

AGENDA

STATE BUILDING CODE TECHNICAL REVIEW BOARD

Friday, January 16, 2026 - 10:00am

Virginia Housing Center  
4224 Cox Road Glen Allen, Virginia 23260

- I. Roll Call (**TAB 1**)
- II. Approval of November 21, 2025 Minutes (**TAB 2**)
- III. Approval of Final Order (**TAB 3**)
  - In Re: 1321 Porter St. LLC (Emily Pinchbeck)(Merits)  
Appeal No. 25-07
- IV. Approval of Final Order (**TAB 4**)
  - In Re: John Cosgrove  
Appeal No. 25-13
- V. Public Comment
- VI. Hearing (**TAB 5**)
  - In Re: Eric Desoto  
Appeal No. 25-10
- I. Hearing (**TAB 6**)
  - In Re: Poole, Brooke, and Plumlee (Dieffenbach)  
Appeal No. 25-11
- II. Hearing (**TAB 7**)
  - In Re: The State of Culpeper LLC (James A. Wells)  
Appeal No. 25-14
- III. Secretary's Report
  - a. Annual Appeals Training Report (**TAB 8**)
  - b. Annual Interpretation Request Report (**TAB 9**)
  - c. February 20, 2026 meeting update
  - d. Legal updates from Board Counsel

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STATE BUILDING CODE TECHNICAL REVIEW BOARD

**James R. Dawson, Chair**

(Virginia Fire Chiefs Association)

**W. Shaun Pharr, Esq., Vice-Chair**

(The Apartment and Office Building Association of Metropolitan Washington)

**Vince Butler**

(Virginia Home Builders Association)

**J. Daniel Crigler**

(Virginia Association of Plumbing-Heating-Cooling Contractors and the Virginia Chapters of the Air Conditioning Contractors of America)

**Alan D. Givens**

(Virginia Association of Plumbing-Heating-Cooling Contractors and the Virginia Chapters of the Air Conditioning Contractors of America)

**David V. Hutchins**

(Electrical Contractor)

**Christina Jackson**

(Commonwealth at large)

**Joseph A. Kessler, III**

(Associated General Contractors)

**R. Jonah Margarella, AIA, NCARB, LEED AP**

(American Institute of Architects Virginia)

**Eric Mays**

(Virginia Building and Code Officials Association)

**Joanne D. Monday**

(Virginia Building Owners and Managers Association)

**James S. Moss**

(Virginia Building and Code Officials Association)

**Elizabeth C. White**

(Commonwealth at large)

**Aaron Zdinak, PE**

(Virginia Society of Professional Engineers)

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**State Building Code Technical Review Board  
November 21, 2025 Minutes - Page 2**

37 and passed with Ms. Jackson and Messrs. Crigler and Hutchins  
38 abstaining.

39  
40 Public Comment Chair Dawson opened the meeting for public comment. Mr. Luter  
41 advised that no one had signed up to speak. With no one coming  
42 forward, Chair Dawson closed the public comment period.

43  
44 New Business 1321 Porter St. LLC (Emily Pinchbeck): Appeal No. 25-07 (Merits):  
45  
46 A hearing was convened with Chair Dawson serving as the presiding  
47 officer. The hearing was related to the unsafe condition of a structure  
48 due to work completed without the required permits and inspections.

49  
50 The following persons were sworn in and given an opportunity to  
51 present testimony:

52  
53 Emily Pinchbeck, Property Manager for 1321 Porter St. LLC  
54 David Alley, Building Commissioner for the City of Richmond  
55 Rick Paul, Programs and Operations Manager for Inspections  
56 for the City of Richmond

57  
58 Also present was:

59  
60 A. Moshe Sherman, Attorney for 1321 Porter St. LLC

61  
62 After testimony concluded, Chair Dawson closed the hearing and stated  
63 a decision from the Review Board members would be forthcoming and  
64 the deliberations would be conducted in open session. It was further  
65 noted that a final order reflecting the decision would be considered at a  
66 subsequent meeting and, when approved, would be distributed to the  
67 parties, and would contain a statement of further right of appeal.

68  
69

70 Decision: 1321 Porter St. LLC (Emily Pinchbeck): Appeal No. 25-07  
71 (Merits):

72  
73 After deliberations, Ms. Jackson moved to uphold the decision of the  
74 city and local appeals board because the work performed on the  
75 structure constituted a change of use from an existing one-and-two-  
76 family dwelling structure under the VRC to a multi-family structure  
77 under the VCC creating an increase in safety requirements and a more  
78 hazardous condition; therefore, the structure is unsafe. The motion was  
79 seconded by Mr. Crigler and passed unanimously.

80  
81 John Cosgrove: Appeal No. 25-13:  
82

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**State Building Code Technical Review Board  
November 21, 2025 Minutes - Page 3**

83 A hearing was convened with Chair Dawson serving as the presiding  
84 officer. The hearing was related to a fireworks display and revocation  
85 of the pyrotechnician’s license.

86  
87 The following persons were sworn in and given an opportunity to  
88 present testimony:

- 89  
90 John Cosgrove Sr, Master Displays Limited  
91 Barbara Cosgrove, Master Displays Limited  
92 John Cosgrove II, Master Displays Limited  
93 Tracey Cosgrove, Master Displays Limited  
94 Billy Hux, Chief State Fire Marshal  
95 Troy Brower, Deputy State Fire Marshal  
96 Clark Mitchell, Deputy State Fire Marshal  
97 Matthew Bright, Deputy State Fire Marshal  
98

99 Also present was:

- 100  
101 William Wittenbrook, legal counsel for the State Fire Marshal’s  
102 Office from the Attorney General’s Office  
103

104 After testimony concluded, Chair Dawson closed the hearing and stated  
105 a decision from the Review Board members would be forthcoming and  
106 the deliberations would be conducted in open session. It was further  
107 noted that a final order reflecting the decision would be considered at a  
108 subsequent meeting and, when approved, would be distributed to the  
109 parties, and would contain a statement of further right of appeal.

110  
111  
112 Decision: John Cosgrove: Appeal No. 25-13:

113  
114 After deliberations, Mr. Mays moved to uphold the decision of the  
115 Chief State Fire Marshal and Panel because Mr. Cosgrove II agreed  
116 that the two cited violations were accurate and did occur, and because  
117 the Chief State Fire Marshal properly applied his discretion by  
118 embodying a panel and by revoking Mr. Cosgrove II’s license in  
119 accordance with the SFPC. The motion was seconded by Mr. Moss  
120 and passed with Mr. Crigler voting in opposition and Ms. Jackson  
121 abstaining.

122  
123 *Note: Ms. Jackson was not present for most of the testimony for this*  
124 *case; therefore, she abstained from voting.*

125  
126 Secretary’s Report Mr. Luter pointed the Board members to a copy of the code change  
127 proposal for SFPC Section 112.5 *Application for appeal* in the Board  
128 member’s agenda package on page 473 drafted by staff as directed by

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**State Building Code Technical Review Board  
November 21, 2025 Minutes - Page 4**

129 and on behalf of the Board. The Board approved the code change  
130 proposal as written.

131  
132 Mr. Luter pointed the Board members to a copy of four code change  
133 proposals, drafted by Eric Mays, in the Board member's agenda  
134 package on page 475. No action was needed or taken as they were  
135 provided for informational purposes only.

136  
137 Mr. Luter presented the Board with the proposed 2026 Review Board  
138 meeting calendar, which was reviewed, considered, and approved by  
139 the Board.

140  
141 Mr. Luter informed the Review Board of the current caseload for the  
142 upcoming meeting scheduled for January 16, 2026.

143  
144 **Adjournment** There being no further business, the meeting was adjourned by proper  
145 motion at approximately 2:45 p.m.

146  
147  
148  
149 **Approved: January 16, 2026**

150  
151  
152 \_\_\_\_\_  
153 Chair, State Building Code Technical Review Board

154  
155  
156 \_\_\_\_\_  
157 Secretary, State Building Code Technical Review Board

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1 VIRGINIA:  
2

3 BEFORE THE  
4 STATE BUILDING CODE TECHNICAL REVIEW BOARD  
5

6  
7 IN RE: Appeal of 1321 Porter St. LLC (Emily Pinchbeck)  
8 Appeal No. 25-07 (Merits)  
9

10 DECISION OF THE REVIEW BOARD  
11

12 I. Procedural Background  
13

14 The State Building Code Technical Review Board (Review Board) is a Governor-  
15 appointed board established to rule on disputes arising from application of regulations of the  
16 Department of Housing and Community Development. See §§ 36-108 and 36-114 of the Code of  
17 Virginia. The Review Board’s proceedings are governed by the Virginia Administrative Process  
18 Act (§ 2.2-4000 et seq. of the Code of Virginia).

19 II. Case History

20 On April 26, 2024 the City of Richmond Department of Planning and Development  
21 Review (City), the agency responsible for the enforcement of Part III of the 2021 Virginia Uniform  
22 Statewide Building Code (VUSBC or VPMC), inspected the structure located at 1321 Porter  
23 Street, (Apartment C) in the City of Richmond owned by 1321 Porter Street LLC (1321 Porter St.)  
24 and subsequently issued a Notice of Violation – Unsafe Structure (NOV). The NOV was amended  
25 on August 28, 2024, citing the following VMC Sections:

- 26 • “Report of Unsafe Conditions  
27 106.1 US - Unsafe Structure  
28

29 *This section shall apply to existing structures which are classified as*  
30 *unsafe. All conditions causing such structures to be classified as unsafe*  
31 *shall be remedied or as an alternative to correcting such conditions, the*  
32 *structure may be vacated and secured against public entry or*  
33 *demolished. Vacant and secured structures shall still be subject to other*  
34 *applicable requirements of this code. Notwithstanding the above, when*  
35 *the code official determines that an unsafe structure constitutes such*

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36 a hazard that it should be demolished, then the code official shall be  
37 permitted to order the demolition of such structures in accordance with  
38 the applicable requirements of this code.  
39

40 This property has been inspected and found to be unsafe due to the  
41 following conditions:  
42

- 43 1. **Lack of Approved Building Permits and Plans:** No approved  
44 building permits or plans were ever authorized for the new third-  
45 floor addition.
- 46 2. **Lack of Trade Permits:** No approved trade permits were  
47 authorized for electrical, plumbing, or mechanical work related  
48 to the new third-floor addition.
- 49 3. **Absence of Inspections:** No inspections were ever conducted by  
50 the Permits and Inspections Bureau for the new third-floor  
51 addition. This includes inspections for building, electrical,  
52 plumbing, mechanical, fire stopping, draft stopping, fire  
53 separation, and insulation.
- 54 4. **Concealed Interior Work:** All interior work associated with the  
55 third-floor addition is concealed, making it impossible to verify  
56 compliance with safety and building codes.
- 57 5. **Wall Separation Issues:** Wall separation issues have been  
58 identified with the third-floor addition.
- 59 6. **Deficient Engineering Report:** The engineering report  
60 submitted by Carl Duncan contains incorrect and insufficient  
61 information, failing to meet the required standards for safety  
62 and code compliance.
- 63 7. **Non-Code Complaint Alterations to Existing Structures:**  
64 Alterations to existing exterior egress, stairs, and decks are not  
65 compliant with building codes.
- 66 8. **Non-Code Compliant New Egress Stairs:** The new egress stairs  
67 to the third-floor addition are not compliant with safety  
68 standards.
- 69 9. **Structural Load Issues (First Floor):** Non-code compliant  
70 structural load points are bearing on the roof above the  
71 occupied unit on the first floor, creating a potential safety  
72 hazard.
- 73 10. **Structural Load Issues (Second Floor):** Non-compliant  
74 structural load points are bearing on 4X4 posts above the  
75 occupied unit on the second-floor porch area, raising concerns  
76 about structural integrity.
- 77 11. **Unauthorized Change of Use:** The property's use has been  
78 changed from a single-family residence to a multi-family  
79 residence with three units without proper authorization or  
80 approval (see attached photos of mailboxes).”  
81

82 1321 Porter St. acknowledged receiving the NOV on December 13, 2024 from a tenant of the

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83  
84 property.

85  
86 1321 Porter St. filed an appeal application to the City of Richmond Local Board of Building  
87 Code Appeals (local appeals board) on December 23, 2024; however, did not pay the required  
88 appeal application fee until February 3, 2025. On March 19, 2025, the local appeals board  
89 “Upheld” the appeal finding that “*The Local Board of Building Code Appeals determined that the*  
90 *provisions of the code were enforced by the Code Official properly.*” The local appeals board  
91 decision was received by 1321 Porter St. on April 10, 2025. On May 1, 2025, 1321 Porter St.  
92 further appealed to the Review Board seeking to have the NOV rescinded. While processing the  
93 appeal application, Review Board staff found that the appeal application to the local appeals board  
94 may have been untimely based on the date the NOV was received, when the appeal application  
95 was submitted, and when the required applicable fee was paid; therefore, Review Board staff  
96 prepared the case for a preliminary hearing as to whether the appeal was untimely to the local  
97 appeals board.

98 A preliminary hearing was held by the Review Board on September 19, 2025. The Review  
99 Board found that the appeal application, filed December 23, 2024, was timely because Ms.  
100 Pinchbeck made multiple attempts to pay the applicable appeal application fee but was unable to  
101 make payment due to the issues with the City of Richmond online payment portal which prevented  
102 Ms. Pinchbeck from being able to pay the applicable appeal application fee until February 3, 2025.

103 Appearing at the Review Board meeting for 1321 Porter St. were Emily Pinchbeck and  
104 legal counsel Moshe Sherman. Appearing at the Review Board meeting for the City of Richmond  
105 were David Alley, Building Commissioner for the City of Richmond and Rick Paul, Programs and  
106 Operations Manager for Inspections for the City of Richmond.

107 III. Findings of the Review Board

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108 A. Whether to rescind the Notice of Violation-Unsafe Structure.

109 1321 Porter St., through legal counsel, argued that NOV was legally deficient as the  
110 NOV should have been issued under the Virginia Construction Code (VCC) not the VPMC  
111 because the cited violations were construction actions not maintenance actions just as the Notice  
112 of Violation – Stop Work Order (SWO) issued in January 2021 to the prior owner for the  
113 construction work performed to create a third-floor addition. 1321 Porter St. argued that the  
114 structure was not unsafe in accordance with the VPMC. 1321 Porter St. also argued that the lack  
115 of having permits does not equal a structure being inherently dangerous thus being unsafe. 1321  
116 Porter St. lastly argued that the City removed the Unsafe Structure placard and allowed tenants to  
117 re-enter the structure; therefore, the structure must be safe.

118 The City argued the following historical facts related to the property located at 1321  
119 Porter Street in the City of Richmond prior to 1321 Porter St. assuming ownership of the  
120 structure:

- 121 • City received a complaint for construction work without the required permits in  
122 January 2021
- 123 • An inspection by the City found a third-floor addition being constructed and  
124 issued a Notice of Violation-Stop Work Order (SWO)
- 125 • A building permit application was submitted to the City; however, the application  
126 did not accurately reflect the work being performed and included false  
127 information; very limited plans and description of work were submitted with the  
128 application
- 129 • Plan review rejection comments were sent to the applicant
- 130 • No response was received from the applicant; therefore, after 180 days the  
131 building permit application was deemed abandoned for lack of action in  
132 accordance with the VCC
- 133 • An electrical permit was issued “over the counter” for the structure for electrical  
134 upgrade type of work; no mention of a third-floor addition was indicated on the  
135 electrical permit application or known by the permit technician issuing the permit
- 136 • A rough electrical inspection was approved by the inspector who did not know the  
137 structure was being converted into a multi-family structure
- 138 • No request was ever made by the owner for the final electrical inspection;  
139 therefore, after 180 days the electrical permit was deemed abandoned for lack of  
140 action in accordance with the VCC

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141  
142           The City argued that in 2024 they received another complaint for work being performed  
143 without the required permits related to a root cellar and upon inspection issued a Notice of  
144 Violation-Stop Work Order for the root cellar. The City further argued that while on site for the  
145 complaint inspection, the inspector remembered being at the location in 2021 for an unpermitted  
146 third floor addition under construction. The City also argued that at the time of the inspection  
147 the third-floor addition appeared to be complete and occupied. The City argued that after  
148 investigation of the city records by the inspector, it was found that the permits and inspections  
149 had not been secured and performed for the third-floor addition.

150           The City assembled a team to further investigate the property, contacted the owner,  
151 conducted another inspection on April 26, 2024 to further examine the third-floor addition,  
152 confirmed the third-floor addition was complete and occupied, and issued the NOV. The City  
153 argued that as a result of the April 26, 2024 inspection it posted the Unsafe Structure placard but  
154 later, on May 28, 2024, removed the Unsafe Structure placard allowing occupancy of the first  
155 and second floors of the existing structure after receiving an accurate and acceptable engineering  
156 reports on the structure and rear deck and steps to the second floor; however, the City did not  
157 allow occupancy of the first-floor rear and third-floor additions. The city argued that to date no  
158 permits have been issued, no inspections have been performed, and no Certificate of Occupancy  
159 has been issued for the first-floor rear and third-floor additions, apartments three and four, or for  
160 the new multi-family structure. The City argued that issuing the NOV under the VPMC was  
161 proper.

162           The Review Board found that the work performed on the structure constituted a change  
163 of use from an existing one-and-two-family dwelling structure under the Virginia Residential

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164 Code (VRC) to a multi-family structure under the VCC, creating an increase in safety  
165 requirements and a more hazardous condition; therefore, the structure was unsafe.

166 IV. Conclusion

167 The appeal having been given due regard, and for the reasons set out herein, the Review  
168 Board orders as follows:

169 A. Whether to rescind the Notice of Violation-Unsafe Structure.

170 The decision of the City and local appeals board to issue the Notice of Violation-Unsafe  
171 Structure, is upheld, because the work performed on the structure constituted a change of use from  
172 an existing one-and-two-family dwelling structure under the VRC to a multi-family structure under  
173 the VCC creating an increase in safety requirements and a more hazardous condition; therefore,  
174 the structure is unsafe.

175

176

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Chair, State Building Code Technical Review Board

177

178

179

180 Date entered \_\_\_\_\_ January 16, 2026 \_\_\_\_\_

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182

183

184

As required by VCC 119.9: “As provided by Rule 2A:2 of the Supreme Court of Virginia,  
185 you have thirty (30) days from the date of service (the date you actually received this decision or  
186 the date it was mailed to you, whichever occurred first) within which to appeal this decision by  
187 filing a Notice of Appeal with W. Travis Luter, Sr., Secretary of the Review Board. In the event  
188 that this decision is served on you by mail, three (3) days are added to that period”.

189 As required by Rule 2A:2(C): “Any party appealing from a regulation or case decision  
190 shall file with the agency secretary, within 30 days after adoption of the regulation or after service  
191 of the final order in the case decision, a notice of appeal signed by the appealing party or that

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192 party's counsel. With respect to appeal from a regulation, the date of adoption or readoption shall  
193 be the date of publication in the Register of Regulations. In the event that a case decision is  
194 required by § 2.2-4023 or by any other provision of law to be served by mail upon a party, 3 days  
195 shall be added to the 30-day period for that party. Service under this Rule shall be sufficient if sent  
196 by registered or certified mail to the party's last address known to the agency". See Rule 2A:2(A)  
197 of the Rules of the Supreme Court of Virginia.

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1 VIRGINIA:  
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3 BEFORE THE  
4 STATE BUILDING CODE TECHNICAL REVIEW BOARD  
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6  
7 IN RE: Appeal of John Cosgrove II  
8 Appeal No. 25-13  
9

10 DECISION OF THE REVIEW BOARD  
11

12 I. Procedural Background  
13

14 The State Building Code Technical Review Board (Review Board) is a Governor-  
15 appointed board established to rule on disputes arising from application of regulations of the  
16 Department of Housing and Community Development. See §§ 36-108 and 36-114 of the Code of  
17 Virginia. The Review Board’s proceedings are governed by the Virginia Administrative Process  
18 Act (§ 2.2-4000 et seq. of the Code of Virginia).  
19

20 II. Case History

21 On April 6, 2025, Master Displays Limited (MDL) applied for a fireworks display permit  
22 for a fireworks display on July 5, 2025 at 8736 Double Cabin Road Hillsville, Virginia. On June  
23 24, 2025, the State Fire Marshal’s Office (SFMO), the agency responsible for permitting fireworks  
24 display permits, in accordance with the 2021 Virginia Statewide Fire Prevention Code (VSFPC),  
25 issued a permit to MDL for a display on “July 4, 2025”. On July 5, 2025, an inspection was  
26 conducted, and the following violations were cited:

- 27 a. “5608.3 *Approved fireworks displays.*  
28 *Approved fireworks displays shall include only the approved fireworks 1.3G,*  
29 *fireworks 1.4G, fireworks 1.4S and pyrotechnic articles 1.4G. The design,*  
30 *setup, conducting or direct on-site supervision of the design, setup and*  
31 *conducting of any fireworks display, either inside a building or outdoors, shall*  
32 *be performed only by persons certified by the SFMO in accordance with*  
33 *Section 5601.4.1 as a pyrotechnician (firework operator) and at least one*  
34 *person properly certified by the SFMO as a pyrotechnician shall be present at*  
*the site where the fireworks display is being conducted. The approved*

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35 fireworks shall be arranged, located, discharged and fired in a manner that  
36 will not pose a hazard to property or endanger any person.  
37

38 *Exception: Certification as a pyrotechnician is not required for the use or*  
39 *display of permissible fireworks when conducted on private property with the*  
40 *consent of the owner of such property.*  
41

42 *Fireworks event setup space: Comments:*

43 - *Master Displays owner John Cosgrove, II advised both Jeffery Allen*  
44 *Spicer, Jr. and Ricky Wayne Ingram shared being in charge of 1.4 G*  
45 *fireworks products until another Virginia Certified Fireworks Display*  
46 *Operator arrived onsite at 21:00 hours to fire the fireworks display at this*  
47 *event venue. Product arrived onsite at 16:00hours. Upon asking MR.*  
48 *Spicer, Jr. and Mr. Ingram for their driver's license and Virginia Certified*  
49 *Fireworks Display cards, they did not provide Virginia Certified*  
50 *Fireworks cards to date. Upon contacting manager, neither subject was*  
51 *listed on our fireworks operators database.*  
52

53 *It was found that Jeffery Allen Spicer, Jr. was in possession of and setup of*  
54 *illegal fireworks display without proper supervision of Virginia Certified*  
55 *Fireworks Operator being onsite from 16:00-21:00 hours. NOV sent by*  
56 *certified mail to Jeffery Allen Spicer, Jr.*  
57

58 b. *5601.1.3 Fireworks.*

59 *The possession, manufacture, storage, sale, handling and use of fireworks are*  
60 *prohibited.*

61 *Exceptions:*

62 *1.Storage and handling of fireworks as allowed in Section 5604.*

63 *2.Manufacture, assembly and testing of fireworks as allowed in Section 5605.*

64 *3.The use of fireworks for fireworks displays as allowed in Section 5608.*

65 *4.The possession, storage, sale, handling and use of permissible fireworks*  
66 *where allowed by applicable local or state laws, ordinances and regulations*  
67 *provided such fireworks comply with CPSC 16 CFR, Parts 1500-1507 and*  
68 *DOTn 49 CFR, Parts 100-178 for consumer fireworks.*

69 *5.The sale or use of materials or equipment when such materials or equipment*  
70 *is used or to be used by any person for signaling or other emergency use in the*  
71 *operation of any boat, railroad train or other vehicle for the transportation of*  
72 *persons or property.*  
73

74 *Fireworks event setup space: Comments:*

75  
76 - *Master Displays owner John Cosgrove, II advised both Jeffery Allen*  
77 *Spicer, Jr. and Ricky Wayne Ingram shared being in charge of 1.4 G*  
78 *fireworks products until another Virginia Certified Fireworks Display*  
79 *Operator arrived onsite at 21:00 hours to fire the fireworks display at this*  
80 *event venue. Product arrived onsite at 16:00hours. Upon asking MR.*  
81 *Spicer, Jr. and Mr. Ingram for their driver's license and Virginia Certified*

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82 *Fireworks Display cards, they did not provide Virginia Certified*  
83 *Fireworks cards to date. Upon contacting manager, neither subject was*  
84 *listed on our fireworks operators database.*

85  
86 *It was found that Jeffery Allen Spicer, Jr. was in possession of and setup of*  
87 *illegal fireworks display without proper supervision of Virginia Certified*  
88 *Fireworks Operator being onsite from 16:00-21:00 hours. NOV sent by*  
89 *certified mail to Jeffery Allen Spicer, Jr.”*  
90

91 On August 13, 2025, SFMO convened a panel in accordance with VSFPC Section 5601.4.6  
92 *Denial, suspension or revocation of a certificate* (Panel) to hear the details of the cited violations  
93 listed in the July 5, 2025 Fire Code Inspection Report. The Panel found that the violations existed  
94 and to revoked John Cosgrove II’s (Cosgrove II) Aerial Pyrotechnician License. SFMO upheld  
95 the Panel’s decision and revoked Cosgrove II’s Aerial Pyrotechnician License in a letter dated  
96 August 26, 2025 sent certified mail to and received by Cosgrove II on August 28, 2025. On  
97 September 5, 2025 Cosgrove II further appealed to the Review Board.

98 Appearing at the Review Board meeting for Cosgrove II were John Cosgrove Sr., Barbara  
99 Cosgrove, John Cosgrove II, and Tracy Cosgrove. Appearing at the Review Board meeting for  
100 the SFMO were Chief Fire Marshal Billy Hux, Deputy Fire Marshals Troy Bower, Clark Mitchell,  
101 and Matther Bright and William Wittenbrook, legal counsel for the State Fire Marshal’s Office  
102 from the Attorney General’s Office.

103 III. Findings of the Review Board

104 A. Whether to overturn the decision of SFMO and the Panel that a violation of VSFPC  
105 Section 5608.3 *Approved fireworks displays* exists.

106  
107 B. Whether to overturn the decision of the SFMO and the Panel that a violation of  
108 VSFPC Section 5601.1.3 *Fireworks* exists.

109  
110  
111 During the hearing Cosgrove II acknowledged and accepted responsibility for the  
112 violations of VSFPC Sections 5608.3 *Approved fireworks* and 5601.1.3 *Fireworks* that occurred

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113 because there was not a licensed pyrotechnician on site as required; therefore, neither consideration  
114 by the Review Board nor any granting of relief were necessary.

115 C. Whether to overturn the decision of SFMO and the Panel that a violation of VSFPC  
116 Section 5608.3 *Approved fireworks displays* exists.

117  
118 Cosgrove II argued that the decision to revoke his Pyrotechnician Aerial license was  
119 extreme based on the cited violations related to the unreported changes to the permit and a couple  
120 of mistakes that were made related to the quantity and type of fireworks on site and licensure of  
121 the pyrotechnician responsible for the fireworks on site. Cosgrove II further argued that this was  
122 the first time in the 30+ year history of MDL that they had been cited for a violation(s) coupled  
123 with their extensive involvement in providing industry training to the SFMO should have been  
124 given more consideration in the decision. Cosgrove II further argued that citing the violations and  
125 including a warning rather than revoking his Pyrotechnician Aerial license was more appropriate  
126 considering all the facts of the case.

127 SFMO, through legal counsel, argued that the revocation of Cosgrove II's Pyrotechnician  
128 Aerial license was appropriate based on the facts of the case, the erroneous and/or untruthful  
129 information being provided by MDL, and that no factual basis to overturn the SFMO decision was  
130 presented or existed. SMFO further argued that MDL knew the two individuals on site at the time  
131 of the incident were not licensed pyrotechnicians because they had a third individual enroute to  
132 the site to set up and fire the show.

133 The Review Board found that the revocation of Cosgrove II's Pyrotechnician Aerial license  
134 was appropriate because Cosgrove II agreed that the two cited violations were accurate and did  
135 occur, and because the Chief State Fire Marshal properly applied his discretion by embodying a  
136 panel and by revoking Cosgrove II's license in accordance with the SFPC.

137 IV. Conclusion

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138 The appeal having been given due regard, and for the reasons set out herein, the Review  
139 Board orders as follows:

140 A. Whether to overturn the decision of SFMO and the Panel that a violation of VSFPC  
141 Section 5608.3 *Approved fireworks displays* exists.

142  
143 The decision of the SMFO and Panel to revoke Cosgrove II’s Pyrotechnician Aerial license  
144 was appropriate because Cosgrove II agreed that the two cited violations were accurate and did  
145 occur, and because the Chief State Fire Marshal properly applied his discretion by embodying a  
146 panel and by revoking Cosgrove II’s license in accordance with the SFPC.

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Chair, State Building Code Technical Review Board

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Date entered \_\_\_\_\_ January 16, 2026 \_\_\_\_\_

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As required by VCC 119.9: “As provided by Rule 2A:2 of the Supreme Court of Virginia,  
157 you have thirty (30) days from the date of service (the date you actually received this decision or  
158 the date it was mailed to you, whichever occurred first) within which to appeal this decision by  
159 filing a Notice of Appeal with W. Travis Luter, Sr., Secretary of the Review Board. In the event  
160 that this decision is served on you by mail, three (3) days are added to that period.”

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As required by Rule 2A:2(C): “Any party appealing from a regulation or case decision  
shall file with the agency secretary, within 30 days after adoption of the regulation or after service  
of the final order in the case decision, a notice of appeal signed by the appealing party or that  
party's counsel. With respect to appeal from a regulation, the date of adoption or readoption shall  
be the date of publication in the Register of Regulations. In the event that a case decision is  
required by § 2.2-4023 or by any other provision of law to be served by mail upon a party, 3 days

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167 shall be added to the 30-day period for that party. Service under this Rule shall be sufficient if sent  
168 by registered or certified mail to the party's last address known to the agency.” See Rule 2A:2(A)  
169 of the Rules of the Supreme Court of Virginia.

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VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Choice Housing Management (Eric DeSoto)  
Appeal No. 25-10

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VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Eric Desoto  
Appeal No. 25-10

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. On January 13, 2025, the Fairfax County Department of Land Development Services (County), the agency responsible for the enforcement of Part 1 of the 2018 Virginia Uniform Statewide Building Code (VUSBC), issued a Notice of Violation (NOV) to Eric Desoto (Desoto) for the removal and installation of a new HVAC duct work at the property located at 7405 Gatewood Ct. in Fairfax County citing the following three potential violations:

- a) *“No permits for the duct work installed at the property”* VRC Section 108.1 When applications are required
- b) *“No inspections for the duct work installed at the property.”* VRC Section 113.3 Minimum Inspections
- c) *“Furnaces and air-handling systems that supply air to living spaces shall not supply air to or return air from a garage.”* VRC Section M1601.6 Independent garage HVAC systems

2. Desoto filed an appeal to the Fairfax County Building Code Board of Appeals (local appeals board). The local appeals board *“denied”* the appeal finding that:

- a) *“The subject construction is within the scope of the code as it involved the removal of the existing duct system and its replacement with a new duct system as to materials, design and location.*
- b) *The subject construction (supply and return air ducts associated with an HVAC system) is required to be permitted, inspected and approved and was not permitted and inspected in order to determine its compliance with the code.*
- c) *The subject construction does not comply with the code as it provides supply air to a garage.”*

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3. On May 20, 2025, Desoto appealed to the Review Board asking the Review Board to reverse the local appeals board decision and the County.

4. This staff document, along with a copy of all documents submitted, will be sent to the parties and opportunity given for the submittal of additions, corrections, or objections to the staff document, and the submittal of additional documents or written arguments to be included in the information distributed to the Review Board members for the hearing before the Review Board.

Suggested Issues for Resolution by the Review Board

1. Whether to overturn the decision of the County and the local appeals board that a violation of VRC Section 108.1 When applications are required exists.

2. Whether to overturn the decision of the County and the local appeals board that a violation of VRC Section 113.3 Minimum Inspections exists.

3. Whether to overturn the decision of the County and the local appeals board that a violation of VRC Section M1601.6 Independent garage HVAC systems exists.

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# Basic Documents

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# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

## NOTICE OF VIOLATION Virginia Construction Code

**DATE OF ISSUANCE:** January 13, 2024  
**METHOD OF SERVICE:** Sheriff's Letter  
**LEGAL NOTICE ISSUED TO:** Eric Desoto, Registered Agent, Registered Agent  
**REGISTERED AGENT ADDRESS:** 6904 Park Terrace  
 Alexandria, Virginia 22307  
**CONTRACTOR LICENSE#:** N/A  
**LOCATION OF VIOLATION:** 7405 Gatewood Ct  
 Alexandria, VA 22307  
**TAX MAP REF:** 0934080096  
**CASE #:** POEPOINV-2024-00024

Per authority granted by the Virginia Construction Code, inspections were made on 4/3/2024 regarding the above referenced property. Violations of the 2018 Virginia Residential Code, effective July 1, 2021, the applicable building code violations were found. I sent you a Corrective Work Order (CWO) on August 20, 2024 via Sheriff's Letter. You have 30 days from the date this NOV to abate the violation(s).

Code	Violation
2018 VRC - INSP	<p>No permits for the duct work installed at the property.</p> <p>Section 108.1- When applications are required. Application for a permit shall be made to the building official and a permit shall be obtained prior to the commencement of any of the following activities, except that applications for emergency construction, alterations or equipment replacement shall be submitted by the end of the first working day that follows the day such work commences. In addition, the building official may authorize work to commence pending the receipt of an application or the issuance of a permit.</p> <p>1. Construction or demolition of a building or structure. Installations or alterations involving (i) the removal or addition of any wall, partition or portion thereof, (ii) any structural component, (iii) the repair or replacement of any required component of a fire or smoke rated assembly, (iv) the alteration of any required means of egress system, including the addition or removal of emergency supplemental hardware, (v) water supply and distribution system, sanitary drainage system or vent system, (vi) electric wiring, (vii) fire protection system, mechanical systems, or fuel supply systems, or (viii) any equipment</p>

LEGAL NOTICE ISSUED TO:

Eric Desoto, Registered Agent, Registered

Agent  
Page 2

regulated by the USBC.

2.For change of occupancy, application for a permit shall be made when a new certificate of occupancy is required by the VEBC.

3.Movement of a lot line that increases the hazard to or decreases the level of safety of an existing building or structure in comparison to the building code under which such building or structure was constructed.

4.Removal or disturbing of any asbestos containing materials during the construction or demolition of a building or structure, including additions.

2018 VRC - INSP

No inspections for the duct work installed at the property.

Section 113.3 Minimum inspections.

The following minimum inspections shall be conducted by the building official when applicable to the construction or permit:

1.Inspection of footing excavations and reinforcement material for concrete footings prior to the placement of concrete.

2.Inspection of foundation systems during phases of construction necessary to assure compliance with this code.

3.Inspection of preparatory work prior to the placement of concrete.

4.Inspection of structural members and fasteners prior to concealment.

5.Inspection of electrical, mechanical and plumbing materials, equipment and systems prior to concealment.

6.Inspection of energy conservation material prior to concealment.

7.Final inspection.

2018 VRC - INSP

Section M1601.6 Independent garage HVAC systems.

Furnaces and air-handling systems that supply air to living spaces shall not supply air to or return air from a garage.

**119.5 Right of appeal; filing of appeal application.** Any person aggrieved by the *local building department's* application of the USBC or the refusal to grant a modification to the provisions of the USBC may appeal to the *LBBCA*. The applicant shall submit a written request for appeal to the *LBBCA* within 30 calendar days of the receipt of the decision being appealed. The application shall contain the name and address of the owner of the building or structure and in addition, the name and address of the person appealing, when the applicant is not the owner. A copy of the building official's decision shall be submitted along with the application for appeal and maintained as part of the record. The application shall be marked by the *LBBCA* to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of a building official's decision.

You have the right to appeal this decision within 30 days to the Fairfax County Board of Building and Fire Prevention Code Appeals. Appeal application forms may be obtained by contacting:

LEGAL NOTICE ISSUED TO:

Eric Desoto, Registered Agent, Registered

Agent  
Page 3

Fairfax County Board of Building and Fire Prevention Code Appeals

Attention: Secretary to Board

12055 Government Center Parkway, Suite 307

Fairfax, Virginia 22035-5504

Telephone: 703-631-5101

Website to file an appeal: <https://plus.fairfaxcounty.gov/CitizenAccess/Default.aspx>

Failure to submit an application for appeal within the time limit established shall constitute acceptance of the code official's decision. Failure to correct these defects within the time limits specified shall result in legal action being taken under the applicable State and County Codes.

You are directed to notify Melissa Smarr, Code Specialist III, by return correspondence to 12055 Government Center Parkway, Suite 334, Fairfax, VA 22035 or by telephone at 703-324-1929. Failure to do so shall result in the immediate initiation of legal action to bring the above referenced property into compliance.

If you have any questions, you may contact Melissa Smarr at 703-324-1929 (office) or by email at [Melissa.Smarr@fairfaxcounty.gov](mailto:Melissa.Smarr@fairfaxcounty.gov)

Order Issued By: Jay Riat  
Building Official  
Land Development Services

Signature:  Signed by: Jay Riat  
FCDAF24AB966414... 01/10/2025 | 15:17:32 EST

**RESOLUTION**

**WHEREAS** the Fairfax County Board of Building Code Appeals (the Board) is duly appointed to resolve disputes arising out of enforcement of the Virginia Residential Code/2018 Edition.

and

**WHEREAS** an appeal has been timely filed and brought to the attention of the Board; and **WHEREAS** a hearing has been duly held to consider the aforementioned appeal; and **WHEREAS**, the Board has fully deliberated this matter; now, therefore, be it

**RESOLVED**, that the matter of

**Appeal No.** CDAPPL-2025-00001

**In RE:** Fairfax County, Land Development Services v. Eric Desoto

The appeal is hereby **Denied** (vote of 3-0-0 chairman not voting) for the reasons set out below.

1. The subject construction is within the scope of the code as it involved the removal of the existing duct system and its replacement with a new duct system as to materials, design and location.
2. The subject construction (supply and return air ducts associated with an HVAC system) is required to be permitted, inspected and approved and was not permitted and inspected in order to determine its compliance with the code.
3. The subject construction does not comply with the code as it provides supply air to a garage.

**FURTHER**, be it known that:

1. This decision is solely for this case and its surrounding circumstances.
2. This decision does not serve as a precedent for any future cases or situations, regardless of how similar they may appear.

**Date:** April 11, 2025

**Signature:**    
Signed by:   
0DFFD8519E374A1   
 Chairman, Board of Building Code Appeals

**Note:** Upon receipt of this resolution, any person who was a party to the appeal may appeal to the State Building Code Technical Review Board within twenty-one (21) days of receipt of this resolution. Application forms are available from the Virginia Department of Housing and Community Development, 600 East Main Street, Suite 300, Richmond, VA 23219 or by calling 804.371.7150.

*Home: 804-371-7150*  
*Cell: 804-371-7150*

I <sup>Signed by:</sup> kyle kratzer hereby certify that this is a true copy of a Fairfax County Department of a  
CUSTODIAN

Land Development Services record of which I am a custodian <sup>Signed by:</sup> kyle kratzer  
CUSTODIAN

I <sup>DocuSigned by:</sup> Dan Willham hereby certify that this is a true copy of a Fairfax County  
SUPERVISOR OF CUSTODIAN

Department of a Land Development Services record of which <sup>Signed by:</sup> kyle kratzer is the  
CUSTODIAN

custodian and that <sup>Signed by:</sup> kyle kratzer reports to me <sup>DocuSigned by:</sup> Dan Willham  
CUSTODIAN SUPERVISOR OF CUSTODIAN

**COMMONWEALTH OF VIRGINIA**  
**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**  
**State Building Codes Office and Office of the State Technical Review Board**  
**Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219**  
**Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhcd.virginia.gov**

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
  - Virginia Construction Code
  - Virginia Existing Building Code
  - Virginia Maintenance Code
- Statewide Fire Prevention Code
- Industrialized Building Safety Regulations
- Amusement Device Regulations



Appealing Party Information (name, address, telephone number and email address):

ERIC DESOTO  
Choice Housing Management, LLC  
PO BOX 301; 18163 DeSoto PI  
Benedict, MD 20612  
301-580-3494  
ERIC@DESOTO.CO

Opposing Party Information (name, address, telephone number and email address of all other parties):

Jay S. Riat P.E., PMP, CBO  
Land Development Services, Fairfax County Government  
12055 Government Center Pkwy, Suite 322  
Fairfax, VA 22035-5500  
[JAY.RIAT@fairfaxcounty.gov](mailto:JAY.RIAT@fairfaxcounty.gov)  
703-324-1017

Additional Information (required by the applicable code to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of the decision of local government appeals board (if applicable)

Additional Information (to be submitted with this application)

- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 13 day of MAY, 2025, a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

**Note:** This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: 

Name of Applicant: ERIC DESOTO  
(please print or type)

STATEMENT OF RELIEF SOUGHT

**APPEAL No CDAPPL-2025-00001**

**RE: FAIRFAX COUNTY, LAND DEVELOPMENT SERVICES V. ERIC DESOTO**

Upon receipt of this resolution, attached here, by CERTIFIED MAIL, received on April 28, 2025, the applicant is requesting appeal to the State Building Code Technical Review Board. This appeal request is submitted within 21 days of service in a timely manner.

1. The appeal applicant has complied with all permit applications available through the Fairfax County PLUS website as follows:
  - a. ALTR222940160 (Interior Alteration) issued 01/09/2023 applied for 09/22/2022
  - b. ELER-2023-01028 (Electrical Residential) issued 02/09/2023
  - c. MECHR-2023-00473 (Mechanical Residential) issued 02/10/2023
  - d. PLBBR-2023-01066 (Plumbing Residential) issued 02/10/2023
2. The appeal applicant replaced a 60+ year old duct work in accordance with applicable Virginia Residential Code/2018
  - 2a. In contradiction to the Chairmans opening statement this is not a discussion of Fairfax County Website, PLUS. In fact, the 2022/2023, PLUS website does not provide the opportunity to apply to replace existing duct work only new construction. Later years do provide the opportunity to indicate replacement of existing duct work.
3. Fairfax County support staff stated that no plans are required in support of the MECHR-2023-00473 permit regarding duct work.
4. Supply air to the garage is existing prior to the permit process.

**FURTHER:** The applicant request the State Technical Review Board reverse the decision of the Fairfax County Board of Building Code Appeals

Date: May 13, 2025



\_\_\_\_\_  
Appeal applicant

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Documents Submitted  
by  
Eric DeSoto

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Eric DeSoto

Appellant: Appeal No 25-10

**Additional Documents:**

1. In support of ALTR222940160 (Interior Alteration) issued 01/09/2023 applied for 09/22/2022
  1. Printed record from Fairfax County website PLUS. Highlights all inspections requested, passed and with final inspection and permit closed date.
  2. Copy of index page for Interior alteration indicating "SUBJECT TO FIELD INSPECTION. With description of work as:
    1. "INTERIOR RENOVATION TO EXISTING FINISHED BASEMENT and EXISTING 1ST FLOOR, REPLACE LIGHTING, OUTLETS, HVAC SYSTEM, BATHROOM FIXTURES. RENOVATE KITCHEN, ONE NEW BATH, ONE NEW 1/2 BATH, RECESSED LIGHTS, OUTLETS AND BATHROOM FIXTURES"
2. MECHR 2023-00473 Permit card issued 02/10/2023
  1. Supporting documents: Processing status
    1. "Updated to Awaiting Plans on 02/07/2023 by dpr sys
    2. Updated to Plans received on 02/07/2023 by dpr sys
    3. "Updated to Accepted – Plan Review Not Req on 02/09/2023
    4. Updated to Issued on 02/10/2023 by Admin Admin
3. Signed Affidavit in the presence of Mr. David D. Elsberg, Attorney
  1. Affidavit was requested by the building official Mr. Jay Riat after our in person meeting of 11/04/2024 to discuss and resolve the Notice of Violation. The entire affidavit is again attached in section ( )
    1. Please note section 2 on page 1 of the affidavit, this clearly describes the request for assistance regarding the duct work. The conversation with Nicole McMahon at Fairfax County indicated that choosing the Yes button is for new construction choosing the No button is for repair/ replacement of existing. The application was opened providing the opportunity to change from Yes to No. the application was updated to Plan Review Not Req and the permit was issued.
4. Applicable codes: the following are codes supporting repair or replacement of existing duct. These codes have been previously shared with Fairfax County officials
  1. N1107.1.1 (R501.1) Additions, alterations, or repairs
  2. N1107.2 (R501.2) Existing Building
  3. N1107.3 (R501.3) Maintenance
  4. N1107.4 (R501.4) Compliance
  5. N1107.5 (R501.5) new and replacement materials

6. M1202.1 Additions, Alterations or Repairs
  7. M1202.2 Existing Installations
  8. 109.3 Engineering details
  9. N101.9 Interior design conditions
  10. M1401.3 Equipment and appliance sizing
  11. "When a permit is required" copied from the Fairfax County PLUS website here it distinguishes a difference between "new or replacement" duct
  12. Mechanical System: defines "system"
5. PHOTOGRAPHS
1. Garage showing existing supply vents and chase for existing duct work for floor above
  2. Duct running along same chase as existing supplying floor above
  3. Duct running along family room wall supplying floor above
  4. Concealment of duct in basement family room
  5. Insulated duct in garage supplying to floor above

**APPEAL REQUEST:**

**APPEAL No CDAPPL-2025-00001**

**RE: FAIRFAX COUNTY, LAND DEVELOPMENT SERVICES V. ERIC DESOTO**

Upon receipt of this resolution, attached here, by CERTIFIED MAIL, received on April 28, 2025, the applicant is requesting appeal to the State Building Code Technical Review Board. This appeal request is submitted within 21 days of service in a timely manner.

6. The appeal applicant has complied with all permit applications available through the Fairfax County PLUS website as follows:
  1. ELER-2023-01028 (Electrical Residential) issued 02/09/2023
  2. MECHR-2023-00473 (Mechanical Residential) issued 02/10/2023
  3. PLBBR-2023-01066 (Plumbing Residential) issued 02/10/2023
7. The appeal applicant replaced a 60+ year old duct work in accordance with applicable Virginia Residential Code/2018
  - 2a. In contradiction to the Chairmans opening statement this is not a discussion of Fairfax County Website, PLUS. In fact, the 2022/2023, PLUS website does not provide the opportunity to apply to replace existing duct work only new construction. Later years do provide the opportunity to indicate replacement of existing duct work.
8. Fairfax County support staff stated that no plans are required in support of the MECHR-2023-00473 permit regarding duct work.
9. Supply air to the garage is existing prior to the permit process.

FURTHER: The applicant request the State Technical Review Board reverse the decision of the Fairfax County Board of Building Code Appeals

Date: May 13, 2025

---

Appeal applicant

1. DETAIL OF EACH OF THE PERMITS ISSUED.
  1. ALTR- 222940160 (Interior Alteration-Parent) issued 01/09/2023
  2. ELER-2023-01028 (Electrical Residential) issued 02/09/2023
  3. MECHR-2023-00473 (Mechanical Residential) issued 02/10/2023
  4. PLBBR-2023-01066 (Plumbing Residential) issued 02/10/2023
2. Letter submitted to Melisa Smar
  1. Includes applicable codes
3. FAIRFAX COUNTY STAFF POSITION



Collections (0) Cart (0) Reports (4) Account Management Help Logout

Logged in as: ERIC DESOTO

LDS building permit and site plan customers, if you are experiencing issues accessing or processing your permit or plan that was started in FIDO, PAWS or ProjectDox and converted to PLUS, please contact our Customer Experience Team for further assistance at 703-222-0801, TTY 711 or by form.

For step-by-step submission details for all building and site permit/plan records in PLUS, visit the new LDS Permit Library.

Home Building Enforcement Environmental Health Fire Planning Site Zoning Proffer/Development Condition

Create an Application Search Applications Schedule an Inspection

Record ALTR-222940160:

Add to cart Add to collection

Residential Addition/Alteration

Record Status: Closed

Record Info Plan Room Payments Parcel Information

Select the Record Info dropdown located above for:

- Record Details - See detailed information related to the record.
Processing Status\* - See current status of the application.
Related Records - See any records related to this application.
Attachments - Access your issued permit card and approved plans and documents.
Inspections - Schedule an inspection, view scheduled inspections, view inspection results.

\* For a detailed summary of application progress, to include the names of assigned review staff, click on Reports in the top-right corner of the screen and select Workflow Routing Slip Report.

Inspections

Upcoming

You have not added any inspections. Click the link above to schedule or request one.

Completed (3)

Passed - 3

**Passed Framing (2774700)**

Result by: Kevin Talbot on 03/06/2023 at 01:46 PM *MONDAY*

[View Details](#)

**Passed Insulation (2783951)**

Result by: Kevin Talbot on 03/14/2023 at 11:45 AM *TUESDAY*

[View Details](#)

**Passed Final (2847833)**

Result by: Jack Kellum on 05/16/2023 at 11:52 AM

[View Details](#)



<a href="#">Awards</a>	<b>Main Address</b>	<b>Site Tools</b>	<b>Support</b>	<b>Additional Resources</b>
<a href="#">Site Feedback</a>	12000 Government Center Fairfax, VA 22035	Web Accessibility Translate Download Mobile App	ADA Accessibility FOIA Requests Website Administrator	Fairfax County Public Schools Economic Development Authority Visit Fairfax Council of Governments Commonwealth of Virginia USA.gov
	<b>Phone</b> 703-FAIRFAX TTY 711			
				
	<a href="#">PRIVACY POLICY &amp; COPYRIGHT</a>			

### Insulation (2783951, Optional)

7405 GATEWOOD CT ALEXANDRIA, VA  
22307-2026

**Print**

## Status Details

**Passed**  
3/14/2023 11:45 AM  
Desired Date: TBD

**Record**  
ALTR-222940160  
Residential Addition/Alteration

## Status History

Showing 1-4 of 4

Status	Status Date/Time	Inspector	Update Time	Updated By	Result Comments
Passed	3/14/2023 11:45 AM	Kevin Talbot	3/14/2023 11:45 AM	Kevin Talbot	Insulation ok Ok to drywall
Scheduled	3/14/2023 10:40 AM	Kevin Talbot	3/14/2023 6:07 AM	Wonhee Flemming	
Scheduled	3/14/2023 12:00 AM	Harris Bookfor	3/10/2023 12:13 PM	ERIC DESOTO	
Scheduled	3/14/2023 12:00 AM	Harris Bookfor	3/10/2023 12:13 PM	ERIC DESOTO	

## Related Inspections

Showing 0-0 of 0

ID	Inspection Name	Relationship	Status
----	-----------------	--------------	--------

No records found.

**1. CODE COMPLIANCE**

> THIS PLAN SET IS SUBJECT TO FIELD INSPECTION AND COMPLIES WITH BUILDING CODE 2015 IRC, 2015/2018 VRC AND ALL LOCAL CODES AND AMENDMENTS.

**2. EERO**

EERO WINDOWS COMPLY WITH RS10.2.1  
 W/ MINIMUM OPENING AREA TO EXCEED 5.1 sq ft

**3. EERO- EMERGENCY ESCAPE WINDOWS**

> SUBJECT TO VRC 2015 / RS10.2.2.2 A BELL HEIGHT OF 44" MAX;  
 CLEAR OPENING OF 5.7 SF; CLEAR HEIGHT OF 24" CLEAR WIDTH  
 EMERGENCY ESCAPE WINDOWS SHALL HAVE A MIN OF 4 SF MIN  
 WIDTH OF 36"; WELLS DEEPER THAN 44" SHALL BE FITTED WITH LADDER,  
 WHEN DEPTH OF WELL EXCEEDS 48" FALL PROTECTION IS REQUIRED.

**4. FIRE PREVENTION**

> SMOKE ALARMS SHALL BE IN EACH BEDROOM, OUTSIDE  
 EACH BEDROOM ON EACH LEVEL, INTERCONNECTED AND  
 BATTERY OPERATED. CARBON MONOXIDE DETECTORS SHALL BE LOCATED OUTSIDE EACH  
 SLEEPING AREA WHEN FUEL BURNING APPLIANCES ARE USED; OR DWELLING  
 HAS ATTACHED GARAGE.  
 > FIRE BLOCKING VERTICALLY AT CEILING, FLOOR LEVELS IN CONCEALED  
 SPACES OF STUD WALLS; HORIZONTALLY AT 10' INTERVALS.  
 > AT ALL INTERCONNECTIONS BETWEEN VERTICAL AND HORIZONTAL SPACES

**5. MECHANICAL REQUIREMENTS**

> DOOR ACCESS TO MITR HEATER AND FURNACE SHALL ALLOW  
 REMOVAL OF EQUIPMENT AND NOT LESS THAN 20" WIDE;  
 > UNOBSTRUCTED WORK AREA NOT LESS THAN 30"  
 > COMBUSTION AIR REQUIRED FOR FUEL BURNING APPLIANCES  
 OF 50 CUBIC FEET PER 1,000 BTU/H

**6. ELECTRICAL REQUIREMENTS**

> PANEL BOARD CLEARANCE - 36" DEPTH, 30" WIDTH - CLEAR FL SPACE  
 > OUTLETS REQUIRED WITHIN 6' EACH SIDE OF ALL DOORS AND OPENINGS  
 AND 12' THEREAFTER.  
 > GFI RECEPTACLES IN BATHROOMS, COUNTERTOP SURFACES, MET BARS  
 ALL KITCHEN COUNTERS, GARAGES, UNFINISHED AREAS;  
 > AFCI REQUIRED IN ALL BEDROOM BRANCH CIRCUITS;  
 > 20A GFI REQUIRED IN ALL BATHROOM HALLWAYS  
 > ONE LIGHT ACTIVATION AT THE TOP AND BOTTOM OF EACH STAIR;

**7. PLUMBING REQUIREMENTS ASSE 1016**

> PLUMBING FIXTURE CLEARANCES:  
 - LAVATORY 21" CLEAR SPACE IN FRONT  
 - SINK 25" CLEAR SPACE IN FRONT  
 - SHOWER MIN SIZE 30" X 30" WITH 24" CLEARANCE IN FRONT  
 - SHOWERS & BATHTUB/SHOWER VALVES SHALL BE EQUIPPED  
 WITH PRESSURE BALANCE MIXING OR COMBINATION PRESSURE  
 THERMO-STATIC VALVES WITH HIGH-LIMIT STOPS

**8. TYPICAL LUMBER; RS01.2; RS01.4;**

> LUMBER - SPF #3  
 > FLOOR LUMBER - 40x4  
 > FLOOR ATTIC DEAD LOAD = 10 psf  
 > GROUND SNOW LOAD = 50psf  
 > SOIL BEARING CAPACITY = 1500 psf  
 > LIVE LOAD DEFLECTION LIMIT = L/360  
 > TOTAL LOAD DEFLECTION LIMIT = L/240

TYPICAL : LUMBER = SPF#2

2018 VRC CODE:

- \* Floor live load = 40 psf
- \* Ground and Attic dead load = 10 psf
- \* Ground and snow load = 30 psf
- \* Soil Bearing capacity = 1500 psf
- \* Live load deflection limit = L/360
- \* Total load deflection limit = L/240

TYP WALL  
 VINYL SIDING ON TYVEK HOUSE WRAP  
 ON

12" OSB SHEATHING ON 2x4 STUDS @  
 16" OC  
 W/ 1/2" GYPS BD AND R15 BATT  
 INSULATION

TYP FLOOR  
 EXIST 2x6 CLG JOIST @ 16" OC W/  
 HARDWOOD ON 9/8 SHEATHING

INTERIOR RENOVATION  
 BUILDING CODE 2018 IRC AND LOCAL AMENDMENTS  
 7405 GATEWOOD CT  
 ALEXANDRIA, VA 22308  
 LOT 46, SEGCTION 4, VILLAHAY

APPLICANT IS OWNER

ERIC DESOTO  
 CHOICE HOUSING MANAGEMENT, LLC  
 7405 GATEWOOD CT  
 ALEXANDRIA, VA 22308

PREPARED BY APPLICANT

ERIC DESOTO  
 CHM LLC  
 ERIC@DESOTO.CO  
 301 580 3494

**WORK DESCRIPTION:**

> INTERIOR RENOVATION TO EXISTING FINISHED BASEMENT and  
 EXISTING 1ST FLOOR, REPLACE LIGHTING, OUTLETS, HVAC SYSTEM,  
 BATHROOM FIXTURES, RENOVATE KITCHEN, ONE NEW BATH, ONE NEW  
 1/2 BATH, RECESSED LIGHTS, OUTLETS AND BATHROOM FIXTURES

COVER SHEET	00
INDEX:	00
GENERAL	01
OWNER AFFIDAVIT / ENG	00
FINDINGS	02
SURVEY - LAND DISTURBANCE	00
BASEMENT EXISTING	09
BASEMENT PROPOSED	01
1ST FLOOR EXISTING	02
1ST FLOOR EXISTING	09
1ST FLOOR PROPOSED	01
PLAN	04

**SUBJECT TO FIELD INSPECTION**

PROJECT LOCATION: 7405 GATEWOOD CT ALEXANDRIA, VA 22308 WESTSHORE	SCALE: 1/4" = 1'-0"	DATE: 11/10/2022	INDEX PAGE
CHOICE HOUSING MANAGEMENT, LLC P.O. BOX 301 BENEDICT, MD 20612	SUBMITTED BY APPLICANT: ERIC DESOTO		

# Fairfax County, Virginia

## BUILDING PERMIT Residential Mechanical

**Permit Number:** MECHR-2023-00473 **Issued Date:** 02/10/2023

**Job Address:** 7405 Gatewood Ct  
Alexandria, VA 22307 **Tax Map ID** 0934 08 0096

**Tenant:** **Bldg:** **Floor:** **Suite:**

**Owner/Tenant:** Choice Housing Management Llc  
Po Box 301  
Benedict, Md 20612 **Contractor:**  
Owner as Contractor

**Structure:** Single Family Dwelling **Code:**

**Group(s):** R-5 **Type of Construction:** VB

**Has permission, according to approved plans, applications and restrictions of record to:**  
REPLACE EXISTING FURNACE, GAS RANGE/STOVE

**Fixtures and Equipment:**  
See page 2

**BUILDING OFFICIAL:** *Jay S. Riat*

- A copy of this permit must be posted at the construction site for the duration of the permit.
- This permit does not constitute approval from your homeowners' association and its related covenants.
- This permit will expire if work does not commence in six months or if work is suspended for six months.
- Contact VA 811 before you dig at 811 or [VA811.com](http://VA811.com).
- The permit holder is responsible to schedule inspections at [plus.fairfaxcounty.gov/CitizenAccess](http://plus.fairfaxcounty.gov/CitizenAccess) when stages of construction are reached that require inspections.
- For questions regarding this permit email [LDSbuildingpermits@fairfaxcounty.gov](mailto:LDSbuildingpermits@fairfaxcounty.gov) or call 703-222-0801, TTY 711.

**Land Development Services**  
12055 Government Center Parkway  
Fairfax, Virginia 22035  
703-324-1780, TTY 711  
[www.fairfaxcounty.gov/plan2build](http://www.fairfaxcounty.gov/plan2build)



Collections (0) Cart (0) Reports (4) Account Management Help Logout

Logged in as: ERIC DESOTO

LDS building permit and site plan customers, if you are experiencing issues accessing or processing your permit or plan that was started in FIDO, PAWS or ProjectDox and converted to PLUS, please contact our Customer Experience Team for further assistance at 703-222-0801, TTY 711 or by form.

For step-by-step submission details for all building and site permit/plan records in PLUS, visit the new LDS Permit Library.

Home Building Enforcement Environmental Health Fire Planning Site Zoning Proffer/Development Condition

Create an Application Search Applications Schedule an Inspection

Record MECHR-2023-00473: 7405 GATEWOOD CT

Add to cart Add to collection

Residential Mechanical

Record Status: Closed

Record Info Plan Room Payments Parcel Information

Select the Record Info dropdown located above for:

Record Details - See detailed information related to the record.

Processing Status\* - See current status of the application.

Related Records - See any records related to this application.

Attachments - Access your issued permit card and approved plans and documents.

Inspections - Schedule an inspection, view scheduled inspections, view inspection results.

\* For a detailed summary of application progress, to include the names of assigned review staff, click on Reports in the top-right corner of the screen and select Workflow Routing Slip Report.

Processing Status

Application Submittal

Updated to Awaiting Plans on 02/07/2023 by dpr sys

Updated to Plans Received on 02/07/2023 by dpr sys

Updated to **Waiting for Payment** on **02/09/2023** by **Samantha Sanchez**

Updated to **Accepted - Plan Review Not Req** on **02/10/2023** by **Admin Admin**

- Review Distribution
- Mechanical Review
- Site Technician Review
- Health Department Review - OSW
- Review Coordination

✓ ▼ Permit Issuance

Updated to **Issued** on **02/10/2023** by **Admin Admin**

✓ ▼ Inspection

Updated to **Final Inspection Complete** on **05/16/2023** by **Jack Kellum**

✓ ▼ Close Out

Updated to **Closed** on **05/16/2023** by **Jack Kellum**

✓ ▼ Records Review

Updated to **Complete** on **05/16/2023** by **Jack Kellum**



<p>Awards</p> <p>Site Feedback</p>	<p><b>Main Address</b></p> <p>12000 Government Center Blvd Fairfax, VA 22035</p> <p><b>Phone</b></p> <p>703-FAIRFAX</p> <p><b>TTY</b> 711</p>	<p><b>Site Tools</b></p> <p>Web Accessibility</p> <p>Translate</p> <p>Download Mobile App</p>	<p><b>Support</b></p> <p>ADA Accessibility</p> <p>FOIA Requests</p> <p>Website Administrator</p>	<p><b>Additional Resources</b></p> <p>Fairfax County Public Schools</p> <p>Economic Development Authority</p> <p>Visit Fairfax</p> <p>Council of Governments</p> <p>Commonwealth of Virginia</p> <p>USA.gov</p>
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## AFFIDAVIT

STATE OF VIRGINIA, CITY OF ALEXANDRIA, TO-WIT:

The undersigned, being first duly sworn according to law, deposes and states, according to firsthand knowledge and belief that the mechanical permit described below for 7405 Gatewood Court, Alexandria, County of Fairfax, VA was pulled for the replacement of the existing duct system; that all required inspections were conducted; that proof of said inspections are attached hereto and are provided for the review of Jay Riat; and that the facts below are available for review within the Fairfax County LDS PLUS ACA (website), and in support thereof states as follows:

1. Attached please relevant permits and inspections: a.) MECHR-2023-00473 permit. In addition: inspections were scheduled and completed prior to the issued CWO POEPOINV-2024-00024. Framing inspection for Record ALTR-222940160 concomitant with concealment inspection of MECHR-2023-00473, ELER-2023-01028, PLBR-2023-01066 were scheduled for 03/06/2023. insulation inspection was scheduled for 03/14, conducted by inspector Kevin Talbot and concluded as passed. Final inspection for permits ALTR, MECHR, ELER, PLBR were scheduled on 05/16/2023, conducted by inspector Jack Kellum and concluded as passed. I was personally present during all Fairfax County inspections performed at 7405 Gatewood Ct, Alexandria, VA.
2. During the meeting of 11/14/2024, with Mr. Jay Riat, Fairfax County Building Official. (12055 Government Center Pkwy, Suite 322 Fairfax, VA 22035-5500) a brief introduction of the project was provided. The predominant subject matter focused on repair/ replace/ maintenance of existing duct work. The MECHR Permit submittal, Application information has a single line for the question "duct work as YES or NO". Initially, I indicated "yes," which prompted a response from plan review and a request for new duct work plan set. Then, I contacted Plan Review and they were extremely helpful. I explained my intent to repair/replace existing duct work and that I was unfamiliar with the new PLUS website. They indicated that "No" is for existing duct work" and "Yes" is for new construction. Section 6.1.4 referred to below indicates "Updated to Accepted – Plan Review Not Req on 02/10/2023 by "Admin Admin". The inspection for existing duct work is visual and conducted to confirm that the duct work is securely fastened, seams are taped and sealed and all existing penetrations are foamed with fire blocking. This inspection was performed in my presence.
3. The 11/14/24 meeting started with my brief introduction of the Subject location, the condition of the premise prior to submitting application for permits and a discussion of the Complainants referred to as the Homeowners. For the record, the purchase of 7405 Gatewood Ct, Alexandria, VA 22307 occurred September 16, 2022 and the home was in habitable condition. All systems installed in the home were functioning.
4. Record ALTR 222940160 Application submittal 10/21/2022
  - 4.1. Updated waiting for Payment received/ paid 10/21/2022 by WEB PERMIT
    - 4.1.1. Updated to Accepted – Plan Review Req on 10/21/2022
    - 4.1.2. Updated for Routed for review 10/21/2022
    - 4.1.3. Updated to Routed for Review 01/04/2023 by Nicole McMahon
    - 4.1.4. Updated to Corrections Received on 01/04/2023 by Nicole McMahon

- 4.1.5. Update to Approved on 01/09/2023
  - 4.1.6. Updated to Ready for Issue on 01/09/2023 by Brett Breeding
5. Record ELER 2023 01028 Application submittal 02/01/2023
    - 5.1.1. Updated to awaiting plans 02/01/2023
    - 5.1.2. Plans received 02/07/2023
    - 5.1.3. Payment 02/08/2023
    - 5.1.4. Plan review not required on 02/09/2023
    - 5.1.5. Permit issued on 02/09/2023
  6. MECHR 2023 00473 Application submittal on 02/07/2023
    - 6.1.1. Updated to Awaiting plans on 02/07/2023 by dpr sys
    - 6.1.2. Update to Plans received on 02/07/2023 by dpr sys
    - 6.1.3. Updated to Waiting for Payment on 02/09/2023
    - 6.1.4. Updated to Accepted – Plan Review Not Req on 02/10/2023 by Admin Admin
      - Review Distribution
      - Mechanical Review
      - Site Technician Review
      - Health Department Review – OSW
      - Review Coordination
    - 6.1.5. Updated to Issued on 02/10/2023 by Admin Admin.
  7. PLBR-2023-01066 Application submittal on 02/07/2023
    - 7.1.1. Updated to Awaiting plans on 02/07/2023 by dpr sys
    - 7.1.2. Update to Plans received on 02/07/2023 by dpr sys
    - 7.1.3. Updated to Waiting for Payment on 02/09/2023
    - 7.1.4. Updated to Accepted – Plan Review Not Req on 02/10/2023 by Admin Admin
  8. The remainder of the 11/14/24 meeting with Mr. Riat focused on the replacement of existing duct work even though no code mandated this action. Although the duct work functioned by supplying and returning air throughout the home, the system’s efficiency was diminished by separated seams due to aging by air borne contaminants visibly adhering to the inside of the duct. Mr. Riat and I also spoke about replacing copper pipes that may have been installed with lead-based solder and any painted surfaces potentially covered by lead-based paint.
  9. The conversation finished with the 3 service calls to Washington Gas to correct the flow of natural gas supplied by the meter. In the process, the 3” PVC piping was inadvertently lifted, causing a positive flow away from the furnace, and a subsequent puddling occurred triggering the safety sensors which shut the off the system. The current homeowners contacted 3 different contractors/ professionals, all of whom focused on replacing the new installed furnace. The Master technician sent by me solved the problems by correcting the angle of the PVC pipe to a negative flow towards the furnace and further tested the operation of the furnace at its maximum capacity in the presence of the Homeowner.

**SIGNATURE AND NOTARY ACKNOWLEDGMENT ON FOLLOWING PAGE**

CHOICE HOUSING MANAGEMENT, LLC

By: 

Eric J. DeSoto

Its: Managing Member

Sworn and subscribed to before me, a Notary Public, by Eric J. DeSoto, Managing Member of Choice House Management, LLC this 6<sup>th</sup> day of December , 2024.



  
Notary Public

My commission expires: 01/31/25

My registration number: 178586

### **N1107.1.1 (R501.1.1) Additions, alterations, or repairs: General.**

*Additions, alterations, or repairs* to an existing *building, building system* or portion thereof shall comply with [Section N1108](#), [N1109](#) or [N1110](#). Unaltered portions of the existing *building or building supply system* shall not be required to comply with this chapter.

### **N1107.2 (R501.2) Existing buildings.**

Except as specified in this chapter, this code shall not be used to require the removal, *alteration or abandonment* of, nor prevent the continued use and maintenance of, an existing *building or building system* lawfully in existence at the time of adoption of this code.

### **N1107.3 (R501.3) Maintenance.**

*Buildings* and structures, and parts thereof, shall be maintained in a safe and sanitary condition. Devices and systems that are required by this code shall be maintained in compliance with the code edition under which installed. The owner or the owner's authorized agent shall be responsible for the maintenance of *buildings* and structures. The requirements of this chapter shall not provide the basis for removal or abrogation of energy conservation, fire protection and safety systems and devices in existing structures.

### **N1107.4 (R501.4) Compliance.**

*Alterations, repairs, additions* and changes of occupancy to, or relocation of, existing *buildings* and structures shall comply with the provisions for *alterations, repairs, additions* and changes of occupancy or relocation, respectively, in this code.

### **N1107.5 (R501.5) New and replacement materials.**

Except as otherwise required or permitted by this code, materials permitted by the applicable code for new construction shall be used. Like materials shall be permitted for *repairs*, provided that hazards to life, health or property are not created. Hazardous materials shall not be used where the code for new construction would not allow their use in *buildings* of similar occupancy, purpose and location.

### **M1202.1 Additions, alterations or repairs.**

*Additions, alterations, renovations or repairs* to a mechanical system shall conform to the requirements for a new mechanical system without requiring the existing mechanical system to comply with all of the requirements of this code. *Additions, alterations or repairs* shall not cause an existing mechanical system to become unsafe, hazardous or overloaded. Minor additions, alterations or repairs to existing mechanical systems shall

meet the provisions for new construction, unless such work is done in the same manner and arrangement as was in the existing system, is not hazardous, and is approved.

Note: MECHR 2023 00473: 7405 was update to Accepted Plan Review Not Req on 02/10/2023

### **M1202.2 Existing installations.**

Except as otherwise provided for in this code, a provision in this code shall not require the removal, *alteration* or abandonment of, nor prevent the continued use and maintenance of, an existing mechanical system lawfully in existence at the time of the adoption of this code.

### **109.3 Engineering details.**

When determined necessary by the building official, construction documents shall include adequate detail of the structural, mechanical, plumbing or electrical components. Adequate detail may include computations, stress diagrams or other essential technical data and when proposed buildings are more than two stories in height, adequate detail may specifically be required to include where floor penetrations will be made for pipes, wires, conduits, and other components of the electrical, mechanical and plumbing systems and how such floor penetrations will be protected to maintain the required structural integrity or fire-resistance rating, or both. When dry floodproofing is provided, the engineering details shall include detail of the walls, floors, and flood shields designed to resist flood-related loads, including the sealing of floor and wall penetrations. All engineered documents, including relevant computations, shall be sealed by the RDP responsible for the design.

### **N1101.9 (R302.1) Interior design conditions.**

The interior design temperatures used for heating and cooling load calculations shall be a maximum of 72°F (22°C) for heating and minimum of 75°F (24°C) for cooling.

### **M1401.3 Equipment and appliance sizing.**

Heating and cooling *equipment* and *appliances* shall be sized in accordance with [ACCA Manual S](#) or other approved sizing methodologies based on building loads calculated in accordance with [ACCA Manual J](#) or other *approved* heating and cooling calculation methodologies.

**Exception:** Heating and cooling equipment and appliance sizing shall not be limited to the capacities determined in accordance with [Manual S](#) where either of the following conditions applies:

1. 1. The specified equipment or appliance utilizes multistage technology or variable refrigerant flow technology and the loads calculated in accordance

with the approved heating and cooling calculation methodology are within the range of the manufacturer's published capacities for that equipment or appliance.

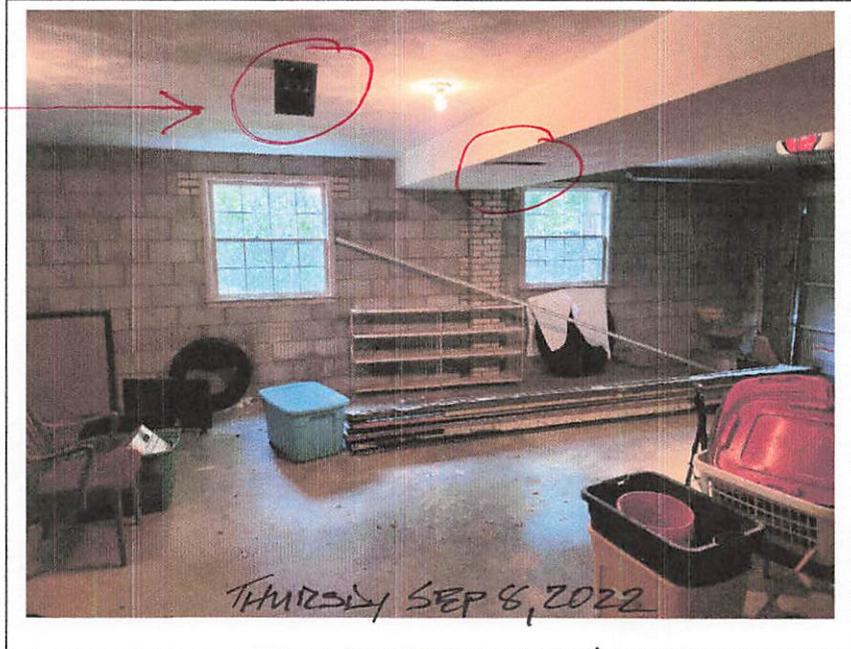
2. 2.The specified equipment or appliance manufacturer's published capacities cannot satisfy both the total and sensible heat gains calculated in accordance with the approved heating and cooling calculation methodology and the next larger standard size unit is specified.

Copied from Fairfax County Website. Please note that here they distinguish New and Replacement as separate. A MECHR PERMIT was applied for and issued. In the 2022/2023 PLUS website no opportunity is provided for replacement duct.

Mechanical (MECHR) - Residential A mechanical building permit is required for the following projects: New, Replacement, Repair or Conversion of HVAC Systems New Installations of Miscellaneous Mechanical Equipment: fireplaces, logs, flue, range hoods, stove/range, tanks, etc. Installation of Pool/Hot Tub Heaters Geothermal System Installation **Duct Installation (new or replacement)** Gas Piping for Equipment Mechanical, electrical and plumbing permits, commonly referred to as "trades permits" do not require plans. Trade permits can be obtained online after the associated building permit is issued. Note: Some residential properties (example: apartment buildings and condos) are considered commercial per the building code and therefore require commercial building permits. To be considered residential, a project must consist of a detached one- or two-family dwelling or Who Should Apply? Plan Ahead How Do I Submit My Record? Requirements What's Next? Additional Resources townhouse and be no more than three stories high above ground level, as defined by code.

**MECHANICAL SYSTEM.** A system specifically addressed and regulated in this code and composed of components, devices, *appliances* and *equipment*.

#1 GARAGE SHOWING EXISTING  
SUPPLY VENTS



THURSDAY SEP 8, 2022

TAKEN BY ERIC DESOTO

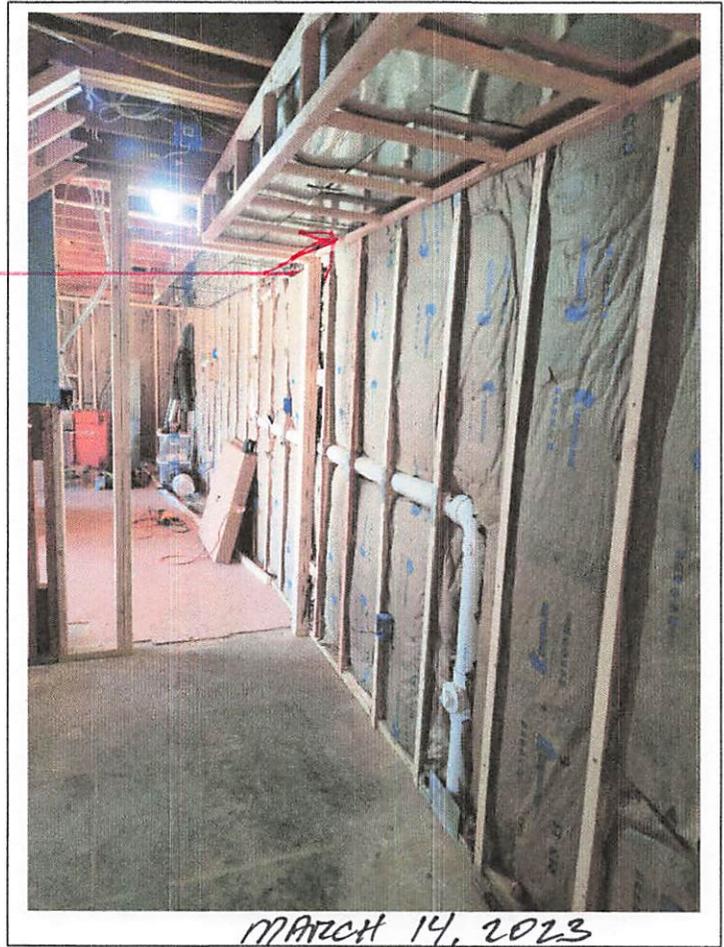
NOTICE OF VIOLATION

2019 VRC SECTION M1601.6

#2

DUCT IN THE SAME LOCATION AND SIZE AS  
EXISTING

SUPPORTS APPLICABLE  
CODES SUBMITTED

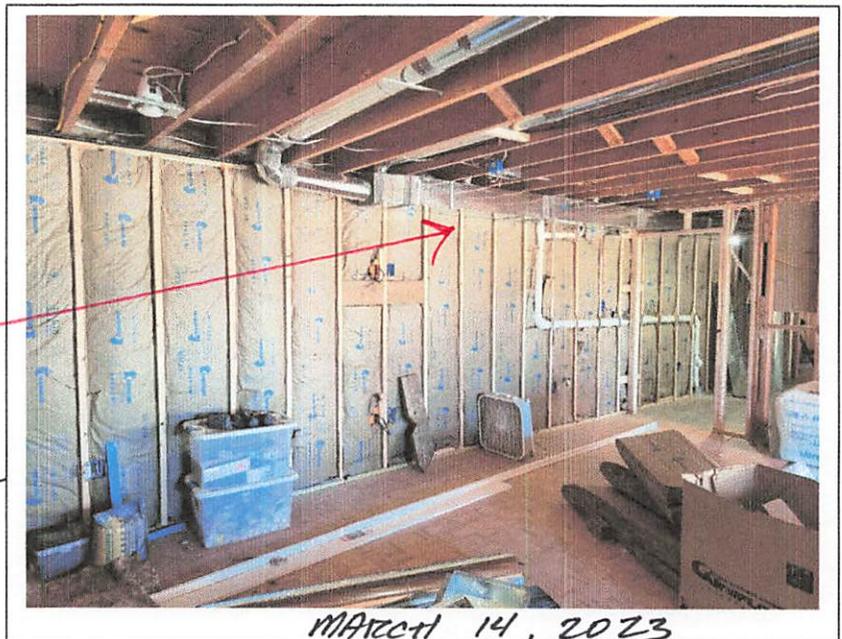


MARCH 14, 2023  
By ERIC DESOTO

#3

DUCT IN SAME LOCATION AND  
AND SIZE AS EXISTING

SUPPORTS APPLICABLE  
CODES



MARCH 14, 2023  
By ERIC DESOTO

#4 DRY WALL OVER FINISHED DUCT

SUPPORTS APPLICABLE  
CODE

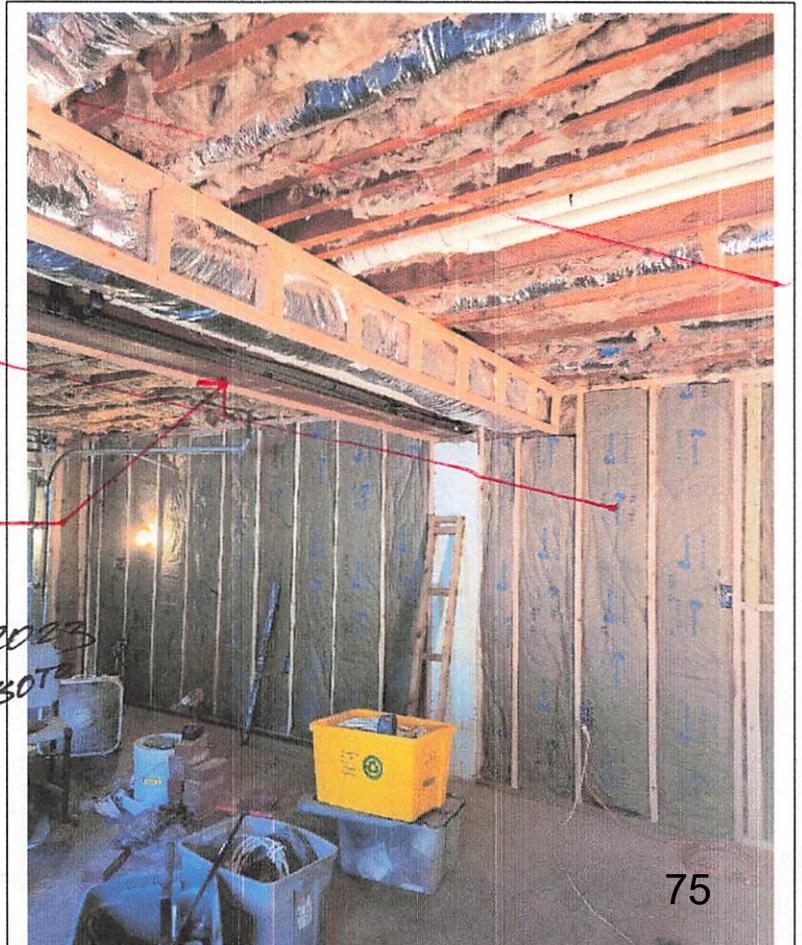


MARCH 26, 2023 By Falcic DESOTO

#5 DUCT THROUGH THE GARAGE SUPPLY TO  
FLOOR ABOVE

SUPPORTS APPLICABLE CODE

MARCH 14, 2023  
By Falcic DESOTO



DUCT CHASE  
FAMILY ROOM  
BASEMENT



TAKEN FROM WEBSITE  
DATE UNKNOWN

# Fairfax County, Virginia

## BUILDING PERMIT Residential Addition/Alteration

**Permit Number:** ALTR-222940160      **Issued Date:** 01/09/2023  
**Job Address:** 7405 Gatewood Ct      **Tax Map ID:** 0934 08 0096  
Alexandria, VA 22307-2026  
**Tenant:**      **Bldg:**      **Floor:**      **Suite:**  
**Owner/Tenant:**      **Contractor:**  
Choice Housing Management Llc      Owner as Contractor  
Po Box 301  
Benedict, Md 20612  
**Structure:** Single Family Dwelling      **Code:** 2018 Virginia Residential Code  
**Group(s):** R-5      **Type of Construction:** VB

**Has permission, according to approved plans, applications and restrictions of record to:**  
INTERIOR RENOVATION TO EXISTING FINISHED BASEMENT. RENOVATE KITCHEN, ONE NEW BATH, ONE NEW 1/2 BATH.

**BUILDING OFFICIAL:** *Jay S. Riat*

- A copy of this permit must be posted at the construction site for the duration of the permit.
- This permit does not constitute approval from your homeowners' association and its related covenants.
- This permit will expire if work does not commence in six months or if work is suspended for six months.
- Contact VA 811 before you dig at 811 or [VA811.com](http://VA811.com).
- The permit holder is responsible to schedule inspections at [plus.fairfaxcounty.gov/CitizenAccess](http://plus.fairfaxcounty.gov/CitizenAccess) when stages of construction are reached that require inspections.
- For questions regarding this permit email [LDSbuildingpermits@fairfaxcounty.gov](mailto:LDSbuildingpermits@fairfaxcounty.gov) or call 703-222-0801, TTY 711.

**Land Development Services**  
12055 Government Center Parkway  
Fairfax, Virginia 22035  
703-324-1780, TTY 711  
[www.fairfaxcounty.gov/plan2build](http://www.fairfaxcounty.gov/plan2build)

**From:** donotreply@fairfaxcounty.gov  
**Sent:** Tuesday, March 14, 2023 11:46 AM  
**To:** eric desoto.co  
**Subject:** ALTR-222940160 - Inspection Result

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

This is a notification from Fairfax County of your recent inspection result for:

Project Address: 7405 GATEWOOD CT ALEXANDRIA, VA 22307-2026

Inspection Type: Insulation

Result of Inspection: Passed

Inspection Date: 3/14/2023

Inspected By: Kevin Talbot, 571-536-5001, Kevin.Talbot@fairfaxcounty.gov

Comments related to this inspection: Insulation ok Ok to drywall

For questions regarding this inspection, please contact your inspector at the number above. Call 711 for TTY services. Inspectors are not permitted to answer their phone if they are performing another inspection or driving. Please leave them a message to include a permit number and call back number so they can return your call as soon as they are able.

Please complete our Customer Service Survey.

[Building Inspection Survey - PublicInput.com](#)

Fairfax County Land Development Services

\*\*\* This is an automatically generated email. Please do not reply. \*\*\*

**From:** Fairfax County Government <donotreply-PLUS@fairfaxcounty.gov>  
**Sent:** Tuesday, May 16, 2023 11:53 AM  
**To:** eric desoto.co  
**Subject:** ALTR-222940160 - Inspection Result

This is a notification from Fairfax County of your recent inspection result for:

Project Address: 7405 GATEWOOD CT ALEXANDRIA, VA 22307-2026

Inspection Type: Final

Result of Inspection: Passed

Inspection Date: 5/16/2023

Inspected By: Jack Kellum, 571-363-0443, Jack.Kellum@fairfaxcounty.gov

Comments related to this inspection:

For questions regarding this inspection, please contact your inspector at the number above. Call 711 for TTY services. Inspectors are not permitted to answer their phone if they are performing another inspection or driving. Please leave them a message to include a permit number and call back number so they can return your call as soon as they are able.

Please complete our Customer Service Survey.

[Building Inspection Survey - PublicInput.com](https://www.fairfaxcounty.gov/building-inspection/survey)

Fairfax County Land Development Services

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# Fairfax County, Virginia

## BUILDING PERMIT Residential Plumbing

**Permit Number:** PLBR-2023-01066 **Issued Date:** 02/10/2023

**Job Address:** 7405 Gatewood Ct  
Alexandria, VA 22307 **Tax Map ID:** 0934 08 0096

**Tenant:** **Bldg:** **Floor:** **Suite:**

**Owner/Tenant:** Choice Housing Management Llc  
Po Box 301  
Benedict, Md 20612 **Contractor:** Owner as Contractor

**Structure:** Single Family Dwelling **Code:** 2018 Virginia Residential Code

**Group(s):** R-5 **Type of Construction:** VB

**Has permission, according to approved plans, applications and restrictions of record to:**  
ADD ONE NEW BATH ADD 1/2 BATH. RELOCATE EXISTING PLUMBING FIXTURES, REPLACE ALL KITCHEN FIXTURES.

**Fixtures and Equipment:**  
See page 2

**BUILDING OFFICIAL:** *Jay S. Riat*

- A copy of this permit must be posted at the construction site for the duration of the permit.
- This permit does not constitute approval from your homeowners' association and its related covenants.
- This permit will expire if work does not commence in six months or if work is suspended for six months.
- Contact VA 811 before you dig at 811 or [VA811.com](http://VA811.com).
- The permit holder is responsible to schedule inspections at [plus.fairfaxcounty.gov/CitizenAccess](http://plus.fairfaxcounty.gov/CitizenAccess) when stages of construction are reached that require inspections.
- For questions regarding this permit email [LDSbuildingpermits@fairfaxcounty.gov](mailto:LDSbuildingpermits@fairfaxcounty.gov) or call 703-222-0801, TTY 711.

**Land Development Services**  
12055 Government Center Parkway  
Fairfax, Virginia 22035  
703-324-1780, TTY 711  
[www.fairfaxcounty.gov/plan2build](http://www.fairfaxcounty.gov/plan2build)

**From:** Fairfax County Government <donotreply@fairfaxcounty.gov>  
**Sent:** Monday, February 13, 2023 3:47 PM  
**To:** eric desoto.co  
**Subject:** PLBR-2023-01066 - Inspection Result

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

This is a notification from Fairfax County of your recent inspection result for:

Project Address: 7405 GATEWOOD CT ALEXANDRIA, VA 22307

Inspection Type: Groundwork Sanitary Sewer

Result of Inspection: Passed

Inspection Date: 2/13/2023

Inspected By: Kevin Talbot, 571-536-5001, Kevin.Talbot@fairfaxcounty.gov

Comments related to this inspection: Groundworks ok to conceal

For questions regarding this inspection, please contact your inspector at the number above. Call 711 for TTY services. Inspectors are not permitted to answer their phone if they are performing another inspection or driving. Please leave them a message to include a permit number and call back number so they can return your call as soon as they are able.

Please complete our Customer Service Survey.

[Building Inspection Survey - PublicInput.com](#)

Fairfax County Land Development Services

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**From:** donotreply@fairfaxcounty.gov  
**Sent:** Monday, March 6, 2023 1:49 PM  
**To:** eric desoto.co  
**Subject:** PLBR-2023-01066 - Inspection Result

This is a notification from Fairfax County of your recent inspection result for:

Project Address: 7405 GATEWOOD CT ALEXANDRIA, VA 22307

Inspection Type: Concealment

Result of Inspection: Passed

Inspection Date: 3/6/2023

Inspected By: Kevin Talbot, 571-536-5001, Kevin.Talbot@fairfaxcounty.gov

Comments related to this inspection: Concealment approved Shower liners ok

For questions regarding this inspection, please contact your inspector at the number above. Call 711 for TTY services. Inspectors are not permitted to answer their phone if they are performing another inspection or driving. Please leave them a message to include a permit number and call back number so they can return your call as soon as they are able.

Please complete our Customer Service Survey.

[Building Inspection Survey - PublicInput.com](#)

Fairfax County Land Development Services

\*\*\* This is an automatically generated email. Please do not reply. \*\*\*

**From:** Fairfax County Government <donotreply-PLUS@fairfaxcounty.gov>  
**Sent:** Tuesday, May 16, 2023 11:51 AM  
**To:** eric desoto.co  
**Subject:** PLBR-2023-01066 - Inspection Result

This is a notification from Fairfax County of your recent inspection result for:

Project Address: 7405 GATEWOOD CT ALEXANDRIA, VA 22307

Inspection Type: Final

Result of Inspection: Passed

Inspection Date: 5/16/2023

Inspected By: Jack Kellum, 571-363-0443, Jack.Kellum@fairfaxcounty.gov

Comments related to this inspection:

For questions regarding this inspection, please contact your inspector at the number above. Call 711 for TTY services. Inspectors are not permitted to answer their phone if they are performing another inspection or driving. Please leave them a message to include a permit number and call back number so they can return your call as soon as they are able.

Please complete our Customer Service Survey.

[Building Inspection Survey - PublicInput.com](https://www.fairfaxcounty.gov/publicinput)

Fairfax County Land Development Services

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24

# Fairfax County, Virginia

## BUILDING PERMIT Residential Electrical

**Permit Number:** ELER-2023-01028      **Issued Date:** 02/09/2023  
**Job Address:** 7405 Gatewood Ct      **Tax Map ID** 0934 08 0096  
Alexandria, VA 22307  
**Tenant:**      **Bldg:**      **Floor:**      **Suite:**  
**Owner/Tenant:**      **Contractor:**  
Choice Housing Management Llc      Owner as Contractor  
Po Box 301  
Benedict, Md 20612  
**Structure:** Single Family Dwelling      **Code:** 2018 Virginia Residential Code

**Group(s):**      **Type of Construction:**  
**Has permission, according to approved plans, applications and restrictions of record to:**  
UPGRADE PANEL BOX 200 AMP  
NEW CIRCUITS FOR KITCHEN AND BATHROOMS  
NEW GFCI AND AFCI  
RECESSED LIGHTS

**Fixtures and Equipment:**  
See page 2

**BUILDING OFFICIAL:** *Jay S. Riat*

- A copy of this permit must be posted at the construction site for the duration of the permit.
- This permit does not constitute approval from your homeowners' association and its related covenants.
- This permit will expire if work does not commence in six months or if work is suspended for six months.
- Contact VA 811 before you dig at 811 or [VA811.com](http://VA811.com).
- The permit holder is responsible to schedule inspections at [plus.fairfaxcounty.gov/CitizenAccess](http://plus.fairfaxcounty.gov/CitizenAccess) when stages of construction are reached that require inspections.
- For questions regarding this permit email [LDSbuildingpermits@fairfaxcounty.gov](mailto:LDSbuildingpermits@fairfaxcounty.gov) or call 703-222-0801, TTY 711.

**Land Development Services**  
12055 Government Center Parkway  
Fairfax, Virginia 22035  
703-324-1780, TTY 711  
[www.fairfaxcounty.gov/plan2build](http://www.fairfaxcounty.gov/plan2build)

# Fairfax County, Virginia

## BUILDING PERMIT Residential Electrical

Permit Number: ELER-2023-01028

Issued Date: 02/09/2023

### Fixtures and Equipment

Quantity	Description	Rating	Units
15	Recessed Lights		
45	Fixtures		
1	Service Panel	200	amps

**From:** Fairfax County Government <donotreply-PLUS@fairfaxcounty.gov>  
**Sent:** Tuesday, May 16, 2023 11:52 AM  
**To:** eric desoto.co  
**Subject:** ELER-2023-01028 - Inspection Result

This is a notification from Fairfax County of your recent inspection result for:

Project Address: 7405 GATEWOOD CT ALEXANDRIA, VA 22307

Inspection Type: Final

Result of Inspection: Passed

Inspection Date: 5/16/2023

Inspected By: Jack Kellum, 571-363-0443, Jack.Kellum@fairfaxcounty.gov

Comments related to this inspection:

For questions regarding this inspection, please contact your inspector at the number above. Call 711 for TTY services. Inspectors are not permitted to answer their phone if they are performing another inspection or driving. Please leave them a message to include a permit number and call back number so they can return your call as soon as they are able.

Please complete our Customer Service Survey.

[Building Inspection Survey - PublicInput.com](https://www.fairfaxcounty.gov/building-inspection-survey)

Fairfax County Land Development Services

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**From:** donotreply@fairfaxcounty.gov  
**Sent:** Monday, March 6, 2023 1:50 PM  
**To:** eric desoto.co  
**Subject:** ELER-2023-01028 - Inspection Result

This is a notification from Fairfax County of your recent inspection result for:

Project Address: 7405 GATEWOOD CT ALEXANDRIA, VA 22307

Inspection Type: Concealment

Result of Inspection: Passed

Inspection Date: 3/6/2023

Inspected By: Kevin Talbot, 571-536-5001, Kevin.Talbot@fairfaxcounty.gov

Comments related to this inspection: Concealment

For questions regarding this inspection, please contact your inspector at the number above. Call 711 for TTY services. Inspectors are not permitted to answer their phone if they are performing another inspection or driving. Please leave them a message to include a permit number and call back number so they can return your call as soon as they are able.

Please complete our Customer Service Survey.

[Building Inspection Survey - PublicInput.com](https://www.fairfaxcounty.gov/buildinginspection/survey)

Fairfax County Land Development Services

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# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

## NOTICE OF VIOLATION Virginia Construction Code

**DATE OF ISSUANCE:** January 13, 2024

**METHOD OF SERVICE:** Sheriff's Letter

**LEGAL NOTICE ISSUED TO:** Eric Desoto, Registered Agent, Registered Agent

**REGISTERED AGENT ADDRESS:** 6904 Park Terrace  
Alexandria, Virginia 22307

**CONTRACTOR LICENSE#:** N/A

**LOCATION OF VIOLATION:** 7405 Gatewood Ct  
Alexandria, VA 22307

**TAX MAP REF:** 0934080096

**CASE #:** POEPOINV-2024-00024

Per authority granted by the Virginia Construction Code, inspections were made on 4/3/2024 regarding the above referenced property. Violations of the 2018 Virginia Residential Code, effective July 1, 2021, the applicable building code violations were found. I sent you a Corrective Work Order (CWO) on August 20, 2024 via Sheriff's Letter. You have 30 days from the date this NOV to abate the violation(s).

Code	Violation
2018 VRC - INSP	<p>No permits for the duct work installed at the property.</p> <p>Section 108.1- When applications are required. Application for a permit shall be made to the building official and a permit shall be obtained prior to the commencement of any of the following activities, except that applications for emergency construction, alterations or equipment replacement shall be submitted by the end of the first working day that follows the day such work commences. In addition, the building official may authorize work to commence pending the receipt of an application or the issuance of a permit.</p> <p>1. Construction or demolition of a building or structure. Installations or alterations involving (i) the removal or addition of any wall, partition or portion thereof, (ii) any structural component, (iii) the repair or replacement of any required component of a fire or smoke rated assembly, (iv) the alteration of any required means of egress system, including the addition or removal of emergency supplemental hardware, (v) water supply and distribution system, sanitary drainage system or vent system, (vi) electric wiring, (vii) fire protection system, mechanical systems, or fuel supply systems, or (viii) any equipment</p>

LEGAL NOTICE ISSUED TO:

Eric Desoto, Registered Agent, Registered

Agent  
Page 2

	<p>regulated by the USBC.</p> <p>2.For change of occupancy, application for a permit shall be made when a new certificate of occupancy is required by the VEBC.</p> <p>3.Movement of a lot line that increases the hazard to or decreases the level of safety of an existing building or structure in comparison to the building code under which such building or structure was constructed.</p> <p>4.Removal or disturbing of any asbestos containing materials during the construction or demolition of a building or structure, including additions.</p>
--	--

2018 VRC - INSP	<p>No inspections for the duct work installed at the property.</p> <p>Section 113.3 Minimum inspections. The following minimum inspections shall be conducted by the building official when applicable to the construction or permit:</p> <ol style="list-style-type: none"> <li>1.Inspection of footing excavations and reinforcement material for concrete footings prior to the placement of concrete.</li> <li>2.Inspection of foundation systems during phases of construction necessary to assure compliance with this code.</li> <li>3.Inspection of preparatory work prior to the placement of concrete.</li> <li>4.Inspection of structural members and fasteners prior to concealment.</li> <li>5.Inspection of electrical, mechanical and plumbing materials, equipment and systems prior to concealment.</li> <li>6.Inspection of energy conservation material prior to concealment.</li> <li>7.Final inspection.</li> </ol>
-----------------	--

2018 VRC - INSP	<p>Section M1601.6 Independent garage HVAC systems. Furnaces and air-handling systems that supply air to living spaces shall not supply air to or return air from a garage.</p>
-----------------	---

**119.5 Right of appeal; filing of appeal application.** Any person aggrieved by the *local building department's* application of the USBC or the refusal to grant a modification to the provisions of the USBC may appeal to the *LBBCA*. The applicant shall submit a written request for appeal to the *LBBCA* within 30 calendar days of the receipt of the decision being appealed. The application shall contain the name and address of the owner of the building or structure and in addition, the name and address of the person appealing, when the applicant is not the owner. A copy of the building official's decision shall be submitted along with the application for appeal and maintained as part of the record. The application shall be marked by the *LBBCA* to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of a building official's decision.

You have the right to appeal this decision within 30 days to the Fairfax County Board of Building and Fire Prevention Code Appeals. Appeal application forms may be obtained by contacting:

LEGAL NOTICE ISSUED TO:

Eric Desoto, Registered Agent, Registered

Agent  
Page 3

Fairfax County Board of Building and Fire Prevention Code Appeals

Attention: Secretary to Board

12055 Government Center Parkway, Suite 307

Fairfax, Virginia 22035-5504

Telephone: 703-631-5101

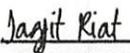
Website to file an appeal: <https://plus.fairfaxcounty.gov/CitizenAccess/Default.aspx>

Failure to submit an application for appeal within the time limit established shall constitute acceptance of the code official's decision. Failure to correct these defects within the time limits specified shall result in legal action being taken under the applicable State and County Codes.

You are directed to notify Melissa Smarr, Code Specialist III, by return correspondence to 12055 Government Center Parkway, Suite 334, Fairfax, VA 22035 or by telephone at 703-324-1929. Failure to do so shall result in the immediate initiation of legal action to bring the above referenced property into compliance.

If you have any questions, you may contact Melissa Smarr at 703-324-1929 (office) or by email at [Melissa.Smarr@fairfaxcounty.gov](mailto:Melissa.Smarr@fairfaxcounty.gov)

Order Issued By: Jay Riat  
Building Official  
Land Development Services

Signature:  Signed by: 01/10/2025 | 15:17:32 EST  
FCDAF24AB966414..

MELISA SMARR  
Branch Chief and Code Specialist 3  
Fairfax County Government

May 5, 2024

Re: 7405 Gatewood Ct

Ms. Smarr:

In our phone conversation Friday May 3<sup>rd</sup>, you requested good dates to meet. I will be away May 9<sup>th</sup> to Monday May 20<sup>th</sup>. A Doctor appointment on May 21<sup>st</sup> followed by 3 MRIs dates TBD, likely in June.

1.)

The property at 7405 GATEWOOD CT, was purchased by the permit applicant. The home was in virtually the same condition as of the time of original construction. The mechanical equipment was operational at the time, and appeared capable of maintaining warm and cool temperature, however a foul unsanitary scent of smoke permeated the interior of the home. A chemical cleaning and some duct tape would have sufficed in the short term, but that level of maintenance would not last the term of a standard mortgage. I still believe the decision to replace the existing duct work was correct and ethical.

The following are relevant facts preceding the complaint submitted by the now current homeowners of 7405 Gatewood Ct. The homeowners closed on the property June 12, 2023.

2.)

The Record ALTR-222940160 was submitted by the HOMEOWNER acting as **applicant** on October 21, 2022, with the overarching code of 2018 IRC. The Record was updated to ready for issue on January 9, 2023, almost 3 months after the application was submitted. Subsequent Trades permits were applied for as "child" permits establishing ALTR – 222940160 as the parent permit.

3.)

During the application phase the County records reflect multiple request and interaction by the applicant. During this time Fairfax County Land Development service was updating from the FIOS system to the current PLUS system. As I mentioned to you when we first spoke there were areas of the application that were lacking definition. Specifically in the Residential Mechanical application.

4.)

The Record MECHR 2023-00473 was updated to issued on February 10, 2023. As previously mentioned, to you, during the application phase I, as the applicant and homeowner, reached out to Fairfax County permit techs multiple times, in reference to MECHR 2023-00473, requesting assistance to correctly file the application. Specifically, what documents are required for replacing existing Duct system. The permit tech stated that no documents are required for replacing the existing Duct system. Additionally by selecting and marking the check box "includes ductwork  yes  no" would trigger the request for

new ductwork documentation. Further, the line “type of work: Replacement” refers to the equipment and not the system, this was clarified by the permit tech.

5.)

The permit tech was very helpful in clarifying no documents are required for maintenance of, repair of, or replacement of existing duct work only for new duct work. That a mechanical permit is required. And a mechanical permit was applied for and received. A general note, the PLUS application available in 2024 does provide a drop-down menu with availability to indicate existing versus new duct work. This suggests the PLUS administrators did listen to the email you, Melisa Smarr, sent them. Job well done on your part.

6.)

Concealment inspections for the Parent permit ALTR- 22294016 along with the child permits were conducted on March 06, 2023, by Kevin Talbot. I was informed at that time by Mr. Talbot that the ALTR permit is to be scheduled first followed by the trade’s permits. Thus, providing an opportunity to inspect the framing, the wall and floor penetrations along with fire stop insulation. At this inspection Mr. Talbot inspected the fire-retardant foam surrounding the replacement duct work as it penetrated the floor from the basement to the first floor. There was no requirement to identify the floor penetrations that he inspected as we were using the existing penetrations from the original duct work. He confirmed all the floor penetrations were correctly fire blocked along with inspection of the replacement duct work which was correctly seam sealed and fastened in place. Mr. Talbot also inspected all the framing penetrations, the partition walls, and the bathroom vents. There is no comment in the record of either of these inspections.

7.)

Previously you questioned that Mr. Talbot did not specifically comment on the Ductwork inspection. This is also true for all the inspections he performed; it simply states “passed” without a comment on the systems inspected. I enjoy working with Mr. Talbot, he is extremely knowledgeable with applicable codes, and often would take time to explain how the code applies.

### ***N1107.3 (R501.3) Maintenance.***

*Buildings and structures, and parts thereof, shall be maintained in a safe and sanitary condition. Devices and systems that are required by this code shall be maintained in compliance **with the code edition under which installed.** The owner or the owner’s authorized agent shall be responsible for the maintenance of buildings and structures. The requirements of this chapter shall not provide the basis for removal or abrogation of energy conservation, fire protection and safety systems and devices in existing structures.*

### **N1107.5 (R501.5) New and replacement materials.**

Except as otherwise required or permitted by this code, **materials** permitted by the applicable code for new construction **shall be used.** **Like materials shall be permitted for repairs,** provided that hazards to life, health or property **are not created.** Hazardous materials shall not be used where the code for new construction would not allow their use in *buildings* of similar occupancy, purpose and location.

### **M1202.1 Additions, alterations or repairs.**

*Additions, alterations, renovations or repairs to a mechanical system shall conform to the requirements for a new mechanical system without requiring the existing mechanical system to comply with all of the requirements of this code. *Additions, alterations or repairs shall not cause an existing mechanical system to become unsafe, hazardous or overloaded. Minor additions, alterations or repairs to existing mechanical systems shall meet the provisions for new construction, unless such work is done in the same manner and arrangement as was in the existing system, is not hazardous, and is approved.**

### **M1202.2 Existing installations.**

Except as otherwise provided for in this code, a provision in this code shall not require the removal, *alteration* or abandonment of, nor prevent the continued use and maintenance of, an existing mechanical system lawfully in existence at the time of the adoption of this code.

### **M1401.3 Equipment and appliance sizing.**

Heating and cooling *equipment and appliances* shall be sized in accordance with [ACCA Manual S](#) or other approved sizing methodologies based on building loads calculated in accordance with [ACCA Manual J](#) or other *approved* heating and cooling calculation methodologies.

**Exception:** Heating and cooling equipment and appliance sizing shall not be limited to the capacities determined in accordance with [Manual S](#) where either of the following conditions applies:

1. The specified equipment or appliance utilizes multistage technology or variable refrigerant flow technology and the loads calculated in accordance with the approved heating and cooling calculation methodology are within the range of the manufacturer's published capacities for that equipment or appliance.
2. The specified equipment or appliance manufacturer's published capacities cannot satisfy both the total and sensible heat gains calculated in accordance with the approved heating and cooling calculation methodology and the next larger standard size unit is specified.

## SECTION R106 CONSTRUCTION DOCUMENTS

apps

### R106.1 Submittal documents.

Submittal documents consisting of *construction documents*, and other data shall be submitted in two or more sets with each application for a *permit*. The *construction documents* shall be prepared by a registered *design professional* where required by the statutes of the *jurisdiction* in which the project is to be constructed. Where special conditions exist, the *building official* is authorized to require additional *construction documents* to be prepared by a registered *design professional*.

**Exception:** The *building official* is authorized to waive the submission of *construction documents* and other data not required to be prepared by a registered *design professional* if it is found that the nature of the work applied for is such that reviewing of construction documents is not necessary to obtain compliance with this code.

### Mechanical (MECHR) - Residential

A mechanical building permit is required for the following projects: New, Replacement, Repair or Conversion of HVAC Systems New Installations of Miscellaneous Mechanical Equipment: fireplaces, logs, flue, range hoods, stove/range, tanks, etc. Installation of Pool/Hot Tub Heaters Geothermal System Installation Duct Installation (new or replacement) Gas Piping for Equipment Mechanical, electrical and plumbing permits, commonly referred to as "trades permits" do not require plans. Trade permits can be obtained online after the associated building permit is issued. Note: Some residential properties (example: apartment buildings and condos) are considered commercial per the building code and therefore require commercial building permits. To be considered residential, a project must consist of a detached one- or two-family dwelling or Who Should Apply? Plan Ahead How Do I Submit My Record? Requirements What's Next? Additional Resources townhouse and be no more than three stories high above ground level, as defined by code.

### **R302.11 Fireblocking.**

In combustible construction, fireblocking shall be provided to cut off both vertical and horizontal concealed draft openings and to form an effective fire barrier between stories, and between a top story and the roof space.

Fireblocking shall be provided in wood-framed construction in the following locations:

1. In concealed spaces of stud walls and partitions, including furred spaces and parallel rows of studs or staggered studs, as follows:
  - 1.1. Vertically at the ceiling and floor levels.
  - 1.2. Horizontally at intervals not exceeding 10 feet (3048 mm).
2. At interconnections between concealed vertical and horizontal spaces such as occur at soffits, drop ceilings and cove ceilings.
3. In concealed spaces between stair stringers at the top and bottom of the run. Enclosed spaces under stairs shall comply with Section R302.7.
4. **At openings around vents, pipes, ducts, cables and wires at ceiling and floor level, with an approved material to resist the free passage of flame and products of combustion.** The material filling this annular space shall not be required to meet the ASTM E136 requirements.
5. For the fireblocking of chimneys and fireplaces, see Section R1003.19.
6. Fireblocking of cornices of a two-family dwelling is required at the line of dwelling unit separation.

### **113.3 Minimum inspections.**

The following minimum inspections shall be conducted by the building official when applicable to the construction or permit:

1. 1. Inspection of footing excavations and reinforcement material for concrete footings prior to the placement of concrete.
2. 2. Inspection of foundation systems during phases of construction necessary to assure compliance with this code.
3. 3. Inspection of preparatory work prior to the placement of concrete.
4. 4. Inspection of structural members and fasteners prior to concealment.
5. **5. Inspection of electrical, mechanical and plumbing materials, equipment and systems prior to concealment.**
6. 6. Inspection of energy conservation material prior to concealment.
7. **7. Final inspection.**



# County of Fairfax, Virginia

## MEMORANDUM

**DATE:** March 25, 2025

**TO:** Members of the Local Board of Building and Fire Code Appeals

**FROM:** Patrick V. Foltz, Assistant County Attorney on behalf of Jay Riat, the Building Official

**SUBJECT:** Appeal Response for Eric DeSoto – 7405 Gatewood Court

Staff respectfully requests that the Fairfax County Local Board of Building Code Appeals (Board) uphold the Notice of Violation (NOV) that was issued on January 13, 2025 (misdated as January 13, 2024).

### Staff Position

The appellant, Eric DeSoto, (“DeSoto”) owns Choice Housing Management, LLC (“Choice”). On information and belief, DeSoto is the sole member and owner of Choice. From September 16, 2022, until June 12, 2023, Choice was the title owner of 7405 Gatewood Court. On April 3, 2024, an inspection by County staff showed that the duct work installed by Choice had not been permitted or inspected. Additionally, the inspection showed that duct work installed supplied to air to living spaces from the residence’s garage, in violation of Section M1601.6.

In his appeal and affidavit, Mr. DeSoto addresses the NOV in some detail. The Building Official, by counsel, makes the following responses:

- a. As for the mechanical permit, DeSoto asserts that a mechanical permit was pulled for the replacement of the duct system and that all required inspections were conducted. This is true – the Residential Mechanical permit for the Property, MECHR-2023-00473, gives permission to “REPLACE EXISTING FURNACE, GAS RANGE/STOVE”. The permit does not cover replacement of the duct system. A copy of that permit is attached as Exhibit A.
- b. Mr. DeSoto also attests that the four permits he obtained were all inspected and passed. This is true to the extent that each permit covers a scope of work – however, no permit addresses or mentions replacement of the duct system. Copies of those permits are attached as Exhibit B.
- c. In his affidavit, Mr. DeSoto further indicates that the issue of the duct work replacement was discussed with the Building Official and with PLUS staff. Specifically, Mr. DeSoto attests that he had a conversation with a PLUS staff person. While it is unclear from his affidavit how he and the staff person resolved the “yes or no” section for the new duct

Department of Land Development Services  
12055 Government Center Parkway, Suite 540  
Fairfax, Virginia 22035-5501

Phone 703-324-1780 • TTY 711 • FAX 703-653-6678  
www.fairfaxcounty.gov



Members of the Local Board of Building and Fire Code Appeals  
Page 2 of 2

work, he goes onto address the nature of an existing duct work inspection. As the duct work replacement was not included in any of the permits, these attestations are not evidence that the replacement duct work was ever permitted or inspected.

- d. In his Request for Applicable Codes, Mr. DeSoto indicated that a mechanical permit is not required replacement of duct work but only for the system. That would be an exemption from the permit requirement, and nothing in the Building or Residential Codes creates such a broad exemption for duct work.

In conclusion, the Building Official respectfully requests that the Board dismiss this appeal.



**Project Information**

Project #: \_\_\_\_\_ Notes: \_\_\_\_\_  
Name: Samantha Shulman  
Location: 7405 Gatewood Ct., Alexandria, VA 22307

**Outdoor Conditions**

Location: Fort Belvoir, Newington, Virginia  
Elevation: 89'  
Latitude: 39  
Dry Bulb: Heating 14.0 °F, Cooling 93.0 °F  
Daily Range: 17  
Wet Bulb: 95  
Infiltration Method: Simple  
Stories: 2  
Construction: *HOME HAS BEEN INSULATE* Semi-Loose  
Exposure Category: Three or Four Exposures  
Num Fireplaces: 2 (Semi-Loose)  
Net Air Changes (H/C): 0.80/0.37  
Net Flow (H/C): 272 cfm/124 cfm

**Indoor Conditions**

Room Temp: Heating 72, Cooling 75  
Design Temp Diff: 56.0 °F  
Humidity: 35  
Moisture Diff (Grains): 50  
Ventilation Num Occupants: 4  
Type: Heating  
ACH: 0.00  
Outside Air: 0 cfm  
Sensible Eff: 50 %

**Floorplan/Levels**

Basement  
Main Floor  
Total Heated Area: 3,180 ft²  
Total Cooled Area: 3,180 ft²  
Type: Heating  
Heat Recovery: 0.00  
ACH: 0.00  
Outside Air: 0 cfm  
Sensible Eff: 50 %

**Total Heating: 45,351 Btu/hr**

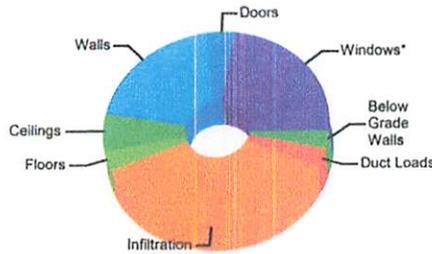
**Total Sensible: 30,876 Btu/hr**

**Total Latent: 4,761 Btu/hr**

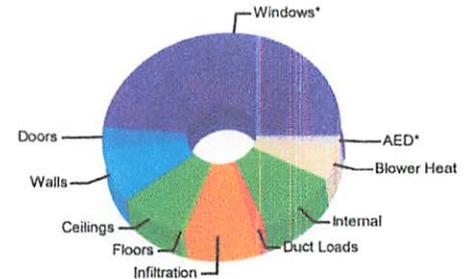
**Load Breakdown**

Name	Heating	Sensible	Latent
Windows*	10,579	15,056	
Skylights*	0	0	
Doors	1,792	1,024	
Walls	9,075	2,787	
Below Grade Walls	1,525		
Ceilings	2,763	2,763	
Floors	1,511	232	
Infiltration	16,701	2,857	3,665
Internal		3,320	920
Other	0		
Duct Loads	1,406	533	175
Ventilation	0	0	0
Humidification	0		
Piping Load	0		
Radiant Back Loss	0		
Blower Heat		1,706	
AED*		598	
<b>Total</b>	<b>45,351</b>	<b>30,876</b>	<b>4,761</b>
<b>Total Area</b>	<b>2,479 ft²</b>	<b>2,479 ft²</b>	

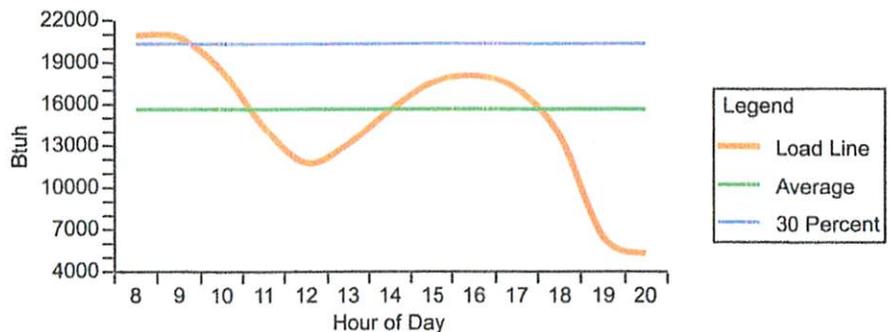
**Heating Load Breakdown**



**Sensible Load Breakdown**



**Fenestration Load vs Hour of Day - Block Load (Summer)**



Average Load: 15,653 Btu/hr  
Excursion Limit: 20,348 Btu/hr

Peak Load: 20,946 Btu/hr  
AED Load: 598 Btu/hr

\*Average Load Procedure

Heating ΔT: 70.0 JSHR: 0.87  
Cooling ΔT: 18.0 MJ8 Tons: 2.97  
Est. Heating CFM: 591 SqFt/Ton: 835  
Est. Cooling CFM: 1477 CFM/SqFt: 0.60

(1) ΔT: Difference between supply air and return air (2) Estimated air flow based on specified supply air ΔT

Length = ft Area = ft² Temperature = °F Flowrate = USGPM Air Flow = cfm Heat Loss = Btu/hr  
Unit Heat Loss = Btu/hr-ft² Rv = hr-ft²-F/btu Head Loss = ft water RH = Radiant Floor Heating  
BB = Baseboard FA = Forced Air OTH = Other Heating SM = Snowmelt N = Not Heated

Created Using HeatCAD 2018 (10/23/2023)  
Version: 18.0.0180 R

See sections at end of report for important Notes, Assumptions and Disclaimers.

Documents Submitted  
By  
Fairfax County

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# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

Office of the County Attorney  
Suite 549, 12000 Government Center Parkway  
Fairfax, Virginia 22035-0064  
Phone: (703) 324-2421; Fax: (703) 324-2665  
[www.fairfaxcounty.gov](http://www.fairfaxcounty.gov)

June 12, 2025

**BY EMAIL AND FIRST-CLASS MAIL**

Virginia Technical Review Board  
c/o Travis Luter, Secretary  
Main Street Centre  
600 E. Main Street  
Suite 300  
Richmond, VA 23219

**RE: Appeal No. 25-10  
From the Fairfax County Board of Building Code Appeals**

Mr. Luter,

My name is Patrick Foltz and my office represents Jay Riat, Building Official for Fairfax County. I write to respond to the grounds of appeal stated by Eric DeSoto in his letter dated May 13, 2025. First, I incorporate, by reference, both the Notice of Violation dated January 13, 2024 and the staff memorandum dated March 25, 2025.

In response to the Appellant's Statement of Relief Sought:

- 1) Mr. DeSoto did obtain certain required permits as he lists in Item 1 of his Statement of Relief Sought. However, Mr. DeSoto did not obtain a permit to replace the existing duct work system. As a result, the replacement duct work he installed is neither permitted nor inspected.
- 2) Mr. DeSoto's Item 2 is a statement of his own opinion and is not, as required, corroborated by permits or inspections.

Mr. DeSoto's Item 2A is an inaccurate statement of the PLUS system as it existed in 2022-2023. The PLUS system and its predecessor, FIDO, both had the capability to accept applications, and issue permits, for replacement of existing duct work. Fairfax County regularly issued such permits during 2022-2023 and any issues Mr. DeSoto may have had to not negate his obligation as a contractor to obtain a permit and an inspection.

- 3) In Item 3, Mr. DeSoto's reliance on the interpretation of the Code by an unnamed member of Fairfax staff is not binding on Fairfax County building code enforcement staff nor does it estop Fairfax County from enforcing the requirements of the Building Code.

- 4) Finally, Mr. DeSoto's assertion that the supply of air to the garage existing prior to the permit process does not excuse the fact that, having replaced the existing duct work and installed new ducts, that Section M1601.6 requires that air-handling systems that supply air to living spaces shall not also supply air to, or return air from, a garage space.

In conclusion, the Building Official respectfully requests that the Board deny Mr. DeSoto's appeal.

Thank you,



Patrick V. Foltz

Attachments

CDAPPL-2025-00001  
7405 Gatewood Court  
Appellant Submission



# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

## NOTICE OF VIOLATION Virginia Construction Code

**DATE OF ISSUANCE:** January 13, 2024

**METHOD OF SERVICE:** Sheriff's Letter

**LEGAL NOTICE ISSUED TO:** Eric Desoto, Registered Agent, Registered Agent

**REGISTERED AGENT ADDRESS:** 6904 Park Terrace  
Alexandria, Virginia 22307

**CONTRACTOR LICENSE#:** N/A

**LOCATION OF VIOLATION:** 7405 Gatewood Ct  
Alexandria, VA 22307

**TAX MAP REF:** 0934080096

**CASE #:** POEPOINV-2024-00024

Per authority granted by the Virginia Construction Code, inspections were made on 4/3/2024 regarding the above referenced property. Violations of the 2018 Virginia Residential Code, effective July 1, 2021, the applicable building code violations were found. I sent you a Corrective Work Order (CWO) on August 20, 2024 via Sheriff's Letter. You have 30 days from the date this NOV to abate the violation(s).

Code	Violation
2018 VRC - INSP	<p>No permits for the duct work installed at the property.</p> <p>Section 108.1- When applications are required. Application for a permit shall be made to the building official and a permit shall be obtained prior to the commencement of any of the following activities, except that applications for emergency construction, alterations or equipment replacement shall be submitted by the end of the first working day that follows the day such work commences. In addition, the building official may authorize work to commence pending the receipt of an application or the issuance of a permit.</p> <p>1. Construction or demolition of a building or structure. Installations or alterations involving (i) the removal or addition of any wall, partition or portion thereof, (ii) any structural component, (iii) the repair or replacement of any required component of a fire or smoke rated assembly, (iv) the alteration of any required means of egress system, including the addition or removal of emergency supplemental hardware, (v) water supply and distribution system, sanitary drainage system or vent system, (vi) electric wiring, (vii) fire protection system, mechanical systems, or fuel supply systems, or (viii) any equipment</p>

Department of Land Development Services  
12055 Government Center Parkway, Suite 659  
Phone 703-324-1780 • TTY 711 • FAX 703-653-6678

## LEGAL NOTICE ISSUED TO:

Eric Desoto, Registered Agent, Registered

Agent  
Page 2

	<p>regulated by the USBC.</p> <p>2.For change of occupancy, application for a permit shall be made when a new certificate of occupancy is required by the VEBC.</p> <p>3.Movement of a lot line that increases the hazard to or decreases the level of safety of an existing building or structure in comparison to the building code under which such building or structure was constructed.</p> <p>4. Removal or disturbing of any asbestos containing materials during the construction or demolition of a building or structure, including additions.</p>
2018 VRC - INSP	<p>No inspections for the duct work installed at the property.</p> <p>Section 113.3 Minimum inspections. The following minimum inspections shall be conducted by the building official when applicable to the construction or permit:</p> <p>1.Inspection of footing excavations and reinforcement material for concrete footings prior to the placement of concrete.</p> <p>2.Inspection of foundation systems during phases of construction necessary to assure compliance with this code.</p> <p>3.Inspection of preparatory work prior to the placement of concrete.</p> <p>4.Inspection of structural members and fasteners prior to concealment.</p> <p>5.Inspection of electrical, mechanical and plumbing materials, equipment and systems prior to concealment.</p> <p>6.Inspection of energy conservation material prior to concealment.</p> <p>7.Final inspection.</p>
2018 VRC - INSP	<p>Section M1601.6 Independent garage HVAC systems. Furnaces and air-handling systems that supply air to living spaces shall not supply air to or return air from a garage.</p>

**119.5 Right of appeal; filing of appeal application.** Any person aggrieved by the *local building department's* application of the USBC or the refusal to grant a modification to the provisions of the USBC may appeal to the *LBBCA*. The applicant shall submit a written request for appeal to the *LBBCA* within 30 calendar days of the receipt of the decision being appealed. The application shall contain the name and address of the owner of the building or structure and in addition, the name and address of the person appealing, when the applicant is not the owner. A copy of the building official's decision shall be submitted along with the application for appeal and maintained as part of the record. The application shall be marked by the *LBBCA* to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of a building official's decision.

You have the right to appeal this decision within 30 days to the Fairfax County Board of Building and Fire Prevention Code Appeals. Appeal application forms may be obtained by contacting:

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Department of Land Development Services  
12055 Government Center Parkway, Suite 659  
Phone 703-324-1780 • TTY 711 • FAX 703-653-6678

LEGAL NOTICE ISSUED TO:

Eric Desoto, Registered Agent, Registered

Agent  
Page 3

Fairfax County Board of Building and Fire Prevention Code Appeals  
Attention: Secretary to Board  
12055 Government Center Parkway, Suite 307  
Fairfax, Virginia 22035-5504  
Telephone: 703-631-5101  
Website to file an appeal: <https://plus.fairfaxcounty.gov/CitizenAccess/Default.aspx>

Failure to submit an application for appeal within the time limit established shall constitute acceptance of the code official's decision. Failure to correct these defects within the time limits specified shall result in legal action being taken under the applicable State and County Codes.

You are directed to notify Melissa Smarr, Code Specialist III, by return correspondence to 12055 Government Center Parkway, Suite 334, Fairfax, VA 22035 or by telephone at 703-324-1929. Failure to do so shall result in the immediate initiation of legal action to bring the above referenced property into compliance.

If you have any questions, you may contact Melissa Smarr at 703-324-1929 (office) or by email at [Melissa.Smarr@fairfaxcounty.gov](mailto:Melissa.Smarr@fairfaxcounty.gov)

Order Issued By: Jay Riat  
Building Official  
Land Development Services

Signature:

Signed by:  
*Jay Riat*  
FCDAF24AB966414...

01/10/2025 | 15:17:32 EST



# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

## CORRECTIVE WORK ORDER (CWO) Virginia Construction Code

**DATE OF ISSUANCE:** August 7, 2024

**METHOD OF SERVICE:** Sheriff's Letter

**LEGAL NOTICE ISSUED TO:** Eric Desoto, Registered Agent

**REGISTERED AGENT ADDRESS:** 6904 Park Terrace  
Alexandria, Virginia 22307

**CONTRACTOR LICENSE#:** N/A

**LOCATION OF VIOLATION:** 7405 Gatewood Ct  
Alexandria, VA 22307

**TAX MAP REF:** 0934080096

**CASE #:** POEPOINV-2024-00024

Per authority granted by the Virginia Construction Code, inspections were made on 4/3/2024 regarding the above referenced property. Violations of the 2018 Virginia Residential Code, effective July 1, 2021, the applicable building code were found. We attempted to send you this Corrective Work Order (CWO) via certified mail to your address listed on the permit in Maryland. We are reissuing this CWO. You have 30 days from the date this CWO to abate the violations.

Code	Violation
2018 VRC - INSP	Section 108.1 No permits for the duct work installed at the property.
2018 VRC - INSP	Section 113.3 No required inspections on the duct work installed at the property.
2018 VRC - INSP	Section M1601.6 Independent garage HVAC systems. Furnaces and air-handling systems that supply air to living spaces shall not supply air to or return air from a garage.

Failure to correct these defects within the time limits specified shall result in the issuance of a Notice of Violation being issued under the applicable State and County Codes.

You are directed to notify Melissa Smarr by return correspondence to 12055 Government Center Parkway, Suite 334, Fairfax, VA 22035 or by telephone at Failure to do so shall result in the immediate initiation a Notice of Violation and eventual legal action to bring the above referenced property into compliance.

If you have any questions, you may contact Melissa Smarr at 703-324-1929 or [melissa.smarr@fairfaxcounty.gov](mailto:melissa.smarr@fairfaxcounty.gov).

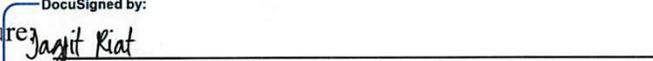
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Department of Land Development Services  
12055 Government Center Parkway, Suite 659  
Phone 703-324-1780 • TTY 711 • FAX 703-653-6678

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LEGAL NOTICE ISSUED TO: Eric Desoto, Registered Agent  
Page 2

Order Issued By: Jay Riat  
Building Official  
Land Development Services

Signature   
FCDAF24AB966414...

## FAIRFAX COUNTY CODE APPEAL

### ADDRESS

7405 GATEWOOD CT  
SINGLE FAMILY  
ALEXANDRIA, VA 22307

### LOCATION DETAILS

The location is within Fairfax County

### PARCEL

PARCEL # 0934 08 0096  
PARCEL ID NUMBER 0934080096

### APPLICANT

ERIC DESOTO  
18163 DESOTO FL  
PO BOX 301  
BENEDICT, MD 20612

PRIMARY PHONE: 301 580 3494  
SECONDARY PHONE N/A

EMAIL: [ERIC@DESOTO.CO](mailto:ERIC@DESOTO.CO)  
[ERIC@DESOTO.CO](mailto:ERIC@DESOTO.CO)

COUNTRY: USA

### APPLICANT ADDRESS

ADDRESS TYPE 1: MAILING  
ERIC DESOTO  
PO BOX 301  
BENEDICT, MD 20612

ADDRESS 2: PHYSICAL  
ERIC DESOTO



### **Design Deficiency Appealed**

Please find attached five documents in support of the applicants appeal of the issued Notice of Violation. The Notice sights a *Corrective Work Order*, delivered by an armed Sherrif, providing 30 days to abate the violations. Three code violations are sighted for failure to obtain permits, perform inspection of same permits and extension of **NEW** duct work through a garage. On November 14, 2024, an in-person meeting with Jay Riat took place in his conference room. Mr. Riat further requested a signed affidavit be prepared summarizing our conversation. I have attached the signed affidavit, prepared by attorney David D. Elsberg and submitted by email on December 6, 2024 to Jay Riat. Please view paragraphs 1 – 4 which outline the application, submittal and issuance of permit ALTR-222940160, MECHR-2023- 00473, ELER-2023-01028, PLBR-2023-010.

Paragraph 2, of the signed affidavit, details the PLUS Admin response to my Mechanical Residential application. Included in this application was the request to replace/repair EXISTING duct work. With the assistance of the permit Tech, it was mentioned that the section for duct work within the PLUS website was for **NEW CONSTRUCTION**. The mechanical permit was subsequently issued. Paragraph 6 of the affidavit describes the process and review for the issuance of MECHR-2023-00473.

The second attachment submitted to Melisa Smarr provides applicable codes regarding replacement/ maintenance of existing duct work. The highlighted portion of these codes refer to the applicability for repair/ replace/ maintenance of existing duct work. Section 113.3.5 indicates the minimum inspections to be conducted by the building official. Line 5 reads "Inspection of electrical, mechanical, and plumbing materials, equipment and systems prior to concealment." On March 6, 2023 the concealment inspection was requested and concluded as passed for permits ALTR-222940160, MECHR-2023-00473, ELER-2023-01028, PLBR-2023-010, conducted by Inspector Kevin Talbot, I was present for this inspection.

In response to violation of Section 1601.6 the existing duct work extended throughout the basement and the GARAGE which is interior to the house. Ceiling penetrations occurred in multiple locations. As previously mentioned, the existing duct work within the garage and basement was replaced. In accordance with the code R302.1.4, fire blocking was performed at all floor penetrations. The existing floor penetrations remain, and no new penetrations occurred in the basement or garage. Requisite fire blocking was performed concomitant with replacement of existing duct work, subsequently replacement duct work and fire blocking was viewed and observed at the concealment inspection. The concealment inspection indicated passed for all permits, no annotation is included for the fire blocking or replacement duct work.

DECISION RENDERED BY:

Jay Riat, Building official

DATE OF DECISION:

January 15, 2025

RECEIVED:

January 17, 2025

**ATTACHMENTS**

NOTE DOCUMENTS BELOW ARE ATTACHED AS PDF

**1. 2025 01 13 CWO NOTICE OF VIOLATION**



2025 01 13 CWO -  
VIOLATION NOTICE.p

**2. 2024 08 07 CWO**



2024 08 07  
CORRECTIVE WORK C

**3. 2024 12 06 AFFIDAVIT signed**



2024 12 06  
AFFIDAVIT signed.PDF

**4. 2024 05 05 APPLICABLE CODES – MELISA SMARR**



2024 05 05  
APPLICABLE CODES -

MELISA SMARR  
 Branch Chief and Code Specialist 3  
 Fairfax County Government

May 5, 2024

Re: 7405 Gatewood Ct

Ms. Smarr:

In our phone conversation Friday May 3<sup>rd</sup>, you requested good dates to meet. I will be away May 9<sup>th</sup> to Monday May 20<sup>th</sup>. A Doctor appointment on May 21<sup>st</sup> followed by 3 MRIs dates TBD, likely in June.

1.)

The property at 7405 GATEWOOD CT, was purchased by the permit applicant. The home was in virtually the same condition as of the time of original construction. The mechanical equipment was operational at the time, and appeared capable of maintaining warm and cool temperature, however a foul unsanitary scent of smoke permeated the interior of the home. A chemical cleaning and some duct tape would have sufficed in the short term, but that level of maintenance would not last the term of a standard mortgage. I still believe the decision to replace the existing duct work was correct and ethical.

The following are relevant facts preceding the complaint submitted by the now current homeowners of 7405 Gatewood Ct. The homeowners closed on the property June 12, 2023.

2.)

The Record ALTR-222940160 was submitted by the HOMEOWNER acting as **applicant** on October 21, 2022, with the overarching code of 2018 IRC. The Record was updated to ready for issue on January 9, 2023, almost 3 months after the application was submitted. Subsequent Trades permits were applied for as “child” permits establishing ALTR – 222940160 as the parent permit.

3.)

During the application phase the County records reflect multiple request and interaction by the applicant. During this time Fairfax County Land Development service was updating from the FIOS system to the current PLUS system. As I mentioned to you when we first spoke there were areas of the application that were lacking definition. Specifically in the Residential Mechanical application.

4.)

The Record MECHR 2023-00473 was updated to issued on February 10, 2023. As previously mentioned, to you, during the application phase I, as the applicant and homeowner, reached out to Fairfax County permit techs multiple times, in reference to MECHR 2023-00473, requesting assistance to correctly file the application. Specifically, what documents are required for replacing existing Duct system. The permit tech stated that no documents are required for replacing the existing Duct system. Additionally by selecting and marking the check box “includes ductwork  yes  no” would trigger the request for

new ductwork documentation. Further, the line “type of work: Replacement” refers to the equipment and not the system, this was clarified by the permit tech.

5.)

The permit tech was very helpful in clarifying no documents are required for maintenance of, repair of, or replacement of existing duct work only for new duct work. That a mechanical permit is required. And a mechanical permit was applied for and received. A general note, the PLUS application available in 2024 does provide a drop-down menu with availability to indicate existing versus new duct work. This suggests the PLUS administrators did listen to the email you, Melisa Smarr, sent them. Job well done on your part.

6.)

Concealment inspections for the Parent permit ALTR- 22294016 along with the child permits were conducted on March 06, 2023, by Kevin Talbot. I was informed at that time by Mr. Talbot that the ALTR permit is to be scheduled first followed by the trade’s permits. Thus, providing an opportunity to inspect the framing, the wall and floor penetrations along with fire stop insulation. At this inspection Mr. Talbot inspected the fire-retardant foam surrounding the replacement duct work as it penetrated the floor from the basement to the first floor. There was no requirement to identify the floor penetrations that he inspected as we were using the existing penetrations from the original duct work. He confirmed all the floor penetrations were correctly fire blocked along with inspection of the replacement duct work which was correctly seam sealed and fastened in place. Mr. Talbot also inspected all the framing penetrations, the partition walls, and the bathroom vents. There is no comment in the record of either of these inspections.

7.)

Previously you questioned that Mr. Talbot did not specifically comment on the Ductwork inspection. This is also true for all the inspections he performed; it simply states “passed” without a comment on the systems inspected. I enjoy working with Mr. Talbot, he is extremely knowledgeable with applicable codes, and often would take time to explain how the code applies.

### ***N1107.3 (R501.3) Maintenance.***

*Buildings and structures, and parts thereof, shall be maintained in a safe and sanitary condition. Devices and systems that are required by this code shall be maintained in compliance **with the code edition under which installed.** The owner or the owner’s authorized agent shall be responsible for the maintenance of buildings and structures. The requirements of this chapter shall not provide the basis for removal or abrogation of energy conservation, fire protection and safety systems and devices in existing structures.*

### **N1107.5 (R501.5) New and replacement materials.**

Except as otherwise required or permitted by this code, **materials** permitted by the applicable code for new construction **shall be used.** **Like materials shall be permitted for repairs,** provided that hazards to life, health or property **are not created.** Hazardous materials shall not be used where the code for new construction would not allow their use in *buildings* of similar occupancy, purpose and location.

### **M1202.1 Additions, alterations or repairs.**

*Additions, alterations, renovations or repairs to a mechanical system shall conform to the requirements for a new mechanical system without requiring the existing mechanical system to comply with all of the requirements of this code. *Additions, alterations or repairs shall not cause an existing mechanical system to become unsafe, hazardous or overloaded. Minor additions, alterations or repairs to existing mechanical systems shall meet the provisions for new construction, unless such work is done in the same manner and arrangement as was in the existing system, is not hazardous, and is approved.**

### **M1202.2 Existing installations.**

Except as otherwise provided for in this code, a provision in this code shall not require the removal, *alteration* or abandonment of, nor prevent the continued use and maintenance of, an existing mechanical system lawfully in existence at the time of the adoption of this code.

### **M1401.3 Equipment and appliance sizing.**

<sup>P</sup> Heating and cooling *equipment and appliances* shall be sized in accordance with [ACCA Manual S](#) or other approved sizing methodologies based on building loads calculated in accordance with [ACCA Manual J](#) or other *approved* heating and cooling calculation methodologies.

**Exception:** Heating and cooling equipment and appliance sizing shall not be limited to the capacities determined in accordance with [Manual S](#) where either of the following conditions applies:

1. 1. The specified equipment or appliance utilizes multistage technology or variable refrigerant flow technology and the loads calculated in accordance with the approved heating and cooling calculation methodology are within the range of the manufacturer's published capacities for that equipment or appliance.
2. 2. The specified equipment or appliance manufacturer's published capacities cannot satisfy both the total and sensible heat gains calculated in accordance with the approved heating and cooling calculation methodology and the next larger standard size unit is specified.

## SECTION R106 CONSTRUCTION DOCUMENTS

apps

### R106.1 Submittal documents.

Submittal documents consisting of *construction documents*, and other data shall be submitted in two or more sets with each application for a *permit*. The *construction documents* shall be prepared by a registered *design professional* where required by the statutes of the *jurisdiction* in which the project is to be constructed. Where special conditions exist, the *building official* is authorized to require additional *construction documents* to be prepared by a registered *design professional*.

**Exception:** The *building official* is authorized to waive the submission of *construction documents* and other data not required to be prepared by a registered *design professional* if it is found that the nature of the work applied for is such that reviewing of construction documents is not necessary to obtain compliance with this code.

### Mechanical (MECHR) - Residential

A mechanical building permit is required for the following projects: New, Replacement, Repair or Conversion of HVAC Systems New Installations of Miscellaneous Mechanical Equipment: fireplaces, logs, flue, range hoods, stove/range, tanks, etc. Installation of Pool/Hot Tub Heaters Geothermal System Installation Duct Installation (new or replacement) Gas Piping for Equipment Mechanical, electrical and plumbing permits, commonly referred to as "trades permits" do not require plans. Trade permits can be obtained online after the associated building permit is issued. Note: Some residential properties (example: apartment buildings and condos) are considered commercial per the building code and therefore require commercial building permits. To be considered residential, a project must consist of a detached one- or two-family dwelling or Who Should Apply? Plan Ahead How Do I Submit My Record? Requirements What's Next? Additional Resources townhouse and be no more than three stories high above ground level, as defined by code.

**R302.11 Fireblocking.**

In combustible construction, fireblocking shall be provided to cut off both vertical and horizontal concealed draft openings and to form an effective fire barrier between stories, and between a top story and the roof space.

Fireblocking shall be provided in wood-framed construction in the following locations:

1. In concealed spaces of stud walls and partitions, including furred spaces and parallel rows of studs or staggered studs, as follows:
  - 1.1. Vertically at the ceiling and floor levels.
  - 1.2. Horizontally at intervals not exceeding 10 feet (3048 mm).
2. At interconnections between concealed vertical and horizontal spaces such as occur at soffits, drop ceilings and cove ceilings.
3. In concealed spaces between stair stringers at the top and bottom of the run. Enclosed spaces under stairs shall comply with Section R302.7.
4. **At openings around vents, pipes, ducts, cables and wires at ceiling and floor level, with an approved material to resist the free passage of flame and products of combustion.** The material filling this annular space shall not be required to meet the ASTM E136 requirements.
5. For the fireblocking of chimneys and fireplaces, see Section R1003.19.
6. Fireblocking of cornices of a two-family dwelling is required at the line of dwelling unit separation.

**113.3 Minimum inspections.**

The following minimum inspections shall be conducted by the building official when applicable to the construction or permit:

1. 1. Inspection of footing excavations and reinforcement material for concrete footings prior to the placement of concrete.
2. 2. Inspection of foundation systems during phases of construction necessary to assure compliance with this code.
3. 3. Inspection of preparatory work prior to the placement of concrete.
4. 4. Inspection of structural members and fasteners prior to concealment.
5. **5. Inspection of electrical, mechanical and plumbing materials, equipment and systems prior to concealment.**
6. 6. Inspection of energy conservation material prior to concealment.
7. **7. Final inspection.**

## AFFIDAVIT

STATE OF VIRGINIA, CITY OF ALEXANDRIA, TO-WIT:

The undersigned, being first duly sworn according to law, deposes and states, according to firsthand knowledge and belief that the mechanical permit described below for 7405 Gatewood Court, Alexandria, County of Fairfax, VA was pulled for the replacement of the existing duct system; that all required inspections were conducted; that proof of said inspections are attached hereto and are provided for the review of Jay Riat; and that the facts below are available for review within the Fairfax County LDS PLUS ACA (website), and in support thereof states as follows:

1. Attached please relevant permits and inspections: a.) MECHR-2023-00473 permit. In addition: inspections were scheduled and completed prior to the issued CWO POEPOINV-2024-00024. Framing inspection for Record ALTR-222940160 concomitant with concealment inspection of MECHR-2023-00473, ELER-2023-01028, PLBR-2023-01066 were scheduled for 03/06/2023. insulation inspection was scheduled for 03/14, conducted by inspector Kevin Talbot and concluded as passed. Final inspection for permits ALTR, MECHR, ELER, PLBR were scheduled on 05/16/2023, conducted by inspector Jack Kellum and concluded as passed. I was personally present during all Fairfax County inspections performed at 7405 Gatewood Ct, Alexandria, VA.
2. During the meeting of 11/14/2024, with Mr. Jay Riat, Fairfax County Building Official. (12055 Government Center Pkwy, Suite 322 Fairfax, VA 22035-5500) a brief introduction of the project was provided. The predominant subject matter focused on repair/ replace/ maintenance of existing duct work. The MECHR Permit submittal, Application information has a single line for the question "duct work as YES or NO". Initially, I indicated "yes," which prompted a response from plan review and a request for new duct work plan set. Then, I contacted Plan Review and they were extremely helpful. I explained my intent to repair/replace existing duct work and that I was unfamiliar with the new PLUS website. They indicated that "No" is for existing duct work" and "Yes" is for new construction. Section 6.1.4 referred to below indicates "Updated to Accepted – Plan Review Not Req on 02/10/2023 by "Admin Admin". The inspection for existing duct work is visual and conducted to confirm that the duct work is securely fastened, seams are taped and sealed and all existing penetrations are foamed with fire blocking. This inspection was performed in my presence.
3. The 11/14/24 meeting started with my brief introduction of the Subject location, the condition of the premise prior to submitting application for permits and a discussion of the Complainants referred to as the Homeowners. For the record, the purchase of 7405 Gatewood Ct, Alexandria, VA 22307 occurred September 16, 2022 and the home was in habitable condition. All systems installed in the home were functioning.
4. Record ALTR 222940160 Application submittal 10/21/2022
  - 4.1. Updated waiting for Payment received/ paid 10/21/2022 by WEB PERMIT
    - 4.1.1. Updated to Accepted – Plan Review Req on 10/21/2022
    - 4.1.2. Updated for Routed for review 10/21/2022
    - 4.1.3. Updated to Routed for Review 01/04/2023 by Nicole McMahan
    - 4.1.4. Updated to Corrections Received on 01/04/2023 by Nicole McMahan

2

- 4.1.5. Update to Approved on 01/09/2023
  - 4.1.6. Updated to Ready for Issue on 01/09/2023 by Brett Breeding
5. Record ELER 2023 01028 Application submittal 02/01/2023
    - 5.1.1. Updated to awaiting plans 02/01/2023
    - 5.1.2. Plans received 02/07/2023
    - 5.1.3. Payment 02/08/2023
    - 5.1.4. Plan review not required on 02/09/2023
    - 5.1.5. Permit issued on 02/09/2023
  6. MECHR 2023 00473 Application submittal on 02/07/2023
    - 6.1.1. Updated to Awaiting plans on 02/07/2023 by dpr sys
    - 6.1.2. Update to Plans received on 02/07/2023 by dpr sys
    - 6.1.3. Updated to Waiting for Payment on 02/09/2023
    - 6.1.4. Updated to Accepted – Plan Review Not Req on 02/10/2023 by Admin Admin
      - Review Distribution
      - Mechanical Review
      - Site Technician Review
      - Health Department Review – OSW
      - Review Coordination
    - 6.1.5. Updated to Issued on 02/10/2023 by Admin Admin.
  7. PLBR-2023-01066 Application submittal on 02/07/2023
    - 7.1.1. Updated to Awaiting plans on 02/07/2023 by dpr sys
    - 7.1.2. Update to Plans received on 02/07/2023 by dpr sys
    - 7.1.3. Updated to Waiting for Payment on 02/09/2023
    - 7.1.4. Updated to Accepted – Plan Review Not Req on 02/10/2023 by Admin Admin
  8. The remainder of the 11/14/24 meeting with Mr. Riat focused on the replacement of existing duct work even though no code mandated this action. Although the duct work functioned by supplying and returning air throughout the home, the system's efficiency was diminished by separated seams due to aging by air borne contaminants visibly adhering to the inside of the duct. Mr. Riat and I also spoke about replacing copper pipes that may have been installed with lead-based solder and any painted surfaces potentially covered by lead-based paint.
  9. The conversation finished with the 3 service calls to Washington Gas to correct the flow of natural gas supplied by the meter. In the process, the 3" PVC piping was inadvertently lifted, causing a positive flow away from the furnace, and a subsequent puddling occurred triggering the safety sensors which shut the off the system. The current homeowners contacted 3 different contractors/ professionals, all of whom focused on replacing the new installed furnace. The Master technician sent by me solved the problems by correcting the angle of the PVC pipe to a negative flow towards the furnace and further tested the operation of the furnace at its maximum capacity in the presence of the Homeowner.

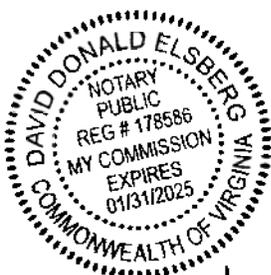
**SIGNATURE AND NOTARY ACKNOWLEDGMENT ON FOLLOWING PAGE**

2

CHOICE HOUSING MANAGEMENT, LLC

By: *Eric J. DeSoto*  
Eric J. DeSoto  
Its: Managing Member

Sworn and subscribed to before me, a Notary Public, by Eric J. DeSoto, Managing Member of Choice House Management, LLC this 6<sup>th</sup> day of December , 2024.



*David D. Elsborg*  
Notary Public

My commission expires: *01/31/25* My registration number: *178586*



Collections (0)  Cart (0) Reports (4)  Account Management Help Logout

Logged in as: ERIC DESOTO

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## Record MECHR-2023-00473: 7405 GATEWOOD CT

[Add to cart](#)  
[Add to collection](#)

Residential Mechanical

### Record Status: Closed

[Record Info](#) 
[Plan Room](#) 
[Payments](#) 
[Parcel Information](#) 

Select the **Record Info** dropdown located above for:

**Record Details** – See detailed information related to the record.

**Processing Status\*** – See current status of the application.

**Related Records** – See any records related to this application.

**Attachments** – Access your issued permit card and approved plans and documents.

**Inspections** – Schedule an inspection, view scheduled inspections, view inspection results.

\* For a detailed summary of application progress, to include the names of assigned review staff, click on **Reports** in the top-right corner of the screen and select **Workflow Routing Slip Report**.

### Work Location

### Final (2847835, Optional)

7405 GATEWOOD CT ALEXANDRIA, VA  
22307

**Print**

## Status Details

**Passed**  
5/16/2023 11:48 AM  
Desired Date: TBD

**Record**  
MECHR-2023-00473  
Residential Mechanical

**Contact**  
ERIC DESOTO  
3015803494  
ERIC DESOTO  
3015803494

## Status History

Showing 1-4 of 4

Status	Status Date/Time	Inspector	Update Time	Updated By	Result Comments
Passed	5/16/2023 11:48 AM	Jack Kellum	5/16/2023 11:48 AM	Jack Kellum	
Scheduled	5/16/2023 12:25 PM	Jack Kellum	5/16/2023 6:08 AM	Wonhee Flemming	
Scheduled	5/16/2023 12:00 AM	Khurram Mughal	5/13/2023 11:21 AM	ERIC DESOTO	
Scheduled	5/16/2023 12:00 AM	Khurram Mughal	5/13/2023 11:21 AM	ERIC DESOTO	

## Related Inspections

Showing 0-0 of 0

ID	Inspection Name	Relationship	Status
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No records found.

5/5/24, 6:25 PM

Print Inspection

### First Gas (2774704, Optional)

7405 GATEWOOD CT ALEXANDRIA, VA  
22307

[Print](#)

### Status

**Passed**  
3/6/2023 1:47 PM  
Desired Date: TBD

### Details

**Record**  
MECHR-2023-00473  
Residential Mechanical

**Contact**  
ERIC DESOTO  
3015803494  
ERIC DESOTO  
3015803494

### Status History

Showing 1-3 of 3

Status	Status Date/Time	Inspector	Update Time	Updated By	Result Comments
Passed	3/6/2023 1:47 PM	Kevin Talbot	3/6/2023 1:47 PM	Kevin Talbot	Gas test ok
Scheduled	3/6/2023 12:36 PM	Kevin Talbot	3/6/2023 6:07 AM	Wonhee Flemming	
Scheduled	3/6/2023 12:00 AM	Johnny Vannoy	3/1/2023 3:10 PM	ERIC DESOTO	

### Related Inspections

Showing 0-0 of 0

ID	Inspection Name	Relationship	Status
----	-----------------	--------------	--------

No records found.



[Awards](#)

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**Main Address**

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Fairfax, VA 22035

**Phone**

703-FAIRFAX  
TTY 711

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- [Economic Development Authority](#)
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- [Council of Governments](#)
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7405 GATEWOOD CT ALEXANDRIA, VA 22307

## Record Details

### Applicant:

Individual  
 ERIC DESOTO  
 WEB PERMIT USER  
 United States  
 Primary Phone: (301) 580-3494  
 ERIC@DESOTO.CO  
 Mailing  
 PO BOX 301  
 BENEDICT, MD, 20612  
 United States

### Project Description:

7405 GATEWOOD CT  
 REPLACE EXISTING FURNACE, GAS  
 RANGE/STOVE

### Owner:

CHOICE HOUSING MANAGEMENT LLC  
 PO BOX 301  
 BENEDICT MD 20612

### ▼ More Details

#### Related Contacts

##### Onsite Contact information

Individual  
 ERIC DESOTO  
 WEB PERMIT USER  
 United States  
 Primary Phone: (301) 580-3494  
 Email: ERIC@DESOTO.CO  
 Mailing  
 PO BOX 301  
 BENEDICT, MD, 20612  
 United States

#### Application Information

Is there a Parent Permit?:	Yes
Estimated Cost:	5000.00
Structure Type:	Single Family Dwelling
Type of Work:	Replacement
Includes Ductwork:	No
Gas Piping Only:	No
Is this a geothermal installation?:	No
Are you the Property Owner?:	Yes
Is the displayed owner information accurate?:	Yes

Is the property owner acting as the contractor for the project? Yes

**Application Information Table**

Quantity:

1

Description:

Furnace

Quantity:

1

Description:

Stove/Range/Wok

Zone:

1

Cooling Equipment:

Air Conditioner

Cooling Equipment Rating:

14

Cooling Equipment Units:

Tons

Heating Equipment:

Gas Furnace

Heating Equipment Rating:

95

Heating Equipment Units:

MBH

Record ID:

ALTR 222940160

Validated?:

Yes

**Parcel Information**

**Parcel ID Number**

0934080096

**Parcel #**

0934 08 0096





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For step-by-step submission details for all building and site permit/plan records in PLUS, visit the new LDS Permit Library.

Home Building Enforcement Environmental Health Fire Planning Site Zoning Proffer/Development Condition

Create an Application Search Applications Schedule an Inspection

Record MECHR-2023-00473: 7405 GATEWOOD CT

Add to cart Add to collection

Residential Mechanical

Record Status: Closed

Record Info Plan Room Payments Parcel Information

Select the Record Info dropdown located above for:

- Record Details - See detailed information related to the record.
Processing Status\* - See current status of the application.
Related Records - See any records related to this application.
Attachments - Access your issued permit card and approved plans and documents.
Inspections - Schedule an inspection, view scheduled inspections, view inspection results.

\* For a detailed summary of application progress, to include the names of assigned review staff, click on Reports in the top-right corner of the screen and select Workflow Routing Slip Report.

Processing Status

Application Submittal

Updated to Awaiting Plans on 02/07/2023 by dpr sys

Updated to Plans Received on 02/07/2023 by dpr sys

Updated to **Waiting for Payment** on **02/09/2023** by **Samantha Sanchez**

Updated to **Accepted - Plan Review Not Req** on **02/10/2023** by **Admin Admin**

- Review Distribution
- Mechanical Review
- Site Technician Review
- Health Department Review - OSW
- Review Coordination

✓ **Permit Issuance**

Updated to **Issued** on **02/10/2023** by **Admin Admin**

✓ **Inspection**

Updated to **Final Inspection Complete** on **05/16/2023** by **Jack Kellum**

✓ **Close Out**

Updated to **Closed** on **05/16/2023** by **Jack Kellum**

✓ **Records Review**

Updated to **Complete** on **05/16/2023** by **Jack Kellum**



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**16**

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Create an Application Search Applications Schedule an Inspection

Record ALTR-222940160:

Add to cart Add to collection

Residential Addition/Alteration

Record Status: Closed

Record Info Plan Room Payments Parcel Information

Select the Record Info dropdown located above for:

- Record Details - See detailed information related to the record.
Processing Status\* - See current status of the application.
Related Records - See any records related to this application.
Attachments - Access your issued permit card and approved plans and documents.
Inspections - Schedule an inspection, view scheduled inspections, view inspection results.

\* For a detailed summary of application progress, to include the names of assigned review staff, click on Reports in the top-right corner of the screen and select Workflow Routing Slip Report.

Inspections

Upcoming

You have not added any inspections. Click the link above to schedule or request one.

Completed (3)

Passed - 3

**Passed Framing (2774700)**

Result by: Kevin Talbot on 03/06/2023 at 01:46 PM

[View Details](#)

**Passed Insulation (2783951)**

Result by: Kevin Talbot on 03/14/2023 at 11:45 AM

[View Details](#)

**Passed Final (2847833)**

Result by: Jack Kellum on 05/16/2023 at 11:52 AM

[View Details](#)



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### Insulation (2783951, Optional)

7405 GATEWOOD CT ALEXANDRIA, VA  
22307-2026

[Print](#)

## Status Details

**Passed**  
3/14/2023 11:45 AM  
Desired Date: TBD

**Record**  
ALTR-222940160  
Residential Addition/Alteration

## Status History

Showing 1-4 of 4

Status	Status Date/Time	Inspector	Update Time	Updated By	Result Comments
Passed	3/14/2023 11:45 AM	Kevin Talbot	3/14/2023 11:45 AM	Kevin Talbot	Insulation ok Ok to drywall
Scheduled	3/14/2023 10:40 AM	Kevin Talbot	3/14/2023 6:07 AM	Wonhee Flemming	
Scheduled	3/14/2023 12:00 AM	Harris Bookfor	3/10/2023 12:13 PM	ERIC DESOTO	
Scheduled	3/14/2023 12:00 AM	Harris Bookfor	3/10/2023 12:13 PM	ERIC DESOTO	

## Related Inspections

Showing 0-0 of 0

ID	Inspection Name	Relationship	Status
----	-----------------	--------------	--------

No records found.



Collections (0) Cart (0) Reports (4) Account Management Help Logout

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For step-by-step submission details for all building and site permit/plan records in PLUS, visit the new LDS Permit Library.

Home Building Enforcement Environmental Health Fire Planning Site Zoning Proffer/Development Condition

Create an Application Search Applications Schedule an Inspection

Record ELER-2023-01028: 7405 GATEWOOD CT

Add to cart Add to collection

Residential Electrical

Record Status: Closed

Record Info Plan Room Payments Parcel Information

Select the Record Info dropdown located above for:

- Record Details - See detailed information related to the record.
Processing Status\* - See current status of the application.
Related Records - See any records related to this application.
Attachments - Access your issued permit card and approved plans and documents.
Inspections - Schedule an inspection, view scheduled inspections, view inspection results.

\* For a detailed summary of application progress, to include the names of assigned review staff, click on Reports in the top-right corner of the screen and select Workflow Routing Slip Report.

Processing Status

Application Submittal

Updated to Awaiting Plans on 02/01/2023 by dpr sys

Updated to Plans Received on 02/07/2023 by dpr sys

Updated to **Waiting for Payment** on **02/08/2023** by **Jillian West**

Updated to **Accepted - Plan Review Not Req** on **02/09/2023** by **Admin Admin**

- Review Distribution
- Electrical Review
- Review Coordination

✓ ▾ Permit Issuance

Updated to **Issued** on **02/09/2023** by **Admin Admin**

✓ ▾ Inspection

Updated to **Final Inspection Complete** on **05/16/2023** by **Jack Kellum**

✓ ▾ Close Out

Updated to **Closed** on **05/16/2023** by **Jack Kellum**

✓ ▾ Records Review

Updated to **Complete** on **05/16/2023** by **Jack Kellum**



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Logged in as: ERIC DESOTO

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Home **Building** Enforcement Environmental Health Fire Planning  
Site Zoning

more

Create an Application Search Applications Schedule an Inspection

## Record PLBR-2023-01066: 7405 GATEWOOD CT

Add to cart  
Add to collection

Residential Plumbing

### Record Status: Closed

Record Info

Plan Room

Payments

Parcel Information

Select the **Record Info** dropdown located above for:

**Record Details** – See detailed information related to the record.

**Processing Status\*** – See current status of the application.

**Related Records** – See any records related to this application.

**Attachments** – Access your issued permit card and approved plans and documents.

**Inspections** – Schedule an inspection, view scheduled inspections, view inspection results.

\* For a detailed summary of application progress, to include the names of assigned review staff, click on **Reports** in the top-right corner of the screen and select **Workflow Routing Slip Report**.

### Inspections

### Upcoming

You have not added any inspections.  
Click the link above to schedule or request one.

### Completed (3)

Passed - 3

**Passed** Groundwork Sanitary Sewer (2755647)

Result by: Kevin Talbot on 02/13/2023 at 03:46 PM

[View](#)  
[Details](#)

**Passed** Concealment (2774705)

Result by: Kevin Talbot on 03/06/2023 at 01:48 PM

[View](#)  
[Details](#)

**Passed** Final (2847834)

Result by: Jack Kellum on 05/16/2023 at 11:50 AM

[View](#)  
[Details](#)



<a href="#">Awards</a>	<b>Main Address</b>	<b>Site Tools</b>	<b>Support</b>	<b>Additional Resources</b>
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<b>Feedback</b>	<b>Phone</b> 703-FAIRFAX	Download Mobile App		Visit Fairfax
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				Commonwealth of Virginia
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CDAPPL-2025-00001  
7405 Gatewood Court  
Appellee Submission



# County of Fairfax, Virginia

## MEMORANDUM

**DATE:** March 25, 2025

**TO:** Members of the Local Board of Building and Fire Code Appeals

**FROM:** Patrick V. Foltz, Assistant County Attorney on behalf of Jay Riat, the Building Official

**SUBJECT:** Appeal Response for Eric DeSoto – 7405 Gatewood Court

Staff respectfully requests that the Fairfax County Local Board of Building Code Appeals (Board) uphold the Notice of Violation (NOV) that was issued on January 13, 2025 (misdated as January 13, 2024).

### Staff Position

The appellant, Eric DeSoto, (“DeSoto”) owns Choice Housing Management, LLC (“Choice”). On information and belief, DeSoto is the sole member and owner of Choice. From September 16, 2022, until June 12, 2023, Choice was the title owner of 7405 Gatewood Court. On April 3, 2024, an inspection by County staff showed that the duct work installed by Choice had not been permitted or inspected. Additionally, the inspection showed that duct work installed supplied to air to living spaces from the residence’s garage, in violation of Section M1601.6.

In his appeal and affidavit, Mr. DeSoto addresses the NOV in some detail. The Building Official, by counsel, makes the following responses:

- a. As for the mechanical permit, DeSoto asserts that a mechanical permit was pulled for the replacement of the duct system and that all required inspections were conducted. This is true – the Residential Mechanical permit for the Property, MECHR-2023-00473, gives permission to “REPLACE EXISTING FURNACE, GAS RANGE/STOVE”. The permit does not cover replacement of the duct system. A copy of that permit is attached as Exhibit A.
- b. Mr. DeSoto also attests that the four permits he obtained were all inspected and passed. This is true to the extent that each permit covers a scope of work – however, no permit addresses or mentions replacement of the duct system. Copies of those permits are attached as Exhibit B.
- c. In his affidavit, Mr. DeSoto further indicates that the issue of the duct work replacement was discussed with the Building Official and with PLUS staff. Specifically, Mr. DeSoto attests that he had a conversation with a PLUS staff person. While it is unclear from his affidavit how he and the staff person resolved the “yes or no” section for the new duct

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12055 Government Center Parkway, Suite 550  
Fairfax, Virginia 22035-5501

Phone 703-324-1780 • TTY 711 • FAX 703-653-6678  
www.fairfaxcounty.gov



Members of the Local Board of Building and Fire Code Appeals  
Page 2 of 2

work, he goes onto address the nature of an existing duct work inspection. As the duct work replacement was not included in any of the permits, these attestations are not evidence that the replacement duct work was ever permitted or inspected.

- d. In his Request for Applicable Codes, Mr. DeSoto indicated that a mechanical permit is not required replacement of duct work but only for the system. That would be an exemption from the permit requirement, and nothing in the Building or Residential Codes creates such a broad exemption for duct work.

In conclusion, the Building Official respectfully requests that the Board dismiss this appeal.

# Fairfax County, Virginia

## BUILDING PERMIT Residential Mechanical

**Permit Number:** MECHR-2023-00473      **Issued Date:** 02/10/2023  
**Job Address:** 7405 Gatewood Ct      **Tax Map ID** 0934 08 0096  
 Alexandria, VA 22307  
**Tenant:**      **Bldg:**      **Floor:**      **Suite:**

**Owner/Tenant:**      **Contractor:**  
 Choice Housing Management Llc      Owner as Contractor  
 Po Box 301  
 Benedict, Md 20612

**Structure:** Single Family Dwelling      **Code:**  
**Group(s):** R-5      **Type of Construction:** VB

**Has permission, according to approved plans, applications and restrictions of record to:**  
 REPLACE EXISTING FURNACE, GAS RANGE/STOVE

**Fixtures and Equipment:**  
 See page 2

**BUILDING OFFICIAL:** *Jay E. Riat*

- A copy of this permit must be posted at the construction site for the duration of the permit.
- This permit does not constitute approval from your homeowners' association and its related covenants.
- This permit will expire if work does not commence in six months or if work is suspended for six months.
- Contact VA 811 before you dig at 811 or [VA811.com](http://VA811.com).
- The permit holder is responsible to schedule inspections at [plus.fairfaxcounty.gov/CitizenAccess](http://plus.fairfaxcounty.gov/CitizenAccess) when stages of construction are reached that require inspections.
- For questions regarding this permit email [LDSbuildingpermits@fairfaxcounty.gov](mailto:LDSbuildingpermits@fairfaxcounty.gov) or call 703-222-0801, TTY 711.

**Land Development Services**  
 12055 Government Center Parkway  
 Fairfax, Virginia 22035  
 703-324-1780, TTY 711  
[www.fairfaxcounty.gov/plan2build](http://www.fairfaxcounty.gov/plan2build)

# Fairfax County, Virginia

## BUILDING PERMIT Residential Mechanical

Permit Number: MECHR-2023-00473

Issued Date: 02/10/2023

### MECHANICAL EQUIPMENT DETAILS

Zone	Cooling Equipment	Cooling Equipment Rating	Cooling Equipment Units	Heating Equipment	Heating Equipment Rating	Heating Equipment Units
1	Air Conditioner	14	Tons	Gas Furnace	95	MBH

### FUEL-FIRED APPLIANCES

Quantity	Description
1	Furnace
1	Stove/Range/Wok

# Fairfax County, Virginia

## BUILDING PERMIT Residential Plumbing

**Permit Number:** PLBR-2023-01066      **Issued Date:** 02/10/2023  
**Job Address:** 7405 Gatewood Ct      **Tax Map ID** 0934 08 0096  
 Alexandria, VA 22307  
**Tenant:**      **Bldg:**      **Floor:**      **Suite:**

**Owner/Tenant:** Choice Housing Management Llc  
 Po Box 301  
 Benedict, Md 20612      **Contractor:** Owner as Contractor

**Structure:** Single Family Dwelling      **Code:** 2018 Virginia Residential Code

**Group(s):** R-5      **Type of Construction:** VB

**Has permission, according to approved plans, applications and restrictions of record to:**  
 ADD ONE NEW BATH ADD 1/2 BATH. RELOCATE EXISTING PLUMBING FIXTURES, REPLACE ALL KITCHEN FIXTURES.

**Fixtures and Equipment:**  
 See page 2

**BUILDING OFFICIAL:** *Jay E. Riat*

- A copy of this permit must be posted at the construction site for the duration of the permit.
- This permit does not constitute approval from your homeowners' association and its related covenants.
- This permit will expire if work does not commence in six months or if work is suspended for six months.
- Contact VA 811 before you dig at 811 or [VA811.com](http://VA811.com).
- The permit holder is responsible to schedule inspections at [plus.fairfaxcounty.gov/CitizenAccess](http://plus.fairfaxcounty.gov/CitizenAccess) when stages of construction are reached that require inspections.
- For questions regarding this permit email [LDSbuildingpermits@fairfaxcounty.gov](mailto:LDSbuildingpermits@fairfaxcounty.gov) or call 703-222-0801, TTY 711.

**Land Development Services**  
 12055 Government Center Parkway  
 Fairfax, Virginia 22035  
 703-324-1780, TTY 711  
[www.fairfaxcounty.gov/plan2build](http://www.fairfaxcounty.gov/plan2build)

# Fairfax County, Virginia

## BUILDING PERMIT Residential Electrical

**Permit Number:** ELER-2023-01028      **Issued Date:** 02/09/2023

**Job Address:** 7405 Gatewood Ct  
Alexandria, VA 22307      **Tax Map ID** 0934 08 0096

**Tenant:**      **Bldg:**      **Floor:**      **Suite:**

**Owner/Tenant:** Choice Housing Management Llc  
Po Box 301  
Benedict, Md 20612      **Contractor:** Owner as Contractor

**Structure:** Single Family Dwelling      **Code:** 2018 Virginia Residential Code

**Group(s):**      **Type of Construction:**

**Has permission, according to approved plans, applications and restrictions of record to:**  
UPGRADE PANEL BOX 200 AMP  
NEW CIRCUITS FOR KITCHEN AND BATHROOMS  
NEW GFCI AND AFCI  
RECESSED LIGHTS

**Fixtures and Equipment:**  
See page 2

**BUILDING OFFICIAL:** *Jay S. Riat*

- A copy of this permit must be posted at the construction site for the duration of the permit.
- This permit does not constitute approval from your homeowners' association and its related covenants.
- This permit will expire if work does not commence in six months or if work is suspended for six months.
- Contact VA 811 before you dig at 811 or [VA811.com](http://VA811.com).
- The permit holder is responsible to schedule inspections at [plus.fairfaxcounty.gov/CitizenAccess](http://plus.fairfaxcounty.gov/CitizenAccess) when stages of construction are reached that require inspections.
- For questions regarding this permit email [LDSbuildingpermits@fairfaxcounty.gov](mailto:LDSbuildingpermits@fairfaxcounty.gov) or call 703-222-0801, TTY 711.

**Land Development Services**  
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Fairfax, Virginia 22035  
703-324-1780, TTY 711  
[www.fairfaxcounty.gov/plan2build](http://www.fairfaxcounty.gov/plan2build)

# Fairfax County, Virginia

## **BUILDING PERMIT** **Residential Electrical**

**Permit Number:** ELER-2023-01028

**Issued Date:** 02/09/2023

### Fixtures and Equipment

Quantity	Description	Rating	Units
15	Recessed Lights		
45	Fixtures		
1	Service Panel	200	amps

# Fairfax County, Virginia

## BUILDING PERMIT Residential Addition/Alteration

**Permit Number:** ALTR-222940160      **Issued Date:** 01/09/2023  
**Job Address:** 7405 Gatewood Ct      **Tax Map ID** 0934 08 0096  
 Alexandria, VA 22307-2026  
**Tenant:**      **Bldg:**      **Floor:**      **Suite:**

**Owner/Tenant:** Choice Housing Management Llc  
 Po Box 301  
 Benedict, Md 20612      **Contractor:** Owner as Contractor

**Structure:** Single Family Dwelling      **Code:** 2018 Virginia Residential Code

**Group(s):** R-5      **Type of Construction:** VB

**Has permission, according to approved plans, applications and restrictions of record to:**  
 INTERIOR RENOVATION TO EXISTING FINISHED BASEMENT. RENOVATE KITCHEN, ONE  
 NEW BATH, ONE NEW 1/2 BATH.

**BUILDING OFFICIAL:** *Jay S. Riat*

- A copy of this permit must be posted at the construction site for the duration of the permit.
- This permit does not constitute approval from your homeowners' association and its related covenants.
- This permit will expire if work does not commence in six months or if work is suspended for six months.
- Contact VA 811 before you dig at 811 or [VA811.com](http://VA811.com).
- The permit holder is responsible to schedule inspections at [plus.fairfaxcounty.gov/CitizenAccess](http://plus.fairfaxcounty.gov/CitizenAccess) when stages of construction are reached that require inspections.
- For questions regarding this permit email [LDSbuildingpermits@fairfaxcounty.gov](mailto:LDSbuildingpermits@fairfaxcounty.gov) or call 703-222-0801, TTY 711.

**Land Development Services**  
 12055 Government Center Parkway  
 Fairfax, Virginia 22035  
 703-324-1780, TTY 711  
[www.fairfaxcounty.gov/plan2build](http://www.fairfaxcounty.gov/plan2build)

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Documents Submitted  
by Property Owners  
Samantha Shulman and  
Ezra Marcus

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## Staff Note:

The property owners submitted three videos which were provided to the parties, counsels, and Review Board members on USB flash drives.

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**Compilation of Before & After Photographs By Homeowners  
7405 Gatewood Court, Alexandria, VA 22307**

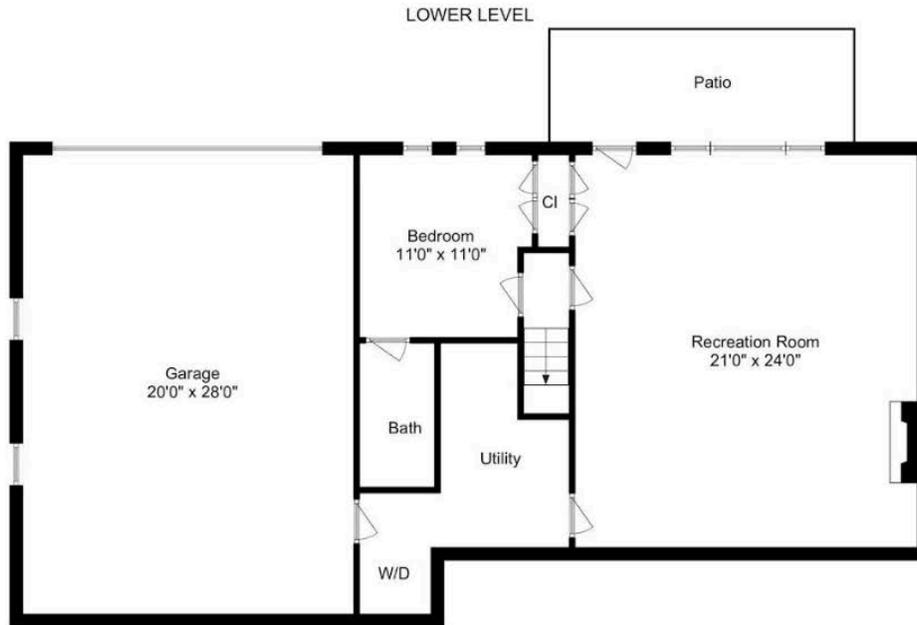
The materials included in this compilation (as well as the separate videos shared) are intended to show that (i) the existing ductwork in the home was fully removed and replaced, and (ii) significant portions of the layout of the ductwork were altered.

The sources of the materials in the compilation are:

- “Before” Photos; “Before” Floor Plan:
  - The photos and floor plan included were gathered from the 2022 Long & Foster Real Estate Listing for 7405 Gatewood Court, Alexandria, VA, 22307, at <https://www.longandfoster.com/homes-for-sale/7405-Gatewood-Court-Alexandria-VA-22307-334871244> (i.e., immediately before Mr. DeSoto purchased the property in Sept. 2022)
- “After” Photos; “After” Floor Plan:
  - The photos were taken by the homeowners (Ms. Shulman; Mr. Marcus) in April 2025. The videos were taken by the homeowners before purchasing the property, in March 2023. The floor plan was provided by Mr. DeSoto to the homeowners before purchasing the property, in 2023.

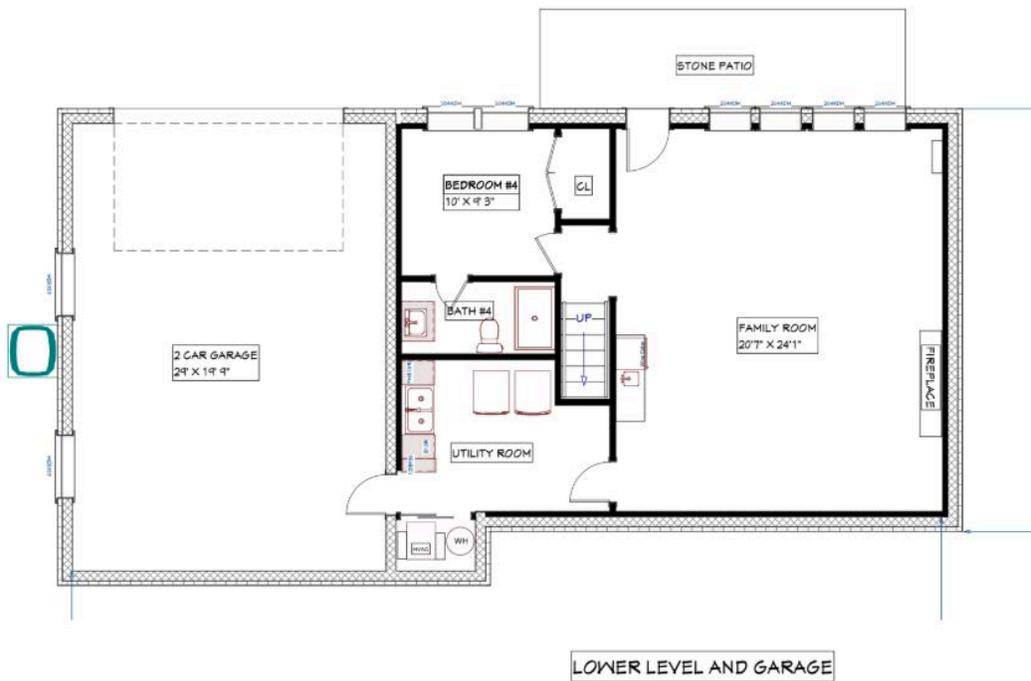


## Floor Plan Before & After (#2)



Floor plans are for representation purposes only.

All measurements are approximate and no responsibility is taken for an error, omission or misstatement.



## Living Room Before & After (#1)



## Living Room Before & After (#2)



## Family Room Before & After (#1)



## Family Room Before & After (#2)



### Family Room Before & After (#3)



**Downstairs Bedroom Before & After**



## Upstairs Bedroom Before & After



## Primary Bedroom Before & After



**Utility Room Before & After (#1)**



## Utility Room Before & After (#2)



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VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Poole, Brooke, and Plumlee (Dieffenbach)  
Appeal No. 25-11

CONTENTS

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Documents Submitted by City of Chesapeake	193
Additional Documents Submitted by Poole, Brooke, and Plumlee (Dieffenbach)	269

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VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Poole, Brooke, and Plumlee (Dieffenbach)  
Appeal No. 25-11

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. On February 18, 2025, the City of Chesapeake Development and Permits Department (City), the agency responsible for the enforcement of Part 1 of the 2021 Virginia Uniform Statewide Building Code (VUSBC), issued a Notice to Correct for an accessory structure on the property located at 2349 Baum Road, in the City of Chesapeake, for construction without the required permits citing VUSBC Sections 108.1.1 *When applications are required*, 113.3 for *Minimum Inspections*, and 116.1 *General; when to issued* and cited the following requirements to be completed by March 1, 2025:

- a) *“Obtain the applicable building and trade permits for the construction of the building in a timely manner.*
- b) *Complete the necessary inspections and any third-party engineering and/or certifications in a timely manner.*
- c) *Obtain certificate of occupancy for the building as appropriate for its use.”*

2. On March 5, 2025, the City issued a Notice of Violation (NOV) to Dieffenbach, for construction without the required permits citing VUSBC Sections 108.1.1 *When applications are required*, 113.3 for *Minimum Inspections*, and 116.1 *General; when to issued* and cited the following requirements to be completed by March 1, 2025:

- d) *“Obtain the applicable building and trade permits for the construction of the building in a timely manner.*
- e) *Complete the necessary inspections and any third-party engineering and/or certifications in a timely manner.*

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*f) Obtain certificate of occupancy for the building as appropriate for its use.”*

3. Jessica Dieffenbach (Dieffenbach) Trustee for the property, through legal counsel Poole, Brooke, and Plumlee, filed an appeal to the City of Chesapeake Local Board of Building Code Appeals (local appeals board). The local appeals board considered both the Notice to Correct and the Notice of Violation and upheld both decisions of the City reflected in its May 22, 2025 decision.

4. On June 20, 2025, Dieffenbach, through legal counsel, further appealed to the Review Board.

5. This staff document, along with a copy of all documents submitted, will be sent to the parties and opportunity given for the submittal of additions, corrections, or objections to the staff document, and the submittal of additional documents or written arguments to be included in the information distributed to the Review Board members for the hearing before the Review Board.

Suggested Issues for Resolution by the Review Board

1. Whether to overturn the decision of the City and the local appeals board that a violation of VUSBC Section 108.1.1 *When applications are required* exists.

2. Whether to overturn the decision of the City and the local appeals board that a violation of VUSBC 113.3 for *Minimum Inspections* exists.

3. Whether to overturn the decision of the City and the local appeals board that a violation of VUSBC Section 116.1 *General; when to issued* exists.

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# Basic Documents

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February 18, 2025

Jessica Dieffenbach, Trustee  
2441 Baum Road  
Chesapeake, VA. 23322

**RE: Notice to Correct (NTC) for the following address(s):**

<u>Address</u>	<u>Parcel #</u>	<u>Permit Number</u>
2349 Baum Rd.	1100000000280	

To: Jessica Dieffenbach, Trustee,

Based on a review of our records, we find the necessary building and trade permits have not been obtained for the construction and operation of a building for an assembly use at the address noted above. The 2021 Virginia Uniform Statewide Building Code (VUSBC) requires the necessary permits to be obtained prior to construction and occupancy per Section 108.1 of the VUSBC. Additionally, Section 113.3 of the VUSBC details the minimum inspections to be completed, as applicable, and Section 116.1 of the VUSBC requires a certificate of occupancy to be obtained prior to occupancy. Please correct the following:

- 1) Obtain the applicable building and trade permits for the construction of the building in a timely manner.
- 2) Complete the necessary inspections and any third-party engineering and/or certifications in a timely manner.
- 3) Obtain certificate of occupancy for the building as appropriate for its use.

You are hereby directed to correct the above violation(s), complete the required inspection(s), and obtain the appropriate certificate of occupancy no later than **March 1, 2025**. Please note that non-response to these requirements in the allotted time will result in the issuance of a Notice of Violation (NOV) as allowed under Section 115.2 of the VUSBC. Failure to comply is subject to legal action per Section 115.3 of the VUSBC with penalties as prescribed by Section 36-106 of the Code of Virginia. In accordance with Section 119.5 of the VUSBC, you have the right to appeal this decision.

Please let me know if you have any questions or require additional clarification.

Sincerely,

*Lee Ostheller*

Lee Ostheller  
Code Enforcement Administrator

C: Andrew Meyer, Assistant City Attorney IV



J. Bryan Plumlee, Esq.

Direct Dial: (757) 518 5615  
Email: [bplumlee@pbp-attorneys.com](mailto:bplumlee@pbp-attorneys.com)

March 18, 2025

**VIA HAND DELIVERY**

Mr. Patrick M. Hughes  
Chairman, Local Board of Building Code Appeals for the City of Chesapeake, Virginia  
306 Cedar Road, 2nd Floor  
Department of Development and Permits  
Chesapeake, VA 23322

Re: 2100 Ansell Road, Chesapeake, Virginia 23322  
2349 Baum Road, Chesapeake, Virginia 23322

Dear Chairman Hughes:

Enclosed please find three (3) appeals of the Code Enforcement Administrator's decisions and/or determinations regarding the above-referenced properties and the Notices to Correct dated February 18, 2025. Also enclosed please find the requisite appeal application materials, including the Local Board of Building Code Appeal Application Forms, Grounds for Appeal, and a check in the amount of \$600.00, made payable to the "City of Chesapeake."

Thank you for your prompt attention to this matter, and I ask that you contact this office should you have any questions.

Very truly yours,

POOLE BROOKE PLUMLEE PC

By

  
J. Bryan Plumlee

JBP/nkp  
Enclosures

[www.pbp-attorneys.com](http://www.pbp-attorneys.com)

VIRGINIA BEACH  
4705 Columbus St., Suite 100  
Virginia Beach, VA 23462  
(757) 499-1841  
FAX (757) 552-6016

306 Cedar Road, 2<sup>nd</sup> Floor  
P.O. Box 15225  
Chesapeake, VA 23322

Telephone: (757) 382-6018  
Fax: (757) 382-8448  
Email: [develop-permits@cityofchesapeake.net](mailto:develop-permits@cityofchesapeake.net)

**SECTION I**

**BUILDING INFORMATION**

Address: 2349 Baum Road, Chesapeake, VA 23322

Permit # or Decision in Dispute: Notice to Correct dated February 18, 2025.

**APPEAL SUMMARY**

Brief Summary of Dispute:

Please see the attached "Grounds for Appeal."

**APPELLANT**

Name: Jessica Dieffenbach, Trustee

Phone: ( ) 757-499-1841

Company Name: Poole Brooke Plumlee PC

Fax: ( ) \_\_\_\_\_

Address: 4705 Columbus St, Ste. 100

Email: bplumlee@pbp-attorneys.com

Virginia Beach, VA 23462

Documentation Attached:  Written Documentation  Details and/or Plans

Signature: *Jessica Dieffenbach*

Date: \_\_\_\_\_

**SECTION II**

**BUILDING CODES OFFICIAL**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Board Hearing Date and Time: \_\_\_\_\_

Location: \_\_\_\_\_

Please submit this form and remit \$200.00 application fee.

Mail to: Department of Development and Permits  
P.O. Box 15225  
Chesapeake, VA 23328

Or visit the Department of Development and Permits at: 306 Cedar Road  
City Hall, 2<sup>nd</sup> Floor  
Chesapeake, VA 23322

Revised 7/11/22

Local Board of Building Code Appeal  
Notice to Correct  
2349 Baum Road

### **Grounds for Appeal**

Farm buildings and structures are exempt from requirements under the Virginia Uniform Statewide Building Code (VUSBC) pursuant to Va. Code § 36-99(B). “Notwithstanding the provisions of this section, farm buildings and structures shall be exempt from the provisions of the Building Code[.]” Va. Code § 36-99(B). Section 36-97 defines a “farm building or structure” as:

“Farm building or structure” means a building or structure not used for residential purposes, located on property where farming operations take place, and used primarily for any of the following uses or combination thereof:

1. Storage, handling, production, display, sampling, or sale of agricultural, horticultural, floricultural, or silvicultural products produced in the farm;
2. Sheltering, raising, handling, processing, or sale of agricultural animals or agricultural animal products;
3. Business or office uses relating to the farm operations;
4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery, or equipment on the farm;
5. Storage or use of supplies and materials used on the farm; or
6. Implementation of best management practices associated with farm operations.

The Notice to Correct dated February 18, 2025, fails to identify which of the farm buildings or structures at 2349 Baum Rd. is allegedly in violation. Regardless, all of the buildings or structures on the property are primarily used for agricultural purposes and meet the definition of a “farm building or structure” under Va. Code § 36-97. Thus, the provisions of the VUSBC do not apply, and as such, neither building or trade permits nor a certificate of occupancy are required, and the Code Enforcement Administrator’s decision was in error.

March 5, 2025

Jessica Dieffenbach, Trustee  
2441 Baum Road  
Chesapeake, VA. 23322

**RE: Notice of Violation (NOV) for the following address(s):**

<u>Address</u>	<u>Parcel #</u>	<u>Permit Number</u>
2349 Baum Rd.	1100000000280	

To: Jessica Dieffenbach, Trustee,

To date, the violations described in the Notice to Correct (NTC) letter issued to Jessica Dieffenbach, Trustee on February 18, 2025, have not been corrected or completed within the designated time frame. Based on the failure to comply with the NTC, you are hereby notified you are in violation of the 2021 Virginia Uniform Statewide Building Code. The following is a summary of the violations applicable to the above noted address:

Based on a review of our records, we find the necessary building and trade permits have not been obtained for the construction and operation of a building for an assembly use at the address noted above. The 2021 Virginia Uniform Statewide Building Code (VUSBC) requires the necessary permits to be obtained prior to construction and occupancy per Section 108.1 of the VUSBC. Additionally, Section 113.3 of the VUSBC details the minimum inspections to be completed, as applicable, and Section 116.1 of the VUSBC requires a certificate of occupancy to be obtained prior to occupancy. Please correct the following:

- 1) Obtain the applicable building and trade permits for the construction of the building in a timely manner.
- 2) Complete the necessary inspections and any third-party engineering and/or certifications in a timely manner.
- 3) Obtain certificate of occupancy for the building as appropriate for its use.

You are hereby directed to correct the above violation(s), complete the required inspection(s), and obtain the appropriate certificate of occupancy no later than April 6, 2025.

**Failure to comply is subject to legal action per Section 115.3 of the VUSBC with penalties as prescribed by Section 36-106 of the Code of Virginia. In accordance with Section 119.5 of the VUSBC, you have the right to appeal this decision.**

Please let me know if you have any questions or require additional clarification.

Sincerely,

*Lee Ostheller*

Lee Ostheller  
Code Enforcement Administrator

C: Andrew Meyer, Assistant City Attorney IV



J. Bryan Plumlee, Esq.

Direct Dial: (757) 518 5615  
Email: bplumlee@pbp-attorneys.com

April 3, 2025

**VIA HAND DELIVERY**

Ms. Wendy Tabler

Chairman, Local Board of Building Code Appeals for the City of Chesapeake, Virginia

306 Cedar Road, 2nd Floor

Department of Development and Permits

Chesapeake, VA 23322

Re: 2100 Ansell Road, Chesapeake, Virginia 23322  
2349 Baum Road, Chesapeake, Virginia 23322

Dear Chairman Tabler:

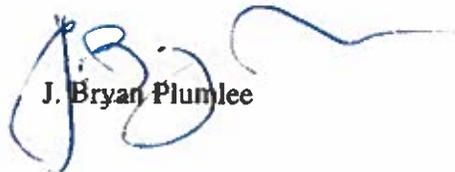
Enclosed please find three (3) appeals of the Code Enforcement Administrator's decisions and/or determinations regarding the above-referenced properties and the Notices of Violation dated March 5, 2025. Also enclosed please find the requisite appeal application materials, including the Local Board of Building Code Appeal Application Forms, Grounds for Appeal, and a check in the amount of \$600.00, made payable to the "City of Chesapeake."

Thank you for your prompt attention to this matter, and I ask that you contact this office should you have any questions.

Very truly yours,

POOLE BROOKE PLUMLEE PC

By

  
J. Bryan Plumlee

JBP/nkp  
Enclosures

[www.pbp-attorneys.com](http://www.pbp-attorneys.com)

VIRGINIA BEACH  
4705 Columbus St., Suite 100  
Virginia Beach, VA 23462  
(757) 499-1841  
FAX (757) 552-6016

306 Cedar Road, 2<sup>nd</sup> Floor  
P.O. Box 15225  
Chesapeake, VA 23322

Telephone: (757) 382-6018  
Fax: (757) 382-8448  
Email: [develop-permits@cityofchesapeake.net](mailto:develop-permits@cityofchesapeake.net)

**SECTION I**

**BUILDING INFORMATION**

Address: 2349 Baum Road, Chesapeake, VA 23322

Permit # or Decision in Dispute: Notice of Violation dated March 5, 2025.

**APPEAL SUMMARY**

Brief Summary of Dispute:

Please see the attached "Grounds for Appeal."

**APPELLANT**

Name: Jessica Dieffenbach, Trustee

Phone: ( ) 757-499-1841

Company Name: Poole Brooke Plumlee PC

Fax: ( ) \_\_\_\_\_

Address: 4705 Columbus St, Ste. 100

Email: bplumlee@pbp-attorneys.com

Virginia Beach, VA 23462

Documentation Attached:  Written Documentation  Details and/or Plans

Signature: *Jessica Dieffenbach*

Date: 4-1-2025

**SECTION II**

**BUILDING CODES OFFICIAL**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Board Hearing Date and Time: \_\_\_\_\_

Location: \_\_\_\_\_

Please submit this form and remit \$200.00 application fee.

Mail to: Department of Development and Permits  
P.O. Box 15225  
Chesapeake, VA 23328

Or visit the Department of Development and Permits at: 306 Cedar Road  
City Hall, 2<sup>nd</sup> Floor  
Chesapeake, VA 23322

Revised 7/11/22

Local Board of Building Code Appeal  
Notice of Violation dated March 5, 2025  
2349 Baum Road

### **Grounds for Appeal**

Farm buildings and structures are exempt from requirements under the Virginia Uniform Statewide Building Code (VUSBC) pursuant to Va. Code § 36-99(B). “Notwithstanding the provisions of this section, farm buildings and structures shall be exempt from the provisions of the Building Code[.]” Va. Code § 36-99(B). Section 36-97 defines a “farm building or structure” as:

“Farm building or structure” means a building or structure not used for residential purposes, located on property where farming operations take place, and used primarily for any of the following uses or combination thereof:

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2. Sheltering, raising, handling, processing, or sale of agricultural animals or agricultural animal products;
3. Business or office uses relating to the farm operations;
4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery, or equipment on the farm;
5. Storage or use of supplies and materials used on the farm; or
6. Implementation of best management practices associated with farm operations.

The Notice of Violation dated March 5, 2025, fails to identify which of the farm buildings or structures at 2349 Baum Rd. is allegedly in violation. Regardless, all of the buildings or structures on the property are primarily used for agricultural purposes and meet the definition of a “farm building or structure” under Va. Code § 36-97. Thus, the provisions of the VUSBC do not apply, and as such, neither building or trade permits nor a certificate of occupancy are required, and the Code Enforcement Administrator’s decision was in error.

May 27, 2025

Poole Brooke Plumlee PC  
4705 Columbus St, Ste. 100  
Virginia Beach, VA 23462

Re: 249 Baum Rd, 2100 Ansell Road- Cabin, 2100 Ansell Road- Walkway & Dock  
Local Board of Building Code Appeals Case 2025-00001, 00002, 00003

To Whom It May Concern:

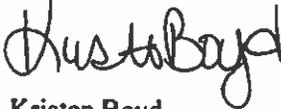
Attached please find the signed rulings for the referenced cases from the May 21, 2025, meeting of the Local Board of Building Code Appeals.

If you wish to appeal the decision of the Local Board of Building Code of Appeals, you may appeal to the State Technical Review Board. Information regarding appeals may be found at <http://www.dhcd.virginia.gov/state-building-code-technical-review-board-sbctrb>.

The application must be submitted to the State Technical Review Board within 21 calendar days of receipt of the decision. Failure to submit an application for appeal within the 21 calendar day time limit will constitute an acceptance of the City of Chesapeake Board of Building Code Appeals decision. If you have any questions, you may contact [Travis.Luter@dhcd.virginia.gov](mailto:Travis.Luter@dhcd.virginia.gov), Secretary for the Technical Review Board.

If you have any questions, please call me at 382-6315.

Sincerely,



Kristen Boyd  
Secretary

Attachment: Results to Citizen letter for 2025-00001, 2025-00002, 2025-00003

**LOCAL BOARD OF BUILDING CODE APPEALS RULING  
APPEAL CASE NUMBER 2025-00001- 2349 Baum Road**

**WHEREAS, the local Board of Building Code Appeals is duly appointed to resolve disputes arising out of enforcement of the Virginia Uniform Statewide Building Code (USBC); and**

**WHEREAS, appeal 2025-00001 was filed March 18, 2025, by Jessica Dieffenbach, Trustee the owners of the property located at 2349 Baum Road located in the City of Chesapeake, Virginia and brought to the attention of the board of appeals; and**

**WHEREAS, a hearing was held on May 21, 2025, to consider the aforementioned appeal to the Notice to Correct dated March 18, 2025 and the Notice of Violation dated April 1, 2025; and**

**WHEREAS, the board has deliberated the matter, now therefore, be it resolved in the matter of Appeal No. 2025-00001, Jessica Dieffenbach, Trustee vs. Department of Development and Permits, the appeal is hereby upheld. According to the facts presented, The Board finds the City of Chesapeake is justified in their action.**

**Date: May 22, 2025**

**Signature: Patrick Hughes  
Patrick Hughes, Chairman of Local Board of Building Code Appeals**

June 17, 2025

**VIA EMAIL – [sbco@dhcd.virginia.gov](mailto:sbco@dhcd.virginia.gov)**

Travis Luter Sr., Secretary  
Office of the State Technical Review Board  
600 E. Main Street, Ste. 300  
Richmond, Virginia 23219

Re: **Appeal of Chesapeake Local Board of Building Code Appeals May 21, 2025  
Decision – 2349 Baum Rd., Chesapeake, Virginia**

Dear Mr. Luter:

Enclosed please find an Application for Administrative Appeal, along with the following documents:

1. Statement of Specific Relief Sought;
2. Notice to Correct dated February 18, 2025;
3. Appeal Application for the Notice to Correct dated February 18, 2025;
4. Notice of Violation dated March 5, 2025;
5. Appeal Application for the Notice of Violation dated March 5, 2025; and
6. Decision of the Local Board of Building Code Appeals dated May 27, 2025.

Should you have any questions, please do not hesitate to contact me at the above listed direct dial number.

With kind regards, I am

Very truly yours,

POOLE BROOKE PLUMLEE PC

By:

  
J. Bryan Plumlee

JBP/nkp  
Enclosures

Cc: Andrew Meyer, Assistant City Attorney (via email: [ameyer@cityofchesapeake.net](mailto:ameyer@cityofchesapeake.net))  
Lee Ostheller, Code Enforcement Administrator (via email: [lostheller@cityofchesapeake.net](mailto:lostheller@cityofchesapeake.net))

[www.pbp-attorneys.com](http://www.pbp-attorneys.com)

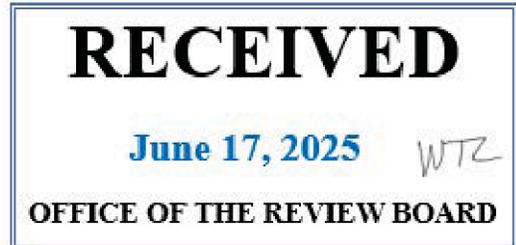
VIRGINIA BEACH  
4705 Columbus St., Suite 100  
Virginia Beach, VA 23462  
(757) 499-1841  
FAX (757) 552-6016

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
State Building Codes Office and Office of the State Technical Review Board  
Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219  
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhcd.virginia.gov**

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
  - Virginia Construction Code
  - Virginia Existing Building Code
  - Virginia Maintenance Code
- Statewide Fire Prevention Code
- Industrialized Building Safety Regulations
- Amusement Device Regulations



Appealing Party Information (name, address, telephone number and email address):

Jessica Dieffenbach, Trustee  
2441 Baum Rd  
Chesapeake, VA 23322

Agent - Poole Brooke Plumlee PC  
4705 Columbus St., Ste. 100  
Virginia Beach, VA 23462  
npasho@pbp-attorneys.com; bplumlee@pbp-attorneys.com  
757-499-1841

Opposing Party Information (name, address, telephone number and email address of all other parties):

Lee Ostheller, Code Enforcement Administrator  
306 Cedar Road  
City Hall, 2nd Floor  
Chesapeake, VA 23322  
757-352-6018; lostheller@cityofchesapeake.net

Andrew Meyer, Assistant City Attorney  
Office of the City Attorney, City of Chesapeake  
306 Cedar Road, 6th Floor  
Chesapeake, VA 23322  
757-382-6586; ameyer@cityofchesapeake.net

Additional Information (required by the applicable code to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of the decision of local government appeals board (if applicable)

Additional Information (to be submitted with this application)

- Statement of specific relief sought

**CERTIFICATE OF SERVICE**

I hereby certify that on the 17 day of June, 2025, a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

**Note:** This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: \_\_\_\_\_



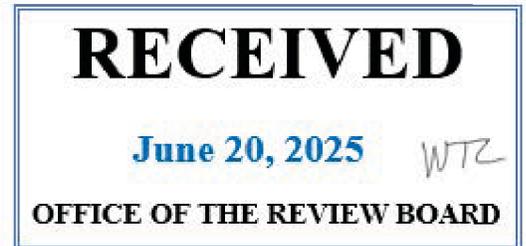
Name of Applicant: Jessica Dieffenbach, Trustee  
(please print or type)

**COMMONWEALTH OF VIRGINIA**  
**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**  
State Building Codes Office and Office of the State Technical Review Board  
Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219  
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhcd.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
  - Virginia Construction Code
  - Virginia Existing Building Code
  - Virginia Maintenance Code
- Statewide Fire Prevention Code
- Industrialized Building Safety Regulations
- Amusement Device Regulations



Appealing Party Information (name, address, telephone number and email address):

Jessica Dieffenbach, Trustee  
2441 Baum Rd  
Chesapeake, VA 23322  
jessicabowles@me.com  
757-289-5887

Agent - Poole Brooke Plumlee PC  
4705 Columbus St., Ste. 100  
Virginia Beach, VA 23462  
npasho@pbp-attorneys.com; bplumlee@pbp-attorneys.com  
757-499-1841

Attorneys: Nicole Pasho  
J. Bryan Plumlee

Opposing Party Information (name, address, telephone number and email address of all other parties):

Wendy Tabler  
Building Codes Administrator  
P.O. Box 15225  
Chesapeake, VA 23328  
757-382-6238  
wtabler@cityofchesapeake.net

Lee Ostheller, Code Enforcement Administrator  
306 Cedar Road  
City Hall, 2nd Floor  
Chesapeake, VA 23322  
757-352-6018; lostheller@cityofchesapeake.net

Andrew Meyer, Assistant City Attorney  
Office of the City Attorney, City of Chesapeake  
306 Cedar Road, 6th Floor  
Chesapeake, VA 23322  
757-382-6586; ameyer@cityofchesapeake.net

Additional Information (required by the applicable code to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of the decision of local government appeals board (if applicable)

Additional Information (to be submitted with this application)

- Statement of specific relief sought

**CERTIFICATE OF SERVICE**

I hereby certify that on the 17 day of June, 2025, a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

**Note:** This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: \_\_\_\_\_

Name of Applicant: Jessica Dieffenbach, Trustee  
(please print or type)

Jessica Dieffenbach, Trustee  
Appeal of Chesapeake Local Board of Building Code Appeals May 21, 2025 Decision  
2349 Baum Road, Chesapeake, VA 23322

### **STATEMENT OF SPECIFIC RELIEF SOUGHT**

The property at 2349 Baum Rd., Chesapeake, Virginia, is home to a working farm where the owners raise cows, pigs, goats, and chickens, and store hay, seeds, and farm vehicles and equipment. The parcel also has a silviculture area of over 30 acres. This property is one small part of the owners' larger 800+ acre agricultural operation.

Over the past year, the owners began hosting small agritourism events at the property. Because of this, the City demanded that the owners obtain an "assembly" certificate of occupancy for the barn, along with all applicable permits and inspections.

The main barn on the property was constructed in 2019, and at the time of its construction, received a Chesapeake Farm Use Affidavit Exemption Form signed by the Zoning Administrator and Building Official approving the barn's VUSBC exemption for farm buildings and structures. Despite the limited number of agritourism events at the property, the barn is still used primarily for agricultural purposes, and therefore, pursuant to Va. Code § 36-99(B), the barn is exempt from the requirements of the Virginia Uniform Statewide Building Code (VUSBC). Va. Code § 36-97 defines a "farm building or structure" as:

"Farm building or structure" means a building or structure not used for residential purposes, located on property where farming operations take place, and **used primarily for any of the following uses or combination** thereof:

1. Storage, handling, production, display, sampling, or sale of agricultural, horticultural, floricultural, or silvicultural products produced in the farm;
2. Sheltering, raising, handling, processing, or sale of agricultural animals or agricultural animal products;
- 3. Business or office uses relating to the farm operations;**
- 4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery, or equipment on the farm;**
5. Storage or use of supplies and materials used on the farm; or
6. Implementation of best management practices associated with farm operations.

Emphasis added. The barn has two floors. The first floor of the barn is used for the storage of farm vehicles, machinery, and equipment, except when moved for a special event. The upstairs floor of the barn contains an office which is the “headquarters” of the owners’ entire 800+ agricultural operation. Due to these uses, the barn meets this definition of a “farm building or structure.”

The Appellants therefore ask that the Review Board reverse the Chesapeake Local Board of Building Code Appeals May 21, 2025 decision.

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Documents Submitted  
by  
Poole, Brooke, and  
Plumlee (Dieffenbach)

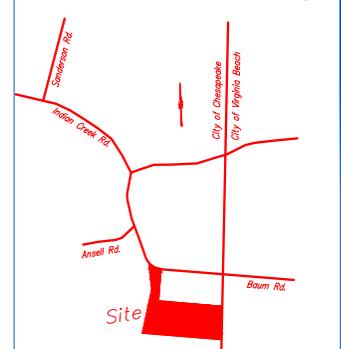
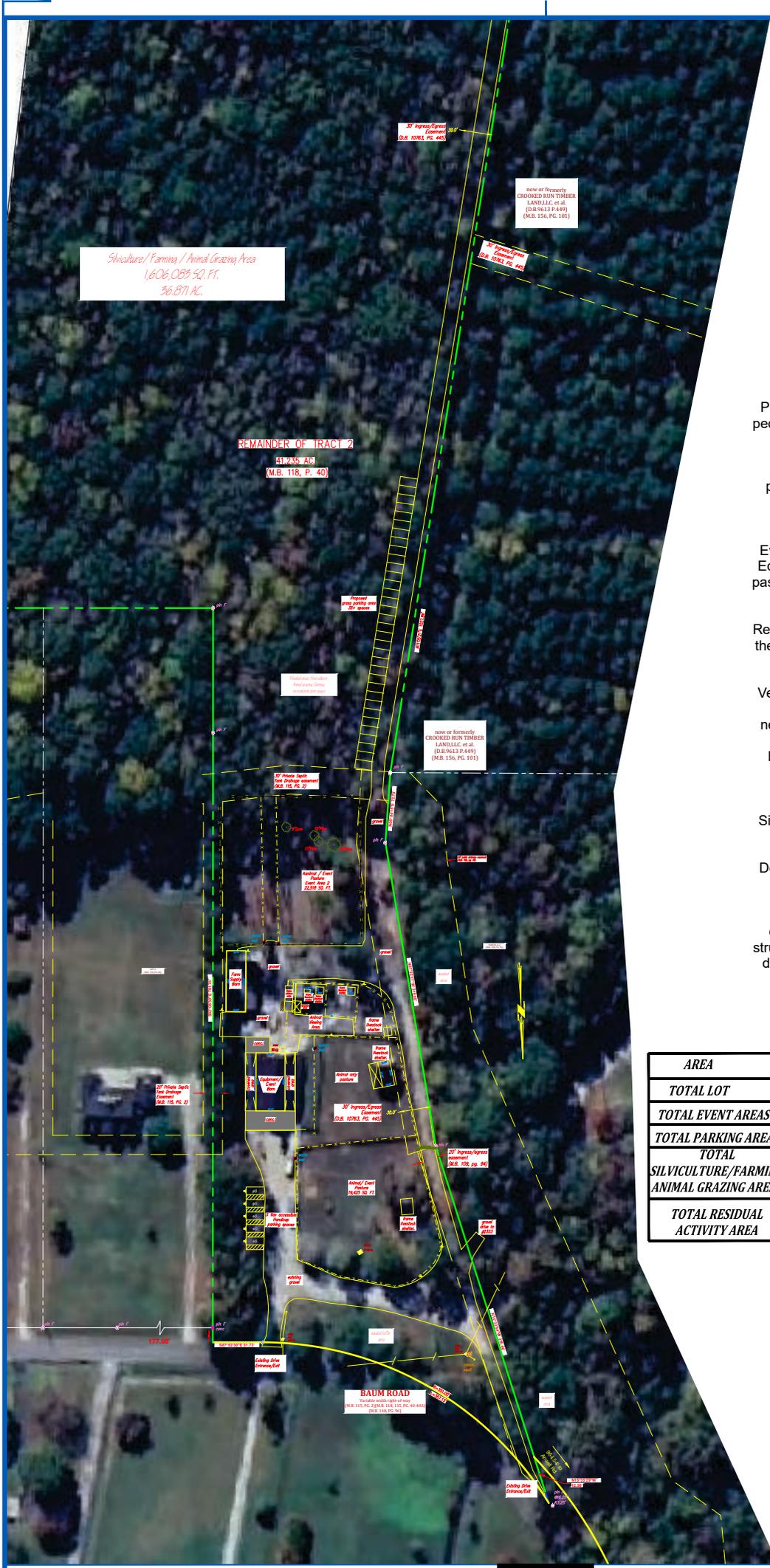
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Documents Submitted  
By  
City of Chesapeake

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**Agritourism Event Venue**

**Parking:** The intent is to accommodate up to 125 people with 35+ grass parking spots off the edge of the exiting farm road. In addition there will be handicap designed areas in the front of the Equipment/Event Barn. Parking will also be permitted in the gravel driveways of the farm in various areas but to not interfere with open pathways for emergency vehicles.

**Event Areas:** The events will be held in either the Equipment/Event Barn or the front or back animal pasture as labeled. Total area for possible events is 1 acre.

**Restrooms:** Permanent restrooms will be located in the Equipment/Event Barn and in the Farm Supply Barn as per Health Department regulations.

**Vegetation:** Existing vegetation will remain on site boundaries adjacent to the roadway and neighboring residents. Additional vegetation may be planted along the residential and roadway boundaries to provide an increased visual and sound barrier.

**Recreational Open Space:** The areas labeled Silviculture/Farming/Animal Grazing Area may be used as a picnic area for gatherings.

**Details:** See Exhibit 1, attached, for detailed view of the event areas.

**Note:** No structures will be built or other development occur for this CUP. Only existing structures and gravel areas will be utilized. No land disturbing activities will take place as part of this CUP.

**AREA TABLE**

AREA	SQ FT	ACREAGE	PERCENTAGE
<b>TOTAL LOT</b>	<b>1,796,178</b>	<b>41.235</b>	<b>100%</b>
<b>TOTAL EVENT AREAS</b>	<b>43,768</b>	<b>1.004</b>	<b>2.4%</b>
<b>TOTAL PARKING AREAS</b>	<b>12,936</b>	<b>0.297</b>	<b>0.7%</b>
<b>TOTAL SILVICULTURE/FARMING ANIMAL GRAZING AREAS</b>	<b>1,606,083</b>	<b>36.871</b>	<b>89.5%</b>
<b>TOTAL RESIDUAL ACTIVITY AREA</b>	<b>133,391</b>	<b>3.062</b>	<b>7.4%</b>

DRAWING SCALE 1" = 50'

**DKT ASSOCIATES**  
LAND SURVEYORS  
1232 W. Little Creek Rd. (757) 588-5888 TEL  
Suite 300 (757) 588-5880 FAX  
Norfolk, VA 23505 DKTASSOCIATES.COM



**Conceptual Site Plan**

Dwellings Farms Conceptual Site Plan: 2349 Baum Rd.

Chesapeake, Virginia FOR May 05, 2025

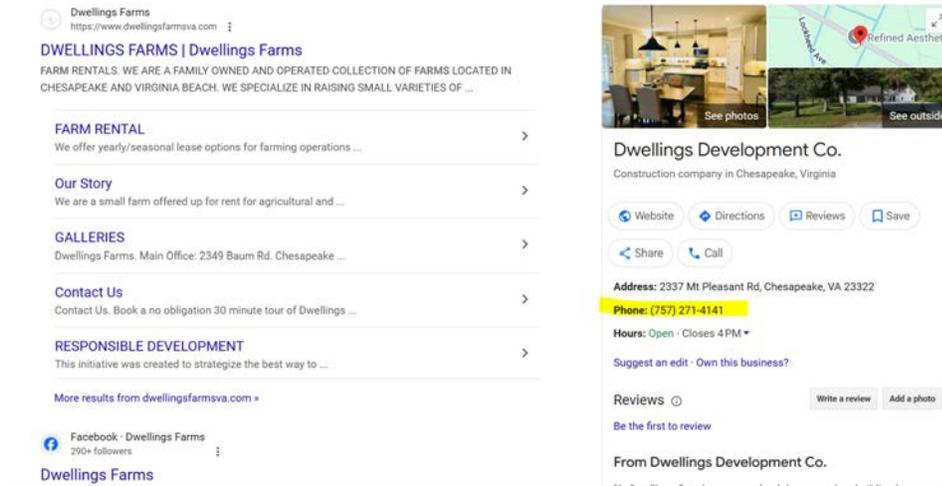
**Dwellings Farms, LLC.**

REVISED --  
SIZE ARCH/D  
JOB NO. 31029  
F.BOOK 0  
F.CREW MP  
REVIEWED MP  
DRAWN BY  
SHEET **1 OF 1**

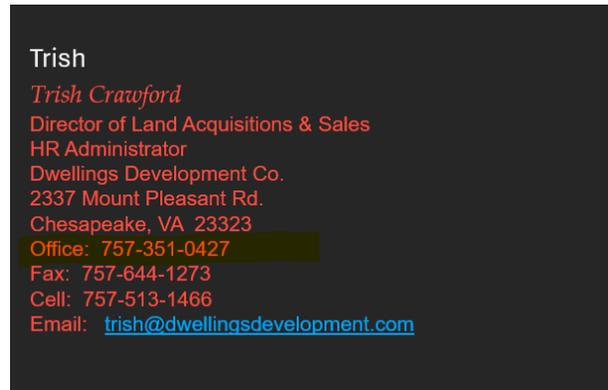
2349 Baum LBBCA informational package

Additional information.

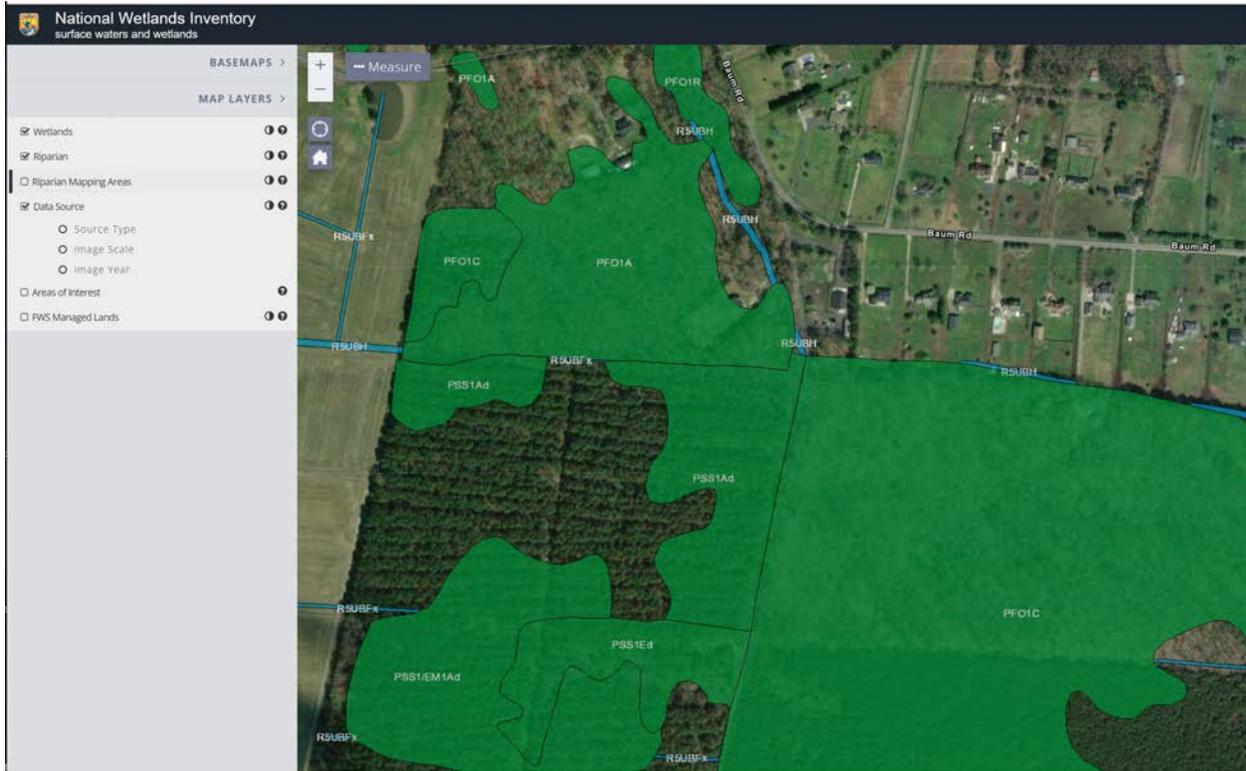
Office phone number is not the same as provided by office personnel. This is from web search by Wendy Tabler 6/27/25



This is from an email received by Wendy Tabler 6/24/25



This is a snip from the wetlands mapper taken by Wendy Tabler 6/27/25. The majority of the property is wetlands.



**2349 Baum Rd. (Jessica Deiffenbach, Trustee) Assembly Building Appeal of  
Chesapeake Local Board of Building Code Appeals decision on upholding an NTC  
and NOV:**

**Statement in Opposition to Appeal**

The sole grounds for appeal listed by appellant in her Statement of Specific Relief Sought is the underlying determination that the subject Building should be exempted as a farm building from the Building Code under Section 36-99(B) of the Virginia Code. This argument fails upon close examination.

In order for the exemption under Section 36-99(B) to be applicable, the structure must be used “primarily” for the farming operations listed under Section 36-97 of the Virginia Code. The evidence that was submitted makes it clear that the structure exists to accommodate events, not agriculture.

The primary evidence that has been provided is that the structure is being actively rented out for event purposes. There has certainly not been adequate evidence that any agricultural use would outweigh the use as an event space, which is the predominant use based on social media, neighbor testimony, and inspections performed. Agriculture is mentioned in the social media/internet posts, but it isn’t the dominant action that is required by code. The employees that are listed in the attached internet advertisements are “Brand Manager” and a “Administrative Assistant”, not a “farm hand” or “farm manager.” It is very clear that administering its use as event space is their primary job, and that the event space use is the main use. Occasionally mentioning agricultural activities doesn’t transform what is inherently an event space into a farm use. If the agricultural exemption were to be applied whenever an event or hospitality company claimed the use was agritourism, then it would create a massive loophole that would allow any noncompliant structure to bootstrap its way into avoiding building code requirements so long as it used a few buzzwords and made a few gestures toward agriculture.

Further, the only two uses that Appellant highlighted in her appeal to argue are in effect are:

3. Business or office uses relating to the farm operations;
4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery, or equipment on the farm;

Appellant makes a few assertions in her Statement to support the exemption related to those uses that are easily mooted when examined. Appellant notes that the structure was originally approved for farm use when it was submitted in 2019. However, Appellant noted in the hearing that the structure was a vacant shell for 4 years. Clearly, the purpose of the building changed over the years, and its current use belies the purpose that was originally approved. Further, while no specific evidence, beyond mere assertion, was made as to the business operations management at the upstairs office, i. it is a small fraction of the actual physical space of the structure, and ii. by Appellant’s own account, it includes operations for farm operations at locations outside of the resident property; i.e., it is another attempt to bootstrap a specific property that isn’t being used predominantly for agriculture, into an agricultural box that just

doesn't fit. Either way, the office use is a small use in the overall composition of the structure, and by definition cannot be considered the "primary" use. Finally, a neighboring witness noted that he had not witnessed farm equipment being stored on the property.

The pictures clearly show a structure that isn't suited for agricultural purposes, but for event space. Many of its features, such as screened porches, and flooring, would be visibly damaged by robust farm use. Other features are simply clearly provided for event use, including a full kitchen, fireplace, television, chandelier lighting, and sound systems, and have no reasonable relation to the agricultural purpose of "office space" or "farm machinery storage" that the Board is asked to believe is the "primary" purpose of the structure.

**From:** Wendy Tabler <wtabler@cityofchesapeake.net>  
**Date:** July 1, 2025 at 7:46:28 AM EDT  
**To:** Michael Dieffenbach <michael@dwellingdevelopment.com>  
**Subject: RE: Followup on Permit Questions for Barn at 2349 Baum Rd.**

I will call you today to discuss these items. You are correct, I cannot issue a CO for the assembly building without the CUP, we can get started on the process though, which I think will be beneficial. We have been discussing the possibility of the CUP not being approved and I feel like we have a patch forward there as well.

As soon as I get through the morning rush, I will give you a call if that will work.

Thank you



**Wendy Tabler, CBO, PMO, CZA**

Building Codes Administrator

Development & Permits

**Direct** (757) 382-6238

[www.CityOfChesapeake.net](http://www.CityOfChesapeake.net)

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**From:** Michael Dieffenbach <michael@dwellingdevelopment.com>  
**Sent:** Monday, June 30, 2025 9:21 AM  
**To:** Wendy Tabler <wtabler@cityofchesapeake.net>  
**Subject:** Followup on Permit Questions for Barn at 2349 Baum Rd.

**ALERT:** External E-mail. Use caution when opening attachments or clicking links.

Wendy,

Thanks again for your call last week, I really appreciate your time and knowledge. I just wanted to followup to make sure I understood everything correctly and we are working in the right direction.

Currently I have an engineering firm working on the plans for the barn as pertaining to an assembly use.

So since there is no primary residency on the property, you would not be able to issue the building permit and occupancy at this time until after the CUP is approved by City Council?

What if City Council does not make it a condition of the CUP to have the CO for the barn? Not saying they won't, im just making sure I understand all the options. So if City Council approved the CUP without the CO requirement then the NOV would go away because you would have no way to issue a permit on the building?



**Michael Dieffenbach**

Director  
Dwellings Development Co.

**w:** [www.dwellings.us](http://www.dwellings.us)  
**e:** [michael@dwellingdevelopment.com](mailto:michael@dwellingdevelopment.com)  
**p:** [757.271.4141](tel:757.271.4141)  
2337 Mount Pleasant Rd. Chesapeake, VA 23322

Chesapeake, Virginia - Code of ... / Chapter 26 - ENVIRONMENT / ARTICLE VII. - EROSION AND ... / DIVISION 1. - GENERAL / Sec. 26-343. - Definitions.

VERSION: MAY 22, 2025 (CURRENT) -

- Chapter 1 - GENERAL PROVISIONS
- Chapter 2 - ADMINISTRATION

article.

*Farm building or structure* means the same as that term is defined in § 36-97 of the Code of Virginia and also includes any building or structure used for **agritourism** activity, as defined in § 3.2-6400 of the Code of Virginia, and any related impervious services including roads, driveways, and parking areas.

Chesapeake Code Definitions: Agritourism use is a permitted use of farm buildings according to Chesapeake code. Agritourism events are what we do in the barn sometimes.



Photo by Michael Dieffenbach on December 3, 2024: Farm equipment stored in building on regular basis.



Photo by Michael Dieffenbach on February 21, 2025: Farm equipment stored in building on regular basis.



Photo by Michael Dieffenbach on July 27, 2024: Neighbor/friends cookout with farm activities, flowers grown and picked on the farm.



Photo by Michael Dieffenbach on May 28, 2024: Some of many warning signs posted on building and property, including the required VA law notices for farm buildings and animals.

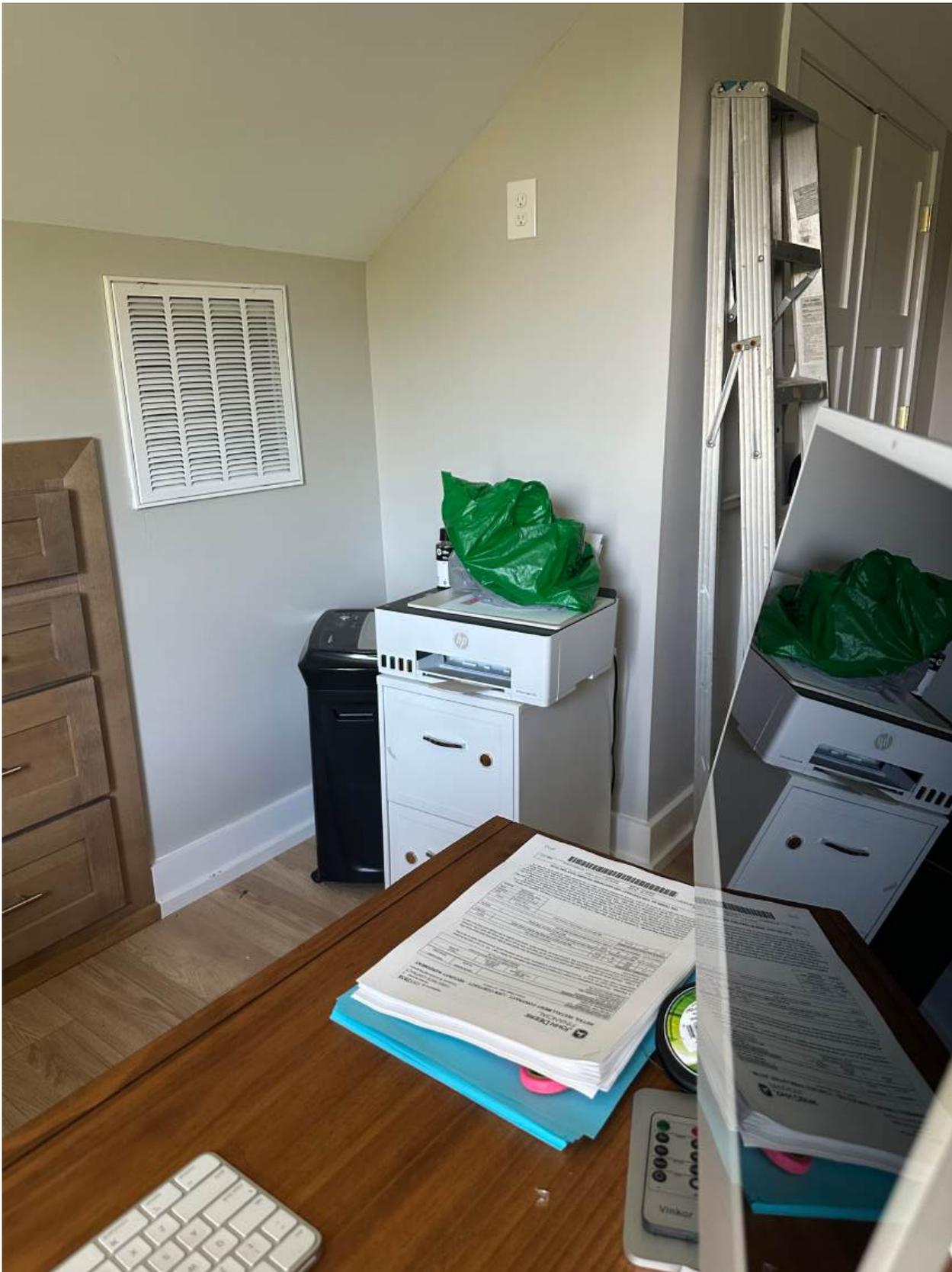


Photo by Michael Dieffenbach on June 2, 2025: Farm office space in barn.



Photo by Michael Dieffenbach on June 2, 2025: Farm office space in barn.



# 2018 Virginia Agritourism & Building Codes Review

Prepared at the request of the  
Virginia House and Senate General Laws Committees

by  
**Martha A. Walker, Ph.D.**, Virginia Tech / Virginia Cooperative Extension  
*In collaboration with **Megan M. Seibel, Ph.D.**, Virginia Tech / Virginia Cooperative Extension  
and the **Agritourism & Building Codes Review Team***

Submitted to  
**Senator Frank M. Ruff, Chair**  
Senate General Laws Committee

**Delegate Chris Peace, Chair**  
House General Laws Committee

**Senator Mark D. Obenshain, Delegate Dickie Bell, and Delegate Tim Hugo**

**Susan Clarke Schaar, Clerk of the Senate**

**November 1, 2018**

**AAEC-166NP**

## Executive Summary

Following the 2018 General Assembly session, the Virginia House and Senate General Laws Committees requested a review of agritourism enterprises and building code application “in order to better understand the issue and its potential negative impact on rural economic development.” The Committees asked four questions:

1. Is there a legitimate need to undertake the development of this type of specialized building code?
2. What would be the economic impacts on agritourism and rural businesses?
3. What groups could be impacted by such a change?
4. If necessary what items should be considered in such a building code?

Throughout the discussion, the four review questions were always under consideration. Pulling from data collected and discussion comments, the questions were addressed.

- *Is there a legitimate need to undertake the development of this type of specialized building code?* Virginia agritourism operations are diverse and complex. At this time, it appears to be premature to legislate the application of existing building codes or to develop legislation for any specialized building codes.
- *What would be the economic impacts on agritourism and rural businesses?* Requirements for commercial building code compliance for farm buildings hosting agritourism activities may be prohibitive for the majority of Virginia farms and result in the end of agritourism functions and/or the closure of small farms. Ultimately, the termination of one farm revenue source negatively impacts the entire farming operation especially during years of production instability.
- *What groups could be impacted by such a change?* The major group impacted by any change in building code application would be the Virginia farmer who is using agritourism events and activities to generate alternative farm revenue.
- *If necessary, what items should be considered in such a building code?* No new items should be considered as part of the Virginia USBC. However, the group requested that discussion on this issue continue to held with agritourism stakeholders.

Because of the conversations held during this review, critical outcomes were realized. Agritourism stakeholders engaged in discussions on significant agritourism issues in an environment where decision-makers listened to the concerns and potential impacts proposed changes would have on Virginia agritourism. Rapport and partnerships were established between agritourism owners and local officials with the hope that conversations would continue. Stakeholders agreed that educational materials would increase the awareness and engagement of agritourism stakeholders in continuing to offer the highest level of safety for agritourism visitors and workers and to build trust and collaborative relationships between agritourism operators and officials.

The highly engaged group was invested in uncovering any opportunity for strengthening the agritourism industry and continuing to provide safe conditions for guests who are seeking a memorable experience on a farm. The stakeholder group asked that discussions continue to be held with an inclusive group of representative stakeholders who would be charged with:

- Developing a definition for an agritourism gathering space that is separate from the current Code of Virginia farm structure or building definition. It would be only this defined farm space, venue, and/or assembly area and not the entire farm that would be considered for compliance with any agreed upon public safety standards.
- Clarifying the specific safety attributes; how the safety attributes would apply to a) existing agritourism business/buildings, b) new agritourism business/construction, and/or c) new use or a change in use for buildings not previously under the building code; and the process for incorporating any recommended attributes within the Virginia USBC.
- Supporting the work of Virginia agritourism stakeholders as the group designs educational materials on a) fire safety practices, b) safe building attributes, and c) general building code resources and the building code appeals process.

# Virginia Agritourism & Building Codes: 2018 Review

## Agritourism in Virginia

Virginia farms face a constant struggle to increase revenue; and in most all cases, that revenue is tied directly to what the land can produce and the farm's ability to generate sales. Virginia agriculture has proven its ability to flourish and is still ranked as the number one state industry. One resource that local farms are finding to be highly successful in generating supplemental revenue is the development of agricultural programs, events, and attractions that invite local residents and tourists onto their land to experience the peaceful but energized farm environment.

Agritourism is recreation at its finest! Visitors to local farms might tour a vineyard or discuss the process of transforming grapes into high quality Virginia wines. Younger guests (as well as many adults) may discover that goats are not dogs with horns, donkeys are different than horses, and milk does not actually originate in a plastic container in the grocery store. The tour of farm fields has enabled many people to realize that peanuts grow underground and cotton grows on a plant and not in a bale. People are hunting in the deer-filled forests and fishing in the well-stocked ponds. Pumpkins, apples, cherries, and other produce are being picked. Classes are being taught on artisan breads and cheeses. Corn mazes are being navigated. Wedding parties are enjoying the beautiful scenery and are filled with the sense of serenity that comes from gazing at the open landscape. Hayrides, animal barnyard visits, and ice cream treats made from the local dairy's milk are being added to the top of the "fun-to-do" list of many Virginians.

### **The Definition**

The Code of Virginia defines agritourism as

*any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity (Code of Virginia § 3.2-6400).*

<https://law.lis.virginia.gov/vacode/title3.2/chapter64/section3.2-6400/>

In most all cases, agricultural tourism refers to a visit to a working farm or any agricultural, horticultural or agribusiness operation in order to enjoy, be educated, or become actively involved in the activities of the farm operation. However, before the label agritourism is applied to a Virginia operation, the enterprise must first be a farm. In Virginia, a farm is defined in § 3.2-300 of the Code of Virginia as an "agricultural operation" and means

*any operation devoted to the bona fide production of crops, or animals, or fowl including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and the production and harvest of products from silviculture activity.*

## ***Agritourism Activities***

Results from both the 2013 and 2016 Virginia agritourism studies found that Virginia farms were incorporating an array of events and activities into the farms' business plans in order to generate new revenue streams. The following list identifies most but not all of what Virginia farms are doing.

Agricultural museum & displays	Flow Honey (Educational programming and direct sales)	<i>Preparing for an Agritourism Event: A Checklist</i>
Archery	Flower arranging workshops	Orchards & Pick-Your-Own (picking, sitting, picnics under the trees)
Barn dance	Food trucks with live music and other events	Pancake breakfasts
Bed & Breakfast accommodations	Haunted barns	Plant a garden
Biking trails	Hay/wagon rides	Pony & horse-back riding
Bird watching	Heirloom plant & animal exhibits	Pumpkin patch (picking, painting, carving, & buying)
Birthday parties	Herb walks	Pumpkin Chuckin
Brewery	Heritage Trails	Quilting/weaving exhibitions
Cabin living/camping	Hiking paths (walking, identifying the vegetation, determining the age of a tree, picnicking)	Restaurants/Dining (farm food, slow dining, Sunday brunches, farm meals, or local foods)
Campfires (add the marshmallows)	Historic re-enactments	Rodeo
Camping	"How to" clinics	Snow sledding
Canning produce	Hunting	Sorghum milling
Canoeing	Ice cream/bakery	Sports in the pasture
Corn maze	Jam & jelly making	Star gazing & moonlight activities
Corporate & group events	Log cabin rentals	Storytelling/story swaps
Cut flowers (picking, arranging, & planting)	Meeting the barnyard animals (educational programs on each animal; shearing the sheep, milking the "demonstration" cow, or participating in "cattle college")	Straw bale maze
Cut your own Christmas tree & evergreens	Music events (Banjo & guitar training), concerts, & festivals (refer to Extension Publication 448-501,	Tours for children & families
Farm cooking classes and contests		Vegetable contests
Farm scavenger hunts		Virginia Standards of Learning & the farm
Farm stores & markets		Weddings
Farm vacations - A day/week on the farm (living, working, enjoying)		Winemaking & tasting
Fee fishing pond (Fishing, cleaning, & cooking)		Winery

Farmers are investing not only in crops and animals but also in on-farm experiences that bring paying guests to the farm and generate another source of revenue from their farm land.

## ***Virginia Agritourism Fiscal Impact***

Virginia agritourism represents a \$2.2 billion economic impact based on a 2016 study conducted by Virginia Tech's professor Vincent Magnini, making a substantial contribution to the economic health and well-being of the Commonwealth. A summary of key findings are as follows:<sup>1</sup>

- There are approximately 1,400 establishments in Virginia that classify into the agritourism sector. Roughly 56% of these venues are open to the public throughout the year.

---

<sup>1</sup> Within the context of this study, the terms "establishments," "farm businesses," and "venues" can be used interchangeably to refer to individual entities that classify into the agritourism sector according to Virginia state code.

- While visitation levels vary widely among venues, on average 5,356 visitors patronize each establishment per year.
- In 2015 visitors to Virginia’s agritourism farm businesses spent an estimated \$1.5B throughout the state. Approximately, 17% of this total was spent at the agritourism venues; the remaining 83% was spent outside the venues (e.g. hotels, restaurants), but inside the Commonwealth.
- The total economic activity stimulated by Virginia’s agritourism sector during 2015 was approximately \$2.2B.
- Economic activity created by the agritourism sector was associated with approximately \$1.2B in value-added effects in 2015 which is a measure of the sector’s contribution to the gross domestic product of the state.
- Regarding employment, the economic activity attributed to Virginia’s agritourism sector supported approximately 22,151 full-time equivalent jobs in the state in 2015.
- In terms of wages and income, the economic activity spawned by Virginia’s agritourism sector was responsible for roughly \$839.1M in wage and salary income in 2015.
- Economic activity stimulated by Virginia’s agritourism sector generated approximately \$134.7M in state and local tax revenues during 2015.
- The *economic impact from tourists* [defined as those traveling 50 miles or more (one way) to an agritourism venue] was approximately \$1.0B during 2015. This *economic impact from tourists* represents the ‘fresh money’ infused into an area economy and is a subset of the total economic activity attributed to agritourism venues.
- When agritourism farm business revenues deriving from off-farm markets, off-farm restaurants, and off-farm festivals are also included in the economic modeling, the amount of economic activity produced by Virginia’s agritourism sector increases by approximately 40% to a total of \$3.0B.
- The top motivations for Virginia’s farm businesses to operate in the agritourism sector are to:
  - Generate additional income
  - Market farm products
  - Share a lifestyle or way of living with others

Reference [http://pubs.ext.vt.edu/content/dam/pubs\\_ext\\_vt\\_edu/AAEC/aaec-157/AAEC-157.pdf](http://pubs.ext.vt.edu/content/dam/pubs_ext_vt_edu/AAEC/aaec-157/AAEC-157.pdf)

## Background for the Review

During 2017, local and state officials expressed concern regarding the public’s safety when participating in events hosted in farm structures that were not designed for activities. Furthermore, policy makers and the agritourism industry were concerned about local officials’ determination of which structures qualify for the farm building exemption. In response to these

concerns, Senate Bill No.784 / House Bill No.714 and House Bill No.1224 were introduced during the 2018 General Assembly session.

Following the 2018 General Assembly session, the Virginia House and Senate General Laws Committees requested a review of agritourism facilities and building code application “in order to better understand the issue and its potential negative impact on rural economic development.”

The Committees asked four questions:

1. Is there a legitimate need to undertake the development of this type of specialized building code?
2. What would be the economic impacts on agritourism and rural businesses?
3. What groups could be impacted by such a change?
4. If necessary what items should be considered in such a building code?

Members of the Committees asked that the 2018 review expand the understanding of its membership on agritourism public safety and welfare concerns and the impact of building codes applied to agritourism facilities.

### ***Farm Building/Structure & the Virginia Uniform Statewide Building Code (USBC)***

It is vital that the definitions of a farm building or structure be clearly established before any discussion can take place on the Virginia Uniform Statewide Building Code (USBC) and its impact on agritourism structures.

The Virginia Code §36-97 and Virginia Administrative Code (VAC) 13VAC5-63-200 Chapter 2 define the meaning of the farm building or structure.

***“Farm building or structure” means a building or structure not used for residential purposes, located on property where farming operations take place, and used primarily for any of the following uses or combination thereof:***

1. *Storage, handling, production, display, sampling or sale of agricultural, horticultural, floricultural or silvicultural products produced on the farm;*
2. *Sheltering, raising, handling, processing or sale of agricultural animals or agricultural animal products;*
3. *Business or office uses relating to the farm operations;*
4. *Use of farm machinery or equipment or maintenance or storage of vehicles, machinery or equipment on the farm;*
5. *Storage or use of supplies and materials used on the farm; or*
6. *Implementation of best management practices associated with farm operations.*

Code of Virginia <https://law.lis.virginia.gov/vacode/title36/chapter6/section36-97/>

Virginia Administrative Code

<https://law.lis.virginia.gov/admincode/title13/agency5/chapter63/section200/>

The Virginia Code §36-99 defines Virginia farm buildings and structures as exempt from any application of the Virginia Uniform Statewide Building Code.

§ 36-99. Provisions of Code; modifications.

A. The Building Code shall prescribe building regulations to be complied with in the construction and rehabilitation of buildings and structures, and the equipment therein as defined in § 36-97, and shall prescribe regulations to ensure that such buildings and structures are properly maintained, and shall also prescribe procedures for the administration and enforcement of such regulations, including procedures to be used by the local building department in the evaluation and granting of modifications for any provision of the Building Code, provided the spirit and functional intent of the Building Code are observed and public health, welfare and safety are

assured. The provisions of the Building Code and modifications thereof shall be such as to protect the health, safety and welfare of the residents of the Commonwealth, provided that buildings and structures should be permitted to be constructed, rehabilitated and maintained at the least possible cost consistent with recognized standards of health, safety, energy conservation and water conservation, including provisions necessary to prevent overcrowding, rodent or insect infestation, and garbage accumulation; and barrier-free provisions for the physically handicapped and aged. Such regulations shall be reasonable and appropriate to the objectives of this chapter.

B. In formulating the Code provisions, the Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations, including, but not limited to, the standards of the International Code Council and the National Fire Protection Association.

**Notwithstanding the provisions of this section, farm buildings and structures shall be exempt from the provisions of the Building Code, except for a building or a portion of a building located on a farm that is operated as a restaurant as defined in § 35.1-1 and licensed as such by the Board of Health pursuant to Chapter 2 (§ 35.1-11 et seq.) of Title 35.1. However, farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to flood-proofing regulations or mudslide regulations, as applicable.**

<https://law.lis.virginia.gov/vacode/title36/chapter6/section36-99/>

On August 23, 2010, Virginia Attorney General Kenneth T. Cuccinelli issued an advisory opinion to Fauquier County's request on "*whether the use of a farm building or structure for the purposes of hosting events like concerts, dances, and wedding receptions constitutes a change in the occupancy classification of the structure sufficient to require the owner of such a structure to obtain an occupancy permit for such events.*"

The opinion stated "*that the occasional use of a farm building or structure to host a concert, dance, or other social gathering does not constitute a change in occupancy classification and, therefore, does not require the owner to obtain an occupancy permit for the new use.*"

<https://www.oag.state.va.us/citizen-resources/opinions/official-opinions?id=65>

## Process for the Review

The process for the review of agritourism facilities and building code application was built on the values of inclusion, transparency, and evidence. Three components were built into the process: 1) interviews with key informants (Appendix A), 2) a questionnaire distributed to agritourism stakeholders (Appendix B), and 3) a workgroup of agritourism stakeholders (Appendix C).

1. A sampling of agritourism stakeholders representing 22 groups was identified, interviews were scheduled, and comments were compiled and analyzed.
2. The 2018 agritourism and building codes questionnaire was distributed three times during the week of May 14 – May 21, 2018, to the Virginia agritourism listserv. Of the 922 listserv members approximately 60% (n=553) are directly related to farms with agritourism enterprises. Responses were received from 53 listserv members (not all respondents completed every question) representing 9.5% of those directly involved with agritourism.
3. The discussion continued with the formation of a workgroup composed of 45 stakeholders who formed the Agritourism and Building Code Review Team.

### **Interviews**

Interviews of 39 agritourism stakeholders representing 22 groups began on Monday, May 14, and continuing through the first week of June. Although 43% of the questionnaire respondents indicated a public safety concern, 100% of those interviewed identified public safety as an issue and proposed an array of public welfare and safety concerns. The majority of comments related to:

- Fire hazards.
- Building ingress and egress including the number of exits and lighted exit signage,
- Road access for emergency vehicles.
- Fire suppression that will allow people to self-evacuate the building and protect the emergency personnel.
- Structural integrity of the building and the building's capacity for large crowds when "occupancy loads are not calculated."

### **Questionnaire**

Information was needed from agritourism stakeholders related to public safety issues and farm structures used for agritourism activities. To gather these responses, an electronic questionnaire was distributed between May 14 and May 21, 2018, to the Virginia agritourism listserv.

Among the questionnaire responses captured, 57% (n=25) indicated that either "no public safety concerns" existed or they were "unsure". Others reported safety and access concerns that were categorized into five themes including:

- Fire safety modifications to the interior including fire suppression, lighted and designated exits to accommodate rapid exit should a fire occur.
- Ingress and egress designed to accommodate emergency management vehicles.
- Handicapped accessibility.
- Structural integrity with a load bearing capacity to accommodate maximum people.
- Safe flooring to prevent tripping.

### **Stakeholder Discussions**

The Agritourism and Building Code Review Team (workgroup) began its work with its first meeting on June 12, 2018. Equipped with the results of findings from both the interviews and the questionnaire, agritourism leaders engaged in a robust discussion and agreed that 1) Virginia's agritourism industry incorporates multiple types of operations and 2) there are some differences in how building codes are enforced throughout the Commonwealth. The ultimate goal of the workgroup's discussions is 1) to ensure a safe environment for everyone enjoying a rural activity and 2) to engage agritourism operations in reviewing and securing input on any proposed changes.

The team continued its conversations at its July 20, September 11, and October 18 meetings. Between the face-to-face conversations, subgroups worked on identifying appropriate wording for defining an agritourism gathering space and reviewing suggested building attributes in relationship to existing building code requirements. The review process was intensely deliberate with each team member mindful of the ultimate impact any decision would have on Virginia's agritourism industry.

## Defining an Agritourism Building

The stakeholders realized at their June 2018 meeting that there was no clear operational definition of a farm structure that is used for gatherings of the general public. It became obvious that before any building code discussion could occur or any assessment of the cost of applying safety attributes to a farm structure be calculated, a definition for this type of farm gathering space must be defined and the definition be included in the Code of Virginia.

With a “farm building or structure” currently defined in the Code of Virginia §36-97, the workgroup recognized the need to create a new term to classify the buildings that would comply with certain safety standards to protect public safety during events, while also preserving the farm building exemption for production agriculture.

During the subsequent meetings, numerous terms and definitions were discussed. The goal was to design a new definition that would include the proper facilities without causing unintended consequences for commercial agriculture buildings or adding confusion for local and state regulators to enforce such standards.

The workgroup was unable to reach consensus on an agritourism gathering space definition and suggested that the discussions should be continued for the purpose of developing a definition for an agritourism gathering space that is separate from the current Code of Virginia farm structure or building definition. It would be only this defined farm space, venue, and/or assembly area and not the entire farm that would be considered for compliance with any agreed upon public safety standards.

## Identifying Building Safety Attributes

The stakeholder group discussed a variety of building safety attributes for an agritourism structure and considered if any changes would be needed in the Virginia Uniform Statewide Building Code (USBC).

For months the group discussed appropriate safety attributes and affirmed that each Virginia agritourism operation is unique. Most importantly, the group placed a high value on public safety and invested themselves in analyzing the best tools to address the prevention of mishaps and the protection of life should a mishap occur.

A proposal from Albemarle County (Appendix D) was considered which outlined seven minimum public safety attributes for agritourism facilities. There were some concerns that some of the proposed features may be more stringent than the current requirements of the USBC.

Although these suggested safety features were discussed as effective guidelines, no consensus was reached on the appropriate attributes and how the attributes should be applied.

The workgroup suggested that discussions continue to be held on agritourism gathering space safety attributes with an inclusive group of representative stakeholders who would be charged with

- clarifying the specific attributes;
- defining how the safety attributes would apply to
  - existing agritourism business/buildings,
  - new agritourism business/construction, and/or

- new use or a change in use for buildings not previously under the building code; and
- outlining the process for incorporating any recommended attributes within the Virginia USBC.

***Financial Impact of Building Safety Attributes.***

Three approaches were used to gather the financial impact of applying building safety attributes to agritourism facilities: 1) comments gathered from agritourism operators, b) estimates provided by three engineering firms (Appendix E), and 3) a study conducted by the Virginia Wineries Association (Appendix F). Overall, it is important to understand that construction costs are influenced by the region of the Commonwealth where the farm is located and a building retrofit has the potential to double the cost.

1. Comments gathered through the reviewer’s interviews and the electronic survey indicated that if agritourism operations were required to meet the current building code requirements, the cost would range between \$50,000 and \$100,000 creating an unrealistic financial burden on agritourism farms. During the stakeholder discussions, a winery owner reported that installing a sprinkler system as defined by the Virginia USBC within the public area of the winery would exceed \$1 million. Expenditures were based on experience and reports received from farms within the stakeholders’ region. Furthermore, farms were reported to face additional costs for building and zoning permits including site plans, inspections, and change of use applications ranging up to \$15,000 in some areas.
2. Using the Albemarle County proposed building safety attributes, three engineering and architectural firms were recruited to offer insight on the projected costs for each attribute (Appendix E). Information collected from these firms suggested that if the Albemarle County proposed safety attributes were required, the cost for a small agritourism space may reach approximately \$86,000 in hardware costs. This reflects only the cost of the hardware and does not include the cost of labor, loss of business, or structure retrofits to accommodate the safety attribute.
3. The Virginia Wineries Association conducted a study (Appendix F) on cost projections for retrofitting or equipping an agritourism space with safety features as published in the Virginia Uniform Statewide Building Code along with the addition of the attributes proposed by Albemarle County. Cost projections for agritourism facilities to be equipped to comply with the existing USBC requirements would range from \$53,000 to \$993,000 (not including ADA compliance costs). Should the Albemarle attributes be the only requirements, the study found that the cost would be between \$45,000 and \$113,000 (not including ADA compliance costs). Appendix F includes itemized pricing and details for a sample of six wine producing and tasting facilities of varying capacity and patronage across the state.

## Expanding Education for Virginia’s Agritourism Network

Throughout the discussions, stakeholders recognized the value of providing educational materials to local officials and agritourism operations on building safety and safety management practices.

Of the questionnaire responses, 30.5% expressed concern over not knowing enough about the codes or that the codes were being applied differently from locality to locality causing confusion among agritourism operators. Over 65% of the respondents did not know if the current building code requirements addressed the safety concerns for their agritourism facilities. One respondent wanted agritourism operations to operate in a manner that is “conducive to the public using it without fear of injury or damage to them or their property.” Of those who were interviewed during this review, 100% of the interviewees expressed concern for the public welfare related to fire, building egress, and structural integrity.

Both the data sets compiled from the questionnaire and interview responses indicated ingress, egress, structural integrity of the building, and mitigation of fire hazards as safety concerns for agritourism facilities. In order to begin the process of creating conditional change, the workgroup discussed the importance of broadening the industry’s awareness of the issue and expanding agritourism operators’ knowledge and understanding of the best practices.

The workgroup reached consensus on using educational materials to increase the awareness and engagement of agritourism stakeholders in continuing to offer the highest level of safety for agritourism visitors and workers and to build trust and collaborative relationships between agritourism operators and officials. Members of the workgroup agreed to design educational materials on a) fire safety practices, b) safe building attributes, and c) general building code resources and the building code appeals process.

## Conclusion

A dedicated group of individuals gathered between May and October 2018 to review, discuss, analyze, and build a responsive proposal to the four questions posed by the Virginia House and Senate General Laws Committees:

1. Is there a legitimate need to undertake the development of this type of specialized building code?
2. What would be the economic impacts on agritourism and rural businesses?
3. What groups could be impacted by such a change?
4. If necessary, what items should be considered in such a building code?

The group examined agritourism issues impacting public safety and welfare and the impact of building codes applied to agritourism facilities, discussed possible definitions for farm structures used for gathering people, explored potential building attributes for agritourism facilities, and considered a process for revisions to the Virginia Uniform Statewide Building Code that would require agritourism facilities to incorporate specific building features.

Throughout the discussion, the four review questions were always under consideration. Pulling from data collected and discussion comments, the questions were addressed.

- *Is there a legitimate need to undertake the development of this type of specialized building code?* Virginia agritourism operations are diverse and complex. At this time, it appears to be premature to legislate the application of existing building codes or to develop legislation for any specialized building codes.

- *What would be the economic impacts on agritourism and rural businesses?* Requirements for commercial building code compliance for farm buildings hosting agritourism activities may be prohibitive for the majority of Virginia farms and result in the end of agritourism functions and/or the closure of small farms. Ultimately, the termination of one farm revenue source may negatively impact the entire farming operation especially during years of production instability.
- *What groups could be impacted by such a change?* The major group impacted by any change in building code application would be the Virginia farmer who is using agritourism events and activities to generate alternative farm revenue.
- *If necessary, what items should be considered in such a building code?* No new items should be considered as part of the Virginia USBC. However, the group requested that discussions between agritourism stakeholders continue to be held.

Because of the conversations generated during this review, critical outcomes were realized. Agritourism stakeholders engaged in discussions on significant agritourism issues in an environment where decision-makers listened to the concerns and potential impacts proposed changes would have on Virginia agritourism. Rapport and partnerships were established between agritourism owners and local officials with the hope that conversations would continue. An educational process promoting farm safety practices was defined that will increase knowledge of agritourism entrepreneurs and improve the practices on Virginia farms thereby continuing to protect farm guests from possible hazards.

The highly engaged group was invested in uncovering any opportunity for strengthening the agritourism industry and continuing to provide safe conditions for guests who are seeking a memorable experience on a farm. The stakeholder group asked that discussions continue to be held with an inclusive group of representative stakeholders who would be charged with:

- Developing a definition for an agritourism gathering space that is separate from the current Code of Virginia farm structure or building definition. It would be only this defined farm space, venue, and/or assembly area and not the entire farm that would be considered for compliance with any agreed upon public safety standards.
- Clarifying the specific safety attributes; how the safety attributes would apply to a) existing agritourism business/buildings, b) new agritourism business/construction, and/or c) new use or a change in use for buildings not previously under the building code; and the process for incorporating any recommended attributes within the Virginia USBC.
- Supporting the work of Virginia agritourism stakeholders as the group designs educational materials on a) fire safety practices, b) safe building attributes, and c) general building code resources and the building code appeals process.

**Current Situation**

**Q1 - Describe the types of farm buildings that are currently being used for your operation and/or in your community for agritourism events and activities? (Building types might include barns, tasting rooms, historical structures, and other facilities.)**

Among the 48 responses to this question about building type and use, there was indication that building types could generally be classified as existing, new, or temporary. More specifically, these fell into existing buildings traditionally used for agriculture and converted for public use (some historic), existing living structures converted for public use (often historic), new “farm” style structures for agritourism, or a combination of existing and new structures. Additionally, some buildings are used solely for agritourism activity, where others are used only occasionally as such. There are also instances of temporary structures, such as tents, used for events.

Types of buildings used for agritourism include, but are not limited to:

- sheds
- barns
- patio
- gazebo/pavilion/picnic shelter
- tents
- tasting rooms
- production facilities
- cabins
- yurt

Uses include, but are not limited to:

- retail
- events/receptions
- restroom
- office
- cafe
- greenhouse
- guest space
- bridal party space

Theme	Category	Comments
Traditional working structures converted for public	Sheds, barns, patio, gazebo/pavilion, restroom, retail	Lean-to, 3-sided open shed, drying barn, pole barn, garage converted to a shop, pavilion, outdoor bathroom facilities, covered patio, gazebo, horse stalls converted to a retail shop.
Traditional working structures converted for public  Operating farm nearby	Historic barn renovated for events  Agritourism diversification necessary b/c economy	We own and operate an event center in an 105 year old bank barn that we renovated. We went through all the proper procedures required by Rockingham County and do have our Occupancy Permit. Our family operates a dairy farm adjacent to the event center. We renovated the barn to diversify because of the economic downfalls of the dairy industry.
Operating farm buildings	Barns, storage, riding/horse	barns, horse run-ins, storage buildings, riding arenas
New “farm” style structures for agritourism	New commercially built barn for venue  Farm establishment secondary to venue	I work for a locality and we just approved a barn wedding event, but the barn was built as a commercial building for assembly based on the application as a commercial venue. The farm is just being established.
Combo- renovated farm buildings and new structures	Barns, tasting room, permanent tent	Barns, Tasting rooms Permanent Tents.
Traditional rural living structures converted for public	Historic cabin with detached kitchen (now tasting room)	Our Farm winery buildings consist of late 1700's log structure (Cabin) and associated detached kitchen as the tasting room.

Traditional rural living structures converted for public	Pole barns, log cabins, 2 deck pavilion and cottage	Three pole barns - Two Log Cabins with a common fireplace dating back to the 1700's. A double deck pavilion with cottage house attached
Traditional working structures converted for public  Combo- renovated farm buildings and new structures	Apply packing now tasting/retail, barns as picnic shelters.  County wide, combo of converted farm buildings and new "farm" builds for agritourism	Wine tasting --- our tasting and farm sales room is in our original apple packing house, built in 1941. We have many barns, pole sheds for picnic shelters etc. that are also available to use in our agri-tourism operation. Other than us, In Bedford County 2 of the 6 wineries that have tasting rooms, are in the old dwellings on their farms. The other three were built to be used as tasting rooms.
Traditional working structures converted for public	Barn, home into retail/café, potting sheds/greenhouse	Barn (Backdrop for wedding ceremonies), Farm Market Building (old home transformed into garden center and cafe), Potting sheds and greenhouse
New "farm" style structures for agritourism	Tents, custom built farm stand	Tents, custom built farm stand
New "farm" style structures for agritourism	Winery building, tasting room, retail, guest space, office space, restroom, kitchen, pavilion  Working barn for vineyard	Winery Building which includes areas for processing wine, tank storage, barrel storage, bottled wine storage, equipment storage, Tasting Room, Gift shop, Open rooms for winery guests, Offices, bathrooms for employees & guests, and a kitchen being leased out. We also have a Barn for equipment & vineyard storage. A Pavilion for guests
Traditional rural living structures converted for public  Traditional working structures converted for public	Plantation house for weddings and guest prep  Barn for receptions	We have a historic plantation that we where using to host events like weddings. We would allow a few of the guest to get ready inside the house. We would use a old barn for receptions.
New "farm" style structures for agritourism	2016 winery build, banquet hall, wine storage, tasting room	We have a building completed in 2016 that is used for winery events, dinners, weddings, fundraisers, etc. on the main level. The banquet hall is capable of seating 288 persons. The lower level (2 sides below grade and two sides ground level) is used for wine storage and is being finished for the tasting room. The focus of this building in all cases is to help us sell our wine produced on our farm.
Community development	Series of historic areas and related projects in community area centered on agritourism	Rushmere Community Development Corporation dba Mathomank Village Tribe Agri-Tourism Events and Activities are located on the Surry Side of the James River and encompasses the Historical Areas of Rushmere and Surry County. The Hughes Heritage and Waterman Conservation Project Initiative is the source of our Agritourism endeavors, which also includes the aquaculture Heritage of the Powhatan Native American Heritage, and the Virginia Oyster legacy that has been documented since the 1571 by Robert Poole, 1607 by Captain John Smith, and 1620 by Thomas Hughes. Daycare training Center and Corporate Headquarters in Rushmere, VA, the residential home and yard space, Tyler's beach harbor of refuge,, oyster grounds, and surrounding Historical Hughes family parcel needed for the Rivers, Trails, and Conservation Act biking and walking trails that will connect Ferguson's Wharf, Burwell's Bay, Bailey's/Tyler's Beach, Ft. Huger, and the future Henry Bradby Park in support of our Agri-tourism project. Also, in the Town of Claremont, the Circle area at Mancha and Bailey Avenues, the Bluff at Claremont Beach, Claremont Beach public landing that crosses from Claremont to Chickahominy. Also the 3.6 sq. miles in Claremont which includes the Claremont African American School, John Elliott Funeral Home, and other historical structures in Historic Southwark Parish (i.e. Cabin Point, Swann's Point, Cobham Wharf (Olde

		Town at 3-Sisters Community), Pleasant Point, and Mt. Ivy. Historical Structures in the Guildford District are also included. In the Town of Dendron, the Historic Mussell Fork Farm and other historical structures in the Town of Dendron, Bacon's Castle, and Carsley District are also included.
New "farm" style structures for agritourism  Traditional rural living structures converted for public	New tasting room and production room  Historic home, old kitchen and outbuilding	New Tasting Room and Production Room. Historic Home, Old Kitchen outbuilding.
New "farm" style structures for agritourism  Traditional rural living structures converted for public  Regulatory/Code considerations	Winery/tasting room  Historic building re-constructed on site  Change to design to meet conflicting regulations	We currently use our 40 X 60 winery metal building as our tasting room. It was constructed in 2013 without significant interference from local building inspection. We are now in the process of constructing a timber frame building purchased from New York that was originally constructed in the 1700s, which will be used as an event center and tasting room. The reconfiguration that has been recommended by local building inspectors has completely changed our original design. The major difficulty has been cooperation with the health department regulations. Those people need to get their act together
Traditional rural living structures converted for public  New "farm" style structures for agritourism	2015 new build  historic brick home	We use a 1819 solid brick historic home and a concrete/timber-frame cellar/ building built in 2015.
New "farm" style structures for agritourism	Tasting room	Tasting room.
Traditional working structures converted for public	Farm store/equipment storage	farm store/equipment storage
Combo- renovated farm buildings and new structures	Converted barns, houses, engineered spaces, complex multi-level w/o engineering or architectural involvement	I own a winery. In our community the structures include: converted barns and houses, engineered structures, and complex multi-level buildings without engineering or architectural involvement.
New "farm" style structures for agritourism	Storage warehouse, barn, winery production, tasting room	warehouse for wine storage, barn, production building and tasting room, - 3 buildings
Traditional working structures converted for public	Historic home renovated (not public)  Barn became winery and tasting room  Neighbors supportive	An old log home and barn were on the property we purchased. Had most recently been a cattle farm but has lots of history. We slowly restored the land, renovated the log home and turned the barn into our wine making area and recently a tasting room with a small deck. Our farm neighbors welcomed us and were very helpful. They were happy we were keeping the land agricultural.

Buildings planned	Plan for commercial events, but no buildings currently	No buildings currently but hope to expand and build a building for family/commercial for events. We are looking at Sand Creek Post and Beam.
New "farm" style structures for agritourism	Building now, new build and pole barns	Currently building an on-farm brewery. Stud wall on foundation. Also have 3 pole barn on site.
New "farm" style structures for agritourism	Retail, tasting room, office, storage. Barn-like ag building with now local building inspection	We have a 3 year old building that was specifically built to have a tasting room, gift shop, and function space, as well as some administrative offices and a large temperature controlled storage room. It has a barn-like design built without local building inspection because it was deemed an agricultural building providing value-added products (i.e. wine from grapes)
Combo- renovated farm buildings and new structures	Barns, farm store	Barns, farm store
Combo- renovated farm buildings and new structures	Winery building, tasting room 2-story barn vineyard/farm use	We have a 40 x 60 building with basement for our winery. The downstairs includes the wine production, wine storage, barrel room, wine laboratory, case storage and utility rooms. The upstairs includes the tasting room and pantry areas. The building was constructed in 2004. We also have a 30 x 25 Morton Building for storage. There is also a 2 story barn used for the vineyard operations. This barn is used to store farm implements, harvest lugs, mowers, etc.
Combo- renovated farm buildings and new structures	Barns, tasting room, farm structures	Barns, tasting rooms, misc. farm structures
	none	none
Combo- renovated farm buildings and new structures	Historic corncrib, studio, greenhouse	Historical corncrib, studio, greenhouse
New "farm" style structures for agritourism	Tasting room, tent	Tasting Room and tent
New "farm" style structures for agritourism	Barn, solar home, yurt, airstream (?)	Morton Barn- Solar Home- Yurt- 1986 Airstream.
Community development	Plant related operation only (non-public) Community has agritourism and markets	for my operation: a 15 ft x 30 ft shed for seeding propagation and potting. in our community, there are several agritourism farms; the farmers market is located on local fairgrounds under a large open structure
Combo- renovated farm buildings and new structures	Barn events, tasting room, pick-your-own	Barns for weddings, tastings rooms, pick-your-own facilities
Combo- renovated farm buildings and new structures	Tasting room, barn, pool house	tasting room, barn, poolhouse,
Combo- renovated farm buildings and new structures	New and renovated barns and buildings	Barn built in 1870, renovated in 2008 outbuildings, built in 1910 and 1943, renovated in 2008. production building, built new in 2004, expanded in 2010 bonded warehouse, built in 2007
New "farm" style structures for agritourism	New build with commercial builder with no permits/inspections, no occupancy permit	New post and beam facility Designed by an architect and constructed by a commercial builder with no building permits or inspections required by Fauquier county. This saved us cost but everything was photographed and filed if down the road questions are asked. No occupancy permit was issued either.
Traditional rural living structures converted for public	Tent, inside house	Tent and inside the house.

Traditional working structures converted for public	Barns, historical structures	barns and historical structures
New "farm" style structures for agritourism	New space with many regulations and building requirements	We built an " event" center and had to jump through all sorts of hoops because we could not use any agricultural specs. They made us get an architect and follow every reg for a commercial building in town. We are so rural we do not even get mail delivery here. Our Building is used for weddings, classes, teas and anything else you can imagine. The building is board and batten, drywalled with two stories, an HVAC system, a commercial kitchen and bathrooms, carpeted upstairs for a brides changing area and offices. It is 2,700' square foot building.
Traditional working structures converted for public	Renovated barn (dairy), store, greenhouse	Barn that houses our 1942 carousel and country store Greenhouse structure
New "farm" style structures for agritourism	Pole barn on slab	pole barn on slab
Combo- renovated farm buildings and new structures  Regulatory/Code considerations	Crops, animal tourism, brewery, aquaculture/aquaponics fabrication  Different information coming from locality related to permits, allowances for use, and events/activities	Evening Where do we start, we live within Prince William County in Northern VA region on 10 acres of A1 zoned property. We are green in the crop production and/or the Agritourism industry. We have faced one hurdle after another with regards to local county's lack of knowledge about the State Agritourism program. We have several building and was told that we could only be exempt from building permits if the accessory building where only used for agricultural use. We were given a bogus explanation that all of the accessory buildings where to adhere to a 75%-25% rule. When asked where the code was listed in the county's municipal codes and regulations. They respond by saying it's an unwritten rule. So we were told that we were allowed to have 6 functions per year. We had prepared for a Animal Winter Wonderland last December. And was told by a county employee we could not do so as we needed a Temporary Activity Permit (TAP). Well the event was canceled based upon the lack of knowledge by the county employee. With a loss of money spent to market the event and items for the lighted displays. We summoned to meet with the Neighborhood Compliance specialist and Building Code Manager, and the Zoning Administrator. We walked into a conference room full of the entire county board of directors and a representative from every division of the county. At this meeting we were informed by the Zoning Administrator that we actually could have held the event without a TAP. We have several buildings to include a barn, a grow/germination building, a building for fabricating various hydro, Aqua, Areoponic systems. Several buildings to house each type Controlled Environment Agricultural (CEA) systems. We finally got a person in our county's Planning and Land Development position who understands the State of Virginia's Agritourism program. Prior to this we were being told we could only have 6 events and it had to be related to a particular product and/or involvement of our animals to host an activity or event. Again a lack knowledge about Agritourism but quick to interpret the program as they see fit. Instead of what the program has been initiated to accomplish with giving farmers the option to supplement traditional farming. Our county (PWC) zoning Administrator approved 5 of our farm exempt accessory buildings. Which they created 6 different drawings/property plays. They than asked if we could obtain a new plat with all buildings, fences, chicken Coop, horse run, wood fence, several other buildings and 2 sheds. So we incurred the cost to have an engineering firm create a new plat. And the plat still didn't show sheds and/or chicken coops. We were told that we could not have any events until we become a licensed farm brewery. So we spent an enormous amount of money to obtain a Nano Brewing System. Our zoning officials have advised us not to promote and/or host any events until we have received a Farm Brewery License. The money that was spent to become a Farm Brewery was all for not. Based upon the PWC

		Land and Development Director, spelled out the exemption of a farm that is a participant in the Agritourism program. We have registered as a participant of the program with an FSA issued farm number. We feel that we were being discriminated against. As there are 2 additional farms in the county who offer various activities/events on their farms. The rules in PWC states over A1 zoned 3 or more have a by-right use to become a farm brewery or winery. When all actuality we did not have to be some a brewery or winery to host the type of events we wanted perform. So the one building that we wanted to hold events has not been approved for use for Agritourism activities. Which according to (PWC) Land and Development division we are free to put on events. P
New "farm" style structures for agritourism	Tasting room, winery, gazebo, storage for events	Tasting room, and winery buildings when toured. Also, we have a gazebo and covered stage used for events.
Traditional working structures converted for public	Grist mill now tasting room	Our tasting room is in a 125 year old grist mill. Try that for building codes!!!
Combo- renovated farm buildings and new structures	Tasting room, production barn, farm buildings	We have a Tasting Room, a Wine production barn, and two additional farm buildings
	barns	Barns
Traditional working structures converted for public	Barns now tasting rooms and production areas	Barns are being used as tasting rooms for wineries and breweries. Farm buildings are also being use for production facilities for wineries.

**Q2 - What are the Uniform Commercial Building codes currently being applied to these agritourism structures?**

Of the 44 responses to the question regarding the application of building codes to agritourism structures, 56.8% indicated that either none of the Uniform Commercial Building Codes were applied (31.8%, n=14) to agritourism structures or that they were unsure (25%, n=11) whether or not codes were being applied.

However, 38.6% (n=17) replied that codes were used with only one respondent using the term "Uniform Building Code". Others simply described the codes in more general terms with some respondents mentioning more than one type of code/regulation. Of the 17 respondents that reported "CODES USED," the following is the breakdown of the types of codes mentioned:

- Uniform Building Code (1)
- Renovations (1)
- Commercial (7)
- Residential (2)
- Special Use Permit (2)
- ADA Approved/Accessible (3)
- Inspected by Building Dept (2)
- Inspected by Health Dept (3)
- Fire Safety (4)
- Electrical Codes (1)
- Assembly Code (1)
- Wind & Snow Provisions (1)

Two (4.54%) of the respondents stated that they were *exempt* as an agriculture operation.

Two respondents directly mentioned that agritourism operations need support from the General Assembly asking for consistent state rules and regulations concerning agritourism and building codes.

Theme	Category	Comments
Unsure	Unsure	I'm not entirely sure.
Codes Used	Renovations Event Centers Need Consistent State Rules & Regs.	It seems that we were required to follow strict guidelines in the process of renovations which added a lot of additional cost to our project. We were told that we were the first "old barn" to become an Event center and we would be the "role model" for everyone to follow. It was costly but do realize that most of it was for the public's safety. However, other Event centers that have opened since ours have not been required to follow the "strict guidelines" that were required of us. In adjoining counties there are very few rules and regulations for event centers which gives them an economic advantage. I wish the rules and regulations were consistent throughout the state. By not making everyone follow the same guidelines and rules it creates an uneven business advantage. Due to Rockingham County requirements, it added an additional \$100,000.00 to our cost of renovations.
Unsure	Unsure	I don't know, we must have a building permit with sign off from the health department that septic system/sewer connection is not affected. Also call miss utility to have lines marked. The buildings must meet building codes that meet hurricane/storm codes with hurricane ties in the roof.
Codes Used	Commercial Place of Assembly	Commercial place of assembly
Exempted	Exempted	From a Health Perspective, they are exempted since they are considered Agriculture structures.
Codes Used	Residential VDACS (not sure if this applied to food production?)	Residential building code and VDACS codes
Codes Used	Commercial Building Codes	The log cabins that are rented out had to have the commercial building codes applied
None	None	None that i know of. They were built as farm buildings.
Codes Used	Special Use Permit (market & cafe) ADA Approved Inspected by Building and Health Dept.	We obtained a special use permit to operate the farm market and cafe; we were limited to maximum of 4,000 sq. ft of retail sales space; everything had to be ada approved and inspected by building department and health department
None	None	None In Virginia Beach, agriculture buildings are exempt from permits etc., so no codes were used in construction
Codes Used	Health Dept	The kitchen was installed under local codes & Health department. All these buildings were built to applicable codes and engineered for safety
None	None Zoning Issues	There are no UCB codes being applied to but we ran into zoning problems. I work as a firefighter for a county and the fire marshals for that county claim that if the building is used primarily for agricultural use the UCB dose not apply.
Codes Used	Commercial Code Fire Safety	The building was built as a farm building in our vineyard for the purpose of selling the products grown on our farm. The building was designed by a local architectural firm, built by a reputable building company and meets commercial code in all respects except we cannot get enough water for fire regulations. As a part of the design the building has 13 sets of double doors to the outside and could be cleared in minutes. In 2014 when presented with the uses of the building the county agreed that it would meet the classification as a farm building.
Codes Used	Site Layout	Site layout, Residential (RBC) and Commercial (CBC) codes regulated by DPOR and the Regulatory Statutes set by the Indian Treaty of 1646, the Articles of Peace 1677-

	Residential (RBC) Commercial (CBC) Native American Reservation	1680, Act of Cohabitation of 1680 ratified by the Pamunkey Queen Chief Cockacoeske on behalf of the Powhatan Tribes and her relatives within the Indian Treaty Boundary Lines, the Virginia General Assembly, and the Tyler's Beach Free Harbor of Refuge DEED/Agreement of 1965 between the United States of America and the Thomas Hughes family descendants.
Unsure	Unsure	I do not know.
Codes Used	Commercial Building Codes Need State Support	We assume the Uniform Commercial Building codes are the International Building codes but we have been told by our building inspector that actually small farm wineries are not required to follow any particular codes. We are trying to cooperate with the International codes in case we decide to use the structure for a different purpose in the future since we expect the continued support of agritourism by our Commonwealth to disappear in the future.
Codes Used	Smoke Detectors Emergency Lighting Lighted Exits Signs	The 1819 home has smoke detectors and seats 32 guests. the 2015 cellar/tasting seats up to 50 guests. Smoke, emergency lighting and lighted exits signs above exits. Both bathrooms have a handicapped stalls but probably do not comply w/ handicapped regs.
Unsure	Unsure	Not aware.
None	None	none
None	None	None.
None	None	none, but we build to code with professionals
None	None Zoned AG Building	We were zoned agricultural building.
Unsure	Unsure	Not sure. Don't know.
Codes Used	Yes, but no list	yes
Codes Used	Commercial Building Codes None Verified or inspected	We used all up-to-date commercial building codes possible, though none were verified by the local building inspector (see note above). The application was in a farm setting, and excluded those requirements normally followed by a purely commercial retail store enterprise that were considered absurd in our application.
Unsure	Unsure	No idea
Codes Used	AG Codes	As far as I know, all are built under agriculture/farm codes.
Exempt	Exempt	Farm structures are exempt from the Uniform Statewide Building Code unless they have a restaurant as defined by section 35.1-1 of the Code of Virginia or are in a floodplain. In those cases only the building or portion of the building defined as a restaurant is regulated by the code or in the case of a floodplain, the floodproofing regulations would apply.
None	None	n/a
Codes Used	Uniform Building Code (UBC)	Studio built under current UBC regulations. Crib dates to 1940s, greenhouse current but not under code
Unsure	Unsure	Not sure

Codes Used	Building Codes Health Codes Fire & Safety Code Special Use Permit Building Permits w Inspections	Morton Barn- built 1980, Residences:(all conform to building codes, Health Department Codes, Fire and Safety Code- operating under a Special Use Permit) Solar Home- built 1984; Yurt- built 2010; 1986 Airstream. All had building permits and completion inspections.
Unsure	Unsure	Don't know
None	None	None are allowed per state code
Codes Used	Electrical Codes ADA Requirements (ramps & bathrooms)	During renovation, the tasting barn complies with electrical codes, and disability act requirements for ramps and bathroom access. The other historical structures complies with electrical and fire codes. The production and bonded warehouse comply with Loudoun County building codes.
None	None	No of none.
None	None	None
None	None	Currently none. However, we just rebuilt a log barn and plan to install electrical power IAW building codes.
Unsure	Unsure	No clue, I do not remember.
Codes Used	Fire & Safety Codes ADA Accessibility Commercial Building Codes Assembly Code Non-permitted retail building Wind & Snow Load Provisions (Building Code)	The barn was required to meet fire and safety codes, handicap accessibility, had to meet commercial building codes for an assembly code. Greenhouse is a non permanent retail building. We were required to get a building permit, and meet wind and snow load provisions of the building code. No issues on handicap accessibility and fire codes (dry hydrant, etc.) were already in place from the requirements of the barn
Unsure	Unsure	we needed to get certificate of occupancy for the building we needed to get handicap parking and 3 handicap restrooms to operate our pizza oven for the public also needed to get pizza oven structure and other home-made furnishings engineer-approved needed to get fire exit signs for our patio, etc.
Unsure Farm Brewery Licenses	Farm Brewery Licenses Unsure	Basically we have been approved to utilize all but 1 building. The main barn accessory building which we wanted to host, social, weddings, conferences, and educational seminars. So we are continuing to pursue the Farm Brewery licensees process. But again based upon the State/local requirements we should be able to supplement our farming income via the Agritourism program. We really need some type state mandates to ensure that we as farm owners are able to earn a living via Agritourism and/or farm produced crops.
None	None	None that I know of.

None	None	none
Codes Used	Uniform Building Code (UBC)	Uniform Building code is applied to 1 building structure (Tasting Room)
Exempt	Exempt	Farm buildings such as barns are exempt from building codes and associated permits.
Unsure	Unsure	I am not aware of what Uniform Commercial Building codes are applied to these structures.

**Q3 - Have the code requirements affected the ability to operate an agritourism enterprise?**

#	Answer	%	Count
4	Yes	31.91%	15
5	Maybe	21.28%	10
6	No	46.81%	22
	Total	100%	47

**Q4 - Please explain how the code requirements have affected the ability to operate an agritourism enterprise.**

When asked what effect code requirements have had on the ability to operate an agritourism enterprises, 36 respondents offered reactions that were grouped into 3 key themes:

- 1) Profit. 38.8% (n=14) voiced distress over if requirements would now be more restrictive and cost them more time and money. If the cost/time was too high, this may not be the best avenue for them to pursue.
- 2) Code knowledge. 30.5% (n=11) expressed concern over not knowing enough about the codes or the varying codes from locality to locality that causes/caused confusion. Another area of concern was over public safety; would these codes help with ADA requirements, health and safety, lighting, electric, space, etc. If the new codes were set in place, would they address these issues or would they create more confusion?
- 3) Not applicable (N/A). 30.5% (n=11) said the new requirements would not affect them and their operation

Theme	Category	Comments
Code Knowledge	ADA compliant Drainage system Industrial overhead lighting	I'm being asked to pay extra to put in a fancy parking lot with a drainage system and industrial overhead lighting. I'm also required to add a bathroom that's ADA compliant.
Profit	Increased cost	Due to additional building requirements, renovation cost increased the loan amount, therefore leaving less room for profit.
N/A		n/a
Profit	Increased cost for Commercial Use	The cost for commercial development (E&S) were too great - modified the application as a farm and just the building designed for commercial use - not the whole site.
Code Knowledge	Health and Safety	Without proper code, Health and safety requirements are not always followed.

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Local Appeals Board  
Packet submitted by  
City of Chesapeake

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**LOCAL BOARD OF BUILDING APPEALS**

**PUBLIC HEARING AGENDA**

**May 21, 2025 – 5:30 P.M.**

**LOCATION: Chesapeake Central Library – Downstairs Meeting Room  
298 Cedar Road - Chesapeake, Virginia**

**I. Call to Order:** Chairman Hughes

**II. Roll Call of Members:** Secretary

**III. Administration of Oath:** Chair

Speakers affirm that all testimony and evidence presented shall be truthful and accurate.

**VII. New Public Hearing Item:**

Poole Brooke Plumlee PC. Appealing Notices to Correct

**A. 2349 Baum Road - Assembly Building - BLD-APPEAL-2025-00001**

**B. 2100 Ansell Road - Cabin - BLD-APPEAL-2025-00002**

**C. 2100 Ansell Road - Walkway & Dock - BLD-APPEAL-2025-00003**

Poole Brooke Plumlee PC. Appealing Notices of Violations

**A. 2349 Baum Road - Assembly Building - BLD-APPEAL-2025-00004**

**B. 2100 Ansell Road - Cabin - BLD-APPEAL-2025-00005**

**C. 2100 Ansell Road - Walkway & Dock - BLD-APPEAL-2025-00006**

**VIII. Adjournment:**

306 Cedar Road, 2<sup>nd</sup> Floor  
P.O. Box 15225  
Chesapeake, VA 23322

Telephone: (757) 382-6018  
Fax: (757) 382-8448  
Email: [develop-permits@cityofchesapeake.net](mailto:develop-permits@cityofchesapeake.net)

**SECTION I**

**BUILDING INFORMATION**

Address: 2349 Baum Road, Chesapeake, VA 23322

Permit # or Decision in Dispute: Notice to Correct dated February 18, 2025.

**APPEAL SUMMARY**

**Brief Summary of Dispute:**

Please see the attached "Grounds for Appeal."

**APPELLANT**

Name: Jessica Dieffenbach, Trustee

Phone: ( ) 757-499-1841

Company Name: Poole Brooke Plumlee PC

Fax: ( ) \_\_\_\_\_

Address: 4705 Columbus St, Ste. 100  
Virginia Beach, VA 23462

Email: bplumlee@pbp-attorneys.com

Documentation Attached:  Written Documentation  Details and/or Plans

Signature: *Jessica Dieffenbach*

Date: \_\_\_\_\_

**SECTION II**

BUILDING CODES OFFICIAL Bid-Appeal -2025-00001

Signature: *[Signature]*

Date: 3/18/25

Board Hearing Date and Time: 5/21/25

Location: Central Library

Please submit this form and remit \$200.00 application fee.

Mail to: Department of Development and Permits  
P.O. Box 15225  
Chesapeake, VA 23328

Or visit the Department of Development and Permits at: 306 Cedar Road  
City Hall, 2<sup>nd</sup> Floor  
Chesapeake, VA 23322

Revised 7/11/22

Local Board of Building Code Appeal  
Notice to Correct  
2349 Baum Road

### **Grounds for Appeal**

Farm buildings and structures are exempt from requirements under the Virginia Uniform Statewide Building Code (VUSBC) pursuant to Va. Code § 36-99(B). “Notwithstanding the provisions of this section, farm buildings and structures shall be exempt from the provisions of the Building Code[.]” Va. Code § 36-99(B). Section 36-97 defines a “farm building or structure” as:

"Farm building or structure" means a building or structure not used for residential purposes, located on property where farming operations take place, and used primarily for any of the following uses or combination thereof:

1. Storage, handling, production, display, sampling, or sale of agricultural, horticultural, floricultural, or silvicultural products produced in the farm;
2. Sheltering, raising, handling, processing, or sale of agricultural animals or agricultural animal products;
3. Business or office uses relating to the farm operations;
4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery, or equipment on the farm;
5. Storage or use of supplies and materials used on the farm; or
6. Implementation of best management practices associated with farm operations.

The Notice to Correct dated February 18, 2025, fails to identify which of the farm buildings or structures at 2349 Baum Rd. is allegedly in violation. Regardless, all of the buildings or structures on the property are primarily used for agricultural purposes and meet the definition of a “farm building or structure” under Va. Code § 36-97. Thus, the provisions of the VUSBC do not apply, and as such, neither building or trade permits nor a certificate of occupancy are required, and the Code Enforcement Administrator’s decision was in error.



Development and Permits Department  
RECEIPT OF PAYMENT

Date: 03/18/2025

Receipt # 663952

Paid By: \_\_\_\_\_

Paid

J BRYAN PLUMLEE  
POOLE BROOKE PLUMLEE PC  
4705 COLUMBUS STREET  
SUITE 100  
VIRGINIA BEACH, VA 23462

Record Description	Address	Lot #	Fee Description	Amount
BLD-APPEAL-2025-00001	2349 BAUM RD		Building Appeal Application Fee	\$200.00
BLD-APPEAL-2025-00002	2100 ANSELL RD		Building Appeal Application Fee	\$200.00
BLD-APPEAL-2025-00003	2100 ANSELL RD		Building Appeal Application Fee	\$200.00
			<b>Total</b>	<b>\$600.00</b>

Payment Type:	Identifying #	# of Transactions	Amount
Check	213042	1	\$600.00
		<b>Total</b>	<b>\$600.00</b>

**BALANCE DUE**

**\$0.00**

Collected By: MRIGG



LOCAL BOARD OF BUILDING CODE APPEAL  
APPLICATION FORM

306 Cedar Road, 2<sup>nd</sup> Floor  
P.O. Box 15225  
Chesapeake, VA 23322

Telephone: (757) 382-6018  
Fax: (757) 382-8448  
Email: [develop-permits@cityofchesapeake.net](mailto:develop-permits@cityofchesapeake.net)

SECTION I

BUILDING INFORMATION

Address: 2349 Baum Road, Chesapeake, VA 23322

Permit # or Decision in Dispute: Notice of Violation dated March 5, 2025.

APPEAL SUMMARY

Brief Summary of Dispute:

Please see the attached "Grounds for Appeal."

APPELLANT

Name: Jessica Dieffenbach, Trustee

Phone: ( ) 757-499-1841

Company Name: Poole Brooke Plumlee PC

Fax: ( ) \_\_\_\_\_

Address: 4705 Columbus St, Ste. 100  
Virginia Beach, VA 23462

Email: bplumlee@pbp-attorneys.com

Documentation Attached:  Written Documentation  Details and/or Plans

Signature: *Jessica Dieffenbach*

Date: 4-1-2025

SECTION II

BUILDING CODES OFFICIAL

Signature: *[Signature]*

Date: 4/7/25

Board Hearing Date and Time: 5/21/25

Location: Central Library

Please submit this form and remit \$200.00 application fee.

Mail to: Department of Development and Permits  
P.O. Box 15225  
Chesapeake, VA 23328

Or visit the Department of Development and Permits at: 306 Cedar Road  
City Hall, 2<sup>nd</sup> Floor  
Chesapeake, VA 23322

Revised 7/11/22

Local Board of Building Code Appeal  
Notice of Violation dated March 5, 2025  
2349 Baum Road

### **Grounds for Appeal**

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1. Storage, handling, production, display, sampling, or sale of agricultural, horticultural, floricultural, or silvicultural products produced in the farm;
2. Sheltering, raising, handling, processing, or sale of agricultural animals or agricultural animal products;
3. Business or office uses relating to the farm operations;
4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery, or equipment on the farm;
5. Storage or use of supplies and materials used on the farm; or
6. Implementation of best management practices associated with farm operations.

The Notice of Violation dated March 5, 2025, fails to identify which of the farm buildings or structures at 2349 Baum Rd. is allegedly in violation. Regardless, all of the buildings or structures on the property are primarily used for agricultural purposes and meet the definition of a “farm building or structure” under Va. Code § 36-97. Thus, the provisions of the VUSBC do not apply, and as such, neither building or trade permits nor a certificate of occupancy are required, and the Code Enforcement Administrator’s decision was in error.



Development and Permits Department  
RECEIPT OF PAYMENT

Date: 04/08/2025

Receipt # 665124

Paid By:

POOLE BROOKE PLUMLEE PC

Paid

Record Description	Address	Lot #	Fee Description	Amount
BLD-APPEAL-2025-00004	2349 BAUM RD		Building Appeal Application Fee	\$200.00
BLD-APPEAL-2025-00005	2100 ANSELL RD		Building Appeal Application Fee	\$200.00
BLD-APPEAL-2025-00006	2100 ANSELL RD		Building Appeal Application Fee	\$200.00
			<b>Total</b>	<b>\$600.00</b>

Payment Type:	Identifying #	# of Transactions	Amount
Check	213075	1	\$600.00
		<b>Total</b>	<b>\$600.00</b>

BALANCE DUE

\$0.00

Collected By: SRRODRIGUEZ

April 4, 2025

To: Chesapeake Local Board of Building Code Appeals

Re: Building/Code Official Synopsis of Facts

BLD-VIOL-2025-00001, 2349 Baum Rd. Assembly Building

BLD-APPEAL-2025-00001 (NTC) & BLD-APPEAL-2025-00004 (NOV)

On February 18, 2025, a Notice to Correct (NTC) was mailed to Jessica Dieffenbach, Trustee, the owner of 2349 Baum Road since September 20, 2022, according to Chesapeake Real Estate Department records. The property was previously owned by Michael & Jessica Dieffenbach from May 26, 2017, until the transfer of the property to Jessica Dieffenbach. The NTC was followed by a Notice of Violation (NOV) mailed on March 5, 2025. The NTC & NOV were issued in response to complaints about the construction and operation of a building for assembly use on the referenced property.

On March 18, 2025, an appeal of the NTC was filed by legal counsel for the property owner. This was followed by an appeal of the NOV on April 1, 2025, by the same legal counsel. Within both appeals, the appellant states all the buildings or structures on the property are primarily used for agricultural purposes and are exempt from the VUSBC. The grounds for appeal letters also state the NTC and NOV fail to identify which building or structure is allegedly in violation.

A Farm Use Affidavit Exemption was approved and issued to Michael Dieffenbach at 2349 Baum Rd. on December 20, 2019, for a farm structure and operation described by Mr. Dieffenbach as "farm equipment and chickens". The affidavit identified the structure to be constructed would be used for the exempted applicable uses of a farm building or structure. Specifically, Mr. Dieffenbach identified the building would be used for 3 of the 6 applicable uses. Then, as required, a zoning permit, ZON-SHED-2019-00375, was issued to Mr. Dieffenbach for a 60' x 50' barn for farm use and a final inspection completed on May 20, 2020. No additional affidavits or zoning permits have been submitted for any of the other buildings or structures on the property.

Despite having obtained and affirmed that the structure constructed would be used for the exempted applicable uses for a farm building or structure, social media and online content by Dwellings Farms show the regular use of the primary structure, the 60' x 50' barn, as an assembly use. The interior of the building is finished and includes a full kitchen, bar counter, fireplace, television, chandelier lighting, sound system, exit signs, emergency lighting, mechanical systems, and fire extinguishers. Outdoor events are shown using this building as an assembly use as well. The Dwellings Farms website describes rental of the "Barn" for events and activities. The evidence does not support the primary use of the barn building for farming operations which would be exempted from VUSBC enforcement, as outlined in the VUSBC.

Given the above, the Code Enforcement Administrator's determination the building operated for assembly use is subject to permitting under Section 108.1 of the VUSBC was correct and applicable. The NTC and NOV adequately referred to that structure as the structure being used for assembly use. However, the Code Enforcement Administrator does not object to the Board

amending the City's NTC and NOV to name "the primary structure, the 60' x 50' barn" in its description. The use and permitting requirements for any of the other buildings or structures on the property will be further evaluated during the permitting process.

## City of Chesapeake Property Card: 1100000000280

Property Address:	2349 BAUM RD
Parcel Class:	5000
Parcel Class Description:	AGRICULTURAL 20 TO 99 ACRES - VACANT

## Parcel Summary

Owner's Name:	DIEFFENBACH JESSICA B TRUSTEE
Mailing Address:	2441 BAUM RD CHESAPEAKE, VA 23322-1514
Legal Description:	TR 2 POR OF PAR 3 LONG LANE FMS ASSOC LLC 41.235AC
Acreage:	41.235
Zoning:	A1: Agricultural
The Official Zoning Maps can be viewed in the Planning Department. Contact the Department of Development and Permits at 757-382-6018 to verify official zoning.	

## Site Information

Parcel Address(es):	No addresses found.
Voting Precinct:	Indian Creek
Elementary School:	Hickory Elementary (K-5)
Intermediate School:	None
Middle School:	Hickory Middle (6-8)
High School:	Hickory High (9-12)
Neighborhood Number:	BR066
Neighborhood Description:	WHOLE MAP 110, 121
Borough:	BUTTS ROAD
Building Name:	-
Frontage Length:	408.86
Other Dimensions:	XIRREGULAR
Land Use Participant:	-

# Assessment Values by Year

Date	Fiscal Year	Land	Land Use	Improvement	Total
7/1/2025	Proposed 2026	\$311,500	\$30,000	\$84,200	\$395,700
7/1/2024	2025	\$291,500	\$30,700	\$84,200	\$375,700
7/1/2023	2024	\$261,500	\$30,100	\$84,200	\$345,700
7/1/2022	2023	\$241,500	\$0	\$66,200	\$307,700
7/1/2021	2022	\$226,500	\$0	\$66,200	\$292,700
7/1/2020	2021	\$226,500	\$0	\$0	\$226,500
7/1/2019	2020	\$173,200	\$0	\$0	\$173,200
7/1/2018	2019	\$173,200	\$0	\$0	\$173,200
7/1/2017	2018	\$173,200	\$0	\$47,900	\$221,100
7/1/2016	2017	\$173,200	\$0	\$47,900	\$221,100
7/1/2015	2016	\$173,200	\$0	\$44,900	\$218,100

# Ownership History

Buyer Name	Seller Name	Sale Date	Sale \$	Deed Book / Page	Map Book / Page
DIEFFENBACH JESSICA B TRUSTEE	DIEFFENBACH MICHAEL & JESSICA	9/20/2022	\$0	10602 / 986	113/85
DIEFFENBACH MICHAEL & JESSICA	CARSON STEVEN D & LORI A TRS	5/26/2017	\$240,000	9791 / 1055	113/85
CARSON STEVEN D & LORI A TRS	CARSON STEVEN & LORI	4/4/2013	\$0	9029 / 487	01130085
CARSON STEVEN & LORI	GRANN ASSOCIATES L L C	1/15/2004	\$169,000	5195 / 571	01130085
GRANN ASSOCIATES L L C	LONG LANE FARM ASSOCIATES L L C	3/22/1996	\$0	3329 / 713	01130085
LONG LANE FARM ASSOCIATES L L C	NONE	6/2/1993	\$0	2911 / 275	01130085

# Taxes and Fees Owed

Year	Bill #	Amount	Penalty	Interest	Total	Type	Due Date
2025	019886	\$290.12	\$0.00	\$0.00	\$290.12	RE BILL	6/5/2025

For paid information, send a written request, a self-stamped envelope, and \$2.00 to: City of Chesapeake Treasurer, PO Box 16495 Chesapeake, VA 23328-6495.

## Outbuilding Information

Building Description	Year Built	Square Feet
DETACHED GARAGE	2020	1,800
LEAN-TO	2020	600

## Real Estate Notes

Note
1-MB 116-14 LEGAL CHG 96-97; 12.276 AC TO 110-28A-28D; .242AC R/W PA 4/96.
2-12.276 AC ROLLBACK APPLIED 4/96 PER MB116-14 TAX BILL #69273-69278.DA
3-REMOVED FROM LAND USE PROGRAM 2001-01 DELINQUENT TAXES.DMA
4-EXONERATION 2017-2018 ASSESSMENT CHANGE DUE TO DEMOLITION WORK EFF 1/1/18
5-DB10763 PG445 EASEMENT & MAINTENANCE AGREEMENT RCRD 7/1/24 REGARDING 4 PARS INCLUDING 110-1, 110-1D, 110-28 & 121-2; CB

# Property Map

DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and the City of Chesapeake is not responsible for its accuracy or how current it may be.



0 420 840 Feet



Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User Community



February 18, 2025

Jessica Dieffenbach, Trustee  
2441 Baum Road  
Chesapeake, VA. 23322

**RE: Notice to Correct (NTC) for the following address(s):**

<u>Address</u>	<u>Parcel #</u>	<u>Permit Number</u>
2349 Baum Rd.	1100000000280	

To: Jessica Dieffenbach, Trustee,

Based on a review of our records, we find the necessary building and trade permits have not been obtained for the construction and operation of a building for an assembly use at the address noted above. The 2021 Virginia Uniform Statewide Building Code (VUSBC) requires the necessary permits to be obtained prior to construction and occupancy per Section 108.1 of the VUSBC. Additionally, Section 113.3 of the VUSBC details the minimum inspections to be completed, as applicable, and Section 116.1 of the VUSBC requires a certificate of occupancy to be obtained prior to occupancy. Please correct the following:

- 1) Obtain the applicable building and trade permits for the construction of the building in a timely manner.
- 2) Complete the necessary inspections and any third-party engineering and/or certifications in a timely manner.
- 3) Obtain certificate of occupancy for the building as appropriate for its use.

You are hereby directed to correct the above violation(s), complete the required inspection(s), and obtain the appropriate certificate of occupancy **no later than March 1, 2025**. Please note that non-response to these requirements in the allotted time will result in the issuance of a Notice of Violation (NOV) as allowed under Section 115.2 of the VUSBC. Failure to comply is subject to legal action per Section 115.3 of the VUSBC with penalties as prescribed by Section 36-106 of the Code of Virginia. In accordance with Section 119.5 of the VUSBC, you have the right to appeal this decision.

Please let me know if you have any questions or require additional clarification.

Sincerely,



Lee Ostheller  
Code Enforcement Administrator

C: Andrew Meyer, Assistant City Attorney IV

March 5, 2025

Jessica Dieffenbach, Trustee  
2441 Baum Road  
Chesapeake, VA. 23322

**RE: Notice of Violation (NOV) for the following address(s):**

<u>Address</u>	<u>Parcel #</u>	<u>Permit Number</u>
2349 Baum Rd.	1100000000280	

To: Jessica Dieffenbach, Trustee,

To date, the violations described in the Notice to Correct (NTC) letter issued to Jessica Dieffenbach, Trustee on February 18, 2025, have not been corrected or completed within the designated time frame. Based on the failure to comply with the NTC, you are hereby notified you are in violation of the 2021 Virginia Uniform Statewide Building Code. The following is a summary of the violations applicable to the above noted address:

Based on a review of our records, we find the necessary building and trade permits have not been obtained for the construction and operation of a building for an assembly use at the address noted above. The 2021 Virginia Uniform Statewide Building Code (VUSBC) requires the necessary permits to be obtained prior to construction and occupancy per Section 108.1 of the VUSBC. Additionally, Section 113.3 of the VUSBC details the minimum inspections to be completed, as applicable, and Section 116.1 of the VUSBC requires a certificate of occupancy to be obtained prior to occupancy. Please correct the following:

- 1) Obtain the applicable building and trade permits for the construction of the building in a timely manner.
- 2) Complete the necessary inspections and any third-party engineering and/or certifications in a timely manner.
- 3) Obtain certificate of occupancy for the building as appropriate for its use.

You are hereby directed to correct the above violation(s), complete the required inspection(s), and obtain the appropriate certificate of occupancy **no later than April 6, 2025**.

**Failure to comply is subject to legal action per Section 115.3 of the VUSBC with penalties as prescribed by Section 36-106 of the Code of Virginia. In accordance with Section 119.5 of the VUSBC, you have the right to appeal this decision.**

Please let me know if you have any questions or require additional clarification.

Sincerely,



Lee Ostheller  
Code Enforcement Administrator

C: Andrew Meyer, Assistant City Attorney IV

April 4, 2025

To: Chesapeake Local Board of Building Code Appeals

Re: Relevant Code Sections

BLD-VIOL-2025-00001, 2349 Baum Rd. Cabin

BLD-APPEAL-2025-00001 (NTC) & BLD-APPEAL-2025-00004 (NOV)

**2021 Virginia Uniform Statewide Building Code (VUSBC)  
Part 1 – Virginia Construction Code**

CHAPTER 1 ADMINISTRATION

SECTION 102

PURPOSE AND SCOPE

102.3 Exemptions.

The following are exempt from this code:

9. Farm buildings and structures, except for a building or a portion of a building located on a farm that is operated as a restaurant as defined in § 35.1-1 of the Code of Virginia and licensed as such by the Virginia Board of Health pursuant to Chapter 2 (§ 35.1-11 et seq.) of Title 35.1 of the Code of Virginia. However, farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to flood-proofing regulations or mudslide regulations, as applicable.

SECTION 103

APPLICATION OF CODE

103.1 General.

In accordance with § 36-99 of the Code of Virginia, the USBC shall prescribe building regulations to be complied with in the construction and rehabilitation of buildings and structures, and the equipment therein.

SECTION 108

APPLICATION FOR PERMIT

108.1 When applications are required.

Application for a permit shall be made to the building official and a permit shall be obtained prior to the commencement of any of the following activities, except that applications for emergency construction, alterations or equipment replacement shall be submitted by the end of the first working day that follows the day such work commences. In addition, the building official may authorize work to commence pending the receipt of an application or the issuance of a permit.

1. *Construction* or demolition of a *building* or *structure*. Installations or alterations involving (i) the removal or addition of any *wall*, partition or portion thereof, (ii) any structural component,

- (iii) the repair or replacement of any required component of a fire or smoke rated assembly,
  - (iv) the alteration of any required means of egress system, including the addition or removal of *emergency supplemental hardware*,
  - (v) water supply and distribution system, sanitary drainage system or vent system,
  - (vi) electric wiring,
  - (vii) fire protection system, mechanical systems, or fuel supply systems, or
  - (viii) any equipment regulated by the USBC.
2. For *change of occupancy*, application for a permit shall be made when a new certificate of occupancy is required by the VEBC.
  3. Movement of a lot line that increases the hazard to or decreases the level of safety of an *existing building or structure* in comparison to the *building code* under which such *building or structure* was constructed.
  4. Removal or disturbing of any asbestos containing materials during the *construction or demolition of a building or structure*, including additions.

CHAPTER 2 DEFINITIONS

SECTION 202

DEFINITIONS

[BG]AREA, BUILDING. The area included within surrounding *exterior walls*, or *exterior walls and fire walls*, exclusive of vent *shafts* and *courts*. Areas of the building not provided with surrounding walls shall be included in the *building area* if such areas are included within the horizontal projection of the roof or floor above.

BUILDING. A combination of materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons, or property. The word “building” shall be construed as though followed by the words “or part or parts thereof” unless the context clearly requires a different meaning. “Building” shall not include roadway tunnels and bridges owned by the Virginia Department of Transportation, which shall be governed by construction and design standards approved by the Virginia Commonwealth Transportation Board.

CONSTRUCTION. The construction, reconstruction, alteration, repair, or conversion of buildings and structures.

FARM BUILDING OR STRUCTURE. A *building or structure* not used for residential purposes, located on property where farming operations take place, and used primarily for any of the following uses or combination thereof:

1. Storage, handling, production, display, sampling or sale of agricultural, horticultural, floricultural or silvicultural products produced in the farm.
2. Sheltering, raising, handling, processing or sale of agricultural animals or agricultural animal products.
3. Business or office uses relating to the farm operations.
4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery or equipment on the farm.
5. Storage or use of supplies and materials used on the farm.
6. Implementation of best management practices associated with farm operations.

**FARM USE AFFIDAVIT EXEMPTION FORM**

**Instructions**

1. Complete the form below.
2. Present to the Zoning Administrator for approval or denial.
3. Once the Zoning Administrator has signed, present to Building Official for approval or denial of USBC exemption for farm structures. The definition of a Farm Building or Structure under the Virginia Uniform Statewide Building Code is noted below.

**Affidavit**

I, Michael Drefffenbachof 2349 Baym Rd.  
(Name) (Address)

affirm that I am the owner or agent for the owner of the property identified as real estate parcel number 1100000000280 in the City of Chesapeake, Commonwealth of Virginia.

I affirm that said property is used for one of the farming operations described in the City's use of the OSHA SIC codes under Division A: Agriculture, Forestry and Fishing and it conforms to one or more of the listed Major Groups which includes: Agriculture Production Crops, Live Stock and Animal Specialties, Agriculture Services, Forestry and Fishing, Hunting and Trapping.

Specifically, the following farm operation conducted is: farm equipment and chickens  
(describe farm operation).

If applicable, please provide the USDA Farm Program ID number for the farm operation located on this property. # N/A

"Farm building or structure" means a building or structure not used for residential purposes, located on property where farming operations take place, and used primarily for any of the following uses or combination listed below.

I affirm that the structure to be constructed will not be used for residential purposes and will be used for one or a combination of the six uses for an exempt farm building or structure as listed in Chapter 2 of Part I of the Virginia Uniform Statewide Building Code. Please check all applicable uses:

- Storage, handling, production, display, sampling or sale of agricultural, horticultural, floricultural or silvicultural products produced in the farm;
- Sheltering, raising, handling, processing or sale of agricultural animals or agricultural animal products;
- Business or office uses relating to the farm operations;
- Use of farm machinery or equipment or maintenance or storage of vehicles, machinery or equipment on the farm;
- Storage or use of supplies and materials used on the farm;
- Implementation of best management practices associated with farm operations.

*"The City of Chesapeake adheres to the principles of equal employment opportunity.  
This policy extends to all programs and services supported by the City."*

Farm Use Exemption Form  
Page Two

I acknowledge that any non-farm use of the structure may require a new building permit, final inspection, and/or a certificate of occupancy. I acknowledge that the Zoning Administrator must approve the farm use of the property prior to an exemption to the Uniform Statewide Building Code. I further acknowledge that an inspection of the property may be required before the exemption can be approved. I acknowledge that if the exemption is approved, a permit from the Department of Development and Permits-Zoning Division is still required to ensure that the structure complies with the Chesapeake Zoning Ordinance.

Affiant: [Signature] Date: 12-12-19

<b>Commonwealth of Virginia</b>	"I was commissioned a notary public as Audrey K. Rohik"	
County/City <u>Chesapeake</u>		
The foregoing was sworn to and acknowledged before me this <u>12<sup>th</sup></u> day of <u>December</u> , 20 <u>19</u>		
Notary Public: <u>7519376</u>	My Commission expires: <u>5/31/2020</u>	

**Department Use Only: City Signatures:**

The farm use for this property, as described in the City's use of the OSHA SIC codes under Division A, is: Approved  Disapproved

Reason for disapproval: ZONING PERMIT REQUIRED

[Signature] 12/20/19  
Zoning Administrator Signature Date

The building permit exemption for this proposed structure is:  Approved  Disapproved.

Reason for disapproval:

[Signature] 12/20/19  
Building Official Signature Date

Pursuant to Section 119.5 of Part I of the Virginia Uniform Statewide Building Code, any person aggrieved by the local building department's application of the USBC or the refusal to grant a modification to the provisions of the USBC may appeal to the Local Board of Building Code of Appeals. The applicant shall submit a written request for appeal the LBBCA within 30 calendar days of the receipt of the decision being appealed that contains the name and address of the owner of the building or structure and the name and address of the person appealing, when the applicant is not the owner, and a copy of the decision appealed. Failure to submit an application for appeal within 30 days shall constitute acceptance of a building official's decision.



Department of Development and Permits  
 306 Cedar Road, 2nd Floor  
 Chesapeake, Virginia 23322-5514  
 (757) 382-6018

<b>Zoning Permit #</b> ZON-SHED-2019-00375	<b>For Inspection Requests, call</b> 757-382-CITY(2489) or go to <a href="https://aca3.accela.com/Chesapeake/">https://aca3.accela.com/Chesapeake/</a>	<b>Issued Date:</b> 12/23/2019
<b>Scope of Work Permitted:</b> 60' X 50' BARN FOR FARM USE		
<p>Farm Structure (building): A building or structure not used for residential purposes that is located on the property where farming operations take place and are used, primarily, for any of the following uses or combinations, thereof:</p> <ol style="list-style-type: none"> <li>1. Storage, handling, production, display, sampling or sale of agricultural, aqua cultural, horticultural, floricultural or silvicultural products produced on the farm.</li> <li>2. Sheltering, raising, handling, processing or sale of agricultural animals or agricultural animal products.</li> <li>3. Business or office use relating to the farm operations.</li> <li>4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery or equipment on the farm.</li> <li>5. Storage or use of supplies and materials used on the farm.</li> <li>6. Implementation of best management practices associated with farm operations.</li> </ol>		
<b>Code:</b> Chesapeake Zoning Ordinance	<b>Expiration Date:</b>	

<b>Project Location:</b> 2349 BAUM RD, CHESAPEAKE, VA 23322	
<b>Business Name:</b>	
<b>Tax ID#</b> 1100000000280	<b>Legal Description:</b> TR 2 POR OF PAR 3 LONG LANE FMS ASSOC LLC 41.235AC

<b>Owner:</b> DIEFFENBACH MICHAEL & JESSICA	
<b>Permit Issued To:</b> MICHAEL DIEFFENBACH	<b>Phone #:</b> (757) 619-7773

<b>Zoning:</b> A-1	<b>Front Setback 1:</b> 225	<b>Front Setback 2:</b>
<b>Rear Setback:</b> 40	<b>Left Setback:</b> 35	<b>Right Setback:</b> 52
<b>FEMA/Flood Zone:</b> 500 YR	<b>Min. Finished Fl. Elevation:</b>	<b>Proposed Finished Fl. Elevation:</b>

<b>Comments/Conditions:</b>	<p>1. Unless otherwise provided for in this zoning ordinance, accessory structures shall meet the same setback requirements as the principal structure.</p> <p>2. Stables, enclosures and kennels. Stables and kennels shall be defined as put forth in section 3-403 of this ordinance. For purposes of this ordinance, an enclosure shall mean an area that is fenced in or otherwise partitioned off from its surrounding area, such as a pen. In addition to other applicable setbacks set out in this ordinance, stables, enclosures and kennels shall be subject to the following setbacks: a. Enclosures and stables. If a contiguous lot is zoned for any residential use other than RE-1, then the setback shall be twenty-five (25) feet from the lot line of that contiguous lot.</p> <p>The applicant acknowledges that any inspections conducted by the City of Chesapeake in accordance with the issuance of a building permit are not conducted to ensure that the structures erected thereby are located within applicable setbacks, outside of easements held by others or in compliance with private deed restrictions. The City will not assume liability for any error made in the location of any structure upon the property in question,</p>
-----------------------------	---

such liability falling solely upon the owner, builder or other possible party.

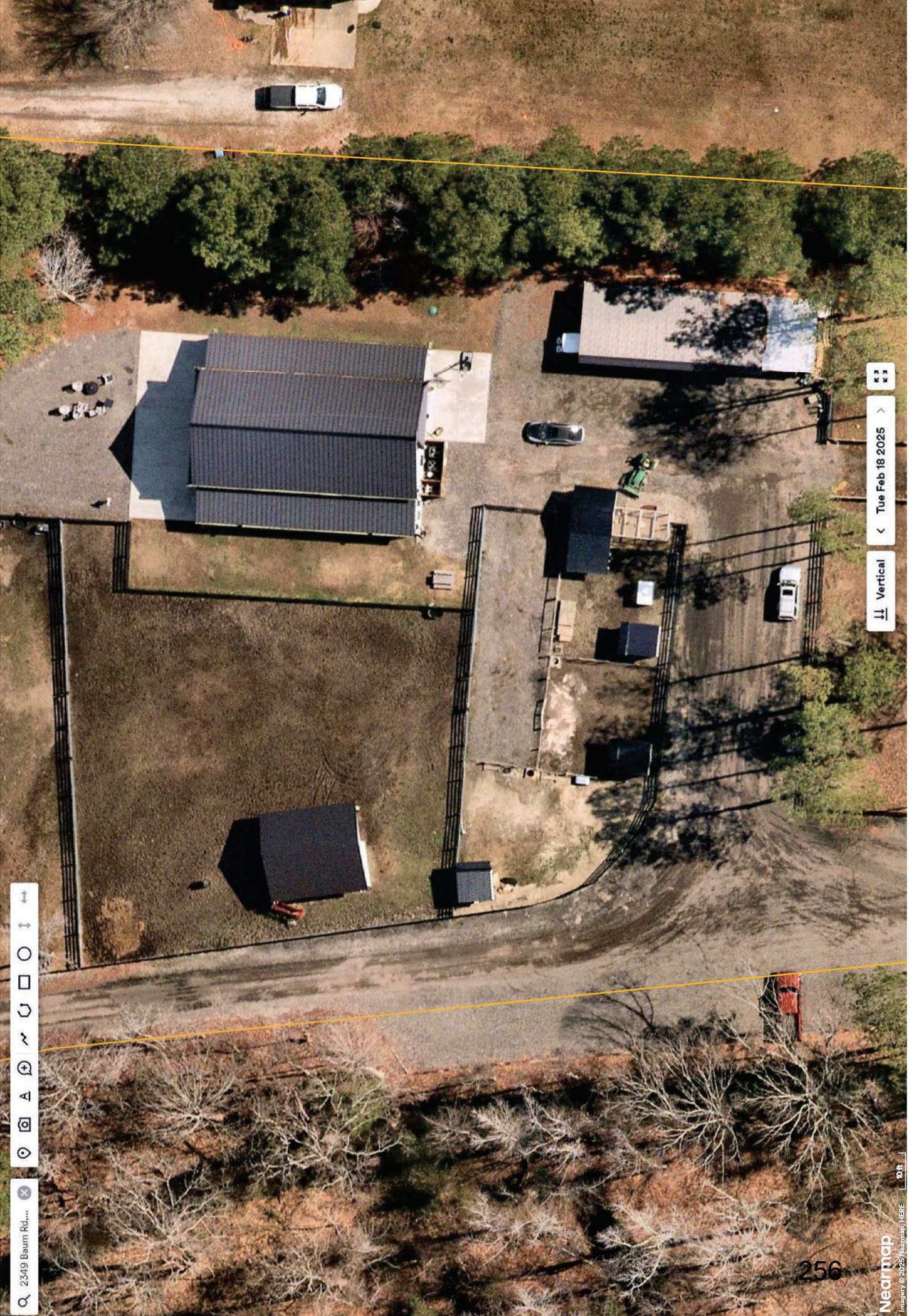
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Zoning Permit inspections are performed by the Code Compliance staff within 2 to 3 working days from the date of the request.

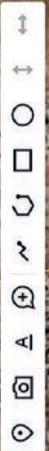
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This permit may be revoked if work on the site is not commenced within 6 months after issuance, if authorized work on the site is suspended or abandoned for a period of 6 months, or the authorizing Code specifies a different expiration term. It is the responsibility of the permit applicant to prove substantive progress of at least 1 inspection within a period of 6 months or other evidence that would indicate substantial work has been performed.

**NOTICE:** This Permit is granted ONLY for the work shown on the plans and described in the application filed for this construction. Any falsification, misrepresentation or misleading information VOIDS this permit. Construction must conform to the regulations in the Zoning Ordinance and other City Ordinances including all City specifications and standards.



2349 Baum Rd, ...



Vertical < Tue Feb 18 2025 >

Nearmap

Imagery © 2025 Nearmap, HERE

Snip from NearMap 5/6/25 By Lee Ostheller

256



2349 Baum Rd, ...



257

Nearmap

Imagery © 2025 Mapbox, HERE

20 ft



Oblique

< Tue Feb 18 2025 >



Snip from NearMap 5/6/25 By Lee Ostheller

# Farm Rental

Dwellings Farms offers rental options for farming operations and private agritourism events.

For our available farming operation lease options, please contact us:

For private agritourism events we have two available farm rental locations. DF on Baum Rd is located at 2349 Baum Rd. in Chesapeake. This location offers both outdoor and indoor spaces to enjoy! The Barn is decked out with a classic but modern vibe while the outside offers the traditional mini farm feel with farm animals for viewing. The spaces are easy to decorate and transform into the perfect atmosphere!

DF on Ansell Rd is located at 2100 Ansell Rd. in Chesapeake. This location offers vast fields, woodlands, and water views. This space is large and has various set up options.

We offer yearly/seasonal lease options for farming operations, hourly rentals that work great for your agritourism photography sessions and gatherings, and all day rentals for your longer rental needs.

Details & Pricing

Snip from Dwellings Farms website 5/6/25 By Lee Ostheller

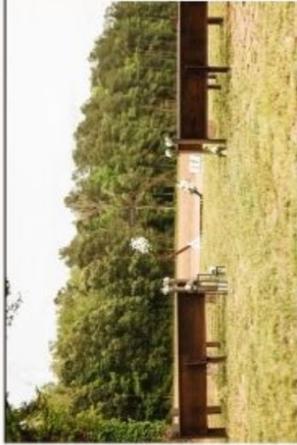


dwellingfarms If you're looking to host an event, consider Dwelling Farms. We have a variety of options to choose from and we're always open to creating something new.

I hope you enjoyed the February edition of our newsletter. It gives a great overview of everything that we have to offer here at Dwelling Farms.

If you have any questions or want to see more about our facilities and services, feel free to reach out to us at (757) 271-4150.

13w



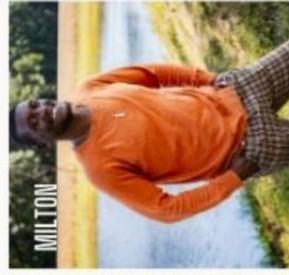
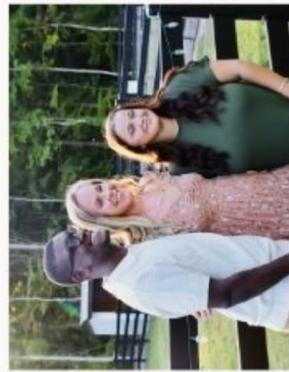
## OVER 30 EVENTS IN OUR FIRST 8 MONTHS!

Since opening our farm up to agritourism event rentals in April of 2024, we have hosted over 30 events! This is a huge success and we want to thank all of our visitors, renters, friends, and staff for believing in Dwelling Farms. Stay tuned for some things we have in the works for 2025!

## FUN FARM FACTS



On our property we have three highland cows: Cora, Skylar, and Wam. Did you know that highland cows can live up to 20 years of age? Highland cows are the oldest cattle breed in the world!



## THE DWELLINGS FARMS DREAM TEAM

These are the folks that make Dwelling Farms so special!

Top Right: Milton Stoudermeire is our Brand Manager. You will often see him hosting your tour, booking your event, and onsite during your event. He also runs an event-planning business that many of our guests hire him for.

Top Middle: Amy Lomacine is our Administrative Assistant, and you may also see her onsite during your event.

Bottom Right: Michael and Jessica Diellenbach are the proud owners of Dwelling Farms. You will most likely see them scooping poop or panicking about something, lol!



[www.dwellingfarmsva.com](http://www.dwellingfarmsva.com)

Contact us to book!

757-271-4150



11 likes  
February 2



March Newsletter

## DWELLINGS FARMS

2025



### ARE YOU READY FOR SPRING?

We are excited to invite community organizations to utilize our event space! With a central location, ample parking, and a supportive environment, our facility is perfect for meetings, work shops, and social gatherings. Partner with us to create a memorable experience for the Chesapeake community!

Corn planting involves preparing soil, choosing the right time to plant, spacing plants appropriately, and planting at the proper depth. Corn also requires adequate nutrients and regular pest control.

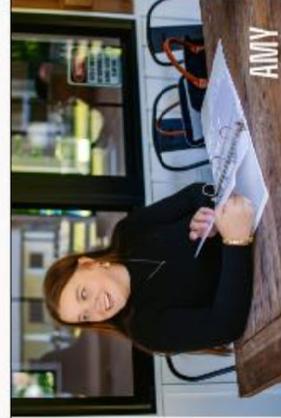
### FUN FARM FACTS



### DWELLINGS FARMS TEAM RECOGNITION:

AMY HAS BEEN WORKING HARD BEHIND THE SCENES, AND NOW WE GET TO RECOGNIZE HER. DWELLING FARMS HAS BEEN FORTUNATE TO HAVE HER ON THE TEAM AS OUR EXECUTIVE ASSISTANT. HER PROFESSIONALISM AND WORK ETHIC TRULY MAKE A DIFFERENCE.

THANK YOU, AMY!



Contact us to book!

757-271-4150

[www.dwellingfarmsva.com](http://www.dwellingfarmsva.com)





Dwellings Farms is at Chesapeake VA.

May 14, 2024 · Chesapeake, VA · 🌐



From ceremonies and rehearsal dinners to corporate picnics, baby showers, and birthday parties, we offer a beautiful setting for memorable occasions. For inquiries and bookings, you can reach out via email at farms@dwellings.us. Enjoy your special day at this gorgeous property!



👍❤️ 16

Snip from Dwellings Farms Instagram 5/6/25 By Lee Ostheller

5 shares

👍 Like

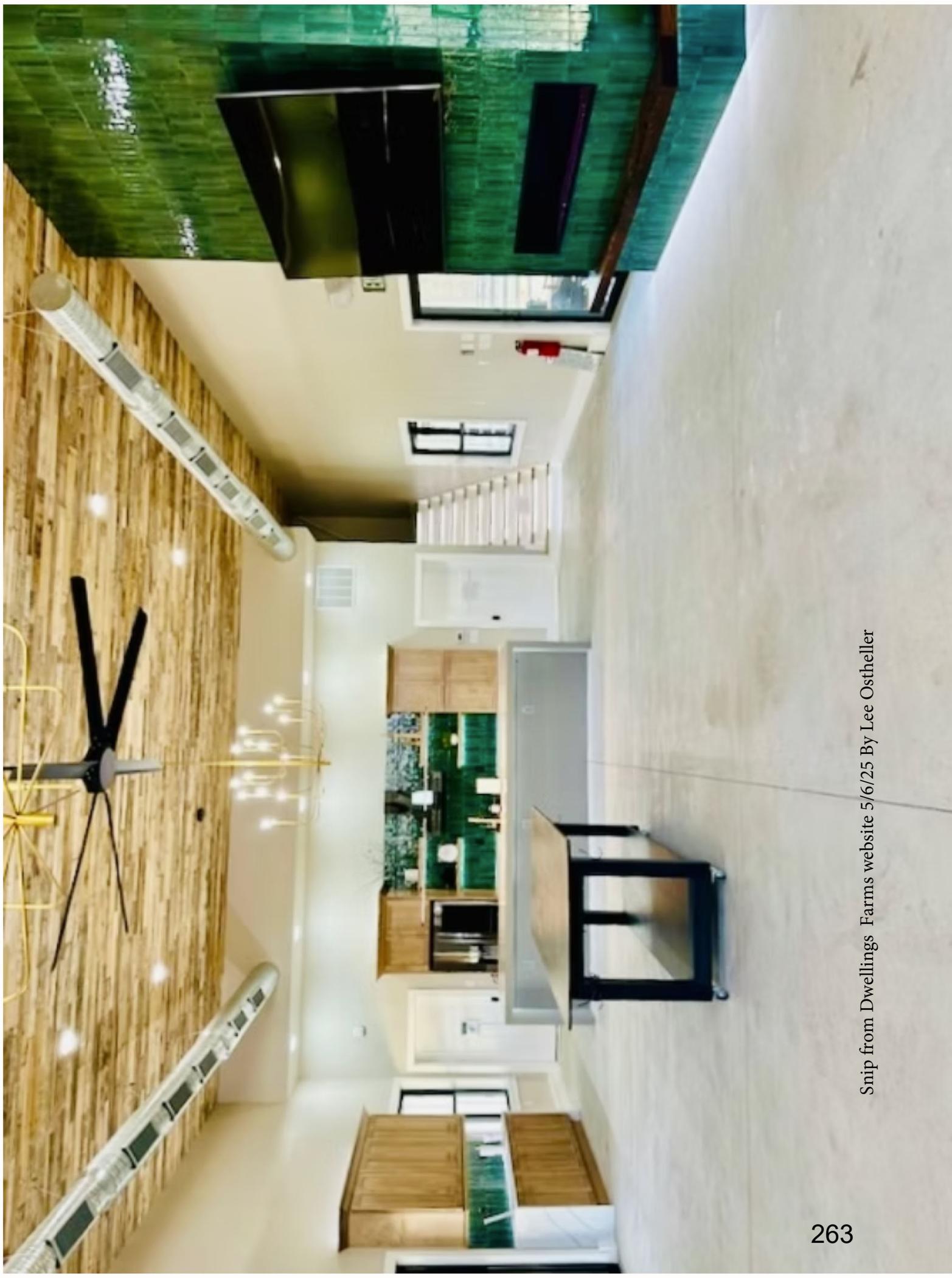
💬 Comment

➦ Share



Write a comment...

🌟 😊 262 🎁 🗨️



Snip from Dwellings Farms website 5/6/25 By Lee Ostheller



Snip from Dwellings Farms website 5/6/25 By Lee Ostheller

Snippet from Dwellings Farms website 5/6/25 By Lee Ostheller



Snip from Dwellings Farms website 5/6/25 By Lee Ostheller





Snip from Dwellings Farms website 5/6/25 By Lee Ostheller

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Additional Documents  
Submitted by  
Poole, Brooke, and  
Plumlee (Dieffenbach)

(Page left blank intentionally)

## Appellant's Statement in Support of Appeal

The City of Chesapeake is requiring the Appellant to submit to the Virginia Uniform Statewide Building Code ("VUSBC") and forego the "Farm building" exemption for a structure located on a farm and used for agritourism. This violates the spirit and plain language of Va. Code § 36-99 (B), exempting farm building and structures from compliance with the VUSBC, but for requiring agritourism activities to have portable fire extinguishers and a "simple written plan in case of an emergency."

The City of Chesapeake is also ignoring Va. Code § 15.2-2288.6 (A)(1) which provides "no locality shall regulate the carrying out of . . . agritourism activities as defined in [Va. Code] § 3.2-6400" unless there is a substantial impact on the health, safety or general welfare of the public. The City has never made any finding regarding health, safety or welfare regarding the Appellant's parcel.

"Agritourism activity" is defined as "any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, horseback riding, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity." Va. Code § 3.2-6400.

The City's rationale for disregarding the above-referenced laws is based upon its interpretation of the word "primarily" in Va. Code § 36-97 (emphasis added).

"Farm building or structure" means a building or structure not used for residential purposes, located on property where farming operations take place, and used *primarily* for any of the following uses or combination thereof: -

1. Storage, handling, production, display, sampling, or sale of agricultural, horticultural, floricultural, or silvicultural products produced in the farm;
2. Sheltering, raising, handling, processing, or sale of agricultural animals or agricultural animal products;
3. Business or office uses relating to the farm operations;
4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery, or equipment on the farm;
5. Storage or use of supplies and materials used on the farm; or
6. Implementation of best management practices associated with farm operations.

The City claims the structure in question is not "primarily" used for farming operations under the code section based upon social media posts, inspections, and a disgruntled neighbor. The City,

in its Statement in Opposition relies upon factors such as the “predominant use based upon social media posts” and internet advertising. As Va. Code § 36-97 focuses on “use” rather than advertising campaigns, this argument is flawed. It is undisputed the property is used for agricultural/sylviculture and has a USDA Farm Number. These uses are not traditionally advertised on social media, nor does the advertising dictate the primary use of the property.

The City’s reliance on the character of the agritourism ad campaign is evident in its own Statement.”

“Agriculture is mentioned in the social media/internet posts, but it isn’t the dominant action that is required by the code.”

But the Virginia Attorney-General has already opined that “primarily” as used in Va. Code § 36-97 is a reference to the frequency of the use, not its advertising. “An occasional use, such as using a barn several times per year for a wedding reception, would not alter the fact that the barn remains ‘primarily’ devoted to a specified farm use, and therefore, would not destroy the exempt status of the barn as a ‘farm building or structure.’” Va. Atty-Gen’l Op. August 23, 2010.

The City’s main issues is with the use of the property as a “actively being rented out for event purposes.’ The occasional use as event space, even if done “several times per year’ would not change the primary use of the structure, as explained by the Attorney-General. Even if the structure was used as event space every weekend of the year, which is far from the case, it does not change the fact that the rest of the time it is used for equipment storage, display space, etc. Furthermore, the office spaces located in the barn are used exclusively by the Owner.

---

The dispute over the proper interpretation of “primarily’ in Va. Code § 36-97 is a recognized issue. *See*, Memorandum, Va. Board of Housing and Community Development, Agritourism Event Structure Technical Advisory Committee, Findings and Recommendations, October 2023, and Meeting Summary, June 14, 2023. This issue is ripe for determination by this Board.

This Board has previously determined that a Building Official is without jurisdiction to enforce 36-99. Va. State Bldg. Code Tech. Rev. Bd. Interpretation 3/2024. The only remaining issue is whether the City erred in its interpretation of the word “primarily” in Va. Code § 36-97.

The City has taken the position that “primarily” is to be measured in reference to social media posts and internet advertising campaigns and makes reference to square footages that might be devoted to agritourism activities, without any support from the relevant statutes. The Appellant has challenged this interpretation based upon the limited and periodic use of the structure for events, all of which fall under the broad scope of “agritourism” as defined in Va. Code 3.2-6400.

The City’s own municipal code reflects a certain degree of confusion. In places, the City Code defines states that “farm building or structure . . . means the same as that term is defined in § 36-97 of the Code of Virginia *and also* includes any building or structure used for agritourism activity as defined in § 3.2-6400 of the Code of Virginia.” Chesapeake City Code § 26-343. This language seems to acknowledge that a building used for agritourism is to be deemed a farm building as if agritourism is a qualifying activity for Va. Code 36-97.

Chesapeake is not the only political subdivision to struggle with farm buildings and agritourism. For the Board's ready reference we attach copies of policies enacted by the Counties of Loudon and Culpepper. The 2018 Agritourism Report also reflects a huge variety of uses that its respondents labeled as "agritourism" including all of the uses conducted at Appellant's property.

But agriculture is clearly the primary use of the parcel. See attached business license obtained from the City dated February 7, 2025. The license covers crop production, livestock, logging, and other such uses. The City also granted the Owner a Conditional Use Permit wherein it characterized the use of the property as "Meeting and banquet halls, incidental and subordinate to the primary agricultural use" as allowed in an A-1, Agricultural District. See attached email, agenda, and approval of CUP for Dwellings Farms, LLC.

Given the predominately agricultural use of the property, the City's argument that the structure is NOT "primarily" used for agricultural activities seems strained, especially if formed on the basis of social media posts for the agritourism attractions that are offered on weekends. The photographs submitted by the City show predominately temporary structures such as tents and benches and outdoor seating in an agricultural setting. You can clearly see livestock in some of the photos. Even shots taken inside the structure show temporary seating (folding chairs and tables) that can be taken down and stored when not in use. This further supports the idea that the barn is primarily used to store equipment and supplies as shown in other photos of farm equipment and vehicles parked on plastic mats inside the structure, and that the use for events is "incidental and subordinated to the primary agricultural use."

We also attach a document submitted by the Appellant to the City in connection with its CUP application, and photos of signage and fire extinguishers complying with Va. Code § 36-99's requirements for agritourism buildings.

The public policy of the Commonwealth is to encourage Virginia farmers to engage in agritourism. *See*, 2018 Va. Agritourism & Bldg. Codes Rev., Nov. 2, 2018, excerpts provided in the City's documents. In the Report the findings presented to the General Assembly included a recommendation that no new or additional building code requirements be placed on the agritourism industry, and that farm buildings and structures could be used for event space and wedding receptions as a means to support Virginia agriculture. This Board should both follow the Report's clear support of Virginia Agritourism and make clear that Va. Code § 36-97 and -99's use of the word "primarily" includes an analysis of the amount of time a structure is used for non-agricultural uses and that agritourism is not a disqualifying activity for the purposes of the building code exemption of Va. Code 36-97.

## § 36-99. Provisions of Code; modifications

A. The Building Code shall prescribe building regulations to be complied with in the construction and rehabilitation of buildings and structures, and the equipment therein as defined in § 36-97, and shall prescribe regulations to ensure that such buildings and structures are properly maintained, and shall also prescribe procedures for the administration and enforcement of such regulations, including procedures to be used by the local building department in the evaluation and granting of modifications for any provision of the Building Code, provided the spirit and functional intent of the Building Code are observed and public health, welfare and safety are assured. The provisions of the Building Code and modifications thereof shall be such as to protect the health, safety and welfare of the residents of the Commonwealth, provided that buildings and structures should be permitted to be constructed, rehabilitated and maintained at the least possible cost consistent with recognized standards of health, safety, energy conservation and water conservation, including provisions necessary to prevent overcrowding, rodent or insect infestation, and garbage accumulation; and barrier-free provisions for individuals with physical disabilities and aged individuals. Such regulations shall be reasonable and appropriate to the objectives of this chapter.

B. In formulating the Code provisions, the Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations, including, but not limited to, the standards of the International Code Council and the National Fire Protection Association. Notwithstanding the provisions of this section, farm buildings and structures shall be exempt from the provisions of the Building Code, except for a building or a portion of a building located on a farm that is operated as a restaurant as defined in § 35.1-1 and licensed as such by the Board of Health pursuant to Chapter 2 (§ 35.1-11 et seq.) of Title 35.1. However, farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to flood-proofing regulations or mudslide regulations, as applicable. However, any farm building or structure (i) where the public is invited to enter for an agritourism activity, as that term is defined in § 3.2-6400, for recreational, entertainment, or educational purposes and (ii) that is used for display, sampling, or sale of agricultural, horticultural, floricultural, or silvicultural products produced on the farm or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation shall have:

1. Portable fire extinguishers for the purpose of fire suppression;
2. A simple written plan in case of an emergency, but such plan shall not be construed to be interpreted as a fire evacuation plan under the Uniform Statewide Building Code or any other local requirements; and
3. A sign posted in a conspicuous place upon entry to the farm building or structure that states that "This building is EXEMPT from the Uniform Statewide Building Code. Be alert to exits in the event of a fire or other emergencies." Such sign shall be placed in a clearly visible location near the entrance to such farm building or structure. The notice shall consist of a sign no smaller than 24 inches by 36 inches with clearly legible black letters, with each letter to be a minimum of one

inch in height.

C. Where practical, the Code provisions shall be stated in terms of required level of performance, so as to facilitate the prompt acceptance of new building materials and methods. When generally recognized standards of performance are not available, such provisions shall provide for acceptance of materials and methods whose performance has been found by the local building department, on the basis of reliable test and evaluation data, presented by the proponent, to be substantially equal in safety to those specified.

D. The Board, upon a finding that sufficient allegations exist regarding failures noted in several localities of performance standards by either building materials, methods, or design, may conduct hearings on such allegations if it determines that such alleged failures, if proven, would have an adverse impact on the health, safety, or welfare of the citizens of the Commonwealth. After at least 21 days' written notice, the Board shall convene a hearing to consider such allegations. Such notice shall be given to the known manufacturers of the subject building material and as many other interested parties, industry representatives, and trade groups as can reasonably be identified. Following the hearing, the Board, upon finding that (i) the current technical or administrative Code provisions allow use of or result in defective or deficient building materials, methods, or designs, and (ii) immediate action is necessary to protect the health, safety, and welfare of the citizens of the Commonwealth, may issue amended regulations establishing interim performance standards and Code provisions for the installation, application, and use of such building materials, methods or designs in the Commonwealth. Such amended regulations shall become effective upon their publication in the Virginia Register of Regulations. Any amendments to regulations adopted pursuant to this subsection shall become effective upon their publication in the Virginia Register of Regulations and shall be effective for a period of 24 months or until adopted, modified, or repealed by the Board.

1972, c. 829; 1974, c. 433; 1975, c. 394; 1977, cc. 423, 613; 1978, c. 581; 1981, c. 2; 1982, c. 267; 1998, c. 755; 2000, c. 751; 2002, c. 555; 2003, cc. 436, 650, 901; 2023, cc. 148, 149, 644.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

## § 15.2-2288.6. Agricultural operations; local regulation of certain activities

A. No locality shall regulate the carrying out of any of the following activities at an agricultural operation, as defined in § 3.2-300, unless there is a substantial impact on the health, safety, or general welfare of the public:

1. Agritourism activities as defined in § 3.2-6400;
2. The sale of agricultural or silvicultural products, or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation;
3. The preparation, processing, or sale of food products in compliance with subdivisions C 3, 4, and 5 of § 3.2-5130 or related state laws and regulations; or
4. Other activities or events that are usual and customary at Virginia agricultural operations.

Any local restriction placed on an activity listed in this subsection shall be reasonable and shall take into account the economic impact of the restriction on the agricultural operation and the agricultural nature of the activity.

B. No locality shall require a special exception, administrative permit not required by state law, or special use permit for any activity listed in subsection A on property that is zoned as an agricultural district or classification unless there is a substantial impact on the health, safety, or general welfare of the public.

C. Except regarding the sound generated by outdoor amplified music, no local ordinance regulating the sound generated by any activity listed in subsection A shall be more restrictive than the general noise ordinance of the locality. In permitting outdoor amplified music at an agricultural operation, the locality shall consider the effect on adjoining property owners and nearby residents.

D. The provisions of this section shall not affect any entity licensed in accordance with Chapter 2 (§ 4.1-200 et seq.) of Title 4.1. Nothing in this section shall be construed to affect the provisions of Chapter 3 (§ 3.2-300 et seq.) of Title 3.2, to alter the provisions of § 15.2-2288.3, or to restrict the authority of any locality under Title 58.1.

2014, cc. 153, 494;2022, c. 204.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

## § 3.2-6400. Definitions

As used in this chapter, unless the context requires a different meaning:

"Agricultural products" means any livestock, aquaculture, poultry, horticultural, floricultural, viticulture, silvicultural, or other farm crops.

"Agritourism activity" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, horseback riding, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

"Agritourism professional" means any person who is engaged in the business of providing one or more agritourism activities, whether or not for compensation.

"Farm or ranch" means one or more areas of land used for the production, cultivation, growing, harvesting or processing of agricultural products.

"Inherent risks of agritourism activity" mean those dangers or conditions that are an integral part of an agritourism activity including certain hazards, including surface and subsurface conditions; natural conditions of land, vegetation, and waters; the behavior of wild or domestic animals; and ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. Inherent risks of agritourism activity also include the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.

"Participant" means any person, other than an agritourism professional, who engages in an agritourism activity.

2006, c. 710, § 3.1-796.137; 2008, c. 860; 2020, c. 411.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

## § 36-97. Definitions

As used in this chapter, unless the context requires a different meaning:

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

"Building" means a combination of any materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons or property. The word "building" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. "Building" does not include roadway tunnels and bridges owned by the Department of Transportation, which shall be governed by construction and design standards approved by the Commonwealth Transportation Board.

"Building Code" means the Uniform Statewide Building Code and building regulations adopted and promulgated pursuant thereto.

"Building regulations" means any law, rule, resolution, regulation, ordinance, or code, general or special, or compilation thereof, enacted or adopted by the Commonwealth or any county or municipality, including departments, boards, bureaus, commissions, or other agencies of such state or local governments, relating to construction, reconstruction, alteration, conversion, repair, maintenance, or use of structures and buildings and installation of equipment therein. "Building regulations" does not include zoning ordinances or other land use controls that do not affect the manner of construction or materials to be used in the erection, alteration, or repair of a building or structure.

"Code provisions" means the provisions of the Uniform Statewide Building Code as adopted and promulgated by the Board and the amendments thereof as adopted and promulgated by the Board from time to time.

"Construction" means the construction, reconstruction, alteration, repair, or conversion of buildings and structures.

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

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

"Equipment" means plumbing, heating, electrical, ventilating, air-conditioning and refrigeration equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

"Farm building or structure" means a building or structure not used for residential purposes, located on property where farming operations take place, and used primarily for any of the following uses or combination thereof:

1. Storage, handling, production, display, sampling, or sale of agricultural, horticultural, floricultural, or silvicultural products produced in the farm;
2. Sheltering, raising, handling, processing, or sale of agricultural animals or agricultural animal

products;

3. Business or office uses relating to the farm operations;
4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery, or equipment on the farm;
5. Storage or use of supplies and materials used on the farm; or
6. Implementation of best management practices associated with farm operations.

"Local building department" means the agency or agencies of any local governing body charged with the administration, supervision, or enforcement of the Building Code and regulations, approval of plans, inspection of buildings, or issuance of permits, licenses, certificates, or similar documents.

"Local governing body" means the governing body of any county, city, or town in the Commonwealth.

"Municipality" means any city or town in the Commonwealth.

"Owner" means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, or lessee in control of a building or structure.

"Review Board" means the State Building Code Technical Review Board.

"State agency" means any department, board, bureau, commission, agency, or other unit of state government in the Commonwealth.

"Stop work order" means a legally binding written order to immediately cease work on a building or structure that (i) is issued by a local building official to a property owner, the property owner's agent, or the person performing the work; (ii) identifies the specific violations of the Building Code in regard to the work being performed; and (iii) states the conditions under which such work may be resumed.

"Structure" means an assembly of materials forming a construction for occupancy or use, including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, underground and aboveground storage tanks, trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature but excluding water wells. The word "structure" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning.

"Structure" does not include roadway tunnels and bridges owned by the Department of Transportation, which shall be governed by construction and design standards approved by the Commonwealth Transportation Board.

1972, c. 829; 1974, cc. 622, 668; 1975, c. 394; 1977, cc. 423, 613; 1978, c. 703; 1986, c. 401; 1993, c. 662; 1994, c. [256](#); 1998, c. [755](#); 2005, c. [341](#); 2023, cc. [446](#), [448](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Sec. 26-343. - Definitions.

In addition to the definitions set forth in Virginia Erosion and Stormwater Management (VESM) regulations (9 Va. Admin. Code § 25-875), as amended, which are expressly adopted and incorporated herein by reference, the following words and terms used in this article have the following meanings unless otherwise specified herein:

*Administrator* shall mean the director of public works or designee except for division 2 where it shall mean the director of development and permits or designee.

*Adverse impact* means any adverse or harmful effect on waters including their quality, quantity, surface area, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, which unreasonably interfere with the enjoyment of life or property.

*Agreement in lieu of a stormwater management plan* means a contract between the city and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of a VSMP for the construction of a single-family residence; such contract may be executed by the city in lieu of stormwater management plan.

*Applicant* means any person submitting an application for a permit, requesting issuance of a permit under this article, registering for general permit coverage, or submitting an erosion and sediment and stormwater management plan to the city.

*Aquifer* means a porous water bearing geologic formation generally restricted to materials capable of yielding an appreciable supply of water.

*Best management practice or BMP* means schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities.

*Blowdown* means the discharge of recirculating noncontact cooling water.

*Board*, for the purposes of this article, means the state water control board. When used outside the context of the promulgation of regulations, including regulations to establish general permits, "board" means the department of environmental quality.

information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.

*Erosion impact area* means an area of land not associated with current land disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

*Excavating* means any digging, scooping or other methods of removing earth materials.

*Exemption* means those land development activities that are not subject to the stormwater management requirements contained in this article.

*Farm building or structure* means the same as that term is defined in § 36-97 of the Code of Virginia and also includes any building or structure used for agritourism activity, as defined in § 3.2-6400 of the Code of Virginia, and any related impervious services including roads, driveways, and parking areas.

*Fertilizer* means any substance added to soil to enhance the growing capability of the land by adding organic and inorganic nutrients.

*Filling* means any depositing or stockpiling of earth materials.

*Flooding* means a volume of water that is too great to be confined within the banks or walls of the stream, water body, or conveyance system and that overflows onto adjacent lands, thereby causing or threatening damage.

*General permit* means the state permit titled General VPDES Permit for Discharges of Stormwater from Construction Activities (9 Va. Admin. Code § 25-880) authorizing a category of discharges under the CWA and the VESMA within a geographical area of the Commonwealth of Virginia.

*Grading* means any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled or any combination thereof.



# COMMONWEALTH of VIRGINIA

Office of the Attorney General

Kenneth T. Cuccinelli, II  
Attorney General

August 23, 2010

900 East Main Street  
Richmond, Virginia 23219  
804-786-2071  
FAX 804-786-1991  
Virginia Relay Services  
800-828-1120  
7-1-1

Kevin J. Burke, Esquire  
Fauquier County Attorney  
10 Hotel Street, Suite 206  
Warrenton, Virginia 20186

Dear Mr. Burke:

I am responding to your request for an official advisory opinion in accordance with section 2.2-505 of the *Code of Virginia*.

## Issue Presented

You ask whether the use of a “farm building or structure” for the purposes of hosting events like concerts, dances and wedding receptions constitutes a change in the occupancy classification of the structure sufficient to require the structure’s compliance with the Uniform Statewide Building Code (“building code”) and to require the owner of such a structure to obtain an occupancy permit for such events.

## Response

It is my opinion that the infrequent use of a “farm building or structure” to host a concert, dance or other social gathering does not constitute a change in occupancy classification and, therefore, does not require the owner to obtain an occupancy permit for the new uses.

## Background

You note that owners of farm buildings or structures, which are exempt from the building code, periodically use those buildings for non-agricultural uses. You relate that examples of the new, non-agricultural uses include the hosting of concerts, wedding receptions and dances. You request advice on the issue of whether the owner of a structure defined as a “farm building or structure” who wishes to occasionally use his property for non-agricultural uses must obtain an occupancy permit for the new use.

## Applicable Law and Discussion

The building code generally requires the owner of a building to obtain an occupancy permit when a building undergoes a “change of occupancy.”<sup>1</sup> Farm buildings and structures are exempt from the

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<sup>1</sup> 13 VA. ADMIN. CODE 5-63-30(C) (2010).

requirements and standards embodied in the building code.<sup>2</sup> For the purposes of the building code, “farm building or structure” is defined as a:

[B]uilding or structure not used for residential purposes, located on property where farming operations take place, and used *primarily* for any of the following uses or combination thereof:

1. Storage, handling, production, display, sampling or sale of agricultural, horticultural, floricultural or silvicultural products produced in the farm;
2. Sheltering, raising, handling, processing or sale of agricultural animals or agricultural animal products;
3. Business or office uses relating to the farm operations;
4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery or equipment on the farm;
5. Storage or use of supplies and materials used on the farm; or
6. Implementation of best management practices associated with farm operations.<sup>3</sup>

So long as a building (1) is not used for residential purposes, (2) is located on property where farming operations take place and (3) is used *primarily* in one of the uses provided, the requirements of the building code do not apply.<sup>4</sup>

The General Assembly’s reliance on the term “primarily” indicates that the General Assembly contemplated that some non-specified uses would be made of these buildings. The answer to your question thus ultimately turns on the circumstances of each individual case. Permanent changes in the use of a structure – for example, the remodeling of a barn into a residence – would call for a new occupancy permit for the structure.<sup>5</sup> An occasional use, such as using a barn several times per year for a wedding reception, would not alter the fact that the barn remains “primarily” devoted to a specified farm use and, therefore, would not destroy the exempt status of the barn as a “farm building or structure.”<sup>6</sup>

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<sup>2</sup> VA. CODE ANN. § 36-99(B) (2010). This is true for all farm buildings and structures except for those that are used as a restaurant as defined in VA. CODE ANN. § 35.1-1 (2010) and any farm building located “within a flood plain or in a mudslide-prone area. *Id.* Farm buildings located within flood plains are “subject to flood-proofing regulations or mudslide regulations, as applicable.” *Id.*

<sup>3</sup> Section 36-97 (2010) (emphasis added).

<sup>4</sup> *Id.*

<sup>5</sup> When a farm building or structure falls outside the scope of the exemption, either because it is no longer primarily used for one of the specified purposes, because it is used for residential purposes, or is no longer located on property where farming operations take place, the strictures of 13 VA. ADMIN. CODE 5-63-30(C) (2010) would require the owner to obtain a new occupancy permit.

<sup>6</sup> This conclusion draws further strength from the fact that the General Assembly in 2000 was made aware of the fact that farm buildings are employed for purposes other than farm use and that these alternative purposes presented safety concerns. *See* Report of the Board of Housing and Community Development, Virginia Farm Buildings and Structures and the Uniform Statewide Building Code, House Doc. No. 28 (2000). Legislative inaction in the wake of this report supports the understanding that these farm buildings remain exempt from the requirements of the building code so long as they are used primarily for the specified purposes.

**Conclusion**

Accordingly, it is my opinion that the occasional use of a "farm building or structure" to host a concert, dance or other social gathering does not constitute a change in occupancy classification and, therefore, does not require the owner to obtain an occupancy permit for the new use.

With kindest regards, I am

Very truly yours,

A handwritten signature in blue ink that reads "Ken C II". The signature is stylized, with "Ken" written in a cursive-like font and "C II" written in a more blocky, capital style.

Kenneth T. Cuccinelli, II  
Attorney General



Glenn Youngkin  
Governor

Caren Merrick  
Secretary of  
Commerce and Trade

# COMMONWEALTH of VIRGINIA

Bryan W. Horn  
Director

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

October 2023

### **Memorandum**

**To:** Board of Housing and Community Development Members

**From:** Agritourism Event Structure Technical Advisory Committee

**RE:** Findings and Recommendations

### **Background**

[SB1305](#) (2023), as approved by the General Assembly and signed by the Governor, directed the Agritourism Event Structure Technical Advisory Committee (the Committee) to continue its efforts first established by [SB400](#) (2022). The legislation implemented three new requirements for farm buildings and structures that are open to the general public for agritourism activities ([§ 36-99.B.](#)). Additionally, the new legislation required the Committee to meet at least four times during 2023 to continue considering the following issues of concern regarding fire safety and the welfare of the general public at agritourism facilities:

- (i) *minimum safety standards for any building or structure utilizing the agritourism exemption, including the need to provide fire suppression, proper ingress and egress from buildings in case of emergency, and requirements relating to access roads;*
- (ii) *issues relating to standards that appropriately address facilities of all sizes and types; and*
- (iii) *the potential need for an administrative organization for inspection, enforcement, and evaluation of any new laws or regulations.*

In addition to the requirements imposed by SB1305, the Board of Housing and Community Development (the Board) directed the Committee to also consider certain terms and definitions that need additional clarity. Furthermore, SB1305 directed the Committee to report its findings and recommendations to the Board by November 1, 2023. The Committee met four times during 2023 and a summary of each meeting is attached.



## Minimum Safety Standards

As previously stated, SB1305 implemented three new requirements for farm buildings and structures that are open to the general public for agritourism activities (§ 36-99.B.). The new requirements went into effect July 1, 2023, and are as follows:

1. *Portable fire extinguishers for the purpose of fire suppression;*
2. *A simple written plan in case of an emergency, but shall not be construed to be interpreted as a fire evacuation plan under the Uniform Statewide Building Code or any local requirements; and*
3. *A sign posted in a conspicuous place upon entry to the farm building or structure that states that "This building is EXEMPT from the Uniform Statewide Building Code. Be alert to exits in the event of a fire or other emergencies." Such sign shall be placed in a clearly visible location near the entrance to such farm building or structure. The notice shall consist of a sign no smaller than 24 inches by 36 inches with clearly legible black letters, with each letter to be a minimum of one inch in height.*

Committee members reported that affected facilities attempting to comply with the new requirements do not know how to do so because the requirement to have a portable fire extinguisher and have a simple written emergency plan do not provide enough detail as currently stated in State Code. The Committee agreed the third new requirement regarding the posting of a sign stating the facility's exemption from the Uniform Statewide Building Code (USBC) is currently detailed and specific enough for a facility to comply.

Considering the July 1, 2023, effective date, committee members expressed concern regarding the lack of specificity in complying with the new requirements imposed by §36-99.B and discussed best practices for compliance with the new requirements. In doing so, the Committee and stakeholders developed best practices in the form of non-binding guidance for facilities seeking to comply with the new requirements. The best practices are offered as a resource in the absence of other federal, state, or local requirements imposed on facilities subject to §36-99.B and pertaining to portable fire extinguishers and simple written emergency plans. The detailed best practices may be found in the accompanying memo to the Board.

### Facilities of all Sizes and Types

The Committee discussed the need for different tiers of safety requirements dependent upon the size and capacity of a facility. When considering minimum safety requirements, the Committee noted that the safety requirements for a smaller operation may vary drastically from that of a larger operation and could potentially place a greater burden upon a smaller operation. Additionally, the Committee noted that minimum safety standards deemed necessary may vary regionally based on the environment and resources available. Committee members also discussed how the minimum safety standards deemed necessary may vary for a facility's regular weekday operations, weekend operations, or for a special event.

Another aspect of the issue discussed was the fact that there is not currently a mechanism for determining the occupancy limits for these affected facilities. As these facilities are exempt from



the Uniform Statewide Building Code (USBC), there is not currently a process by which a facility could receive a certificate of occupancy from a local building official. Some committee members shared examples of localities requiring these facilities to obtain a special or temporary permit in certain situations. It was noted that these permits are often based on the type of activity to occur or the expected attendance of an event.

### **Administrative Organization for Inspection, Enforcement, and Evaluation**

Currently, farm buildings and structures (as defined by [§36-97](#)) are exempt from complying with the Uniform Statewide Building Code (USBC). As such, the administrative apparatus associated with the enforcement of the USBC would not apply to farm buildings and structures that are open to the general public for agritourism activities (as defined by [§3.2-6400](#)).

The Committee discussed that there is currently no identified administrative organization to inspect and enforce the new requirements imposed by [§36-99.B](#), as well as any new laws or regulations that may affect farm buildings and structures that are open to the general public for agritourism activities. The Committee discussed different enforcement mechanisms, including the Statewide Fire Prevention Code (SFPC) which includes fire safety provisions associated with ongoing operations and maintenance of facilities. Additionally, the SFPC includes administrative provisions related to inspection and enforcement, including an appeal process. Methods for including the new requirements imposed by [SB1305](#) ([§36-99.B](#), 1-3) within the administrative apparatus of the SFPC were offered, however, all options would require legislative and/or regulatory action.

No consensus was reached as to the most effective administrative apparatus for inspecting, enforcing, and evaluating the new requirements imposed by [§36-99.B](#). Additional discussion would be required.

### **Other Topics Discussed**

*Terms and Definitions-* As directed by the Board at its May 8, 2023, meeting, the Committee considered the issue of certain terms and definitions, specifically the term “primarily” as used in the definition of “farm building and structure” in [§36-97](#) of the Virginia State Code. The Committee discussed how the uncertainty in this term has led to varying application across localities of the farm building and structure exemption from the Uniform Statewide Building Code (USBC). The inconsistent interpretations have subsequently created uncertainty in the application of the new requirements imposed by [§36-99.B](#), because the new requirements only apply to certain types of farm buildings and structures that are exempt from the USBC.

*Legislative Language-* Committee members noted that there is only a farm building and structure exemption from the USBC, not an agritourism exemption as stated in the second enactment clause of SB1305.

*Applicability-* The Committee discussed the fact that enforcement of the USBC only applies to



the construction of new facilities, not preexisting facilities. As such, if the requirements imposed by §36-99.B. were to be administered in a manner similar to the USBC, the new requirements would only apply to the construction of new facilities. However, as previously stated, farm buildings and structures (as defined by §36-97) are exempt from complying with the USBC.

### **Recommendations to the Board**

The Committee recommends publishing to the Department of Housing and Community Development (DHCD) website the accompanying memo of offered best practices in the form of non-binding guidance for facilities seeking to comply with the new requirements for farm buildings and structures that are open to the general public for agritourism activities ([§ 36-99.B.](#)). Committee members have agreed to provide notice to relevant stakeholders regarding the publishing of this best practices memo. The Committee recommends the Board takes no additional action.



**Meeting Summary**  
**Agritourism Event Structure Technical Advisory Committee**  
**June 14, 2023**  
**10:00 am**  
**Virginia Housing Center**  
**Glen Allen, VA**

**Committee Members Present**

- Chris Barry, VA Fire Services Board
- Joe Lerch, VA Association of Counties
- Shawn Maddox, VA Fire Prevention Association
- Martha Moore, VA Farm Bureau
- Jimmy Moss, VA Building Code Officials Association

**Other Attendees**

- Justin Bell, Office of the Attorney General
- Jeff Brown, Dept. of Housing and Community Development
- Brad Copenhaver, VA Agribusiness Council (Representative)
- Cindy Davis, Dept. of Housing and Community Development
- Sean Farrell, Board of Housing and Community Development
- Kyle Flanders, Dept. of Housing and Community Development
- Katelyn Jordan, VA Farm Bureau (Representative)
- Anne Leigh Kerr, VA Wineries Association
- Chase Sawyer, Dept. of Housing and Community Development
- Brett Vassey, VA Craft Brewers Guild (Representative)

**Key Takeaways**

- Stakeholders would like additional guidance regarding how to comply with the three new requirements imposed by SB1305 (§36-99.B, 1-3)
- There remains uncertainty in which agricultural buildings and structures must comply with the new safety requirements
- It is unclear the enforcement mechanism for the new requirements; they will be effective starting July 1, 2023

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

**Summary**

Department of Housing and Community Development (DHCD) staff provided an overview of [SB1305](#), legislation that continues the 2022 efforts of the Agritourism Event Structure Technical Advisory Committee as established by [SB400](#) (2022). The new legislation implemented three minimum safety requirements for farm buildings and structures that are open to the general public for agritourism activities. The legislation also requires the Committee to meet at least four times during 2023 to continue considering issues of concern regarding fire safety and the welfare of the general public at agritourism facilities. The Committee is to report its findings and

recommendations to the Board of Housing and Community Development (the Board) by November 1, 2023.

As directed by the Board at its May 8, 2023, meeting, the Committee first considered the issue of unclear terms and definitions, specifically the term “primarily” as used in the definition of “farm building and structure” in [§ 36-97](#) of the Virginia State Code. The Committee discussed how the uncertainty in this term has led to inconsistent application of the exemption across localities. Furthermore, the Committee discussed uncertainty in the legislative language and noted it is difficult to discern which facilities must comply with the new minimum safety requirements. Additionally, several committee members emphasized the fact that there is only a farm building and structure exemption from the Uniform Statewide Building Code (USBC), not an agritourism exemption as stated in the second enactment clause of SB1305.

The Committee discussed some issues that exist with the three new minimum safety requirements that were created by SB1305, chiefly the lack of specificity in complying with the requirements. Committee members reported that affected entities attempting to comply with the requirements do not know how to do so because the requirement to have a portable fire extinguisher and have a simple written emergency plan do not provide enough detail. Additionally, there were questions as to what entity/organization will be enforcing these new minimum safety requirements and what are the consequences to a facility for noncompliance.

Additional questions regarding the enforcement of the new minimum safety standards were discussed. Currently, State Code does not indicate who is authorized to enforce these requirements. It was noted that USBC requirements are typically construction related requirements that are not inspected on an ongoing basis. It was suggested that local fire services may be a better option for enforcement rather than local building officials given the ongoing nature of the requirements. It was suggested that if fire services were to enforce these requirements, the requirements should be moved to a more appropriate State Code section.

With the understanding the new minimum safety requirements are effective as of July 1, 2023, the Committee agreed that its next meeting should focus on identifying specific methods by which a facility could comply with these requirements. It was suggested that the Committee could start by reviewing relevant sections of the Statewide Fire Prevention Code (SFPC).

#### **Future Considerations**

- Methods for compliance with new minimum safety requirements
- Additional minimum safety requirements
- Safety standards for facilities of all sizes and types
- Mechanisms for inspection and enforcement
- Application of the farm buildings and structures exemption

VIRGINIA STATE BUILDING CODE TECHNICAL REVIEW BOARD

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

Interpretation Number: 3/2024

Code: Code of Virginia §36-99

Section No: Section B (1-3)

Code of Virginia 36-99. Provisions of Code; modifications

B. In formulating the Code provisions, the Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations, including, but not limited to, the standards of the International Code Council and the National Fire Protection Association. Notwithstanding the provisions of this section, farm buildings and structures shall be exempt from the provisions of the Building Code, except for a building or a portion of a building located on a farm that is operated as a restaurant as defined in § 35.1-1 and licensed as such by the Board of Health pursuant to Chapter 2 (§ 35.1-11 et seq.) of Title 35.1. However, farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to floodproofing regulations or mudslide regulations, as applicable. However, any farm building or structure (i) where the public is invited to enter for an agritourism activity, as that term is defined in § 3.2-6400, for recreational, entertainment, or educational purposes and (ii) that is used for display, sampling, or sale of agricultural, horticultural, floricultural, or silvicultural products produced on the farm or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation shall have:

1. Portable fire extinguishers for the purpose of fire suppression;
2. A simple written plan in case of an emergency, but such plan shall not be construed to be interpreted as a fire evacuation plan under the Uniform Statewide Building Code or any other local requirements; and
3. A sign posted in a conspicuous place upon entry to the farm building or structure that states that "This building is EXEMPT from the Uniform Statewide Building Code. Be alert to exits in the event of a fire or other emergencies." Such sign shall be placed in a clearly visible location near the entrance to such farm building or structure. The notice shall consist of a sign no

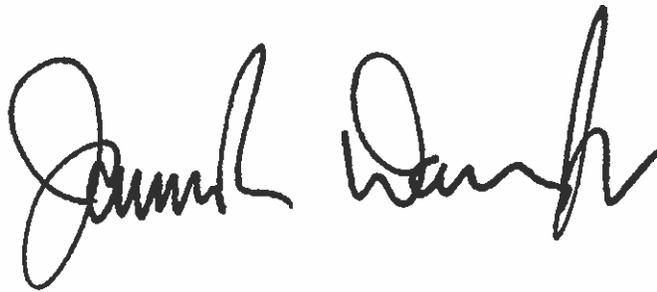
smaller than 24 inches by 36 inches with clearly legible black letters, with each letter to be a minimum of one inch in height.

---

**QUESTION:** Is the Building Official responsible for enforcing §36-99(B) (1-3)?

**ANSWER:** No, because the scope of the VUSBC and the authority of the building official are limited to those codes and regulations promulgated by the Board of Housing and Community Development.

This Official Interpretation was issued by the State Building Code Technical Review Board at its meeting of April 19, 2024.

A handwritten signature in black ink, appearing to read "James H. Hark". The signature is written in a cursive, flowing style with large loops and a prominent initial "J".

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Chair, State Building Code Technical Review Board

**Findings of Fact and Substantial Reasons  
for a  
Loudoun County Definition of “Farm”**



Prepared by: Maura Walsh-Copeland



August 15, 2023

## Findings of Fact and Substantial Reasons for a Definition of “Farm”

### Abstract

“Agriculture” in Loudoun County is not the same as it was 20 years ago when the primary operations were crops, livestock including dairy, horticulture, and silviculture. Since the last zoning ordinance update in 2006, agriculture has dramatically changed with the addition of new uses and business models for tourism and sustainable agritourism operations. Supported by the plain language of the Code of Virginia, only being located in a district labeled “Agricultural” does not sufficiently define “farm” or “farming” requirements for agricultural products and production in the current zoning ordinance rewrite. Requests for a definition of “farm” were first raised by County Staff in 2014 with the introduction of new State licensed uses, and the 2016 approval of many new uses in Agricultural Rural districts.

A definition of “farm” would assist compliance review for Code of Virginia Right to Farm regulations, VaABC licensing, zoning ordinance requirements, Planning and Zoning permit, location, and application review, zoning enforcement, and Building and Development application and exemption requirements. A definition would better protect the County from potential legal jeopardy of non-compliance with Code of Virginia or approval of applications without bona fide agricultural operations, and provide clarity for Internal Revenue Code, financial and insurance regulations. A definition would also relieve an external organization from quasi-regulatory actions and protect individuals from making potentially perjurious statements.

Actions taken to complete this report included review of Code of Virginia regulations, Board of Supervisor advisory group and public input submitted through the Zoning Ordinance Rewrite since 2020, and direct input from subject matter experts. The findings of fact and substantial reasons applied the standard of review such that a reasonable mind would accept the information provided as adequate to support a conclusion. Of note, the input for this report covers a wide array of substantial reasons, none of which intend or will cause existing operations that are legal today to be closed. The follow-on phase would be to obtain agreement to work with the County Attorney’s Office to review and address any specific legal or definition “conflicts” as outlined the County Staff’s July 26<sup>th</sup> Board of Supervisors Public Hearing Packet.

### Author Note

In June 2023 the retiring Deputy County Administrator, Charles Yudd, requested assistance to outline the stakeholder perspectives and substantive reasons the Zoning Ordinance Rewrite (ZOR) should include a definition of the word “farm.” The author is directly aware of definition requests since 2015 and has compiled this report input in a management consulting intermediary capacity across stakeholder positions held. The author’s background and select qualifications for compiling this report include:

- MBA, Management Consultant with consulting engagement expertise in zoning analysis, legal review, and public input program management,
- Member of the Zoning Ordinance Committee (ZOC) and Rural Economic Development Council (REDC) ZOR Ad hoc Committee Board of Supervisory Advisory Groups,
- LCPCC Executive Committee member, ZOR Work Group Chair, and Hillsboro Preservation Foundation officer,
- Member of the Purcellville Business Association and Greater Hillsboro Business Alliance,
- Farm Bureau member, co-owner of a Virginia Century Farm (operated by the same family for over 255 years).

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## SECTION 1: FINDINGS OF FACT

### CHRONOLOGY OF REQUESTS FOR A DEFINITION OF “FARM”

#### 1. Prior Loudoun County Staff and Supervisor Requests for Definition of “Farm.”

- a. As early as 2014 the Department of Planning and Zoning (DPZ) Staff outlined factors to be considered for uses that would be permitted by-right “*on a farm.*” DPZ highlighted that 2014 adopted State legislation for uses on a farm did not equally require a minimum acreage for the farm or specify the percentage of agricultural products that must originate on the farm<sup>1</sup>
- b. During data gathering for a 2017 case study titled, “*The Problem with Permits*”<sup>2</sup> Loudoun County staff from multiple departments and Virginia State agencies stated a definition of “farm” would assist in the permit evaluation and enforcement of uses, plans, and structures that are required to be directly associated with a “farm” and farming operations.

#### 2. Board of Supervisor Requests for Definition of “Farm”

The Transportation Land Use Committee (TLUC) October 15, 2019 packet for *Rural Uses and Performance Standards Phase 3 ZOAM* included the following text/requests<sup>3</sup>

##### a. October 15, 2019 TLUC Text

###### Agricultural Operations

*Proposal: Add new “Agricultural Operation,” “Agricultural Products,” and “Farm” definitions. Comments: The Zoning Ordinance currently does not define the terms Agricultural Operation, Agricultural Products, or Farm; however, these terms are consistently referenced throughout the Zoning Ordinance. Code of Virginia statutes that apply to certain agricultural activities and local regulation of such agricultural activities (e.g., Limited Distillery, Limited Brewery, Farm Winery, and Agricultural Processing) also reference these terms. The proposed amendment intends to establish new definitions for these terms in order to: 1) clarify the distinction between the types of agricultural properties and functions, 2) maintain consistency with the Code of Virginia, and 3) ensure that these terms are used consistently in the Zoning Ordinance. Recommendations: REDC, ZOAG, and Visit Loudoun recommend the Phase 3 ZOAM includes definitions for the above terms “Agricultural Operation,” “Agricultural Products,” and “Farm”. (emphasis added).*

- b. The Board of Supervisors (BOS) November 21, 2019 Action Report included the approval for the Resolution of Intent to Amend (ROIA) the Rural Uses and Performance Standards Phase 3 Zoning Ordinance Amendment.<sup>4</sup>

<sup>1</sup> [ZOAM-2014-0003 Department of Community Planning Referral, August 8, 2014](#)

<sup>2</sup> Contracted consulting engagement conducted by Walsh-Copeland Consulting LLC

<sup>3</sup> [Item 06 Rural Uses Standards Phase 3.pdf](#)

<sup>4</sup> [11-21-19 Business Meeting Minutes .pdf](#)

### 3. Public Input Comments and Support for a Definition of "Farm" – 2020 to 2023

Throughout the Zoning Ordinance Rewrite requests were made for a definition of "farm" by multiple public input stakeholders and BOS Advisory Groups (Zoning Ordinance Action Group/Zoning Ordinance Committee and Rural Economic Development Council), with justifications stated as

a. Zoning Ordinance Rewrite 2021 Public Input Round Two<sup>5</sup>

*The lack of a clear definition of what a "Farm" really is or is not in Loudoun County has caused inconsistent determinations for uses, abuse from applicants, and confusion for residents throughout the county. With the ever-diminishing actual "farm" and "farmland" throughout the County, a definition must be determined if the Rural Policy Area and Rural Tourism are to be protected as stated in the 2019 Comprehensive Plan.*

b. Zoning Ordinance Committee Input. A definition of Farm was discussed by the ZOR Subcommittee with a majority vote by the full ZOC to approve <sup>6</sup>

*"Agricultural" use should require a recognizable level of farming on-site," and "Agricultural" uses should require conservation of farmed areas on-site.*

c. Rural Economic Development Council April 2022 90-Day Public Input<sup>7</sup> and comments on April 2022 draft definition included that,

*"The definition of "farm" should be amended such that processing by itself does not define a farm. Processing should be eliminated from the 'Farm' definition."*

*Because Agricultural Processing is a separate use, there is no need to include "processing" in the definition of "farm."*

*Business uses allowed on Farms not currently covered by an agricultural production requirement should as best practice have a farm plan identifying what crops would be suitable for the property and acreage assigned as part of their process.*

### CHRONOLOGY OF "FARM" DEFINITIONS DURING ZONING ORDINANCE REWRITE ZOR Draft definitions of Farm and Public Input – 2020 to 2023

#### 4. Prior 1993 Zoning Ordinance definition of Farm

The definition of "farm" included in the zoning ordinance was part of the definition of Brewery Limited in final approval 2015.

<sup>5</sup> Zoning Ordinance Rewrite [Public Input - Round Two.Pdf](#)

<sup>6</sup> [ZOC Findings & Recommendations Report-July-2022](#)

<sup>7</sup> [REDC July 15 2022 Zoning Ordinance Rewrite Public Input, \(PDF p. 424\).](#)

- a. The initial definition for the September 16, 2014, Planning Commission Public Hearing ZOAM 2014-0003 and BOS November 14, 2014 Public Hearing did not include a definition of "farm."

*Brewery, Limited: A brewery licensed as a limited brewery and is located on a farm in the Commonwealth on land zoned agricultural.*

- b. The new use definition was revised at the November 21, 2014, TLUC meeting<sup>8</sup> to add the 10 acre minimum owned or leased, with undetermined notice or comments by the public prior to approval at the January 21, 2015 BOS Board Meeting.

*Brewery, Limited: A brewery licensed as a Limited Brewery in accordance with Section 4.1-208 of the Code of Virginia, as amended, and located on a farm in the Commonwealth on land zoned agricultural. For the purposes of this definition, "farm" shall be defined as one or more contiguous parcels of land, totaling a minimum of 10 acres in size, owned or leased by such licensed limited brewery. (Underline added)*

**5. Staff April 2022 proposed definition of "Farm" for ZOC and public input review<sup>9</sup>**

- a. The following definition was proposed by Staff in April 2022 with the assumed review by the County Attorney's Office to meet their requirements to address parcels that were adjacent or contiguous and under the same ownership.

*Farm: An agricultural use of one or more parcels of land, whether abutting or not, having a minimum of 5 acres and operated under the same ownership or stewardship, used for the production, cultivation, growing, harvesting or processing of agricultural or horticultural products or for animal husbandry purposes. Also reference "Agriculture, Bona Fide.*

- b. Rural Economic Development Council (REDC) and Stakeholder January 2023 comments from ZOR public input files<sup>10</sup> commented that,

*The definition of "farm" should be amended such that "processing" by itself does not define a farm. This was done, however the Jan. 2023 edits removed actual "farm" activities.*

*Because "agricultural processing" is a separate use, there is no need to include "processing" in the definition of farm. Delete the word "processing" from the definition.<sup>11</sup>*

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<sup>8</sup> [11-21-14 TLUC Meeting Summary.pdf](#)

<sup>9</sup> [2022-04-26 ZORW Subcommittee Use Standards, p.5](#)

<sup>10</sup> [ZOR Comments on the Draft Zoning Ordinance files](#)

<sup>11</sup> <https://www.loudoun.gov/DocumentCenter/View/172777/2-Online-Form-Comments>, p. 5, <https://www.loudoun.gov/DocumentCenter/View/172779/4-Emails>, Walsh Family Winery, p. 14; stakeholder organizations and multiple citizens.

*Current Proposed [Jan. 2023] Definition of "Farm" states, "One or more adjacent or contiguous parcels of land, having a minimum of 5 acres and operated under the same ownership or stewardship, used for agriculture or animal husbandry uses.*

*ISSUE: Replacing the ag-specific activities with "Agriculture" would broaden the definition beyond the initial true intent of "farming" not just "ag use." Return to the original [April 2022] identification of farming-related activities.*

The REDC and stakeholder comments regarding the exclusion of "processing" is supported by the definition of "production agriculture" as defined in § 3.2-300 (see below).

*Production agriculture and silviculture" means the bona fide production or harvesting of agricultural or silvicultural products but does not include the processing of agricultural or silvicultural products. (emphasis added)*

**6. Staff January 2023 definition of "Farm" for Planning Commission work session discussions<sup>12</sup>**

- a. The following definition was proposed by County ZOR Staff for Planning Commission review, with assumed review by the County Attorney's Office.

*Farm: One or more adjacent or contiguous parcels of land having a minimum total size of 5 acres and operated under the same ownership or stewardship, used for agriculture or for animal husbandry.*

Although the Farm Bureau initially was concerned about the 5-acre minimum in public comments, it was pointed out that the requirement is the same as the 1993 Zoning Ordinance that allows smaller agricultural operations to obtain a Conservation Farm Management Plan for parcels less than 5 acres. The Farm Bureau then rescinded their concern with a letter of support from multiple stakeholder organizations.<sup>13</sup>

- b. An alternate definition of "Farm" was suggested, however as Code of VA § 46.2-698 pertains to registration of "farm" vehicles this definition may not be wholly sufficient as a zoning ordinance definition.

*Code of VA § 46.2-698. C. As used in this section, the term "farm" means one or more areas of land used for the production, cultivation, growing, or harvesting of agricultural products, but does not include a tree farm that is not also a nursery or Christmas tree farm, unless it is part of what otherwise is a farm. As used in this section, the term "agricultural products" means any nursery plants; Christmas trees; horticultural, viticultural, and other cultivated plants and crops; aquaculture; dairy; livestock; poultry; bee; or other farm products.*

<sup>12</sup> [Item 1 - Draft Zoning Ordinance .pdf](#), p. 362, Planning Commission 1/24/2023 Public Hearing

<sup>13</sup> <https://www.loudoun.gov/DocumentCenter/View/172778/3-Letters---Organizational-Statements> (Piedmont Environmental Foundation, Friends of the Blue Ridge Mountains, Loudoun County Farm Bureau, Loudoun Wildlife Conservancy, Save Rural Loudoun, Hillsboro Preservation Foundation, Virginia Piedmont Heritage Area Association, Blueridge Mountain Civic Association)

## 7. The April 2023 definition of "Farm"

- a. A definition based on Code of Virginia §3.2-6400, included in a letter from Visit Loudoun<sup>14</sup> and referenced by a citizen/winery owner report<sup>15</sup>, references the January 12, 2023 opinion by Jason S. Miyares Virginia Attorney General advisory opinion<sup>16</sup> for "short-term rental accommodation at an operating farm:"

*A "farm or ranch" is "one or more areas of land used for the production, cultivation, growing, harvesting or processing of agricultural products."*

- b. Visit Loudoun commented that, "The 'processing of agricultural products' is a part of the definition of 'farm' in addition to 'cultivation, growing, harvesting' so limiting it to only one element of the definition is too narrow in scope," with reference to "beer" production.

The Code of Virginia §4.1.206 provides for "Manufacturer licenses." The word "processing" is not used in Code of Virginia §4.1.206 (Distiller, Limited Distiller, Brewery, Limited Brewery, Winery, and Farm Winery manufacturer licenses).

### RELEVANT CODE OF VIRGINIA CITATIONS OF "FARM"

## 8. Code of Virginia § 3.2-6400 Definition of "Farm or Ranch"

- a. Section 3.2-6400 of the Code of Virginia<sup>17</sup> pertains to "Agritourism Activity Liability" definitions, under Title 3.2 Agriculture, Animal Care and Food, Subtitle V. Domestic Animals.

The purpose of this section is to define agritourism liability to the public and the notice requirements informing the public of inherent risks of agritourism activities, including the potential for injury or death, and that patrons are assuming the risk of participating in agritourism activity.

*The signs and contracts described in subsection A shall contain the following notice: "WARNING" or "ATTENTION" followed by "Under Virginia law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such injury or death results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this agritourism activity."*

- b. In discussion with the County Attorney's Office on July 10, 2023, this definition would be insufficient for use as a zoning ordinance definition of "farm."

<sup>14</sup> Visit Loudoun April 8, 2023 letter, Subject: Planning Commission Subcommittee re: Chapter 3 Uses, Chapter 4 Use-Specific Standards and Chapter 13 Definitions.

<sup>15</sup> [ZOR Public Input Letters, dated April 19, 2023, Steve Bozzo, Bozzo Family Vineyards](#)

<sup>16</sup> [Kemper M. Beasley III, Esquire, 2023 WO 220315 \(Va.A.G\), January 12, 2023](#)

<sup>17</sup> [Code of Virginia §3.2-6400](#)

**9. Code of Virginia § 46.2-698.C. Definition of "Farm"**

As indicated above, the definition of "Farm" from this section of the Code of Virginia pertains to registration of "farm" vehicles. As such, this definition may not be viewed as be wholly sufficient as a zoning ordinance definition by the County Attorney's Office.

**10. Code of Virginia § 36-97 and VAC 13VAC5-63-200 "Farm Building or Structure"<sup>18</sup>**

Relevant to a review of "Farm," is the use of the word to determine the application of building codes. In these sections the definition (with emphasis added) is:

*"Farm building or structure" means a building or structure not used for residential purposes, located on property where **farming operations** take place, and used primarily for any of the following uses or combination thereof:*

- 1. Storage, handling, production, display, sampling, or sale of agricultural, horticultural, floricultural, or silvicultural **products produced in the farm**;*
- 2. Sheltering, raising, handling, processing, or sale of agricultural animals or agricultural animal products;*
- 3. Business or office uses relating to the **farm operations**;*
- 4. Use of **farm machinery** or equipment or maintenance or storage of vehicles, machinery, or equipment **on the farm**;*
- 5. Storage or use of supplies and materials used **on the farm**; or*
- 6. Implementation of best management practices associated with **farm operations**.*

**11. Code of Virginia § 15.2-2288.6 applies to "Agricultural Operations" as defined in § 3.2-300**

*"Agricultural operation" means any operation devoted to the bona fide production of crops, animals, or fowl, including the production of fruits and vegetables of all kinds, meat, dairy, and poultry products, nuts, tobacco, nursery, and floral products and the production and harvest of products from silviculture activity. "Agricultural operation" also includes any operation devoted to the housing of livestock as defined in § 3.2-6500.*

*"Production agriculture and silviculture" means the bona fide production or harvesting of agricultural or silvicultural products but does not include the processing of agricultural or silvicultural products or the above ground application or storage of sewage sludge.*

**12. Code of Virginia § 4.1-206.1 – "Farm" location requirements for VaABC Licensed Uses**

The Code of Virginia 4.1-206.1 states Virginia ABC may grant manufacturer licenses to

a. Limited distiller's:

*"to distilleries that (i) are located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) use agricultural products that are grown on the farm in the manufacture of their alcoholic beverages."*

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<sup>18</sup> [Code of Virginia §36-97](#)

b. Limited breweries:

*“Provided that (i) the brewery is **located on a farm** in the Commonwealth on land zoned **agricultural** and owned or leased by such brewery or its owner **and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm.** The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof.”*

c. Farm Winery license:

*“designated either as a Class I, Class II, Class III, or Class IV farm winery license in accordance with the limitations revised as of July 1, 2023 set forth in [§ 4.1-219](#).”*

The original 2006 §4.1-100 Farm Winery Definition included, “(i) **located on a farm** in the Commonwealth with a producing vineyard, orchard, or similar growing area . . . .” This definition was revised (SB 983, July 1, 2023) with “located on a farm” removed as the term “farm” is already referenced in the licensed use name and the new Class levels by their requirements meet the requirements of a “farm.”

**13. Code of Virginia § 36-98.4 and Senate Bill 1305. Agritourism event buildings**

- a. This regulation has been referenced during ZOR public comment as having direct impact to the establishment of a definition of “farm.” However, the actual language only authorizes a committee for review during the 2023 legislative session without any direct decisions on building code changes.

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

- b. The result of the committee will continue the work for Senate Bill 1305 Farm buildings and structures and building code exemptions<sup>19</sup> for Agritourism Event Buildings to establish a less stringent code requirement to accommodate “products produced on the farm.” The bill summary states,

***Farm buildings and structures; building code exemptions.** Requires farm buildings and structures where the public is invited to enter and that are used for storage, handling, production, display, sampling, or sale of agricultural, horticultural, floricultural, or silvicultural **products produced on the farm** and that are exempt from the Uniform Statewide Building Code (the building code) to have (i) portable fire extinguishers, (ii) a simple written plan in case of an emergency, and (iii) a sign posted in a conspicuous place upon entry that states that the building is exempt from the provisions of the building code. The bill also directs the Agritourism Event Structure Technical Advisory Committee to meet at least four times between the 2023 and 2024 Regular Sessions of the General Assembly and provides guidance to the Committee on topics to be considered related to fire safety and the welfare of the general public.*

<sup>19</sup> [Virginia 2023 session SB 1305 Farm buildings and structures; building code exemptions](#)

**14. Virginia ABC-Related Legislation Effective July 1, 2023, Winery and Farm Winery**

- a. This law (Senate Bill 983<sup>20</sup>) made changes to the privileges of and requirements for winery and farm winery licenses. Such changes relate to the characteristics of and tasks to be performed on the licensed premises, license qualifications, manufacturing and sale requirements and limitations, and utilization of contract winemaking services.
- b. SB 983 made no changes to Limited Brewery or Limited Distiller regulations; only winery and Farm Winery regulations and privileges were modified.
- c. SB 983 also applied applicability rules stating,

*any person that holds a farm winery license that was applied for prior to July 1, 2023, and granted prior to January 1, 2024, by the Board of Directors of the Virginia Alcoholic Beverage Control Authority shall, until July 1, 2028,*

*(i) be exempt from the requirements created by this act in §§ 4.1-219 and 4.1-231.1 of the Code of Virginia and*

*(ii) remain subject to the requirements of §§ 4.1-219 and 4.1-231.1 of the Code of Virginia as those sections were in effect on June 30, 2023.*

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<sup>20</sup> [Senate Bill 983](#)

## SECTION 2: SUBSTANTIAL REASONS FOR DEFINITION OF “FARM”

### IMPACTS TO UNDERSTANDING AND HEALTH, SAFETY AND WELFARE

#### 15. Clarity for uses of the word “Farm” versus “Agriculture”

- a. The term “Agriculture” is used not only to describe the activities of a farming operation, but also as a district name (“Agricultural Rural 1 and Agricultural Rural 2), as well as a zoning ordinance category heading in Chapter 3 Uses. Standalone, the word “agriculture” is not sufficient for review, approval and enforcement of uses and definitions as defined in the Code of Virginia.
- b. The July 2023 ZOR Draft Text contains 195 uses of the word “farm.” The term is used in the name of eight uses with only one definition, specific only to Winery, Virginia Farm. A definition of “farm” would better clarify the definition of the term for all uses referencing the term.
- c. As indicated during the May 18, 2023 Planning Commission work session<sup>21</sup>, a definition of farm in the zoning ordinance would enable Staff and Zoning Enforcement to better define and communicate the difference between a “solar facility” versus the colloquial term of “solar farm,” the latter of which has no relation to agricultural operations or production agriculture.

#### 16. Consistency with Loudoun County Land Use Assessment Regulations

Public input through ZOR<sup>22</sup> stated that permitted agricultural uses should be consistent with the Loudoun County Land Use Assessment program, adopted in 1973 and permitted via Sections 58.1-3229 through 58.1-3244 of the Code of Virginia.<sup>23</sup> A definition of “farm” that is consistent with the requirements for Agricultural Land Use would enable staff and other agencies to apply the same standards for permitting and enforcement. The Land Use Assessment regulations are:

*To qualify, the property must be at least 5 qualifying acres, and devoted to the bona fide production for commercial sale of plants or animals, or plant or animal products useful to man. Generally accepted products include livestock, dairy, poultry, and crops. Proof of commercial production demonstrating gross sales income or value of products should be documented.*

#### 17. Use of word “Farm” Causes Confusion and Obfuscation

- a. Many subdivisions, roads, businesses and LLCs located on formerly owned agricultural property with agricultural operations (i.e., farms) have used the word “Farm” in name only. This has caused confusion on applications for an “XYZ Farm LLC” requesting an exemption for an “ag barn.” Examples can be found in Board of Zoning Appeal cases<sup>24</sup>.

<sup>21</sup> Comments made by Planning Commissioner Mark Miller, 5/18/2023

<sup>22</sup> [Public Comments in enCodePlus](#)

<sup>23</sup> <https://www.loudoun.gov/652/Land-Use-Assessment-Program>

<sup>24</sup> *Aviation business – fire from several hundred Lithium-Ion batteries stored inside a “farm” building. No agricultural operations or “farming” was being done on the property. The “Flight Barn” was constructed as an agriculture out building without permits from Loudoun County Building and Development. The building*

- b. A definition of farm in the zoning ordinance would enable Staff and Zoning Enforcement to determine the nature of a business or location more accurately, beyond the word “farm” used in name only.

**18. Business Management – Department of Economic Development (DED)**

- a. The DED “Start a Business” webpage<sup>25</sup> outlines the requirements for a number of rural business types for the Rural Policy Area, from agriculture to event facilities, equestrian, farm markets, lodging, Virginia ABC licensed uses, and restaurants, stating,

*What is the county’s role? Our main role is to protect the safety of your customers and neighbors, care for the natural environment and make sure that your business complies with laws and regulations. Many county departments are involved in the review and approval of uses. We also assist businesses so they may thrive.*

- b. The webpages descriptions and links do not provide clear reference to rural uses “farm” or “farming operation” requirements for prospective business owners and the public to determine the requirements for eligibility or compliance for various uses, such as (emphasis added),

*The webpage for “Starting an Agritainment Business”<sup>26</sup> states, “Agritainment exists to support parcels actively in agricultural use by allowing associated events and activities, such as: Corn mazes; Hay rides; Petting zoos. The above examples of recreation, entertainment, and tourism activities and events must be directly tied to the ongoing, on-site farming operation.”*

*The webpage interchangeably refers to the VaABC manufacturer licensed use, “Limited Brewery” informally as a “Farm Brewery,” stating, “A farm brewery is a farm first and brewery second which means that your business can: Grow, produce and harvest grains, hops, fruit and other agricultural products.”<sup>27</sup>*

*Similarly, the webpage states, “A farm winery is a farm first and winery second which means that your business can: Produce and harvest fruit and other agricultural products.”<sup>28</sup>*

The links for current Revised 1993 Loudoun County Zoning Ordinance links to the entire section 5-600 (pdf version), not the specific zoning ordinance sections or the enCodePlus version of current Loudoun County zoning. The pages do not link to the definitions sections of current zoning. This creates a *circular interpretation loop* for prospective business owners and the public to determine whether uses that require “farming operations” or are a “farm first” are eligible or compliant.

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*is used as part of [deleted name]’s business in drone engineering.”<sup>24</sup> After the fire the “Farm” LLC filed a Farm Structure Exemption Request for a replacement structure stating, “The barn will be used to house the various types of livestock fee, farming equipment, tools and supply storage, and the farm’s operations office.”*

<sup>25</sup> [DED Rural Uses “Start a Business” webpage](#)

<sup>26</sup> [Steps for Starting an Agritainment Business](#)

<sup>27</sup> [Steps for Starting a Limited Brewery \(Farm Brewery\)](#)

<sup>28</sup> [Steps for Starting a Virginia Farm Winery \(Cidery, Meadery\)](#)

- c. A definition of "Farm" would clarify use requirements for the zoning ordinance and DED educational website instructions. Clarity of a "farm" definition would ensure improved business case analysis and preparation for a scale-appropriate location for activities and events beyond "sampling and sale" of manufactured products.

## PROCESS REQUIREMENTS TO CONFIRM "FARM" OPERATIONS

### 19. County To State License Approval Process Disconnects

- a. The sequencing and approval of State licenses for uses "on a farm" have a process and timing disconnect with County notification and zoning permit approval. In the Virginia ABC license approval process the "County investigation" step is in the form of a letter sent to the County Attorney's Office (CAO) and the Sheriff's office asking if there are any objections to the application<sup>29</sup>.

A "no response" from the County Attorney's Office or Sheriff is considered "acceptance" and is noted in the application file as approved.<sup>30</sup>

The point in time of receipt of the letter has been in instances months before an application for zoning permit of a use, including in cases the permitting and building of a structure. Therefore, the CAO and Sheriff have no means to verify an applicant's compliance with the Virginia Code other than to confirm the district of the application address (not the actual business location in all instances). This results in VaABC license approval obtained prior to zoning permit approval without a CAO confirmation of "farm" applicable property in an agricultural district as required in the Code of Virginia.

- b. A definition of "farm" would assist Loudoun CAO and Sheriff review compliance with Code of Virginia regulations in a timely manner for VaABC applications, beyond only reviewing district address submitted.

### 20. Inspections to confirm Code of Virginia requirements for "farm" products and operations

- a. The Virginia ABC industry license application required documents<sup>31</sup> outline the information needed to complete a VaABC license application.<sup>32</sup> Section 4.1-219 and internal VaABC General Order 502 procedures<sup>33</sup> specifically reference a "site visit," however, neither the required PDF

<sup>29</sup> [VaABC §4.1-230](#) and VaABC General Order 502. "The local governing body may object to the issuance of the license when the establishment is not in compliance with the locality's ordinance regarding health, construction, sanitation, etc." No reference to "farm" or "agricultural products" site review.

<sup>30</sup> Confirmation from current Special Agent in Charge-VaABC Compliance, Marc Haalman, 8/2023.

<sup>31</sup> VaABC [industry license application required documents](#) (PDF)

<sup>32</sup> [VaABC industry application](#) (PDF)

<sup>33</sup> "Before a license is issued the assigned territory agency shall conduct a site visit to ensure sufficient inventory of qualifying items, and other requirements relating to the licensed premises and to educate the applicant about ABC laws and regulations. If necessary, the agent will also determine if there are any objections to the issuance of the license from potentially aggrieved parties in accordance with 4.1-222." VaABC General Order 502

documents nor the application include any reference or confirmation of “farm,” or “products grown on the farm” as required by Code of Virginia manufacturing licensed uses for Limited Brewery or Limited Distillery.

- b. Confirmation of products grown is *only* part of a Farm Winery application process. As referenced in § 4.1-219<sup>34</sup> Limitations on Class I, II, III, and IV farm wineries, applicants must identify specific quantities of products grown, whereas applications for other VaABC manufacturer licensed uses do not.
- c. Applications for other VaABC manufacturer licensed uses do not confirm the Code of Virginia requirements. A definition of “farm” would assist Loudoun Staff and zoning enforcement ensure compliance with Code of Virginia regulations for Limited Brewery and Limited Distiller applications, not in terms of specifying quantity or dictating location, but rather ensuring *“agricultural products . . . are grown on the farm.”*

**21. Lack of annual VaABC inspection for ongoing “agricultural products . . . grown on the farm.”**

- a. Annual inspection requirements for manufacturers Code of Virginia § 4.1-204<sup>35</sup> make no reference to inspection of products grown *“on the farm”* for Limited Brewery or Limited Distillery in the list of inspections points reviewed by VaABC Special Agents on the VaABC Inspection Reports<sup>36</sup> VaABC General Orders 501 and 502 (VaABC Licensee Inspections) show no requirement for VaABC inspection of “farm” products grown for Limited Brewery or Limited Distillery, only alcohol taxing, storage and distribution.
- b. A definition of “farm” would assist Loudoun Staff and zoning enforcement ensure compliance with Code of Virginia regulations after an initial application and/or approval of a VaABC license.

**22. Farming Operation and Agricultural Operations**

- a. A definition of “farm” would enable County Staff (Planning and Zoning and Building and Development) to evaluate and enforce *“farming operations”* as outlined in Code of VA §36-97 and VAC 13VAC5-63-200 “Farm Building or Structure” for *“products produced in the farm,”* and be better prepared for enforcement Virginia Senate Bill 1305 to review *“products produced on the farm.”*
- b. Related public comments were submitted stating,

*“The “display, sampling, or sale” provisions are highlighted in case County Staff suggest that tasting rooms are not “directly associated with agriculture.”<sup>37</sup>*

The public comment highlighted the *“display, sampling or sale,”* but omitted reference to the end of the sentence underlined below.

<sup>34</sup> <https://law.lis.virginia.gov/vacode/4.1-219/>

<sup>35</sup> <https://law.lis.virginia.gov/vacode/title4.1/chapter2/section4.1-204/>

<sup>36</sup> <https://www.abc.virginia.gov/library/licenses/pdfs/val/industry-license-application.pdf>

<sup>37</sup> Loudoun Local Business League letter to the Planning Commission, April 9, 2023

*"1. Storage, handling, production, **display, sampling or sale** of agricultural, horticultural, floricultural or silvicultural **products produced in the farm.**" [Underline added]*

- c. The plain language of the Code of Virginia § 3.2-300 definitions of "Agricultural Operation" and Production Agriculture relate to the

- *"bona fide production of crops . . . including the production of fruits,"*
- *"but does not include the processing of agricultural or silvicultural products."*

As applied to Code of VA §36-97 and VAC 13VAC5-63-200, *agricultural*, horticultural, floricultural, or silvicultural products not produced in/on the farm would not be "farming operations," therefore not eligible for exemption to the building code.

Based on the plain text, only "tasting rooms" located where there are "agricultural products that are grown on the farm" would be considered "directly associated with agriculture." Tasting rooms without "agricultural products grown on the farm" are not directly associated with agriculture and therefore would not be exempt from building code.

- d. Code of VA §15.2-2288.6 applies to "Agricultural Operations," defined as any operation devoted to the bona fide production of crops et.al. related to the "Right to Farm" stating,

*Other activities or events that are usual and customary at Virginia agricultural operations. [i.e., bona fide production of crops et.al.]*

*Any local restriction placed on an activity listed in this subsection shall be reasonable and shall take into account the economic impact of the restriction on the agricultural operation [i.e., bona fide production of crops et.al.] and the agricultural nature of the activity.*

Without actual "agricultural operation" and/or production agriculture, this provision would not apply. Staff's Planning Commission April 10, 2023, draft text<sup>38</sup> included language requiring "Direct association to agriculture" to provide enforcement for the Code of Virginia requirements. This language was removed in the July 2023 text, but may be reconsidered by the Board during review to ensure compliance with Code of Virginia requirements.

- e. A definition of "farm" would assist Loudoun Staff and zoning enforcement ensure compliance with Code of Virginia regulations for where "agricultural products that are grown on the farm" is required to be used in the manufacture of products sold.

<sup>38</sup> [04-10-2023 Staff Report for Planning Commission Uses Subcommittee](#)

## FARM BUILDING OR STRUCTURE – EXEMPTION REQUEST PROCESS

### 23. Farm Building or Structure – SB 1305

- a. For awareness, Senate Bill 1305<sup>39</sup> (in progress) separately describes “farm structure” for actual production agriculture from “Farm buildings and structures” used for agritourism or “sampling or sale” that are exempt from building codes. This bill will be discussed in the 2023 legislative session in committee, with the following proposed measures (some have called “building code lite”) to provide health, safety and welfare without onerous regulations for rural businesses:

*. . . any farm building or structure (i) where the public is invited to enter for an agritourism activity, as that term is defined in § 3.2-6400, for recreational, entertainment, or educational purposes and (ii) that is used for display, sampling, or sale of agricultural, horticultural, floricultural, or silvicultural products produced on the farm or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation shall have:*

- 1. Portable fire extinguishers for the purpose of fire suppression.*
- 2. A simple written plan in case of an emergency, but such plan shall not be construed to be interpreted as a fire evacuation plan under the Uniform Statewide Building Code or any other local requirements; and*
- 3. A sign posted in a conspicuous place upon entry to the farm building or structure that states that “This building is EXEMPT from the Uniform Statewide Building Code. . . .”*

### 24. Building & Development Farm Structure Exemption Request

- a. The Department of Economic Development “How to Start a Rural Business” web site includes the link to the Building and Development “Farm Structure Exemption Request” form<sup>40</sup> to confirm the zoning permit requirements for all new farm buildings or structures or change of use of an existing building or structure “regardless if the Building Official deems the building or structure exempt from the USBC (Uniform Statewide Building Code).”

The form requests a description (emphasis added) of the

*“Farming operation taking place on the land where the farm building or structure is located” and “how the farm building or structure is used primarily for the farm uses defined above.”*

On page 3 the form states applicants

*may also be required to obtain a Conservation Farm Plan (also known as a Farm Management Plan) from Loudoun Soil and Water Conservation District (SWCD) and the Virginia Cooperative Extension Service (VCES) and provide a copy of such executed Plan.*

- b. A definition of “farm” would assist Loudoun Building & Development Staff and zoning enforcement ensure compliance with USBC requirements and the authentication of information for “farming operation” and “how the farm building is used” per the Farm Structure Exemption Request form.

<sup>39</sup> <https://lis.virginia.gov/cgi-bin/legp604.exe?231+ful+CHAP0644>

<sup>40</sup> [B&D Farm Structure Exemption Request form](#)

## IMPACTS TO ORGANIZATIONS AND OTHER CONSIDERATIONS

### 25. Exemption Request Impacts to Loudoun Soil & Water Conservation District (LSWCD)

Loudoun Soil & Water Conservation District contacts provided input for the definition of farm.<sup>41</sup> A summary of input includes:

- a. On the previously cited DED "Guide to Start a Rural Business" website<sup>42</sup> all rural businesses are advised to determine the permitting requirements for each use, including whether a "farm building or structure" exemption may be applied for. The website includes a direct statement to contact "Soil and Water Conservation District (for a Conservation Farm Plan):"

*Loudoun is home to many iconic and historic barns and farm structures. Depending on when, how and why they were built, they may be exempt from certain coding regulations ([Click here to apply for an exemption](#)). Building and Development should make that determination before you get started . . . it is important to check with Building and Development (before any land disturbance or development activity), Planning and Zoning (before building structures or starting a use), the Soil and Water Conservation District (for a Conservation Farm Plan) and the Health Department (to protect against water contamination). Additional permits may be required.*

- b. A definition of "farm" would reduce the situations where county staff (Planning & Zoning, Building & Development) feel obligated to offer individuals or operation applicants who receive notice of zoning violations the opportunity for a "get out of jail free card." Staff and the DED website encourage applicants wanting to construct an "ag barn" to apply for a "farm building or structure" building code exemption to request a "farm plan" from LSWCD, even for plans or operations when it is stated (and obvious) there is no agriculture or "farming operation" involved.

This has put LSWCD in a quasi-regulatory position of approving or denying a "farm plan" with no apparent "farming" or "ag operation" requested for the sole purpose to enable an exemption for building codes that are in place to ensure the health, safety and welfare of the public.

- c. A definition of "farm" would enable LSWCD to provide equitable determinations. A definition would also deter individuals or operations who have cleared or graded steep slopes or other sensitive areas for development/creating a view, etc. *without proper permits* from requesting LSWCD provide a conservation farm plan, and knowingly signing the form that states,

*I, the undersigned:*

- *do understand that any changes to the primary use of this structure or status of my farming operations, as stated above, shall be reported to the Building Official and may nullify this exemption.*
- *do hereby certify that I have read and understand the above definitions from the USBC.*
- *do hereby certify under penalty of perjury that all statements provided by me on this application are true and accurate.*

<sup>41</sup> LSWCD respondent: Chris Van Vlack, Urban/Ag Conservationist

<sup>42</sup> <https://biz.loudoun.gov/rural-uses/>

- d. Agricultural Structure (a.k.a. tasting room) building issue. Currently property or business owners are approaching the LSWCD for “farm plans” that are required for building agricultural structures when the property is not enrolled in the Agriculture Land Use Program or have any definable agricultural operations. This is most often for equine operations that are not earning income, or small acreage properties building run in sheds or chicken coops that are too small to qualify for land use. These are reasonable and normal and a good way for property owners to get some advice and consultation on conservation practices from the LSWCD.

The problem becomes when a VaABC licensed business, (primarily Limited Breweries) approaches the LSWCD with no stated or confirmed intention of conducting any farming operation, or staff with knowledge of agriculture. These requestors are told they, “need a farm plan” in order to obtain a zoning permit for an “agricultural structure” exemption for the building so they do not have to obtain building permits or build it to USB Code. These are structures where there are large assemblies of people, that violates the intent of the exemption and the declaration required on the exemption form.

- e. LSWCD has also encountered situations where site engineers and architects have asked for a “farm plan,” not the owner or person who will actually be doing any “farming.” A farm definition would make it clear that farm plans are for agricultural uses, not solely for “making a place a farm.” This would allow LSWCD to not be placed in the position of arbiter or being coerced to provide a “farm plan” without “farming operation” or “agricultural operation” verification.

## 26. Self-Declaration of “Farm” – Farm Bureau Input

Farm Bureau officers provided input for a definition of “farm,” that is consistent with Zoning Ordinance Rewrite Public Input.<sup>43</sup> A summary of input includes:

- a. Properties and/or new businesses should not be allowed to “self-declare” that they are a “farm.” Likewise, VaABC licensing for “manufacturing” is a separate use, and not part of the direct “farming operation.” Code of VA requires some VaABC “manufacturing” licensed businesses to be located “on a farm,” as a county regulation requirement. Defining “farm” would therefore ASSIST County zoning staff properly evaluate a property location for compliance before a zoning permit is provided.
- b. “Processing” of agricultural products grown on site or from within Loudoun are legitimate parts of an agricultural processing and/or farming operation, but only obtaining a VaABC manufacturing license for a business use should not, in and of itself, qualify a location as a “farm.”
- c. Property owner complaints about concert noise, event center traffic or other issues have increased from 2015 through 2023.<sup>44</sup> While these activities might be allowed on a farm, they shouldn’t be what defines a “farm.” Property owners should be made aware that these are not “farm” uses, but instead are separate zoning issues so they aren’t attacking legitimate farming operations. A definition of farm would make sure that it is clear what a “farm” is and what it is not, to ensure there will not eventually be an effort to chip away at Virginia’s Right to Farm Law over issues that are not agriculturally related.

<sup>43</sup> <https://www.loudoun.gov/5720/Comment-on-the-Draft-Zoning-Ordinance>

<sup>44</sup> [2023 ZOR Public Input Survey as of 6-2-2023](#)

- d. A farm definition would also help to clearly define what is an agricultural structure for purposes of tax assessment. If the property is not a farm, whether or not a structure resembles a barn, it should not be considered an agricultural structure. Likewise, if the structure is on a farm and used as part of a farming operation it should be classified as such.

### **REAL ESTATE, FINANCE, AND INSURANCE CONSIDERATIONS FOR "FARMS"**

REDC representatives with background in Real Estate, financial lending and insurance<sup>45</sup> for "farms" provided input for a definition of "farm." A summary of the input includes:

#### **27. Real Estate Implications for "Farms"**

- a. Review of a number of vacant parcel real estate listings show promotion of properties on mountainside and steep slopes stating, "*Current AR1 zoning allows by-right for a vineyard or brewery to be built on the entire property . . . among other potential agricultural uses.*" No reference is being made of requiring a "Conservation Farm Plan" to comply with zoning, which misleads the sale and purchase of the property.

A definition of "farm" included in the zoning ordinance would provide a clearer understanding of allowable uses along with their minimum lot sizes. This could be useful for the public when purchasing a property and could affect a farm's and/or farmer's relationship with the Internal Revenue Code (IRC), as well as possibly affecting types of lending options.

#### **28. Internal Revenue Code compliance**

- a. The IRC requires a producer (farmer) to raise or grow a product and sell that product and qualify as "farm income." Per the IRC, there is a difference between considering a vineyard versus a winery as a farm. Vineyards and groves are not included in IRC Section 2032A(e)(4) and would fall under "*agricultural and horticultural commodities.*" The grapes are the product of vineyards and an agricultural commodity, thus the vineyard is a farm. A winery that produces and sells wine would not be considered a farm.
- b. A definition of "farm" versus "agritourism" may offer clarity for future owners of agriculturally based properties for possible avenues of use. Agritourism is not defined in the IRC for income tax purposes. However, Agritourism is generally considered a non-farming activity that derives income if those activities include touring, education, entertainment and retail markets (selling things not produced on that farm) which could affect a farmer's income, local, and state tax requirements.

#### **29. Financial and Insurance impacts for "farm"**

- a. Different mortgage loans may vary widely depending upon the use, size, and improvements on an agricultural property and require the lenders to do a deep dive into what the property's purpose is and its improvements.

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<sup>45</sup> REDC Vice Chair, Jan Kernan, Realtor Virginia Homes & Farms, Rural Business owner of Bleu Frog

- Fannie Mae (government entity offering a purchase mortgage security program to lenders) does not purchase or securitize mortgages for "farms or ranches" if designated as agricultural property. It will allow larger acreages into the program depending upon its intended use, which is verified by the lender.
  - Freddie Mac will purchase mortgages in rural locations if the subject property has collateral for the full transaction based on value, condition and marketability of the property. If the *primary* use of the property is *residential*, but has agricultural outbuildings, then the property is eligible for Freddie Mac program. If the property is used *primarily for farming or ranching*, then the property is not eligible.
- b. Conventional loans, based on lender requirements, put the emphasis on the residential area of a property and may stipulate a max acreage amount to consider, no matter the size of the "farm." They may only look at the area surrounding the main residence (i.e., "curtilage").
- c. USDA uses acres of crops and head of livestock to determine if a place is a "farm" that can normally produce and sell at least \$1000 per year and be offered loan programs. Most farms must seek alternative funding sources such as those offered by Farm Credit.

## SECTION 3: FOLLOW-ON REVIEW ACTIONS

### 30. Identification of Conflicts

- a. In their June 8 and July 26, 2023, Staff reports for County ZOR Staff summarized a list of activities for review for consideration and/or implementation of a definition of "farm" for the Zoning Ordinance Rewrite.
  - *Staff recommends an Agriculture/Rural Economy use ZOAM after adoption of the New Zoning Ordinance, to accommodate forthcoming Code of Virginia amendments to some Virginia Farm Winery and agritourism uses.*
  - *Staff and the County Attorney's Office need time to verify that any definition of "farm" does not affect or contradict definitions and other provisions within the Code of Virginia concerning farms and related terms or uses.*
  - *Staff needs time to ensure there are no conflicts with other definitions and standards or no unintended consequences associated with adding the term "farm."*
  - *Staff recommend that any future CPAM and/or ZOAM include targeted public education regarding the interplay between the Code of Virginia and local zoning regulations and permitting requirements.*
- b. At the August 8<sup>th</sup> meeting, County Administrator, Joe Kroboth, requested assistance from REDC to assist in the identification of "conflicts" for legal review.

### 31. Primary follow-on review actions

The following actions are proposed to complete the Findings of Fact and Substantial Reasons or a Definition of Farm, with the primary goal to 1) assist the CAO office and Staff to reduce staff time constraints, and 2) expedite review for the possible inclusion of a definition in ZOR, or in the alternative, complete review for a prioritized ZOAM in 2024 after adoption of ZOR.

- a. Confirm that the Findings of Fact sufficiently confirm the limit of impacts of the July 1, 2023, Virginia Farm Winery new legislation, and address the CAO concerns of impacts from the pending SB 1305 agritourism event building code proposed USBC changes.
- b. Confirm whether the Findings of Fact sufficiently address the CAO verification that a definition of "farm" does not affect or contradict definitions and other provisions of the Code of Virginia concerning farms and related terms or uses. If not, identify the remaining sections of the Code of Virginia for review.
- c. A preliminary review of the uses of the word "farm" in the ZOR draft text has been performed. Next steps are to obtain Senior County Administration and CAO approval for a second meeting with County Attorney Office representatives (J. Hobbie, C. Sydnor) to obtain and clarify the specific requests and areas of review to confirm "conflicts with other definitions and standards" associated with adding the term "farm." Such a review would be conducted in conjunction with REDC ZOR Ad hoc Committee and other stakeholder reviews with the goal of presenting consolidated input.



302 N. Main Street  
Culpeper, Virginia 22701

## **AGRITOURISM POLICY**

WHEREAS, the Code of Virginia (1950), as amended, at Title 15.2, Section 15.2-2288.6. Agricultural Operations; Local Regulation of Certain Activities addresses the regulatory arrangement in the Commonwealth of Virginia as to Agritourism; and

WHEREAS, Culpeper County continues to recognize that agricultural activities including agritourism are an integral component of the County's economy and maintaining the continued vitality of agriculture is necessary to achieve and preserve a balanced tax base and a diverse, healthy economy benefiting all of the citizens of the County; and

WHEREAS, the General Assembly of the Commonwealth of Virginia has enacted statutes that limit a locality's ability to regulate the following activities at an agricultural operation<sup>1</sup> unless there is a substantial impact on the health, safety, or general welfare of the public:

1. Agritourism activities as defined in Sec. 3.2-6400 of the Code of Virginia. "Agritourism activity" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity;
2. The sale of agricultural or silvicultural products, or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation;
3. The preparation, processing, or sale of food products in compliance with subdivisions A 3, 4, and 5 of § 3.2-5130 or related state laws and regulations; or
4. Other activities or events that are usual and customary at Virginia agricultural operations. "Agricultural operation" means any operation devoted to the bona fide production of crops, or animals, or fowl including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and

WHEREAS, the General Assembly of the Commonwealth of Virginia by statute also

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<sup>1</sup> "Agricultural operation" means any operation devoted to the bona fide production of crops, or animals, or fowl including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and the production and harvest of products from silviculture activity.

mandates that any local restriction placed on an activity listed above shall be reasonable and shall take into account the economic impact of the restriction on the agricultural operation and the agricultural nature of the activity; and

WHEREAS, the General Assembly of the Commonwealth of Virginia by statute also mandates that no locality shall require a special exception or special use permit for any activity listed above on property that is zoned as an agricultural district or classification unless there is a substantial impact on the health, safety, or general welfare of the public; and

WHEREAS, the General Assembly of the Commonwealth of Virginia by statute also mandates that no local ordinance regulating the sound generated by any activity listed above shall be more restrictive than the general noise ordinance of the locality, however in permitting outdoor amplified music at an agricultural operation, the locality shall consider the effect on adjoining property owners and nearby residents; and

WHEREAS, presently there are no written factors, mechanism, or procedures for the County to evaluate whether a specific activity as described above as engaged in by an individual or entity imposes a substantial impact on the health, safety, or general welfare of the public;

NOW THEREFORE BE IT FURTHER RESOLVED that Culpeper County will request those engaging in agritourism activities to declare the intent to do so by filing the attached Determination Form, found at Exhibit A attached to this Resolution; and

NOW THEREFORE BE IT FURTHER RESOLVED that the Culpeper County Zoning Administrator will review these matters administratively on a case-by-case, individual basis as is contemplated in accordance with the factors and criteria set forth on the Determination Form, found at Exhibit B attached to this Resolution. Agritourism activities found to have a substantial impact on the health, safety or welfare of the general public shall require approval of a conditional use permit in accordance with Article 17 of the Culpeper County Zoning Ordinance prior to commencing the activity. Within the course of that process, the economic impact of any conditions considered, attendant to the conditional use permit, to be imposed upon the agricultural operation and the agricultural nature of the activity.

This Policy is adopted effective Sept. 5, 2017.

  
The Honorable C. Jack Frazier, Chairman  
Culpeper County Board of Supervisor

ATTEST:   
John C. Egertson, Clerk to the Board

Approved as to form:   
Bobbi Jo Alexis, County Attorney

**PLEASE REVIEW AND ANSWER THE QUESTIONS WHICH FOLLOW:**

**Agritourism Activity Factors of Consideration**

**Objectives:**

- 1.) Determine whether property qualifies for Agritourism.
- 2.) If property qualifies for Agritourism, does the Agritourism activity create a substantial impact on the health, safety, or general welfare of the public?

**OBJECTIVE 1**

**Basic Qualifying Questions**

- **Where is your property located and what is your property zoned?** (Agritourism is generally allowed as a permitted or conditional use in the A-1 (Agricultural) and RA (Rural Area) Zoning Districts.)  
\_\_\_\_\_  
\_\_\_\_\_

- **What is the primary agricultural use of your property?** (Crops, Livestock, aquaculture, etc.)  
\_\_\_\_\_  
\_\_\_\_\_

To be completed by the Zoning Administrator: This property \_\_\_ does / \_\_\_ does not qualify for Agritourism activities

**OBJECTIVE 2**

**Activity Specific Questions**

- **What type of activity is being proposed?** (Farm sales, harvest-your-own activities, farm tours, educational programs, agricultural festivals, livestock shows, wedding or other related events, etc.)\_\_\_\_\_
- **What is the frequency and/or hours of operation for your proposed activity?** (Daily, weekly, seasonal, hours of operation)\_\_\_\_\_
- **How many vehicle trips per day (VTPD) are expected from your proposed activity?** (This number should not include vehicles trips associated with any normal day-to-day operations of the farm)\_\_\_\_\_
- **Will the activity use outdoor amplified music?** (Please also refer to Chapter 10A – Nuisances for more information related to noise control and to Chapter 3, Article II – Outdoor Musical or Entertainment Festivals where applicable)\_\_\_\_\_
- **Will the activity use outdoor lighting?** (If yes, please review Article 32 – Outdoor Lighting Standards for compliance)\_\_\_\_\_

- Will structures be used in conjunction with any proposed Agritourism activity? (Barns, sheds, etc.) If yes, you should consult with the Building Official to determine whether the structure is safe for occupancy for the planned activity. Such structures must be used generally for farm purposes but can be occupied for Agritourism activities on an infrequent basis. \_\_\_\_\_

**Property Specific Questions**

- How many acres does the property contain? \_\_\_\_\_
- How far will activities be from the nearest property boundary? \_\_\_\_\_
- Does your entrance meet minimum entrance standards as required by the Virginia Department of Transportation (VDOT) for your planned activity? (A VDOT land use permit may be necessary for your activity) \_\_\_\_\_
- Is your driveway constructed and maintained to a standard that will accommodate emergency vehicles? (Items to consider: Width of driveway, visibility associated with curves and/or hills, surface of driveway) \_\_\_\_\_
- Is the property located on a shared private road? (If yes, do you have an active Road Maintenance Agreement?) \_\_\_\_\_
- How do you plan on accommodate anticipated parking for your activity? \_\_\_\_\_
- Are there any open waterways (ponds, lakes, rivers, streams, etc.) located on the property and how do you plan to ensure the environmental integrity of these waterways as well as the safety of your activity patrons? \_\_\_\_\_
- How do you plan on accommodating minimum sanitation standards and/or adequate sewage disposal for your activity? (Restrooms, permanent or portable. A permit from the Virginia Department of Health (VDH) may be necessary.) \_\_\_\_\_
- Will this activity potentially have an adverse impact upon adjacent or neighboring properties? \_\_\_\_\_

To be completed by the Zoning Administrator: This property \_\_\_does / \_\_\_does not create a substantial impact on the health, safety, or general welfare of the public?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**\*Note: Within the course of any conditional use permit process, conditions of approval may be imposed. Consideration must be given to the economic impact of any conditions to be imposed upon the agricultural operation.**

## AGRITOURISM DECLARATION

**AGRITOURISM:** ANY ACTIVITY CARRIED OUT ON A FARM OR RANCH THAT ALLOWS MEMBERS OF THE GENERAL PUBLIC, FOR RECREATIONAL, ENTERTAINMENT, OR EDUCATIONAL PURPOSES, TO VIEW OR ENJOY RURAL ACTIVITIES, INCLUDING FARMING, WINERIES, RANCHING, HISTORICAL, CULTURAL, HARVEST-YOUR-OWN ACTIVITIES, OR NATURAL ACTIVITIES AND ATTRACTIONS. SUCH ACTIVITY CAN BE CONSIDERED AN AGRITOURISM ACTIVITY WHETHER OR NOT THE PARTICIPANTS PAY TO PARTICIPATE IN THE ACTIVITY.

**FARM:** LAND USED FOR THE TILLAGE OF SOIL AND THE GROWING OF VEGETABLES, FRUITS, GRAINS AND OTHER STAPLE CROPS INCLUDING THE RAISING OF LIVESTOCK OR DAIRYING.

---

Name or Company Name: \_\_\_\_\_  
Property owner or primary contact (if different from above): \_\_\_\_\_  
Phone: (\_\_\_\_\_) \_\_\_\_\_  
Property address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Tax Map/ Parcel No.: \_\_\_\_\_ Zoning: \_\_\_\_\_ Acreage: \_\_\_\_\_  
Magisterial District: \_\_\_\_\_

What Agritourism Activity is being declared? Please summarize briefly below and add as many attachments and/or details as deemed necessary to fully describe the activity.

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What type of farming activity is regularly done on the property? \_\_\_\_\_

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What services/products will be provided by the farm or ranch as a result of the proposed agritourism activity? \_\_\_\_\_

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Will any services or products be provided by an outside source? If so, explain:

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Will anyone be employed who does not reside on the premises, and who is employed solely for agritourism purposes?\_\_\_\_\_

If yes, what is the estimated number of outside employees to be employed for the agritourism activity?\_\_\_\_\_

**This application and the answers to the questions above constitute your DECLARATION of intent to conduct agritourism activities on you property.**

**In order that a DETERMINATION can be made regarding the activity and its potential to substantially impact public health, safety and welfare, please complete the attached form entitled Agritourism Activities Factors of Consideration.**

Other offices and departments you may wish to consult: The Culpeper County Building Dept., the Virginia Dept. of Health, the Virginia Dept. of Environmental Quality (DEQ), USDA, VDACS, Office of Meat and Poultry Services, Office of Dairy and Foods, Virginia Tourism Corporation, VDOT

## AGRITOURISM DETERMINATION

Culpeper County, in accordance with the Code of VA, Section 15.2-2288.6, is authorized to make a determination whether certain Agritourism activities would have a “substantial impact on the health, safety, or general welfare of the public.” The Board of Supervisors authorizes that this determination shall be made administratively, by the Zoning Administrator, on a case by case basis. In order to guide that determination, certain factors of consideration and a set of specific questions have been developed and are set forth on the pages which follow.

The following examples are intended to inform applicants of the types of impacts that may be found to have a substantial impact on the health, safety, or general welfare of the public:

- **Frequency and hours of operation:** Agritourism events which are sporadic, such as occasional weddings or large events which only occur a few times per year are not likely to have a substantial impact. Conversely, events occurring on a daily or weekly basis would be more likely to have substantial impact, but such a determination would further depend other factors such as crowd size and or traffic generation.
- **Vehicle trips per day:** Activities that generate large volumes of traffic may be found to have a substantial impact if such traffic would pose a safety hazard to the travelling public. The number of trips would need to be considered in relation to the access available to the subject site, such as existing or proposed entrance improvements and what type of road is being accessed (primary road or secondary road, paved or unpaved, public or private).
- **Amplified music (or other noise generated):** The County has a Noise/Nuisance Ordinance that it may rely upon to address this issue, however where there is an expectation of frequent noise that could be audible from adjacent and neighboring properties, that could very well be determined to have a substantial impact.
- **Structures:** In instances where farm structures will be regularly used for assembly purposes, ingress and egress, structural integrity, fire protection, etc. will be considered strongly in determining whether there is a substantial impact on public safety from a proposed Agritourism activity.
- **Size of the subject property and location of activity on the property:** A large parcel which provides a significant buffer to neighbors is much less likely to be found to have a substantial impact.
- **Sanitation:** A clear plan for providing adequate water and wastewater services during Agritourism events will be important in any finding of no substantial impact.
- **Access:** As noted above under “Vehicle trips per day” substantial impact may be clear when driveway access is inadequate to handle the volume of traffic. Also, introducing large volumes of traffic onto a private road will often dictate that there is a substantial impact.

**APPLICATION FOR ZONING APPROVAL FOR BUSINESS LICENSE**

**Applicant Information**

Name: Jessica Dieffenbach

Phone Number: 757-271-4150 Email: farms@dwelling.us

Business Name: Dwellings Farms, LLC

Business Address: 2349 Baum Rd. Chesapeake, VA 23322

Description of Operations: \_\_\_\_\_

Agricultural Production Crops, livestock, farm labor and management services, timber tract, logging, farm product storage, picnic grounds, and agricultural farm rental, pick your own activities, hay rides, sale of farm type goods.

*By my signature below, I certify that the above facts are true to the best of my knowledge.*

Applicant Signature: Jessica Dieffenbach

**Commissioner of the Revenue Office Use Only**

Prior Use at Address (If Any) Contractor Out Date 12/31/08 6739  
MSU

**Zoning Administration Office Use Only**

Zoning District: A1 Home Occupation (YorN) N

SIC Code: \_\_\_\_\_ Permitted/Conditional \_\_\_\_\_

CO Required: \_\_\_\_\_

Approved X Denied (See Below) \_\_\_\_\_

Additional Comments: FARM ACTIVITIES CONDUCTED OUTSIDE OF THE PARAMETERS OF THE SPECIAL PLANT PERMIT WILL REQUIRE

C.U.P.  
Zoning Official Signature: [Signature] Date: 2/7/25

## Paul Schmidt

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**From:** Michael Dieffenbach <michael@dwellingdevelopment.com>  
**Sent:** Friday, December 12, 2025 12:05 PM  
**To:** Paul Schmidt  
**Subject:** Fwd: 2349 Baum Rd & 2100 Ansell Rd



### Michael Dieffenbach

Director  
Dwellings Development Co.  
**w:** www.dwellings.us  
**é:** michael@dwellingdevelopment.com  
**p:** 757.271.4141  
2337 Mount Pleasant Rd. Chesapeake, VA 23322



Begin forwarded message:

**From:** "Alyssa D. Neil" <aneil@cityofchesapeake.net>  
**Subject:** 2349 Baum Rd & 2100 Ansell Rd  
**Date:** September 3, 2024 at 1:04:45 PM EDT  
**To:** "michael@dwellingdevelopment.com" <michael@dwellingdevelopment.com>, "jessicabowles@me.com" <jessicabowles@me.com>

Good afternoon,

It was nice meeting with you all on Friday. Meeting and banquet halls, incidental and subordinate to the primary agricultural use are a conditional use in the A-1, Agricultural District. Here is a link to the Conditional Use Permit portion of the website: <https://www.cityofchesapeake.net/551/Conditional-Use-Permit> with information about fees, timelines, required documents, and more.

As discussed during the meeting, two separate applications will need to be submitted with a separate preliminary site plan for each one. The preliminary site plans need to meet the requirements found in Chesapeake Zoning Ordinance Section 18-201: [https://library.municode.com/va/chesapeake/codes/zoning?nodeId=ZO\\_ART18DESIPL\\_S18-201PRSIPLAP](https://library.municode.com/va/chesapeake/codes/zoning?nodeId=ZO_ART18DESIPL_S18-201PRSIPLAP). A good description of use for each project would also be tremendously helpful, including information about event type, capacity, frequency, and so forth. The required documents listed on the website and all original signed documents must be uploaded to eBuild and delivered to the Planning Department by the September 23rd, 2024, 5:00 pm deadline to be considered a complete application.

The site plans should depict individual parking spaces and a parking data table showing minimum parking requirements and provided parking. Joe Gardner with Zoning is the point of contact to discuss minimum parking requirements. Adam Feris with the Health Department can assist with well and septic requirements.

If you have any questions or need contact information for any of the representatives that attended the meeting on Friday, please let me know.



**Alyssa Neil**

Senior Planner

Planning Department

Current Planning Division

**Office (757) 382-6176**

**Direct (757) 382-6179**

[www.CityOfChesapeake.net](http://www.CityOfChesapeake.net)

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**CITY OF CHESAPEAKE**  
**CITY COUNCIL MEETING**  
**MARKED AGENDA**  
**November 18, 2025**  
**6:30 P.M.**  
**City Hall Council Chamber**  
**306 Cedar Road**

**\*\* ALL PRESENTATION MATERIALS MUST BE REVIEWED BY THE CITY CLERK PRIOR TO 6:30 P.M.\*\***

The Agenda and all related materials are available at  
[www.cityofchesapeake.net/agenda](http://www.cityofchesapeake.net/agenda)

**4:45 p.m. Work Session: City Council Chamber-1<sup>st</sup> Floor City Hall Building**  
Topics: 1. [Chesapeake Land Bank Authority Strategic Plan](#)  
2. [Chesapeake Airport Authority Business Plan](#)

City Council Work Sessions and Meetings can be viewed live on Chesapeake Television (Cox Cable 48 and Verizon FIOS 43), and at [CityOfChesapeake.net/TV](http://CityOfChesapeake.net/TV). Work Session and Meeting replays are available over the same outlets at 1:00 p.m. on Wednesday and 8:00 p.m. on Saturday. Past meetings are also available on-demand at [CityofChesapeake.net](http://CityofChesapeake.net), on the City Council page.

Speaker Cards will be accepted for the Council Meeting up until 6:30 p.m. Citizens who wish to speak may register on the date of the meeting in the City Council Chamber before 6:30 p.m. or pre-register by calling the City Clerk's Office at 757-382-6151, Monday through Friday, (8:00 a.m. - 5:00 p.m.).

**ALL INTERESTED PARTIES ARE INVITED TO ATTEND.** The City of Chesapeake will provide reasonable accommodations and services necessary to ensure that communication, as well as full accessibility, for individuals with disabilities is as effective as communication and accessibility to all facilities as those without disabilities, as required by the American with Disabilities Act. Citizens who wish to receive such accommodations or for questions, please contact 757-382-8951, within three working days prior to the meeting.

City of Chesapeake Americans with Disabilities Act (ADA) Grievance Policy:  
<https://www.cityofchesapeake.net/1213/ADA-Grievance-Policy>

**NO FOOD OR DRINKS PERMITTED IN THE CITY COUNCIL CHAMBER**

**PLEASE SILENCE CELL PHONES WHILE IN THE CHAMBER**

**CITY OF CHESAPEAKE  
CITY COUNCIL MEETING**

**Marked Agenda  
November 18, 2025  
6:30 P.M.**

**City Hall Council Chamber  
306 Cedar Road**

- 1. INVOCATION – Council Member Ella P. Ward
- 2. PLEDGE OF ALLEGIANCE TO THE FLAG – Council Member Ella P. Ward  
**MOTION TO APPROVE REMOTE PARTICIPATION for Council Member Amanda L. Newins from her residence due to a medical condition (Ritter/Bunn) (8-0)**
- 3. ROLL CALL BY CITY CLERK – All Present (Council Member Newins present via telephone and excused at 8:39 p.m.)
- 4. APPROVAL OF PROPOSED AGENDA – **APPROVED AS AMENDED to move Planning Public Hearing Item (F) to the beginning of the agenda (Ritter/Ward) (8-0)**
- 5. APPROVAL OF MINUTES – N/A
- 6. PUBLIC HEARING

APPLICANTS', AGENTS' AND CITIZENS' COMMENTS ON THE PUBLIC HEARING ITEMS  
COUNCIL'S CONSIDERATION OF THE PLANNING PUBLIC HEARING ITEMS

- A. **PLN-REZ-2024-014 Sawyer Property APPLICANT/OWNER:** J and L Sawyer Holdings LLC  
**AGENCY:** Williams Mullen **PROPOSAL:** A conditional zoning reclassification of an approximate 22 acre portion of a 72 acre parcel from R-15s, Residential District, and A-1, Agricultural District, to R-10s, Residential District (18.8 acres), and R-15s, Residential District (3.2 acres). **PROPOSED COMP LAND USE / DENSITY:** Low Density Residential with 2 dwelling units per acre **EXISTING COMP LAND USE:** Low Density Residential **LOCATION:** 1917 Elbow Road **TAX MAP PARCEL:** Portion of 0390000000060 **PLANNING AREA:** Greenbrier

*(Continued from the October 21, 2025, City Council Meeting)*

Staff and Planning Commission recommend approval with the following proffers:

- 1. The applicant/owner agrees that residential development on the subject property shall be limited to single-family dwellings as depicted on the Conceptual Master Plan ("CMP") dated October 25, 2024, revised July 14, 2025, prepared by Land Planning Solutions, as determined by the Director of Planning or designee. The applicant/owner agrees that development of the Property shall be in substantial conformance with the CMP provided, however, that reasonable adjustments due to final engineering data may be made at the time of final site plan review in accordance with Section 16-204 of the Zoning Ordinance. All preliminary and final site and subdivision plans are subject to the approval of the Director of Planning or designee and/or the Director of Development and Permits or designee. A copy of the final approved site plan shall be placed in the file with the Planning Department and Department of Development and Permits.
- 2. The applicant/owner agrees to limit the residential development to forty-three (43) dwelling units in addition to the existing dwelling.
- 3. The applicant/owner agrees to create a Property Owner's Association and an Architectural Review Board. The applicant/owner shall record private covenants and deed restrictions prior to or concurrently with the final site plan that would adopt Architectural Design Standards required for residential construction within the development. The Design Standards shall include, at a minimum, items (a) through (h)

- H. **PLN-USE-2025-024 Dwellings Farms (Baum)** **APPLICANT:** Dwellings Farms, LLC **OWNER:** Jessica B Dieffenbach Trustee **AGENCY:** Poole Brooke Plumlee PC **PROPOSAL:** A conditional use permit to operate a meeting and banquet hall on a 41-acre parcel with an alternative parking surface. **ZONE:** A-1, Agricultural District **LOCATION:** 2349 Baum Road **TAX MAP PARCEL:** 1100000000280 **PLANNING AREA:** Southern Chesapeake

Staff and Planning Commission recommend denial.

If City Council chooses to approve the application, the following stipulations are provided for consideration:

1. The hours of operation for an event shall be limited to the hours between 10:00 a.m. to 8:00 p.m. Monday through Thursday, and 10:00 a.m. to 10:00 p.m. Friday, Saturday, and Sunday. All meeting and banquet hall activities shall be concluded by 8:00 p.m. on Monday through Thursday and 10:00 p.m. on Friday through Sunday with the last person off the property after cleanup by 9:00 p.m. on Monday through Thursday and 11:00 p.m. on Friday through Sunday.
2. Amplified music shall be prohibited after 8:00 p.m. on Monday through Thursday and 10:00 p.m. on Fridays, Saturdays, and Sundays.
3. All exterior lighting on the property shall comply with Sections 10-452 and 19-407 of the Chesapeake Zoning Ordinance to reduce glare and negative impacts on adjacent properties.
4. No parking on any public street shall be permitted under this conditional use permit. No parking signs shall be shown on the final site plan and shall be installed along the 20' ingress/egress easement shown and described in Map Book 118, Page 40, prior to Certificate of Occupancy for the use.
5. All meeting and banquet hall activities held on the site, including the associated parking, shall operate in the event areas and the identified parking area depicted on the Conceptual Site Plan received on September 2, 2025. Any expansion of the proposed conditional use permit outside of the described Event Area 1 consisting of 19,425 square feet, Event Area 2 consisting of 22,518 square feet, and the Existing Barn consisting of approximately 1,825 square feet, will require a new conditional use permit approved by City Council.
6. The applicant/owner shall notify all parties who rent, lease, or otherwise enter into a contract to use the property for an event of the aforementioned stipulations. Furthermore, the applicant/owner agrees that each contract or lease shall contain an addendum incorporating these stipulations in the contract or lease.
7. An Emergency Response Plan that incorporates the requirement for a smoke/heat fire detection system shall be reviewed and approved by the Fire Department within sixty (60) days of conditional use permit approval.
8. A final site plan shall be reviewed and approved by the Department of Development and Permits and construction improvements shall be completed within six (6) months of City Council approval of this conditional use permit unless this deadline has been extended by the Director of Development and Permits for circumstances beyond the applicant's control.

**APPROVED with stipulations and the request for an alternative parking surface, as presented, and added a stipulation to limit the Conditional Use Permit to the current owners only (Whitaker/Ritter) (8-1) (Smith voted No)**

- I. **PLN-USE-2025-035 Dozier's Corner Pump Station Replacement** **APPLICANT/OWNER:** Hampton Roads Sanitation District **AGENCY:** Gannett Fleming, Inc. **PROPOSAL:** A conditional use permit to replace an existing pump station. **ZONE:** R-8s, Residential District

November 20, 2025

Mr. J. Bryan Plumlee  
Poole Brooke Plumlee PC  
4705 Columbus Street  
Suite 100  
Virginia Beach, VA 23462

Re: **PLN-USE-2025-024 Dwellings Farms (Baum)**

Dear Mr. Plumlee,

The Chesapeake City Council approved the above-referenced conditional use permit application with stipulations and the alternative parking surface and additional stipulation #9 at their meeting on November 18, 2025. Please find the enclosed document processed in this matter.

If you have any questions, please contact me or Deputy City Clerk Sara Pittman at (757) 382-6151.

Sincerely,



Sandra M. Madison, MMC  
City Clerk

SMM/sdp  
Enclosure: Summary Action Sheet

CC: Catherine Lindley, City Attorney  
David Jurgens, Public Utilities Director  
Earl Sorey, Public Works Director  
Greg Daniels, Real Estate Assessor  
James McNamara, Planning Director  
Jay Tate, Development and Permits Director  
Alyssa Neil, Planner III  
Barbara York, Business Process Specialist  
Benjamin Titter, Assistant City Attorney  
Brennen Ogletree, Permits Services Administrator  
Casey Busquets, Appraisal Clerk Supervisor

Emma King, Office Specialist  
Jennifer Vuturo-Brady, GIS Technician  
Julie Workman, Paralegal  
Kristin Goodman, Administrative Coordinator II  
Lauren Allerton, Executive Office Administrator  
Lewis Martinez, Administrative Coordinator I  
Lucinda Purins, Office Specialist  
Lynn Squire, Office Specialist  
Melissa Reichelderfer, Office Coordinator  
Michele Throckmorton, Code Enforcement Administrator  
Sherry Carawan, Office Specialist

**SUMMARY ACTION**

APPLICATION: \_\_\_\_\_ **PLN-USE-2025-024 Dwellings Farms (Baum)**

APPLICATION FILED: \_\_\_\_\_ **May 1, 2025**

PROPOSAL: **A conditional use permit to operate a meeting and banquet hall on a 41-acre parcel with an alternative parking surface.**

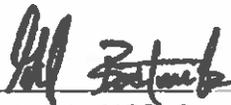
APPLICATION ACCEPTED FOR PRELIMINARY REVIEW: \_\_\_\_\_ **June 11, 2024**

APPLICATION REVIEWED BY: \_\_\_\_\_ **Alyssa Neil**

PLANNING COMMISSION RECOMMENDATION:

DATE OF PUBLIC HEARING: \_\_\_\_\_ **October 8, 2025**

ACTION: \_\_\_\_\_ **Denied**

  
\_\_\_\_\_  
Git Bostwick, AICP, Current Planning  
Administrator/Recording Secretary

**CITY COUNCIL ACTION:**

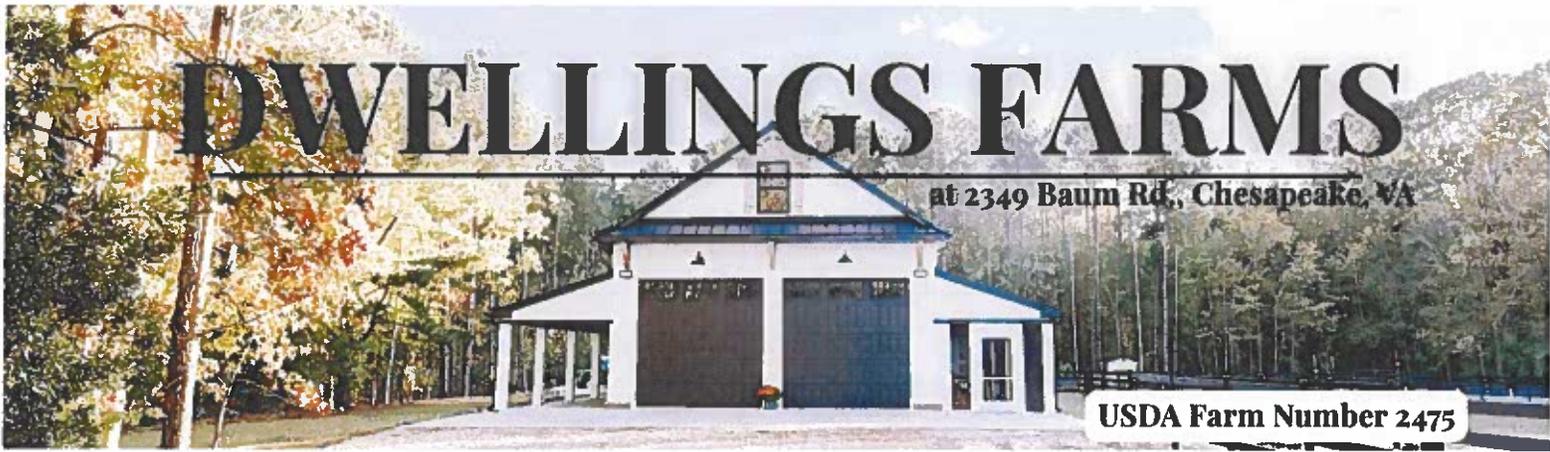
DATE OF PUBLIC HEARING: \_\_\_\_\_ **November 18, 2025**

ACTION: **APPROVED** with stipulations and the request for alternative parking surface, as presented, and added Stipulation #9

Additional Stipulation: \_\_\_\_\_

**9. This Conditional Use Permit is limited to the current owners only.**

  
\_\_\_\_\_  
Sandra M. Madison, City Clerk



## Conditional Use Permit Application Overview

### Summary Statement

Address: 2349 Baum Rd., Chesapeake, VA

Owners: Michael & Jessica Dieffenbach

USDA Farm Number: 2475

Our farm actively produces silviculture, houses animals and livestock, and produces eggs. We plan to officially open as a farm venue for private agritourism experiences to include but not limited to picnics, animal observation, photo sessions, farm dinners, company events, educational programs, birthday parties, weddings, family reunions, baby showers, community gatherings, and similar activities at this farm location. We hope to expand into U-Pick opportunities and more hands-on, educational farm activities that allow the renters to engage with agriculture in meaningful and authentic ways.

We currently hold a business license for picnic grounds, hay rides, U-pick, and other agritourism related activities that we operate under.

---

### 1. Dwellings Farms is a Recognized Agricultural Operation and Farm

Dwellings Farms is officially recognized by both the USDA and the Commonwealth of Virginia as a farm engaged in bona fide agricultural production. Our property produces silviculture (34 acres), eggs, and livestock, and we maintain animals including cattle, goats, ducks, and chickens.

According to Virginia Code § 3.2-6400 and § 3.2-300, a “farm” or “agricultural operation” includes any property used for producing or housing crops, animals, or poultry – whether or not the products are sold.

VA Code §3.2-6400 (<https://law.lis.virginia.gov/vacode/title3.2/chapter64/section3.2-6400/>)

VA Code §3.2-300 (<https://law.lis.virginia.gov/vacode/3.2-300/>)

**By all definitions under state law and USDA records, Dwellings Farms qualifies as a bona fide farm.**

---

### 2. Agritourism Is a Protected Farm Activity

Per Virginia Code § 3.2-6400, “agritourism” includes any activity on a farm that allows the public to engage in or enjoy rural experiences such as weddings, picnics, photo sessions, educational events, dinners, and animal observation.

These uses are widely recognized by the Virginia Department of Agriculture and Consumer Services (VDACS) and Virginia Cooperative Extension as legitimate agritourism activities that help sustain small farms.

VA Code §3.2-6400 – Definition of Agritourism Activity (<https://law.lis.virginia.gov/vacode/title3.2/chapter64/section3.2-6400/>)

Virginia Farm Bureau: Agritourism Activities (<https://articles.vafb.com/are-your-agritourism-activities-covered/>)  
Virginia Cooperative Extension – Agritourism in Virginia (<https://www.pubs.ext.vt.edu/AAEC/AAEC-157/AAEC-157.html#finding>)

**Weddings and private events held on our farm fall squarely under this definition and are therefore considered agritourism.**

---

### 3. Local Regulation of Agritourism Is Limited by State Law

Under Virginia Code § 15.2-2288.6, local governments cannot require a Conditional Use Permit (CUP) or other special permit for agritourism activities unless there is a demonstrated substantial impact on public health, safety, or general welfare.

VA Code §15.2-2288.6 (<https://law.lis.virginia.gov/vacode/title15.2/chapter22/section15.2-2288.6/>)

The Code explicitly states:

“No locality shall regulate or require a special permit for agritourism activities on property zoned agricultural unless there is a substantial impact on the health, safety, or general welfare of the public.”

“Any local restriction placed on an activity listed in this subsection shall be reasonable and shall take into account the economic impact of the restriction on the agricultural operation and the agricultural nature of the activity.”

Dwellings Farms already meets and exceeds all reasonable safety measures required for agritourism, including:

- Fire extinguishers and simple emergency plans in The Barn
- Agritourism and Farm Building Exemption warning signs
- Handwashing stations
- Fire lanes and parking management
- Compliance with city noise and lighting ordinances

**As such, many of the proposed stipulations by staff are unreasonable and extend beyond what the Code of Virginia permits and do not relate to public safety or welfare. These stipulations make our private agritourism experience venue unable to operate due to the economic impact these stipulations entail.**

---

### 4. Chesapeake City Code Confirms Agricultural Exemptions

According to Chesapeake City Code § 18-101, agricultural activities are exempt from site plan review, and per § 70-100, agriculture is not considered development.

Additionally, the City’s definition of a “farm building” aligns with VA Code § 36-97, which includes any building used for agritourism purposes such as The Barn.

Chesapeake Code §18-101 ([https://library.municode.com/va/chesapeake/codes/zoning?nodeId=ZO\\_ART18DESIPL\\_S18-101DESIPLREEX](https://library.municode.com/va/chesapeake/codes/zoning?nodeId=ZO_ART18DESIPL_S18-101DESIPLREEX))

Chesapeake Code §70-100 ([https://library.municode.com/va/chesapeake/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH70SU\\_ARTIIDEEST\\_S70-100DERESIPL](https://library.municode.com/va/chesapeake/codes/code_of_ordinances?nodeId=PTIICOOR_CH70SU_ARTIIDEEST_S70-100DERESIPL))

Chesapeake Code §26-343 ([https://library.municode.com/va/chesapeake/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH26EN\\_ARTVIERSTMA\\_DIV1GE\\_S26-343DE](https://library.municode.com/va/chesapeake/codes/code_of_ordinances?nodeId=PTIICOOR_CH26EN_ARTVIERSTMA_DIV1GE_S26-343DE))

**These local ordinances reaffirm that our farm's use as an agritourism site is consistent with the intent and purpose of agricultural zoning and should not be treated as a commercial development. These ordinances confirm agritourism is a permitted use of farm structures such as The Barn. The stipulation for a final site plan is not consistent with our City Code.**

---

## **5. Our Position and Proposal**

We maintain that:

1. Dwellings Farms qualifies as a bona fide farm under Virginia and USDA definitions.
2. Hosting weddings and private events constitutes agritourism, which is protected by Virginia law.
3. Localities may not impose unreasonable restrictions or require a CUP unless for health, safety, or welfare concerns.

While we do not agree with the current stipulations recommended by staff, as they are not reasonable and would economically burden our small operation, we remain committed to working with City Council to find a fair and lawful path forward.

**We propose two possible solutions:**

- Option 1: Determination that no Conditional Use Permit is required for agritourism at this location. (Open to possible conservation/preservation with our list of approved deeded rights.)
- Option 2: Approval of a CUP with revised, reasonable stipulations limited solely to health, safety, and welfare.

---

## **6. Closing Statement**

We respectfully ask City Council to review this application in the context of Virginia's agritourism protections, which were designed to support and sustain working farms like ours.

Our farm reflects the true intent of agricultural zoning - fostering community connection to agriculture through small, authentic, and meaningful experiences - without posing risk to public safety or welfare.

**We thank you for your time and willingness to work toward a balanced solution that supports Chesapeake's farming community and aligns with state law.**

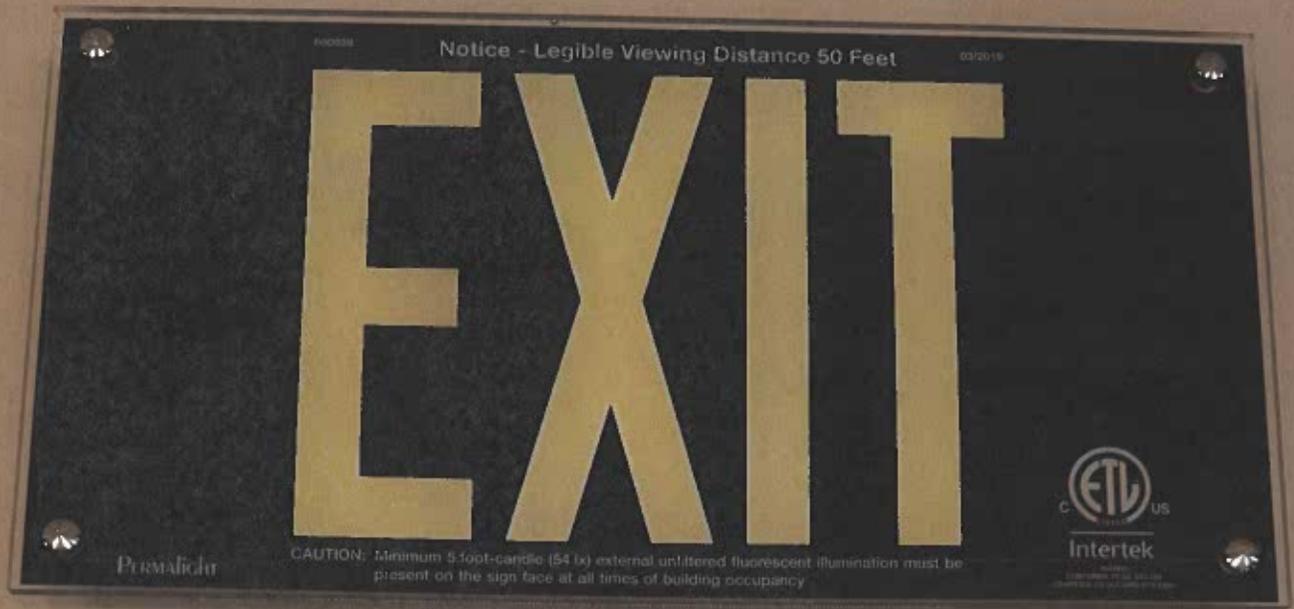
Sincerely,

Michael and Jessica Dieffenbach

Dwellings Farms at Baum Road



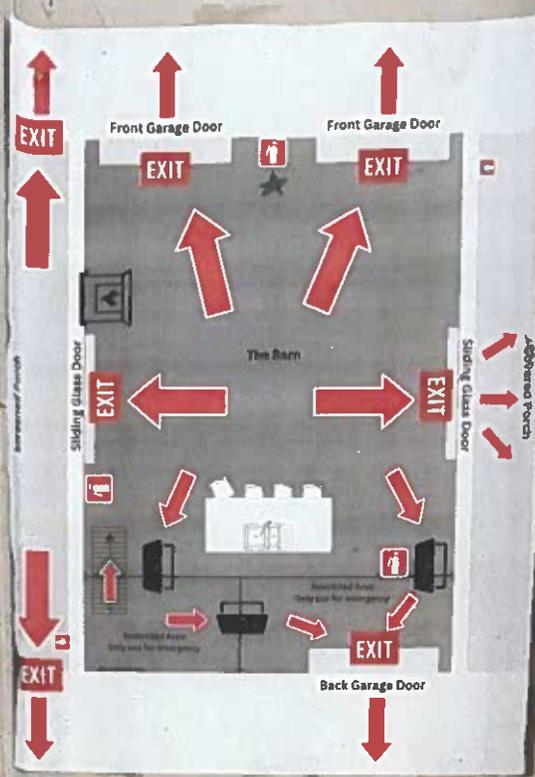
**ATTENTION**  
**This building is EXEMPT**  
**from the Uniform Statewide**  
**Building Code. Be alert to**  
**exits in the event of a fire or**  
**other emergencies.**



## **ATTENTION**

**This building is EXEMPT  
from the Uniform Statewide  
Building Code. Be alert to  
exits in the event of a fire or  
other emergencies.**





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VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of The State of Culpeper LLC (James A. Wells)  
Appeal No. 25-14

CONTENTS

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VIRGINIA:

BEFORE THE  
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of The State of Culpeper, LLC (James A. Wells)  
Appeal No. 25-14

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. On September 11, 2025, the State Fire Marshal's Office (SFMO), the agency responsible for investigating complaints and performing field inspections, in accordance with the 2021 Virginia Statewide Fire Prevention Code (VSFPC), received a complaint from the Town of Culpeper Code Compliance department (Town), which originally was filed to the Town by James A. Wells (Wells), for the State Theater building located at 303 South Main Street 100, in Culpeper County, related to reported faults on the fire alarm system.

Note: The State Theater building is owned by The State of Culpeper LLC for which Wells is the registered agent.

2. On September 17, 2025, SFMO responded to the complaint and performed an inspection related to the complaint. During the inspection the SFMO found that Windmore Foundation for the Arts (Windmore) and State Climb, two of the six tenants of the State Theater building, shared the fire alarm system that was the subject of the complaint.

3. On September 26, 2025, SFMO issued a Fire Code Inspection Report citing the following violation:

a) *"901.6.1 Standards.*

*Fire protection systems shall be inspected, tested and maintained in accordance with the referenced standards listed in Table 901.6.1.*

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*Comments: FACP shows 3 troubles due to generator no longer in use. Please have the system reprogrammed.”*

4. On October 7, 2025, Wells, the registered agent for The State of Culpeper, LLC, filed an appeal to the Review Board for the September 26, 2025 Fire Code Inspection Report.

5. This staff document, along with a copy of all documents submitted, will be sent to the parties an opportunity given for the submittal of additions, corrections, or objections to the staff document, and the submittal of additional documents or written arguments to be included in the information distributed to the Review Board members for the hearing before the Review Board.

Suggested Issues for Resolution by the Review Board

1. Whether to overturn the decision of SFMO that a violation of VSFPC Section 901.6.1 *Standards* exists.

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# Basic Documents

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## FIRE CODE INSPECTION REPORT

### Virginia State Fire Marshal's Office

1005 Technology Park Drive, Glen Allen, VA 23059-4500

#### Contact Information

Phone: (804) 371- 0220 \* Office (804) 350-4884 \* [www.statefiremarshal@vdfp.virginia.gov](http://www.statefiremarshal@vdfp.virginia.gov)

**Inspection Number:** 250917-03600

**Inspection Date:** 09/17/2025 11:00:00

**Inspector:** Tutor, Adam

**Region Office:** Central Region Office 1005Technology Park Drive Glen Allen, VA 23059

Mr. Jim Wells

Windmore Foundation For The Arts

303 South Main Street 100

Culpeper, VA 22701

With this , you are hereby notified that on 09/17/2025 an inspection was conducted by the Virginia State Fire Marshal's Office that identified the following violation(s) of the Virginia Statewide Fire Prevention Code, Code of Virginia as amended and adopted.

### Listing of Violations

#### Violations

901.6.1

Standards.

Fire protection systems shall be inspected, tested and maintained in accordance with the referenced standards listed in Table 901.6.1.

Comments: FACP shows 3 troubles due to generator no longer in use. Please have the system reprogrammed.

Re-inspection Date: 10/17/2025

Repaired Date:

**Notes:** Complaint received from the building owner through Gary Cole, Culpeper Compliance.

Building owner is partial owner and stated there are Fire Alarm issued found by H&H during maintenance. Owner states a ground fault cause by the adjoining business, due to a pull station being moved to the ceiling area. An inspection was also completed ant the adjoining business. Upon inspection there is no ground fault showing on the FACP. The only trouble shown is a generator issue.

Generator is no longer in use and has been removed from the building. However the troubles on the panel must be resolved.

1

You are hereby ORDERED to remove or remedy the said violation(s) immediately. A representative of this office will return to verify corrections on or before the re-inspection date indicated. Failure to correct violation within the time limit specified in this notice may result in appropriate legal proceedings.

Any person aggrieved by any decision or interpretation of the code official may appeal within 14 days of notice of such decision to the local board of building code appeals which hereby also appointed as the board of fire prevention code appeals. The board shall function in conformity with the Virginia Statewide Fire Prevention Code.

**Additional Documents**

**Inspection Documents**

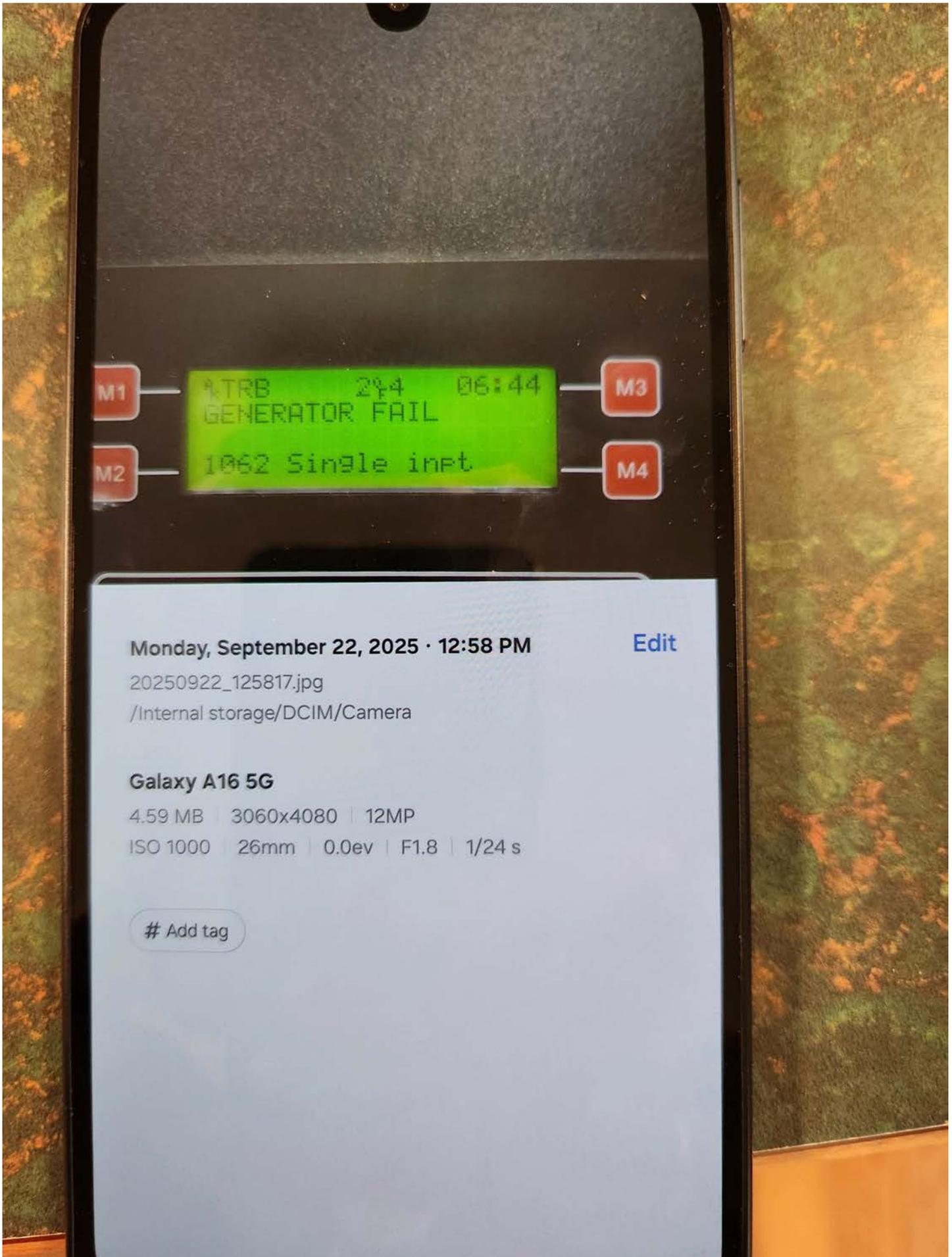
**Signature**

Primary Contact Signature:

	<b>First Name</b>	<b>Last Name</b>	
Inspector	Adam	Tutor	

[www.statefiremarshal@vdfp.virginia.gov](mailto:www.statefiremarshal@vdfp.virginia.gov)

**ID Number:** 250917-03600 09/26/2025 13:58

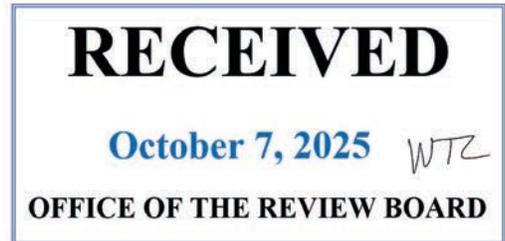


COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
State Building Codes Office and Office of the State Technical Review Board  
Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219  
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: sbco@dhd.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code  
     Virginia Construction Code  
     Virginia Existing Building Code  
     Virginia Maintenance Code
- Statewide Fire Prevention Code
- Industrialized Building Safety Regulations
- Amusement Device Regulations



Appealing Party Information (name, address, telephone number and email address):

*The State of CULPEPER, LLC  
James A. Wells  
14484 Hitt Mt Rd REVA VA 22735*

*540 547 3407  
wells9524@gmail.com*

Opposing Party Information (name, address, telephone number and email address of all other parties):

*Billy Hux  
1005 Technology Dr  
Glenn Allen, VA 23059-4500*

*804.371.0220 or 540 2706617  
billy.hux@udfp.virginia.gov*

Additional Information (required by the applicable code to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of the decision of local government appeals board (if applicable)

Additional Information (to be submitted with this application)

- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 7 day of October, 2025, a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

**Note:** This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: \_\_\_\_\_

*J A Wells*

Name of Applicant: \_\_\_\_\_

*J A Wells*

(please print or type)

Statement of specific relief sought

I am requesting that the error code “generator fail” does not have to be removed from the proprietary Siemens fire alarm panel FS-250 located at 305 S. Main St Culpeper Va 22701

The generator was removed in 2020 and all exit lights were replaced with battery backed units. Several inspections have occurred since removal of the generator and there is no safety issue

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Documents Submitted  
by  
The State of Culpeper LLC  
(James Well)

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# Fire Alarm Systems

# 2025



## State Theatre

305 South Main St  
Culpeper, Va 22701  
na

**Building Contact:** Jim Wells  
**Title:** NA  
  
**Company:** H&H Fire Protection, LLC  
**Contact:** Daniel Shirley  
**Title:** Fire Technician

**Annual Inspection**  
**Inspection Date: Jan 17, 2025**  
**Tested to NFPA 72 Standards**



This Inspection was performed in accordance with applicable NFPA Standards. The subsequent pages of this report provide performance measurements, listed ranges of acceptable results, and complete documentation of the inspection. Whenever discrepancies exist between acceptable performance standards and actual test results, notes and/or recommended solutions have been proposed or provided for immediate review and approval.

# EXECUTIVE SUMMARY

Generated by: BuildingReports.com

## Building Information

<b>State Theatre</b> 305 South Main St Culpeper, Va 22701 United States of America	<b>Contact:</b> Jim Wells
	<b>Phone:</b> 540-818-6337
	<b>Fax:</b>
	<b>Mobile:</b>
	<b>Email:</b> wells9526@gmail.com

## Inspection Performed By

<b>H&amp;H Fire Protection, LLC</b> 2600 Omisol Rd Woodbridge, VA 22192-4002 United States of America	<b>Inspector:</b> Daniel Shirley
	<b>Phone:</b> 703-407-8513
	<b>Fax:</b>
	<b>Mobile:</b>
	<b>Email:</b> daniel@hhfireprotection.com

## System Control Unit

<b>Manufacturer:</b> Siemens	<b>Inspection Date:</b> 01/17/2025	<b>IDC Style:</b>
<b>Model Number:</b> fs-250	<b>Install Date:</b> 01/17/2025	<b>SLC Style:</b>
<b>Software Version:</b>	<b>Version Date:</b> 01/17/2025	<b>NAC Style:</b> B
<b>Location:</b> 1st Inside FACP room	<b>Disconnect Location:</b>	<b>Disconnect Type:</b>
<b>Current Protection:</b>		

## Inspection Summary

Category	Total Items		Serviced		Passed		Failed/Other	
	Qty	%	Qty	%	Qty	%	Qty	%
Control	6	26.09%	6	100.00%	6	100.00%	0	0.00%
Initiating	17	73.91%	17	100.00%	17	100.00%	0	0.00%
<b>Totals</b>	<b>23</b>	<b>100%</b>	<b>23</b>	<b>100.00%</b>	<b>23</b>	<b>100.00%</b>	<b>0</b>	<b>0.00%</b>

## Certification

**Company:** H&H Fire Protection, LLC

**Building:** State Theatre

**Inspector:** Daniel Shirley

A rectangular box containing a handwritten signature in black ink. The signature appears to be 'Daniel Shirley' written in a cursive style.

**Signed:** Jan 17, 2025

**Contact:** Jim Wells

# INSPECTION & TESTING

Generated by: BuildingReports.com

The Inspection & Testing section lists all of the items inspected in your building. Items are grouped by Passed or Failed/Other . Items are listed by Category. Each item includes the services performed, and the time & date at which testing occurred.

**Building:** State Theatre

**Control Panel:** 1 - Siemens fs-250

Device Type	Location	Service	Time	Date
<b>PASSED</b>				
<b>Control</b>				
Battery	1st Inside FACP room	Tested	12:16:22 PM	01/17/2025
				
Battery	1st Inside FACP room	Tested	12:16:42 PM	01/17/2025
				
Battery	1st Inside FACP room	Tested	12:17:09 PM	01/17/2025
				
Battery	1st Inside FACP room	Tested	12:17:28 PM	01/17/2025

Device Type	Location	Service	Time	Date
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PASSED (continued)

**Control** (continued)



Control Panel	1st Inside FACP room	Tested	12:18:41 PM	01/17/2025
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Power Supply	1st Inside FACP room	Tested	12:17:55 PM	01/17/2025
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**Initiating**

Pull Station	Basement Stairwell	Tested	11:07:52 AM	01/17/2025
Pull Station	Basement Outside locker room	Tested	11:14:10 AM	01/17/2025
Pull Station	1st Stage exit	Tested	11:29:46 AM	01/17/2025
Pull Station	1st Stair 1	Tested	11:09:32 AM	01/17/2025
Pull Station	1st Beside Exit women's room	Tested	11:18:17 AM	01/17/2025
Pull Station	1st Beside first floor loading exit. women's room State Climb	Tested	11:22:49 AM	01/17/2025
Pull Station	1st Beside first floor receiving exit women's room State Climb	Tested	11:24:29 AM	01/17/2025
Pull Station	1st Inside Office	Tested	11:02:58 AM	01/17/2025
Pull Station	1st Near dressing room	Tested	11:31:23 AM	01/17/2025
Pull Station	2nd Stair 1	Tested	10:58:23 AM	01/17/2025
Pull Station	2nd vestibule	Tested	11:41:04 AM	01/17/2025
Pull Station	2nd vestibule	Tested	11:42:20 AM	01/17/2025
Smoke Detector	Basement Inside Storeroom	Tested/Cleaned	11:05:32 AM	01/17/2025

Device Type	Location	Service	Time	Date
<b>PASSED</b> (continued)				
<b>Initiating</b> (continued)				
Smoke Detector	Basement Inside locker room	Tested/Cleaned	11:13:05 AM	01/17/2025
Smoke Detector	1st Above FACP	Tested/Cleaned	10:46:18 AM	01/17/2025
Smoke Detector	1st Inside data room	Tested/Cleaned	11:26:26 AM	01/17/2025
Smoke Detector	1st Inside lighting room	Tested/Cleaned	11:27:56 AM	01/17/2025

# SERVICE SUMMARY

Generated by: BuildingReports.com

The Service Summary section provides an overview of the services performed in this report.

**Building:** State Theatre

Device Type	Service	Quantity
<b>PASSED</b>		
Battery	Tested	4
Control Panel	Tested	1
Power Supply	Tested	1
Pull Station	Tested	12
Smoke Detector	Tested/Cleaned	5
<b>Total</b>		<b>23</b>
<b>Grand Total</b>		<b>23</b>

# BATTERY & POWER SUPPLY TESTING

Generated by: BuildingReports.com

The Battery & Power Supply Testing section details the readings and measurements of batteries and power supplies used to provide power to the fire alarm and life safety systems. Items are grouped by Passed or Failed/Other.

**Building:** State Theatre

**Control Panel:** 1 - Siemens fs-250

## Battery

Type	Location	Rated Ah	Rated Volts	Pre Test	Post Test	Min Ah	Tested Ah
<b>PASSED</b>							
Sealed Lead Acid	1st Inside FACP room	5	12			3.3	1.7
Sealed Lead Acid	1st Inside FACP room	5	12			3.3	1.7
	1st Inside FACP room	12	12			7.9	4.3
	1st Inside FACP room	12	12			7.9	4.3

# INVENTORY & WARRANTY REPORT

Generated by: BuildingReports.com

The Inventory & Warranty Report lists each of the devices and items that are included in your Inspection Report. A complete inventory count by device type and category is provided. Items installed within the last 90 days, within the last year, and devices installed for two years or more are grouped together for easy reference.

## Building: State Theatre

Device or Type	Category	% of Inventory	Quantity
Battery	Control	17.39%	4
Control Panel	Control	4.35%	1
Power Supply	Control	4.35%	1
Pull Station	Initiating	52.17%	12
Smoke Detector	Initiating	21.74%	5

## Building: State Theatre

## Control Panel: 1 - Siemens fs-250

Type	Qty	Model #	Description	Install Date
<b>IN SERVICE - 90 DAYS - 1 YEAR</b>				
<b>Power-Sonic</b>				
Battery	2	ps-1250 f1	Sealed Lead Acid	01/17/2025
<b>PowerRite</b>				
Battery	2	prb1212		01/17/2025
<b>Siemens</b>				
Control Panel	1	fs-250	Addressable	01/17/2025
Power Supply	1	pad-3		01/17/2025
Pull Station	12	hms-d		01/17/2025
Smoke Detector	5	hfp-11	Photoelectric	01/17/2025

# ZONE ADDRESS REPORT

Generated by: [BuildingReports.com](http://BuildingReports.com)

The Zone Address Report lists all of the devices and items that have an individual address, or are grouped together under a common zone. The device type, location, and description are included for your reference.

**Building:** State Theatre

**Control Panel:** 1 - Siemens fs-250

Address	Device Type	Location	Type	ScanID
<b>ZONE/CIRCUIT:</b>				
1004	Pull Station	Basement Outside locker room		97442612
1005	Smoke Detector	Basement Inside locker room	Photoelectric	97442598
1012	Pull Station	1st Inside Office		97442596
1014	Pull Station	1st Stair 1		97442597
1022	Smoke Detector	Basement Inside Storeroom	Photoelectric	97442614
1027	Smoke Detector	1st Inside data room	Photoelectric	97442608
1029	Pull Station	1st Beside first floor receiving exit women's room State Climb		97442609
1030	Smoke Detector	1st Inside lighting room	Photoelectric	97442607
1033	Pull Station	Basement Stairwell		97442613
1035	Pull Station	1st Near dressing room		97442605
1036	Pull Station	1st Stage exit		97442606
1037	Pull Station	2nd Stair 1		97442599
1038	Pull Station	2nd vestibule		97442604
1039	Pull Station	2nd vestibule		97442603
1046	Pull Station	1st Beside Exit women's room		97442611
1049	Smoke Detector	1st Above FACP	Photoelectric	97442620
1050	Pull Station	1st Beside first floor loading exit. women's room State Climb		97442610

# Fire Sprinkler Systems

# 2025



## State Theatre

305 South Main St  
Culpeper, Va 22701  
na

**Building Contact:** Jim Wells  
**Title:** NA  
  
**Company:** H&H Fire Protection, LLC  
**Contact:** Daniel Shirley  
**Title:** Fire Technician

**Inspection Date: Jan 17, 2025**  
**Tested to NFPA 25 Standards**



This Inspection was performed in accordance with applicable Standards. The subsequent pages of this report provide performance measurements, listed ranges of acceptable results, and complete documentation of the inspection. Whenever discrepancies exist between acceptable performance standards and actual test results, notes and/or recommended solutions have been proposed or provided for immediate review and approval.

# EXECUTIVE SUMMARY

Generated by: BuildingReports.com

## Building Information

<b>State Theatre</b> 305 South Main St Culpeper, Va 22701 United States of America	<b>Contact:</b> Jim Wells
	<b>Phone:</b> 540-818-6337
	<b>Fax:</b>
	<b>Mobile:</b>
	<b>Email:</b> wells9526@gmail.com

## Inspection Performed By

<b>H&amp;H Fire Protection, LLC</b> 2600 Omisol Rd Woodbridge, VA 22192-4002 United States of America	<b>Inspector:</b> Daniel Shirley
	<b>Phone:</b> 703-407-8513
	<b>Fax:</b>
	<b>Mobile:</b>
	<b>Email:</b> daniel@hhfireprotection.com

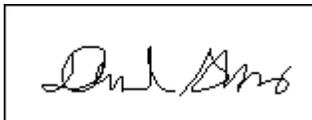
## Inspection Summary

Category	Total Items		Serviced		Passed		Failed/Other	
	Qty	%	Qty	%	Qty	%	Qty	%
Alarm	3	25.00%	3	100.00%	3	100.00%	0	0.00%
Device	3	25.00%	3	100.00%	3	100.00%	0	0.00%
Hose	1	8.33%	1	100.00%	1	100.00%	0	0.00%
Sprinkler	4	33.33%	4	100.00%	4	100.00%	0	0.00%
Valve	1	8.33%	1	100.00%	1	100.00%	0	0.00%
<b>Totals</b>	<b>12</b>	<b>100%</b>	<b>12</b>	<b>100.00%</b>	<b>12</b>	<b>100.00%</b>	<b>0</b>	<b>0.00%</b>

## Certification

**Company:** H&H Fire Protection, LLC

**Inspector:** Daniel Shirley



**Building:** State Theatre

**Contact:** Jim Wells

**Signed:** Jan 17, 2025

# INSPECTION & TESTING

Generated by: [BuildingReports.com](http://BuildingReports.com)

The Inspection & Testing section lists all of the items inspected in your building. Items are grouped by Passed or Failed/Other . Items are listed by Category. Each item includes the services performed, and the time & date at which testing occurred.

**Building:** State Theatre

Device Type	Location	Service	Time	Date
<b>PASSED</b>				
Drain	Basement Inside Sprinkler room	Annual	11:56:48 AM	01/17/2025
Fire Dep't Connection	1st Outside front of building	Annual	12:26:50 PM	01/17/2025
Gauge	Basement Inside Sprinkler room	Annual	11:54:59 AM	01/17/2025
				
Gauge	Basement Inside Sprinkler room	Annual	11:55:26 AM	01/17/2025
				
Inspector's Test	Basement Inside Sprinkler room	Annual	11:58:24 AM	01/17/2025
Special Sprinkler	1st Outside front of building	Annual	12:27:53 PM	01/17/2025
Sprinkler Box	Basement Inside Sprinkler room	Annual	12:06:25 PM	01/17/2025
Sprinkler Box Spares	Basement Inside Sprinkler room	Annual	12:06:41 PM	01/17/2025
Tamper Switch	Basement Inside Sprinkler room on backflow 1	Annual	11:50:36 AM	01/17/2025
Tamper Switch	Basement Inside Sprinkler room on backflow 2	Annual	11:52:28 AM	01/17/2025

Device Type	Location	Service	Time	Date
<b>PASSED</b> (continued)				
Waterflow Switch	Basement Inside Sprinkler room	Annual	11:59:59 AM	01/17/2025
Wrenches	Basement Inside Sprinkler room	Annual	12:07:07 PM	01/17/2025

# INVENTORY & WARRANTY REPORT

Generated by: [BuildingReports.com](http://BuildingReports.com)

The Inventory & Warranty Report lists each of the devices and items that are included in your Inspection Report. A complete inventory count by device type and category is provided. Items installed within the last 90 days, within the last year, and devices installed for two years or more are grouped together for easy reference.

**Building:** State Theatre

Device or Type	Category	% of Inventory	Quantity
Drain	Device	8.33%	1
Fire Dep't Connection	Hose	8.33%	1
Gauge	Device	16.67%	2
Inspector's Test	Valve	8.33%	1
Special Sprinkler	Sprinkler	8.33%	1
Sprinkler Box	Sprinkler	8.33%	1
Sprinkler Box Spares	Sprinkler	8.33%	1
Tamper Switch	Alarm	16.67%	2
Waterflow Switch	Alarm	8.33%	1
Wrenches	Sprinkler	8.33%	1

Device Type	Qty	Model #	Description	Install Date
<b>IN SERVICE - 90 DAYS - 1 YEAR</b>				
Tamper Switch	2	nsf-61-g	Vane	01/17/2025
<b>IN SERVICE - 10 YEARS TO 15 YEARS</b>				
Sprinkler Box	1			01/17/2012
Sprinkler Box Spares	1			01/17/2012
Wrenches	1			01/17/2012
Fire Dep't Connection	1		Wall	01/17/2012

Device Type	Qty	Model #	Description	Install Date
<b>IN SERVICE - 10 YEARS TO 15 YEARS</b> (continued)				
(continued)				
Special Sprinkler	1			01/17/2012
Waterflow Switch	1	354L	Vane	01/17/2012
Drain	1		Main	01/17/2012
Gauge	2	35-w1005p-02l-up	System Pressure	01/17/2012
Inspector's Test	1	m1000		01/17/2012

# ZONE ADDRESS REPORT

Generated by: BuildingReports.com

The Zone Address Report lists all of the devices and items that have an individual address, or are grouped together under a common zone. The device type, location, and description are included for your reference.

**Building:** State Theatre

**Control Panel:** 1

Address	Device Type	Location	Type	ScanID
<b>ZONE/CIRCUIT:</b>				
1006	Tamper Switch	Basement Inside Sprinkler room on backflow 1	Vane	94407016
1007	Waterflow Switch	Basement Inside Sprinkler room	Vane	97442602
1007	Tamper Switch	Basement Inside Sprinkler room on backflow 2	Vane	94407017

# Documents Submitted By State Fire Marshal's Office

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## COMMONWEALTH of VIRGINIA

**Brad Creasy**  
EXECUTIVE DIRECTOR

**Nicholas Nanna**  
DEPUTY DIRECTOR

### Virginia Department of Fire Programs *Virginia State Fire Marshal's Office*

**William "Billy" Hux**  
CHIEF STATE FIRE MARSHAL

October 28th, 2025

**Inspection Type:** Complaint / Fire Alarm System

**Complaint Received:** September 11, 2025

**Inspection Conducted:** September 17, 2025

**Follow-Up Inspection Scheduled:** October 17, 2025

**Property Address:** 303 S. Main Street, Culpeper, VA

**Occupancies:** Windmore Foundation for the Arts / State Climb

**Complainant:** Gary Cole, Culpeper Code Compliance

**Inspector:** Deputy State Fire Marshal Adam Tutor

**Owner/Representative:** Jim Wells/Windmore Foundations for Arts  
Dos Allen/State Climb

---

### I. BACKGROUND

On September 11, 2025, a complaint inspection request was received from Gary Cole, Culpeper Code Compliance. The property owner of 303 S. Main Street requested an inspection due to reported faults on the fire alarm control panel (FACP) believed to originate from the adjoining business, State Climb. Mr. Cole advised the owner that his LLC would be held responsible for any deficiencies identified during the inspection.

---

## II. INSPECTION FINDINGS

### A. Windmore Foundation for the Arts

- It was determined that both Windmore Foundation for the Arts and State Climb share the same fire alarm system, located within the Windmore Foundation for the Arts occupancy.
- The owner reported a *ground fault* caused by a pull station in the State Climb occupancy.
- Upon examination of the FACP, **multiple faults** were discovered; however, **no ground fault trouble** was present at the time of inspection.

---

## III. ADDITIONAL FINDINGS

The Culpeper County Building Official confirmed that **no permits** were on file for construction work performed in either occupancy (Windmore Foundation for the Arts or State Climb). This work may constitute a violation of applicable building code requirements.

---

## IV. FOLLOW-UP

A follow-up inspection is scheduled for **October 17, 2025** to verify that corrective actions have been completed and all violations have been resolved in accordance with the Statewide Fire Prevention Code and NFPA 72.

---

## V. SUMMARY OF VIOLATIONS

Occupancy	Violation Description	Code Reference	Enforcement Action
Windmore Foundation for the Arts	Failure to maintain FACP; generator fault not corrected	SFPC 901.6.1 / NFPA 72	NOV issued
State Climb	Unauthorized removal of room; pull station in ceiling	SFPC 901.4 / 901.6.1 / NFPA 72	NOV issued
Both Occupancies	Unpermitted construction work	Building Code	Referred to Building Official

- 
- All existing faults were related to a **generator fail** condition.
  - The owner stated that the generator had been removed and is no longer in use.

**Code Reference:**

- *Statewide Fire Prevention Code (SFPC) Section 901.6.1* — Fire alarm systems shall be maintained in an operative condition at all times and shall be replaced or repaired where defective.
- *NFPA 72* — National Fire Alarm and Signaling Code; outlines maintenance requirements for fire alarm systems.

**Violation Noted:**

Failure to maintain the fire alarm control panel in accordance with SFPC 901.6.1 and NFPA 72.

**Corrective Action Required:**

System must be repaired and maintained by qualified personnel to ensure compliance with NFPA 72 and the Statewide Fire Prevention Code.

**Enforcement Action:**

Notice of Violation (NOV) issued.

---

**B. State Climb**

- Inspection revealed that **unauthorized construction** had occurred that differed from approved building plans.
- A room had been **removed to open the area**, and the associated **manual pull station** was found **rolled up and secured in the ceiling**.
- The pull station is no longer accessible or properly integrated into the alarm system.

**Code Reference:**

- *SFPC Section 901.4* — Systems and devices shall be installed in accordance with approved construction documents.
- *SFPC Section 901.6.1* — Systems shall be maintained in accordance with NFPA 72.

**Violation Noted:**

Alteration of fire alarm initiating devices without approval and failure to maintain system integrity.

**Corrective Action Required:**

Pull station must be properly removed and reprogrammed in the fire alarm control panel, or reinstalled in an approved location per NFPA 72.

**Enforcement Action:**

Notice of Violation (NOV) issued.

From: Gary Cole <[GCole@vafire.com](mailto:GCole@vafire.com)>  
Sent: Tuesday, August 26, 2025 5:50 PM  
To: Tutor, Adam (VDFF) <[Adam.Tutor@vdfire.virginia.gov](mailto:Adam.Tutor@vdfire.virginia.gov)>  
Subject: Inspection Request 305 South Main Street

Adam,

I've got an unusual inspection request. The owner of the old State Theater Building engaged me about an issue with the fire alarm panel during communication concerning the biannual egress inspection I do at this address. He produced the above inspection report from a contractor and some photographs. He indicated that he had no idea if the deficiency had been addressed and requested an inspection be done. I explained to him that if you performed an inspection and a deficiency was found his LLC would be the responsible party on the NOV. That did not deter him.

He entered into a partnership with the gentleman who runs State Climb, in the rear of the building, and they are constantly at war with each other so I don't know if this is a part of that ongoing matter.

His contact info is:

Jim Wells  
[wells9576@gmail.com](mailto:wells9576@gmail.com)  
(540) 547-3407

Sincerely,  
Gary

Respectfully,



William "Billy" Hux  
Chief State Fire Marshal  
Commonwealth of Virginia

## Hux, Billy (VDFP)

---

**From:** Tutor, Adam (VDFP)  
**Sent:** Monday, October 27, 2025 2:21 PM  
**To:** Hux, Billy (VDFP)  
**Subject:** Fw: 305 South Main Generator

*Adam Tutor*

State Fire Marshal's Office  
Central Region  
Division 2  
Deputy State Fire Marshal  
471 James Madison Hwy  
Culpeper, Va 22701  
Adam.Tutor@vdfp.virginia.gov  
Cell: 540-4097397

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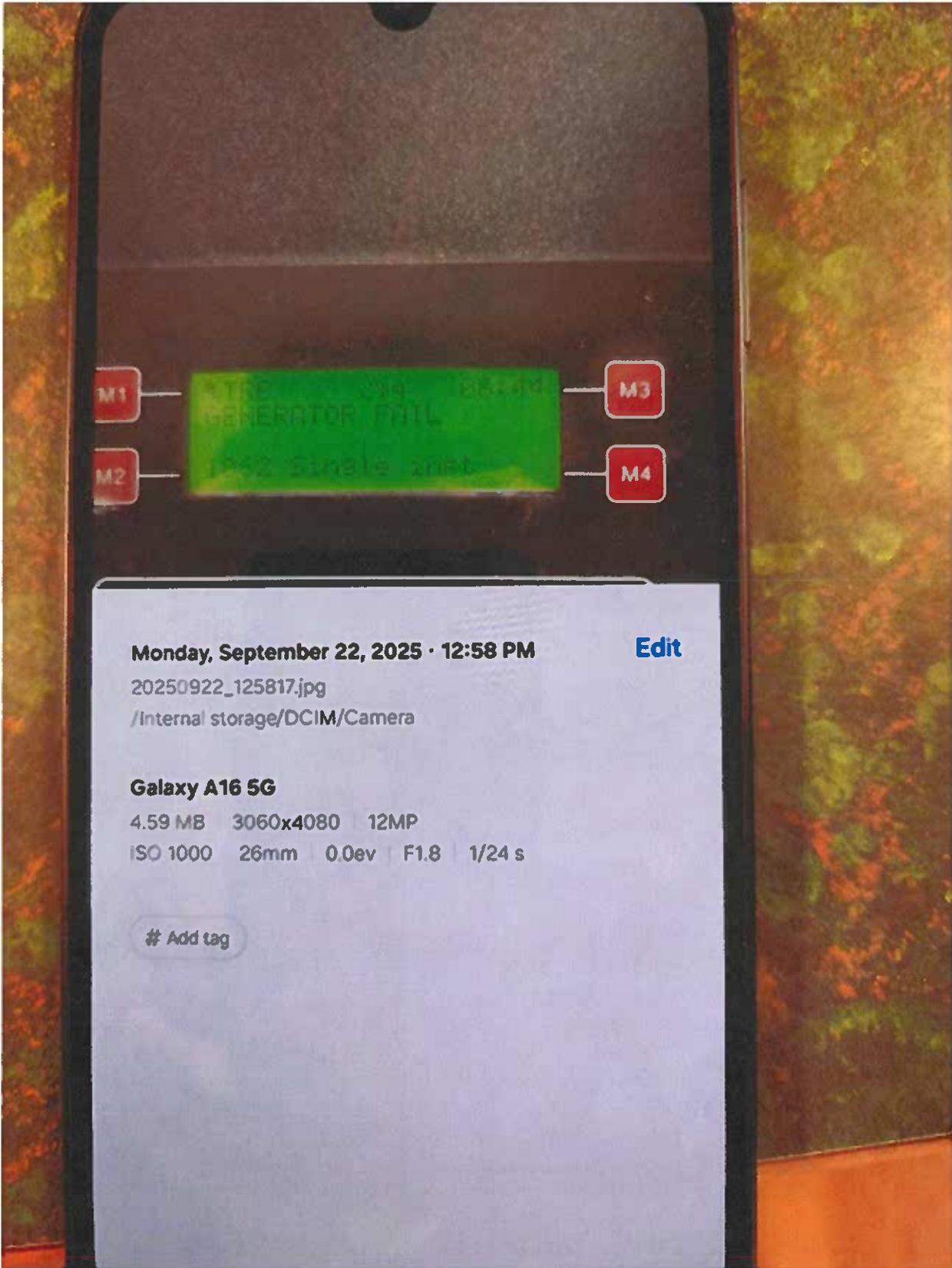
**From:** Gary Cole <GCole@culpeperva.gov>  
**Sent:** Tuesday, October 14, 2025 2:55:54 PM  
**To:** Tutor, Adam (VDFP) <Adam.Tutor@vdfp.virginia.gov>  
**Subject:** 305 South Main Generator

Adam,

I looked through the County's permitting system but could find nothing concerning the generator. In retrospect it was more than likely removed when the Patriot Property Group LLC purchased it in 2018. They gutted much of the interior while the facility was non-operational.

Sincerely,  
Gary

Gary Cole  
CZO,VMO,VESCI,CFM  
Town Of Culpeper /Code Compliance  
400 South Main Street  
Suite 301  
Culpeper, VA 22701  
[gcole@culpeperva.gov](mailto:gcole@culpeperva.gov)  
(540) 829-8262 (office)  
(540) 522-6907 (cell)



**H & H FIRE PROTECTION**  
 2600 Omisol Rd  
 Woodbridge, VA 22192 USA  
 5714927640  
 tom@hhfireprotection.com  
 www.hhfireprotection.com

**Invoice**



**H&H FIRE PROTECTION**

**BILL TO**  
 State Theatre  
 305 S Main St  
 Culpeper, Va 22701

INVOICE #	DATE	TOTAL DUE	DUE DATE	TERMS	ENCLOSED
250-4132S	07/11/2025	\$915.00	08/10/2025	Net 30	

**PROJECT NAME**  
 Service Call

DATE	DESCRIPTION	QTY	AMOUNT
07/10/2025	Minimum Service Hours Technician #1 (3 hrs)	4	480.00
07/10/2025	Minimum Service Hours Technician #2 (3 hrs)	4	360.00
07/10/2025	Trip Charge	1	75.00

**BALANCE DUE \$915.00**

Please find attached service ticket. Work performed:  
 Upon arrival at the site, the fire alarm panel was showing the trouble message "FSDLC 1GF minus", indicating a ground fault on the SLC (Signaling Line Circuit). Additionally, the panel displayed the following generator-related troubles: Generator Fail, Generator Battery, Generator Run, and RD 01 No Response. The existing fire alarm control panel is an older Siemens FS-250 addressable system. During inspection, we found that all SLC circuits were bundled together within the FACP, connected directly to the SLC board. We were able to isolate the ground fault to a specific wire, which we labeled in white. This wire feeds the following devices: Smoke Detector above the FACP (1049) Pull Station – Electrical Room Exit (1026) Smoke Detector – Data Room (1027) Pull Station – State Climb Location (1028) Pull Station – Receiving Exit (1029) Smoke Detector – Lighting Room (1030) Smoke  
 THIS IS THE CORRECT INVOICE.

Please note that a 4% credit card processing fee will apply to all payments made by credit card.









## FIRE CODE INSPECTION REPORT

### Virginia State Fire Marshal's Office

1005 Technology Park Drive, Glen Allen, VA 23059-4500

### Contact Information

Phone: (804) 371-0220 \* Office (804) 350-4884 \* [www.statefiremarshal@vdfp.virginia.gov](mailto:www.statefiremarshal@vdfp.virginia.gov)

**Inspection Number:** 251023-04315

**Inspection Date:** 10/23/2025 11:06:17

**Inspector:** Tutor, Adam; Price, Damon

**Region Office:** Central Region Office 1005Technology Park Drive Glen Allen, VA 23059

Mr. Jim Wells

Windmore Foundation For The Arts

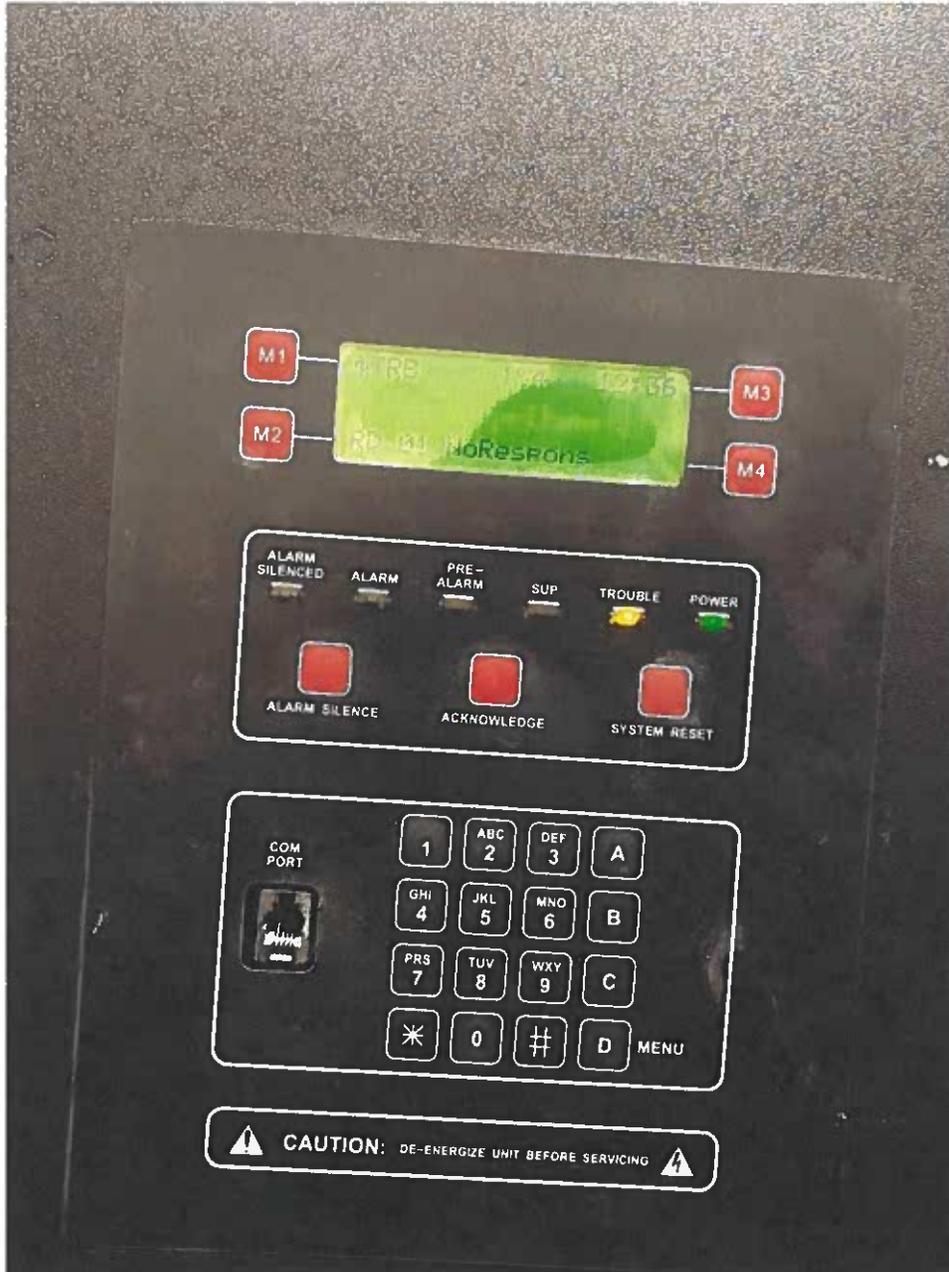
303 South Main Street 100

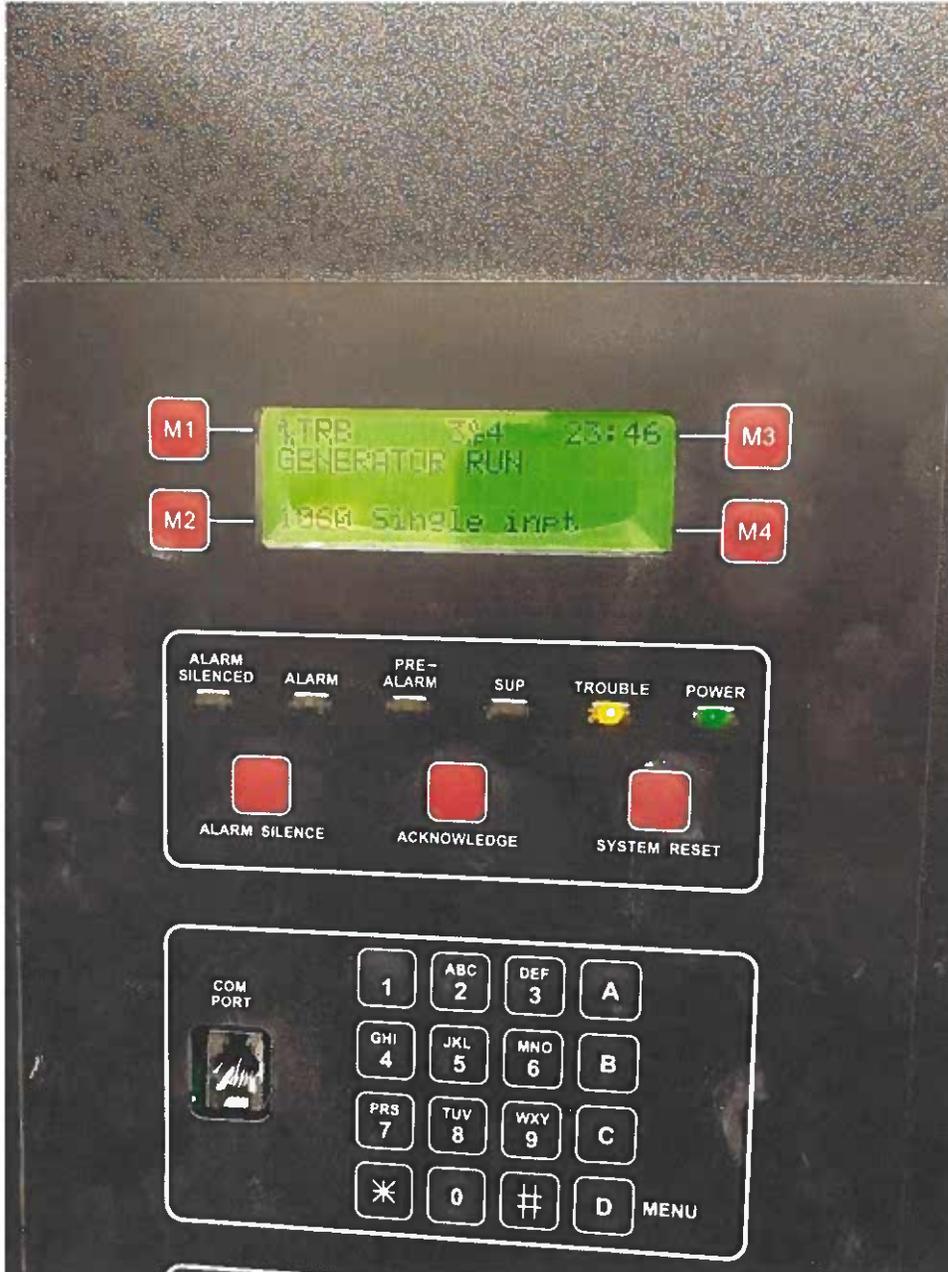
Culpeper, VA 22701

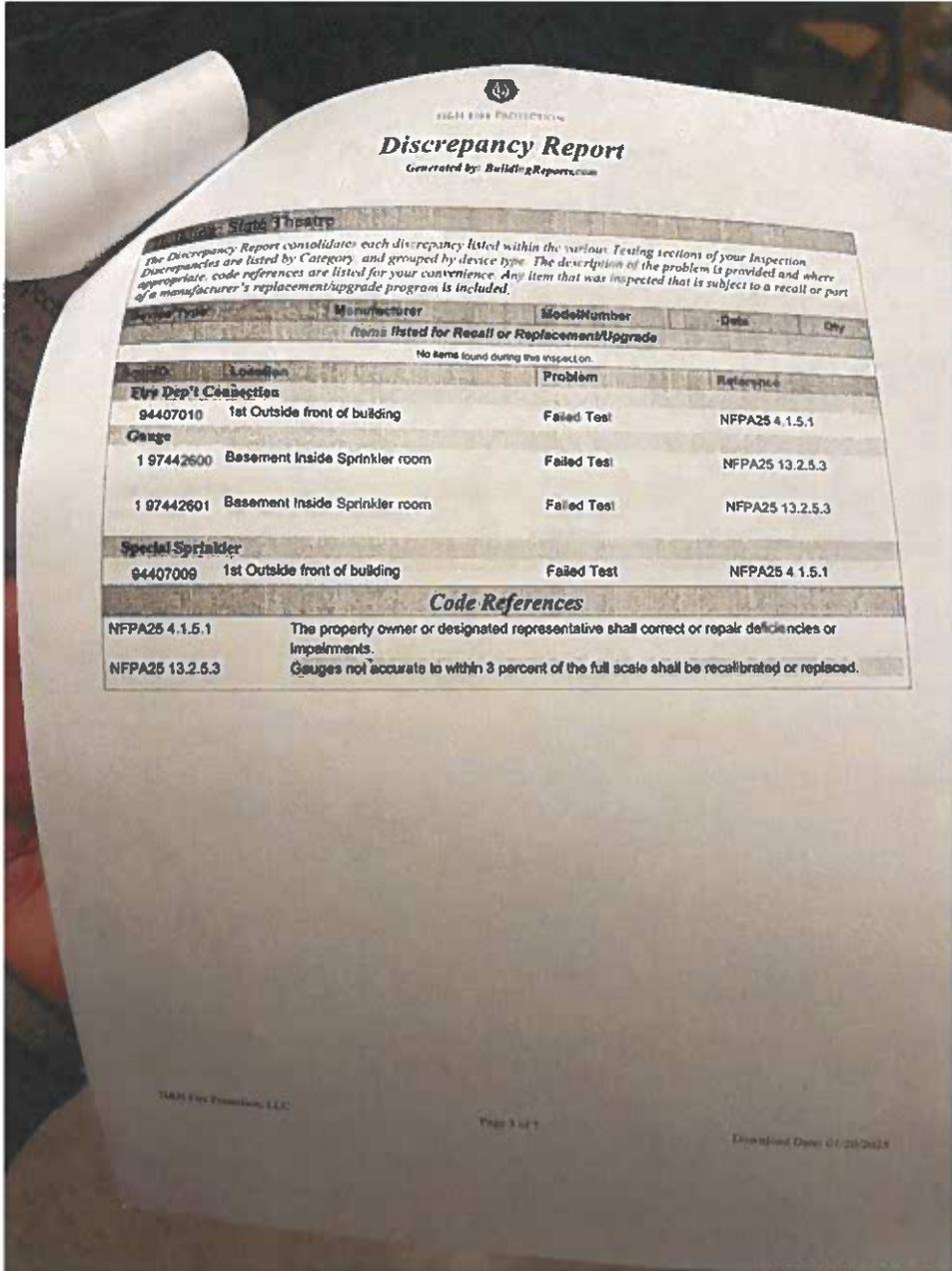
With this , you are hereby notified that on 10/23/2025 an inspection was conducted by the Virginia State Fire Marshal's Office that identified the following violation(s) of the Virginia Statewide Fire Prevention Code, Code of Virginia as amended and adopted.

### Listing of Violations

File Name: IMG\_1219  
Violation Code: 901.6.1  
Inspected Date: 2025-09-17 12:48:40







**Violation Count: 3**

You are hereby ORDERED to remove or remedy the said violation(s) immediately. A representative of this office will return to verify corrections on or before the re-inspection date indicated. Failure to correct violation within the time limit specified in this notice may result in appropriate legal proceedings.

Any person aggrieved by any decision or interpretation of the code official may appeal within 14 days of notice of such decision to the local board of building code appeals which hereby also appointed as the board of fire prevention code appeals. The board shall function in conformity with the Virginia Statewide Fire Prevention Code.

**Additional Documents**

**Inspection Documents**

**Signature**

Primary Contact Signature:

	<b>First Name</b>	<b>Last Name</b>	
Inspector	Adam	Tutor	

[www.statefiremarshal@vdfp.virginia.gov](mailto:www.statefiremarshal@vdfp.virginia.gov)

**ID Number:** 251023-04315

**Date:** 10/23/2025  
11:52

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**Additional Documents  
Submitted by  
The State of Culpeper LLC  
(James Well)**

(Page left blank intentionally)

**From:** [Jim Wells](#)  
**To:** [Luter, Travis \(DHCD\)](#)  
**Subject:** Re: FW: SFMO Appeal Response Packet No. 25-14  
**Date:** Thursday, October 30, 2025 7:50:59 AM  
**Attachments:** [image004.png](#)  
[MOVING MEADOWS ELEctric.pdf](#)  
[siemwns relayunit instructions.pdf](#)  
[Laing - Permit Close Out.pdf](#)  
[electric line inspection.pdf](#)  
[H&H ground fault inspection 7-11-25.pdf](#)

---

Appeal 25-14 of inspection Conducted 9/17/25 at 305 S. Main St Culpeper

Dear Sir,

This is additional information submitted for my appeal regarding the above.

### II Inspection Findings

The entire building shares the same fire alarm system with the FS-250 panel located in the interior of the building. The ground faults were found by H&H Fire per the attached , H&H Fire Ground Fault Inspection 7-11-25. I do not know who fixed the ground faults before the 9-17-25 inspection. No access to the fire alarm panel was requested.

### III Additional Findings

Windmore Foundation for the Arts is not an owner or representative and occupies an office in the front of the building that was an office when the building was renovated in 2012 and has remained as an office since that date. No permits required. I am unsure what permits State Climb has pulled. The only information I have on his permitting process is a letter he shared from his electrical contractor and is attached as Laing - Permit Close Out. The front of the building has seen numerous renovations. A new electric line and removal of generator electrical components was performed by Piedmont Electrical LLC, permit approval attached, Electric Line Inspection. Attached is a document for the renovation of the electrical system for Moving Meadows Bakery. I ran another dedicated electric line to his space that also starts in the fire alarm panel room. His electrical plan is attached , Moving Meadows Electric. Please note on page E03, it specifically states battery backed lights. The Culpeper Building Department approved this renovation. On 8/28/25, I passed the Public Building egress inspection by the Town of Culpeper.

### IV Follow-up

The FS-250 fire panel is not automatically tied to emergency lights, but a Siemens FS-250 fire panel can be programmed to control them through its programmable relays. Here is how the FS-250 can interface with emergency lighting systems:

- Programmable relays: The FS-250 control panel includes three programmable "Form C" dry-contact relays. These relays can be programmed to change state in response to an alarm event.
- Separate systems: It is crucial to understand that the FS-250 does not provide power to the emergency lights. The fire alarm and emergency lighting are two separate systems.

Attached are instructions for the FS-RU2 module that would connect emergency lights to the panel: Siemens RU2 Relay instructions and a picture of FS-250 fire panel that shows the relays TB5, TB6, and TB7 are not wired to any other device, as would be required per the FS-250 fire panel RU2 relay instructions included.

I pray this proves my emergency lights are not part of the fire alarm panel, the generator error codes are meaningless to either system and the expense to remove the codes is unnecessary

Regards

Jim Wells

On Tue, Oct 28, 2025 at 12:33 PM Luter, Travis (DHCD) <[Travis.Luter@dhcd.virginia.gov](mailto:Travis.Luter@dhcd.virginia.gov)> wrote:

To ensure ex parte communication does not occur, Review Board copied all parties on this response.

Review Board staff received this submittal.

**W. Travis Luter, Sr., CBO**

Secretary to the State Building Code Technical Review Board

Code and Regulation Specialist

Virginia Department of Housing and Community Development (DHCD)

804-371-7163

[travis.luter@dhcd.virginia.gov](mailto:travis.luter@dhcd.virginia.gov)



---

**From:** Hux, Billy (VDFP) <[Billy.Hux@vdfp.virginia.gov](mailto:Billy.Hux@vdfp.virginia.gov)>  
**Sent:** Tuesday, October 28, 2025 11:41 AM  
**To:** Luter, Travis (DHCD) <[Travis.Luter@dhcd.virginia.gov](mailto:Travis.Luter@dhcd.virginia.gov)>  
**Cc:** Tutor, Adam (VDFP) <[Adam.Tutor@vdfp.virginia.gov](mailto:Adam.Tutor@vdfp.virginia.gov)>; Parker, Robert (VDFP) <[Robert.Parker@vdfp.virginia.gov](mailto:Robert.Parker@vdfp.virginia.gov)>  
**Subject:** SFMO Appeal Response Packet No. 25-14

Mr. Luter –

Please see attached.

*Billy Hux* | CFO,CFI,CFPI

Chief State Fire Marshal

Commonwealth of Virginia

Virginia State Fire Marshal's Office

Virginia Fire Marshal Academy

1005 Technology Park Drive, Glen Allen, VA 23059

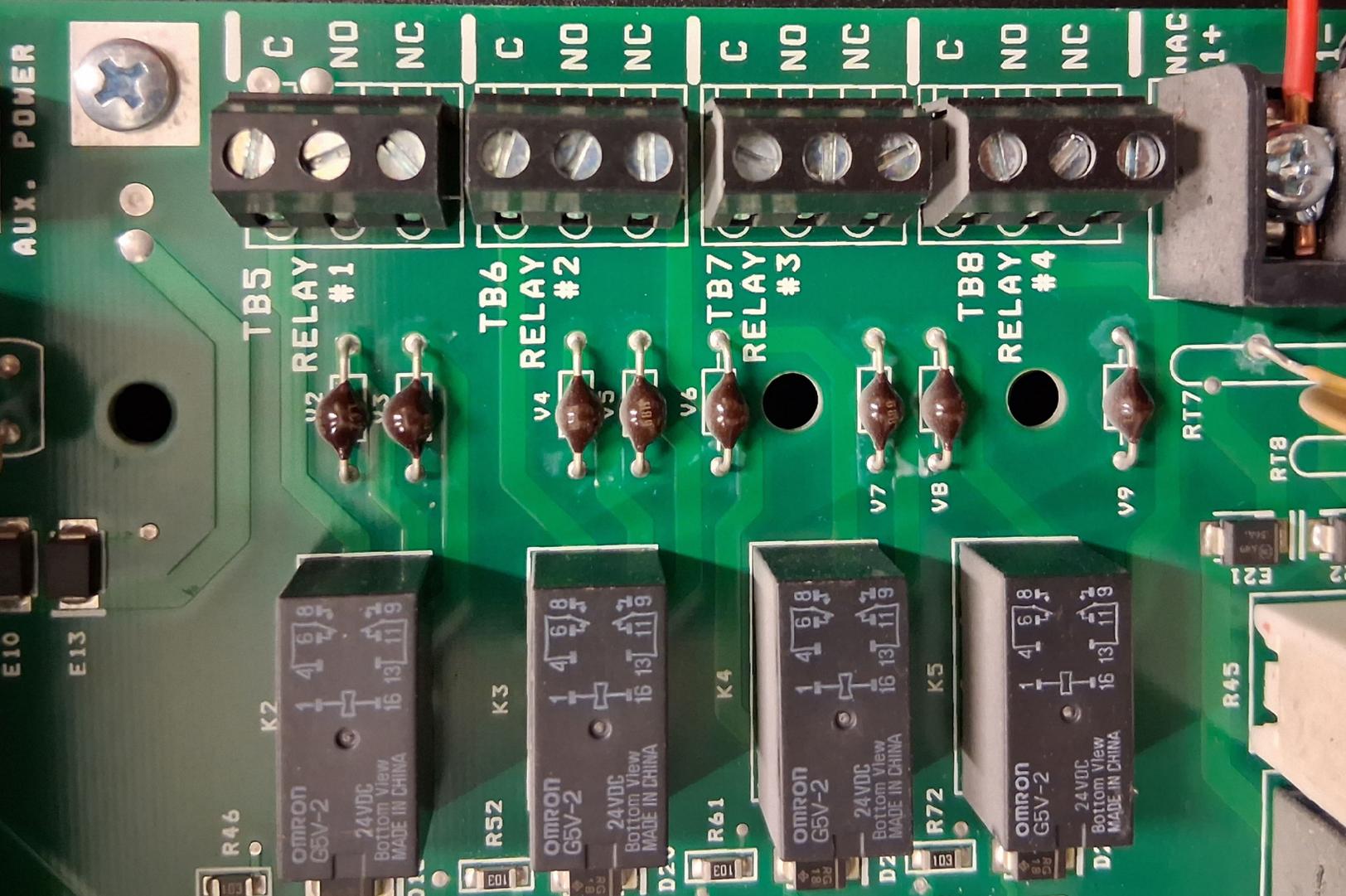
Office: (804) 612-7268 | Mobile: (540) 270-6617

Web: [State Fire Marshal's Office](#)

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WILLIAM A. LANG, E.L.P.  
1500 BENTLEY AVENUE  
CLAYTON, VA 22030  
(803) 777-3800  
LANG@LEANGCO.COM

DESIGN BY  
JOHN THORNTON

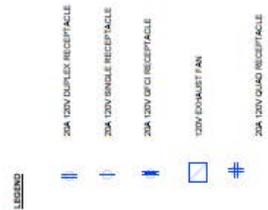
**ELECTRICAL PLAN**  
MOVING MEADOWS FARM  
287 SOUTH MAIN STREET  
CLAYTON, VIRGINIA 22031  
TOMAS OLIVER

NO.	DATE	DESCRIPTION
1		
2		
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10		

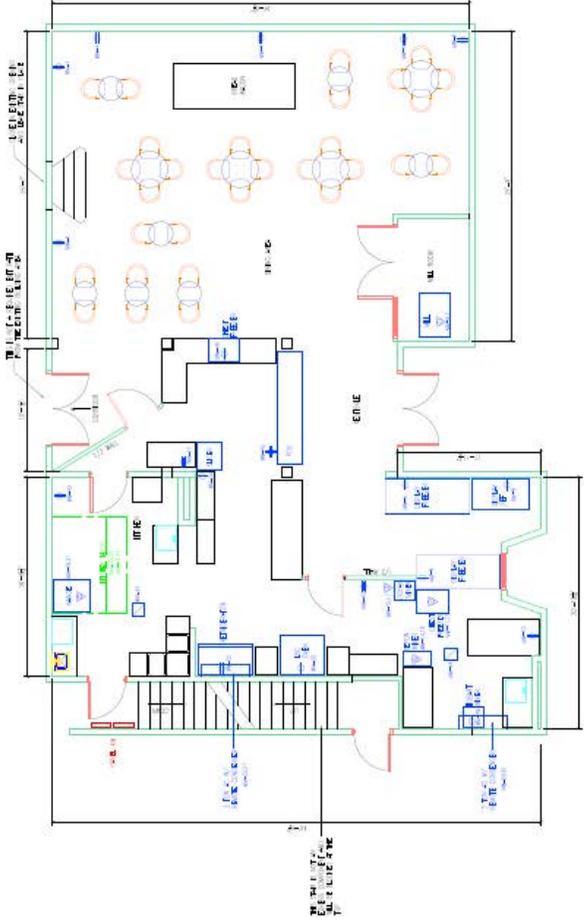
PROJECT NUMBER: 100-300  
SHEET TITLE AND NUMBER:  
**E.02**

DATE:  
SHEET 2 OF 3 SHEETS

- NOTES**
- 1) SLATING ARE RECEPTACLES ARE EXISTING. RETIEED FROM PANEL LM.
  - 2) PROVIDE ROOFTOP RECEPTACLE WITHIN 25' OF NEW ROOFTOP AC UNITS.
  - 3) REMOTE CONDENSERS SHOWN ON DRAWING ARE TO BE INSTALLED FROM OLD LOCATION. PROVIDE 1/2" MC CABLE ON 2"Ø BREAKER TO FEED EACH UNIT.



- EQUIPMENT CALL-OUT**
- 1) WALL: PROVIDE DISCONNECT ON CORD AND PLUG. WIRE. 100 MC CABLE. BREAKER. 2P20
  - 2) CHEST FREEZER: PROVIDE CORD AND PLUG. WIRE. 120 MC CABLE. BREAKER. 2P20
  - 3) DOYAN WASHER: PROVIDE CORD AND PLUG. WIRE. 120 MC CABLE. BREAKER. 2P20
  - 4) DEYON WASHER: PROVIDE CORD AND PLUG. WIRE. 120 MC CABLE. BREAKER. 2P20
  - 5) RANGE: PROVIDE CORD AND PLUG. WIRE. 100 MC CABLE. BREAKER. 2P50



**MOVING MEADOWS POWER PLAN**  
SCALE: 1/8" = 1'-0"



**WILLIAM A. KING, II, P.E.**  
 15875 GIBSON MILL ROAD  
 COOPER, VA 22701  
 (803) 771-4828  
 LAKELECTRIC@GMAIL.COM

DRAWN BY:  
 JAMES HENNING

**ELECTRICAL PLAN**  
**MOVING MEADOWS FARM**  
 307 SOUTH MAIN STREET  
 CLAYTON, VIRGINIA 22701  
 TOWN OF CLAYTON

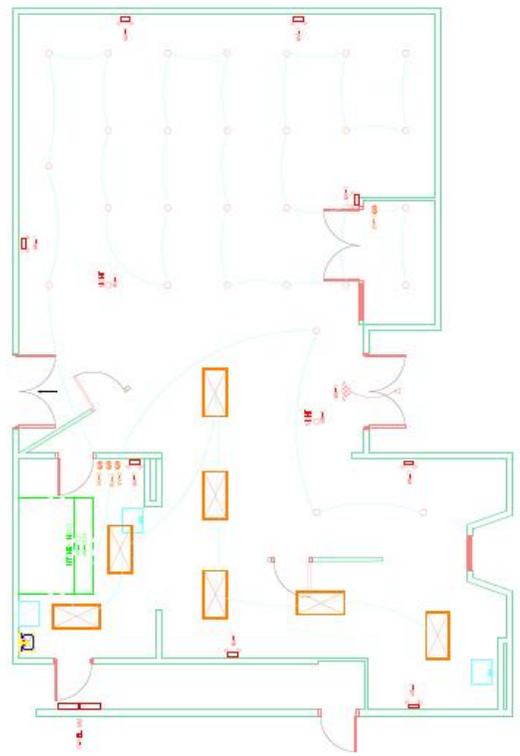
NO.	REVISION

DATE:  
 PROJECT NUMBER: 2021-0020  
 SHEET TITLE AND NUMBER:  
**LIGHTING PLAN**

**E.03**  
 SHEET 3 OF 3 SHEETS

- NOTES**
- 1) SEATING AREA/RESTRIABLE LIGHTING TO USE EXISTING CEILING LIGHT FIXTURE LAYOUT SHOWN IN PLANS IS A SWITCH OF EXISTING FIXTURES. NEW LED LIGHTS FROM PANEL ARE
  - 2) ALL NEW FIXTURES TO BE TYPE LED.
  - 3) INSTALL EMERGENCY LIGHT FIXTURES SUCH AS EMERGENCY LIGHTS WITH BATTERY BACK-UP AND EXTREMELY COMBINATION FIXTURES AS SHOWN.
  - 4) KITCHEN LIGHTING TO BE DRAWN 2' X 4' LED FIXTURE.

- LEGEND**
-  EXTREMELY COMBINATION LED FIXTURE WITH BATTERY BACK-UP
  -  EMERGENCY LED LIGHT FIXTURE WITH BATTERY BACK-UP
  -  LED RECESS LIGHT FIXTURE
  -  2' X 4' LED LIGHT FIXTURE
  -  25A 120V SINGLE-POLE SWITCH



**MOVING MEADOWS LIGHTING PLAN**  
 SCALE: 1/4" = 1'-0"

# SIEMENS

## INSTALLATION INSTRUCTIONS Model FS-RU2 Serial Relay Unit Model FS-RE8 Serial Relay Extender

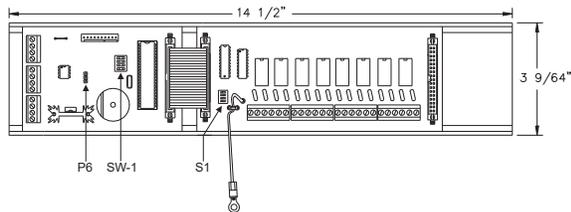
The FS-RU2 Serial Relay Unit is an optional accessory for the FS-250 and FS-250C Fire Alarm System Control Panels. The FS-RU2 includes a processor board and a relay board. The processor board receives commands from the control unit for activating the relays and transmits supervision and control functions to the control unit. The processor board can control up to 3 relay boards. Each relay board provides 8 relays with Form C contacts. The control unit can address up to 8 Serial Relay Units and/or Serial Annunciator Units. Auxiliary power supplies will be required to power units beyond the control unit capability.

### FS-RU2 PARTS SUPPLIED

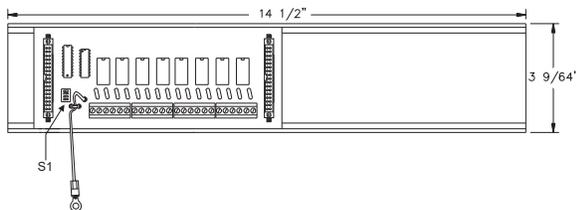
- 1 Processor Board Assembly
- 1 Relay Board Assembly
- 1 34 pin Cable Assembly, 3 1/2"
- 1 PCB Track, 14 1/2"
- 1 10 pin Cable Assembly, 6"
- 1 Screwdriver
- 3 Keps Nut, #6-32
- 1 Instruction Sheet

### FS-RE8 PARTS SUPPLIED

- 1 Relay Board Assembly
- 1 34 pin Cable Assembly, 15"
- 1 34 pin Cable Assembly, 3 1/2"
- 1 PCB Track, 14 1/2"
- 3 Keps Nut, #6-32
- 1 Instruction Sheet

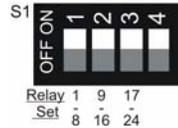


**FS-RU2 DIMENSIONS**



**FS-RE8 DIMENSIONS**

- Step 1.) Installation is to be done by qualified personnel who have thoroughly read and understood this instruction sheet.
- Step 2.) Disconnect BATTERY and AC prior to working on equipment.
- Step 3.) Mount enclosure that is UL Listed for Fire Protective Signaling Use as required in a dry protected environment.
- Step 4.) Attach conduit and run wires as required in a dry protected environment.
- Step 5.) Set processor board dip switch (SW1) for proper remote address (See FS-RU Address Setting).
- Step 6.) Set each relay board dip switch (S1) for proper relay set number on the relay board (FS-RE8).



NOTE: Relays are numbered from left to right:

Relay Set	TB1		TB2		TB3		TB4	
(1-8)	1	2	3	4	5	6	7	8
(9-16)	9	10	11	12	13	14	15	16
(17-24)	17	18	19	20	21	22	23	24

- Step 7.) Set jumper P6 for desired buzzer operation.

P6 – BUZZER ACTIVATION



REMOTE

LOCAL (Processor Board Buzzer)

NOTE: When "Local" is selected, the buzzer follows the sounder on the panel. When "Remote" is selected, the local buzzer does not activate, but the "Remote Buzzer Output" pin of P2 follows the sounder on the panel.

- Step 8.) Mount PCB Track(s) using #6-32 keps nuts and snap in PCB assemblies.
- Step 9.) Plug in the cable assembly(s) to the PCB assemblies as required.
- Step 10.) Connect ground wire(s) to chassis ground using #6-32 keps nut(s).
- Step 11.) Connect IN wires from fire alarm system control unit or previous remote as required.
- Step 12.) Connect OUT wires to next remote or 120 ohm E.O.L. Resistor Assembly (P/N 140-050008-1), if last remote.

Siemens Industry, Inc.  
Building Technologies Division  
Florham Park, NJ

Siemens Building Technologies, Ltd.  
Fire Safety & Security Products  
2 Kenview Boulevard  
Brampton, Ontario L6T 5E4 Canada

- Step 13.) Connect relay contacts, as required.  
 Step 14.) Apply power to system.

- Step 15.) Program control unit for required relay operation.  
 Step 16.) Check for proper operation of functions.

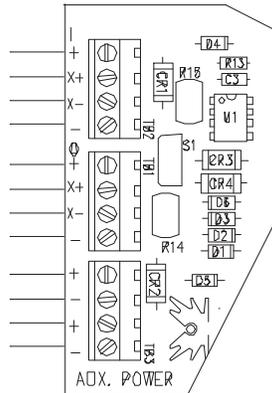
### FS-RU2 / FS-RE8 WIRING

Power Limited, Supervised

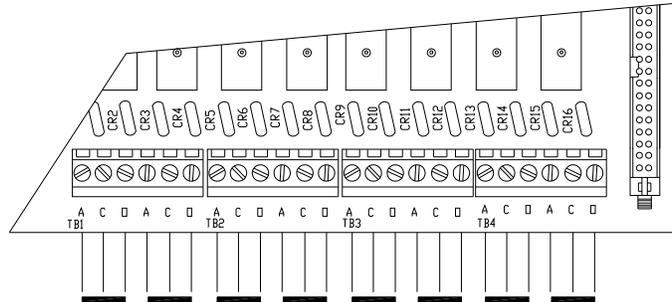
Cable for power (+ & -) and Twisted pair Cable for data (X+ & X-) from panel or previous remote.

Cable for power (+ & -) and twisted pair Cable for data (X+ & X-) to next remote or 120 ohm E.O.L. Resistor Assembly (P/N 140-050008-1) on the last remote.

TB3 allows for connection to an external regulated and power limited 24VDC power supply, listed for fire protective signaling use.



Programmable Relay Contacts  
 (Shown in normal standby condition)  
 1A@28VDC max., Resistive  
 For Power Limited Source, Unsupervised



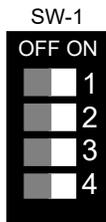
A = Common (Armature)  
 C = Normally Closed  
 O = Normally Open

Notes:

- 1.) Units to be installed in accordance with all local codes.
- 2.) T-Tapping is not allowed! Communication wiring must be daisy chained from unit to unit.
- 3.) Terminal block will accept 12 AWG to 18 AWG wiring.
- 4.) Use twisted pair cable with a characteristic impedance of approximately 120 ohms. 4000 feet maximum distance from end to end.
- 5.) Power Limited wiring must be kept separate from non-power limited wiring, 1/4" minimum.
- 6.) All wiring to P2 on the remote processor board must be in the same enclosure.
- 7.) The following table gives the currents necessary for power supply and battery calculations.

Model	Standby Current	Alarm Current	Voltage
FS-RU2	0.032 A	0.192 A (All relays activated)	24VDC nominal, filtered
FS-RE8	0.000 A	0.170 A (All relays activated)	24VDC nominal, filtered

### FS-RU2 ADDRESS SETTING



Address	Switch 1	Switch 2	Switch 3	Switch 4
1	On	On	On	Off
2	Off	On	On	Off
3	On	Off	On	Off
4	Off	Off	On	Off
5	On	On	Off	Off
6	Off	On	Off	Off
7	On	Off	Off	Off
8	Off	Off	Off	Off

### PROCESSOR BOARD HEADER CONNECTIONS

Pin	P2 - Processor Board
1	24V Output (+)
2	Not Used
3	Lamp Test Switch
4	Alarm Silence Switch
5	Trouble Acknowledge/Silence Switch
6	System Reset Switch
7	Remote Buzzer Output (open collector)
8	Alarm Silence Output (open collector)
9	Trouble Output (open collector)
10	24V Output (-) or GND

The P2 connector on the processor board assembly of the FS-RU2 allows the unit to be connected to an annunciator to display system status and ancillary control of the panel.

NOTE: If used for ancillary control of the panel, it must be located in a locked enclosure.

#### POWER OUTPUTS:

P2-1: 24VDC (+)

P2-10: GND

Rating:

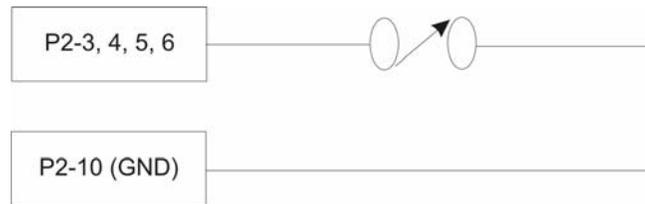
24VDC nominal, filtered

0.200A max.

#### SWITCH INPUTS:

These inputs are momentarily connected to GND using a toggle switch to activate. These inputs are not supervised. All switch input wiring must be in the same room as the FS-RU2.

Typical wiring connection:



P2-3: **Lamp Test Switch** – when activated, all local LEDs activate for 4 seconds, then LEDs revert back to previous state.

P2-4: **Alarm Silence Switch** – when activated during an alarm condition, silences the NACs. Once the NACs are silenced, pressing this switch again does not unsilence the NACs.

P2-5: **Acknowledge Switch** – if events are present when activated, acknowledges the event and silences the local buzzer.

P2-6: **System Reset Switch** – when activated, initiates a panel system reset.

#### OPEN COLLECTOR OUTPUTS:

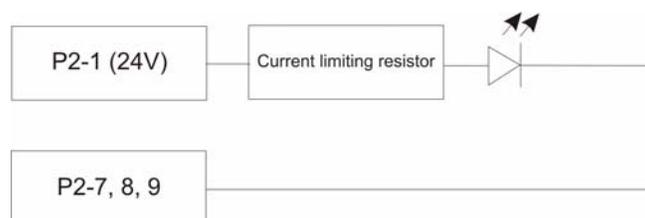
If LEDs are connected to these outputs, use the proper resistor value (typically 2.4K ohms) to limit the current flowing through the LEDs.

Rating:

24VDC nominal, filtered

0.070A max. per circuit

Typical wiring connection:



P2-7: **Remote Buzzer Output** – when “Remote” is selected in P6, this output follows the buzzer activation on the panel.

P2-8: **Alarm Silence Output** – this output activates to indicate that the NACs are silenced.

P2-9: **Trouble Output** – this output activates when a trouble event is detected by the system.



**WILLIAM A. LAING, III, INC.**

15579 Gibson Mill Road, Culpeper, Virginia 22701

Design/Build Contractor  
Professional Engineer #6476

Phone (540) 727-8938  
Fax (540) 727-8939

Email Address: [laingelectric@aol.com](mailto:laingelectric@aol.com)

Electrical Contractor  
Class A License 2705162954 A

April 8, 2020

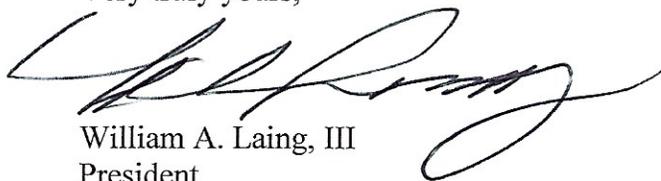
Culpeper County Building Department

ATTN: Bob Orr  
Rebecca Haunold  
Sotehill McCauley

RE: Electrical Permit #19-1806-04  
305 South Main Street

As of 01/29/2020, we no longer are associated with this project or assume any liability for the electrical work being performed after this date. Any new work or inspections haven't been authorized or overseen by our company. Please close out this permit to avoid any further work being done by unauthorized or possibly unlicensed personnel. Your prompt attention to this matter is greatly appreciated.

Very truly yours,



William A. Laing, III  
President



## CULPEPER COUNTY BUILDING DEPARTMENT

302 N. Main St., Culpeper VA 22701 • 540-727-3405

[www.culpepercounty.gov](http://www.culpepercounty.gov)

July 8, 2020

**PIEDMONT ELECTRIC LLC  
HELWIG, ALAN  
24291 RACCOON FORD RD  
CULPEPER, VA 22701**

RE: Permit Inspection  
Inspection No.: 20-4907  
Permit No.: 20-0374-04

On June 29, 2020 04:05PM an inspection type of: ELECTRIC PERMANENT SERVICE was completed at the property located at 305 SOUTH MAIN STREET STE #200 (Bldg #57561-0001 Suite #57561-0002). The results are as follows:

Status: Pass  
Inspector: Bruce Cornwall  
Inspector's Comments: ok to proceed

If you have any questions, please contact our department.

Sincerely

A handwritten signature in cursive script that reads "Bruce Cornwall".

Bruce Cornwall  
Inspector/Plan Reviewer

**H & H FIRE PROTECTION**  
 2600 Omisol Rd  
 Woodbridge, VA 22192 USA  
 5714927640  
 tom@hhfireprotection.com  
 www.hhfireprotection.com

# Invoice



**H&H FIRE PROTECTION**

BILL TO
State Theatre 305 S Main St Culpeper, Va 22701

INVOICE #	DATE	TOTAL DUE	DUE DATE	TERMS	ENCLOSED
250-4132S	07/11/2025	\$0.00	08/10/2025	Net 30	

**PROJECT NAME**  
 Service Call

DATE	DESCRIPTION	QTY	AMOUNT
07/10/2025	Minimum Service Hours Technician #1 (3 hrs)	4	480.00
07/10/2025	Minimum Service Hours Technician #2 (3 hrs)	4	360.00
07/10/2025	Trip Charge	1	75.00
07/28/2025	Credit Card Fees - 4%	1	14.64

PAID

Please find attached service ticket. Work performed:  
 Upon arrival at the site, the fire alarm panel was showing the trouble message "FSDLC 1GF minus", indicating a ground fault on the SLC (Signaling Line Circuit). Additionally, the panel displayed the following generator-related troubles: Generator Fail, Generator Battery, Generator Run, and RD 01 No Response. The existing fire alarm control panel is an older Siemens FS-250 addressable system. During inspection, we found that all SLC circuits were bundled together within the FACP, connected directly to the SLC board. We were able to isolate the ground fault to a specific wire, which we labeled in white. This wire feeds the following devices: Smoke Detector above the FACP (1049) Pull Station – Electrical Room Exit (1026) Smoke Detector – Data Room (1027) Pull Station – State Climb Location (1028) Pull Station – Receiving Exit (1029) Smoke Detector – Lighting Room (1030) Smoke  
 THIS IS THE CORRECT INVOICE.

PAYMENT	929.64
BALANCE DUE	<b>\$0.00</b>

**From:** [Jim Wells](#)  
**To:** [Luter, Travis \(DHCD\)](#)  
**Subject:** Re: FW: SFMO Appeal Response Packet No. 25-14  
**Date:** Friday, October 31, 2025 7:40:39 AM  
**Attachments:** [image004.png](#)  
[state climb electrical \(1\).pdf](#)

---

Hello,

I apologize for the multiple submittals but I discovered the attached electrical renovation for the space occupied by State Climb in the back of the building. The plan shows 7 new emergency/exit lights with battery backup and 8 emergency lights with battery backup. This completes the transformation of the entire building to battery backed lights eliminating the generator as a component in the fire safety program.

Again I apologize for these multiple submittals

Regards,  
Jim Wells

On Thu, Oct 30, 2025 at 7:48 AM Jim Wells <[wells9526@gmail.com](mailto:wells9526@gmail.com)> wrote:

Appeal 25-14 of inspection Conducted 9/17/25 at 305 S. Main St Culpeper

Dear Sir,

This is additional information submitted for my appeal regarding the above.

#### II Inspection Findings

The entire building shares the same fire alarm system with the FS-250 panel located in the interior of the building. The ground faults were found by H&H Fire per the attached , H&H Fire Ground Fault Inspection 7-11-25. I do not know who fixed the ground faults before the 9-17-25 inspection. No access to the fire alarm panel was requested.

#### III Additional Findings

Windmore Foundation for the Arts is not an owner or representative and occupies an office in the front of the building that was an office when the building was renovated in 2012 and has remained as an office since that date. No permits required. I am unsure what permits State Climb has pulled. The only information I have on his permitting process is a letter he shared from his electrical contractor and is attached as Laing - Permit Close Out. The front of the building has seen numerous renovations. A new electric line and removal of generator electrical components was performed by Piedmont Electrical LLC, permit approval attached, Electric Line Inspection. Attached is a document for the renovation of the electrical system for Moving Meadows Bakery. I ran another dedicated electric line to his space that also starts in the fire alarm panel room. His electrical plan is attached , Moving Meadows Electric. Please note on page E03, it specifically states battery backed lights. The Culpeper Building Department approved this renovation. On 8/28/25, I passed the Public Building egress inspection by the Town of Culpeper.

#### IV Follow-up

The FS-250 fire panel is not automatically tied to emergency lights, but a Siemens FS-250 fire panel can be programmed to control them through its programmable relays.

Here is how the FS-250 can interface with emergency lighting systems:

- Programmable relays: The FS-250 control panel includes three programmable "Form C" dry-contact relays. These relays can be programmed to change state in response to an alarm event.
- Separate systems: It is crucial to understand that the FS-250 does not provide power to the emergency lights. The fire alarm and emergency lighting are two separate systems.

Attached are instructions for the FS-RU2 module that would connect emergency lights to the panel: Siemens RU2 Relay instructions and a picture of FS-250 fire panel that shows the relays TB5, TB6, and TB7 are not wired to any other device, as would be required per the FS-250 fire panel RU2 relay instructions included.

I pray this proves my emergency lights are not part of the fire alarm panel, the generator error codes are meaningless to either system and the expense to remove the codes is unnecessary

Regards

Jim Wells

On Tue, Oct 28, 2025 at 12:33 PM Luter, Travis (DHCD)  
<[Travis.Luter@dhcd.virginia.gov](mailto:Travis.Luter@dhcd.virginia.gov)> wrote:

To ensure ex parte communication does not occur, Review Board copied all parties on this response.

Review Board staff received this submittal.

**W. Travis Luter, Sr., CBO**

Secretary to the State Building Code Technical Review Board

Code and Regulation Specialist

Virginia Department of Housing and Community Development (DHCD)

804-371-7163

[travis.luter@dhcd.virginia.gov](mailto:travis.luter@dhcd.virginia.gov)



---

**From:** Hux, Billy (VDFP) <[Billy.Hux@vdfp.virginia.gov](mailto:Billy.Hux@vdfp.virginia.gov)>  
**Sent:** Tuesday, October 28, 2025 11:41 AM  
**To:** Luter, Travis (DHCD) <[Travis.Luter@dhcd.virginia.gov](mailto:Travis.Luter@dhcd.virginia.gov)>  
**Cc:** Tutor, Adam (VDFP) <[Adam.Tutor@vdfp.virginia.gov](mailto:Adam.Tutor@vdfp.virginia.gov)>; Parker, Robert (VDFP) <[Robert.Parker@vdfp.virginia.gov](mailto:Robert.Parker@vdfp.virginia.gov)>  
**Subject:** SFMO Appeal Response Packet No. 25-14

Mr. Luter –

Please see attached.

*Billy Hux* | CFO,CFI,CFPI

Chief State Fire Marshal

Commonwealth of Virginia

Virginia State Fire Marshal's Office

Virginia Fire Marshal Academy

1005 Technology Park Drive, Glen Allen, VA 23059

Office: (804) 612-7268 | Mobile: (540) 270-6617

Web: [State Fire Marshal's Office](#)

[Facebook](#) | [Instagram](#) | [Twitter](#)



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**LANGELECTRIC CO.**  
 18079 GIBSON MILL ROAD  
 CLYDE, VA 22701  
 (840) 727-8808  
 LANGELECTRIC@GMAIL.COM  
 DRAWN BY: JAHN HANCOCK

**ELECTRICAL ALTERATIONS**  
 STATE CLIMB  
 124 EAST LOCKER STREET  
 CLYDE, VIRGINIA 22701  
 C.A. PEPER  
 C.A. PEPER

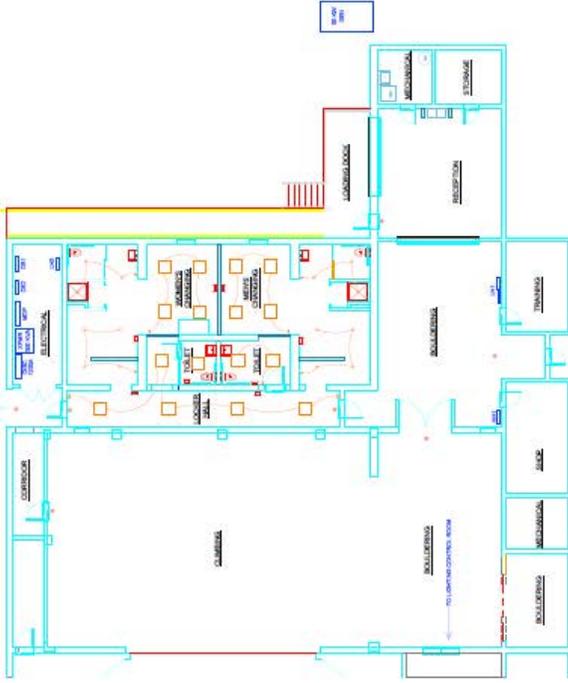
1	PROJECT NO.	
2	DATE	
3	SCALE	
4	PROJECT NAME	
5	PROJECT LOCATION	
6	PROJECT DESCRIPTION	
7	PROJECT OWNER	
8	PROJECT ARCHITECT	
9	PROJECT ENGINEER	
10	PROJECT CONTRACTOR	

SCALE: 1/8" = 1'-0"  
 PROJECT NUMBER: 151-2019  
 SHEET TITLE: ELECTRICAL  
 ELECTRICAL COVER SHEET  
**E.01**  
 SHEET 1 OF 1 SHEETS

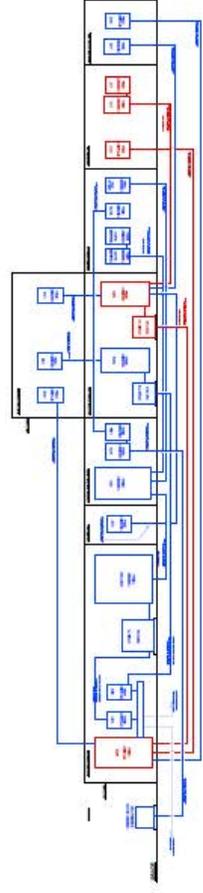
- NOTES**
- 1) ALL WORK TO COMPLY WITH NEC 2014.
  - 2) WIRING METHODS TO BE TYPE MC W/SHIELD CONDUIT, COPPER THIN N/EMT CONDUIT WHERE EXPOSED.
  - 3) SCOPE OF WORK IS TO REPLACE AND PROVIDE NEW EMERGENCY BATTERY BACKUP FIXTURES AS SHOWN. ALL NEW CIRCUITS ARE TO ORIGINATE FROM PANELS INTI AND LIT AS REQUIRED.
  - 4) REPLACE LIGHT FIXTURES AS REQUIRED BY CLIENT IN LOCKER HALL AND BATHROOMS.
  - 5) REFEED NEW EMERGENCY LIGHT FIXTURES FROM PANEL LIT. EXISTING FEED COMES FROM PANEL LEM IN LIGHTING CONTROL ROOM.

**ELECTRICAL LEGEND**

- ⊕ EXT EMERGENCY COMBO LIGHT FIXTURE WITH BATTERY BACKUP
- ⊖ EMERGENCY LIGHT FIXTURE WITH BATTERY BACKUP
- ⊙ 20A SINGLE-POLE SWITCH
- ⊚ 20A THREE-WAY SWITCH
- ⊛ 14" 6" LED RECESS LIGHT FIXTURE
- ⊜ 16" 2' X 2' LED LAY-IN LIGHT FIXTURE



**STATE CLIMB BATHROOM LIGHTING**  
 SCALE: 1/8" = 1'-0"



**RISER DIAGRAM**  
 2200A 277/480V 3-PHASE 4-WIRE ELECTRIC SERVICE

CONDUIT SCHEDULE

CONDUIT TYPE	SIZE	LENGTH	WEIGHT	PRICE
EMT	1/2"	100'	1000	100.00
EMT	3/4"	100'	1500	150.00
EMT	1"	100'	2000	200.00
EMT	1 1/2"	100'	3000	300.00
EMT	2"	100'	4000	400.00
EMT	2 1/2"	100'	5000	500.00
EMT	3"	100'	6000	600.00
EMT	3 1/2"	100'	7000	700.00
EMT	4"	100'	8000	800.00
EMT	4 1/2"	100'	9000	900.00
EMT	5"	100'	10000	1000.00

WIRING DEVICE SCHEDULE

DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL PRICE
14" 6" LED RECESS LIGHT FIXTURE	10	150.00	1500.00
16" 2' X 2' LED LAY-IN LIGHT FIXTURE	5	200.00	1000.00
20A SINGLE-POLE SWITCH	10	10.00	100.00
20A THREE-WAY SWITCH	5	15.00	75.00
EXT EMERGENCY COMBO LIGHT FIXTURE WITH BATTERY BACKUP	2	250.00	500.00
EMERGENCY LIGHT FIXTURE WITH BATTERY BACKUP	2	250.00	500.00

WIRING DEVICE SCHEDULE

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**CULPEPER COUNTY BUILDING DEPARTMENT**

302 N. Main St., Culpeper VA 22701 • 540-727-3405

[www.culpepercounty.gov](http://www.culpepercounty.gov)

**Certificate of Occupancy**

Permit Number: 20-0208  
Permit Type: Commercial Construction  
Date Issued: April 22, 2020

CERTIFICATE NUMBER:20-0069

Owner Name: STATE OF CULPEPER LLC  
Site Address: 307 S MAIN ST

Contractor: OWNER

Map Number: 41A2 1C1 1  
Zoning: C2  
Subdivision:  
Occupant Load: 68  
Project Completion Date: April 21, 2020  
District: 6  
Number of Bedrooms:

USBC Edition: 2015 Virginia Existing Building Code - 2015  
USBC  
Occupancy Classification: A-2 Assembly  
Construction Classification: Type II-B  
Water: TOWN  
Sewer: TOWN  
Sprinkler: Yes  
Fire Alarm System: Yes

Description of Work: INTERIOR RENOVATION TO EXISTING SPACE TO ADD MILL ROOM, DINING AREA & KITCHEN AREA.  
CHANGE OF OCCUPANCY FROM B/A-1 TO B/A-2.

Comments:  
Modifications:

County Planning & Zoning, Approval Proffer

Date  
4/22/2020

Town of Culpeper, Approval *Gary Cole*

Date

Health Department Operations, Approval

Date  
4/23/2020

Building Official, Robert P. Orr *Robert P. Orr*

Date

**This is an official document. This document is void if not signed by the Building Official or his designate.**



# CULPEPER COUNTY BUILDING DEPARTMENT

302 N. Main St., Culpeper VA 22701 • 540-727-3405

[www.culpepercounty.gov](http://www.culpepercounty.gov)

## Certificate of Occupancy

Permit Number: 19-1806-01  
Permit Type: Commercial Construction  
Date Issued: May 27, 2020

CERTIFICATE NUMBER:20-0093

Owner Name: THE STATE CLIMB LLC  
Site Address: 115 E LOCUST ST

Contractor: OWNER

Map Number: 41A2 1C1 2  
Zoning: C2  
Subdivision:  
Occupant Load: 100  
Project Completion Date: May 22, 2020  
District: 6  
Number of Bedrooms:

USBC Edition: 2015 Virginia Existing Building Code - 2015  
USBC  
Occupancy Classification: Mixed Use  
Construction Classification: Type II-B  
Water: TOWN  
Sewer: TOWN  
Sprinkler: Yes  
Fire Alarm System: Yes

Description of Work: INTERIOR REMODEL FOR NEW GYM, CHANGE OF OCCUPANCY FROM A-1 TO A-3

Comments:  
Modifications:

County Planning & Zoning, Approval Proffer

Date

*Gary Cole*

5/27/2020

Town of Culpeper, Approval

Date

Health Department Operations, Approval

Date

Building Official, Robert P. Orr *Robert P. Orr*

5/27/2020

**This is an official document. This document is void if not signed by the Building Official or his designate.**



# CULPEPER COUNTY BUILDING DEPARTMENT

302 N. Main St., Culpeper VA 22701 • 540-727-3405

[www.culpepercounty.gov](http://www.culpepercounty.gov)

## Certificate of Occupancy

Permit Number: 20-0374  
Permit Type: Commercial Construction  
Date Issued: November 24, 2020

CERTIFICATE NUMBER:20-0229

Owner Name: THE SANGRIA BOWL  
Site Address: 305 SOUTH MAIN STREET STE #200 (Bldg #57561-0001 Suite #57561-0002)

Contractor: RUGER CONSTRUCTION INC

Map Number: 41A2 1C1 2  
Zoning: C2  
Subdivision:  
Occupant Load: 108  
Project Completion Date: November 20, 2020  
District: 6  
Number of Bedrooms:

USBC Edition: 2015 Virginia Existing Building Code - 2015 USBC  
Occupancy Classification: A-2 Assembly  
Construction Classification: Type II-B  
Water: TOWN  
Sewer: TOWN  
Sprinkler: Yes  
Fire Alarm System: Yes

Description of Work: INTERIOR ALTERATIONS FOR CHANGE OF OCCUPANCY FROM A-1 TO A-2 BAR/RESTAURANT USE.

Comments:  
Modifications:

County Planning & Zoning, Approval Proffer

*Gary Cole*

Town of Culpeper, Approval

Date

11/24/2020

Date

Health Department Operations, Approval

*Robert P. Orr by RL Haunold*

Building Official, Robert P. Orr

Date

11/24/2020

Date

**This is an official document. This document is void if not signed by the Building Official or his designate.**

**From:** [Jim Wells](#)  
**To:** [Luter, Travis \(DHCD\)](#)  
**Subject:** Re: Appeal to the Review Board for The State of Culpeper LLC (James A. Wells) (Appeal No. 25-14)  
**Date:** Monday, November 17, 2025 9:52:58 AM  
**Attachments:** [image001.png](#)  
[certificate of occupancy-307-100 305-200 sc.pdf](#)

---

Hello,

I would like to submit the below with attachments to my appeal

My certificates of occupancy for the State Theater, based on new battery backed lighting systems, are attached. These certificates show the generator is not part of the fire safety system and should not be in the inspection process. The theater was empty from 2016 until 2020 and the generator was from 2012. Kohler recommends not allowing a generator to sit idle for more than three years. The generator became nonfunctioning as a backup device during its four unused years. Piedmont Electrical removed the generator in accordance with section 90.6, and the County's approval letter can be found on page 62 of the previous submission. H&H Fire Protection Woodbridge, Va inspected the fire alarm panel and system on 1/17/25 and approved the system based on current configuration. This included the fire alarm panel showing the nonfunctional generator error codes. H&H technicians were accessing the fire alarm panel in the same room where the automatic transfer switch was taken out, so it was not difficult to verify the generator was disconnected from the system and the error codes did not pertain to the approved system.

My fire safety system has been tested based on approved plans and has passed multiple times. I should not be evaluated on a phantom device and I ask I not be required to incur the expense to remove the codes.

There are two items in the report I would like to comment on.

The 10/28/25 report under section 3 page 32 reported that no permits were on file with the Culpeper County Building department and may constitute building code violations. Per Culpeper County Building Department, approved permits are only kept for three years after project completion. All the renovations to the electrical systems were completed in 2020, with five years elapsed since the permits were approved

The 10/28/25 report stated no ground faults were found during the 10/23/25 inspection of State Climb. H&H Fire, in their inspection of 7/11/25, found multiple devices (pull and smoke) that had ground faults Their report is included in a previous submittal on page 37, invoice 250-4132S. As it was impossible to silence the system for these errors and causing disruption in the building, the wires feeding these devices were disconnected from the panel. State Climb was aware of these faults. During the 10/23/25 inspection no ground fault errors were shown on the fire panel and none would be shown until connection is restored. No request, to date, for access to the fire panel for reconnection of the wires has been received from State Climb or Dos Allen.

On Mon, Nov 10, 2025 at 10:04 AM Luter, Travis (DHCD)  
<[Travis.Luter@dhcd.virginia.gov](mailto:Travis.Luter@dhcd.virginia.gov)> wrote:

Parties,

Attached are two documents created by Review Board staff for the above referenced appeal. The first is the Review Board staff summary which is done for the benefit of the parties and the Review Board members in accordance with established policy. The second document is the record of the appeal containing what is suggested to be given to the Review Board members along with the staff summary.

You may submit additions, corrections or objections to the staff summary, additional documents, and written arguments to be included with the information going to the Review Board members for the appeal. They must be received on or before Friday December 5, 2025 to be included in the board package. Be reminded that your entire submittal cannot exceed the allowable 100 pages; when it does you must submit a request to the Secretary for consideration by the Chair.

The appeal hearing before the Review Board is scheduled for January 16, 2025. We will be sending out a notice of hearing and excerpts from the Review Board agenda package with all information for this appeal to you prior to the hearing as well as additional information about the meeting.

Should you have any questions or concerns, please do not hesitate to contact me.

**W. Travis Luter, Sr., CBO**

Secretary to the State Building Code Technical Review Board

Code and Regulation Specialist

Virginia Department of Housing and Community Development (DHCD)

804-371-7163

[travis.luter@dhcd.virginia.gov](mailto:travis.luter@dhcd.virginia.gov)

# **Report of Interpretation Requests Received Where No Action is Necessary by the Review Board (2025)**

<u>Submitted By</u>	<u>Page No.</u>
John Saunders	2
Lei Zu	5

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REQUEST FOR INTERPRETATION

TO: OFFICE OF THE STATE BUILDING CODE TECHNICAL REVIEW BOARD  
VIRGINIA DEPT. OF HOUSING AND COMMUNITY DEVELOPMENT  
Main Street Centre  
600 E. Main Street, Suite 300  
Richmond, Virginia 23219-1321  
Tel: (804) 371-7150 Fax: (804) 371-7092  
Email: sbco@dhcd.virginia.gov

From: John Saunders

Phone Number : 540-382-5750

Email Address: saundersjd@montgomerycountyva.gov

Applicable Code: 2021 VCC and 2021 VRC

Code Section(s): 310 Residential group R, 310.2 Group R-1 and 310.4.2 Lodging House

Submitted by (signature):  Date: 2-20-2024

QUESTION(S):

Hello,

My question involves cabins for rural camp ground development, these small 475sq ft to 680 sq ft cabins (8 in total) will be transient designation, greater than 30' apart and fully functional like a non-sprinkled one story single family dwelling, Conditioned with kitchen, Bath and no more than two sleeping area's. This campground has no public utilities services, septic system and water well will be the sources. The Use group that defines this would be 310.2 R-1 or could this fall under Lodging Houses 310.4.2 and be designed as a R-5 under the VRS code? one of the owners of the campground will be living on site and be the acting proprietor. I feel this is know different than an Air B&B. For the cabins to meet the use group R-1 this will be very difficult for the sprinkle requirements with not having a utility water service and cost will be significantly greater. The way i interpret this, R-1 use group really doesn't fit this situation and can't justify the sprinkling of these cabins.

Thank you for your time,

John Saunders

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**From:** [SBCO](#)  
**To:** [Xu, Lei](#)  
**Cc:** [Luter, Travis \(DHCD\)](#)  
**Subject:** Re: Request for Interpretation - New Construction Data Center  
**Date:** Monday, October 20, 2025 5:34:58 PM  
**Attachments:** [image001.png](#)

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Good afternoon Lei.

I am forwarding you email to our Secretary to the State Building Code Technical Review Board, Mr. Travis Luter, who is also copied on this email. He should be able to assist with your interpretation request.

*Chris Scott, P.E.*

Code and Regulation Specialist  
Virginia Department of Housing and Community Development (DHCD)  
804-489-6384

[christopher.scott@dhcd.virginia.gov](mailto:christopher.scott@dhcd.virginia.gov)

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**From:** Xu, Lei <Lei.Xu@dnv.com>  
**Sent:** Saturday, October 18, 2025 5:29 PM  
**To:** SBCO <sbco@dhcd.virginia.gov>  
**Cc:** Nayak, C.D <C.D.Nayak@dnv.com>; Feng, Dan <Dan.Feng@dnv.com>; Tutaj, Dale <Dale.Tutaj@dnv.com>; McGuire, Alexandra <Alexandra.Mcguire@dnv.com>; Feng, Shaobo <Shaobo.Feng@dnv.com>  
**Subject:** Request for Interpretation - New Construction Data Center

Hi Virginia State Building Code Technical Review Board,

My company is currently engaged in reviewing new construction data center projects in Virginia, to evaluate the energy efficiency measures that exceed standard or code-referenced system designs and operating parameters.

We would like to request your interpretation and guidance regarding the correct energy code conformance, baseline system selection, and operating parameters applicable to new construction data center projects in general, and to one specific project in particular. The detailed request and supporting discussion are included in the attached document.

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Please let me know if you have any questions. We really appreciate your time and consideration.

**Best,**  
**Lei Xu**  
Senior Engineer  
Technology

DNV Energy Insights USA Inc.  
[lei.xu@dnv.com](mailto:lei.xu@dnv.com)  
Mobile +1-470-831-4648  
[dnv.com](http://dnv.com) | [LinkedIn](#)



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# Appeals Training Report

## Completed 2025:

VBCOA Region II – February 6, 2025 (20 Attendees)  
Hanover County – February 18, 2025 (8 Attendees)  
NOVA Fire Marshals Group – February 19, 2025 (117 Attendees)  
Town of Herndon – February 27, 2025 (11 Attendees)  
Town of Front Royal – April 3, 2025 (13 Attendees)  
Stafford County – April 8, 2025 (9 Attendees)  
City of Richmond – June 13, 2025 (7 Attendees)  
JMBCOA Permit Tech Group – July 10, 2025 (5 Attendees)  
City of Newport News – July 16, 2025 (16 Attendees)  
Central Virginia Fire Arson Association – October 8, 2025 (38 Attendees)  
City of Danville – October 20, 2025 (23 Attendees)  
Powhatan County – November 13, 2025 (9 Attendees)

## Scheduled for 2026:

VBCOA Mid-Year Conference (March 22-23, 2026)

## Working to schedule for 2026:

City of Martinsville LBBCA  
Fairfax County LBBCA  
Culpeper County LBBCA  
City of Harrisonburg LBBCA  
City of Norfolk LBBCA  
City of Franklin LBBCA  
Southampton County LBBCA  
Counties of Surry and Sussex LBBCA  
Mecklenburg County LBBCA  
Town of Marion LBBCA  
City of Bristol LBBCA

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