



Glenn Youngkin
Governor

Carren Merrick
Secretary of
Commerce and Trade

COMMONWEALTH of VIRGINIA

Bryan W. Horn
Director

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

December 2, 2022

MEMORANDUM

TO: Board of Housing and Community Development Members

FROM: Kyle Flanders

SUBJECT: December 12, 2022 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 Monday, December 12, 2022. The full Board will convene at 10:00 a.m. to hear public comment. The public comment period will be followed by the Statewide Fire Prevention Code Development Committee (SFPCDC). Upon conclusion of the SFPCDC the Codes and Standards Committee will meet followed by the Housing and Community Development Committee. The last meeting of the day will be the remainder of the regular meeting of the Board.

The Board Package includes the following materials:

- Regular Board Package
- Proposed Regulations available through DHCD website
<https://www.dhcd.virginia.gov/board-housing-and-community-development-bhcd>

The Board meeting will be held at the **Virginia Housing Center** located in Innsbrook at 4224 Cox Road in Glen Allen, Virginia. Lunch will be provided during the meeting.

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. I look forward to seeing you at the meeting.

Enclosure



AGENDA

BOARD OF HOUSING and COMMUNITY DEVELOPMENT

Monday, December 12, 2022

Virginia Housing Center

4224 Cox Road, Glen Allen, VA

Public Comment before the Board will begin at 10:00 a.m.; the remainder of the agenda will begin at the conclusion of the Housing and Community Development Committee.

In addition to in-person public comment, there will be a virtual public comment option. Each speaker will be limited to one minute of speaking time and there will be one half-hour total for the virtual comment forum on a first come first served basis. Please contact kyle.flanders@dhcd.virginia.gov to sign up for the virtual comment forum.

Virtual Information (Public Comment period only)

Video call link: <https://meet.google.com/hfj-rvcn-mso>

Or dial: (US) +1 385-404-0632 PIN: 920 918 133#

- I. OPENING
 - a. Call to Order Chairman
 - b. Roll Call Kyle Flanders
 - c. Public Comment Chairman

- II. CONSENT AGENDA Chairman
 - o *Approval of Minutes*: October 3, 2022

- III. REPORT of the CODES and STANDARDS COMMITTEE Committee Chair
 - Action Items*
 - o Adopt Proposed Regulations
 - Statewide Fire Prevention Code
 - Uniform Statewide Building Code
 - Industrialized Building Safety Regulations
 - Virginia Amusement Device Regulations

- IV. REPORT of the HOUSING and COMMUNITY DEVELOPMENT COMMITTEE Committee Chair
 - Action Items*
 - o Consolidated Annual Action Plan Amendment
 - o Periodic Review – Enterprise Zone Regulations
 - o Private Activity Bond Guidelines

- V. AGRICULTURAL EVENT STRUCTURE TECHNICAL ADVISORY COMMITTEE UPDATE DHCD Staff

- VI. REPORTS AND INFORMATION

- | | | |
|-------|--|----------------|
| a. | Virginia Housing Report | Susan Dewey |
| b. | Report of the Virginia Fire Services Board | Claudia Cotton |
| c. | Report of the Director | Bryan Horn |
| VII. | UNFINISHED BUSINESS | Board members |
| VIII. | NEW BUSINESS | Board members |
| IX. | BOARD MATTERS | Board members |
| X. | FUTURE BOARD MEETING DATES | Bryan Horn |
| | o January 9, 2023 | |
| | o 2023 proposed schedule is attached | |
| XI. | ADJOURNMENT | Chairman |

AGENDA

BOARD OF HOUSING and COMMUNITY DEVELOPMENT

Statewide Fire Prevention Code Development Committee

Monday, December 12, 2022

Virginia Housing Center

4224 Cox Road, Glen Allen, VA

To begin at the conclusion of the Public Comment period of the full Board of Housing and Community Development

- I. OPENING
 - a. Call to Order Chairman
 - b. Roll Call Kyle Flanders

- II. CONSENT AGENDA Chairman
 - o *Approval of Minutes*: October 3, 2022

- III. PROPOSED REGULATIONS
 - Action Item*
 - o Statewide Fire Prevention Code

- IV. UNFINISHED BUSINESS Board members

- V. NEW BUSINESS Board members

- VI. ADJOURNMENT Chairman

AGENDA
BOARD OF HOUSING and COMMUNITY DEVELOPMENT
Codes and Standards Committee
Monday, December 12, 2022
Virginia Housing Center
4224 Cox Road, Glen Allen, VA

To begin at the conclusion of the Statewide Fire Prevention Code Development Committee

- I. OPENING
 - a. Call to Order Chairman
 - b. Roll Call Kyle Flanders

- II. CONSENT AGENDA Chairman
 - o *Approval of Minutes*: October 3, 2022

- III. REPORT OF THE STATEWIDE FIRE PREVENTION CODE DEVELOPMENT COMMITTEE Committee Chair
 - Action Item*
 - o Proposed Regulations for the Statewide Fire Prevention Code

- IV. PROPOSED REGULATIONS Chairman
 - Action Items*
 - o Uniform Statewide Building Code
 - o Industrialized Building Safety Regulations
 - o Virginia Amusement Device Regulations

- V. UNFINISHED BUSINESS Board members

- VI. NEW BUSINESS Board members

- VII. ADJOURNMENT Chairman

AGENDA

BOARD OF HOUSING and COMMUNITY DEVELOPMENT

Housing and Community Development Committee

Monday December 12, 2022

Virginia Housing Center

4224 Cox Road, Glen Allen, VA

To begin at the conclusion of the Codes and Standards Committee

- | | | |
|-------|---|---------------|
| I. | OPENING | |
| | a. Call to Order | Chair |
| | b. Roll Call | Kyle Flanders |
| II. | CONSENT AGENDA | Chair |
| | ○ <i>Approval of Minutes</i> : July 18, 2022 | |
| III. | CONSOLIDATED ANNUAL ACTION PLAN
(HOME ARP) AMENDMENT | DHCD Staff |
| | ○ <i>Action Item</i> | |
| IV. | ENTERPRISE ZONE PERIODIC REVIEW | DHCD Staff |
| | ○ <i>Action Item</i> | |
| V. | PRIVATE ACTIVITY BOND GUIDELINES | DHCD Staff |
| | ○ <i>Action Item</i> | |
| VI. | UNFINISHED BUSINESS | Board members |
| VII. | NEW BUSINESS | Board members |
| VIII. | ADJOURNMENT | Chair |

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT
Statewide Fire Prevention Code Development Committee
October 3, 2022
10:48 a.m.
Glen Allen, VA

Members Present

Claudia Cotton (BHCD)
Keith Johnson (VFSB)
Ernie Little (VFSB)
Sean Farrell (BHCD)
Scott Garber (VFSB)
Brett Meringoff (BHCD)

Members Absent

Call to Order

Mr. Brett Meringoff, Chairman of the Statewide Fire Prevention Code Development Committee called the meeting to order.

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.

Approval of Minutes

A motion was made and properly seconded to approve the minutes of the May 10, 2021, meeting of the Committee; the motion passed on a voice vote.

Code Change Proposals

Ms. Cindy Davis, Deputy Director of Building and Fire Regulation at DHCD gave an overview of work completed during the current code cycle, indicating the large amount of consensus that had been achieved.

After discussion, a motion was made and seconded to approve the SFPC base document (Tab 1, Book 1). The motion passed on a voice vote.

Tab 2 of Book 1 as presented in the agenda package was considered. A motion was made and seconded to approve all of the consensus for approval proposals in a block. There was a motion to amend the main motion to remove proposal FP107.11.21 for individual consideration. The motion was seconded. After discussion, the amendment was accepted as a friendly amendment. The motion, as amended, passed on a voice vote.

Proposal FP107.11.21 was brought forward for

individual consideration. There was a motion to disapprove. The motion was seconded. After discussion, the motion failed 3-3.

Tab 3 of Book 1 as presented in the agenda package was considered. A motion was made and seconded to disapprove of the consensus for disapproval proposals. The motion passed on a voice vote.

Ms. Davis provided background information regarding the non-consensus proposals.

After discussion, a motion was made and seconded to approve proposal FP906.1-21. After discussion, the motion failed 3-3.

A motion was made and seconded to approve proposal B1010.2.8-21. After discussion, the motion passed on a voice vote.

Unfinished Business

There was no unfinished business to be discussed.

New Business

There was no new business to be discussed.

Adjournment

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

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT
Codes and Standards Committee
October 3, 2022
11:45 A.M.
Glen Allen, Virginia

Members Present

Louie Berbert
Claudia Cotton
Susan Dewey
Sean Farrell
Richard Gregory
Sylvia Hallock
Mark Jackson
Abigail Johnson
Keith Johnson
Brett Meringoff
Larry Murphy
J.M. Snell
Mark Trostle

Members Absent

Patricia “Patty” Shields

Call to Order

Mr. Rick Gregory, Chairman of the Codes and Standards Committee, called the meeting to order at 11:45 p.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.

Approval of Minutes

A motion was made and properly seconded to approve the minutes of the May 10, 2021, meeting of the Committee. The motion passed on a voice vote.

Report of the Statewide
Fire Prevention Code

Mr. Brett Meringoff, Chairman of the Statewide Fire Prevention Code Development Committee (SFPCDC) reported the committee recommendations.

The SFPCDC recommendation in the form of a motion to approve the Statewide Fire Prevention Code (SFPC) base document as presented in Tab 1 of Book 1 of the agenda package was presented to the committee. The motion passed on a voice vote.

The SFPCDC recommendation in the form of a motion to approve consensus items in a block as presented in Tab 2 of Book 1 of the

agenda package, with the exception of proposal FP107.1-21, was presented to the committee. The motion passed on a voice vote.

The SFPCDC recommendation in the form of a motion to disapprove the consensus for disapproval item as presented in Tab 3 of Book 1 of the agenda package was presented to the committee. The motion passed on a voice vote.

Proposal FP107.11-21 was presented to the committee with no recommendation. A motion was made to approve the proposal but no second was received. A motion was made and seconded to disapprove the proposal, the motion passed 12-1.

FP906.1-21 was presented to the committee with no recommendation. A motion was made and seconded to approve the proposal, the motion failed 1-12. A motion was made and seconded to disapprove the proposal, the motion passed 12-1.

The SFPCDC recommendation in the form of a motion to approve proposal B1010.2.8-21 was presented to the committee. The motion passed on a voice vote.

Code Change Proposals

A motion was made and seconded to approve the Uniform Statewide Building Code (USBC) base document as presented in Tab 1 of Book 2 of the agenda package. The motion passed on a voice vote.

A motion was made and seconded to approve the consensus proposals in Tab 2 of Book 2 with the exception of proposal B432(2)-21. The motion passed on a voice vote.

A motion was made and seconded to disapprove proposal B432(2)-21. The motion passed on a voice vote.

A motion was made and seconded to disapprove the consensus for disapproval proposals in Tab 3 of Book 2. The motion passed on a voice vote.

A motion was made and seconded to disapprove the non-consensus proposals in Tab 4 of Book 2 that exceed 2021 model

code and that exceed 2018 amendments to the Virginia Uniform Statewide Building Code.

During discussion, some board members indicated strong opposition to addressing non-consensus proposals in a block.

Other board members indicated support for addressing the non-consensus proposals in a block.

A motion was made and seconded to amend the motion to only consider those proposals that exceed the 2021 model code in a block. The motion failed 4-9.

After additional discussion regarding the pending vote before the committee, the main motion to disapprove the non-consensus proposals in Tab 4 of Book 2 that exceed 2021 model code and that exceed 2018 amendments to the Virginia Uniform Statewide Building Code passed, 9-4.

A motion was made and seconded for disapproval of proposal EC-C1301.1.1(2) - 21. The motion passed on a voice vote.

A motion was made and seconded to approve proposal EC-Appendix CB - 21. The motion passed 12-1.

A motion was made and seconded for disapproval of proposal B903.2.3 - 21. The motion failed 3-10.

A motion was made and seconded for approval of proposal B903.2.3-21. The motion passed 12-1.

A motion was made and seconded for disapproval of proposal B1006.3.4-21. Board members discussed the possible benefits and concerns with the proposal. Members expressed significant concern with the public safety implications, referencing past instances with limited egress. Board members noted the topic needed additional consideration. The motion passed on a voice vote with a friendly amendment to study the issue in the next code cycle.

A motion was made and seconded for approval of proposal B1010.2.8-21. The motion passed on a voice vote.

A motion was made and seconded for approval of proposal RB326-21. The motion passed on a voice vote.

A motion was made and seconded for approval of proposal PM103.2-21. The motion passed on a voice vote.

A motion was made and seconded to approve the Industrialized Building Safety Regulations (IBSR) base document as presented in Tab 5 of Book 2 of the agenda package. The motion passed on a voice vote.

Consensus proposals in Tab 6 of Book 2 as presented in the agenda package were considered. A motion was made and seconded to approve the proposals in a block. The motion passed on a voice vote.

A motion was made and seconded to approve the Virginia Amusement Device Regulations (VADR) base document as presented in Tab 7 of Book 2 of the agenda package. The motion passed on a voice vote.

Consensus proposals in Tab 8 of Book 2 as presented in the agenda package were considered. A motion was made and seconded to approve the proposals in a block. The motion passed on a voice vote.

Consensus for disapproval proposals in Tab 9 of Book 2 as presented in the agenda package, were considered. A motion was made and seconded to disapprove the proposal in this Tab. The motion passed on a voice vote.

Preparation of Proposed Regulations

A motion was made and seconded to recommend that the BHCD approve code changes as recommended by the Committee for inclusion in the proposed regulations. The motion passed 11-2.

Unfinished Business

There was no unfinished business to be discussed.

New Business

There was no new business to be discussed.

Adjournment

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

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT
Housing and Community Development Committee
MEETING
10:03 A.M., July 18, 2022
Virginia Housing Center
Glen Allen, VA

Members Present

Louie Berbert
Claudia Cotton
Sean Farrell
Richard Gregory
Mark Jackson
Keith Johnson
Brett Meringoff
Larry Murphy
JM Snell
Sylvia Hallock (arrived late)
Susan Dewey (arrived late)

Members Absent

Abigail Johnson
Mark Trostle
Patty Shields

Call to Order

Mr. Brett Meringoff, Vice-Chair of the Board of Housing and Community Development (BHCD) called the meeting of the Committee to order at 10:03 a.m.

Roll Call

The roll was called by Ms. Kristen Dahlman, Director of the Department of Housing and Community Development (DHCD)'s Policy & Legislative Office. Ms. Dahlman reported that a quorum was present.

Mr. Meringoff then recognized Mr. Bryan Horn, Director of DHCD, to introduce newly appointed members. Those included Mr. Mark Trostle, Mr. J.M. Snell, and Mr. Louie Berbert.

Consent Agenda

A motion was made and properly seconded to approve the minutes of the May 10, 2022 Housing and Community Development Committee meeting. The motion passed.

Communities of Opportunity Tax Credit Guidelines

Ms. Sandra Powell, Senior Deputy of Community Development and Housing at DHCD provided information regarding the Communities of Opportunity Tax Credit Guidelines. Ms. Powell discussed the basic process and components of the program. Ms. Powell explained the proposed changes as directed in statute. The updates also include changes to address online submission of applications.

A motion was made by Ms. Claudia Cotton and properly seconded by Mr. Larry Murphy to recommend that the Board approve the Guidelines. The motion passed.

HB 845 Presentation

Ms. Dahlman and Mr. Jonathan Knopf of Housing Forward VA presented findings from HB 854's study of the condition of housing in Virginia in their presentation titled "Statewide Housing Study; Current Efforts, Future Needs, New Strategies." Ms. Dahlman and Mr. Knopf presented the key findings of the study and took questions from Board members.

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

October 3, 2022

9:00 A.M.

Glen Allen, Virginia

Public Comment Link - <https://www.youtube.com/watch?v=xGAyD2Q1i2I>

Members Present

Louie Berbert
Claudia Cotton
Susan Dewey (arrived late)
Sean Farrell
Richard Gregory
Sylvia Hallock (arrived late)
Mark Jackson
Abigail Johnson
Keith Johnson
Brett Meringoff
Larry Murphy (arrived late)
J.M. Snell
Mark Trostle

Members Absent

Patricia “Patty” Shields

Call to Order

Mr. Brett Merignoff, Chairman of the Board of Housing and Community Development, called the meeting of the Board to order at 9:00 am.

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. Meringoff indicated that virtual comment would be offered first, followed by in-person comment and that each speaker would have two minutes to speak with one hour total allotted for virtual comment.

Mr. Dwayne Garriss, representing the National Association of State Fire Marshals and the National Fire Equipment Manufacturers Association, spoke in support of his proposal regarding portable fire extinguishers.

Mr. Ross Shearer spoke in support of proposals to increase wall insulation and reduce air changes as well as changes to incorporate sprinklers in townhouses.

Mr. Travis Folden spoke in opposition to the non-consensus items. He noted that non-consensus proposals would have a negative cost impact on providing diverse, low-cost housing.

Mr. Dan Sandoval of Republic Homebuilders spoke in opposition to non-consensus proposals, noting a negative cost impact in homes in rural areas.

Mr. Scott Williams indicated that building codes set a minimum standard, noting that individuals are welcome to choose certain options. He spoke in opposition to proposals exceeding model code and current code.

Mr. Jeremiah Horstick of Corelock Homes, spoke in opposition to non-consensus proposals noting their impact on starter homes.

Ms. Alicia Smith spoke in support of consensus proposals and in opposition to non-consensus proposals, citing a need to focus on housing affordability.

Mr. Mark Snesavage spoke in opposition to the non-consensus proposals, associating himself with Mr. Sandoval and Mr. Horstick.

Mr. Cody Hastings spoke and noted the importance of affordable housing options and spoke in opposition to the non-consensus proposals.

Mr. Lyle Solla Yates spoke in favor of proposal B1006.3.4-21 permitting single staircase residential construction in certain use groups.

Mr. Jeh Hicks of Gerald Properties associated himself with Dan Sandoval, Jeremiah Horstick, and Alicia Smith in opposing the non-consensus proposals.

Ms. Mary Koban of the Air Conditioning, Heating, and Refrigerant Institute (AHRI) spoke on behalf of proposals regarding EWP flammable refrigerants.

Mr. Sean Halsey spoke in opposition to the non-consensus proposals noting a need to analyze most recent changes before enacting new changes.

Mr. Robert Glass spoke on behalf of Daikin Comfort Technologies and Daikin Applied Americas regarding a new definition of flammable gas.

Mr. Ernie Campbell of Evermore Construction spoke in favor of disapproving non-consensus agenda items citing concerns with increased costs.

Mr. Bryan Holland, representing the National Electrical Manufacturers Association, spoke in support of proposals regarding smoke alarms and Arc fault protection.

Mr. Stephen Spletzer spoke in support of proposals noted by Mary Koban regarding refrigerants.

Mr. Ben Rabe of the New Building Institute spoke in support of energy strengthening amendments, particularly, the Electric Vehicle proposal.

Mr. John Bloom spoke on behalf of energy efficiency proposals, indicating the importance of long-term cost savings and indicating the importance of EV proposals.

Mr. Mike O'Connor representing Petroleum and Propane marketers thanked staff for their professionalism in the stakeholder process and noted concerns with the State Fire Marshal's Office Fee proposal. He also opposed non-consensus proposals.

Ms. Joy Loving spoke on behalf of the Climate Action Alliance of the Valley in support of the Sierra Club recommendations, in particular, those supporting EV readiness.

Mr. Eric Goplerud, representing the Faith Alliance for Climate Solutions spoke in support of wall insulation and air exchange proposals meeting the 2021 IECC standards.

Mr. Jay Riat, spoke on behalf of Fairfax County in support of adopting non-consensus energy code items and adopting the 2021 IECC.

Mr. Wyatt Gordon spoke in favor of single-staircase residential buildings up to six stories.

Mr. Luca Gattoni Celli, spoke on behalf of Yes in My Backyard (YIMBY) of Northern Virginia, in support of single staircase residential buildings and in opposition to sprinklers in townhomes.

Mr. Robert Melvin speaking on behalf of the Virginia Restaurant Lodging and Travel Association spoke in opposition to proposal FP107.11-21 relating to the State Fire Marshal's Office fee increases.

Ms. Morgan Whayland spoke on behalf of Virginia Natural Gas opposing non-consensus items restricting the use of natural gas.

Mr. William Abrahamson spoke in support of the single staircases in residential buildings proposal.

Mr. Meringoff noted the conclusion of virtual comment and opened the in-person comment portion.

Mr. Steve Shapiro, representing the Virginia Apartment Management Association and the Apartment and Office Building Association, spoke in opposition to non-consensus proposals regarding in-building communications, portable fire extinguishers, the energy code, and electric vehicle charging.

Mr. Bill Penniman, representing the Virginia Sierra Club, spoke in support of energy efficiency proposals. He indicated support for removing weakening amendments and adopting additional amendments regarding heat pumps and EV readiness.

Mr. Andrew Clark, representing the Home Builders Association of Virginia, noted the progress and compromise that had been achieved regarding energy proposals and indicated this process should continue through the workgroups.

Mr. Shariar Amiri, of Arlington County, spoke on behalf of the proposals he submitted regarding energy storage systems.

Ms. Susan Stillman spoke in support of EV proposals noting the high expense in providing this option after construction.

Mr. John Walser spoke on behalf of Fairfax County in support of in-building emergency communication systems and EV proposals and spoke in opposition to the single staircase proposal.

Mr. Kris Bridges, the Building Official for Martinsville, noted that Virginia is well respected for its code update process. He noted that maintaining affordability in housing was a key.

Mr. Mike Eutsey, President of the Virginia Building and Code Officials Association spoke in opposition to non-consensus changes and in favor of maintaining affordability.

Mr. Jason Laws, Deputy Building Official for Chesterfield County spoke in opposition to the requirement for sprinklers in townhouses.

Mr. Andrew Milliken, Deputy Fire Marshal for Stafford County spoke in support of using the model code when considering non-consensus items, referencing sprinklers, in-building emergency communication systems, and staircases.

Dr. Susan Miller spoke on behalf of the Virginia Clinicians for Climate Action in support of the proposals submitted by the Sierra Club regarding electrification, heat pumps, EV charging, and discontinuance of using gas appliances.

Mr. Bob Shippee speaking on behalf of himself, spoke in support of solar readiness proposals.

Mr. Glen Besa speaking as a private citizen, spoke on behalf of the Sierra Club proposals. He noted the environmental and economic benefits of the Sierra Club recommendations.

Mr. David Owen spoke in opposition to the non-consensus proposals, indicating that homeowners still had the opportunity to select certain options.

Mr. Eric Lacey, representing Responsible Energy Codes Alliance spoke in support of adoption of the 2021 IECC, specifically noting increased wall insulation and air tightness.

Ms. Lee Williams spoke in support of adopting the Sierra Club's proposals and adopting the 2021 IECC for the benefit of consumers.

Mr. Joe Brancoli spoke in support of the Sierra Club's proposals, particularly in support of air leakage standards.

Mr. Kevin Cianfarini spoke in support of adopting the Sierra Club proposals regarding electric heat pump installation.

Adjournment

A motion was made and seconded to adjourn the meeting until the conclusion of the committees. The meeting was adjourned at 10:38 a.m.

Reconvene

Mr. Meringoff, reconvened the meeting of the Board at 2:20 p.m.

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

Approval of Minutes

A motion was made and properly seconded to approve the minutes of the July 18, 2022, meeting of the Board; the motion passed on a voice vote.

Report of the Codes and Standards Committee

Mr. Rick Gregory, Chairman of the Codes and Standards Committee, summarized the recommendations of the Codes and Standards Committee for the Board.

The committee recommendation in the form of a standing motion to approve code changes as recommended by the Committee for inclusion in the proposed regulations was presented to the Board. The motion passed on a voice vote.

AGTAC Appointments

A motion was made and seconded to appoint members to the Agritourism Event Structure Technical Advisory Committee as

presented in the Board Package. The motion passed on a voice vote.

- Resolution A motion was made and seconded to adopt resolutions commending former Board of Housing and Community Development members Sonny Abbasi, Andy Friedman, and Paykon Sarmadi. The motion passed on a voice vote.
- VFSB Report Ms. Claudia Cotton noted that the Fire Services Board met in August and noted that they actively assist in auditing local fire service organizations around the state.
- Virginia Housing Report Ms. Susan Dewey, CEO of Virginia Housing, reported that Virginia Housing would begin utilizing the next iteration of the State Housing Opportunity Tax Credit and that program regulations would be available in the near future. Upon additional questions from the Board, Ms. Dewey noted the benefits of the state tax credit in relation to other Virginia Housing programs.
- Report of the Director Mr. Bryan Horn, Director of DHCD, noted that the Rent Relief Program was winding down and there could potentially be upcoming funding opportunities with the Affordable and Special Needs Housing program. Mr. Horn thanked the Board and staff for their work in preparing the meeting.
- Unfinished Business There was no unfinished business to be discussed.
- New Business There was no new business to be discussed.
- Board Matters Mr. Horn noted the Governor’s Housing Conference in November and invited Board members to attend.
- Future Meetings The next meeting of the Board will be December 12, 2022.
- Adjournment Upon a motion duly made and seconded, the meeting was adjourned.



Glenn Youngkin
Governor

Caren Merrick
Secretary of
Commerce and Trade

COMMONWEALTH of VIRGINIA

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Bryan W. Horn
Director

Memorandum

To: Board of Housing Community Development Members

From: Bryan Horn, DHCD Director

Subject: Proposed Regulations

Date: December 2, 2022

Included for the Board's consideration are the *proposed regulations* for the Statewide Fire Prevention Code, Uniform Statewide Building Code, Industrialized Building Safety Regulations, and the Virginia Amusement Device Regulations. The *proposed regulations* incorporate changes approved in October into the base documents.

Please note the Statewide Fire Prevention Code includes two documents. Upon consultation with Virginia Code Commission staff, the Fire Code will require a new chapter in the Virginia Administrative Code and as such, Title 13 VAC 5 Chapter 51 will be repealed and replaced with Chapter 52. The first document (Book 3, Tab 1) is the regulation showing only changes approved in October. The second document includes what will be published in the Virginia Register (Book 3, Tab 2). The repeal and replace of the Fire Code does not affect substance and is required to accommodate the technical needs of the Fire Code within the Virginia Administrative Code

Enclosure





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COMMONWEALTH of VIRGINIA

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Bryan W. Horn
Director

Memorandum

To: Board of Housing and Community Development Members

From: Bryan Horn, Director

RE: HOME-ARP Allocation Plan/Substantial Amendment to FY 2021 Action Plan

Date: December 2, 2022

The Board of Housing and Community Development is responsible for the review/approval of the [HOME-ARP Allocation Plan](#) as a substantial amendment to the Fiscal Year 2021 Annual Action Plan. This is an action item for the December Board meeting.

As outlined in the American Rescue Plan Act of 2021, Congress allocated \$5 billion to the HOME-Investment Partnerships Program to provide homelessness assistance and supportive services. DHCD was allocated \$39,724,473 to distribute to developers, service providers, subrecipients, and contractors to administer eligible program activities and develop housing. Based on the outcome of Virginia's Needs Assessment and Gaps Analysis, consultation with stakeholders, and a public comment period, DHCD is proposing three eligible activities to meet Virginia's most pressing housing needs. The proposed activities include the development of affordable rental housing at \$21,765,803, tenant-based rental assistance (TBRA) at \$8,100,000, and non-profit operating and capacity building support of \$3,900,000. The remaining \$5,958,670 will be recommended for administration and planning costs over the life of the grant.

On November 3, HUD announced a March 31, 2023, deadline for HOME-ARP Allocation Plan submissions. DHCD's HOME-ARP Allocation Plan is on track to be submitted to HUD for approval by mid-December. Following HUD's approval, DHCD will begin soliciting applications for eligible activities.

For more information about HOME-ARP, including qualifying populations and program requirements, please see [HUD's September 2021 notice](#).





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DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Bryan W. Horn
Director

To: Board of Housing and Community Development

From: Bryan W. Horn, Director

RE: Periodic Reviews of Regulations

Date: December 2, 2022

Executive Order 19 (2022) and Sections 2.2-4007.1 and 2.2-4017 of the Code of Virginia require that existing regulations are “periodically” reviewed at least every four years to determine if they should be continued without change, amended, or repealed. This review must allow for a public comment period, consider alternatives to the existing regulation, and consider the impact of the regulation on small business.

Legislation passed in the 2018 General Assembly (Chapters 444 and 445) requires that the Department of Planning and Budget, “track and report on the extent to which agencies comply with existing requirements to periodically review all regulations every four years.” The legislation also requires that, “Agencies shall provide to the Department a schedule listing each regulation that shall be reviewed in each of the four years, to be published on the Regulatory Town Hall.”

Based on legislation and EO 19, staff requests that the Board approve staff to move forward with filing a periodic review for the below regulation and that such review have the 21 day comment period required by Code.

13 VAC 5-112	Enterprise Zone Grant Program Regulations
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A summary of any public comment will be provided to the Board and the findings of the Periodic Review will be considered at a future meeting.





Glenn Youngkin
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Caren Merrick
Secretary of
Commerce and Trade

COMMONWEALTH of VIRGINIA

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Bryan W. Horn
Director

Memorandum

To: Board of Housing Community Development Members

From: Bryan Horn, DHCD Director

Subject: Private Activity Bond (PAB) Guidelines, Proposed Changes

Date: December 2, 2022

The Code of Virginia charges the Board of Housing and Community Development with developing guidelines for allocation of the state's private activity bond volume cap to local housing authorities and the Governor's Pool (State Allocation). Based on the Board approved guidelines, the Department of Housing and Community Development is directed to process requests for volume cap allocation from the local housing authority allocation and the Governor's Pool (as approved by the Governor). As a best practice, the guidelines require periodic review and updates.

The Board enabled staff to proceed with updating the guidelines at their July 18, 2022 meeting. Staff plans to update the guidelines in a two-part process. The changes presented for the December 12, 2022 meeting would not have significant impact to projects currently in development. Stakeholders were allowed time to comment on the proposed changes.

Separately, staff plans a more substantive and detailed update process to begin in 2023. This process will include significant stakeholder input.

The existing guidelines are available [here](#).

Should the Board choose to adopt the proposed changes to the guidelines they would become effective January 1, 2023 to coincide with the new calendar and tax year. Enclosed within this packet are the proposed revisions and written comments received. The guidelines reflect changes made based on stakeholder input.

Enclosure



Changes Under Consideration for Calendar Year 2023

Under definitions Section 1

Supplemental allocation – An allocation of private activity bonds that is supplemental to a previous year’s allocation (regardless of issuer). A supplemental allocation is for a project that has previously closed and is seeking additional allocation for the same project. A supplemental allocation is not an allocation for a separate phase of a larger development.

For local housing authority projects Section 5.3 and State (Governor’s Pool) Allocation Section 5.4

LHA

7. Supplemental allocation only. Supplemental allocations must certify that the allocation addresses project costs that have no alternative but to utilize additional tax-exempt bond financing. Provide detailed explanation of use of additional allocation and why it was not included in original application.

State (Gov)

6. Supplemental allocation only. Supplemental allocations must certify that the allocation addresses project costs that have no alternative but to utilize additional tax-exempt bond financing. Provide detailed explanation of use of additional allocation and why it was not included in original application.

For local housing authority projects Section 5.3 and State (Governor’s Pool) Allocation Section 5.4

Insert after paragraph 2

Applicants are strongly encouraged to notify DHCD of their intent to make application for allocation as soon as possible after January 1 of each year. Applicants (or their representative) that intend to submit an application must notify DHCD of their intent to submit an application within 14 days of their public hearing ~~or by March 31 of the calendar year in which they intend to submit an application, whichever date is earlier.~~ For projects that held a public hearing in the previous calendar year, they must submit notice by January 31.

The notification will be provided on a template as made available by DHCD. must include the amount requested and the type of project. If notification is not provided, the application may not receive an allocation in the calendar year it submits an application.



Flanders, Kyle <kyle.flanders@dhcd.virginia.gov>

Private Activity Guidelines - Updates for Consideration

Richard Hurlbert <richard@hbhblaw.com>
To: "Flanders, Kyle" <kyle.flanders@dhcd.virginia.gov>

Tue, Nov 29, 2022 at 6:22 PM

Kyle, good evening! I am sorry to be late in getting these thoughts to you, but as I mentioned in a prior e-mail, it is just a crazy time right now. My comments really relate to the misallocation of resources that is a function of the way private activity bond ("PAB") allocation is broken down under the statute each year. It is clear that there is very high demand for allocation in the housing development market, but there is an acutely high demand for allocation in the local housing authority sphere. This can be attributed to many factors that are beyond the scope of my comments, but the fact is, the amount of Virginia's private activity bond cap that is apportioned to local housing authorities (and frankly, to the Governor's Pool, which has been allocated mainly to local housing issuers in recent years), is disproportionately low, in comparison to what is allocated to VHDA, which has been the beneficiary of transferred (unused) PAB allocation in many past years, to the tune of hundreds of millions of dollars in carry-forward allocation, over the years. The demand for quality low income housing has grown exponentially in recent years, and in my view, economic demographics driven by multiple factors will only drive that demand higher in the coming years. If Virginia wants to be in a position to respond to this increased demand, all guns should be fired at once. To my thinking, that means Virginia should be in a position to allocate private activity bond cap to those developers that seek to access the 4% "as of right" LIHTC by financing their projects with tax-exempt bonds issued by local housing / economic development authority issuers. VHDA allocates those 4% tax LIHTC on a project by project basis based on individual applications for each project, so it is not like VHDA will not have a seat at the table, but the tax-exempt bond/4% LIHTC structure allows projects to get done that otherwise would not get done, and in the end, that is a "pareto superior" transformation for Virginia, the citizens who demand such housing, and the developers who deliver the units. Many of these projects have been rejected in recent years due to lack of PAB allocation, while VHDA sits on hundreds of millions of dollars of unused allocation. Again, I have thoughts on why that "unbalance" exists, but that is beyond the scope of my comments. The basic breakdown of how PAB cap is allocated in Virginia need to be reconsidered, and right quickly. More PAB cap needs to come to DCHD to be allocated to local housing authority issuers, and less needs to go to VHDA. I would suggest that DHCD should receive 20% of the total Virginia PAB cap, the Governor's Pool should stay the same, and VHDA's share should be reduced accordingly. In the end, if anything goes unused by DHCD, it would flow back to VHDA anyway, and thus be used for housing projects. So in the end, increasing the share of PAB cap that flow to DHCD is simply responding to demand in the marketplace, and if that demand proves to be lower than expected, whatever is unused by DHCD ultimately winds up being used for housing, through VHDA. To my view, this is a "no brainer."

I also do not like the proposal that, if a project intends to seek allocation from DHCD in a given calendar year, notice must be provided by the issuer/developer no later than March 31. This requirement will be difficult to address given that local issuers of housing bonds meet at most monthly, and developers oftentimes do not know what their resources may be for a given year until the Spring, after a March 31 deadline for notice. All of which is to say that a March 31 deadline will ultimately chill housing development efforts in Virginia, at a time when it is quite clear that the market demand for quality low income housing is higher than it has ever been. If developers are confronted with a time bar for getting projects done in Virginia, which the proposed rules would certainly create, my sense is that they will take their money and their toys to other jurisdictions, and Virginia will be the worse for it. I do not think that is a prudent course.

I am of course happy to discuss these comments further, and I apologize again for the late e-mail (and for the informality of an e-mail response). Thank you for reaching out on this, I wish I had more time to respond, but I understand deadlines, as I have several on which I am behind at the moment.

Thanks again, Kyle.

-RLH

Richard L. Hurlbert, Jr.

HANEBERG HURLBERT PLC

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Richmond, Virginia 23219

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Flanders, Kyle <kyle.flanders@dhcd.virginia.gov>

Private Activity Guidelines - Updates for Consideration

Stephen Wilson <SPW@scgdevelopment.com>
To: "Flanders, Kyle" <kyle.flanders@dhcd.virginia.gov>

Wed, Nov 16, 2022 at 9:39 AM

Kyle – I don't have any comments to this. It will help you get a sense of demand early in the year, which I imagine was the purpose. I look forward to providing input to guidelines when appropriate.

Thanks, Steve

From: Flanders, Kyle <kyle.flanders@dhcd.virginia.gov>
Sent: Tuesday, November 15, 2022 3:59 PM
Subject: Private Activity Guidelines - Updates for Consideration

Private Activity Bond Stakeholders and Interested Parties:

[Quoted text hidden]



Flanders, Kyle <kyle.flanders@dhcd.virginia.gov>

Private Activity Guidelines - Updates for Consideration

Ryne Johnson <rynejohnson@astoriallc.com>
To: "Flanders, Kyle" <kyle.flanders@dhcd.virginia.gov>

Tue, Nov 15, 2022 at 5:10 PM

Kyle, I am not sure if you know who I am. I am a tax credit consultant and VHDA Mortgage broker. I handle a majority of the 4% tax credit applications each year. I have a comment for the upcoming meeting.

Regarding the requirements for the bond application Section 5.2 Applications Forms for Local Housing Authority Allocation.

One of the requirements is #5 Certificate that the project's financing package will include low-income housing tax credits under Section 42 of the Code. Years ago DHCD allowed the proof of tax credits be a VHDA tax credit Fee letter. In the past few years DHCD has required the payment of the tax credit fee and a Section 42(m) letter. This requires the developer to pay the tax credit fee to obtain the Section 42(m) letter. This fee could be over \$100,000 in most cases. Please allow developers to use the VHDA tax credit fee letter and not the Section 42(m) letter as proof of the future issuance of the tax credits. Allowing the Fee letter will cut the cost to the developers as they are not guaranteed the issuance of the bonds in the current oversubscribed situation. Also, if the Tax Exempt bonds are not issued it is not guaranteed developers will get a refund of the fee from VHDA.

Thank you for allowing me to comment.

Ryne Johnson
Astoria, LLC

From: Flanders, Kyle <kyle.flanders@dhcd.virginia.gov>
Sent: Tuesday, November 15, 2022 3:59 PM
Subject: Private Activity Guidelines - Updates for Consideration

Private Activity Bond Stakeholders and Interested Parties:

[Quoted text hidden]



Glenn Youngkin
Governor

Caren Merrick
Secretary of
Commerce and Trade

COMMONWEALTH of VIRGINIA

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Bryan W. Horn
Director

December 2, 2022

Memorandum

To: Board of Housing and Community Development Members

From: Bryan Horn, Director

RE: Agritourism Event Structure Technical Advisory Committee Summary

[SB 400](#), as approved by the General Assembly and signed by the Governor, directed the Board of Housing and Community Development (BHCD) to appoint members to an Agritourism Event Structure Technical Advisory Committee. Members were appointed by the Board at its July and October meetings. The committee and its charge is identified in code as noted below:

B. To assist the Board in the administration of this section, the Board shall appoint an Agritourism Event Structure Technical Advisory Committee, consisting of nine members. The nine members shall be appointed one each from the following: Virginia Farm Bureau Federation, the Virginia Agribusiness Council, the Virginia Wineries Association, the Virginia Craft Brewers Guild, a craft beverage manufacturer, the Virginia Association of Counties, the Virginia Fire Prevention Association, the Virginia Fire Services Board, and the Virginia Building and Code Officials Association.

The committee convened three times between August and November, a summary of each meeting is attached. The committee had extensive discussion about both the general landscape of agritourism event structures and activities as well as detailed discussions about specific challenges in complying with certain building safety and construction standards.

Without specific endorsement by any committee members, below are key issues identified by the committee related to agritourism event structures.



Key Findings:

- Committee members noted the importance of businesses maintaining the ability to adapt to new business needs
- Committee members generally agreed that regulations should not be retroactive
- Committee members expressed concerns for the need to provide fire suppression and certain requirements of access roads
 - o Some non-construction related items may have other options for addressing safety concerns
- Some committee members indicated clear support for a separate new regulation related to agritourism event structures that exists outside of the state building code
 - o There was discussion that any regulation would need an administrative apparatus for inspection, enforcement, appeal, etc.
- There was general consensus that regulation and/or clarification was needed to address the relatively few bad actors misapplying existing law and exemptions
- Committee members discussed that any new regulation should address minimum safety standards
 - o Committee members generally agreed a critical facet of any regulation would be life safety first and it was understood that, in many cases, there would not be the opportunity to protect property because of isolated locations
 - o Committee members discussed that in considering a new regulation, scalability was required (i.e. how to address 20 person occupancy vs. 200 person occupancy)
- Committee members generally agreed that open communication and knowledge, by both parties, was critical for public safety and successful business operations

Key Challenges:

- Existing definitions related to agritourism and use of farm buildings for events are not uniformly applied in all jurisdictions; there is not clear agreement on what is exempt
- As currently drafted, some committee members had concerns that regulations envisioned in SB 400 may allow some structures to adhere to lesser standards than they may currently be subject to and/or may cause for a conflict with the state building code
- A key consideration for stakeholders is to determine where the demarcation is in the existing exemption framework
 - o Exempt vs. nonexempt for primary use of an agritourism building?
- Public safety concerns remain for existing operations in the immediate term



Board Recommendations:

There is no recommended Board action at this time. The committee is formed and can convene as needed. Staff recommends revisiting the issue following the 2023 General Assembly Session to discuss any updates or changes.

Enclosure



Virginia Agribusiness Council Comments

BOARD MEMO FOR COMMENT – Please feel free to return with track changes. You are also welcome to send a separate or additional memo if your organization would like to provide other input.

November 2022

Memorandum

To: Board of Housing and Community Development Members

From: Bryan Horn, Director

RE: Agritourism Event Structure Technical Advisory Committee Summary

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The committee convened three times between August and November, a summary of each meeting is attached. The committee had extensive discussion about both the general landscape of agritourism event structures and activities as well as detailed discussions about specific challenges in complying with certain building safety and construction standards. **The committee also recognized SB 400's role creating authority for the Board of Housing and Community Development to promulgate regulations related to agritourism event buildings as separate from Virginia's farm building exemption and in no way inhibits the farm buildings exemption from the Virginia Building Code under § 36-99.**

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Without specific endorsement by any committee members, below are key issues identified by the committee related to agritourism event structures.



Key Findings:

- Committee members noted the importance of businesses maintaining the ability to adapt to new business needs
- Committee members generally agreed that regulations should not be retroactive
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 - o Some non-construction related items may have other options for addressing safety concerns
- Some committee members indicated clear support for a separate new regulation related to agritourism event structures that exists outside of the state building code
 - o There was discussion that any regulation would need an administrative apparatus for inspection, enforcement, appeal, etc.
- There was general consensus that regulation and/or clarification was needed to address the relatively few bad actors misapplying existing law and exemptions
- Committee members discussed that any new regulation should address minimum safety standards
 - o Committee members generally agreed a critical facet of any regulation would be life safety first and it was understood that, in many cases, there would not be the opportunity to protect property because of isolated locations
 - o Committee members discussed that in considering a new regulation, scalability was required (i.e. how to address 20 person occupancy vs. 200 person occupancy)
- Committee members generally agreed that open communication and knowledge, by both parties, was critical for public safety and successful business operations

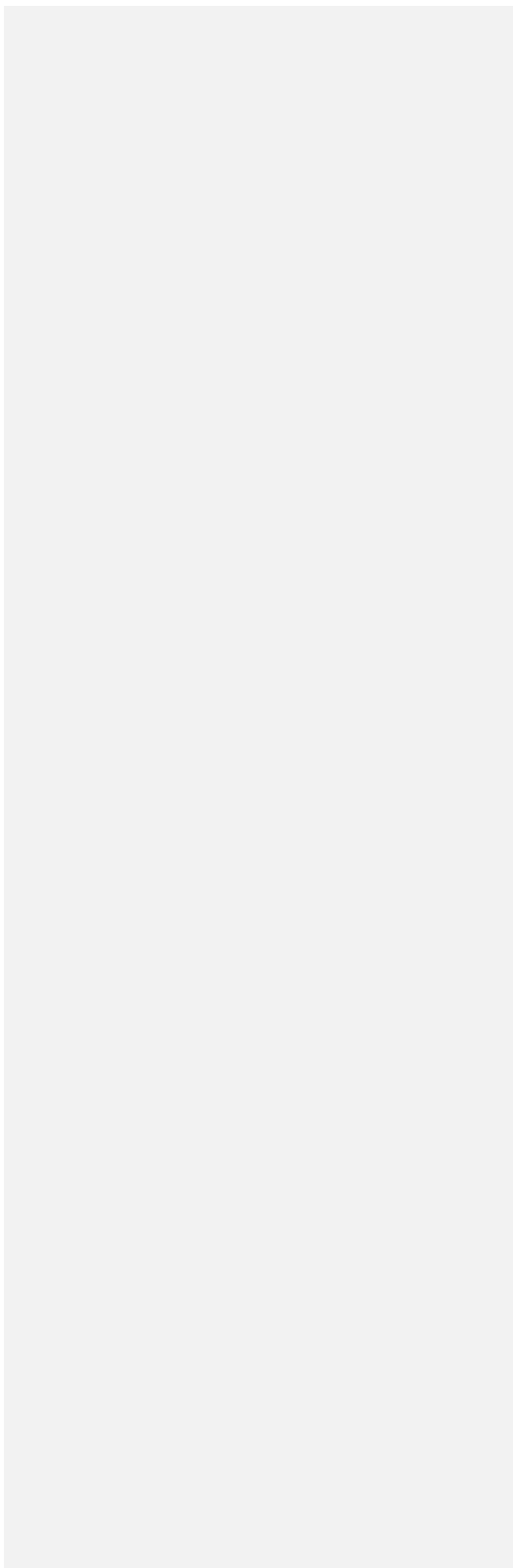
Key Challenges:

- Existing definitions **related to agritourism and use of farm buildings for events** are not uniformly applied in all jurisdictions; there is not clear agreement on what is exempt
- As currently drafted, some committee members had concerns that regulations envisioned in SB 400 may allow some structures to adhere to lesser standards than they may currently be subject to and/or may cause for a conflict with the state building code
- A key consideration for stakeholders is to determine where the demarcation is in the existing exemption framework
 - o Exempt vs. nonexempt for primary use of an agritourism building?
- Public safety concerns remain for existing operations in the immediate term

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Board Recommendations:

There is no recommended Board action at this time. The committee is formed and can convene as needed. Staff recommends revisiting the issue following the 2023 General Assembly Session to discuss any updates or changes.





COMMONWEALTH of VIRGINIA

Virginia Fire Services Board

Virginia Fire Services Board
c/o Virginia Department of Fire Programs
1005 Technology Park Drive
Glen Allen, VA 23059-4500
Phone: 804/ 371-0220
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Keith Johnson
CHAIR
VA FIRE CHIEFS' ASSOCIATION

Abbey Johnston
VICE CHAIR
VA STATE FIREFIGHTERS
ASSOC.

Walt Bailey
VA FIRE SERVICES COUNCIL

Bettie Reeves-Nobles
GENERAL PUBLIC

Ernie Little
VA FIRE PREVENTION
ASSOCIATION

Dennis D. Linaburg
VA CHPT INTERNATIONAL
ASSOC. OF ARSON
INVESTIGATORS

Jess Rodzinka
VA PROFESSIONAL
FIREFIGHTERS' ASSOCIATION

Jerome Williams
CERTIFIED FIRE SERVICE
INSTRUCTOR

Scott Garber
LOCAL FIRE MARSHAL

Steven Sites
VA MUNICIPAL LEAGUE

James A. Calvert
MEMBER OF INDUSTRY

Ben Reedy
INSURANCE INDUSTRY

Donald L. Hart
ASSOCIATION OF COUNTIES

Rob Farrell
VA STATE FORESTER

Claudia Cotton
VA BOARD OF HOUSING AND
COMMUNITY DEVELOPMENT

Board of Housing and Community Development
c/o Department of Housing and Community Development
600 E, Main Street, Suite 300
Richmond, Virginia 23219

Dear members of the Virginia Board of Housing,

I am writing on behalf of the Virginia Fire Services Board (VFSB) as a member of the Agritourism Event Structure Technical Advisory Committee. The Technical Advisory Committee met three times between August and November 2022. During these meeting there have been productive, positive discussions on how basic life safety can be achieved in the Agritourism sector. The Technical Advisory Committee identified a life safety issue with the current Code of Virginia designation of agritourism event buildings.

The *Code of Virginia*, § 36-98.4. *Agritourism event buildings*, defines an agritourism event building as, “a building or structure located on property where farming operations or agritourism takes place, which is primarily used for holding events and entertainment gatherings open to the public of 300 people or less.” If an agritourism event building’s primary use is not for farming operations, and it holds more than 50 people, it would be classified as an assembly and would fall under the requirements of the Virginia Uniform Statewide Building Code (USBC) as non-exempt. These non-exempt assemblies are subject to several life safety-related requirements to protect the occupants in the event of a fire or other emergency. This same level of life safety is not currently present for agritourism event buildings that are considered exempt, even though they are occupied by consumers and persons not associated with farming operations. This practice of exempting agritourism buildings is subjecting a high number of our citizens to a level of risk they would not otherwise be subjected to if the structure was classified as a non-exempt assembly.

The Virginia Fire Services Board believes that clarification is needed with the definition of Agritourism Event Buildings to ensure appropriate life safety features are present in agriculturally exempt buildings which hold gatherings of 50 or more people up to 300 people.

The VFSB supports the following simple minimum life safety regulations that can be developed to address the lack of life safety elements in agritourism event buildings as follows:

1. Requirements for outward swinging doors with panic hardware, emergency lights, and exit signs on designated emergency exits.
2. Emergency vehicle access to the agritourism event structure.
3. At least one restroom with handwashing facilities.
4. Portable fire extinguishers for the purpose of fire suppression.
5. A manual unmonitored fire alarm system with pull stations.
6. A fire evacuation plan.

I do not believe further progress can be made until the words “primarily used” is clearly defined, and it is clear as to which structures are to be governed by the legislation.

These basic life safety elements should be present in assembly buildings of any purpose to protect our citizens and allow access by emergency service organizations.

Sincerely,



Chris N. Barry, Captain
Loudoun County Fire and Rescue Fire Marshal's Office
Cell: 571-436-4143
Email: Chris.Barry@loudoun.gov

Cc: Keith H. Johnson, Chair, Virginia Fire Services Board
Kyle Flanders, Department of Housing and Community Development

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

Agritourism Event Structure Technical Advisory Committee

September 22, 2022 Meeting Summary

Committee Members Present

- Chris Barry, VA Fire Services Board
- Skip Causey, VA Wineries Association
- Heidi Hertz, Agribusiness Council
- Joe Lerch, VA Association of Counties
- Shawn Maddox, VA Fire Prevention Association
- Martha Moore, VA Farm Bureau
- Jimmy Moss, VA Building and Code Officials Association
- Paige Wernig, VA Craft Brewers Guild
- Janell Zurschmeide, Craft Beverage Manufacturer

Other Attendees

- David Blount, VA Association of Planning District Commissions
- Jeff Brown, Dept. of Housing and Community Development
- Cindy Davis, Dept. of Housing and Community Development
- Sean Farrell, Board of Housing and Community Development
- Kyle Flanders, Dept. of Housing and Community Development
- George Hodson, VA Wineries Association
- Keith Johnson, Board of Housing and Community Development
- Chase Sawyer, Dept. of Housing and Community Development

Key Takeaways

- General agreement that new regulations should be focused on establishing minimum safety standards with minimal impact to business operations
- Clear definitions would allow for more consistent enforcement statewide
- It is unclear if existing provisions in SB400 would have unintended consequences

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

Summary

Department of Housing and Community Development (DHCD) staff presented a virtual meeting policy that was approved by the committee. DHCD staff then proceeded to provide an overview of the work of the committee thus far and provided an outline of the regulatory process and its various components. Discussion revolved around the administrative and enforcement mechanisms necessary to regulate any potential new requirements. It was stated that the 2021 Uniform Statewide Building Code (USBC) update is nearly complete and any new proposed changes would have to be considered during the next update cycle. It was noted by staff and committee members that the committee's charge was not to rewrite the policy/regulations listed in [SB400](#), but rather to advise the Board of Housing and Community Development.

The committee generally agreed that if SB 400 were to be changed or if the General Assembly wanted to consider further refinement, any new regulations should be focused on establishing minimum safety standards that have the least amount of impact on the operations of the businesses being regulated. A common recommendation from committee members was to consider tiers or a scalability factor within the 300 persons threshold suggested by SB400. It was also acknowledged by some committee members that the six safety considerations listed in SB400 primarily focus on fire safety and the safe exit of individuals from a structure and do not take into account structural and other safety elements. Additionally, there was consensus that restroom requirements (Item 3 of SB400) may not need to be included in any new regulations. The restroom requirement was included as a byproduct of the COVID-19 pandemic and including restroom requirements could involve additional agencies in the regulatory process.

The committee also generally agreed that there should be uniform application and enforcement of the law/regulations/requirements across the entire Commonwealth. It was agreed that a major point of concern was a small percentage of bad actors misusing existing exemptions. Each locality is interpreting laws pertaining to agritourism event structures differently, with varying approaches to key terms such as “agritourism,” “event structure,” “farming operations,” and “primarily.” State code currently defines similar terms such as “agritourism activities” ([§ 3.2-6400](#)) and “farm building or structure” ([§ 36-97](#)). There appears to be uncertainty as to which agritourism buildings/structures are currently exempt from regulation, as well as uncertainty as to which agritourism buildings/structures may be exempt under the proposed regulations of SB400. There are concerns from some committee members that if SB400 were to be enacted as currently written, it could create a conflict with the building code. It was also noted that more industries may be impacted by these proposed regulations than those represented by this committee. Committee members noted that the legislation was originally intended to address events held at breweries, wineries, and cideries, however, there may be other types of farms and agricultural operations that choose to hold events. However, committee members seemed generally in agreement that provisions of any regulation should not be retroactive

Future Considerations

- Continued need for clarity on existing exemptions and key terms such as agritoursim and “primarily” as related to farm buildings.
- Include additional stakeholders (i.e. wedding industry) in future conversations
- Consider mechanisms to ensure consistency across all localities

Agritourism Event Structure Technical Advisory Committee

November 2, 2022 Meeting Summary

All Virtual Meeting via Google Meet

Committee Members Present

- Chris Barry, VA Fire Services Board
- Skip Causey, VA Wineries Association
- Heidi Hertz, Agribusiness Council
- Joe Lerch, VA Association of Counties
- Martha Moore, VA Farm Bureau
- Jimmy Moss, VA Building and Code Officials Association
- Paige Wernig, VA Craft Brewers Guild

Other Attendees

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

Key Takeaways

- General agreement that the meeting summaries and memo captured the work of the committee

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

Summary

Department of Housing and Community Development (DHCD) staff presented an overall update of some of the key findings of the committee and areas where there was consensus and/or stakeholders had clearly identified their positions. Staff noted that this was the last planned meeting for the committee of this year and highlighted the draft memo that would be provided to the Board at its December meeting. Committee members were encouraged to review the draft memo and offered the opportunity to provide additional comments for inclusion in the memo on behalf of their represented organizations.

The Virginia Farm Bureau indicated they wished to acknowledge support of the current farm building exemption from the Uniform Statewide Building Code.

Future Considerations

- Stakeholders maintain interest in addressing key concerns outlined over the past few months related to public safety and consistent enforcement of regulations. However, they believe any legislative work to this end will likely not be until 2024 at the earliest.

DRAFT

**BOARD OF HOUSING AND COMMUNITY DEVELOPMENT
BOARD MEETING SCHEDULE
2023**

Attached is a schedule for Board of Housing and Community Development meetings (usually the third or fourth Monday of the month). As the Board decides during each meeting the date and time of the next meeting, some of these meeting dates may change.

2023

Monday, **January 9**

Monday, **March 13**

Monday, **May 8**

Monday, **July 17**

Monday, **September 18**

Monday, **October 16 (Tentative)**

Monday, **December 11 (Tentative)**