

AGENDA
DHCD Workgroup #1
September 13, 2012 - 9:30 a.m. - 3:30 p.m.

Location: WYNDHAM RICHMOND AIRPORT

Lunch Provided by Reservation Only:

Contact Janice Firestone at janice.firestone@dhcd.virginia.gov or 804-371-7150

1. Introductions.
2. 2012 USBC Regulatory Schedule and Public Hearings.
3. Codes and Issues: Administrative and technical changes in the 2009 USBC and SFPC; 2012 USBC, SFPC administrative changes; VADR-amusement rides; VCS, IA's, BCAAC-certifications: MHSR-manufactured housing; IBSR-modular buildings; and, Related Laws/charts and memorandum of agreements with state agencies for functional design. Hand outs and postings on DHCD web-site
 - USBC HB 327 new historic language review for coordination VCC/VMC before demolition vet with local historic commissions-Fredericksburg. **(Handout p. 1)**
 - USBC HB 1045 proposed change 2009 USBC new provision 3 years permit expiration for new construction to 2 years that was tabled with promise to review. **(Handout p. 3)**
 - SFPC HB1292 tabled with promise to review to add in notice of violation right of appeals. **(Handout p. 4)**
 - SFPC HB 1294 passed review to ensure no impact on the USBC/SFPC. **(Handout p. 5)**
 - USBC HB 316 deleted out review permit exemptions for some cemetery structures. **(Handout p. 6)**
 - SFPC HB 152 tabled with promise to review 3301.2.4 liability insurance requirement for interior/exterior fireworks/displays. **(Handout p. 7)**
 - SFPC/SFMO review fee increases and new inspection and fee programs. Proposal presented by the SFM to BHCD's CSC. **(Handout p. 8)**
 - SFPC 3rd party should, like USBC, require written policy by fire official. Any other coordination issues with USBC?
 - USBC VCC review farm building exemptions for A-3 and towers for cable and communication equipment.
 - USBC VCC Sections 110 and 118 with VMC link inactive permits and unsafe buildings.
 - USBC VCC 202 nightclubs definition "main use." **(Handout p. 17)**
 - USBC VCC 103.5 #4 review, amend, delete.
 - USBC VCC 118.3 review code change to delete statement rejecting or acceptance of notice of violation. **(Handout p. 18)**
 - USBC VCC correlates definition of clinic and abortion clinics. **(Handout p. 19)**

- USBC VCC SRCF group homes review if other state agencies group homes need or can be added
- USBC VCC homeless shelters temporary nature in A, B, S, R, E or M without CO changes. Promised two legislators would review.
- USBC VCC local appeals boards meet annually able to do so by conferencing. **(Handout p. 31)**
- USBC VCC increase permit exemptions for accessory buildings from 200 to 256s.f. **(Handout p. 32)**
- USBC VCC/VMC 104, 113.7 and 36-105 3rd party inspections in lieu of local inspectors and who pays fees and local fees adjusted to be lower where used; approved parties; and, duct testing and visual inspections similar issues on fees, mandate and being present. Workgroup 3 reviewing too.
- USBC VCC contractor's verification and cost estimates provided review and 110.6 notify when expiring permit.
- USBC VMC/VCC SCC red tag interior gas appliances Atomic Energy-Roanoke. Coordinate with VCC permits and whether can be repaired or needs to be replace. Atomic has been determining if repair or replacement.
- USBC VCC/VMC overcrowding and room sizes from VMC to VCC. **(Handout p. 34)**
- USBC VCC/IBSR IT pods coordinate VCC and IBSR.
- USBC/SFPC/IBSR food trucks and trailers fall under any of these regulations and if not should say so?
- USBC VCC/IBSR/MHSR review and coordinate how and what each does and scope and enforcement.
- USBC VCC/VMC 105, A17.1.8.11 IPMC 606 elevator maintenance control plan. Do we delete or clarify use as an regulation?
- USBC VMC lead paint review should regulations require a permit for abatement? Coordinate with VDH, DPOR, DOLI.
- USBC VMC review heating and cooling dates any flexibility at start of each season and clarify issuance of violations or how do dates work as automatically turning on or off heating and cooling systems in existing and especially older buildings. **(Handout p. 35)**
- USBC IBSR/VCC review current coordination of work done on site and clarify as might be necessary. Review energy testing ducts and exterior envelope.
- USBC IBSR/VCC unregistered buildings. Should bus stops be included?
- USBC IBSR IT Pods/containers and how to be covered in regulations.
- USBC IBSR review status of med-cottage annual installations.
- USBC IBSR review state and local fees for modular buildings. Should there be a state set fee or allow localities to only charge a % of local fees for site built buildings?
- USBC IBSR review transition IBSR from 90 days to one year same as the USBC. **(DHCD proposal)**
- USBC IBSR review migrant dwelling units and VEC/DOLI regulations.
- MSHR review administrative provisions. **(DHCD proposals)**

- MHSR delete recreational vehicle 400s.f. when some are larger. Size is based on federal definition. **(DHCD proposal)**
- MHSR review with MHLTRF warranties and set-up enforcement authorities.
- MHSR review woodburning stoves. WG 4 review too.
- MHSR review USBC and MHLTRF for links and authority to enforce and overlaps.
- VADR new generator fee statewide. **(ADTAC proposal)**
- VADR new rides regulates water balls, bull rides, zip lines, train-in-malls.
- VADR open to public and private events definitions by regulations or legislation say 150 or less private and more public or number or types of rides.
- VADR use of state sticker and allow 3rd parties to obtain. **(Handout p. 36)**
- VADR review frequency of inflatable inspections.
- VADR clarify and add DGS as building official for approving VADR rides. **(Handout p. 37)**
- VADR local fees allow % above state uniform fees based on local wages.
- VADR prosecutions. **(Handout p. 38)**
- VCS should BHCD hold fact-findings to remove certifications?
- VCS add new certifications or as optional certifications besides current certifications, portability?
- VCS/JPVBCA add new modules for sprinklers and fire alarms systems in addition to non-structural module and who would be required to take new exams? Discuss advanced courses. BCAAC report.
- Update Related Laws MOA's and charts DPOR and DEQ. **(Handout p. 39)**
- Review 2012 and 2015 applicable provisions

4. New business

5. Next meeting December 13, 2012 and at least one early 2013 meeting for proposed regulations and approval of code changes for consensus/non-consensus

6. Adjournment

VIRGINIA ACTS OF ASSEMBLY -- 2012 SESSION

CHAPTER 494

An Act to amend and reenact § 36-105 of the Code of Virginia, relating to historic structures.

[H 327]

Approved April 4, 2012

Be it enacted by the General Assembly of Virginia:

1. That § 36-105 of the Code of Virginia is amended and reenacted as follows:

§ 36-105. Enforcement of Code; appeals from decisions of local department; inspection of buildings; inspection warrants; inspection of elevators.

A. Enforcement generally. Enforcement of the provisions of the Building Code for construction and rehabilitation shall be the responsibility of the local building department. There shall be established within each local building department a local board of Building Code appeals whose composition, duties and responsibilities shall be prescribed in the Building Code. Any person aggrieved by the local building department's application of the Building Code or refusal to grant a modification to the provisions of the Building Code may appeal to the local board of Building Code appeals. No appeal to the State Building Code Technical Review Board shall lie prior to a final determination by the local board of Building Code appeals. Whenever a county or a municipality does not have such a building department or board of Building Code appeals, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the Department for such enforcement and appeals resulting therefrom. For the purposes of this section, towns with a population of less than 3,500 may elect to administer and enforce the Building Code; however, where the town does not elect to administer and enforce the Building Code, the county in which the town is situated shall administer and enforce the Building Code for the town. In the event such town is situated in two or more counties, those counties shall administer and enforce the Building Code for that portion of the town situated within their respective boundaries. Fees may be levied by the local governing body in order to defray the cost of such enforcement and appeals.

B. New construction. Any building or structure may be inspected at any time before completion, and shall not be deemed in compliance until approved by the inspecting authority. Where the construction cost is less than \$2,500, however, the inspection may, in the discretion of the inspecting authority, be waived. A building official may issue an annual permit for any construction regulated by the Building Code. The building official shall coordinate all reports of inspections for compliance with the Building Code, with inspections of fire and health officials delegated such authority, prior to issuance of an occupancy permit.

C. Existing buildings and structures.

1. Inspections and enforcement of the Building Code. The local governing body may also inspect and enforce the provisions of the Building Code for existing buildings and structures, whether occupied or not. Such inspection and enforcement shall be carried out by an agency or department designated by the local governing body.

2. Complaints by tenants. However, upon a finding by the local building department, following a complaint by a tenant of a residential dwelling unit that is the subject of such complaint, that there may be a violation of the unsafe structures provisions of the Building Code, the local building department shall enforce such provisions.

3. Inspection warrants. If the local building department receives a complaint that a violation of the Building Code exists that is an immediate and imminent threat to the health or safety of the owner, tenant, or occupants of any building or structure, or the owner, occupant, or tenant of any nearby building or structure, and the owner, occupant, or tenant of the building or structure that is the subject of the complaint has refused to allow the local building official or his agent to have access to the subject building or structure, the local building official or his agent may present sworn testimony to a magistrate or a court of competent jurisdiction and request that the magistrate or court grant the local building official or his agent an inspection warrant to enable the building official or his agent to enter the subject building or structure for the purpose of determining whether violations of the Building Code exist. The local building official or his agent shall make a reasonable effort to obtain consent from the owner, occupant, or tenant of the subject building or structure prior to seeking the issuance of an inspection warrant under this section.

4. Transfer of ownership. If the local building department has initiated an enforcement action against the owner of a building or structure and such owner subsequently transfers the ownership of the building or structure to an entity in which the owner holds an ownership interest greater than 50%, the pending enforcement action shall continue to be enforced against the owner.

5. Elevator, escalator, or related conveyance inspections. The local governing body shall, however,

inspect and enforce the Building Code for elevators, escalators, or related conveyances, except for elevators in single- and two-family homes and townhouses. Such inspection shall be carried out by an agency or department designated by the local governing body.

6. A locality may require by ordinance that any landmark, building or structure that contributes to a district delineated pursuant to § 15.2-2306 shall not be razed, demolished or moved until the razing, demolition or moving thereof is approved by the review board, or, on appeal, by the governing body after consultation with the review board unless the local maintenance code official consistent with the Uniform Statewide Building Code, Part III Maintenance, determines that it constitutes such a hazard that it shall be razed, demolished or moved.

For the purpose of this subdivision, a contributing landmark, building or structure is one that adds to or is consistent with the historic or architectural qualities, historic associations, or values for which the district was established pursuant to § 15.2-2306, because it (i) was present during the period of significance, (ii) relates to the documented significance of the district, and (iii) possesses historic integrity or is capable of yielding important information about the period.

2012 SESSION

INTRODUCED

12101191D

HOUSE BILL NO. 1045

Offered January 11, 2012

Filed January 11, 2012

A BILL to direct the Board of Housing and Community Development to revise the Uniform Statewide Building Code to require a two-year time limit on the duration of an issued building permit to complete construction of certain detached single-family dwellings and residential structures.

Patron—Kearney

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. § 1. That the Board of Housing and Community Development shall revise the Uniform Statewide Building Code to require a two-year time limit on the duration of a building permit issued for the completion of new construction of detached single-family dwellings, additions to detached single-family dwellings, or residential accessory structures.

INTRODUCED

HB1045

2012 SESSION

INTRODUCED

12104593D

HOUSE BILL NO. 1292

Offered January 24, 2012

A BILL to require the Board of Housing and Community Development to adopt regulations amending the Virginia Statewide Fire Prevention Code.

Patrons—Spruill, Anderson, Cline, Cosgrove, Cox, J.A., Cox, M.K., Gilbert, Iaquinto, Ingram, James, Joannou, Jones, Kilgore, Knight, Landes, Marshall, D.W., O'Bannon, Rush, Torian, Villanueva and Ware, O.; Senators: Blevins, Lucas and Miller, Y.B.

Unanimous consent to introduce

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. § 1. That the Board of Housing and Community Development shall adopt regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) to amend the Virginia Statewide Fire Prevention Code for the purpose of allowing certain kitchens located in religious institutions. Any kitchen located in a religious institution shall be deemed to comply with the Virginia Statewide Fire Prevention Code so long as it complies with the regulations that were in effect at the time of construction. Any such kitchen that undergoes significant renovation shall comply with the regulations in effect at the time of the renovation.

INTRODUCED

HB1292

VIRGINIA ACTS OF ASSEMBLY -- 2012 RECONVENED SESSION

CHAPTER 804

An Act to amend the Code of Virginia by adding a section numbered 15.2-108.1, relating to certain local fees.

Approved April 18, 2012

[H 1294]

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.2-108.1 as follows:

§ 15.2-108.1. Local fees charged to religious institutions.

Localities shall not charge any fee to any church, synagogue, or other place of worship unless authorized by general law or special act of the General Assembly. Nothing in this section shall apply to any fire prevention inspection fees.

VIRGINIA ACTS OF ASSEMBLY -- 2012 SESSION

CHAPTER 414

An Act to amend the Code of Virginia by adding a section numbered 15.2-2288.5, relating to cemeteries.

[H 316]

Approved March 30, 2012

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.2-2288.5 as follows:

§ 15.2-2288.5. Meaning of "cemetery" for purposes of zoning.

A. A "cemetery" for purposes of this chapter shall have the meaning set forth in § 54.1-2310.

B. Nothing in this section shall exempt a licensed funeral home or cemetery from any applicable zoning regulation.

C. The following uses shall be included in the approval of a cemetery without further zoning approval being required: all uses necessarily or customarily associated with interment of human remains, benches, ledges, walls, graves, roads, paths, landscaping, and soil storage consistent with federal, state, and local laws on erosion sediment control.

D. Mausoleums, columbaria, chapels, administrative offices, and maintenance and storage areas that are shown in a legislative approval for the specific cemetery obtained at the request of the owner shall not require additional local legislative approval provided such structures and uses are developed in accordance with the original local legislative approval. This subsection shall not supersede any permission required by an ordinance adopted pursuant to § 15.2-2306 relative to historic districts.

2. That nothing in this act shall limit, modify, or alter the terms or obligations of a special permit referenced as SPA 88-P-050-03 issued by Fairfax County, Virginia, and approved on or about October 26, 2011.

3. That the provisions of this act shall become effective on January 1, 2013.

2012 SESSION

INTRODUCED

12101778D

HOUSE BILL NO. 152

Offered January 11, 2012

Prefiled January 5, 2012

A BILL to require the Board of Housing and Community Development to amend the Statewide Fire Prevention Code (§ 27-94 et seq.) of the Code of Virginia; insurance requirements for certain fireworks shows.

Patron—Bell, Richard P.

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the Board of Housing and Community Development shall amend the Statewide Fire Prevention Code (§ 27-94 et seq.) of the Code of Virginia in accordance with the provisions of § 27-97 of the Code of Virginia to distinguish the insurance requirements between consumer fireworks show as defined in § D.1.11 of the National Fire Protection Association (NFPA) 1126, 2006 edition, and display fireworks shows as defined in § D.1.17 of NFPA 1126, 2006 edition. No permit holder for a consumer fireworks show shall be required to have insurance coverage for potential damages to a person or persons or to property by reason of the permitted display and arising from any acts of the permit holder in excess of \$500,000.*

INTRODUCED

HB152

Board of Housing and Community Development
Member Questions
Proposed State Fire Marshal's Office Fees

1) What is the shortfall in the SFMO budget this year?
FY2012 data is only known as of 3/31/2012. A complete year of data cannot be obtained. As of 3/31/2012, it is expected that SFMO will spend 100% of its GF budget, and projected to spend 108% of its NGF budget. Therefore, SFMO is projected to experience a 10% budget shortfall for FY2012.

Previous years' data reveal the following:

- FY2011
 - i. 100% GF budget
 - ii. 101% NGF budget; budget shortfall of 1%
- FY2010
 - i. 99% GF budget due to a 1% mandatory GF pledge for budget reductions
 - ii. 77% NGF budget due to budget reductions that reduced FTE count from 31 to 29 and P14 staff from 9 positions to 2 positions; SFMO sustained a 58% NGF budget reduction in FY2010, which nets to a budget shortfall of 19%.
 - FY2009
 - i. 100% GF budget
 - ii. 118% NGF budget; budget shortfall of 18%

DHCD comments: Brook, thanks. Does the GF's cover the mandated inspections? Does the NGF revenue then support the rest of the SFMO non-mandatory/discretionary programs that comes from blaster's licensure fees, from firework/display inspection fees, from child care and hospital fees, from nightclub fees, from private dormitory and assembly fees, from the VDH contract and from cigarette fees. In the past there was always a cash balance available to cover those yearly shortages that you have outlined herein, thus the SFMO budget was always balanced. Are all of these shortages in expenditures due to complaint based inspections. There have been no SFMO fee increases proposed for the existing NGF programs that could cover future annual shortages in the NGF account for existing inspection and licensure programs. Does the SFM plan to increase some of these fees for the 2012 SFPC? I would note that many years ago Ed and I made an attempt to have VDH increase their contract amount to the SFM, but to no avail. I assume that is still the case?

The NGF fund cash balance seems to have covered all of these past fiscal year shortfalls and has a \$200,000 plus balance, shown on page 2?

2) What was the budget (and any shortfall) when the SFMO was under the DHCD?

The Department of Fire Programs does not have the financial data from when SFMO was under DHCD. The BHCD would need to collect that data from DHCD.

DHCD comments: There was normally each year a 200K plus in cash balances when at DHCD that would cover any annual shortfalls from the GF or NGF.

3) Has the SFMO made budget cuts within existing programs as all other departments have had to do?
SFMO has sustained the following budget reductions by fiscal year:

- FY2009
 - i. 5.75% GF budget reduction
 - 1. Elimination of 1 wage position
 - 2. Reduction of remaining wage hours from 1,500 to 1,200 per wage employee per year
 - 3. Elimination of discretionary spending on conferences and related travel expenses

- FY2010
 - i. 17.5% GF budget reduction (8.75% Biennium + 8.75% Caboose)

1. 8.75% Biennium
 - a. Elimination of 1 FTE position (31 FTE to 30 FTE)
 - b. Elimination of 1 additional wage position
 - c. Further reduction of remaining wage hours from 1,200 to 1,000 hours per employee per year
 - d. Continued elimination of discretionary spending on conferences and related travel expenses
 - e. Administrative cost efficiencies by consolidating SFMO regional offices into existing VDFP office locations
2. 8.75% Caboose
 - a. Elimination of 1 FTE position (30 FTE to 29 FTE), represents a 6.5% FTE reduction since 7/1/2008
 - b. Elimination of 1 additional wage position
 - c. Reduce salary costs by delay in filling 1 vacant FTE position until FY2012
 - ii. 58% NGF budget reduction enacted by an NGF cash transfer (to balance the GF) from SFMO NGF totaling \$257,285 of available NGF cash balance of \$447,092. (SFMO's NGF Cash balance as of 6/25/2010 was \$447,092; as of 7/3/2010 after the cash transfer to balance the GF, SFMO's NGF cash balance was \$216,267.)

DHCD comment: Appears the SFM remains in the black with the cash balance funds?

- FY2011
 - i. 9.75% (from FY2009 funding)
 1. Elimination of additional P14 positions, resulting in reduction of 7 P14 positions (from 9 to 2) since 7/1/2008, representing a 78% P14 work force reduction.
 2. Reduction of biennial inspections of child care facilities that are not religious exempt
 3. Elimination of inspections of private schools that do not have local enforcement
 4. Delayed inspections including key assets and critical infrastructure, and State mandates
- FY2012
 - i. 6.8% (from FY2009 funding)
 1. Reduction of biennial inspections of child care facilities that are not religious exempt
 2. Elimination of inspections of private schools that do not have local enforcement
 3. Delayed inspections including key assets and critical infrastructure, and State mandates

4) What will the new round of budget cuts cost the SFMO?

Additional budget reductions sustained by SFMO will result in the following:

- Continued reduction of biennial inspections of child care facilities that are not religious exempt
- Continued elimination of inspections of private schools that do not have local enforcement
- Additional delays in inspections including key assets and critical infrastructure, and State mandates
- Reduction of inspections of public schools that do not have local enforcement

DHCD comments: These are GF programs? So would it be true with any new GF fund reductions that these types of mandated inspection activities would need to be revamped/downsized unless there were new GF's allocated to the SFM?

- 5) Are these fees to cover the general budget as it currently stands with existing programs, or is this to also create new programs/inspections that have not been done in the past? The request to increase fees is long overdue as SFMO's fees have not sustained an increase in over 5 years and lag behind actual administration costs for SFMO to perform its services.

DHCD comment: The SFM proposed no NGF fee increases for existing programs during the 2009 SFPC regulatory process that commenced in 2008 to end of 2009.

In a separate analysis that was conducted by VDFP in early 2011 with FY2010 data (and provided to the BHCD in 2011), it was revealed that the weighted average hourly rate lags behind actual costs.

- The weighted average costs per hour calculated with FY2010 actual data was \$47.50 for SFMO services.
- The most recent weighted average cost per hour calculated by DHCD was performed in 2006 using FY2005 data, and was \$36.23 per hour.

DHCD comment: Does the proposed new rate of \$47.50 per hour need to be increased to a higher per hour rate as it is noted it costs \$69 per complaint call? After weighing the time for the final regulatory approval in 2014 and your number of estimated complaints, it seems a higher hourly rate could be justified for the out-years of FY 2014 and 2015.

6) If all the fees were to be approved, what would be the net generated new revenue?

Although the net generated "new revenue" is difficult to forecast and in fact would actually not be "new" revenue but rather revenue collected to recover actual costs of services performed, SFMO anticipates an increase in revenues collections of approximately 10-15%, which is roughly in line with what SFMO is anticipating its budget shortfall to be in FY2012, and is further in line with budget shortfalls SFMO has sustained in recent fiscal years (19% in FY2010, 18% in FY2009).

DHCD comment: We agree it is difficult to project new revenue numbers since most all new fees are based on complaints or requests for consulting and inspection. The fact that new services were being done without any new revenue stream and was being absorbed through allocated GF and NGF revenue sources for existing programs seems to be a program priority matter.

7) Could adjoining counties work out a sharing agreement between them to save money and maximize the services of a local inspector?

The Code of Virginia addresses the question that localities can enter into MOUs. The decision to enter into these agreements rests with the localities and NOT the SFMO. Local governments have the option of enforcing the SFPC and can enter into an agreement with an adjoining jurisdiction for inspections. This is done currently between counties and towns within the counties. If a locality elects not to enforce the code, the responsibility passes to the SFMO.

8) Currently the State Fire Marshals Office (SFMO) provides plan review and inspection services for new construction in localities that do not have the expertise. Based on the SFMO moving from DHCD, if that service were performed by DHCD would the cost savings offset the costs for your new inspection initiatives?

The SFMO no longer offers these services [please note: the SFMO is not requesting fees for this]. If DHCD wants to perform this service for localities it would have no effect on the SFMO, as this is a building code issue and outside the SFMO scope.

9) To evaluate the need for these new services and corresponding fees, please submit data to show the frequency of fires in each of the occupancies, total number of deaths, the total number or projected number of structures in each type of occupancy. Differentiate between sprinkler protected and non-sprinkler protected.

The 2011 total fire dollar loss associated with fires in Virginia was \$239 million and in 2011 one [1] civilian was killed or injured by fire in Virginia every 16 hours. The six attached Virginia Fire Incident Reporting System [VFRS] reports represent all fire activity in Virginia for calendar year 2011 and calendar year 2012, from 1/1/12 to 5/16/12. Please see PDF attachments [VFRS reports].

For 2012 (1/1/2012 – 5/16/2012) the total dollar loss for hotels/motels from fire is \$975,939. The total number of incidents, thus far for 2012, is 54. For 2012, there have been no civilian or firefighter deaths from these types of fires, there was one civilian injury and three firefighter injuries from these types of fires.

DHCD comments: Can the fire data be done for the SFM regional coverage map? Actually, the R-1 fire data for the past 10 years is excellent with respect to the very low amount of property damages, injuries and loss of life. The R-1's unsprinkled fire data is a bit higher for property damages and injuries. The SFM regions will have more 30 years or older, mostly 1 or 2 stories; and, most with direct exits or exterior balconies. All the new hotel/motels are sprinkled and mostly of non-combustible construction. We are working with the industry to gauge the hotels/motels and B & B's numbers in the SFM regions. An educated guess could have numbers from 700 to 1,000 or more for hotels/motels. DHCD hopes to have more firm numbers data in the fall. ? Is there any SFM NOV's data, like the two attached, that might be obtained as part of the need and supporting statement?

For the B & B's we have contacted the industry for numbers that would seem to be in the 100's. Most B&B's are in the R-5 1&2 family dwellings occupancy. The B and B's association claims the fire record is very good and they will provide their input at the DHCD's upcoming workgroup meetings. Permissible firework stands and permissible firework sales in retail stores, M occupancies, pose more of a challenge for fire data. Overall the M occupancy is quite excellent. TNT informed us they supply nearly 1,000 M occupancy retail stores in Virginia and operated 60-70 stands. Phantom Fireworks is another major supplier that we are contacting along with the industry association to assist on the numbers. Hospital data is fragmented as Ed informed the BHCD in January, 2012. All the stakeholders have been invited to participate in our Workgroup meetings set for August 23rd and September 14th. We do have the 10 year fire data to the end of 2011 and your 2012 fire data that provides a fairly adequate portrayal of the R- and M occupancies other than 1&2 family data that is nearly impossible to conclude what is the fire risk in B and B's.

10) In the present economy most localities are struggling to maintain their existing services and not proposing new services. With rare exception new fees or increases in fees are not an option as businesses are also struggling. To that end, do these proposed fees have the support of the Secretary and the Governor? If so, please provide documentation to that support. These inspections and fees were proposed with the support of the VDFP Executive Director Billy Shelton and Secretary of Public Safety Maria Decker.

11) To properly evaluate the need for new fees it is important to see how these fees fit into the total picture of all fees, Please submit the current fee schedule highlighting the new proposed fees. Please see the below chart for the proposed SFMO fees.

12) Please submit the overall budget of the SFMO to include sources of revenue, both general fund and fees along with expenditures and how these fees will support just the new initiatives. Please see the below chart for SFMO budget summary.

Proposed New Fees June 1, 2011

Statewide Fire Prevention Code under authority of Code of Virginia § 27-98

DHCD comments: Would like on code change form. Need to clearly designate this is for SPPC inspections. Ed indicated this could be for other type of private sector buildings not presently shown indicated on the request. Higher per hour fee consider?

Buildings Inspections - Local Government (does not include public schools) (local Governments that do not have a local fire marshal)	
Initial consultation to determine project scope and cost estimate (minimum cost)	\$ 100.00 minimum
Cost of initial consultation will be included in total cost of project at hourly rate (maximum cost)	\$ 47.50 charged at hourly rate
Other Fees - Local Government Buildings (does not include public schools) (local Governments that do not have a local fire marshal)	
Plans Review/Technical Assistance - Local Government	\$ 47.50 charged at hourly rate

Fireworks Permits
(Local Governments that do not have a local fire marshal to issue permits)

Temporary Structures or Stands - 60-day permit	\$ 100.00
Permanent Retail Structure - 60-day permit	\$ 190.00
Permanent Retail Structure - annual permit	\$ 240.00

DHCD comment: Should be on a code change form. The proposal is now to be for complaint only inspections and isn't to be done annually. The BHCD's legal counsel has opined that there can be an investigative and complaint fee, but not permits for permissible fireworks unless there was legislation.

Bed and Breakfasts Inspections
(Performed by registered complaint or Governmental referral only)

Non-proprietor occupied Bed and Breakfasts - 1 to 10 guests	\$ 150.00
Proprietor occupied Bed and Breakfasts - 1 to 5 guest rooms	\$ 190.00

Hotels / Motels Inspections
(Performed by registered complaint or Governmental referral only)

1 to 25 Guest Rooms	\$ 190.00
26 to 50 Guest Rooms	\$ 240.00
51 to 100 Guest Rooms	\$ 290.00
101 to 150 Guest Rooms	\$ 380.00
151 to 200 Guest Rooms	\$ 480.00
201 or more Guest Rooms	\$ 570.00

DHCD comments: B&B's and hotels/motels are now shown as complaint basis only with two examples provided for 2011 and 2012 of NOV's on why there is need for recovery of expenses. Need on code change form with justification. Proposed fees seem like ones would be charged for annual inspections/operational permits issued? Should a hourly fee with a cap be considered?

Question 12)

Analysis of SFMO GF and NGF Appropriations, FGF Revenue Collections, and GF and NGF Expenditures

FY2009

Program 562-03	Appropriations	Revenues or Cash Collections	Expenditures	Surplus/(Deficit)	% Budget vs Expenditure	Comments
Fund 0100 General Fund	\$ 2,458,544	\$ 2,458,544	\$ 2,458,544	\$ 0	100%	
0200 Special Revenues	\$ 575,500	\$ 327,990	\$ 386,357	\$ (58,367)	118%	18% budget shortfall
0218 Fire Programs Fund	\$ 92,500	\$ 92,500	\$ 92,500	\$ -	100%	

Program 562-03	Appropriations	Revenues or Cash Collections	Expenditures	Surplus/(Deficit)	% Budget vs Expenditure	Comments
Fund 0100 General Fund	\$ 2,103,042	\$ 2,103,042	\$ 2,078,042	\$ 25,000	99%	1% GF budget pledge for budget reductions
0200 Special Revenues	\$ 405,500	\$ 338,570	\$ 261,992	\$ 76,578	77%	58% budget reductions; net 19% budget shortfall
0218 Fire Programs Fund	\$ 92,500	\$ 92,500	\$ 92,500	\$ -	100%	

Program 562-03	Appropriations	Revenues or Cash Collections	Expenditures	Surplus/(Deficit)	% Budget vs Expenditure	Comments
Fund 0100 General Fund	\$ 2,193,947	\$ 2,193,947	\$ 2,193,947	\$ -	100%	
0200 Special Revenues	\$ 537,841	\$ 366,514	\$ 371,782	\$ (5,268)	101%	1% budget shortfall
0218 Fire Programs Fund	\$ -	\$ -	\$ -	\$ -		

Program 562-03	Appropriations	Revenues or Cash Collections	Expenditures	Surplus/(Deficit)	% Budget vs Expenditure	Comments
Fund 0100 General Fund	\$ 2,238,905	\$ 2,238,905	\$ 1,770,824	\$ 467,981	79%	
0200 Special Revenues	\$ 518,000	\$ 312,297	\$ 310,365	\$ 1,932	99%	Projected budget shortfall of 10%
0218 Fire Programs Fund	\$ -	\$ -	\$ -	\$ -		

13) Section 106.3 of the Virginia Fire Prevention Code allows the State Fire Marshal's Office to accept 3rd party inspections while not specifically spelled out, it appears the SFMO could develop criteria for submission of reports and qualifications of submitter. To avoid enforcing new fees, or reducing or eliminating existing fees, why wouldn't the SFMO utilize 3rd party inspections to achieve the goal of safety and keep costs to a minimum? While some anecdotic stories of abuse of 3rd party inspections, what documentation can be provided to illustrate widespread abuse? The SFMO has and continues to accept third party inspections for fire protection systems, in particular: fire extinguishers, flammable materials, fire doors, door hardware and many other fire safety related issues. The SFMO uses third party services when available. However, the use of a third party for code enforcement inspections is not prohibited per the DHCD AAG ruling by John Purcell [circa 1997 ruling].

14) Since a number of localities utilize firefighters on their shifts to conduct preliminary inspections, could the SFMO work with volunteers or paid firefighters within each locality to conduct the initial inspections or at least reduce the problem site to a minimum?
 No. The SFMO would have to be able to deputize these individuals something the COV does not currently address. Additionally, it would require these individuals to complete the NFPA 1031, Fire Inspector, course. The SFMO [or VDFP] do not have the authority to mandate training to localities.

15) In discussion with a local fire marshal, most localities with a fire marshal concentrate on E, A & I occupancies. Other occupancies are addressed on a complaint only basis. Explain why SFMO sees the need based for these inspections. Additionally, current practice of the SFMO is to respond on complaint basis only and is part of the 20% mentioned in information submitted to this point and should be covered by existing budget.

This would NOT be a mandate but rather a service offered to the citizens of Virginia. The SFMO would consider conducting these types of inspections if able to assess a fee and if staffing schedules permitted. The SFM believes fireworks pose a considerable hazard. Proper use and storage is very important. The fees would be to determine if fireworks are brought into Virginia, stored and used properly. The SFMO has experience with illegal fireworks being brought into and offered for sale in Virginia, including last year when the SFMO advised a company to remove illegal fireworks from all their locations in SW Virginia.

DHCD comment: Again, this can be possible by a fee for investigation and inspections of illegal fireworks on complaints.

Hotels, Motels, and B & Bs are the Backbone of one of Virginia's largest industries. Failure to insure safety of these buildings would certainly affect that industry. In fact in 1985 the Secretary of Commerce and Trade required the SFMO to inspect hotels and motels and provided staffing and funding to do so. The SFMO continued those inspections until the positions and funding were lost between 1988 and 1993. The SFM continues to believe these are high risk buildings based on SFMO history. Based on a response to complaints the SFMO finds serious deficiencies in those that are not inspected. [Please see attachment ref: Afton Mountain & Rodeway Inn]

DHCD comments: The two hotels cited for violations do pose SFPC maintenance issues and thus the potential for unsafe conditions in the event of a fire. The R-1's hotels/motels are today considered one of the safest occupancies due to sprinkler mandates by the USBC/model codes decades ago. The Virginia 10-year fire data supports that conclusion. Having a hourly fee with some cap for complaints only might be a reasonable and logical step for the stakeholders and the SFM to consider. As noted in other DHCD comments, and discussions with Ed, the complaint documentation for hotels/motels is sketchy. The B&B's operate on a far higher rental occupancy room rate than hotels/motels, in the 200 to 300 dollars per night range that the B&B industry feels their lodgings are extremely safe and plan to provide data/input at our working group meetings.

16) The SFM indicated that approximately 20% of the current workload deals with requests and complaints that result in SFPC inspections for local government buildings, hotels and motels, firework stands and retail firework displays in businesses and bed and breakfasts. Data submitted indicates there are currently 24.5 SFMO staff members in the regional offices with a total staff count of 31 FTE's. Does the current general and non-general funding cover the SFMO staff for your required and mandated inspections and also the 20% workload that you said is the current workload? Can you provide a close-out budget for FY 2011 on revenues and expenditures and the one for the current revenue and expenditures to date for FY 2012?

See question 13 chart

17) Can you provide fire data for the past 10 years on R-1 hotels and motels sprinkled and unsprinkled? Can you provide fire data on local government buildings for 10 years?
See two attached VFIRS reports.

The SFM indicated data on complaints for hotels and motels wasn't kept. The SFM indicated the plan is to implement this SFPC inspection program on a complaint basis, but the goal is to require annual SFPC inspections. What is the time frame to move from a complaint basis to a mandatory SFPC inspection program? Can you provide a risk assessment with some documentation on why this SFPC inspection program should be mandated as opposed to continuing on a complaint basis? In your opinion, would it be more important from a risk analysis to focus on unsprinkled hotels and motels? What is an estimated revenue and expense budget with an estimate for staff resources as a complaint program and then as a mandatory annual inspection program?
The SFMO is requesting to charge a fee for complaints only [see chart for question 11 for fee proposal]. The SFMO is not requesting that all hotels and motels be inspected by the SFMO using the SFPC.

19) How many hotel and motel buildings are estimated to be in areas where the SFMO is the fire official? Have you contacted the industry?
The Agency is seeking to locate this information; however, as of 5/19/12 we are unable to find a data source for the requested information.

20) Fireworks stands and retail displays in buildings would be mandatory and done annually. For the past year, did any complaints and violations occur for any illegal sales of non-permissible fireworks or violations for permissible fireworks?
Please see question 15.

21) The legal counsel for the BHCD has indicated that the SFM cannot institute a permit and inspection program for permissible fireworks by the attached email. How would you propose to revise your proposal to address this legal matter for non-permissible fireworks?
Our inspections will be for illegal fire works and storage of explosives. The SFPC does apply to storage of explosives which includes fireworks by definition of explosives in Section 3302.

DHCD comments: The response expands the code change as it mentions only illegal fireworks, but now would include other explosives. There is already the blaster's program. The regulatory change needs to elaborate on the other explosives for the stakeholders.

22) Since this is proposed to be mandatory, what number of businesses would be subject to these annual inspections? What staffing would be required? What is the projected revenue? Have you contacted the fireworks industry and the retail merchants?

In 2010, SFMO responded to an average of 150 calls per week. At 52 weeks per year, SFMO responded to an average of 7,800 consultative and complaint calls in 2010. The Agency is anticipating that the SFMO will experience no more than a 10% increase in calls per year, or 780 additional calls per fiscal year.

At a minimum of 2 hours per call, personnel demand is estimated to increase 1,560 hours. SFMO has been reduced from 31 FTE to 29 FTE, and has reduced its P14 positions from 9 to 1 since 7/1/2008 due to budget reductions. To meet anticipated demand, SFMO expects to increase its existing P14 field inspector from 1,000 hours to 1,300 hours per year. In addition, SFMO expects to rehire 1 P14 position up to 1,300 hours per year, which will provide 1,600 hours per year to cover the increased demand of the proposed legislation.

The following costs were included in the calculation:

- Increase existing P14 from 1,000 hours to 1,300 hours per year, plus FICA
- Rehire P14 to cover increased demand of 1,300 hours per year, plus FICA
- Equipment for new P14 hire (laptop, pool car, blackberry)
- Increase in Central Service Agency costs for new P14 hire
- Gasoline cost per call (avg round trip per call of 80 miles at 20 MPG at \$3.25 per gallon) for 780 calls per year

At an estimated cost of \$69 per call, the SFMO is projecting a fiscal impact of \$53,820 per fiscal year.

DHCD comments: Does these 150 calls received per week the number of complaints for B&B's, hotels/motels and firework stands/retail and local governments or for all inquiries about SFPC inspections and the SFMO? If the cost per call is \$69 and the \$53,820 is the fiscal impact per year, then would these new fees generate that amount of revenue?

23) Do you have any complaints for the past year with bed and breakfasts and, if so, what were the violations found? Have you contacted the association about fire incidents? You indicated in your comments the B&B's should have been sprinkled, but the industry and BHCD didn't support that requirement. What data do you have that the 10 guests or 5 bedroom limit for R-5 poses the risk that they are unsafe? Do you have data that the 10 guests or 5 bedroom B&B's are so different in size to have two separate fees? Do you feel there should be an occupant limit per bedroom? The SFMO request to charge fees for inspections of B&B's would be similar to hotel and motels. i.e. the SFMO would conduct the inspection if a formal complaint was lodged with the Agency.

24) What would be some factors, positive and negative, for the BHCD to consider these new fees and SFPC new inspection programs during the 2012 regulatory cycle that commences in 2012 to 2014 when this separate regulatory process is likely to take 12-18 months to complete?

The Agency's preferred method for fee adoption would be for the BHCD to approve and adopt the fees during a regular meeting, per our interpretation (and our AAG's interpretation) of the Virginia Code Section 27-98. This section of the Code authorizes the SFMO to charge a fee to recover the actual cost of administering and enforcing the SFPC in jurisdictions for which they serve as the enforcement authority. The statute

also provides that the SFMCO must obtain the approval of the Board of Housing and Community Development before charging any fees. The Code does not specify that it must go through the Code Development cycle.

The Agency also understands the position fee setting and adoption places the BHCD in and although it is not our primary choice [adoption at regular meeting is our primary choice], we would prefer the fees go through the Administrative Town Hall process over the Code Development cycle. The Code Development cycle is our last and least favorable choice.

DHCD comments: *The 2012 SFPC regulatory is underway. There are workgroup meetings scheduled for August, September, November and December and then into early 2012 with the impacted stakeholders expected to attend. Doing a separate regulatory cycle for just the SFMCO fees is going to take a similar amount of time by the APA process and review by the OPB, Secretary Offices and the Governor's Office.*

I N T E R P R E T A T I O N

Interpretation Number: 1/2009

Code: USBC, Part I, Virginia Construction Code

Section No(s): 202 (Definition of "Night Club")

QUESTION: How do you apply the "main use" terminology in the definition of night club?

ANSWER: Determining the main use of a structure is a factual question to be made at the discretion of the local official.

This Official Interpretation was issued by the State Building Code Technical Review Board at its meeting of June 17, 2011.

Chairman, State Building Code Technical Review Board

VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF BUILDING AND FIRE REGULATION

Code Change Form for the 2012 Code Change Cycle

Code Change Number: _____

Proponent Information

(Check one): Individual Government Entity Company

Name: Joseph Moncrief

Representing: Chesterfield County

Mailing Address: 9800 Government Center Parkway P.O. Box 40 Chesterfield, VA 23832

Email Address: _____

Telephone Number: _____

Proposal Information Draft code change #1

Code(s) and Section(s): USBC part 3 section 118.3

Proposed Change (including all relevant section numbers, if multiple sections):

Amend section 118.3 to state:

118.3 Inspection report and notice of unsafe building or structure. The building official shall inspect any building or structure reported to be unsafe and shall prepare a report to be filed in the records of the local building department. In addition to a description of any unsafe conditions found, the report shall include the occupancy classification of the building or structure and the nature and extent of any damages caused by collapse or failure of any building components. If the building or structure is determined by the building official to be unsafe, a notice of unsafe building or structure shall be issued in person to the owner and any permit holder. The notice shall describe any unsafe conditions and specify any repairs or improvements necessary to make the building or structure safe, or alternatively, when determined necessary by the building official, require the unsafe building or structure, or any portion of it, to be taken down and removed. The notice shall stipulate a time period for the repair or demolition of the unsafe building or structure ~~and contain a statement requiring the person receiving the notice to determine whether to accept or reject the terms of the notice.~~ If any persons to which the notice of unsafe building or structure is to be issued cannot be found after diligent search, as equivalent service, the notice shall be sent by registered or certified mail to the last known address of such persons and a copy of the notice posted in a conspicuous place on the premises.

Supporting Statement (including intent, need, and impact of the proposal):

The section currently requires a person receiving a Notice of Unsafe Structure to either accept or reject the terms of the notice. The acceptance or rejection of the terms of the notice has no effect of the notice and does not require the responsible party to appeal the action if they reject the terms. The rejection of the terms has no meaningful purpose. The rejection does not stop enforcement simply because there is a disagreement. This requirement is unnecessary because a statement of the right to appeal a Notice of Unsafe Structure is already required in the notice. Further, this same requirement was removed from the 2009 Virginia Maintenance Code (USBC part 3). The removal of this requirement will make both parts of the USBC consistent in the requirements for the Notice of Unsafe Structure.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Emergency Regulation

Titles of Regulations: 12VAC5-410. Regulations for the Licensure of Hospitals in Virginia (amending 12VAC5-410-10, 12VAC5-410-60).

12VAC5-412. Regulations for Licensure of Abortion Facilities (adding 12VAC5-412-10 through 12VAC5-412-380).

Statutory Authority: § 32.1-127 of the Code of Virginia.

Effective Dates: December 29, 2011, through December 28, 2012.

Agency Contact: Joe Hilbert, Director of Governmental and Regulatory Affairs, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7006, FAX (804) 864-7022, or email joe.hilbert@vdh.virginia.gov.

Preamble:

Chapter 670 of the 2011 Acts of Assembly (Senate Bill 924) mandates that the State Board of Health promulgate regulations for facilities performing five or more first trimester abortions per month (<http://lis.virginia.gov/cgi-bin/legp604.exe?111+ful+CHAP0670+pdf>). Senate Bill 924 specified that, for purposes of licensure, those facilities were to be classified as a category of hospital. The bill further specified that the regulations have to be effective within 280 days of enactment. For that reason, the board is utilizing the emergency rulemaking process authorized by the Administrative Process Act.

The regulations contain provisions pertaining to definitions, procedures for licensure or license renewal, organization and management, infection prevention, patient care, quality assurance, medical records and reports, disaster preparedness, facility security, functional safety and maintenance, and design and construction.

Part I

Definitions and General Information and Procedures

Article 1 Definitions

12VAC5-410-10. Definitions.

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

"Board" means the State Board of Health.

"Chief executive officer" means a job descriptive term used to identify the individual appointed by the governing body to act in its behalf in the overall management of the hospital. Job titles may include administrator, superintendent, director, executive director, president, vice-president, and executive vice-president.

"Commissioner" means the State Health Commissioner.

"Consultant" means one who provides services or advice upon request.

"Department" means an organized section of the hospital.

"Direction" means authoritative policy or procedural guidance for the accomplishment of a function or activity.

"Facilities" means building(s), equipment, and supplies necessary for implementation of services by personnel.

"Full-time" means a 37-1/2 to 40 hour work week.

"General hospital" means institutions as defined by § 32.1-123 of the Code of Virginia with an organized medical staff; with permanent facilities that include inpatient beds; and with medical services, including physician services, dentist services and continuous nursing services, to provide diagnosis and treatment for patients who have a variety of medical and dental conditions that may require various types of care, such as medical, surgical, and maternity.

"Home health care department/service/program" means a formally structured organizational unit of the hospital that is designed to provide health services to patients in their place of residence and meets Part II (12VAC5-381-150 et seq.) of the regulations adopted by the board for the licensure of home care organizations in Virginia.

"Medical" means pertaining to or dealing with the healing art and the science of medicine.

"Nursing care unit" means an organized jurisdiction of nursing service in which nursing services are provided on a continuous basis.

"Nursing home" means an institution or any identifiable component of any institution as defined by § 32.1-123 of the Code of Virginia with permanent facilities that include inpatient beds and whose primary function is the provision, on a continuing basis, of nursing and health related services for the treatment of patients who may require various types of long term care, such as skilled care and intermediate care.

"Nursing services" means patient care services pertaining to the curative, palliative, restorative, or preventive aspects of nursing that are prepared or supervised by a registered nurse.

"Office of Licensure and Certification" or "OLC" means the Office of Licensure and Certification of the Virginia Department of Health.

"Organized" means administratively and functionally structured.

"Organized medical staff" means a formal organization of physicians and dentists with the delegated responsibility and authority to maintain proper standards of medical care and to plan for continued betterment of that care.

"Outpatient hospital" means institutions as defined by § 32.1-123 of the Code of Virginia that primarily provide facilities for the performance of surgical procedures on outpatients. Such patients may require treatment in a medical environment exceeding the normal capability found in a physician's office, but do not require inpatient hospitalization. ~~Outpatient abortion clinics are deemed a category of outpatient hospitals.~~

"Ownership/person" means any individual, partnership, association, trust, corporation, municipality, county, governmental agency, or any other legal or commercial entity that owns or controls the physical facilities and/or manages or operates a hospital.

"Rural hospital" means any general hospital in a county classified by the federal Office of Management and Budget (OMB) as rural, any hospital designated as a critical access hospital, any general hospital that is eligible to receive funds under the federal Small Rural Hospital Improvement Grant Program, or any general hospital that notifies the commissioner of its desire to retain its rural status when that hospital is in a county reclassified by the OMB as a metropolitan statistical area as of June 6, 2003.

"Service" means a functional division of the hospital. Also used to indicate the delivery of care.

"Special hospital" means institutions as defined by § 32.1-123 of the Code of Virginia that provide care for a specialized group of patients or limit admissions to provide diagnosis and treatment for patients who have specific conditions (e.g., tuberculosis, orthopedic, pediatric, maternity).

"Special care unit" means an appropriately equipped area of the hospital where there is a concentration of physicians, nurses, and others who have special skills and experience to provide optimal medical care for patients assigned to the unit.

"Staff privileges" means authority to render medical care in the granting institution within well-defined limits, based on the individual's professional license and the individual's experience, competence, ability and judgment.

"Unit" means a functional division or facility of the hospital.

12VAC5-410-60. Separate license.

A. A separate license shall be required by hospitals maintained on separate premises even though they are operated under the same management. Separate license is not required for separate buildings on the same grounds or within the same complex of buildings.

B. Hospitals which have separate organized sections, units, or buildings to provide services of a classification covered by provisions of other state statutes or regulations may be required to have an additional applicable license for that type or classification of service (e.g., psychiatric, nursing home, home health services, and outpatient surgery, outpatient abortions) surgery).

**CHAPTER 412
REGULATIONS FOR LICENSURE OF ABORTION
FACILITIES**

**Part I
Definitions and Requirements for Licensure**

12VAC5-412-10. Definitions.

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

"Abortion" means the use of an instrument, medicine, drug, or other substance or device with the intent to terminate the pregnancy of a woman, known to be pregnant, for reasons other than a live birth or to remove a dead fetus. Spontaneous miscarriage is excluded from this definition.

"Abortion facility" means a facility in which five or more first trimester abortions per month are performed.

"Commissioner" means the State Health Commissioner.

"Department" means the Virginia Department of Health.

"First trimester" means the first twelve weeks from conception based on an appropriate clinical estimate by a licensed physician.

"Informed written consent" means the knowing and voluntary written consent to abortion by a pregnant woman of any age in accordance with Virginia Code § 18.2-76.

"Licensee" means the person, partnership, corporation, association, organization, or professional entity who owns or on whom rests the ultimate responsibility and authority for the conduct of the abortion facility.

"Minor" means a patient under the age of 18.

"Ownership/person" means any individual, partnership, association, trust, corporation, municipality, county, governmental agency, or any other legal or commercial entity that owns and/or manages or operates an abortion facility.

"Patient" means any person seeking or obtaining services at an abortion facility.

"Physician" means a person licensed to practice medicine in Virginia.

"Trimester" means a 12-week period of pregnancy.

Regulations

12VAC5-412-20. General.

A license to establish or operate an abortion facility shall be issued only when the abortion facility is in compliance with all applicable federal, state and local statutes and regulations, the provisions of this chapter, and when the application fee has been received by the department.

No ownership/person, as defined in 12VAC5-412-10, shall establish, conduct, maintain, or operate in this state, any abortion facility as defined and included within provisions of this chapter without having obtained a license. Any person establishing, conducting, maintaining, or operating an abortion facility without a license shall be subject to penalties and other actions pursuant to § 32.1-27 of the Code of Virginia.

12VAC5-412-30. Classification.

Abortion facilities shall be classified as a category of hospital.

12VAC5-412-40. Separate license.

An abortion facility operating at more than one location shall be required to obtain separate licenses for each location in which abortion services are provided.

Abortion facilities which have separate organized sections, units or buildings to provide services of a classification covered by provisions of other state statutes or regulations shall be required to have any additional applicable license required for that type or classification of service.

Facilities licensed as either a general hospital or an outpatient surgical hospital by the department are not subject to the provisions of these regulations.

12VAC5-412-50. Request for issuance.

A. Abortion facility licenses shall be issued by the commissioner. All applications for licensure shall be submitted initially to Department's Office of Licensure and Certification (OLC).

B. Each abortion facility shall be designated by a distinct identifying name which shall appear on the application for licensure. Any change of name shall be reported to the OLC within 30 days.

C. Application for initial licensure of an abortion facility shall be accompanied by a copy of the facility's certificate of use and occupancy.

D. The OLC shall consider an application complete when all requested information and the appropriate nonrefundable application fee is submitted.

E. Written notification from the applicant to OLC that it is ready for the on-site survey must be received 30 days prior to OLC scheduling of the initial licensure survey. Applicants for initial licensure shall be notified of the time and date of the

initial licensure survey, after the notice of readiness is received by the OLC.

F. A license shall not be assigned or transferred. A new application for licensure shall be made at least 30 days in advance of a change of ownership or location.

12VAC5-412-60. License expiration and renewal.

A. Licenses shall expire at midnight April 30th following the date of issue, and shall be renewable annually, upon filing of a renewal application and payment of the appropriate nonrefundable renewal application fee. Renewal applications shall only be granted after a determination by the OLC that the applicant is in substantial compliance with this chapter.

B. The annual license renewal application shall be submitted to the OLC at least 60 days prior to the expiration date of the current license. A renewal application submitted more than 60 days past the expiration of the current license shall not be accepted.

C. Any abortion facility failing to submit an acceptable plan of correction as required in 12VAC5-412-120 shall not be eligible for license renewal.

D. Any license issued before April 30, 2012 shall not expire until April 30, 2013. No additional fee will be required for the period from May 1, 2012 until April 30, 2013.

12VAC5-412-70. Posting of license.

The abortion facility license issued by the commissioner shall at all times be posted in a place readily visible and accessible to the public.

12VAC5-412-80. Return of license.

A. It is the responsibility of the facility's governing body to maintain a current and accurate license.

B. The license issued by the commissioner shall be returned to the OLC when any of the following changes occur which may require reissuance of a license during the licensing year:

1. Revocation or suspension.
2. Change of location.
3. Change of ownership.
4. Change of name.
5. Voluntary closure.

C. The facility shall give written notification 30 working days in advance of any proposed changes that may require the reissuance of a license. Notices shall be sent to the attention of the director of the OLC.

D. The OLC will evaluate written information about any planned changes in operation that affect the terms of the license or the continuing eligibility for a license. A licensing

representative may inspect the facility during the process of evaluating a proposed change.

E. The facility will be notified in writing whether a new application is needed.

12VAC5-412-90. Allowable variances.

Upon finding that the enforcement of a specific regulation would be an impractical hardship unique to the abortion facility, the commissioner may grant a variance temporarily waiving the enforcement of the specific regulation, provided patient safety, patient care, and services are not adversely affected.

12VAC5-412-100. Right of entry.

Pursuant to § 32.1-25 of the Code of Virginia, any duly designated employee of the Virginia Department of Health shall have the right to enter upon and into the premises of any licensed abortion facility, or any entity the department has reason to believe is operated, or maintained as an abortion facility without a license, in order to determine the state of compliance with the provisions of this chapter and applicable laws. Any such employee shall properly identify himself or herself as an inspector designated by OLC; the facility may verify the identity of the inspector prior to his or her admission. Such entries and inspections shall be made with the permission of the owner or person in charge, unless an inspection warrant is obtained after denial of entry from an appropriate circuit court. If the owner, or person in charge, refuses entry, this shall be sufficient cause for immediate revocation or suspension of the license. If the entity is unlicensed, the owner or person in charge shall be subject to penalties and other actions pursuant to § 32.1-27 of the Code of Virginia.

12VAC5-412-110. On-site inspection.

A. An OLC representative shall make periodic unannounced on-site inspections of each abortion facility as necessary, but not less often than biennially. If the department finds, after inspection, non-compliance with any provision of this chapter, the abortion facility shall receive a written licensing report of such findings. The abortion facility shall submit a written plan of correction in accordance with provisions of 12VAC5-412-120.

B. The abortion facility shall make available to the OLC's representative any requested records and shall allow access to interview the agents, employees, contractors, and any person under the facility's control, direction or supervision. If copies of records are removed from the premises, patient names and addresses contained in such records shall be redacted by the facility before removal.

C. If the OLC's representative arrives on the premises to conduct a survey and the administrator, the nursing director, or a person authorized to give access to patient records, is not available on the premises, such person or the designated

alternate, shall be available on the premises within 1 hour of the surveyor's arrival. A list of current patients shall be provided to the surveyor within 2 hours of arrival if requested. Failure to be available or to respond shall be grounds for penalties in accordance with Virginia Code § 32.1-27 and denial, suspension or revocation of the facility's license in accordance with 12VAC5-412-130.

12VAC5-412-120. Plan of correction.

A. Upon receipt of a written licensing report each abortion facility shall prepare a written plan of correction addressing each licensing violation cited at the time of inspection.

B. The administrator shall submit, within 15 working days of receipt of the inspection report, an acceptable plan of correction as determined by the OLC. The plan of correction shall contain for each violation cited:

1. A description of the corrective action or actions to be taken and the personnel to implement the corrective action;
2. The expected correction date, not to exceed 30 working days from the exit date of the survey;
3. A description of the measures implemented to prevent a recurrence of the violation; and
4. The signature of the person responsible for the validity of the report.

C. The administrator shall be notified whenever any item in the plan of correction is determined to be unacceptable. Failure to submit an acceptable plan of correction may result in a penalty in accordance with Virginia Code § 32.1-27 or in denial, revocation or suspension of a license in accordance with 12VAC5-412-130.

D. The administrator shall be responsible for assuring the plan of correction is implemented and monitored so that compliance is maintained.

12VAC5-412-130. Denial, revocation or suspension of license.

A. When the department determines that an abortion facility is (i) in violation of any provision of Article 1 of Chapter 5 of Title 32.1 of the Code of Virginia (§ 32.1-123 et seq.) or of any applicable regulation, or (ii) is permitting, aiding, or abetting the commission of any illegal act in the abortion facility, the department may deny, suspend, or revoke the license to operate an abortion facility in accordance with § 32.1-135 of the Code of Virginia.

B. If a license or certification is revoked as herein provided, a new license or certification may be issued by the commissioner after satisfactory evidence is submitted to him that the conditions upon which revocation was based have been corrected and after proper inspection has been made and compliance with all provisions of Article 1 of Chapter 5 of

Regulations

Title 32.1 of the Code of Virginia and applicable state and federal law and regulations hereunder has been obtained.

C. Suspension of a license shall in all cases be for an indefinite time. The commissioner may restore a suspended license when he determines that the conditions upon which suspension was based have been corrected and that the interests of the public will not be jeopardized by resumption of operation. No additional fee shall be required for restoring such license.

D. The facility has the right to contest the denial, revocation or suspension of a license in accordance with the provisions of the Administrative Process Act (Virginia Code § 2.2-4000 et seq.).

Part II Organization and Management

12VAC5-412-140. Governing body.

A. Each abortion facility shall have a governing body responsible for the management and control of the operation of the facility.

B. There shall be disclosure of facility ownership. Ownership interest shall be reported to the OLC and in the case of corporations, all individuals or entities holding 5.0% or more of total ownership shall be identified by name and address. The OLC shall be notified of any changes in ownership.

C. The governing body shall provide facilities, personnel, and other resources necessary to meet patient and program needs.

D. The governing body shall have a formal organizational plan with written bylaws. These shall clearly set forth organization, duties and responsibilities, accountability, and relationships of professional staff and other personnel. The bylaws shall identify the person or organizational body responsible for formulating policies.

E. The bylaws shall include at a minimum the following:

1. A statement of purpose;
2. Description of the functions and duties of the governing body, or other legal authority;
3. A statement of authority and responsibility delegated to the administrator and to the clinical staff;
4. Provision for selection and appointment of clinical staff and granting of clinical privileges; and
5. Provision of guidelines for relationships among the governing body, the administrator, and the clinical staff.

12VAC5-412-150. Policy and procedures manual.

Each abortion facility shall develop, implement and maintain an appropriate policy and procedures manual. The

manual shall be reviewed annually and updated as necessary by the licensee. The manual shall include provisions covering, at a minimum, the following topics:

1. Personnel;
2. Types of elective and emergency procedures that may be performed in the facility;
3. Types of anesthesia that may be used;
4. Admissions and discharges, including criteria for evaluating the patient before admission and before discharge;
5. Obtaining written informed consent of the patient prior to the initiation of any procedures;
6. When to use ultrasound to determine gestational age and when indicated to assess patient risk;
7. Infection prevention;
8. Risk and quality management;
9. Management and effective response to medical and/or surgical emergency;
10. Management and effective response to fire;
11. Ensuring compliance with all applicable federal, state, and local laws;
12. Facility security;
13. Disaster preparedness;
14. Patient rights;
15. Functional safety and facility maintenance; and
16. Identification of the person to whom responsibility for operation and maintenance of the facility is delegated and methods established by the licensee for holding such individual responsible and accountable.

These policies and procedures shall be based on recognized standards and guidelines.

A copy of the approved policies and procedures and revisions thereto shall be made available to the OLC upon request.

12VAC5-412-160. Administrator.

A. The governing body shall select an administrator whose qualifications, authority and duties shall be defined in a written statement adopted by the governing body.

B. Any change in the position of the administrator shall be reported immediately by the licensee to the department in writing.

C. A qualified individual shall be appointed in writing to act in the absence of the administrator.

12VAC5-412-170. Personnel.

A. Each abortion facility shall have a staff that is adequately trained and capable of providing appropriate service and supervision to patients. The facility shall develop, implement and maintain policies and procedures to ensure and document appropriate staffing by licensed clinicians based on the level, intensity, and scope of services provided.

B. The licensee shall obtain written applications for employment from all staff. The licensee shall obtain and verify information on the application as to education, training, experience, appropriate professional licensure, if applicable, and the health and personal background of each staff member.

C. Each abortion facility shall obtain a criminal history record check pursuant to § 32.1-126.02 of the Code of Virginia on any compensated employee not licensed by the Board of Pharmacy, whose job duties provide access to controlled substances within the abortion facility.

D. When abortions are being performed, a staff member currently certified to perform cardio-pulmonary resuscitation shall be available on site for emergency care.

E. The facility shall develop, implement and maintain policies and procedures to document that its staff participate in initial and ongoing training and education that is directly related to staff duties, and appropriate to the level, intensity and scope of services provided. This shall include documentation of annual participation in fire safety and infection prevention in-service training.

F. Job Descriptions.

1. Written job descriptions that adequately describe the duties of every position shall be maintained.

2. Each job description shall include: position title, authority, specific responsibilities and minimum qualifications.

3. Job descriptions shall be reviewed at least annually, kept current and given to each employee and volunteer when assigned to the position and when revised.

G. A personnel file shall be maintained for each staff member. The records shall be completely and accurately documented, readily available, and systematically organized to facilitate the compilation and retrieval of information. The file shall contain a current job description that reflects the individual's responsibilities and work assignments, and documentation of the person's in-service education, and professional licensure, if applicable.

H. Personnel policies and procedures shall include, but not be limited to:

1. Written job descriptions that specify authority, responsibility, and qualifications for each job classification;

2. Process for verifying current professional licensing or certification and training of employees or independent contractors;

3. Process for annually evaluating employee performance and competency;

4. Process for verifying that contractors and their employees meet the personnel qualifications of the facility; and

5. Process for reporting licensed and certified health care practitioners for violations of their licensing or certification standards to the appropriate board within the Department of Health Professions.

I. A personnel file shall be maintained for each staff member. Personnel record information shall be safeguarded against loss and unauthorized use. Employee health-related information shall be maintained separately within the employee's personnel file.

12VAC5-412-180. Clinical staff.

A. Physicians and non-physician health care practitioners shall constitute the clinical staff. Clinical privileges of physician and non-physician health care practitioners shall be clearly defined.

B. Abortions shall be performed by physicians who are licensed to practice medicine in Virginia and who are qualified by training and experience to perform abortions. The facility shall develop, implement and maintain policies and procedures to ensure and document that abortions that occur in the facility are only performed by physicians who are qualified by training and experience.

C. A physician shall remain on the premises until all patients are medically stable, sign the discharge order and be readily available and accessible until the last patient is discharged. Licensed health care practitioners trained in post-procedure assessment shall remain on the premises until the last patient has been discharged. The physician shall give a discharge order after assessing a patient or receiving a report from such trained health care practitioner indicating that a patient is safe for discharge. The facility shall develop, implement and maintain policies and procedures that ensure there is an appropriate evaluation of medical stability prior to discharge of the patient and that adequate trained health care practitioners remain with the patient until she is discharged from the facility.

D. Licensed practical nurses, working under direct supervision and direction of a physician or a registered nurse, may be employed as components of the clinical staff.

12VAC5-412-190. Consent of the patient.

A physician shall not perform an abortion without first obtaining the informed written consent of the patient pursuant to the provisions of § 18.2-76 of the Code of Virginia.

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12VAC5-412-200. Minors.

No person may perform an abortion upon an unemancipated minor unless informed written consent is obtained from the minor and the minor's parent, guardian or other authorized person. If the unemancipated minor elects not to seek the informed written consent of an authorized person, a copy of the court order authorizing the abortion entered pursuant to § 16.1-241 of the Code of Virginia shall be obtained prior to the performance of the abortion.

12VAC5-412-210. Patients' rights.

A. Each abortion facility shall establish a protocol relating to the rights and responsibilities of patients consistent with the current edition of the Joint Commission Standards of Ambulatory Care. The protocol shall include a process reasonably designed to inform patients of their rights and responsibilities, in a language or manner they understand. Patients shall be given a copy of their rights and responsibilities upon admission.

B. The facility shall establish and maintain complaint handling procedures which specify the:

1. System for logging receipt, investigation and resolution of complaints; and
2. Format of the written record of the findings of each complaint investigated.

C. The facility shall designate staff responsible for complaint resolution, including:

1. Complaint intake, including acknowledgment of complaints;
2. Investigation of the complaint;
3. Review of the investigation findings and resolution for the complaint; and
4. Notification to the complainant of the proposed resolution within 30 days from the date of receipt of the complaint.

D. The patient shall be given a copy of the complaint procedures, in a language or manner she understands, at the time of admission to service.

E. The facility shall provide each patient or her designee with the name, mailing address, and telephone number of the:

1. Facility contact person; and
2. The OLC Complaint Unit, including the toll-free complaint hotline number. Patients may submit complaints anonymously to the OLC. The facility shall display a copy of this information in a conspicuous place.

F. The facility shall maintain documentation of all complaints received and the status of each complaint from

date of receipt through its final resolution. Records shall be maintained for no less than three years.

Part III Infection Prevention

12VAC5-412-220. Infection prevention.

A. The abortion facility shall have an infection prevention plan that encompasses the entire facility and all services provided, and which is consistent with the provisions of the current edition of "Guide to Infection Prevention in Outpatient Settings: Minimum Expectations for Safe Care," published by the U.S. Centers for Disease Control and Prevention. An individual with training and expertise in infection prevention shall participate in the development of infection prevention policies and procedures and shall review them to assure they comply with applicable regulations and standards.

1. The process for development, implementation and maintenance of infection prevention policies and procedures and the regulations or guidance documents on which they are based shall be documented.

2. All infection prevention policies and procedures shall be reviewed at least annually by the administrator and appropriate members of the clinical staff. The annual review process and recommendations for changes/updates shall be documented in writing.

3. A designated person in the facility shall have received training in basic infection prevention, and shall also be involved in the annual review.

B. Written infection prevention policies and procedures shall include, but not be limited to:

1. Procedures for screening incoming patients and visitors for acute infectious illnesses and applying appropriate measures to prevent transmission of community-acquired infection within the facility;

2. Training of all personnel in proper infection prevention techniques;

3. Correct hand-washing technique, including indications for use of soap and water and use of alcohol-based hand rubs;

4. Use of standard precautions;

5. Compliance with blood-borne pathogen requirements of the U.S. Occupational Safety & Health Administration;

6. Use of personal protective equipment;

7. Use of safe injection practices;

8. Plans for annual retraining of all personnel in infection prevention methods;

9. Procedures for monitoring staff adherence to recommended infection prevention practices; and

10. Procedures for documenting annual retraining of all staff in recommended infection prevention practices.

C. Written policies and procedures for the management of the facility, equipment and supplies shall address the following:

1. Access to hand-washing equipment and adequate supplies (e.g., soap, alcohol-based hand rubs, disposable towels or hot air driers);

2. Availability of utility sinks, cleaning supplies and other materials for cleaning, disposal, storage and transport of equipment and supplies;

3. Appropriate storage for cleaning agents (e.g., locked cabinets or rooms for chemicals used for cleaning) and product-specific instructions for use of cleaning agents (e.g., dilution, contact time, management of accidental exposures);

4. Procedures for handling, storing and transporting clean linens, clean/sterile supplies and equipment;

5. Procedures for handling/temporary storage/transport of soiled linens;

6. Procedures for handling, storing, processing and transporting regulated medical waste in accordance with applicable regulations;

7. Procedures for the processing of each type of reusable medical equipment between uses on different patients. The procedure shall address: (i) the level of cleaning/disinfection/sterilization to be used for each type of equipment; (ii) the process (e.g., cleaning, chemical disinfection, heat sterilization); and (iii) the method for verifying that the recommended level of disinfection/sterilization has been achieved. The procedure shall reference the manufacturer's recommendations and any applicable state or national infection control guidelines;

8. Procedures for appropriate disposal of non-reusable equipment;

9. Policies and procedures for maintenance/repair of equipment in accordance with manufacturer recommendations;

10. Procedures for cleaning of environmental surfaces with appropriate cleaning products;

11. An effective pest control program, managed in accordance with local health and environmental regulations; and

12. Other infection prevention procedures necessary to prevent/control transmission of an infectious agent in the facility as recommended or required by the department.

D. The facility shall have an employee health program that includes:

1. Access to recommended vaccines;

2. Procedures for assuring that employees with communicable diseases are identified and prevented from work activities that could result in transmission to other personnel or patients;

3. An exposure control plan for blood borne pathogens;

4. Documentation of screening and immunizations offered/received by employees in accordance with statute, regulation or recommendations of public health authorities, including documentation of screening for tuberculosis and access to hepatitis B vaccine;

5. Compliance with requirements of the U.S. Occupational Safety & Health Administration for reporting of workplace-associated injuries or exposure to infection.

E. The facility shall develop, implement and maintain policies and procedures for the following patient education, follow up, and reporting activities:

1. Discharge instructions for patients, to include instructions to call or return if signs of infection develop;

2. A procedure for surveillance, documentation and tracking of reported infections; and

3. Policies and procedures for reporting conditions to the local health department in accordance with the Regulations for Disease Reporting and Control (12VAC5-90), including outbreaks of disease.

Part IV Patient Care

12VAC5-412-230. Limitation of services offered by abortion facilities.

Abortions performed in abortion facilities shall be performed only on patients who are within the first trimester of pregnancy based on an appropriate clinical estimate by a licensed physician.

12VAC5-412-240. Medical testing, patient counseling and laboratory services.

A. Prior to the initiation of any abortion, a medical history and physical examination, to include confirmation of pregnancy, shall be completed for each patient.

1. Use of any additional medical testing, including but not limited to ultrasonography, shall be based on an assessment of patient risk. The clinical criteria for such additional

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testing and the actions to be taken if abnormal results are found shall be documented.

2. Medical testing shall include a recognized pregnancy test and determination or documentation of Rh factor.

3. The facility shall develop, implement and maintain policies and procedures for screening of sexually transmitted diseases consistent with current guidelines issued by the U.S. Centers for Disease Control and Prevention. The policies and procedures shall address appropriate responses to a positive screening test.

4. A written report of each laboratory test and examination shall be a part of the patient's record.

B. The abortion facility shall offer each patient, in a language or manner they understand, appropriate counseling and instruction in the abortion procedure and shall develop, implement and maintain policies and procedures for the provision of family planning and post-abortion counseling to its patients.

C. Laboratory services shall be provided on site or through arrangement with a laboratory certified to provide the required procedures under the Clinical Laboratory Improvement Amendments of 1988 (CLIA-88).

1. Facilities for collecting specimens shall be available on site.

2. If laboratory services are provided on site they shall be directed by a person who qualifies as a director under CLIA-88 and shall be performed in compliance with CLIA-88 standards.

3. All laboratory supplies shall be monitored for expiration dates, if applicable, and disposed of properly.

D. All tissues removed resulting from the abortion procedure shall be examined to verify that villi or fetal parts are present; if villi or fetal parts cannot be identified with certainty, the tissue specimen shall be sent for further pathologic examination and the patient alerted to the possibility of an ectopic pregnancy, and referred appropriately.

E. All tissues removed resulting from the abortion procedure shall be managed in accordance with requirements for medical waste pursuant to the Regulated Medical Waste Management Regulations (9 VAC20-120).

12VAC5-412-250. Anesthesia service.

A. The anesthesia service shall be managed in accordance with the Office-Based Anesthesia provisions of the Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic (18VAC85-20-310 et seq.).

B. The anesthesia service shall be directed by and under the supervision of a physician licensed in Virginia.

C. The facility shall develop, implement and maintain policies and procedures outlining criteria for discharge from anesthesia care. Such criteria shall include stable vital signs, responsiveness and orientation, ability to move voluntarily, controlled pain and minimal nausea and vomiting.

D. When moderate sedation or conscious sedation is administered, the licensed health care practitioner who administers the anesthesia shall routinely monitor the patient according to procedures consistent with such administration.

E. An abortion facility administering moderate sedation/conscious sedation shall maintain the following equipment, supplies and pharmacological agents, as required by 18VAC85-20-360 B:

1. Appropriate equipment to manage airways;

2. Drugs and equipment to treat shock and anaphylactic reactions;

3. Precordial stethoscope;

4. Pulse oximeter with appropriate alarms or an equivalent method of measuring oxygen saturation;

5. Continuous electrocardiograph;

6. Devices for measuring blood pressure, heart rate and respiratory rate;

7. Defibrillator; and

8. Accepted method of identifying and preventing the interchangeability of gases.

F. When deep sedation, general anesthesia or a major conductive block is administered, the licensed health care practitioner who administers the anesthesia service shall remain present and available in the facility to monitor the patient until the patient meets the discharge criteria.

G. In addition to the requirements of subsection E of this section, an abortion facility administering general anesthesia, deep sedation or major conductive blocks shall maintain the following equipment, supplies and pharmacological agents, as required by 18VAC85-20-360 C:

1. Drugs to treat malignant hyperthermia, when triggering agents are used;

2. Peripheral nerve stimulator, if a muscle relaxant is used; and

3. If using an anesthesia machine, the following shall be included:

a. End-tidal carbon dioxide monitor (capnograph);

b. In-circuit oxygen analyzer designed to monitor oxygen concentration within breathing circuit by displaying oxygen percent of the total respiratory mixture;

c. Oxygen failure-protection devices (fail-safe system) that have the capacity to announce a reduction in oxygen pressure and, at lower levels of oxygen pressure, to discontinue other gases when the pressure of the supply of oxygen is reduced;

d. Vaporizer exclusion (interlock) system, which ensures that only one vaporizer, and therefore only a single anesthetic agent can be actualized on any anesthesia machine at one time;

e. Pressure-compensated anesthesia vaporizers, designed to administer a constant non-pulsatile output, which shall not be placed in the circuit downstream of the oxygen flush valve;

f. Flow meters and controllers, which can accurately gauge concentration of oxygen relative to the anesthetic agent being administered and prevent oxygen mixtures of less than 21% from being administered;

g. Alarm systems for high (disconnect), low (subatmospheric) and minimum ventilatory pressures in the breathing circuit for each patient under general anesthesia; and

h. A gas evacuation system.

H. Discharge from anesthesia care is the responsibility of the health care practitioner providing the anesthesia care and shall occur only when the patient has met specific physician-defined criteria.

I. Elective general anesthesia shall not be used.

12VAC5-412-260. Administration, storage and dispensing of drugs.

A. Controlled substances, as defined in § 54.1-3401 of the Drug Control Act of the Code of Virginia, shall be stored, administered and dispensed in accordance with federal and state laws. The dispensing of drugs, excluding manufacturers' samples, shall be in accordance with Chapter 33 of Title 54.1 of the Code of Virginia, Regulations Governing the Practice of Pharmacy (18VAC110-20), and Regulations for Practitioners of the Healing Arts to Sell Controlled Substances (18VAC110-30).

B. Drugs, as defined in § 54.1-3401 of the Drug Control Act of the Code of Virginia, whose intended use is to induce a termination of pregnancy shall only be prescribed, dispensed or administered by a physician.

C. Drugs maintained in the facility for daily administration shall not be expired and shall be properly stored in enclosures of sufficient size with restricted access to authorized personnel only. Drugs shall be maintained at appropriate temperatures in accordance with definitions in 18VAC110-20-10.

D. The mixing, diluting or reconstituting of drugs for administration shall be in accordance with regulations of the Board of Medicine (18VAC85-20-400 et seq.).

E. Records of all drugs in Schedules I-V received, sold, administered, dispensed or otherwise disposed of shall be maintained in accordance with federal and state laws, to include the inventory and reporting requirements of a theft or loss of drugs found in § 54.1-3404 of the Drug Control Act of the Code of Virginia.

12VAC5-412-270. Equipment and supplies.

An abortion facility shall maintain medical equipment and supplies appropriate and adequate to care for patients based on the level, scope and intensity of services provided, to include:

1. A bed or recliner suitable for recovery;
2. Oxygen with flow meters and masks or equivalent;
3. Mechanical suction;
4. Resuscitation equipment to include, as a minimum, resuscitation bags and oral airways;
5. Emergency medications, intravenous fluids, and related supplies and equipment;
6. Sterile suturing equipment and supplies;
7. Adjustable examination light;
8. Containers for soiled linen and waste materials with covers; and
9. Refrigerator.

12VAC5-412-280. Emergency equipment and supplies.

An abortion facility shall maintain medical equipment, supplies and drugs appropriate and adequate to manage potential emergencies based on the level, scope and intensity of services provided. Such medical equipment, supplies and drugs shall be determined by the physician and shall be consistent with the current edition of American Heart Association's Guidelines for Advanced Cardiovascular Life Support. Drugs shall include, at a minimum, those to treat the following conditions:

1. Cardiopulmonary arrest;
2. Seizure;
3. Respiratory distress;
4. Allergic reaction;
5. Narcotic toxicity;
6. Hypovolemic shock; and
7. Vasovagal shock.

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12VAC5-412-290. Emergency services.

A. An abortion facility shall provide ongoing urgent or emergent care and maintain on the premises adequate monitoring equipment, suction apparatus, oxygen and related items for resuscitation and control of hemorrhage and other complications.

B. An abortion facility that performs abortions using intravenous sedation shall provide equipment and services to render emergency resuscitative and life-support procedures pending transfer of the patient to a hospital. Such medical equipment and services shall be consistent with the current edition of American Heart Association's Guidelines for Advanced Cardiovascular Life Support.

C. A written agreement shall be executed with a licensed general hospital to ensure that any patient of the abortion facility shall receive needed emergency treatment. The agreement shall be with a licensed general hospital capable of providing full surgical, anesthesia, clinical laboratory, and diagnostic radiology service on 30 minutes notice and which has a physician in the hospital and available for emergency service at all times.

12VAC5-412-300. Quality assurance.

A. The abortion facility shall implement an ongoing, comprehensive, integrated, self-assessment program of the quality and appropriateness of care or services provided, including services provided under contract or agreement. The program shall include process design, data collection/analysis, assessment and improvement, and evaluation. The findings shall be used to correct identified problems and revise policies and practices, as necessary.

B. The following shall be evaluated to assure adequacy and appropriateness of services, and to identify unacceptable or unexpected trends or occurrences:

1. Staffing patterns and performance;
2. Supervision appropriate to the level of service;
3. Patient records;
4. Patient satisfaction;
5. Complaint resolution;
6. Infections, complications and other adverse events; and
7. Staff concerns regarding patient care.

C. A quality improvement committee responsible for the oversight and supervision of the program shall be established and at a minimum shall consist of:

1. A physician;
2. A non-physician health care practitioner;
3. A member of the administrative staff; and

4. An individual with demonstrated ability to represent the rights and concerns of patients. The individual may be a member of the facility's staff.

In selecting members of this committee, consideration shall be given to the candidate's abilities and sensitivity to issues relating to quality of care and services provided to patients.

D. Measures shall be implemented to resolve problems or concerns that have been identified.

E. Results of the quality improvement program shall be reported to the licensee at least annually and shall include the deficiencies identified and recommendations for corrections and improvements. The report shall be acted upon by the governing body and the facility. All corrective actions shall be documented. Identified deficiencies that jeopardize patient safety shall be reported immediately in writing to the licensee by the quality improvement committee.

Part V

Medical Records And Reports

12VAC5-412-310. Medical records.

An accurate and complete clinical record or chart shall be maintained on each patient. The record or chart shall contain sufficient information to satisfy the diagnosis or need for the medical or surgical service. It shall include, but not be limited to the following:

1. Patient identification;
2. Admitting information, including patient history and physical examination;
3. Signed consent;
4. Confirmation of pregnancy; and
5. Procedure report to include:
 - a. Physician orders;
 - b. Laboratory tests, pathologist's report of tissue, and radiologist's report of x-rays;
 - c. Anesthesia record;
 - d. Operative record;
 - e. Surgical medication and medical treatments;
 - f. Recovery room notes;
 - g. Physician and nurses' progress notes;
 - h. Condition at time of discharge;
 - i. Patient instructions, preoperative and postoperative; and
 - j. Names of referral physicians or agencies.

12VAC5-412-320. Records storage.

Provisions shall be made for the safe storage of medical records or accurate and eligible reproductions thereof according to applicable federal and state law, including the Health Insurance Portability and Accountability Act (42 USC § 1320d et seq.). In the event of closure of the facility, the facility shall notify OLC concerning the location where patient medical records are stored.

12VAC5-412-330. Reports.

A. Abortion facilities shall comply with the fetal death and induced termination of pregnancy reporting provisions in the Board of Health Regulations Governing Vital Records (12VAC5-550-120).

B. Abortion facilities shall report all patient, staff or visitor deaths to the OLC within 24 hours of occurrence.

Part VI**Functional Safety and Maintenance****12VAC5-412-340. Policies and procedures.**

The abortion facility shall develop, implement and maintain policies and procedures to ensure safety within the facility and on its grounds and to minimize hazards to all occupants. The policies and procedures shall include, but not be limited to:

1. Facility security;
2. Safety rules and practices pertaining to personnel, equipment, gases, liquids, drugs, supplies and services; and
3. Provisions for disseminating safety-related information to employees and users of the facility.

12VAC5-412-350. Disaster preparedness.

A. Each abortion facility shall develop, implement and maintain policies and procedures to ensure reasonable precautions are taken to protect all occupants from hazards of fire and other disasters. The policies and procedures shall include provisions for evacuation of all occupants in the event of a fire or other disaster.

B. A facility that participates in a community disaster plan shall establish plans, based on its capabilities, to meet its responsibilities for providing emergency care.

12VAC5-412-360. Maintenance.

A. The facility's structure, its component parts, and all equipment such as elevators, heating, cooling, ventilation and emergency lighting, shall be kept in good repair and operating condition. Areas used by patients shall be maintained in good repair and kept free of hazards. All wooden surfaces shall be sealed with non-lead-based paint, lacquer, varnish, or shellac that will allow sanitization.

B. When patient monitoring equipment is utilized, a written preventive maintenance program shall be developed and implemented. This equipment shall be checked and/or tested in accordance with manufacturer's specifications at periodic intervals, not less than annually, to ensure proper operation and a state of good repair. After repairs and/or alterations are made to any equipment, the equipment shall be thoroughly tested for proper operation before it is returned to service. Records shall be maintained on each piece of equipment to indicate its history of testing and maintenance.

12VAC5-412-370. Fire-fighting equipment and systems.

A. Each abortion facility shall establish a monitoring program for the internal enforcement of all applicable fire and safety laws and regulations and shall designate a responsible employee for the monitoring program.

B. All fire protection and alarm systems and other firefighting equipment shall be inspected and tested in accordance with the current edition of the Virginia Statewide Fire Prevention Code (§ 27-94 et seq. of the Code of Virginia) to maintain them in serviceable condition.

C. Corridor Obstructions. All corridors and other means of egress or exit from the building shall be maintained clear and free of obstructions in accordance with the current edition of the Virginia Statewide Fire Prevention Code (§ 27-94 et seq. of the Code of Virginia).

Part VII**Design and Construction****12VAC5-412-380. Local and state codes and standards.**

Abortion facilities shall comply with state and local codes, zoning and building ordinances, and the Uniform Statewide Building Code. In addition, abortion facilities shall comply with Part 1 and sections 3.1-1 through 3.1-8 and section 3.7 of Part 3 of the 2010 Guidelines for Design and Construction of Health Care Facilities of the Facilities Guidelines Institute, which shall take precedence over the Uniform Statewide Building Code pursuant to Virginia Code § 32.1-127.001.

Entities operating as of the effective date of these regulations as identified by the department through submission of Reports of Induced Termination of Pregnancy pursuant to 12VAC5-550-120 or other means and that are now subject to licensure may be licensed in their current buildings if such entities submit a plan with the application for licensure that will bring them into full compliance with this provision within two years from the date of licensure.

VA.R. Doc. No. R12-2970; Filed December 29, 2011, 4:36 p.m.

VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF BUILDING AND FIRE REGULATION

Code Change Form for the 2012 Code Change Cycle

Code Change Number: _____

Proponent Information (Check one): Individual Government Entity Company

Name: VBCOA Admin Committee (Draft) Representing: _____

Mailing Address: _____

Email Address: _____ Telephone Number: _____

Proposal Information

Code(s) and Section(s): Virginia Construction Code, Virginia Maintenance Code and Statewide Fire Prevention Code

Proposed Change (including all relevant section numbers, if multiple sections):

Change the sentence below in the appeals provisions to read as shown:

The LBBCA (or BFPCA) shall meet at least once annually in a physical location or by using telephonic or electronic media to assure a duly constituted board, appoint officers as necessary, and receive such training on the code as may be appropriate or necessary from staff of the locality.

Supporting Statement (including intent, need, and impact of the proposal):

The VBCOA Admin Committee believes requiring local appeals board members to travel to a meeting location if there are no appeals to be heard to be overly burdensome, so this amendment would provide for the meeting to be accomplished using conference calls or video-conferencing.

Submittal Information

Date Submitted: _____

The proposal may be submitted by email as an attachment, by fax, by mail, or by hand delivery.

Please submit the proposal to:

DHCD DBFR TASO (Technical Assistance and Services Office)
600 East Main Street
Suite 300
Richmond, VA 23219

Email Address: taso@dhcd.virginia.gov
Fax Number: (804) 371-7092
Phone Numbers: (804) 371-7140 or (804) 371-7150



VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF BUILDING AND FIRE REGULATION

Code Change Form for the 2012 Code Change Cycle

Code Change Number: _____

Proponent Information

(Check one): Individual Government Entity Company

Name: Bryan Deem

Representing: Stafford County

Mailing Address: 359 Laurel Drive, Aylett, Virginia 23009

Email Address: bdeem@co.stafford.va.us

Telephone Number: 540-658-4504

Proposal Information

Code(s) and Section(s): USBC R403.1

Proposed Change (including all relevant section numbers, if multiple sections):

R403.1 General. All exterior walls shall be supported on continuous solid or fully grouted masonry or concrete footings, wood foundations, or other approved structural systems which shall be of sufficient design to accommodate all loads according to Section R301 and to transmit the resulting loads to the soil within the limitations as determined from the character of the soil. Footings shall be supported on undisturbed natural soils or engineered fill.

~~Exception: One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, not exceeding 256 square feet (23.7824 m²) of building area, provided all of the following conditions are met:~~

- ~~1. The building eave height is 10 feet or less.~~
- ~~2. The maximum height from the finished floor level to grade does not exceed 18 inches.~~
- ~~3. The supporting structural elements in direct contact with the ground shall be placed level on firm soil and when such elements are wood they shall be approved pressure preservative treated suitable for ground contact use.~~
- ~~4. The structure is anchored to withstand wind loads as required by this code.~~
- ~~5. The structure shall be of light frame construction whose vertical and horizontal structural elements are primarily formed by a system of repetitive wood or light gauge steel framing members, with walls and roof of light weight material, not slate, tile, brick or masonry.~~

To be replaced by:

Exception: One story detached accessory structures 200 square feet or less which are exempt from application of permit in accordance with section R108.2.

Supporting Statement (including intent, need, and impact of the proposal):

Under the current provision there is an unusual accommodation for tool sheds between 200 square feet and 256 square feet. While a 200 square foot shed does not require an application for permit, those between 200 and 256 need not have a footing designed "to accommodate all loads according to Section R301 and to transmit the resulting loads to the soil within the limitations as determined from the character of the soil." It would be unusual to press for other code requirements to be met when the foundation system is not required to meet any standard. The current provision requires partial code compliance for a shed that is 14'x14'; strangely, a shed that is 16'x16' must be fully compliant.

It seems more logical to align both USBC R403.1 and USBC R108.2 so that detached structures 200 square foot or less avoid regulation altogether.

Submittal Information

Date Submitted: 6-13-12

The proposal may be submitted by email as an attachment, by fax, by mail, or by hand delivery.

Please submit the proposal to:

DHCD DBFR TASO (Technical Assistance and Services Office)
600 East Main Street
Suite 300
Richmond, VA 23219

Email Address: taso@dhcd.virginia.gov
Fax Number: (804) 371-7092
Phone Numbers: (804) 371-7140 or (804) 371-7150



404.2 Minimum room widths. A habitable room, other than a kitchen, shall not be less than 7 feet (2134 mm) in any plan dimension. Kitchens shall have a clear passageway of not less than 3 feet (914 mm) between counterfronts and appliances or counterfronts and walls.

404.3 Minimum ceiling heights. *Habitable spaces*, hallways, corridors, laundry areas, *bathrooms*, *toilet rooms* and habitable *basement* areas shall have a clear ceiling height of not less than 7 feet (2134 mm).

Exceptions:

1. In one- and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting not more than 6 inches (152 mm) below the required ceiling height.
2. *Basement* rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than 6 feet 8 inches (2033 mm) with not less than 6 feet 4 inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least 7 feet (2134 mm) over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of 5 feet (1524 mm) or more shall be included.

404.4 Bedroom and living room requirements. Every *bedroom* and living room shall comply with the requirements of Sections 404.4.1 through 404.4.5.

404.4.1 Room area. Every living room shall contain at least 120 square feet (11.2 m²) and every *bedroom* shall contain at least 70 square feet (6.5 m²) and every bedroom occupied by more than one person shall contain at least 50 square feet (4.6 m²) of floor area for each occupant thereof.

404.4.2 Access from bedrooms. *Bedrooms* shall not constitute the only means of access to other *bedrooms* or *habitable spaces* and shall not serve as the only means of egress from other *habitable spaces*.

Exception: Units that contain fewer than two *bedrooms*.

404.4.3 Water closet accessibility. Every *bedroom* shall have access to at least one water closet and one lavatory without passing through another *bedroom*. Every *bedroom* in a *dwelling unit* shall have access to at least one water closet and lavatory located in the same story as the *bedroom* or an adjacent story.

404.4.4 Prohibited occupancy. Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

404.4.5 Other requirements. *Bedrooms* shall comply with the applicable provisions of this code including, but not limited to, the light, *ventilation*, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Chapter 5; the heating facilities and electrical receptacle require-

ments of Chapter 6; and the smoke detector and emergency escape requirements of Chapter 7.

404.5 Overcrowding. Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.5.

**TABLE 404.5
MINIMUM AREA REQUIREMENTS**

SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
Living room ^{a,b}	120	120	150
Dining room ^{a,b}	No requirement	80	100
Bedrooms	Shall comply with Section 404.4.1		

For SI: 1 square foot = 0.093 m².

a. See Section 404.5.2 for combined living room/dining room spaces.

b. See Section 404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

404.5.1 Sleeping area. The minimum occupancy area required by Table 404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with Section 404.4.

404.5.2 Combined spaces. Combined living room and dining room spaces shall comply with the requirements of Table 404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

404.6 Efficiency unit. Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than two *occupants* shall have a clear floor area of not less than 220 square feet (20.4 m²). A unit occupied by three *occupants* shall have a clear floor area of not less than 320 square feet (29.7 m²). These required areas shall be exclusive of the areas required by Items 2 and 3.
2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front. Light and *ventilation* conforming to this code shall be provided.
3. The unit shall be provided with a separate *bathroom* containing a water closet, lavatory and bathtub or shower.
4. The maximum number of *occupants* shall be three.

404.7 Food preparation. All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

CHAPTER 6

MECHANICAL AND ELECTRICAL REQUIREMENTS

SECTION 601 GENERAL

601.1 Scope. The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

601.2 Responsibility. The *owner* of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any *premises* which does not comply with the requirements of this chapter.

SECTION 602 HEATING AND COOLING FACILITIES

602.1 Facilities required. Heating and cooling facilities shall be maintained and operated in structures as required by this section.

602.2 Heat supply. Every *owner* and *operator* of any building who rents, leases or lets one or more *dwelling unit*, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the *occupants* thereof shall supply heat during the period from October 15 to May 1 to maintain a temperature of not less than 65°F (18°C) in all habitable rooms, *bathrooms* and *toilet rooms*.

Exception: When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the *International Plumbing Code*.

602.2.1 Prohibited use. In dwelling units subject to Section 602.2, one or more unvented room heaters shall not be used as the sole source of comfort heat in a dwelling unit.

602.3 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from October 1 to May 15 to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

602.4 Cooling supply. Every owner and operator of a Group R-2 apartment building who rents, leases or lets one or more dwelling units, rooming units or guestrooms on terms, either expressed or implied, to furnish cooling to the occupants thereof shall supply cooling during the period from May 15 to

October 1 to maintain a temperature of not more than 80°F (27°C) in all habitable rooms.

Exception: When the outdoor temperature is higher than the summer design temperature for the locality, maintenance of the room temperature shall not be required provided that the cooling system is operating at its full design capacity. The summer outdoor design temperature for the locality shall be as indicated in the *International Energy Conservation Code*.

602.5 Room temperature measurement. The required room temperatures shall be measured 3 feet (914 mm) above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

SECTION 603 MECHANICAL EQUIPMENT

603.1 Mechanical appliances. All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

603.2 Removal of combustion products. All fuel-burning equipment and appliances shall be connected to an *approved* chimney or vent.

Exception: Fuel-burning equipment and appliances which are *labeled* for unvented operation.

603.3 Clearances. All required clearances to combustible materials shall be maintained.

603.4 Safety controls. All safety controls for fuel-burning equipment shall be maintained in effective operation.

603.5 Combustion air. A supply of air for complete combustion of the fuel and for *ventilation* of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

603.6 Energy conservation devices. Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless *labeled* for such purpose and the installation is specifically *approved*.

SECTION 604 ELECTRICAL FACILITIES

604.1 Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 605.

604.2 Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional

VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF BUILDING AND FIRE REGULATION

Code Change Form for the 2012 Code Change Cycle

Code Change Number: _____

Proponent Information (Check one): Individual Government Entity Company

Name: Amusement Device Technical Advisory Comm. Representing: _____

Proposal Information

Code(s) and Section(s): VADR, Sections 20 and 75

Proposed Change (including all relevant section numbers, if multiple sections):

Change Section 13 VAC 5-31-20 by adding the following definition and Section 13 VAC 5-31-75 to read as follows:

13 VAC 5-31-20. Definitions.

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

"Certificate of inspection" means the certificate or sticker for amusement devices distributed by DHCD.

(Remainder of section unchanged)

13 VAC 5-31-75. Local building department.

(no change to subsections A – D)

E. Local building department personnel shall examine the permit application within five days and issue the permit if all requirements are met. A certificate of inspection for each amusement device shall be issued when the device has been found to comply with this chapter by a private inspector or by an inspector from the local building department. It shall be the responsibility of the local building department to verify that the private inspector possesses a valid certificate of competence as an amusement device inspector from the Virginia Board of Housing and Community Development. In addition, local building department personnel shall be responsible for assuring that the certificate of inspection is posted or affixed on or in the vicinity of the device in a location visible to the public. Local building department personnel shall post or affix such certificates or permit the certificates to be posted or affixed by the private inspector. Permits shall indicate the length of time the device or devices will be operated at the site, clearly identify the device or devices to which it applies and the date of expiration of the permit. Permits shall not be valid for longer than one year.

(Remainder of section unchanged)

Supporting Statement (including intent, need, and impact of the proposal):

This proposal would require the use of the state sticker for amusement devices. In the existing regulation, the state sticker may be used or a locality may have their own sticker. In addition, the proposal clarifies that the local building department may allow the private inspector to post the sticker on the approved amusement device. The existing regulation permitted this practice, but only stated that the local department were to assure the certificate was posted on or near the device and didn't specifically address permitting the private inspectors to post the certificates, although it is common practice in many jurisdictions.

VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF BUILDING AND FIRE REGULATION

Code Change Form for the 2012 Code Change Cycle

Code Change Number: _____

Proponent Information

(Check one): Individual Government Entity Company

Name: Amusement Device Technical Advisory Comm. Representing: _____

Proposal Information

Code(s) and Section(s): VADR, Section 75

Proposed Change (including all relevant section numbers, if multiple sections):

Add Subsection J to Section 13 VAC 5-75 to read as follows:

13 VAC 5-31-75. Local building department.

(no change to subsections A – I)

J. In accordance with Section 36-98.1 of the Code of Virginia, the Virginia Department of General Services (DGS) shall function as the local building department for the application of this chapter to amusement devices located on state-owned property. In accordance with Sections 36-98.2 and 36-114 of the Code of Virginia, appeals of the application of this chapter by the DGS shall be made directly to the State Building Code Technical Review Board (Technical Review Board), established under Section 36-108 of the Code of Virginia. Further, as a condition of this chapter, such appeals shall be filed within 14 calendar days after receipt of the decision of DGS.

Supporting Statement (including intent, need, and impact of the proposal):

This proposal is to clarify the application of the chapter to amusement devices operated on state-owned property.

Submittal Information

Date Submitted: _____

The proposal may be submitted by email as an attachment, by fax, by mail, or by hand delivery.

Please submit the proposal to:

DHCD DBFR TASO (Technical Assistance and Services Office)
600 East Main Street
Suite 300
Richmond, VA 23219

Email Address: taso@dhcd.virginia.gov
Fax Number: (804) 371-7092
Phone Numbers: (804) 371-7140 or (804) 371-7150



VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF BUILDING AND FIRE REGULATION

Code Change Form for the 2012 Code Change Cycle

Code Change Number: _____

Proponent Information (Check one): Individual Government Entity Company

Name: Amusement Device Technical Advisory Comm. Representing: _____

Mailing Address: _____

Email Address: _____ Telephone Number: _____

Proposal Information

Code(s) and Section(s): VADR, Section 75

Proposed Change (including all relevant section numbers, if multiple sections):

Add Subsection J to Section 13 VAC 5-75 to read as follows:

13 VAC 5-31-75. Local building department.

(no change to subsections A – I)

J: In accordance with Section 36-98.3 of the Code of Virginia and 13 VAC 5-31-10 B, the procedures for violations of this chapter shall be as prescribed in the USBC.

Supporting Statement (including intent, need, and impact of the proposal):

This proposal is to clarify the procedural requirements for handling violations of the VADR as state law provides that the USBC is applicable to the extent that the VADR does not set out differing requirements.

Submittal Information

Date Submitted: _____

The proposal may be submitted by email as an attachment, by fax, by mail, or by hand delivery.

Please submit the proposal to:

DHCD DBFR TASO (Technical Assistance and Services Office)
600 East Main Street
Suite 300
Richmond, VA 23219

Email Address: taso@dhcd.virginia.gov
Fax Number: (804) 371-7092
Phone Numbers: (804) 371-7140 or (804) 371-7150



A/E SEAL ON DRAWINGS

The purpose of these charts and notes is for quick reference to determine in accordance with § 54.1-402 of the Code of Virginia if an architect's or engineer's (A/E) seal is required on documents for proposed construction.

CHART A - GENERAL DESIGN

A proposed structure which is classified within any of the categories marked "Yes" requires an A/E seal on the documents. Separate requirements apply as to when the electrical, plumbing or mechanical systems in such structures require an A/E seal (see Charts B and C).

GROUP	BRIEF DESCRIPTION	AREA (SQ. FT.)			HEIGHT (STORIES)	
		5,000 OR LESS	5,001 TO 15,000	OVER 15,000	3 OR LESS	OVER 3
A ¹	ASSEMBLY	YES	YES	YES	YES	YES
B	BUSINESS	--	YES	YES	--	YES
E	SCHOOLS & DAY CARE CENTERS	YES	YES	YES	YES	YES
F	FACTORY & INDUSTRIAL	--	--	YES	--	YES
H	HIGH HAZARD	YES	YES	YES	YES	YES
I	INSTITUTIONAL	YES	YES	YES	YES	YES
M	MERCANTILE	--	YES	YES	--	YES
R-1	HOTEL, MOTEL & DORMITORY	YES	YES	YES	YES	YES
R-2 ⁷	MULTI-FAMILY RESIDENTIAL	--	--	YES	YES	YES
R-3	2 FAMILY ATTACHED	--	--	YES	--	YES
R-4	RESIDENTIAL ASSISTED LIVING	--	--	YES	--	YES
R-5	1 & 2 FAMILY DWELLINGS	--	--	YES	--	YES
S	STORAGE (NON-FARM)	--	--	YES	--	YES
U	UTILITY & MISCELLANEOUS	--	--	YES	--	YES
ALL	INTERIOR DESIGN	SEE NOTE NUMBER 4				

Notes: (Apply the following notes to all categories as applicable.)

- Churches are exempt if building does not exceed 5,000 square feet or three stories, and the occupant load does not exceed 100.
- A local building code official may require an A/E seal even if not required to do so by this chart.
- The law requires that, where an A/E seal is not present, the plans must be signed by the individual (not company) responsible for the design, including the individual's occupation and address.
- Additions, remodeling or interior design defined under § 54.1-400 of the Code of Virginia might not require an A/E seal. For construction, additions or remodeling resulting in a change in occupancy, occupancy load, modification to the structural system, change in access or egress or an increase in fire hazard an A/E seal is required in accordance with § 54.1-400, although notes 1 and 2 still apply.
- Any unique design of structural elements for floors, walls, roofs or foundations requires an A/E seal, regardless of whether or not the remainder of the plans require such certification.
- Buildings, structures, or electrical and mechanical installations which are not otherwise exempted but which are of standard design, provided they bear the certification of a professional engineer or architect registered or licensed in another state, and provided that the design is adapted for the specific location and conformity with local codes, ordinances and regulations, and is so certified by a professional engineer or architect licensed in Virginia may not require an A/E seal.
- One exit and three stories or less Group R-2 buildings would normally be exempted from an A/E seal except where required by Note 2. Most all other three stories or less Group R-2 multi-family buildings are required by the building officials to have A/E seals for the construction documents.

CHART B - ELECTRICAL DESIGN (cont.)

A proposed electrical system which is classified within any of the categories marked "Yes" requires an A/E seal on the construction documents. Those NOT marked "Yes" may not require an A/E seal only if designed by a licensed master electrician or Class A electrical contractor (see Notes 2 and 3). Separate requirements apply as to whether the mechanical systems or the general design of such structures require an A/E seal (see Charts A and C).

GROUP	BRIEF DESCRIPTION	HEIGHT (STORIES)		OCCUPANT LOAD		VOLTS		AMPS	
		3 OR LESS	OVER 3	100 OR LESS	OVER 100	600 OR LESS	OVER 600	800 OR LESS	OVER 800
A-1	THEATERS	-	YES	-	YES	-	YES	-	YES
A-2	RESTAURANTS, NIGHTCLUBS	-	YES	-	-	-	YES	-	YES
A-3	DANCE HALLS, CHURCHES	-	YES	-	-	-	YES	-	YES
A-5	GRANDSTANDS, ETC.	-	YES	-	-	-	YES	-	YES
B	BUSINESS	-	YES	-	-	-	YES	-	YES
E	SCHOOLS	YES	YES	YES	YES	YES	YES	YES	YES
F	FACTORY & INDUSTRIAL	-	YES	-	-	-	YES	-	YES
H	HIGH HAZARD	YES	YES	YES	YES	YES	YES	YES	YES
I	INSTITUTIONAL (I-1, I-2 & I-3)	YES	YES	YES	YES	YES	YES	YES	YES
I-4	DAY CARE/NURSERIES	-	YES	-	YES	-	YES	-	YES
M	MERCANTILE	-	YES	-	-	-	YES	-	YES
R	RESIDENTIAL	-	YES	-	YES	-	YES	-	YES
S	STORAGE	-	YES	-	-	-	YES	-	YES
U	UTILITY & MISCELLANEOUS	-	YES	-	-	-	YES	-	YES

Notes: (Apply the following notes to all categories as applicable.)

1. A local building official may require an A/E seal for electrical work even if not required to do so by this chart.
 2. The law requires that, where an A/E seal is not present, the plans must be signed by the individual (not company) responsible for the design, including the individual's occupation and address.
 3. The above chart applies both to new construction and to additions or remodeling.
- a.) The exemption for electrical contractors and electricians is applicable only when both design and installation are under their direction or control.

CHART C - PLUMBING AND MECHANICAL DESIGN (cont.)

A proposed plumbing or mechanical system which is classified within any of the categories marked "Yes" requires an A/E seal on the construction documents. Those NOT marked "Yes" may not require an A/E seal only if designed by a person licensed as a master plumber, master mechanical worker, or Class A contractor in those specialties by written examination (see Notes 3 and 5). Separate requirements apply as to whether the electrical system or the general design of such structures requires an A/E seal (see Charts A and B).

GROUP	BRIEF DESCRIPTION	HEIGHT (STORIES)		OCCUPANT LOAD		THRESHOLD LEVEL ¹	
		3 OR LESS	OR OVER 3	100 OR LESS	OR OVER 100	BELOW	ABOVE
A-1	THEATERS	-	YES	-	YES	-	YES
A-2	RESTAURANTS, NIGHTCLUBS	-	YES	-	-	-	YES
A-3	DANCE HALLS, CHURCHES	-	YES	-	-	-	YES
A-5	GRANDSTANDS, ETC.	-	YES	-	-	-	YES
B	BUSINESS	-	YES	-	-	-	YES
E	SCHOOLS	YES	YES	YES	YES	YES	YES
F	FACTORY & INDUSTRIAL	-	YES	-	-	-	YES
H	HIGH HAZARD	YES	YES	YES	YES	YES	YES
I	INSTITUTIONAL (I-1, I-2 & I-3)	YES	YES	YES	YES	YES	YES
I-4	DAY CARE	-	YES	-	YES	-	YES
M	MERCANTILE	-	YES	-	-	-	YES
R	RESIDENTIAL	-	YES	-	YES	-	YES
S	STORAGE	-	YES	-	-	-	YES
U	UTILITY & MISCELLANEOUS	-	YES	-	-	-	YES

Notes: (Apply the following notes to all categories as applicable.)

1. The "Threshold Level" is defined in the law as "Plumbing and mechanical systems using packaged mechanical equipment, such as equipment of cataloged standard design which has been coordinated and tested by the manufacturer, which comply with all applicable codes. These mechanical systems shall not exceed gauge pressures of 125 pounds per square inch, other than refrigeration, or temperatures other than flue gas of 300° F (150° C) ..."
 2. A local building official may require an A/E seal for plumbing and mechanical systems even if not required to do so by this chart.
 3. The law requires that, where an A/E seal is not present, the plans must be signed by the individual (not company) responsible for the design, including the individual's occupation and address.
 4. The above chart applies to both new construction and to additions or remodeling.
- b.) The exemptions for plumbers, HVAC workers, and mechanical contractors are applicable only when both design and installation are under his/her direction or control.

SWCB REGULATIONS ON TANKS

The USBC section on flammable and combustible liquids indicates that regulations governing the installation, repair, upgrade, and closure of underground and aboveground storage tanks under the Virginia State Water Control Board (SWCB) regulation(s) 9 VAC 25-580-10 et seq. and 9 VAC 25-91-10 et seq. are adopted and incorporated by reference to be an enforceable part of this code.

The purpose of these charts is for quick reference to determine when and how tanks are regulated by these SWCB regulations. Tanks exempt or excluded by SWCB regulations are not exempt from meeting USBC requirements.

CHART A - UNDERGROUND STORAGE TANKS (USTs)

A UST within any of the categories marked "YES" indicates that the SWCB regulations (<http://www.deq.state.va.us/tanks/dwnllib.html#tankregs>) contain requirements that the UST must comply with. Regulations do not apply to underground storage tanks that are not part of the definition^a, or are excluded^b by the regulations. In certain instances UST's may be partially regulated.^{c,d} The SWCB regulations define an UST as any one or a combination of tanks (including underground pipes) that is used to contain an accumulation of regulated substances and the volume of which (including underground pipes) is 10% or more below the surface of the ground.

BRIEF DESCRIPTION	UST REG APPLY
UST Technical Regulations (9 VAC 25-580-10 et seq.) address "regulated substances" that is defined in Article 9 of the State Water Control Law to mean any one of the following: ^e <ol style="list-style-type: none"> a.) Any substance listed in §101(14) of CERCLA (42 USC § 9601 <i>et seq.</i>) Available on the Web at: http://www.epa.gov/swerst1/fedlaws/cfr.htm#40cfr302.4; b.) Petroleum, including crude oil or any fraction thereof, that is liquid at standard conditions of temperature and pressure (60°F and 14.7 psia); or c.) Petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through a process of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils. 	YES
Any UST ≤110 gallons	NO
Farm or residential tank ≤1,100 gallons used for storing motor fuel for noncommercial purposes	NO
All underground tanks used for storing heating oil for consumption on the premises where stored	NO

Note a. Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes; Tanks used for storing heating oil for consumption on the premises where stored; Septic tanks; Pipeline facilities regulated under the Natural Gas Pipeline Safety Act of 1968, the Hazardous Liquid Pipeline Safety Act of 1979, or an intrastate pipeline; Surface impoundment, pit, pond, or lagoon; Storm water or wastewater collection systems; Flow-through process tanks; Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; Storage tank situated in an underground area (such as a basement, cellar, mine-working, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor is regulated as an AST; Pipes connected to any of these tanks.

Note b. UST systems holding hazardous wastes listed or identified under Subtitle C of the Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances; Wastewater treatment tank system that is part of a wastewater treatment facility regulated under §402 or §307(b) of the Clean Water Act; Equipment of machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks; Any UST system whose capacity is 110 gallons or less; UST systems containing de minimis concentration of regulated substances; Emergency spill or overflow containment UST system that is expeditiously emptied after use.

Note c. Wastewater treatment tank systems; UST systems containing radioactive material that are regulated under the Atomic Energy Act of 1954; UST systems that are part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR 50, Appendix A; Airport hydrant fuel distribution systems; UST systems with field-constructed tanks.

Note d. Release detection does not apply to any UST system that stores fuel solely for use by emergency power generators.

Note e. Wording has been abbreviated. For complete definition see "regulated substance" in 9 VAC 25-580-10.

CHART B - ABOVEGROUND STORAGE TANKS (ASTs)

An AST within any of the categories marked "YES" indicates that the SWCB regulations (<http://www.deq.state.va.us/tanks/dwnllib.html#tankregs>) contain requirements that the AST must comply with. Regulations do not apply to aboveground storage tanks that are not part of the definition(s)^a, or are excluded^{b,e} by the regulations. In certain instances AST's may be partially excluded by the regulations.^{c,d}

BRIEF DESCRIPTION ^e	AST REG APPLY
<p>AST Technical Regulations (9 VAC 25-91-10 et seq.) address tanks and connected piping containing "oil" at atmospheric pressure. "Oil" as defined means oil of any kind and in any form, including, but not limited to, petroleum and petroleum by-products, fuel oil, lubricating oils, sludge, oil refuse, oil mixed with other wastes, crude oils, and all other liquid hydrocarbons regardless of specific gravity.</p> <p>Unless otherwise specified, regulations contain requirements for an individual AST with storage capacity greater than 660 gallons of oil. Applicability of each of the part(s) of the SWCB regulation are identified within the regulation (e.g., Pollution prevention requirements does not apply for facilities with an AST storage capacity of < 25000 gallons but ASTs must be registered with DEQ).</p> <p>The term "pipes" or "piping" includes piping and associated piping utilized in the operation of an AST, or emanating from or feeding ASTs or transfers oil from or to an AST(e.g.,dispensing systems, including airport hydrant fueling systems, supply systems, gauging systems, auxiliary systems, etc.).</p>	YES
An AST ≤660 gallons of oil	NO
An AST located on a farm or residence used for storing motor fuel for noncommercial purposes with an aggregate storage capacity ≤1,100 gallons	NO
An AST storing heating oil > 660 gallons for consumption on premises where stored (must be registered with DEQ)	(YES) ^c
An AST > 660 gallons storing asphalt or asphalt compounds that are liquid (60°F at 14.7 psia)	(YES) ^d
An AST used to store propane gas, butane gas or other liquid petroleum gases	NO
An AST regulated by Depart. of Mines, Minerals and Energy (Chap 22.1, § 45.1-361.1) COV	NO
AST used less than 120 days when: used in containment & cleanup; used by a federal, state or local entity in responding to an emergency; or used temporarily to replace permanent storage	NO
Licensed motor vehicles, unless used solely for the storage of oil	NO

Note a. AST definition does not include line pipe and breakout tanks of an interstate pipeline regulated under the federal Accountable Pipeline Safety and Partnership Act of 1996 (49 USC § 60101 *et seq.*). Tank definition does not include flow-through process tanks as defined in 40 CFR Part 280.

Note b. Vessels; Licensed motor vehicles, unless used solely for the storage of oil; An AST with a storage capacity of 660 gallons or less of oil; An AST containing petroleum, including crude oil or any fraction thereof, which is liquid at standard temperature and pressure (60° F at 14.7 psia) subject to and specifically listed or designated as a hazardous substance under the federal CERCLA; A wastewater treatment tank system that is part of a wastewater treatment facility regulated under the federal Clean Water Act; An AST that is regulated by the Depart. of Mines, Minerals and Energy under Chapter 22.1 (§ 45.1-361.1 *et seq.*) of the Code of VA; An AST used for the storage of products that are regulated pursuant to the federal Food, Drug, and Cosmetic Act; An AST that is used to store hazardous wastes listed or identified under Subtitle C of the RCRA (Solid Waste Disposal Act), or a mixture of such hazardous wastes and other regulated substances; An AST that is used to store propane gas, butane gas or other liquid petroleum gases; An AST used to store nonpetroleum hydrocarbon-based animal and vegetable oils; A liquid trap or associated gathering lines directly related to oil or gas production, or gathering operations; A surface impoundment, pit, pond, or lagoon; A stormwater or wastewater collection system; Equipment or machinery that contains oil for operational purposes, including but not limited to lubricating systems, hydraulic systems, and heat transfer systems; An AST used to contain oil for less than 120 days when: (i) used in connection with activities related to the containment and cleanup of oil; (ii) used by a federal, state or local entity in responding to an emergency; or (iii) used temporarily on-site to replace permanent capacity storage; Oil-filled electrical equipment, including, but not limited to, transformers, circuit breakers or capacitors; A flow-through process tank; Oily water separators; An AST containing dredge spoils; An AST located on a farm or residence used for storing motor fuel for noncommercial purposes with an aggregate storage capacity of 1,100 gallons or less; or Pipes or piping beyond the first valve from the AST that connects an AST with production process tanks or production process equipment.

Note c. At facilities with an aggregate AST storage capacity of 25000 gallons or greater of oil, an AST with a capacity of 5,000 gallons or less used for storing heating oil for consumptive use on the premises where stored is excluded from complying with Pollution Prevention Requirements (9 VAC 25-91-130 et seq.) but AST must be registered with DEQ.

Note d. Partial exclusions from portions of AST regulations for certain asphalt and asphalt compounds and for certain line pipe and breakout tanks of an interstate pipeline are identified in AST regulations.

Note e. Wording has been abbreviated. For complete wording, see AST regulations.

**CHART C - PARTIAL LIST OF KEY DIFFERENCES^{a, b, c}
ICC CODES vs SWCB REGULATIONS**

The USBC section on flammable and combustible liquids indicates where differences occur between the provisions of this code and the incorporated provisions of the SWCB regulations, the provisions of the SWCB regulations shall apply. The purpose of this Chart is to identify a partial list of key differences.

SWCB Regulation Requirements UST = 9 VAC 25-580-10 et seq. AST = 9 VAC 25-91-10 et seq.	ICC 2009 Building/Fire Applicable Codes and/or Standards Referenced	Key Differences Noted
9 VAC 25-580-10 - Definition of UST- The definition of UST in SWCB UST regulations only requires 10% of tank & pipe to be underground to be a UST.	NFPA 30 requires tank to be completely covered to be an UST.	This is not considered a conflict since SWCB regulations indicate their definitions have meanings when used in their chapter. Therefore, use SWCB definition in applying their tank regulations and NFPA 30 requirements in applying building or fire code requirements.
9 VAC 25-580-310 – UST Temporary Closure Note: For AST, see footnote c	IFC 2009 Section 3404.2.13.1.3 - UST out of use for 1 yr. requires: "Removal or Abandonment in Place (which is considered permanent closure by SWCB regulations)"	* For upgraded systems: SWCB regulation provides for UST temporary closure indefinitely for upgraded systems and therefore SWCB does not require removal or abandonment in place. * For substandard systems: SWCB regulation provides for extensions of UST temporary closure, at the option of the building official. DEQ policy recommended all substandard UST systems temporarily closed for the 12/22/98 deadline be permanently closed by 12/22/99. ** Therefore, SWCB regulations govern.

Note a: Tanks exempt or excluded by SWCB regulations are not exempt from meeting USBC requirements. For example, SWCB regulations exclude all USTs with heating oil consumed on premises stored, but USBC still has requirements for permits, installation, repairs, abandonment, removal, etc; and IRC has requirements for permits, installation, etc.

Note b: Tank closure per IRC: IRC, Chapter 22, has requirements for installation, but has no requirements for tank closure. The owner would still have to comply with SWCB regulations for tank closure on tanks not excluded from SWCB regulations.

Note c: Even though SWCB regulations do not address temporary closures of ASTs, the ICC out of service requirements in IFC Section 3404.2.13.2 shall apply.

FUEL STORAGE TANK PERMIT, CONSTRUCTION DOCUMENT, AND INSPECTION INFORMATION

Product In The Tank	Where The Tank Is Being Placed	Activity	Fire Prevention Code			Virginia Uniform Statewide Building Code		
			Permit	Construction Documents	Insp.	Permit	Construction Documents	Insp.
Liquefied Petroleum Gas (NFPA 58)	Commercial	Installation	Yes single tanks greater than 30 gallons, and multiple tanks greater than 60 gallons	Yes	No	Yes	No	Yes
	Commercial	Abandonment/removal/closure	No	No	No	No	No	No
	Residential	Installation	No	No	No	Yes	No	Yes
Diesel Fuel or Gasoline	Commercial	Abandonment/removal/closure	No	Yes	No	Yes	No	Yes
	Commercial	Installation	Yes if greater than 60 gallons	Yes	Yes	Yes	Yes	Yes
	Residential	Abandonment/removal/closure	No	No	No	Yes	No	Yes
Fuel Oil	Commercial	Abandonment/removal/closure	Yes if greater than 60 gallons	Yes	Yes	Yes	Yes	Yes
	Commercial	Installation	No	No	No	Yes	No	Yes
	Residential	Installation	No	No	No	Yes	No	Yes

- 1 Owner is required to submit the results of soil sample(s) to the Dept. of Environmental Quality (DEQ) for evaluation after the abandonment/removal/closure of the registered tank(s). Owner must report sample results greater than 100ppm TPH within 24 hours of release discovery to the Regional DEQ Office (DEQ-Telephone # 800-592-5482).
- 2 Above ground/ below ground storage tanks greater than 1100 gallons: Department of Environmental Quality regulations shall also apply.
- 3 Above ground tanks greater than 660: Department of Environmental Quality regulations shall also apply.
- 4 Above ground storage tanks greater than 660 gallons and below ground storage tanks greater than 110 gallons: Department of Environmental Quality regulations shall also apply.
- 5 Above ground tanks greater than 660 gallons shall be registered in accordance with the State Water Control Board regulations.
- 6 Department of Environmental Quality regulations shall not apply to underground storage tanks where the stored fuel oil is consumed on the premises where stored.

MEMORANDUM OF AGREEMENT
between the
Board of Housing and Community Development
and the
Virginia Department of Health

In accordance with Section 36-97 "et seq." Code of Virginia, the Virginia Department of Health (hereafter referred to as the "Department") and the Board of Housing and Community Development (hereafter referred to as the "BHCD") on this June 28, 2002, agrees to coordinate the Uniform Statewide Building Code (hereafter referred to as the "USBC") and the Virginia Waterworks Regulations (hereafter referred to as the "Regulations"). The parties agree to the following.

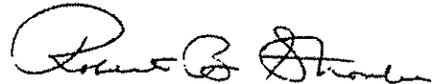
1. That adoption and promulgation of the USBC is the responsibility of the BHCD; that enforcement of the USBC is the responsibility of the local building department; and that adoption, promulgation and enforcement of the Regulations is the responsibility of the Department.
2. That the jurisdiction of the USBC includes all buildings and structures and their internal service plumbing, up to the point of connection to the water meter; and that the jurisdiction of the Regulations includes the meter, all public water supply transmission mains, treatment facilities, and raw water collection and transmission facilities. Where no meter is installed, the point of demarcation between the jurisdiction of the USBC and of the Regulations is the point of connection to the public water supply main; or, in the case of an owner of both public water supply system and the building served, the point of demarcation is the point of entry into the building;
3. That both the USBC and the Regulations will include a clear reference to jurisdiction of the other document.
4. That the Regulations will require each waterworks owner to have a cross-connection prevention program consistent with the Regulations. The regulations will require, as a minimum, a containment device at each service connection where a health, pollution or system hazard to the waterworks exists. It is recognized that in lieu of such containment devices, point of use devices shall comply with the provisions of the USBC. Point of use devices approved by the waterworks owner/Department shall be deemed to be in compliance with the USBC.
5. That wherever public water supply and/or water treatment equipment or facilities are located in a building or structure, the Regulations apply to all such equipment and the USBC applies to the structure and all of its incidental utilities (i.e. heating, electrical, house plumbing, etc.).
6. That the building official is required by the USBC to be assured that the water supply to a building is safe and of adequate capacity before issuing a building permit. Building permits involving a new water connection or extension of an existing connection to a public water supply main shall not be issued when the Department has notified the building official in writing that the water supply system is at or above its permitted capacity.

7. That appropriate amendments, additions, or deletions will be made to the Regulations and to the USBC to insure that there is no jurisdictional conflict between the two documents.
8. That it is the intention of both the BHCD and the Department to cooperate with each other in resolving any technical conflicts between the Regulations and the USBC, and in developing and implementing operational procedures to insure and promote a constructive working relationship between building and health officials.
9. That, except in matters of imminent danger to public health or safety, whenever conflicts or disagreements arise between the two agencies or their staffs, all appropriate regulatory procedures will be exhausted prior to any judicial action.
10. This Agreement may be amended or terminated by mutual consent of the parties.

The undersigned agree to the conditions of this Agreement.



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



Dr. Robert B. Stroube
State Health Commissioner,
Virginia Department of Health

MEMORANDUM OF AGREEMENT

Between the Virginia Board of Housing and Community Development
and
Virginia Department of Health

In accordance with §§ 36-98 et seq., 32.1-12, and 32.1-163 et seq. of the *Code of Virginia*, the Virginia Department of Health (the "Department") and the Virginia Board of Housing and Community Development (the "Board") on this day, July 6, 2007, agree to coordinate jurisdictional responsibilities through the Virginia Uniform Statewide Building Code (13 VAC 5-62, the "Code") and the *Sewage Handling and Disposal Regulations* (12 VAC 5-610-20) and/or the *Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings* (12 VAC 5-640-10) which are referred to collectively as the "*Regulations*."

The parties agree as follows:

1. Codes and Regulations.

- A. Adoption and promulgation of the Code is the responsibility of the Board;
- B. Enforcement of the Code is the responsibility of the local building department;
- C. Promulgation of the *Regulations* is the responsibility of the Board of Health; and
- D. The *Regulations* are administered and enforced jointly by the Department and local health departments.

2. Onsite or Decentralized Sewage Systems.

- A. Where the wastewater from a building or structure is discharged to an onsite sewage treatment and dispersal system or an alternative single-family discharging sewage treatment system and the flow is by gravity, the jurisdiction of the Code includes all buildings and structures and their internal service plumbing up to the point of connection of the building drain to the building sewer. The jurisdiction of the *Regulations* includes the building sewer at the point of its connection to the building drain and the functional design, specifications equipment, materials, and all appurtenances (excluding electrical and structural) for the sewage handling and dispersal facilities. The sewage handling and dispersal facilities may include a septic tank, a pump station/tank, or additional treatment devices such as a sand filter and a soil absorption field. The pump tank is typically located downstream from the septic tank. Additional treatment devices may also include pumps and blowers as well

as other electrical devices. The jurisdiction of the *Regulations* will apply to all functional aspects of these facilities which (for pump stations/tanks) include a motor control center/panel, master disconnect switch and a manual override switch. The jurisdiction of the Code shall apply to the electrical and structural components of these facilities. The requirements of the Code concerning motor control centers, disconnects, and manual override switches shall apply when all of the following conditions are met:

- i. Pumps are individually less than two (2) horsepower;
- ii. A pump is employed only to lift effluent to a higher elevation for dispersal in a soil absorption field and is not considered part of the treatment process;
- iii. Effluent is delivered to a gravity distribution box; and
- iv. Cord-and-plug connections are located in a weather proof box outside of the pump tank/wetwell unless designed for installation within the pump tank/wetwell.

If all conditions cannot be met, a separate motor control center shall be required. Examples of situations requiring a separate motor control center include, but are not limited to, sewage systems utilizing pressure dosing, time dosing and similar design concepts, and systems serving commercial establishments. The Department (or Authorized Onsite Soil Evaluator where appropriate) will be responsible for noting on the construction permit whether a separate motor control center with master disconnect and override switches is required for a specific installation.

- B. Where the discharge from individual plumbing fixtures cannot flow by gravity to a building sewer, and where the building sewer will be connected to an onsite sewage treatment and dispersal system and where a pumping station and pumps will be located internal to the building or structure, the Code shall apply to the design, construction, and installation of the pump station, pumps, and appurtenances, and the *Regulations* will apply to the sewage treatment and dispersal system from the point of the building drain connection to the building sewer.
3. **Enclosed Equipment, Reuse.** Wherever sewage is treated for reuse in a manner other than soil dispersal or discharge to the waters of the Commonwealth, the *Regulations* will apply to the design of all associated equipment or facilities and the jurisdiction of the Code will apply to all buildings and/or structures used to house the treatment and reuse equipment and facilities as well as all service plumbing, wiring, etc.

4. Permits.

- A. In accordance with § 32.1-165 of the *Code of Virginia*, no county, city, town or employee thereof, shall issue a permit (building permit) for the construction of a new building designed for human occupancy without the prior written notification (in the form of a construction permit, operating permit, subdivision approval, or certification letter) of the State Health Commissioner ("Commissioner") or his agent that safe, adequate, and proper sewage treatment is or will be made available to such building. Whenever new construction will result in an increase in the wastewater flow or capacity of a an existing structure, the Commissioner's written notice to the building official will be in the form of a valid permit for construction of an onsite sewage system and neither certification letter nor subdivision approval will be sufficient to comply with this requirement. The Department will apply the standards set forth in the *Regulations* when evaluating applications for the handling and disposal of sewage onsite. The Department will notify the local building official as soon as practicable when a permit for a sewage treatment and disposal system has been issued in accordance with the *Regulations*.
- B. The jurisdiction of the Code includes the issuance of a certificate of occupancy upon inspection and approval of the structure, and the jurisdiction of the *Regulations* includes the issuance of an operation permit upon inspection and approval of the sewage treatment, dispersal, and handling system(s). The local health department will notify the local building official as soon as practicable when an operation permit has been issued and the local building official will not issue the certificate of occupancy as required by the Code until he has received such notice.
- C. The Code and the *Regulations*, when practical, will include clear references to the jurisdiction of the other document.
- D. Appropriate amendments, additions, or deletions will be made to the *Regulations* and to the Code, when practical, to ensure that there are no jurisdictional conflicts between the two.

5. Conflict Resolution.

- A. It is the intention of both the Board and the Department to cooperate with each other in resolving any technical conflicts between the *Regulations* and the Code, and in developing and implementing operational procedures to ensure and promote constructive working relationships among building and health officials.

MEMORANDUM OF AGREEMENT
between the
Board of Housing and Community Development
and the
Virginia Department of Labor and Industry

(Revised November 2001)

In accordance with Sections 36-98 et seq. and 40.1-51.6 et seq. of the Code of Virginia, the Virginia Department at Labor and industry (hereinafter referred to as the "Department") and the Board of Housing and Community Development (hereinafter referred to as the "Board") on this Nov. 1, 2001 agree to coordinate the Virginia Uniform Statewide Building Code (hereinafter referred to as the "Code") and the Boiler and Pressure Vessel Safety Regulations (hereinafter referred to as the "Regulations"). The parties agree to the following:

1. That enforcement of the Code is the responsibility of the local building department, and that enforcement of the Regulations is the responsibility of the Department.
2. That this agreement covers boilers and water heaters except:
 - A Boilers used in private residences or apartment houses of less than four apartments.
 - B. Hot water supply boilers and water heaters when the following limitations are not exceeded:
 - a) heat input of 200,000 BTU per hour
 - b) water temperature of 210 Fahrenheit
 - c) water-containing capacity of 120 gallons
3. That the local building department shall notify, in writing, the chief boiler inspector when a building, mechanical or plumbing permit is issued for any boiler or water heater that is subject to the Department's inspection. The local building department may provide computer generated disks in e-mail attachments listing owners/users addresses of boilers and water heaters.
4. That inspection and certification of boilers shall be the responsibility of the Department; however, the Department may authorize and accept inspection reports from approved special inspectors and owner-user inspection agencies in accordance with sections 40.1-51.9 and 40.1-51.11:1 of the Code of Virginia.
5. That the Department shall assure new and existing boilers and water heaters are in compliance with the Regulations.

MEMORANDUM OF AGREEMENT
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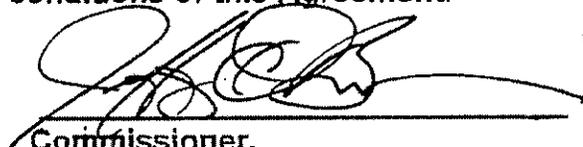
6. That the local building department shall accept the inspection certificate of compliance from the Department as evidence of compliance with the Regulations. The Department shall notify, in writing, the local building department of the issuance of certificate of compliance.
7. That appropriate amendments, additions, or deletions will be made to the Regulation. and to the Code to insure that there is no jurisdictional conflict between the two documents.
8. That it is the intention of both the Board and the Department to cooperate with each other in resolving any technical conflicts between the Regulations and the Code, and in developing and implementing operational procedures to insure and promote a constructive working relationship between building officials and boiler inspectors.
9. That, except in matters of imminent danger to public health or safety, whenever conflicts or disagreements arise between the two agencies or their staffs or localities, all appropriate regulatory procedures will be exhausted prior to any judicial action. That the local building official may require appropriate corrective actions in accordance with the Code, where unsafe conditions exist and there is an imminent danger to the public health or safety.
10. That this Agreement may be amended or terminated by mutual consent of the parties.

The undersigned agree to the conditions of this Agreement.



**Director,
Department of Housing and
Community Development**

**For the Board of Housing and
Community Development**



**Commissioner,
Department of Labor and
Industry**



COMMONWEALTH of VIRGINIA

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
Division of Building and Fire Regulation

Timothy M. Kaine
Governor

Patrick O. Gottschalk
Secretary of
Commerce and Trade

William C. Shelton
Director

MEMORANDUM OF AGREEMENT

Virginia Board of Housing and Community Development
And
Virginia Department of Environmental Quality

In accordance with §10.1-1186 and §36-139 of the Code of Virginia, the Virginia Department of Environmental Quality (the "Environmental Department") and the Virginia Department of Housing and Community Development (the "Housing Department") on this day, August 20, 2007, agree to coordinate jurisdictional responsibilities through the Virginia Uniform Statewide Building Code (13 VAC 5-63, the "Code") and the Sewage Collection and Treatment Regulations (9 VAC 25-790) which are referred to as the "Regulations".

The parties agree as follows:

1. Codes and Regulations

- A. Adoption and promulgation of the Code is the responsibility of the Housing Department;
B. Enforcement of the Code is the responsibility of the local building department;
C. Promulgation of the Regulations is the responsibility of the Environmental Department; and
D. The Regulations are administered and enforced by the Environmental Department.

2. Sewage Treatment Works, Pump Stations, and Other Sewage Handling Equipment

- A. The Environmental Department is charged with issuing construction and operation certificates for municipal sewage collection systems and treatment works. Whenever components of sewage collection systems and/or treatment works are located in a building or similar structure, the Regulations will apply to the design of all such equipment or facilities and the Code applies to the structure and all of its incidental utilities (i.e., heating, electrical, house plumbing, etc.).
B. Wherever sewage is treated for reuse and permitted by the Environmental Department, the Regulations will apply to the design of all associated equipment or facilities and the

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jurisdiction of the Code will apply to all buildings and/or structures used to house the treatment and reuse equipments and facilities as well as all service plumbing, wiring, etc.

- C. No county, city, town or employee thereof, shall issue a permit (building permit) for a building designed for human occupancy without first obtaining the prior notification from the Environmental Department that safe, adequate and proper sewage treatment is, or will be made available to such building. The Environmental Department shall notify the local building official when a permit, both construction and operation, for a sewage treatment works or pump station has been issued in accordance with the Regulations. It is noted that the Virginia Department of Health has the responsibility for construction and operation permits for single family home discharging sewage treatment systems.

3. Building Sewers

- A. Where the wastewater from the building or structure flows by gravity to the building sewer, which is or will be connected to a public or private gravity sewer, the jurisdiction of the Code shall apply to the building drain, building sewer, and all other appurtenances up to the point of connection to the public or private gravity sewer.
- B. Where the wastewater from a building or structure is pumped to a public or private gravity sewer [regardless of its location inside or outside of a building] and
- 1.) the total daily flow is less than 2000 gallons per day, the jurisdiction of the Code shall apply.
 - 2.) the total daily flow is greater than or equal to 2000 gallons per day, the jurisdiction of the Regulations shall apply.
- C. Where the wastewater from a building or structure is pumped to a pressurized force main, the jurisdiction of the Regulations shall apply.
- D. Where the wastewater from a building or structure is transferred via a vacuum system to a public or private sewer system, the jurisdiction of the Regulations shall apply.

4. General Agreements

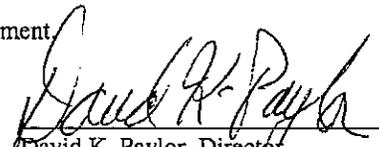
- A. It is the intention of both the Board and the Department to cooperate with each other in resolving any technical conflicts between the Regulations and the Code and in developing and implementing operational procedures to insure and promote a constructive working relationship between Code and Regulation officials.

MOA – DHCD & DEQ
July 2007
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- B. Both the Code and the Regulations, when practical, will include a clear reference to jurisdiction of the other documents.
- C. Appropriate amendments, additions, or deletions will be made to the Regulations and the Code, when practical, to insure that there is no jurisdictional conflict between the two documents.
- D. Except in matters of imminent danger to public health or safety, whenever conflicts or disagreements arise between the two agencies or their staff, all appropriate regulatory procedures will be exhausted prior to any judicial action
- E. This Agreement may be amended or terminated by mutual consent of the parties.

The undersigned agree to the Conditions of this Agreement


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


David K. Paylor, Director
Department of Environmental
Quality

Memorandum of Agreement Between
The Virginia Department of Health The
Virginia Department of Housing and Community Development and
The Virginia Department of Agriculture Consumer Services
October 2009

Statutory Authority

This agreement is established with reference to the Virginia Indoor Clean Air Act (Title 15.2 §2820-2833), Virginia Food Regulations (12 VAC 5-421), Virginia Retail Food Establishment Regulations (2 VAC 5-585) and the Virginia Uniform Statewide Building Code (USBC), (13 VAC 5-63) regarding the policies and procedures pursuant to these Acts and regulations.

Purpose

With the Governor's signing of House Bill 1703, smoking in restaurants will be prohibited effective December 1, 2009, with limited exceptions. One of these exceptions includes the construction of an area inside a restaurant where smoking may occur provided it is:

"...(i) structurally separated from the portion of the restaurant in which smoking is prohibited and to which ingress and egress is through a door and (ii) is separately vented to prevent the recirculation of air from such area to the area of the restaurant where smoking is prohibited. At least one public entrance to the restaurant shall be into an area of the restaurant where smoking is prohibited."

Statutory authority has been granted to the Virginia Department of Health to inspect for compliance with this section. The Virginia Department of Health (VDH), the Virginia Department of Housing and Community Development (VDHCD), and the Virginia Department of Agriculture Consumer Services (VDACS) have regulatory authority to review the construction and renovation of restaurants. Additionally, VDACS and VDH share responsibility for inspecting certain types of restaurants. To eliminate as much overlap, conflict, or duplication as possible, an agreement between VDH, VDHCD, and VDACS is established by this Memorandum of Agreement.

In order to assure this agreement can be implemented, VDH, VDHCD, and VDACS recognize that there are major areas of regulatory responsibility with respect to the review of construction and renovation in restaurants. These are identified in Part I of this agreement and relate to the responsibilities that VDH, VDHCD, and VDACS each have with respect to this new law. Additionally, both VDH and VDACS share responsibility for inspecting restaurants in Virginia. Gas stations and convenience stores with fifteen or fewer seats are inspected by

VDACS whereas all other restaurants are inspected by VDH. Responsibility for compliance with this law at all restaurants across the state is described in Part II of this agreement. The following agreement outlines the responsibilities assigned to each agency in accordance with these areas.

I. Restaurant Construction and Renovation

a. Permits and Plan Review Services – Local Building Official

When a permit applicant for a new restaurant submits plans, which include a separate area for smoking; or plans for the renovation of an existing restaurant that include a separate area for smoking, to the local building official for review and approval, the building official will evaluate the restaurant design for:

- i. Compliance with the USBC-Virginia Construction Code for separately vented requirements applicable to smoking areas; for separation of the smoking area from the non-smoking area with a structural component of materials constructed from the floor to the ceiling; for means of egress, accessibility and occupant load; and, all other applicable USBC requirements to prevent recirculation of air and the migration of smoke. The ingress/egress door to the smoking area is required to be capable of remaining in the closed position and is not required to be self-closing.
- ii. Upon completion of the review, the building official will issue an approved building permit to the permit applicant that verifies the area designated a smoking area is in compliance with all applicable provisions of the USBC.

b. Permits and Plan Review Services – Local Health Department

When a permit applicant for a new restaurant submits plans, which include a separate area for smoking; or plans for the renovation of an existing restaurant that include a separate area for smoking, to the Local Health Department (LHD) as required by 12 VAC 5-421-3600, the LHD, upon receipt of written verification from the local building official that the area designated as a smoking area is in compliance with the USBC, will evaluate the restaurant plans for:

- i. Ingress and egress into the area through a door that remains closed when not being actively used for ingress or egress.

- ii. At least one public entrance to the restaurant in the area of the restaurant where smoking is prohibited.
- iii. Posted signs stating "No Smoking" or signs containing the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a bar across it clearly and conspicuously in the restaurant where smoking is prohibited.

c. Plan Review Services—VDACS

When a new restaurant gas station or convenience store with fifteen or fewer seats submits plans, which include a separate area for smoking; or plans for the renovation of an existing restaurant gas station or convenience store with fifteen or fewer seats that include a separate area for smoking, to VDACS as required by 2 VAC 5-585-3600, VDACS, upon receipt of written verification from the local building official that the area designated as a smoking area is in compliance with the USBC, will evaluate the restaurant gas station or convenience store plans with fifteen or fewer seats for:

- i. Ingress and egress into the area through a door that remains closed when not being actively used for ingress or egress.
- ii. At least one public entrance to the restaurant in the area of the restaurant where smoking is prohibited.
- iii. Posted signs stating "No Smoking" or signs containing the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a bar across it clearly and conspicuously in the restaurant where smoking is prohibited.

II. Restaurant Inspections

Whereas VDACS has regulatory authority to inspect restaurant gas stations and convenience stores with fifteen or fewer seats and VDH has regulatory authority to inspect all other restaurants in Virginia, both agencies will inspect for compliance with this law as follows:

- i. Verify that the proprietor posts signs stating "No Smoking" or containing the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a bar across it, clearly and conspicuously in every restaurant where smoking is prohibited
- ii. Verify that the proprietor has removed all ashtrays and other smoking paraphernalia from any area in the restaurant smoking is prohibited

If alleged non-compliance is observed during restaurant inspections conducted by VDACS at gas stations or convenience stores with fifteen or fewer seats, VDACS will notify the local health department of their observations after informing the proprietor of the standards listed above.

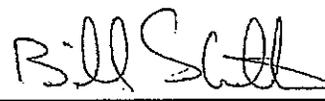
III. Agreement and Consent

This agreement shall be effective upon the signature of the State Commissioner of Health, the Director of Housing and Community Development, and the State Commissioner of Agriculture, and shall remain in effect until modified or terminated by mutual agreement of the agency heads. Any agency may terminate their participation in this agreement by notifying the other of their intent thirty-days prior to such termination.

This memorandum of agreement is for the purpose of facilitating cooperation between three agencies of the Commonwealth. It does not intend to create, nor does it create any rights in any fourth party.



Karen Remley, MD, MBA, BAAP
Commissioner
Virginia Department of Health



Bill Shelton
Director
Virginia Department of Housing
And Community Development



Todd Haymore
Commissioner
Virginia Department of Agriculture



COMMONWEALTH of VIRGINIA

Department of General Services

Division of Engineering and Buildings

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November 6, 2009

MEMORANDUM

TO: All Local Building Departments

FROM: Robert B. Jones, RA, CEO
Director of the Division of Engineering and Buildings

RE: Delegation of Authority

Pursuant to Section 36-98.1 of the *Code of Virginia*, you are delegated inspection and enforcement authority for state-owned underground and aboveground storage tank systems for the purpose of issuing permits, Certificates of Use and performing inspections required by the State Water Control Board Regulations, 9VAC25-580, Underground Storage Tanks: Technical Standards And Corrective Action Requirements, and 9VAC25-91, Facility And Aboveground Storage Tank (AST) Regulation. This delegation applies to all state agencies and institutions, except the Department of Transportation and the Department of State Police. In performing these services, you may charge state agencies the same fees as would be paid by private entities for the services rendered.

The Department of General Services, acting through the Director of the Division of Engineering and Buildings, may alter or overrule any decision of the local building department after having first considered the local building department's report or other rationale given for its decision. When altering or overruling any decision of a local building department, the Director shall provide the local building department with a written summary of the reasons for doing so.

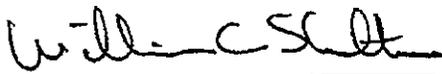
**MEMORANDUM OF AGREEMENT
BETWEEN THE
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
AND THE
DEPARTMENT OF SOCIAL SERVICES**

In accordance with §§ 27-98, 36-139.3, 36-134, and 63.2-100 of the Code of Virginia, the Department of Social Services and the Department of Housing and Community Development agree to coordinate the Statewide Fire Prevention Code (hereinafter referred to as the SFPC) and the Department of Social Services' regulations for licensed facilities (hereinafter referred to as the regulations.) The parties agree to the following:

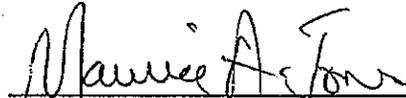
1. The Department of Social Services will require new applicants for licensure to contact the appropriate fire authority to request an initial inspection to determine the facility's compliance with the SFPC. Further, the parties agree it is the responsibility of the licensee to ensure that a fire safety inspection is conducted initially and annually thereafter.
2. The State Fire Marshal's Office will: (i) conduct inspections as deemed appropriate to determine compliance with the SFPC, (ii) take all actions necessary to ensure compliance with the SFPC, and (iii) provide a status report to the licensee within the time frame established by staff in the State Fire Marshal's Office.
3. Appropriate amendments, additions, or deletions will be made to the regulations and to the SFPC to ensure no conflicts exist.
4. It is the intention of both the Department of Housing and Community Development and the Department of Social Services to ensure constructive working relationships between the two departments. Further, this includes notification by either department to inform the other of unsafe conditions and of situations where there is an immediate threat to the life safety, health and welfare of occupants of licensed facilities.

This agreement may be amended or terminated by mutual consent of the parties.

To wit:



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



Maurice A. Jones, Commissioner
Department of Social Services

Date: 12-4-02