



Ralph S. Northam
Governor

R. Brian Ball
Secretary of
Commerce and Trade

COMMONWEALTH of VIRGINIA

Erik C. Johnston
Director

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

January 18, 2019

MEMORANDUM

TO: Board of Housing and Community Development Members
FROM: Kyle Flanders
SUBJECT: January 28, 2019 Board of Housing and Community Development Meeting

Enclosed is the agenda and information package for the Board of Housing and Community Development meeting to be held on January 28. The meeting will be held at **DHCD's headquarters at 600 E. Main St, Richmond, VA 23219 (same location as the Board retreat).**

If you will not be able to attend the meeting, please contact me as soon as possible. I can be reached by e-mail at kyle.flanders@dhcd.virginia.gov or by telephone at 804-786-6761. Please let me know if you have any questions or if I can be of assistance. I look forward to seeing you at the meeting.

Enclosure

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AGENDA
BOARD OF HOUSING and COMMUNITY DEVELOPMENT
Monday, January 28, 2019
Richmond, VA

- | | | |
|-------|--|---------------|
| I. | OPENING | |
| | a. Call to Order | Chairman |
| | b. Roll Call | Kyle Flanders |
| | c. Public Comment | Chairman |
| II. | CONSENT AGENDA | Chairman |
| | o <i>Approval of Minutes</i> : October 26, 2018 | |
| III. | 2018 Code Change Cycle | Cindy Davis |
| | ACTION ITEM | |
| | o <i>Approval of Tentative 2018 Code Change Schedule</i> | |
| IV. | ACTION ITEMS | DHCD Staff |
| | o <i>Periodic Reviews</i> | |
| | o <i>Public Participation Guidelines</i> | |
| | o <i>Virginia Standards for Individual and Regional Code Academies</i> | |
| | o <i>Solar Energy Criteria for Tax Exemption</i> | |
| V. | RESOLUTIONS | Chairman |
| VI. | CONFLICT OF INTEREST INFORMATION | Kyle Flanders |
| VII. | LEGISLATIVE UPDATE | DHCD Staff |
| VIII. | REPORTS AND INFORMATION | |
| | a. VHDA Report | Susan Dewey |
| | b. Report of the Virginia Fire Services Board | Sean Farrell |
| | c. Report of the Director | Erik Johnston |
| IX. | UNFINISHED BUSINESS | Board members |
| X. | NEW BUSINESS | Board members |
| XI. | BOARD MATTERS | Board members |
| XII. | FUTURE BOARD MEETING DATES | Erik Johnston |
| | o <i>Monday March 18</i> | |

XIII. ADJOURNMENT

Chairman

**BOARD OF HOUSING AND COMMUNITY DEVELOPMENT
MEETING
12:30 P.M., October 26, 2018
Richmond, Virginia**

Members Present

Sonny Abbasi
John Patrick “J.P.” Carr
Susan Dewey
Sean Farrell
Andrew Friedman
Richard Gregory
Helen Hardiman
Abigail Johnson
Keith Johnson
Earl Reynolds
Jeff Sadler
Steve Semones
Patricia Shields

Members Absent

Mimi Elrod

Call to Order	Mr. J.P. Carr, Chairman of the Board of Housing and Community Development, called the meeting of the Board to order at 12:30 pm.
Roll Call	The roll was called by Mr. Kyle Flanders of the Department of Housing and Community Development’s (DHCD) Policy Office. Mr. Flanders reported that a quorum was present.
Public Comment	No one from the public was in attendance; the public comment period was then closed.
Approval of Minutes	A motion was made and properly seconded to approve the minutes of the September 7, 2018, meeting of the Board; the motion passed.
VHDA Report	Ms. Susan Dewey had no items to present to the Board, as she recently provided an update.
VFSB Report	Mr. Farrell stated that the Virginia Fire Services Board (VFSB) had not met since the last meeting and that the next meeting would be in 2019.
Report of the Director	Mr. Erik Johnston, Director of DHCD, wanted to thank everyone

for their participation in the Board retreat and stated that staff would send out the slides of the presentations made over the course of the retreat.

Unfinished Business

There was no unfinished business to be discussed.

New Business

There was no new business to be discussed.

Board Matters

Mr. Farrell stated that due to his current position he was looking to step down as the Board's representative to the VFSB. He provided an overview of what the role of the representative is and the time commitment. Mr. Carr asked that any member interested in serving in this position reach out to either him or staff.

Future Meetings

Mr. Erik Johnston, Director of DHCD, presented the 2019 schedule to the Board. The next meeting of the Board will be January 28, 2019.

Adjournment

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

2018 Regulatory Cycle Tentative Schedule

January 28, 2019	Board of Housing and Community Development (BHCD) approves tentative 2018 code update schedule. Communicate proposed schedule to Virginia Fire Services Board (VFSB)
February 18, 2019	cdpVA (online proposal platform) opens for proposals
March 18, 2019	BHCD to review the Notices of Intended Regulatory Action (NOIRAs) for 2018 Uniform Statewide Building Code (USBC), Statewide Fire Prevention Code (SFPC), Virginia Amusement Device Regulations (VADR), Industrialized Building Safety Regulation (IBSR), Virginia Certification Standards, and the Manufactured Home Safety Regulations (MHSR). Provide notice of intent to publish NOIRA to VFSB after approval by the BHCD.
March 27, 2019	Deadline for submittal of NOIRAs to Code Commission.
April 15, 2019	Publishing of NOIRAs in Virginia Register.
May 15, 2019	End of 30-day NOIRA comment period.
March – August 2019	Workgroup meetings on issues and proposals. Workgroups to include discussion of administrative, residential, and technical trade provisions of codes. Topic specific workgroups and subworkgroups may also be convened as needed.
May 22, 2019	Submit public hearing notice to VA Register
June 10, 2019	Public hearing notice published in VA Register
June 14, 2019	Provide 30-day notice to VFSB of Public Hearing date
July 15, 2019	Public hearing prior to publishing proposed regulations. (Virginia Fire Services Board (VFSB) members to sit with BHCD for public hearing on SFPC.)
September 16, 2019	BHCD's Statewide Fire Prevention Code Development Committee (SFPCDC) meets to consider base document for SFPC and any proposals for the proposed regulations. BHCD's Codes and Standards Committee (CSC) meets to consider base documents for USBC, VADR and IBSR and any proposals for proposed regulations and to review the recommendations of the SFPCDC.
October 18, 2019	Provide notice to VFSB and SFPCDC of November meeting.

November 18, 2019	BHCD's SFPCDC meets to review proposed regulation for SFPC. BHCD's CSC meets to review proposed regulation for SFPC as recommended by SFPCDC and to review proposed regulations for USBC, VADR and IBSR. Immediately following committee meetings, BHCD meets to consider approval of proposed regulation for SFPC, USBC, VADR and IBSR.
December 2019	Obtain statutory authority letter from Office of Attorney General for proposed regulations.
Jan. – Feb. 2020	Proposed regulations for SFPC, USBC, VADR and IBSR published in Virginia Register. Public hearing date published with the regulations.
Feb. – May 2020	Public comment period on proposed regulations for SFPC, USBC, VADR and IBSR.
April 2020	Provide notice to the VFSB of the public hearing date.
May 2020	Public hearing for SFPC, USBC, VADR and IBSR. (VFSB members to sit with BHCD for public hearing on SFPC.)
May 29, 2020	Deadline for submittal of proposals for 2015 SFPC, USBC, VADR and IBSR. Deadline date to coincide with end of comment period.
April – Aug. 2020	Workgroup meetings on proposals and issues.
Sept. 2020	BHCD's SFPCDC meets to consider proposals for final regulation for the SFPC. BHCD's CSC meets to consider proposals for final regulations for the USBC, VADR and IBSR. Notification to VFSB of October joint meeting.
Oct. 2020	BHCD's SFPCDC meets to review final regulation for SFPC. BHCD's CSC meets to review final regulation for SFPC as recommended by SFPCDC and to review final regulations for USBC, VADR and IBSR. Immediately following Committee meetings, the joint meeting of VFSB and BHCD to consider approval of final regulations for SFPC followed by BHCD to consider approval of final regulations for USBC, VADR and IBSR.

October 2020	Obtain statutory authority letter from Office of Attorney General for final regulations and obtain permission from Secretary of Commerce and Trade and Governor's Office to publish final regulations.
Dec. 2020 - Jan. 2021	Final regulations for SFPC, USBC, VADR and IBSR published in Virginia Register.
Feb. - March 2021	2015 SFPC, USBC, VADR and IBSR become effective (pending any petitions received during the 30-day comment period following the publishing of the final regulations).



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DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

January 18, 2019

To: Board of Housing and Community Development Members

From: Erik C. Johnston, Director

RE: Periodic Reviews of Regulations

Executive Order 14 (2018) and Sections 2.2-4007.1 and 2.2-4017 of the Code of Virginia require that existing regulations are “periodically” reviewed at least every four years to determine if they should be continued without change, amended, or repealed. This review must allow for the following: a public comment period, consideration of alternatives to the existing regulation, and consideration of the impact of the regulation on small business.

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

Based on legislation and EO 14, staff requests that the Board approve staff to move forward with filing periodic reviews for the below regulations. A summary of any public comment and Board action regarding the reviews will occur upon the conclusion of each review.

13 VAC 5-11	Public Participation Guidelines
13 VAC 5-80	Standards Governing Operation of Individual and Regional Code Academies
13 VAC 5-200	Solar Energy Criteria for Tax Exemption

Enclosure

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Date Filed:

Review Announcement

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Housing and Community Development is conducting a periodic review and small business impact review of VAC citation: **INSERT ADMINISTRATIVE CODE CITATION**

The review of this regulation will be guided by the principles in Executive Order 14 (as amended July 16, 2018). <http://TownHall.Virginia.Gov/TownHall/EO-14.pdf>

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The comment period begins

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to Name: Kyle Flanders Title: Senior Policy Analyst, Address: 600 E. Main St, Ste 300, City: Richmond, State: Virginia, Zip: 23219, Telephone: 804-786-6761, FAX: 804-371-7090, email address: kyle.flanders@dhcd.virginia.gov

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

Public Comment Period

Begin Date: End Date:

Comments Received:

Review Result

Attorney General Certification

13VAC5-11
Public Participation Guidelines

Virginia Administrative Code
Title 13. Housing
Agency 5. Department of Housing and Community Development
Chapter 11. Public Participation Guidelines

Part I
Purpose and Definitions

13VAC5-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Board of Housing and Community Development. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

Statutory Authority

§§ 2.2-4007.02 and 36-137 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 25, Issue 4, eff. November 26, 2008.

13VAC5-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Board of Housing and Community Development, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Statutory Authority

§§ 2.2-4007.02 and 36-137 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 25, Issue 4, eff. November 26, 2008.

Part II

Notification of Interested Persons

13VAC5-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal

carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

Statutory Authority

§§ 2.2-4007.02 and 36-137 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 25, Issue 4, eff. November 26, 2008.

13VAC5-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 13VAC5-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.
3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Statutory Authority

§§ 2.2-4007.02 and 36-137 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 25, Issue 4, eff. November 26, 2008.

Part III

Public Participation Procedures

13VAC5-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.
2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).
2. For a minimum of 60 calendar days following the publication of a proposed regulation.
3. For a minimum of 30 calendar days following the publication of a repropoed regulation.
4. For a minimum of 30 calendar days following the publication of a final adopted regulation.
5. For a minimum of 30 calendar days following the publication of a fast-track regulation.
6. For a minimum of 21 calendar days following the publication of a notice of periodic review.
7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

Statutory Authority

§§ 2.2-4007.02 and 36-137 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 25, Issue 4, eff. November 26, 2008.

13VAC5-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

Statutory Authority

§§ 2.2-4007.02 and 36-137 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 25, Issue 4, eff. November 26, 2008.

13VAC5-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

Statutory Authority

§§ 2.2-4007.02 and 36-137 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 25, Issue 4, eff. November 26, 2008.

13VAC5-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or
3. The agency determines that resolution of a controversy is unlikely.

Statutory Authority

§§ 2.2-4007.02 and 36-137 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 25, Issue 4, eff. November 26, 2008.

13VAC5-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

Statutory Authority

§§ 2.2-4007.02 and 36-137 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 25, Issue 4, eff. November 26, 2008.

13VAC5-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;
2. The Governor directs the agency to hold a public hearing; or
3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory

action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

Statutory Authority

§§ 2.2-4007.02 and 36-137 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 25, Issue 4, eff. November 26, 2008.

13VAC5-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

Statutory Authority

§§ 2.2-4007.02 and 36-137 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 25, Issue 4, eff. November 26, 2008.

13VAC5-80
Standards for Individual and Regional Code Academies

Virginia Administrative Code
Title 13. Housing
Agency 5. Department of Housing and Community Development
Chapter 80.

13VAC5-80-10. Definitions.

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

"BHCD" means the Virginia Board of Housing and Community Development.

"Certificate of Accreditation" means the certificate issued to an individual or regional code academy that accredits that code academy to conduct educational programs for persons seeking to become BHCD-certified for enforcement of Virginia's building-related and fire-related regulations.

"Code academy" means an educational institution established in accordance with § 36-137 of the Code of Virginia that is accredited by DHCD to conduct classes to prepare an individual to pursue an occupation in the inspection profession relating to enforcement of the USBC, VADR, and SFPC, or to upgrade an individual in technical phases of the USBC, VADR, and SFPC.

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

"Operator" means the person designated as the executive official in charge of the code academy.

"SFPC" means the Virginia Statewide Fire Prevention Code (13VAC5-51).

"Train the Trainer" means the DHCD training provided for code academy instructors.

"USBC" means the Virginia Uniform Statewide Building Code (13VAC5-63).

"VADR" means the Virginia Amusement Device Regulations (13VAC5-31).

Statutory Authority

§ 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-23 § 1, eff. March 1, 1991.

Amended, Virginia Register Volume 19, Issue 25, eff. October 1, 2003; amended, Virginia Register Volume 30, Issue 25, eff. September 10, 2014.

13VAC5-80-20 to 13VAC5-80-30. [Repealed]

Historical Notes

Derived from VR394-01-23 §§ 2, 3, eff. March 1, 1991; repealed, Virginia Register Volume 19, Issue 25, eff. October 1, 2003.

13VAC5-80-40. Appeals.

Decisions of DHCD under this regulation are case decisions under the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) and are subject to judicial review in accordance with that law.

Statutory Authority

§ 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-23 § 4, eff. March 1, 1991; amended, Virginia Register Volume 19, Issue 25, eff. October 1, 2003.

13VAC5-80-50. Listing of certified academies.

DHCD shall maintain a list of code academies that hold valid Certificates of Accreditation, which shall be available for public review.

Statutory Authority

§ 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-23 § 5, eff. March 1, 1991; amended, Virginia Register Volume 19, Issue 25, eff. October 1, 2003.

13VAC5-80-60. Application for accreditation.

A. Any code academy seeking a Certificate of Accreditation shall submit the information required by these standards, on forms provided by DHCD, 120 calendar days prior to the date for which approval is requested.

B. The operator shall reimburse DHCD for the cost of processing and monitoring the accreditation.

C. The following information shall be submitted as part of the application:

1. A budget documenting the financial resources available to equip, maintain, and operate the code academy and proposed expenditures;
2. The educational and teaching qualifications of the operator and instructors;
3. The individual courses of instruction that will be offered, the purpose of such instructions, and an instruction schedule including proposed dates, times, and instructors. The course listing shall include state code academy courses required for certification and continuing education programs;
4. A listing of any equipment available to aid instruction in each field;
5. The maximum anticipated enrollment to be accommodated with the equipment available in each specified field, and the ratio of students to instructors, which shall not exceed 50 to

1 for lecture format courses and 20 to 1 for interactive courses;

6. The locations where such instruction will take place; and

7. Any additional information that DHCD may deem necessary to carry out the provisions of this chapter.

D. Each application for a Certificate of Accreditation shall also include the following commitments:

1. Conduct the code academy in accordance with all standards and regulations promulgated by DHCD and BHCD;

2. Permit DHCD to inspect the code academy at any time and provide all information pertaining to the activities of the code academy or its financial condition as requested by DHCD;

3. Use the levy retained under § 36-137 of the Code of Virginia only for purposes directly relating to the operation of the code academy;

4. Conduct all state certification courses in accordance with DHCD content and delivery requirements;

5. In the event that the code academy should close, a list of enrolled students who have not completed their program of study and the amount of the course that they have completed shall be submitted to DHCD;

6. Maintain current, complete and accurate student records, including a record of all hours of work completed by each student;

7. Submit quarterly activity reports on forms provided by DHCD. The reports shall include:

a. Training activities conducted during a quarter;

b. Expenditures for conducted training activities;

c. Expenditures for related activities; and

d. Anticipated adjustments to approved activities at the time of accreditation; and

8. Submit final activity and budget reports on forms provided by DHCD within 90 days prior to the end of the accreditation period. The reports shall include:

a. A training and activity report, including courses, programs, instructors, and student statistics;

b. A report detailing related activities;

c. A report on expenditures on all activities and purchases including revenue collected and any carryover balance; and

d. Summary of the accreditation year.

§ 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-23 § 6, eff. March 1, 1991; amended, Virginia Register Volume 19, Issue 25, eff. October 1, 2003; Volume 30, Issue 25, eff. September 10, 2014.

13VAC5-80-70. Certificate display.

The Certificate of Accreditation shall be displayed on the premises of the Code Academy in an area which is readily accessible to the public.

Statutory Authority

§ 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-23 § 7, eff. March 1, 1991; amended, Virginia Register Volume 19, Issue 25, eff. October 1, 2003.

13VAC5-80-80. Renewal of certificate.

A. Every code academy shall apply for renewal of its Certificate of Accreditation no later than April 15 of each year, on forms provided by DHCD. The following information shall be submitted as part of the renewal application:

1. Proposed state certification course and continuing education training schedule for accreditation for the renewal period, including a delivery schedule, instructors, target participants, site logistics, and proposed budget;
2. Proposed related activities such as, but not limited to, equipment and related training purchases, conferences, and outside training events;
3. Anticipated revenue for the operation of the academy; budget for all training activities, academy staffing, and related purchases; and anticipated carryover funds;
4. Any changes to the initially approved instructor list; and
5. The following commitments:
 - a. Conduct the code academy in accordance with all standards and regulations promulgated by DHCD and BHCD;
 - b. Permit DHCD to inspect the code academy at any time and provide all information pertaining to the activities of the code academy or its financial condition as requested by DHCD;
 - c. Use the levy retained under § 36-137 of the Code of Virginia only for purposes directly relating to the operation of the code academy;
 - d. Conduct all state certification courses in accordance with DHCD content and delivery requirements;

e. In the event that the code academy should close, submit to DHCD a list of enrolled students who have not completed their program of study and the amount of the course that they have completed; and

f. Maintain current, complete, and accurate student records, including a record of all hours of work completed by each student.

B. Every Certificate of Accreditation shall expire upon failure to obtain renewal by June 30 of each year.

Statutory Authority

§ 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-23 § 8, eff. March 1, 1991; amended, Virginia Register Volume 19, Issue 25, eff. October 1, 2003; Volume 30, Issue 25, eff. September 10, 2014.

13VAC5-80-90. Personnel qualifications.

A. Any director of the code academy shall demonstrate a working knowledge of USBC, VADR, and SFPC training-related technology and shall possess a minimum of two years of supervisory experience. Managerial experience and a college degree from an accredited college or university are preferred.

B. All instructors shall have knowledge and experience in the trade or profession in which the instructor teaches. Instructors teaching the state-required certification courses shall have DHCD-approved experience as an instructor or shall have successfully completed a Train the Trainer or DHCD-approved equivalent course and hold active DHCD instructor certification and active certifications in the discipline in which they are teaching.

C. DHCD shall be notified of any staff or instructor changes within the code academy subsequent to receiving accreditation. Staff changes forwarded to DHCD shall include qualifications of the instructors.

Statutory Authority

§ 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-23 § 9, eff. March 1, 1991; amended, Virginia Register Volume 19, Issue 25, eff. October 1, 2003; Volume 30, Issue 25, eff. September 10, 2014.

13VAC5-80-100. Instructional program.

The instructional program shall consist of those courses and subjects, related to the technical provisions of the national model codes and referenced standards, which the Code Academy has been accredited to offer, and be consistent with the instructional programs offered by DHCD. DHCD reserves the sole right to provide programs based on Chapter 1 of the USBC, VADR and SFPC. Attendance at any local or regional Code Academy shall not satisfy

mandatory attendance at programs administered by DHCD on any changes to the USBC, VADR or SFPC.

Statutory Authority

§ 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-23 § 10, eff. March 1, 1991; amended, Virginia Register Volume 19, Issue 25, eff. October 1, 2003.

13VAC5-80-110. Application for additional courses.

The operator shall present a supplementary application to DHCD for approval of additional courses of instruction.

Statutory Authority

§ 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-23 § 11, eff. March 1, 1991; amended, Virginia Register Volume 19, Issue 25, eff. October 1, 2003.

13VAC5-80-120. Approval of initial application, withdrawal of course approval, and revocation, suspension, or refusal to renew a certificate of accreditation.

A. DHCD may deny an initial application; withdraw course approval; or revoke, suspend, or refuse to renew any code academy's Certificate of Accreditation for any of the following:

1. Violating any provision of this chapter;
2. Furnishing false, misleading, or incomplete information to DHCD, or failure to furnish information requested by DHCD within a reasonable time;
3. Presenting to a student any information that is false, misleading, or fraudulent;
4. Failing to maintain the premises in a safe and sanitary condition as required by law, state regulation, or local ordinance;
5. Failing to maintain adequate financial resources to satisfactorily conduct the courses of instruction offered, or to retain an adequate, qualified staff.

B. DHCD shall notify the operator by certified mail 30 calendar days prior to the effective date of any withdrawal of course approval, or revocation of, suspension of, or refusal to renew a Certificate of Accreditation.

Statutory Authority

§ 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-23 § 12, eff. March 1, 1991; amended, Virginia Register Volume 19, Issue 25, eff. October 1, 2003; Volume 30, Issue 25, eff. September 10, 2014.

13VAC5-80-130. Return of certificate.

Any Certificate of Accreditation issued to a Code Academy shall be returned to DHCD immediately, by registered mail, for the following:

1. Revocation; or
2. Voluntary closure of institution; or
3. Any other cause deemed sufficient by DHCD.

Statutory Authority

§ 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-23 § 13, eff. March 1, 1991; amended, Virginia Register Volume 19, Issue 25, eff. October 1, 2003.

13VAC5-80-140. Records.

DHCD shall maintain records on all actions, findings, and recommendations concerning the initial application approval or denial, or approval of, revocation of, suspension of, or refusal to renew any Certificate of Accreditation. All records shall be available to the public, upon request.

Statutory Authority

§ 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-23 § 14, eff. March 1, 1991; amended, Virginia Register Volume 19, Issue 25, eff. October 1, 2003; Volume 30, Issue 25, eff. September 10, 2014.

13VAC5-80-150. [Repealed]

Historical Notes

Derived from VR394-01-23 § 15, eff. March 1, 1991; repealed, Virginia Register Volume 19, Issue 25, eff. October 1, 2003.

Forms (13VAC5-80)

[DHCD Regional and Local Code Academy Accreditation Application Budget Detail \(eff. 9/13\)](#)

[DHCD Regional and Local Code Academy Accreditation Application Course/Conference Detail \(eff. 9/13\)](#)

[DHCD Regional and Local Code Academy Expense Summary Report \(eff. 9/13\)](#)

[DHCD Regional and Local Code Academy Annual Report Cover Sheet \(undated\)](#)

[DHCD Regional and Local Code Academy Annual Report \(undated\)](#)

[DHCD Regional and Local Code Academy Administrative Expense Report \(eff. 9/13\)](#)

[DHCD Regional and Local Code Academy Course Report \(eff. 9/13\)](#)

[DHCD Regional and Local Code Academy Monthly Expense Report \(eff. 9/13\)](#)

[DHCD Regional and Local Code Academy Revenue Report \(eff. 9/13\)](#)

[DHCD Regional and Local Code Academy Accreditation Projected Expense Summary \(eff. 9/13\)](#)

13VAC5-200
Solar Energy Criteria for Tax Exemption

Virginia Administrative Code
Title 13. Housing
Agency 5. Department of Housing and Community Development
Chapter 200. Solar Energy Criteria for Tax Exemption

Part I
Administration

13VAC5-200-10. Application.

Application for solar equipment tax exemption must be made to the local building department.

Statutory Authority

§ 58.1-3661 of the Code of Virginia.

Historical Notes

Derived from VR394-01-8 § 100.1, eff. October 10, 1978; amended, Virginia Register Volume 24, Issue 26, eff. October 1, 2008.

13VAC5-200-20. Plans and Specifications.

Complete plans and specifications of the solar energy equipment, facilities or devices must be submitted to the local building department for review.

Statutory Authority

§§ 36-97 et seq. and 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-8 § 100.2, eff. October 10, 1978.

13VAC5-200-30. Conformance.

The solar energy system must conform to the provisions of the Virginia Uniform Statewide Building Code.

Statutory Authority

§§ 36-97 et seq. and 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-8 § 100.3, eff. October 10, 1978.

13VAC5-200-40. Approval.

The applicant for tax exemption must demonstrate to the local building official that the proposed or existing solar system performs its intended function.

Statutory Authority

§ 58.1-3661 of the Code of Virginia.

Historical Notes

Derived from VR394-01-8 § 100.1, eff. October 10, 1978; amended, Virginia Register Volume 24, Issue 26, eff. October 1, 2008.

13VAC5-200-50. Certification.

If, after examination of such equipment, facility or device the local building department determines that the unit is designed and used primarily for the purpose of providing for the collection and use of incident solar energy for water heating, space heating or cooling or other application which would otherwise require a conventional source of energy, and conforms to the criteria set forth in this document, the local building department shall approve and certify such application. The local department shall forthwith transmit to the local assessing officer those applications properly approved and certified by the local building department as meeting all requirements qualifying such equipment, facility or device for exemption from taxation.

Statutory Authority

§ 58.1-3661 of the Code of Virginia.

Historical Notes

Derived from VR394-01-8 § 100.1, eff. October 10, 1978; amended, Virginia Register Volume 24, Issue 26, eff. October 1, 2008.

13VAC5-200-60. Appeals.

Any person aggrieved by a decision of the local building department may appeal such decision to the local board of building code appeals, which may affirm or reverse such decision.

Statutory Authority

§ 58.1-3661 of the Code of Virginia.

Historical Notes

Derived from VR394-01-8 § 100.1, eff. October 10, 1978; amended, Virginia Register Volume 24, Issue 26, eff. October 1, 2008.

13VAC5-200-70. Assessment.

Upon receipt of the certificate from the local building department the local assessing officer shall, if such local ordinance be in effect, proceed to determine the value of such qualifying solar energy equipment, facilities or devices. The value of such qualifying solar energy equipment, facilities or devices shall not be less than the normal cost of purchasing and installing such equipment, facilities or devices.

Statutory Authority

§ 58.1-3661 of the Code of Virginia.

Historical Notes

Derived from VR394-01-8 § 100.1, eff. October 10, 1978; amended, Virginia Register Volume 24, Issue 26, eff. October 1, 2008.

13VAC5-200-80. Exemption.

The tax exemption shall be determined in accordance with § 58.1-3661 D of the Code of Virginia.

Statutory Authority

§ 58.1-3661 of the Code of Virginia.

Historical Notes

Derived from VR394-01-8 § 100.1, eff. October 10, 1978; amended, Virginia Register Volume 24, Issue 26, eff. October 1, 2008.

Part II

Definition

13VAC5-200-90. Solar energy equipment.

The purpose of this section is to define solar energy equipment in terms of its function, operation and components for the purpose of determining eligibility for personal or real property tax exemption. This section describes the majority of solar energy systems that are widely used today. This definition is not meant to be all inclusive and some solar energy systems may not be represented. Photovoltaic solar cells are not included in this section but do qualify as solar energy equipment. Any solar energy system submitted for tax exemption that is not covered in this document will be considered on an individual basis for certification by the State Office of Housing.

Statutory Authority

§§ 36-97 et seq. and 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-8 § 200.1, eff. October 10, 1978.

13VAC5-200-100. Functional description.

Solar heating and hot water system functional description is contained in HUD Intermediate Minimum Property Standards for Solar Heating and Domestic Hot Water Systems, NBSIR #77-1226.

Statutory Authority

§ 58.1-3661 of the Code of Virginia.

Historical Notes

Derived from VR394-01-8 § 100.1, eff. October 10, 1978; amended, Virginia Register Volume 24, Issue 26, eff.

October 1, 2008.

Part III

Passive Solar Energy System

13VAC5-200-110. Passive solar energy system defined.

An assembly of natural and architectural components including collectors, thermal storage device or devices and transfer medium which converts solar energy into thermal energy in a controlled manner and in which no fans or pumps are necessary to accomplish the transfer of thermal energy. Fans may be used to assist the natural convective air flow in a passive air heating system. The prime element in a passive solar system is usually some form of thermal capacitance.

Statutory Authority

§§ 36-97 et seq. and 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-8 § 300.1, eff. October 10, 1978.

13VAC5-200-120. South facing windows used as solar collectors.

Glazing material used in windows on the designated solar surface of south facing walls when it is part of a sun tempered design for the purpose of collecting direct solar heat in the cold season shall be considered solar equipment eligible for tax exemption. The area of south facing glazing considered to be solar energy equipment eligible for tax exemption shall be calculated as follows:

$$X - Y = Z$$

"X" - Percentage of glazing contained within the designated solar surface of the south facing wall in respect to the area of that wall.

"Y" - Percentage of glazing on nonsolar surfaces (north, east, west walls, and non-solar south walls) in respect to the area of those walls.

"Z" - Percentage of glazing considered to be solar equipment

The percentage of glazing considered to be solar equipment (Z), is then multiplied by the total invoice cost of the glazing used on only the designated solar surfaces of the south facing walls. The product of these calculations will be the dollar value of glass to be considered as "equipment" in calculating the solar exemption.

Wall heights used in the above calculations shall be considered the distance parallel to the wall from finished floor level to finished ceiling level.

EXAMPLE: A residence is constructed with fifteen percent (15%) of the north, east and west walls consisting of glass. The south wall, however, is eighty-five percent (85%) glass. The total cost of the glass used on the south wall was one thousand (1,000) dollars. To determine the percentage of that cost which is eligible for solar tax exemption, you would perform the

following calculations:

$$85\% - 15\% = 70\%$$

$$.70 \times \$1,000 = \$700$$

$$(70\% \text{ of } \$1,000 = \$700)$$

Statutory Authority

§§ 36-97 et seq. and 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-8 § 300.2.1, eff. October 10, 1978.

13VAC5-200-130. Trombe walls.

The Trombe Wall is a south facing wall of the building envelope composed of a mass wall and exterior glazing. The mass wall functions as a combination heat sink and exterior wall, while the glazing creates a "heat trap" for penetrating solar radiation.

Trombe walls shall be considered solar equipment and all equipment used in the Trombe Wall, such as but not limited to vents, fans, movable insulation, controls, mass wall, glazing, shading devices and any other equipment peculiar to the solar system shall be eligible for tax exemption.

Statutory Authority

§§ 36-97 et seq. and 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-8 § 300.3.1, eff. October 10, 1978.

13VAC5-200-140. Greenhouses.

Glass, fiberglass, or other glazing materials, framing members, and foundations used to enclose south facing areas such as patios, atriums, or greenhouses for purposes of entrapping solar heated air shall be considered solar energy equipment, provided that the warm air be circulated through the principal structure by use of a permanently installed air movement system (forced or convective) and that adequate provisions have been made to prevent nocturnal heat losses and cold weather heat losses through use of insulating devices. Fifty percent (50%) of the invoice cost of labor and materials used in constructing a greenhouse or similar type structure, are to be considered solar heating equipment. The greenhouse is serving two purposes: (1) that of a solar collector, and (2) as a means of growing flowers or other plants. Equipment such as ductwork and fans used in circulating solar heated air accumulated within enclosed south facing areas such as patios, atriums, or greenhouses shall be considered solar energy equipment up to the point where such a system is integrated with a conventional heating system. Full credit will be allowed for movable insulation used to reduce nocturnal and cold weather heat losses.

EXAMPLE: Mr. Jones enclosed his south facing patio with fiberglass panels and movable insulation for the purpose of entrapping warm air which accumulates beneath the glazing. The warm air is then circulated through the residence using permanently installed ductwork and fans independent of his conventional heating and cooling system. The fiberglass, movable insulation, fans and ductwork Mr. Jones used in his solar heating system are considered solar equipment and eligible for tax exemption.

Statutory Authority

§§ 36-97 et seq. and 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-8 § 300.4.1, eff. October 10, 1978.

13VAC5-200-150. Thermal storage.

Devices constructed for the primary purpose of storing thermal energy collected and converted by a solar heating system shall be considered solar energy equipment. In passive solar heating systems the thermal storage is often incorporated into the building envelope in the form of thick concrete slab floors or masonry walls insulated on the exterior of the structure. If the thermal storage is serving a dual function as floor or wall of the structure, fifty percent (50%) of the cost of the floor or wall shall be considered solar energy equipment and eligible for tax exemption.

Statutory Authority

§§ 36-97 et seq. and 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-8 § 300.5.1, eff. October 10, 1978.

13VAC5-200-160. Movable insulation.

Movable insulation used to minimize heat loss largely caused by nocturnal radiation through areas used for direct solar heat gain during the daylight hours shall be considered solar energy equipment.

Statutory Authority

§§ 36-97 et seq. and 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-8 § 300.6.1, eff. October 10, 1978.

13VAC5-200-170. Shading device.

Any device designed primarily for shading a window or solar collector to prevent solar heat gain during the summer season shall be considered solar energy equipment.

Statutory Authority

§§ 36-97 et seq. and 36-137 of the Code of Virginia.

Historical Notes

Derived from VR394-01-8 § 300.7.1, eff. October 10, 1978.