ADTAC)

Mr. Luter

The Virginia Building and Code Officials Association's Nominations Committee provided a recommendation to the VBCOA Board of Directors for an ADTAC representative at our June 11th BOD meeting. The Nominations Committee voted after conducting multiple interviews for the representative position. After scoring the answers to a preset set of questions designed to determine the most qualified individual, the recommendation from the Nominations Committee to the VBCOA Board of Directors and now VBCOA's recommendation for one of our organization's representatives on the Amusement Device Technical Advisory Committee is Michael Dellinger, Building Official, Albemarle County. mdellinger@albemarle.org. Mr. Dellinger is an amusement device inspector and has taught amusement device inspection classes for the Jack Proctor Building Code Academy for many years.


I humbly please accept VBCOA's recommendation to accept Michael Dellinger as VBCOA's representative on the Amusement Device Technical Advisory Committee.

Respectfully,

James S. Moss CBO, CBMO
Project Manager | City of Galax
President | Virginia Building and Code Officials Association
111 East Main Street
Galax, VA 24333
(276) 293-1717

Application for Positions on the Board of Directors

Please answer all questions on this form, attach additional information as needed, sign and date the application. Return to Immediate Past President, Pete Mensinger at Pete.Mensinger@alexandriava.gov. Applications must be submitted no later than 5:00 pm, Friday May 14, 2021. The Nominations Committee will not be responsible for electronic email received that falls into "junk mail". A follow up call is advised (703) 746.4210.

1. Name: MICHAEL DELLINGER Title: BUILDING OFFICIAL
 Locality/Firm: ALBEMARLE COUNTY Email: MDELLINGER@ALBEMARLE.ORG
 Mailing Address: 401 MCINTIRE ROAD
CHARLOTTESVILLE, VA 22902
 Signature:  Date: 4/22/2021

2. I would like to be considered for the following position:
 Amusement Device Technical Advisory Committee

3. List (or attach) previous experience in service of this position and /or committee service in your region, VBCOA, ICC, and/or other building safety organization.

| <u>Committee</u> | <u>Organization</u> | <u>Years of Service</u> |
|-----------------------|---------------------|-------------------------|
| IRC, IBC, NOMINATIONS | VBCOA & | 19 |
| EDUCATION, EDUCATION | ICC COMMITTEES | |
| EXISTING BLDG CHAIR | | |
| VICE CHAIR, SECRETARY | | |
| | | |
| | | |

4. Please list (or attach) other work experience, education, certification and/or other qualifications you offer.

SEE ATTACHMENT.

5. Please attach any additional information that you would like to have considered.

SEE ATTACHMENT.

6. It is imperative that you have full support of your jurisdiction's Code/County Official. Signature Required:

Amelia McCulley Amelia McCulley 4/22/21
 Official's Name (Print) Signature Date



COUNTY OF ALBEMARLE
Department of Community Development
401 McIntire Road, North Wing
Charlottesville, Virginia 22902-4596
Phone (434) 296-5832

April 22, 2021

Mr. Pete Mensinger
Chair of Nomination Committee
VBCOA

Mr. Mensinger,

I am please to provide my name as a candidate for a position on the amusement device technical advisory committee. I feel that I can be a valuable resource and asset to this committee.

I joined the amusement device instructor team some time ago and rewrote the hydraulics and pneumatics section of the state syllabus for DHCD. I was then asked by DHCD staff to create a zipline presentation to add to the class and have consulted with the committee during the last code cycle change to consider other forms of certification for these types of inspectors.

Even though not officially a member of the committee, I have been heavily involved in the meetings as well as a contributing member of each of the code changes to the committee since my involvement.

I am currently certified by the National Association of Amusement Ride Safety Officials as well as DHCD and have attended their safety seminars in the past.

I have served on multiple committees both at the local and state VBCOA organization as well as past chair, vice-chair, and secretary, which is listed on the application. I do not perform inspections as a third-party inspector on amusement devices and feel that I can provide an unbiased opinion when it comes to the regulation whereas there has been some question regarding this in the past.

Thank you and the nominations committee for considering my application to this valued committee.

Respectfully,

Michael Dellinger



Ralph S. Northam
Governor

R. Brian Ball
Secretary of
Commerce and Trade

COMMONWEALTH of VIRGINIA

Erik C. Johnston
Director

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

August 25, 2021

Memorandum

To: Board of Housing and Community Development Members

From: Erik C. Johnston, Director

RE: Board Workgroup Attendance Policy

In 2017, the Board adopted Board Policy # 1 (attached). The policy indicates that each stakeholder workgroup and subworkgroup meeting shall be noticed as a Board meeting, permitting three or more board members to attend the meeting. During the Governor’s Declared State of Emergency in the 2018 code update cycle, stakeholder workgroup and subworkgroup meetings, like many other meetings, transitioned to a virtual environment. As meetings transition back to in person formats with the expiration of the State of Emergency, it remains important to maintain virtual options for stakeholder workgroup meetings. As such, staff would recommend rescinding the current Board Workgroup Policy, Board Policy #1. This action will permit continued virtual options for the stakeholder workgroups.

Rescinding the policy will not reduce access or transparency for workgroup meetings; meeting summaries will still be prepared and meeting information will be readily available for stakeholders and the public. Staff requests board members notify staff in advance of attending any stakeholder workgroup meetings to ensure compliance with open meeting laws, if applicable.

Enclosure





Board Policy #1

Title: Board Member attendance at Code Change Process workgroup and sub-workgroup meetings

Authority: Section 36-137 (5) of the Code of Virginia

Policy Statement: It shall be the policy of the Board of Housing and Community Development to notice Code Change workgroup and sub-workgroup meetings as public meetings in accordance with FOIA. Such notice will indicate that three or more members of the Board may be present at the workgroup or sub-workgroup. The notice will comply with §2.2-3707(C), indicate the planned topic(s) of discussion, and will be clear that no Board votes will be taken until a regularly scheduled and noticed Board meeting.

DHCD staff will compile minutes that identify the items discussed by the workgroup/sub-workgroup and include a list of all members of the public that attended the meeting, including Board members.

Board member attendance at workgroup and sub-workgroup meetings is completely optional and not expected. Attendance records of workgroup and sub-workgroup meetings will not be included in attendance records submitted to the Secretary of the Commonwealth.

Approval and Review: This Board policy was reviewed and approved on 07/17/2017.

Supersession: This Board policy is new.

Board Chair at Last Review: John Ainslie

DHCD Director: William Shelton



Ralph S. Northam
Governor

R. Brian Ball
Secretary of
Commerce and Trade

COMMONWEALTH of VIRGINIA

Erik C. Johnston
Director

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

August 25, 2021

Memorandum

To: Board of Housing Community Development Members

From: Erik Johnston, Director

Subject: Fire Prevention Inspector Certification and Continuing Education

In order to provide clarity regarding certification and continuing education requirements for Fire Prevention Inspectors, the Department of Housing and Community Development and the Department of Fire Programs have worked in collaboration to prepare agreed upon language and requirements.

The first document provides pathways for inspectors and others who may be coming into Virginia with varying credentials to obtain DHCD certification for enforcement of the SFPC.

The second document provides clarity for fire service personnel on continuing education requirements for various levels of training and certification through Fire Programs and further clarifies that DHCD only tracks continuing education for the DHCD certification for Fire Prevention Inspector and that continuing education required by Fire Programs is the responsibility of the individual and their local jurisdiction to track and maintain.



DHCD Certification and Maintenance for Fire Prevention Inspector

The Board of Housing and Community Development (BHCD) oversees the certification of all code officials per Code of Virginia [36-137](#). The Department of Housing and Community Development (DHCD) administers the certification issuance and maintenance including the requirements pertaining to continuing education as outlined in the Virginia Certification Standards (VCS) and DHCD Continuing Education (CE) Policy.

[Virginia Statewide Fire Prevention Code \(SFPC\) Section 105.3.3 \(13VAC 5-51-51\)](#) requires all technical assistants enforcing the SFPC to be certified within 18 months of appointment and references the VCS for certification requirements.

[VCS Section 13VAC5-21-41 Certification categories and training requirements](#), requires that all DHCD certification candidates, including those seeking Fire Prevention Inspector certification, attend the mandatory Virginia Building Code Academy (VBCA) certification courses and successfully pass any course or exam for the certification as listed in the [Virginia Certification Requirements for Code Officials](#). VCS Section 13VAC5-21-41 also requires all DHCD certification applicants to complete the VBCA prerequisite CORE class prior to attending any other required technical classes.

Required DHCD certification of Fire Marshals conducting fire prevention inspections

As indicated on the Virginia Certification Requirements for Code Officials, certification as a Fire Prevention Inspector requires applicants to successfully attend the DHCD Core class followed by the completion of the Virginia Fire Marshal Academy (VFMA) NFPA 1031 Fire Inspector course or, as appropriate, the Fire Inspector Bridge class offered by VFMA. Following completion of all required training and examinations, the candidate will apply for certification through the VBCA Online Registration System. As with all DHCD certifications, the required training and examination for certification may not be more than four years old at the time of certification application.

Required DHCD certification of all other (non-Fire Marshal) fire prevention inspectors

Those candidates seeking Fire Prevention Inspector certification that will not be seeking appointment as a Fire Marshal in accordance with Chapter 3 of Title 27 of the Code of Virginia (§ [27-30](#) or § [27-36](#)) may complete the same certification path for Fire Marshals (see above). However, those not seeking appointment as a Fire Marshal or Assistant Fire Marshal who do not wish to attend the VFMA 1031 Fire Inspector course, may utilize the alternative path to Fire Prevention Inspector certification. Applicants choosing the alternative path will attend the DHCD Core class followed by the completion of the VFMA Fire Inspector Bridge class. The ICC exam #66 Fire Inspector I and the ICC exam #67 Fire Inspector II, which are based on the 1031 JPRs, is required for candidates using this path for certification. Once having attended the required courses and passed the required exams, certification applications are submitted through the [VBCA Online Registration System](#). As with all DHCD certifications, the required training and examinations may not be more than four years old at the time of certification application.

VFMA NFPA 1031 students not seeking certification

Those VDFP priority 2 or 3 students not seeking Fire Prevention Inspector certification, but wishing to complete the VFMA NFPA 1031 Fire Inspector course should refer to registration and attendance guidelines as outlined by the VFMA.

DHCD Fire Prevention Inspector certification maintenance

Once issued, the certificate holder must maintain the Fire Prevention Inspector certification in active status per the VCS, SFPC, and the [DHCD Continuing Education Policy](#). Regardless of the number of DHCD issued certifications held, a certificate holder [shall attend 16 hours of continuing education](#) every two years per the Continuing Education Policy and submit the VBCA Continuing Education application by the due date using the VBCA Online Registration System.

In addition to the continuing education requirement, certificate holders are required to attend Code Change Training (CCT). CCT training, provided by DHCD, occurs in conjunction with each VA code update cycle (approximately every three years).

Note: Fire Prevention Inspectors are responsible for maintaining and complying with DHCD requirements. Failure to comply with the continuing education requirements within the period allotted shall result in a lapsed certification status.

Additional Fire Marshal continuing education requirements

Fire Marshals appointed in accordance with Chapter 3 of Title 27 of the Code of Virginia (§ [27-30](#) or § [27-36](#)) or those seeking future appointment as a Fire Marshal, who have previously completed the VFMA NFPA 1031 course and wish to exercise summons powers must comply with the Code of Virginia §[27-34.2](#). Refer the VDFP policy for additional information.

In seeking DHCD certification, there may be circumstances where other requirements apply. See the below “Paths to Fire Prevention Certification” for additional information. Questions regarding DHCD certification requirements should be directed to the Department of Housing and Community Development. All other training questions should be directed to Virginia Fire Marshal Academy.

Paths to Fire Prevention Inspector certification

Do you currently hold Virginia NFPA 1031, outside state issued NFPA 1031 certification, or an expired Virginia NFPA 1031 certification?

I need Fire Prevention Inspector certification and do not currently hold a Virginia NFPA 1031 certification or an expired Virginia NFPA 1031 certification.

1. Register and attend the DHCD/VBCA prerequisite CORE class
2. Register and attend the VDFP/VFMA NFPA 1031 course
3. Pass the VDFP/VFMA NFPA 1031 exam
4. Apply for DHCD Fire Prevention Inspector certification via the VBCA Online Registration System

Or

(For those not required or not seeking Fire Marshal powers and not needing NFPA 1031 certification)

1. Register and attend the DHCD/VBCA prerequisite CORE class
2. Register and attend the VDFP/VFMA Bridge class
3. Pass the ICC exam #66 Fire Inspector I and ICC exam #67 Fire Inspector II
4. Apply for DHCD Fire Prevention Inspector certification via the VBCA Online Registration System

I hold a lapsed Virginia NFPA 1031 AND

attended the DHCD/VBCA Core class within the last 4 years:

1. Apply for VDFP reciprocity
2. Register and attend the VDFP/VFMA Bridge class
3. Apply for DHCD Fire Prevention Inspector certification via the VBCA Online Registration System

attended DHCD/VBCA Core class more than 4 years ago:

1. Apply for VDFP reciprocity
2. Register and attend DHCD/VBCA prerequisite Core class
3. Register and attend the VDFP/VFMA Bridge class
4. Apply for DHCD certification via the VBCA Online Registration System

I hold an active Virginia NFPA 1031 certificate, but never applied for DHCD certification AND

attended Core within the last 4 years

1. Apply for DHCD Fire Prevention Inspector certification via the VBCA Online Registration System

never attended DHCD/VBCA prerequisite Core class

1. Register and attend DHCD/VBCA prerequisite Core class
2. Apply for DHCD Fire Prevention Inspector certification via the VBCA Online Registration System

I hold an NFPA 1031 certification from another state:

1. VDFP reciprocity requested through the authority having jurisdiction.
2. Register and attend DHCD/VBCA prerequisite Core class
3. Register and attend the VDFP/VFMA Bridge class
4. Apply for DHCD Fire Prevention Inspector certification via the VBCA Online Registration System

VIRGINIA DEPARTMENT OF FIRE PROGRAMS

Compliance and Certificate Maintenance

August 2021

NFPA 1031 Fire Inspector II Certificate

Compliance

The Virginia Department of Fire Programs requires continuing education as a component of maintaining compliance with state regulations relative to the NFPA 1031 Fire Inspector II Certificate.

Maintenance

Compliance and continuing education requirements shall be tracked, documented, and maintained by the individual and the Authority Having Jurisdiction (AHJ).

A minimum of 16 hours of continuing education shall be obtained every 24 months. Courses must be approved by the Virginia Department of Fire Programs (VDFP) Virginia Fire Marshal Academy (VFMA) using the following process:

1. Complete the online [Continuing Education Request Form](#).
2. The VFMA will assign a [Cornerstone on Demand](#) (CSOD) session number and respond to you via email within three business days.
3. Upon completion of the course, email the completed roster and any additional documentation to the VFMA (FMA@vdfp.virginia.gov).

NOTE: Fire Marshals that have a DCHD Fire Prevention Inspector Certification must also submit continuing education hours to maintain certification via the [DHCD Continuing Education Application for Certified Code Officials and Technical Assistants](#) form.

NFPA 1033 Fire Investigator Certificate

Compliance

The VDFP, in cooperation with the Virginia Department of Criminal Justice Services (DCJS), has the authority to design, establish and maintain the required courses of instruction.

Maintenance

A minimum of 40 hours of continuing education shall be obtained every 24 months from the date of certification. Continuing education requirements shall be tracked, documented, and maintained by the individual and the AHJ. Furthermore, documented compliance with the continuing education requirements can be uploaded within the [Cornerstone on Demand](#) for individual record retention, which is available for viewing through each user profile.

VIRGINIA DEPARTMENT OF FIRE PROGRAMS

Accordingly, NFPA 1033 mandates that the fire investigator remain current in a variety of subject areas, including, but not limited to:

- Acts of the Virginia General Assembly/ Legal Update
- Laws of Arrest
- Juvenile/Domestic Relations
- Search and Seizure
- Evidence Collection/Storage
- Fire Science
- Fire Chemistry
- Thermodynamics/Thermometry
- Fire Dynamics/Modeling
- Explosion Dynamics
- Fire Investigation Methodology
- Fire Analysis
- Hazardous Materials

All courses must be approved by the VDFP VFMA using the following process:

1. Complete the online [Continuing Education Request Form](#).
2. The VFMA will assign a Cornerstone on Demand Session (CSOD) Number and respond to you via email within three business days.
3. Upon completion of the course, email the completed roster and any additional documentation to the VFMA (FMA@vdfp.virginia.gov).

Additional topics are available to localities to meet or exceed the minimum requirements. Any courses that are outside of the scope of 1033 should be submitted to the VFMA for approval to ensure compliance with the relevant subject matter.

Reciprocity

The VDFP will continue to assist agencies with obtaining reciprocity for individuals that have PROBOARD or IFSAC Fire Inspector and/or Fire Investigator certifications. Refer to the VDFP reciprocity policy.

Fire Investigators with Law Enforcement Powers

Compliance & Maintenance

Firearms qualification and requalification requirements shall be established by the AHJ and, after qualification through the VFMA, requalification should be consistent with [DCJS](#) requirements. A minimum of 40 hours, not in addition to 1033 hours, of continuing education shall be obtained every 24 months from the date of certification.

Reference Legislation

VIRGINIA DEPARTMENT OF FIRE PROGRAMS

[§ 27-34.2](#). Power to arrest, to procure and serve warrants and to issue summons; limitation on authority.

[§ 27-34.2:1](#). Police powers of fire marshals.

[6VAC20-30-30](#). Compulsory in-service training standards.

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