

General Stakeholder Workgroup Meetings

June 7-15, 2022

9:00 a.m. Each Day

Virtual Meeting: <https://vadhcd.adobeconnect.com/va2021cdc/>

AGENDAS

June 10, 2022

(Begin at 9:00 am)

SFPC & VMC Proposals

1. FP107.11-21
2. FP111.2-21
3. FP906.1-21
4. FP912.2-21
5. FP1207-21
6. FP3303.3.1-21
7. FP5601.2.2.1-21
8. FP5705.5-21
9. PM101.1-21
10. PM103.2-21
11. PM103.2.3-21

General Stakeholder Workgroup Meeting Descriptions (Subject Groupings)

VCC: Virginia Construction Code (USBC Part I) including USBC Part I administrative provisions; IBC; VCS; VADR; IBSR; and MHSR (**Proposal Designations in cdpVA:** B; BF; IB; MH; CS; AD)

VEBC: Virginia Existing Building Code (USBC Part II) including USBC Part II administrative provisions; and IEBC (**Proposal Designations in cdpVA:** EB)

Energy: All technical energy provisions of the VCC, IECC and IRC; does not include administrative provisions (**Proposal Designations in cdpVA:** EC; REC)

VMC: Virginia Maintenance Code (USBC Part III) including USBC Part III administrative provisions (**Proposal Designations in cdpVA:** PM)

SFPC: Virginia Statewide Fire Prevention Code including SFPC administrative provisions (**Proposal Designations in cdpVA:** FP)

VRC: Residential technical provisions of the VCC and the IRC; does not include administrative or trades provisions (**Proposal Designations in cdpVA:** RB)

Trades: All technical trade provisions (mechanical, electrical, plumbing and fuel gas), including residential trade provisions, of the VCC, IRC, IPC, IMC, and IFGC; does not include administrative provisions (**Proposal Designations in cdpVA:** M; P; E; RE; RM; RP)

2021 cdpVA Proposal Subject Matter Designations (cdpVA Proposal Name “Agenda Number” Prefixes)

The following prefixes will be utilized as part of each proposal name to assist in identifying the subject matter of the proposal. DHCD staff assign proposal names after they have been submitted, reviewed and before they are placed in “Ready for Public Comment” status.

B = Virginia Construction Code
EB = Virginia Existing Building Code
PM = Virginia Maintenance Code
FP = Statewide Fire Prevention Code
BF = Virginia Construction Code IFC
EC = Virginia Energy Conservation Code
M = Virginia Mechanical Code
P = Virginia Plumbing Code
E = VCC Electrical
RB = Virginia Residential Code
REC = Virginia Residential Code Energy
RE = Virginia Residential Code Electric
RM = Virginia Residential Code Mechanical
RP = Virginia Residential Code Plumbing
IB = Industrialized Building Safety Regulations
MH = Manufactured Home Safety Regulations
AD = Virginia Amusement Device Regulations
CS = Virginia Certification Standards

Example: cdpVA Proposal Agenda Number “**RM**2301.1-21” indicates a proposal to the mechanical provisions (VRC Section M2301.1) of the 2021 Virginia Residential Code.

FP107.11-21

Proponents: Joshua Davis (joshua.davis@vdfp.virginia.gov)

2018 Virginia Statewide Fire Prevention Code

Revise as follows:

107.11 State Fire Marshal's office permit fees for explosives, blasting agents, theatrical flame effects, and fireworks. Complete *permit* applications shall be submitted to and received by the *State Fire Marshal's Office* not less than 15 days prior to the planned use or event. A \$500 expedited handling fee will be assessed on all permit applications submitted less than 15 days prior to the planned use or event. Inspection fees will be assessed at a rate of ~~\$60~~ \$150 per staff member per hour during normal business hours (Monday through Friday, 8:30 a.m. to 4:30 p.m.) and at a rate of ~~\$90~~ \$225 per hour at all other times (nights, weekends, holidays). *State Fire Marshal's Office* permit fees shall be as follows:

1. Storage of *explosives* and *blasting agents*, 12-month *permit* \$250 first *magazine*, plus \$150 per each additional *magazine* on the same *site*.
2. Use of *explosives* and *blasting agents*, nonfixed *site*, 6-month *permit* \$250 per *site*, plus inspection fees.
3. Use of *explosives* and *blasting agents*, fixed *site*, 12-month *permit* \$250 per *site*.
4. Sale of *explosives* and *blasting agents*, 12-month *permit* \$250 per *site*.
5. Manufacture *explosives* (unrestricted), *blasting agents*, and *fireworks*, 12-month *permit* \$250 per *site*.
6. Manufacture *explosives* (restricted), 12-month *permit* ~~\$20~~ \$200 per *site*.
7. *Fireworks* display in or on state-owned property \$300 plus inspection fees.
8. *Pyrotechnics* or proximate audience displays in or on state-owned property \$300 plus inspection fees.
9. Flame effects in or on state-owned property \$300 plus inspection fees.
10. Flame effects incidental to a permitted *pyrotechnics* display \$150 (flame effects must be individual or group effects that are attended and manually controlled).

Exception: Permit fees shall not be required for the storage of *explosives* or *blasting agents* by state and local law enforcement and fire agencies.

107.12 Other State Fire Marshal's office required permits, annual compliance inspection inspections and fees. Operational permits are required by the State Fire Marshal's office in accordance with this section. Fees for permits and for compliance inspections performed by the *State Fire Marshal's office* shall be as follows:

1. Annual compliance inspection fees for nightclubs ~~Nightclubs~~.
 - 1.1. ~~\$350~~ \$500 for *occupant load* of 100 or less.
 - 1.2. ~~\$450~~ \$600 for *occupant load* of 101 to 200.
 - 1.3. ~~\$500~~ \$650 for *occupant load* of 201 to 300.
 - 1.4. ~~\$500~~ \$650 plus ~~\$50~~ \$100 for each 100 occupants where *occupant loads* exceed 300.
2. Annual compliance inspection fees for private ~~Private~~ college dormitories with or without assembly areas. If containing assembly areas, such assembly areas are not included in the computation of square footage.
 - 2.1. ~~\$150~~ \$350 for 3,500 square feet (325 m²) or less.
 - 2.2. ~~\$200~~ \$400 for greater than 3,500 square feet (325 m²) up to 7000 square feet (650 m²).
 - 2.3. ~~\$250~~ \$450 for greater than 7,000 square feet (650 m²) up to 10,000 square feet (929 m²).
 - 2.4. ~~\$250~~ \$450 plus \$50 for each additional 3,000 square feet (279 m²) where square footage exceeds 10,000 square feet (929 m²).

3. Annual compliance inspection fees for assembly ~~Assembly~~ areas that are part of private college dormitories.
 - 3.1. ~~\$50~~ \$200 for 10,000 square feet (929 m²) or less provided the assembly area is within or attached to a dormitory *building*.
 - 3.2. ~~\$100~~ \$250 for greater than 10,000 square feet (929 m²) up to 25,000 square feet (2323 m²) provided the assembly area is within or attached to a dormitory *building*, such as gymnasiums, auditoriums or cafeterias.
 - 3.3. ~~\$100~~ \$250 for up to 25,000 square feet (2323 m²) provided the assembly area is in a separate or separate *buildings* such as gymnasiums, auditoriums or cafeterias.
 - 3.4. ~~\$150~~ \$300 for greater than 25,000 square feet (2323 m²) for assembly areas within or attached to a dormitory *building* or in a separate or separate *buildings* such as gymnasiums, auditoriums or cafeterias.

4. Annual compliance inspection fees for hospitals ~~Hospitals~~.
 - 4.1. ~~\$300~~ \$450 for 1 to 50 beds.
 - 4.2. ~~\$400~~ \$550 for 51 to 100 beds.
 - 4.3. ~~\$500~~ \$650 for 101 to 150 beds.
 - 4.4. ~~\$600~~ \$750 for 151 to 200 beds.
 - 4.5. ~~\$600~~ \$750 plus ~~\$100~~ \$200 for each additional 100 beds where the number of beds exceeds 200.

5. Annual compliance inspection fees for facilities ~~Facilities~~ licensed by the Virginia Department of Social Services and family day homes licensed by the Virginia Department of Education, based on licensed capacity ~~as follows~~:
 - 5.1. ~~\$50~~ \$200 for 1 to 8.
 - 5.2. ~~\$75~~ \$225 for 9 to 20.
 - 5.3. ~~\$100~~ \$250 for 21 to 50.
 - 5.4. ~~\$200~~ \$350 for 51 to 100.
 - 5.5. ~~\$300~~ \$450 for 101 to 150.
 - 5.6. ~~\$400~~ \$550 for 151 to 200.
 - 5.7. ~~\$500~~ \$650 for 201 or more.

Exception: Annual compliance inspection fees for any *building* or groups of *buildings* on the same *site* may not exceed ~~\$2500~~ \$3500.

6. Registered ~~complaints~~ complaint investigation fees.
 - 6.1. ~~No charge for first visit (initial complaint), and if violations are found, \$150 per hour for each State Fire Marshal's Office staff during normal business hours (Monday through Friday, 8:30 a.m. to 4:30 p.m.) and at a rate of \$225 per hour at all other times (nights, weekends, and holidays).~~
 - 6.2. ~~\$51 per hour for each State Fire Marshal's office staff for all subsequent visits.~~

7. Required permits and fees for bonfires ~~Bonfires~~ (small and large) on state-owned property.
 - 7.1. For a small *bonfire* pile with a total fuel area more than 3 feet (914 mm) in diameter and more than 2 feet (610 mm) in height, but not more than 9 feet (2743 mm) in diameter and not more than 6 feet (1829 mm) in height, the permit fee is ~~\$50~~ \$200. If an application for a *bonfire permit* is received by the *State Fire Marshal's* office less than 15 days prior to the planned event, the permit fee shall be ~~\$100~~ \$250. If an application for a *bonfire permit* is received by the *State Fire Marshal's* office less than 7 days prior to the planned event, the permit fee shall be ~~\$150~~ \$300.
 - 7.2. For a large *bonfire* pile with a total fuel area more than 9 feet (2743 mm) in diameter and more than 6 feet (1829 mm) in height, the permit fee is ~~\$150~~ \$250. If an application for a *bonfire permit* is received by the *State Fire Marshal's* office less than 15 days prior to the planned event, the permit fee shall be ~~\$300~~ \$400. If an application for a *bonfire permit* is received by the *State Fire Marshal's* office less than 7 days prior to the planned event, the permit fee shall be ~~\$450~~ \$550.

8. Required operational permits and permit fees for hazardous materials processing or storage.

- 8.1. Aviation facilities. \$200 annual operational permit for Group H or Group S occupancy for aircraft servicing or repair and aircraft fuel-servicing vehicles. Additional permits required by other sections of this code include, but are not limited to, hot work, hazardous materials and flammable or combustible finishes.
- 8.2. Waste handling. \$200 annual operational permit for facilities conducting operations similar to wrecking yards, junk yards, and waste material handling or recycling centers.
- 8.3. Combustible storage and hazardous operations.
- 8.3.1. \$200 annual operational permit for facilities storing or handling more than 100 cubic feet of combustible fibers, rags, or scrap textiles.
- 8.3.2. \$200 annual operational permit for facilities such as grain elevators, flour or feed mills, or other pulverizing processing producing combustible dust.
- 8.3.3. \$200 annual operational permit for storage of Flammable and combustible liquids:
- 8.3.3.1. Service station or repair garage, or
8.3.3.2. UST closure or temporary out of service
- 8.4. Flammable finishes. \$200 annual operational permit for spraying or dipping operations utilizing flammable or combustible products or flammable floor refinishing operations exceeding 350 square feet in size.
- 8.5. High-piled and combustible storage. \$200 annual operational permit for facilities storing more than 500 square feet of materials in arrangements greater than 12 feet in height.
- 8.6. Plant extraction systems. \$200 annual operational permit for plant oil processing and extraction systems.
- 8.7. Tire storage and rebuilding operations. \$200 annual operational permit for facilities storing more than 2,500 cubic feet of tires including scrap tires or operating tire rebuilding plants.
- 8.8. Welding and other hot work.
- 8.8.1. \$200 operational permit for facilities conducting welding, open torches, or other hot work (except where used for construction purposes).
- 8.8.2. \$200 annual operational permit for hot work program.
- 8.9. \$200 annual permit for flammable and combustible liquids storage.

9. Other required operational permits and permit fees.

- 9.1. Mobile food preparation vehicles. \$200 annual operational permit for mobile food preparation vehicles equipped with appliances that produce smoke or grease laden vapors.
- Exception: Recreational vehicles used for private recreation.
- 9.2. Tents, canopies and membrane structures. \$200 annual operational permit for any individual or adjacent tent(s), stage canopy, or air-supported structure(s) covering an area of more than 900 square feet unless used exclusively for recreational camping purposes.
- 9.3. Special amusement building occupancies. \$200 annual operational permit for any temporary or permanent amusement facilities where the means of egress is not readily apparent, is intentionally confounding, or is not readily available.

108.1.1 Permits required. Operational *permits* may be required by the fire official in accordance with Table 107.2. The fire official shall require operational *permits* for the manufacturing, storage, *handling*, use and sale of *explosives*. Issued *permits* shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire official.

Exceptions:

- Operational *permits* will not be required by the *State Fire Marshal* except for the manufacturing, storage, *handling*, use and sale of *explosives* in localities not enforcing the SFPG in accordance with Sections 107.11 and 107.12.

- Operational *permits* will not be required for the manufacturing, storage, *handling* or use of *explosives* or *blasting agents* by the Virginia Department of State Police provided notification to the fire official is made annually by the Chief Arson Investigator listing all storage locations.

Reason Statement: The Virginia Statewide Fire Prevention Code, which is amended and adopted by the Commonwealth of Virginia Board of Housing and Community Development, and set forth in Section 27-94 et seq. the Code of Virginia, shall be enforced, including the imposition of fees to defray costs, as may be necessary for the administration and enforcement. The Virginia Statewide Fire Prevention Code sets certain procedures for the Virginia State Fire Marshal's Office's fee schedule which here in are recommended to be adjusted comparable with other localities in Virginia. The 2006 SFPC list the initial fees for the State Fire Marshal's Office and have not been adjusted for the past 15 plus years. To better serve the Commonwealth of Virginia and to defray costs, as may be necessary for the administration and enforcement.

Cost Impact: The code change proposal will increase the cost of construction. The proposed fees will not impact construction cost, however, they will impact those business that fall within these inspections and permits. This increase is comparable with localities around Virginia and are in line with the increase in the State Fire Marshal's Office operational budget. The fees imposed pursuant to this section shall be used to defray the cost of administration and enforcement under the Statewide Fire Prevention Code.

Resiliency Impact Statement: This proposal will increase Resiliency. The mission of the State Fire Marshal's Office is to make fire safety a way of life in the Commonwealth of Virginia. We accomplish this through inspection and compliance of the Virginia Statewide Fire Prevention Code. The State Fire Marshal's Office continually strives to better serve our citizens and the communities which we are tasked with protecting. The proposed increase in fees will be critical to the future services provided by the State Fire Marshal's Office and to better maintain safe buildings across Virginia. The demand for services from the Fire Marshal has steadily increased over the past 15 years. Therefore, the Virginia State Fire Marshal and the Director of Virginia Fire Programs propose an increase in certain fees set forth in the Virginia Statewide Fire Prevention Code, permits and fees Section 107.

Attached Files

- **Stafford County FD local fee schedule for fire prevention code permits.pdf**
<https://va.cdpassess.com/proposal/1046/1493/files/download/696/>
- **SFMO proposed fire code amendment fee and hourly rate increase 2021.pdf**
<https://va.cdpassess.com/proposal/1046/1493/files/download/695/>
- **Fire Prevention Code Permit Fee Schedule_201210051427510124.pdf**
<https://va.cdpassess.com/proposal/1046/1493/files/download/694/>
- **Fee Schedule 2019 Albemarle County.pdf**
<https://va.cdpassess.com/proposal/1046/1493/files/download/693/>
- **city_of_fairfax_permit_fee_schedule.pdf**
<https://va.cdpassess.com/proposal/1046/1493/files/download/692/>
- **Chapter 15.25- Fire Code- 1-9-2020.pdf**
<https://va.cdpassess.com/proposal/1046/1493/files/download/691/>

Workgroup Recommendation

2021 Workgroups Workgroup Action: None

2021 Workgroups Reason:

Workgroup Action

- Consensus Approval
 - Consensus Disapproval
 - Carry Over to Next Meeting
 - Carry over to Final
 - Non-Consensus
 - None
-

Public Comments for: FP107.11-21

This proposal doesn't have any public comments.

Proposal # 1046

FP111.2-21

Proponents: Steven Sites (steven.sites@fairfaxva.gov)

2018 Virginia Statewide Fire Prevention Code

Revise as follows:

111.2 Service. The written notice of violation of this code shall be served upon the *owner*, a duly authorized *agent* or upon the occupant or other person responsible for the conditions under violation. Such notice shall be served either by delivering a copy of same to such persons by mail to the last known post office address, by delivering in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or, in the case such person is not found upon the premises, by affixing a copy thereof in a conspicuous place at the entrance door or avenue of ~~access~~access, or by transmitting to a valid electronic mailbox. Such procedure shall be deemed the equivalent of personal notice. When the *owner* is not the responsible party to whom the notice of violation or correction notice is issued, a copy of the notice shall also be delivered to the *owner* or *owner's agent*.

Reason Statement: Fire Officials that utilize fire inspection software have the ability to send a copy of the notice of violation directly to email address(s). This software retains the official original notice.

Cost Impact: The code change proposal will not increase or decrease the cost of construction
There is no cost impact to citizens or or those doing business with the Commonwealth of Virginia. This method of service delivery can reduce the operating costs to the Fire Official - state and local government. The costs of paper, printing, U.S. Postal Service mailing, vehicle maintenance, fuel, and employee time per-inspection is reduced.

Resiliency Impact Statement: This proposal will neither increase nor decrease Resiliency

Workgroup Recommendation

2021 Workgroups Workgroup Action: None

2021 Workgroups Reason:

Workgroup Action

- Consensus Approval
- Consensus Disapproval
- Carry Over to Next Meeting
- Carry over to Final
- Non-Consensus
- None

Public Comments for: FP111.2-21

This proposal doesn't have any public comments.

FP906.1-21

Proponents: Dwayne Garriss (DwayneSCG@gmail.com)

2018 Virginia Statewide Fire Prevention Code

Revise as follows:

906.1 Where required. Portable fire extinguishers shall be installed in all of the following locations:

1. In Groups A, B, E, F, H, I, M, R-1, R-4, and S occupancies.

Exceptions:

- ~~1. In Groups A, B, and E occupancies equipped throughout with quick response sprinklers, portable fire extinguishers shall be required only in locations specified in Items 2 through 6.~~
2. In Group I-3 occupancies, portable fire extinguishers shall be permitted to be located at staff locations and the *access* to such extinguishers shall be permitted to be locked.

Note: In *existing buildings*, whether fire extinguishers are needed is determined by the *USBC* or other code in effect when such *buildings* were constructed.

2. Within 30 feet (9144 mm) distance of travel from commercial cooking equipment and from domestic cooking equipment in Group I-1; I-2, Condition 1; and R-2 college dormitory occupancies.
3. In areas where flammable or combustible liquids are stored, used or dispensed.
4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 3315.1.
5. Where required by the sections indicated in Table 906.1.
6. Special-hazard areas, including but not limited to laboratories, computer rooms and generator rooms, where required by the *fire code official*.

Reason Statement: The concept of trading off portable extinguishers in sprinklered buildings has been largely abandoned by fire protection principles. The National Fire Codes of both NFPA 1 and the ICC- IFC require portable fire extinguishers in all occupancy classes. A portable fire extinguisher is an effective item of fire protection which allows for small fires to be tackled by the occupants of a building and saves 100s of thousands of dollars in property loss. It is important to appreciate that while different to official assumptions and desire for evacuation, research shows the public's priorities to be rational and appropriate. The public's experience of fire is vastly different to that of the professionals involved in the planning for and responding to fire.

Some key findings from research studies have been identified and the public's-oriented outcomes include, avoidance of embarrassment, inconvenience, damage to the premises or property, concern for others, pets and possessions and lastly personal injury. The evidence further identifies that the public is willing and will accept minor consequences in their pursuit of achieving personal humanistic priorities and instinct. Concern for people, pets and possessions are strong and established drivers of behavior in the event of a fire. Therefore, this should be no surprise to see it as an influential feature of most individual's response to a fire. Limiting a fire to the smallest area within a building is a sensible aspiration.

Official policy and attitudes are most singularly directed at avoiding the risk when the public encounters a fire. This is well meaning but the research has shown that this DOES NOT I REPEAT DOES NOT align with the publics' attitude or the ability of the general public.

Thus, it is important to give the public the intelligently designed and placed tools intended for their use and not the necessarily firefighters. NFPA 10 states: 5.1.2 The selection of extinguishers shall be independent of whether the building is equipped with automatic sprinklers, standpipe and hose, or other fixed protection equipment. Other codes, and other occupancy chapters have abandoned this concept in recognition of the fact that portable extinguishers are a valuable, cost-effective layer of fire protection, and are intended for a different purpose than sprinklers. To avoid addressing fires in their earliest stages is counter-intuitive, and studies have shown that people will almost always attempt to extinguish a fire if it's small and they believe they can mitigate the hazard. If a fire extinguisher is not available, people have (and will continue to) use makeshift means to try to extinguish the fire, which is far less safe than using a portable extinguisher that is designed for safe and effective use by novices. (Ref: An Evaluation of the Role of Fire Extinguishers by David Wales)

A significant amount of data has been collected to support the requirement for portable extinguishers, including: WPI/EKU Study: "Ordinary People and the Effective Operation of Fire Extinguishers", which clearly showed that the vast majority of people who have never used an extinguisher can operate one safely and effectively.

2013 NFPA Report: "U.S. Experience with Sprinklers" reports that there were 48,460 reported structure fires annually in buildings equipped with sprinkler systems between 2007-2011, and 40,440 (83 percent) never grew large enough to activate the system. Based on this report alone, it's clear that people are reacting to small fires and extinguishing them prior to sprinkler activation.

A study by Richard Bukowski in 2014, the life cycle cost of portable fire extinguishers was determined to be between one and a half and four cents per foot annually; if coverage could be maximized to that allowable by code, the cost drops to between a half cent and one cent per foot annually. It's unlikely that any other layer of fire protection is so cost-effective.

Portable fire extinguishers are required in certain instances to give the occupants the means to suppress a fire in its incipient stage. The capability for manual fire suppression can contribute to the following:

- The protection of the occupants, especially if there are evacuation difficulties associated with the occupancy.
- The protection of our environment by reducing large amounts of airborne pollutants.
- The protection of our environment by reducing large amounts of contaminated water runoff associated to large fires.
- The reduction of impact of the carbon footprint by requiring potential less repair/reconstruction of the area involved when the fire is extinguished or contained in the early stages in lieu of waiting for a fire to grow large enough for the activation of the automatic sprinkler system.
- The potential reduction in downtime for facilities suffering from a fire if used in the incipient stages of fire discovery reducing the economic impact on the community.

Portable fire extinguishers are required in occupancies in Groups A, B, and E in both the National Model Fire Codes of the ICC and NFPA because of the need to control the fire in its early stages and because evacuation can be slowed by the density of the occupant load, the capability of the occupants to evacuate or the overall fuel load in the building. Because the IBC (building code) references the IFC (fire code) for fire extinguisher requirements in new buildings, the code is applicable to new buildings. The current exception 1 to 906.1 that exempts the installation of portable fire extinguishers (PFEs) in low-hazard areas of Group A, B and E occupancies when the fire areas are equipped with an automatic sprinkler system utilizing quick-response automatic sprinklers was deleted from the 2012 edition of the IBC and the IFC after considering a proposal from the National Association of State Fire Marshals (NASFM). NASFM, and other supporters of the exception's removal, rightly argued that exempting occupancies from fire extinguisher requirements can leave those buildings without a proper firefighting tool for small, controllable fires. The ICC agreed with this rationale and removed the exception in the last 5 versions (2012, 2015, 2018, 2021 and currently sustained in the 2024 edition under development) of the International Fire Code.

Many code officials believed it is inappropriate to place complete reliance on automatic sprinkler systems for the protection of assembly, business and educational occupancies. An analysis of fire loss data for Group A occupancies, performed by the National Institute of Science and Technology (NIST) during the investigation of a large life loss fire confirmed that assumption was correct. While investigating the Station Fire, a nightclub fire where 100 people died in 2003, NIST also analyzed the performance of portable fire extinguishers in night clubs. NIST also analyzed NFPA fire loss data for nightclubs from 1990 through 1994 and found that almost 36 percent of fires in public assembly structures were extinguished by PFEs or other means during the incipient phase. These data show that without PFEs, occupants commonly used other tools to try to extinguish incipient fires. The NIST analysis found that 28 percent of all incipient fires were extinguished using PFEs and the remaining 8 percent used makeshift means. The study concluded that it was important for fire code officials to reinforce and educate nightclub employees on the purpose and capability of PFEs for controlling incipient fires.

The removal of PFEs is believed to reduce the level of protection in the building. Based on the referenced NIST report we believe the deletion of the exception for Group A occupancies is warranted. Virginia is not unique in the decision to base the building and fire codes on these national model codes, as most jurisdictions do the same. The reasons are relatively simple: by utilizing a national consensus process the requirements of the ICC model codes are well vetted by a cross-section of regulators and industries. This results in appropriate safety provisions for the vast majority of jurisdictions, based upon national consensus processes. Amendments that weaken the model codes upon their state adoption should be carefully considered and only made through deliberate, well-reasoned processes, resulting in changes that only make the model codes safer for the residents of Virginia.

Fire extinguishers are the first line of defense for small, controllable fires. They are intended to be used for fires of limited size and easily controlled. If a fire is discovered in its early stages, the most effective means of protecting life and preventing property loss is to sound an alarm and then to control and/or extinguish the incipient stage fire with a portable fire extinguisher. To simply wait for the fire to grow large enough in size for a sprinkler head to activate, is contrary to lessons and guidance from fire service and fire protection professionals. Since fire extinguishers provide a first line of defense versus sprinklers, it remains unclear as to the justification for this exception.

As the state of Virginia bases its building and fire codes on these national model codes, when drafting the update of the State Fire Protection Code for Virginia, we believe the Codes and regulations adopted by the Board of Housing and Community Development should not be one of only three other states varying from the National Model Codes when it comes to layered fire protection in buildings by providing one of the first lines of defense for building occupants. We believe the Division should maintain the model codes level of fire safety and not be one of only three other states varying from the National Model Codes when it comes to layered fire safety in buildings by maintaining exception 1 to Section 906.1, eliminating extinguishers in some of the most populated public buildings.

By providing a layered approach to fire and life safety for business properties, educational facilities and assembly occupancies, located throughout

Virginia, you are providing a level of safety to the citizens of Virginia and its visitors at a level already established throughout the rest of the country for businesses and properties located throughout the country. The more we can reduce fires or fire growth, the better we can protect lives, property, and our environment. The reduction in fire sizes and fire growth will help reduce the carbon footprint impact on our environment by producing less fire byproducts released into the atmosphere, producing less contaminants introduced into our groundwater with smaller amounts of water runoff with smaller fires and with smaller fires requiring less reconstruction or renovation the overall impact on the carbon footprint is further reduced. As with the current Federal Administration's concern for the protection of our environment, the resiliency of our communities and reduction of the carbon footprint, the AIA, NFPA, ICC, as well as others, are striving to make a difference for our future generations.

A 2021 report supported by the Independent Fire Engineering & Distributors Association (IFEDA) considers the fundamental discrepancy between policy directives and public response in the face of a fire event. The report finds that people will naturally attempt to extinguish a fire, especially an incipient fire, either using portable extinguishers or other improvised means. They are usually successful in doing so, with 70-80 percent of fires dealt with by the public without training or professional assistance. (A separate study conducted by Worcester Polytechnic Institute and Eastern Kentucky University titled "Ordinary People and Fire Extinguisher Effectiveness" also found that of 276 untrained persons, over 90 percent operated the extinguisher effectively on a simulated fire.)

RJA's Study on the Life Cycle Cost of Portable Fire Extinguishers demonstrates that installing fire extinguishers cost only a fraction of a penny to a few pennies per square foot over their lifetime, probably the most cost-effective layer of fire protection available. Use of extinguishers often minimizes costly damage to property and human life by intervening before sprinklers are activated. Additionally, a separate study conducted by Worcester Polytechnic Institute and Eastern Kentucky University found that of 276 untrained persons, over 90 percent operated the extinguisher effectively on a simulated fire, decreasing the costs associated with training employees.

The NFPA's study on the U.S. Experience with Sprinklers and Other Automatic Fire Extinguishing Equipment notes the value of sprinklers but critically reports that the majority of reported fires never grew large enough to activate operational equipment. In one study, 65 percent of fire events in a space with automatic sprinklers, the sprinklers were not activated. This report, intended to showcase the benefits of automatic sprinklers, clearly indicates that someone is successfully intervening in fire events prior to sprinkler activation.

FM Global's technical report on the Environment Impact of Automatic Fire Sprinklers shows that benefits gained from effective green initiatives can be negated by a single fire event. While the report looks at the value of sprinkler systems, it acknowledges the shortcomings of the sprinkler systems to adequately manage all fires and again emphasizes the need for a layered approach that includes portable extinguishers.

In 2010, The International Code Council's Code Development Committee recommended to remove the exception to Line 1 of 906.1 of the International Fire Code (IFC) that allows certain buildings to function without portable fire extinguishers. The history of code change committee debates in 2010 for the International Fire Code (IFC) on the sprinkler/portable extinguisher exception show a consistent consensus decision by fire safety experts from across the country to require portable fire extinguishers since the reinstatement of the requirements into the International Fire Code since 2012 edition over 10 years ago. This decision has been challenged in every code development cycle since. Each time, after detailed consideration of the argument, the Committee reasoned that even within sprinklered buildings, fire extinguishers have made a difference in controlling fires and the exception for quick response sprinklers in certain buildings should be deleted. The Committee also reasoned that citizens are accustomed to seeing extinguishers within buildings and expect them to be available for use. This decision has also been supported overwhelmingly by the Governmental Voting Members of the ICC membership including those in the VA fire service.

Evidence shows that people will intervene in fire events that are small and manageable. Providing proper tools, such as fire extinguishers, is the clear means to assure the best outcome in fire prevention. Additionally, the installation and maintenance of fire extinguishers is more economical than other fire protection features.

- In 2004, portable fire extinguishers were used on 371,500 residential fires (CPSC report published 2009).
- In 2008, portable fire extinguishers were used on 190,400 commercial fires.
- Fire in residences were mitigated in over 95% of the cases without intervention from the fire department. In over 75% of the cases, someone in the home extinguished the fires. (CPSC report published 2009)

Again, both national model fire codes, NFPA 1 and the International Fire Code (IFC), embrace portable extinguishers as key parts of overall fire safety – regardless of the presence of sprinklers. None of the source documents for the *International Fire Code* (IFC) being the BOCA (*Building Officials and Code Administrators International building code*), SBCCI (the *Southern Building Code Congress International building and fire construction codes*) and the USBC (*Uniform Standard Building Code* which the State of Virginia followed before the adoption of the IFC) had the exception for these occupancies. It was inserted at the end of a multi-year drafting process for the IFC. Realizing the importance and success of portable fire extinguishers and need for layered fire protection states very quickly began amending this section as they adopted the IFC as the basis of their state fire code since portable fire extinguishers were not previously omitted from sprinklered buildings. NASFM and other supporters rightly argued that exempting occupancies from fire extinguisher requirements can leave those buildings without a proper firefighting tool for small, controllable fires. This representative has proposed to reverse the 2012 decision in every code development cycle since.

With more than a decade's worth of experience with the issue, FEMA has been able to curate the following detailed account for the model codes'

requirements for portable fire extinguishers. If there is any question as to whether the citizenry in the United States is acting early to extinguish incipient fires, the report of the U.S. Consumer Products Safety Commission should put those doubts to rest. According to their report, only 5-10 percent of fires are reported to fire departments in the U.S. We submit that, since people are, in fact, extinguishing small fires in their incipient stage on a very regular basis, the code should provide for the proper tools to do so - that is, maintain the requirements for portable extinguishers. According to this report, people use portable extinguishers on 371,000 residential fires in the U.S. annually. In this same report, the agency stated that extinguishers were effective in 80 percent of the cases where they were used. The entire 234 page report, published in 2009, can be found at: <https://www.cpsc.gov/PageFiles/105297/UnreportedResidentialFires.pdf>

Some of these fires are extinguished using fire extinguishers; others are being extinguished with makeshift means. Extinguishers are the appropriate tool and designed for use on incipient fires. Providing portable fire extinguishers in facilities greatly enhances safety, including the safety of those who choose to extinguish a fire in its incipient phase; extinguishers should be available in all buildings. An NFPA report on fires in sprinklered buildings published in 2010 states that in fires reported in buildings equipped with sprinkler systems, the fire didn't grow large enough to activate the sprinklers in 65 percent of the cases (page 11). The fires cited in this report were large enough to be reported to the fire department; the sprinkler systems were operational and would have activated if the fire had grown larger, but were extinguished or otherwise mitigated prior to sprinkler activation. This report verifies that people are intervening when a fire is small, saving the property owner(s) substantial sums of money by putting the fire out before it grows larger, doing more damage and before sprinklers activate, while protecting the lives of building occupants. You can see that report here: http://www.tvspfe.org/images/us_experience_with_sprinklers.pdf

Where cost is a consideration, portable fire extinguishers are, without a doubt, one of the most cost effective layers of fire protection available. A life cycle cost analysis was conducted in 2014 by Richard Bukowski, P.E, then working for RJA. In that study, the actual cost of portable extinguishers in several facilities was used to determine the real-world cost of these devices. Using 12 health care facilities, the costs of initial purchase, installation, monthly and annual maintenance, as well as all associated maintenance required by NFPA-10 (the standard referenced in ICC Codes) were compiled and analyzed. According to this study, the actual costs of portable extinguishers in these facilities ranged from \$.015 (one and one half cent) to \$.04 (four cents) per square foot per year. His study also states that, if a facility were able to utilize the minimum number of extinguishers required by the Codes based upon coverage of an area, the costs would be between \$.005 (one half cent) and \$.01 (one cent) per square foot per year. This report can be found at: <http://www.femalifesafety.org/docs/006GRCAtt01RJAFinalReport011714.pdf>

Finally, the question of whether a person needs to be trained in order to use a portable extinguisher has been mentioned. While we encourage training those who may utilize portable extinguishers, there is substantial evidence that people without training can and do use extinguishers safely and effectively. Specifically, Worcester Polytechnic Institute and Eastern Kentucky University conducted a study titled "Ordinary People and Fire Extinguisher Effectiveness". In that study of 276 untrained persons, over 90 percent operated the extinguisher effectively on a simulated fire, with 98% successfully pulling the pin, squeezing the trigger, and discharging the agent. 74% used proper techniques including aiming at the base of the fire and using a sweeping motion. This study dispels any doubt that extinguishers can be effective in the hands of novice users. <http://www.femalifesafety.org/docs/WPIStudyFinal.pdf>

It is recommended to look at the strengths and weaknesses of automatic sprinkler systems. Although we do support automatic sprinkler system installation in buildings, the NFPA's 2017 study on the U.S. Experience with Sprinklers and Other Automatic Fire Extinguishing Equipment notes the value of sprinklers but critically reports that the majority of reported fires were too small to activate operational equipment. In 65 percent of fire events in a space with automatic sprinklers, the sprinklers were not activated, making a layered fire safety approach that includes portable extinguishers vital.

Confined fires and unconfined fires that were too small to activate the sprinkler system equate to 84% of reported fires in sprinklered buildings.

Sprinklers are ineffective in 12% of fires that grow large enough to activate the system.

Reported sprinkler failures were twice as common as reported fires in which sprinklers were ineffective.

o 40 % of the combined sprinkler problems were due to system shut-offs.

o 59% of incidents in which sprinklers failed to operate, the system had been shut off.

o 51% of fires in which sprinklers were ineffective, the water did not reach the fire.

Fire departments responded to an estimated 29,800 sprinkler activations caused by a system failure or malfunction and 33,600 unintentional sprinkler activations in 2014.

There has been argument that training is required if portable fire extinguishers are provided as an OSHA requirement. OSHA requirements are only applicable to OSHA regulated or participating governments. Even then, training is not required unless personnel are specifically designated to respond to fires and use extinguishers. FEMA highly recommends training regardless but provides for such with VIDEO links and instructions found in 2-3 minute video training at <https://fireextinguisherssave lives.org/>.

Lastly, we must explore human instinct and the use of portable fire extinguishers. In 2021, David Wales, with support from the Independent Fire

Engineering & Distributors Association (IFEDA), published a report evaluating the role of fire extinguishers in buildings through an evidence-based assessment. The report aims to relay the public's perception of and behavior around fire extinguishers in order to ensure manufacturers provide the most relevant instructions.

There is a fundamental discrepancy between official/policy assumptions and the public in relation to priorities in the event of a fire. Government and professionals focus on avoiding injuries and see that as the sole aspiration. As a result, they consider the public role to be one of compliance in which they simply exit the premises on becoming aware of a fire.

· In contrast, the public have a wide and largely unrecognized range of priorities when encountering a fire, based on their individual circumstances. These can include:

o The avoidance or embarrassment/inconvenience.

o Mitigating the impact of damage to the property by avoiding the risk of being unable to remain in their home.

o Concern for the wellbeing of other people, pets, or valued possessions.

· A desire to achieve their self-appointed tasks is a strong motivation for the public's behavior when encountering a fire. This includes investigating the initial cues and tackling the fire, often using improvised means. They are usually successful in doing so, with 70-80 percent of fires dealt with by the public without requiring professional assistance.

· People's disaster response actions differ significantly from disaster myths that commonly portray victims as dazed, panicked, or disorganized. Instead, most people respond adaptively.

Cost Impact: The code change proposal will increase the cost of construction

A life cycle cost analysis was conducted in 2014 by Richard Bukowski, P.E, then working for RJA. In that study, the actual cost of portable extinguishers in several facilities was used to determine the real-world cost of these devices. Based upon his study, the costs of initial purchase, installation, monthly and annual maintenance, as well as all associated maintenance required by NFPA-10 (the standard referenced in ICC Codes) were compiled and analyzed. According to this study, the actual costs of portable extinguishers in these facilities ranged from \$.015 (one and one half cent) to \$.04 (four cents) per square foot per year. His study also states that, if a facility were able to utilize the minimum number of extinguishers required by the Codes based upon coverage of an area, the costs would be between \$.005 (one half cent) and \$.01 (one cent) per square foot per year.

This report can be found at: <http://www.femalifesafety.org/docs/006GRCAtt01RJAFinalReport011714.pdf>

Resiliency Impact Statement: This proposal will increase Resiliency

FM Global's 2010 technical report on the Environment Impact of Automatic Fire Sprinklers shows that benefits gained from effective green initiatives can be negated by a single fire event. While the report looks at the value of sprinkler systems, it acknowledges the shortcomings of the sprinkler systems to adequately manage all fires and again emphasizes the need for a layered approach that includes portable extinguishers.

· In all occupancies, from residential dwellings to office buildings, the lack of proper risk management and effective fire protection statistically increases carbon emissions over the lifecycle of the occupancy.

· Typical benefits gained from green construction and energy efficient appliances and equipment can be negated by a single fire event. This is due to subsequent carbon dioxide, and other greenhouse gasses, generated from burning combustible material, in addition to the embodied carbon associated with disposal of damaged materials and reconstruction.

· U.S. fires release about 290 million metric tons of carbon dioxide per year, the equivalent of 4-6 percent of the nation's carbon dioxide emissions from fossil fuel burning.

· While automatic sprinklers can be a key factor in reducing the carbon footprint of building fires, sprinkler systems only cover 10% of all building fires. In the other 90% of fires where a sprinkler system is not activated, fires can be reduced by fire extinguishers which provide a safe and accessible way to mitigate the climate impact of building fires.

By providing a layered approach to fire and life safety for business properties, educational facilities and assembly occupancies, located throughout Virginia, you are providing a lave of safety to the citizens of Virginia and its visitors at a level already established throughout the rest of the country for businesses and properties located throughout the country. The more we can reduce fires or fire growth, the better we can protect lives, property, and our environment. The reduction in fire sizes and fire growth will help reduce the carbon footprint impact on our environment by producing less fire byproducts released into the atmosphere, producing less contaminates introduced into our groundwater with smaller amounts of water runoff with smaller fires and with smaller fires requiring less reconstruction or renovation the overall impact on the carbon footprint is further reduced. As with the current Federal Administration's concern for the protection of our environment, the resiliency of our communities and reduction of the carbon footprint, the American Institute of Architects, The National Fire Protection Association, The International Code Council, as well as others, are striving to make a difference for our future generations.

Attached Files

- **FM Global Sprinkler Environmental report.pdf**
<https://va.cdpassess.com/proposal/1169/1645/files/download/686/>
 - **NFPA Sprinkler Report 2017.pdf**
<https://va.cdpassess.com/proposal/1169/1645/files/download/685/>
 - **Life Cycle Cost Analysis of Portable extinguishers - Copy.pdf**
<https://va.cdpassess.com/proposal/1169/1645/files/download/684/>
 - **Ordinary People and Fire Extinguisher Effectiveness.pdf FINAL.pdf**
<https://va.cdpassess.com/proposal/1169/1645/files/download/683/>
 - **UnreportedResidentialFires.pdf**
<https://va.cdpassess.com/proposal/1169/1645/files/download/682/>
 - **An evaluation of the role of fire extinguishers (3).pdf**
<https://va.cdpassess.com/proposal/1169/1645/files/download/681/>
-

Workgroup Recommendation

2021 Workgroups Workgroup Action: None

2021 Workgroups Reason:

Workgroup Action

- Consensus Approval
 - Consensus Disapproval
 - Carry Over to Next Meeting
 - Carry over to Final
 - Non-Consensus
 - None
-

Public Comments for: FP906.1-21

This proposal doesn't have any public comments.

FP912.2-21

Proponents: Deidra Peterson (drkpeter@vbgov.com)

2018 Virginia Statewide Fire Prevention Code

Revise as follows:

912.2 Location. With respect to hydrants, driveways, buildings and landscaping, fire department connections shall ~~remain located in accordance with the applicable building code so that fire apparatus and hose connected to supply the system will not obstruct access to the buildings for other fire apparatus.~~ be so located that fire apparatus and hose connected to supply the system will not obstruct access to the buildings for other fire apparatus. The location of the fire department connections shall be approved by the fire chief.

Reason Statement: This code as written in the IFC must remain as is and be located in the SFPC to be enforceable. It can't only be written in the VCC. The fire chief is the department leader approving department wide policy. [Excerpt from the IFC Commentary "...fireground operations are based on local operational procedures, it is only reasonable that the fire chief of the jurisdiction has approval authority over the location of and access to the FDC.] Furthermore, the FDC location approval may be delegated to the fire code official.

Cost Impact: The code change proposal will not increase or decrease the cost of construction
There should be no change in construction cost.

Resiliency Impact Statement: This proposal will increase Resiliency
This proposed code change would put the authority of approval where it belongs, to the fire chief of the local fire department.

Workgroup Recommendation

2021 Workgroups Workgroup Action: None

2021 Workgroups Reason:

Workgroup Action

- Consensus Approval
- Consensus Disapproval
- Carry Over to Next Meeting
- Carry over to Final
- Non-Consensus
- None

Public Comments for: FP912.2-21

This proposal doesn't have any public comments.

FP1207-21

Proponents: DHCD Staff (sbco@dhcd.virginia.gov) on behalf of the SFPC Sub-workgroup.

2018 Virginia Statewide Fire Prevention Code

Revise as follows:

SECTION ~~1206~~ 1207 ELECTRICAL ENERGY STORAGE SYSTEMS.

Revise Section 1207 as shown on the attached document "20220418 SFPC SWG Meeting - Section 1207 Results".

Reason Statement: Section 1207 of the IFC - Energy Storage Systems - has received numerous revisions from the 2018 to the 2021 version of the code. A number of said revisions contain construction requirements which do not belong in the SFPC - a maintenance and operation code. The entire Section has been reviewed and edited by the SFPC Sub-workgroup to delete construction provisions, or, revise with maintenance type language where appropriate. These efforts are a continuation of the edit efforts that occurred over the previous code development cycles. The attached document "20220418 SFPC SWG Meeting - Section 1207 Results" shows all the proposed changes in legislative format.

Cost Impact: The code change proposal will not increase or decrease the cost of construction
It could be argued that the revisions proposed could potentially reduce costs as a result of clarifying which code provisions are to be applied to any given scenario.

Resiliency Impact Statement: This proposal will neither increase nor decrease Resiliency
Although it may appear that the proposal deletes certain construction code provisions, those requirements are in fact addressed by the applicable building code.

Attached Files

- **20220418 SFPC SWG Meeting - Section 1207 Results.pdf**
<https://va.cdpassess.com/proposal/1137/1511/files/download/655/>

Workgroup Recommendation

2021 Workgroups Workgroup Action: None

2021 Workgroups Reason:

Workgroup Action

- Consensus Approval
- Consensus Disapproval
- Carry Over to Next Meeting
- Carry over to Final
- Non-Consensus
- None

Public Comments for: FP1207-21

This proposal doesn't have any public comments.

FP3303.3.1-21

Proponents: VFSB Codes and Standards Committee (amilliken@staffordcountyva.gov)

2021 International Fire Code

Revise as follows:

3303.3.1 Violations. ~~Failure~~ Failure to properly conduct, document and maintain documentation required by this section shall constitute an unlawful act in accordance with Section 112.1 and shall result in the issuance of a notice of violation to the site safety director in accordance with Section 112.3. Upon the third offense 111 and, the fire code official is authorized to issue a stop work order in accordance with Section 113, and work shall not resume until satisfactory assurances of future compliance have been presented to and approved by the fire code official. may request a stop work order be issued by the Building Official.

3305.9 Separations between construction areas. Separations used in Type I and Type II construction to separate construction areas from occupied portions of the building shall be maintained in accordance with the applicable building code. ~~constructed of materials that comply with one of the following:~~

- ~~1. Noncombustible materials.~~
- ~~2. Materials that exhibit a flame spread index not exceeding 25 when tested in accordance with ASTM E84 or UL 723.~~
- ~~3. Materials exhibiting a peak heat release rate not exceeding 300 kW/m² when tested in accordance with ASTM E1354 at an incident heat flux of 50 kW/m² in the horizontal orientation on specimens at the thickness intended for use.~~

3307.2.1 Pipe cleaning and purging. The cleaning and purging of flammable gas piping systems, including cleaning new or existing piping systems, purging piping systems into service and purging piping systems out of service, shall comply with NFPA 56.

Exceptions:

1. Compressed gas piping systems other than fuel gas piping systems where in accordance with Chapter 53.
2. Piping systems regulated by the ~~international~~ Virginia Fuel Gas Code.
3. Liquefied petroleum gas systems in accordance with Chapter 61.

3311.1 Required access. *Approved* vehicle access for fire fighting shall be provided to all construction or demolition sites. Vehicle access shall be provided to within 100 feet (30 480 mm) of buildings and temporary or permanent fire department connections. Vehicle access shall be provided by either temporary or permanent roads, capable of supporting vehicle loading under all weather conditions. Vehicle access shall be maintained until permanent fire apparatus access roads are available.

[BE] 3312.1 Stairways required. Where building construction exceeds 40 feet (12 192 mm) in height above the lowest level of fire department vehicle access, a temporary or permanent *stairway* shall be ~~provided.~~ maintained in accordance with the applicable building code. As construction progresses, such *stairway* shall be ~~extended to within one floor of the highest point of construction having secured decking or flooring.~~ maintained in accordance with the applicable building code.

3314.1 Where required. ~~In buildings—buildings required to—~~ Where required by the applicable building code, a temporary or permanent standpipe shall be maintained and remain in an operable condition so as to be available for use by the fire department. ~~to have standpipes by Section 905.3.1, not less than one standpipe shall be provided for use during construction. Such standpipes shall be installed prior to construction exceeding 40 feet (12 192 mm) in height above the lowest level of fire department vehicle access. Such standpipes shall be provided with fire department hose connections at locations adjacent to stairways complying with Section 3312.1. As construction progresses, such standpipes shall be extended to within one floor of the highest point of construction having secured decking or flooring.~~

Delete without substitution:

3314.2 Buildings being demolished. ~~Where a building is being demolished and a standpipe is existing within such a building, such standpipe shall be maintained in an operable condition so as to be available for use by the fire department. Such standpipe shall be demolished with the building but shall not be demolished more than one floor below the floor being demolished.~~

3314.3 Detailed requirements. Standpipes shall be installed in accordance with the provisions of Section 905.

Exception: Standpipes shall be either temporary or permanent in nature, and with or without a water supply, provided that such standpipes comply with the requirements of Section 905 as to capacity, outlets and materials.

Reason Statement: Clean up of Chapter 33 Fire Safety During Construction to remove construction provisions and correlate better with the VCC and VEBC.

Cost Impact: The code change proposal will not increase or decrease the cost of construction
No cost impact.

Resiliency Impact Statement: This proposal will increase Resiliency

By improving the SFPC, the resiliency of communities is increased by protecting them from the hazards associated with poor fire safety practices during construction.

Workgroup Recommendation

2021 Workgroups Workgroup Action: None

2021 Workgroups Reason:

Workgroup Action

- Consensus Approval
 - Consensus Disapproval
 - Carry Over to Next Meeting
 - Carry over to Final
 - Non-Consensus
 - None
-

Public Comments for: FP3303.3.1-21

This proposal doesn't have any public comments.

FP5601.2.2.1-21

Proponents: Steven Sites (steven.sites@fairfaxva.gov)

2018 Virginia Statewide Fire Prevention Code

Add new text as follows:

5601.2.2.1 Permissible fireworks. Where the sale or retail display of *permissible fireworks* is allowed by Section 5601.1.3, Exception 4, such sales or retail display shall comply with the applicable requirements of NFPA 1124 - 13 edition.

Reason Statement: There is no provisions to regulate the sales and retail display of permissible fireworks. Newer versions of NFPA 1124 (after the 2013) edition removed sales provisions. Fire Officials need the ability to ensure safe practices for the placement within a approved (by local building official - when applicable) building, structure, or tent. The prevention of ignition sources and security of the products while at the sales or retail display location is important for public safety. NFPA 1124 - 13 contains sound and safe practices for the safety of permissible fireworks at sales or retail display sites.

Cost Impact: The code change proposal will not increase or decrease the cost of construction. The building, structure, or tent will be governed by the building official and applicable building code. The sales or retail display of permissible fireworks is a seasonal commodity. In general the building, structure, or tent will be accommodating the sales or retail display for a defined period of time. The cost impact to the business owner should be minimal, and will not be impacted by the applicable regulations contained in NFPA 1124 - 13.

Resiliency Impact Statement: This proposal will neither increase nor decrease Resiliency

Workgroup Recommendation

2021 Workgroups Workgroup Action: None

2021 Workgroups Reason:

Workgroup Action

- Consensus Approval
 - Consensus Disapproval
 - Carry Over to Next Meeting
 - Carry over to Final
 - Non-Consensus
 - None
-

Public Comments for: FP5601.2.2.1-21

This proposal doesn't have any public comments.

FP5705.5-21

Proponents: Perry Weller (wellerpw@ci.staunton.va.us)

2021 International Fire Code

Revise as follows:

5705.5 Alcohol-based hand rubs classified as Class I or II liquids. The use of ~~wall-mounted-approved~~ dispensers containing alcohol-based hand rubs classified as Class I or II liquids shall be in accordance with all of the following:

1. The maximum capacity of each dispenser shall be 68 ounces (2 L).
2. The minimum separation between dispensers shall be 48 inches (1219 mm).
3. The dispensers shall not be installed above, below, or closer than 1 inch (25 mm) to an electrical receptacle, switch, appliance, device or other ignition source. The wall space between the dispenser and the floor or intervening counter top shall be free of electrical receptacles, switches, appliances, devices or other ignition sources.
4. Dispensers shall be mounted or located so that the bottom of the dispenser is not less than 42 inches (1067 mm) and not more than 48 inches (1219 mm) above the finished floor.
5. Dispensers shall not release their contents except when the dispenser is manually activated. Facilities shall be permitted to install and use automatically activated "touch free" alcohol-based hand-rub dispensing devices with the following requirements:
 - 5.1. The facility or persons responsible for the dispensers shall test the dispensers each time a new refill is installed in accordance with the manufacturer's care and use instructions.
 - 5.2. Dispensers shall be designed and must operate in a manner that ensures accidental or malicious activations of the dispensing device are minimized. At a minimum, all devices subject to or used in accordance with this section shall have the following safety features:
 - 5.2.1. Any activations of the dispenser shall only occur when an object is placed within 4 inches (98 mm) of the sensing device.
 - 5.2.2. The dispenser shall not dispense more than the amount required for hand hygiene consistent with label instructions as regulated by the United States Food and Drug Administration (USFDA).
 - 5.2.3. An object placed within the activation zone and left in place will cause only one activation.
6. Storage and use of alcohol-based hand rubs shall be in accordance with the applicable provisions of Sections 5704 and 5705.
7. Dispensers installed in occupancies with carpeted floors shall only be allowed in *smoke compartments* or *fire areas* equipped throughout with an *approved automatic sprinkler system* in accordance with Section 903.3.1.1 or 903.3.1.2.

5705.5.1 Corridor installations. In addition to the provisions of Section 5705.5, where ~~wall-mounted-approved~~ dispensers containing alcohol-based hand rubs are installed or located in *corridors* or rooms and areas open to the *corridor*, they shall be in accordance with all of the following:

1. Level 2 and 3 aerosol containers shall not be allowed in *corridors*.
2. The maximum capacity of each Class I or II liquid dispenser shall be 41 ounces (1.21 L) and the maximum capacity of each Level 1 aerosol dispenser shall be 18 ounces (0.51 kg).
3. The maximum quantity allowed in a *corridor* within a *control area* shall be 10 gallons (37.85 L) of Class I or II liquids or 1135 ounces (32.2 kg) of Level 1 aerosols, or a combination of Class I or II liquids and Level 1 aerosols not to exceed, in total, the equivalent of 10 gallons (37.85 L) or 1,135 ounces (32.2 kg) such that the sum of the ratios of the liquid and aerosol quantities divided by the allowable quantity of liquids and aerosols, respectively, shall not exceed one.
4. The minimum *corridor* width shall be 72 inches (1829 mm).
5. Projections into a *corridor* shall be in accordance with Section 1003.3.3.

Reason Statement: Since the last code update cycle, the pandemic has created a multitude of issues surrounding alcohol-based hand rub dispensers. There many variations to alcohol-based dispensers in use nowadays, not just wall-mounted dispensers. The fire code currently only addresses "wall-mounted" dispensers. Many occupancies are using stand-alone dispensers with amounts greater than 68 ounces (2L). The fire code should reflect the current changes in dispenser types available to society and adjust accordingly. Many dispensers in use contain up to 128 ounces and are located in a hallways and multiple dispensers are located in the same corridor. Fire code officials should have the ability to address the various types of dispensers to ensure the safety of the building occupants and protect the egress corridors. There have been numerous fires reported across the Commonwealth from alcohol-based hand rubs being ignited, more so in educational occupancies. These fires have great potential to cause a severe life safety hazard due to the fuel being used to ignite the fires. Allowing all dispensers to be approved by the fire code official may assist in lower the availability of this flammable liquid has an ignition source.

Cost Impact: The code change proposal will not increase or decrease the cost of construction

The code change proposal will not increase or decrease the cost of construction This proposal relates only to maintenance and inspection of alcohol-based hand rub dispensers, not construction.

Resiliency Impact Statement: This proposal will increase Resiliency

This proposal will increase Resiliency This proposal will increase resiliency since it will provide that all alcohol-base hand rub dispensers will safety provisions. This will increase safety regarding the use and handling of these dispensers and the facilities and occupants they are used in.

Workgroup Recommendation

2021 Workgroups Workgroup Action: None

2021 Workgroups Reason:

Workgroup Action

- Consensus Approval
 - Consensus Disapproval
 - Carry Over to Next Meeting
 - Carry over to Final
 - Non-Consensus
 - None
-

Public Comments for: FP5705.5-21

This proposal doesn't have any public comments.

PM101.1-21

Proponents: Paula Eubank (paula.neal.eubank@gmail.com)

2018 Virginia Maintenance Code

Revise as follows:

101.1 Short title. The *Virginia Uniform Statewide Building Code*, Part III, the Virginia Maintenance Code, ~~may~~ should be cited referred to as the "Virginia Property Maintenance Code," or the short title of "VPMC" in order to eliminate any confusion with the Virginia Mechanical Code or the "VMC" as the "VMC."

Reason Statement: Revise the short title of the Virginia Property Maintenance Code or VMC to VPMC to resolve the historical and practical issue of confusion with the Virginia Mechanical Code (VMC). Editorial revision only.

This reference requires revision of all short title references of the VMC to VPMC throughout all Codes.

Cost Impact: The code change proposal will not increase or decrease the cost of construction
Editorial revision only.

Resiliency Impact Statement: This proposal will neither increase nor decrease Resiliency
Editorial revision only.

Workgroup Recommendation

2021 Workgroups Workgroup Action: None

2021 Workgroups Reason:

Workgroup Action

- Consensus Approval
- Consensus Disapproval
- Carry Over to Next Meeting
- Carry over to Final
- Non-Consensus
- None

Public Comments for: PM101.1-21

This proposal doesn't have any public comments.

PM103.2-21

Proponents: Ronald Clements (clementsro@chesterfield.gov)

2018 Virginia Maintenance Code

Delete without substitution:

STRUCTURE UNFIT FOR HUMAN OCCUPANCY. An existing *structure* determined by the *code official* to be dangerous to the health, safety and welfare of the *occupants* of the *structure* or the public because (i) of the degree to which the *structure* is in disrepair or lacks maintenance, ventilation, illumination, sanitary or heating facilities or other essential equipment, or (ii) the required plumbing and sanitary facilities are inoperable.

Revise as follows:

UNSAFE STRUCTURE. An existing *structure* ~~(i)~~ determined by the *code official* to be dangerous to the health, safety and welfare of the *occupants* of the *structure* or the public ~~, (ii) that contains unsafe equipment, or (iii) that because of, but not limited to, any of the following conditions:~~

1. The structure contains unsafe equipment;

2. The structure is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is likely;

3. The structure is unsecured or open;

4. The degree to which the structure is in disrepair or lacks maintenance, ventilation, illumination, sanitary or heating facilities or other essential equipment;

5. The required plumbing and sanitary facilities are inoperable.

~~shall be deemed to be an unsafe structure. likely. A vacant existing structure~~

103.2 Maintenance requirements. Buildings, *structures* and systems shall be *maintained* and kept in good repair in accordance with the requirements of this code and when applicable in accordance with the USBC under which such building or structure was constructed. No provision of this code shall require alterations to be made to an existing building or *structure* or to equipment unless conditions are present which meet the definition of an *unsafe structure* ~~or a structure unfit for human occupancy.~~

105.2 Notices, reports and orders. Upon findings by the *code official* that violations of this code exist, the *code official* shall issue a correction notice or notice of violation to the *owner*, *tenant* or the person responsible for the maintenance of the *structure*; or, a notice of unsafe structure in accordance with Section 106 when a building or structure is determined by the code official to be an unsafe structure. Work done to correct violations of this code subject to the permit, inspection and approval provisions of the VCC shall not be construed as authorization to extend the time limits established for compliance with this code. When the *owner* is not the responsible party to whom the notice of violation or correction notice is issued, a copy of the notice shall also be delivered to the *owner*.

105.4 Notice of violation. If the *code official* determines there are violations of this code a written notice of violation may be issued to the *owner*, *tenant* or the person responsible for the maintenance or use of the building or *structure* in lieu of a correction notice as provided for in Section 105.3. In addition, the *code official* shall issue a notice of violation for any uncorrected violation remaining from a correction notice established in Section 105.3. The *code official* shall provide the section numbers for any code provisions cited in the notice of violation to the *owner*, *tenant* or the person responsible for the maintenance or use of the building or *structure*. The notice shall require correction of the violation within a reasonable time. The *owner*, *tenant* or person to whom the notice of violation has been issued shall be responsible for contacting the *code official* within the timeframe established for any reinspections to assure the violations have been corrected. The *code official* will be responsible for making such inspection and verifying the violations have been corrected. In addition, the notice of violation shall indicate the right of appeal by referencing the appeals section of this code.

Exceptions:

- ~~1. Notices issued and legal proceedings or emergency actions taken under Section 106 for unsafe structures, unsafe equipment, or structures unfit for human occupancy.~~
2. Notices issued for failing to maintain buildings and structures as required by Section 103.2, as evidenced by multiple or repeated violations on the same property are not required to include a compliance deadline for correcting defects.

105.6 Further action when violation not corrected. If the responsible party has not complied with the notice of violation or notice of unsafe structure, the *code official* may request the legal counsel of the locality to institute the appropriate legal proceedings to restrain, correct or abate the violation or to require the removal or termination of the use of the building or *structure* involved. In cases where the locality or legal counsel so authorizes, the *code official* may issue or obtain a summons or warrant.

105.6.1 Further action for corrected violations. Compliance with a notice of violation or notice of unsafe structure notwithstanding, the *code official* may request legal proceedings be instituted for prosecution when a responsible party is served with three or more separate notices of violation or notice of unsafe structure for the same property within any 5 consecutive years. Legal proceedings shall not be instituted under this section for violation notices issued pursuant to the initial inspection of the property. Legal proceedings for violations that have been abated in residential rental *dwelling units* within a multifamily apartment development may only be instituted for such violations that affect safe, decent, or

sanitary living conditions.

Exception: Legal proceedings shall not be instituted for violations that have been abated on owner-occupied single family dwellings.

SECTION 106

UNSAFE STRUCTURES OR STRUCTURES UNFIT FOR HUMAN OCCUPANCY STRUCTURES

106.1 General. This section shall apply to existing *structures* which are classified as unsafe or unfit for human occupancy. All conditions causing such *structures* to be classified as unsafe or unfit for human occupancy shall be remedied or as an alternative to correcting such conditions, the *structure* may be vacated and secured against public entry or razed and removed. Vacant and secured *structures* shall still be subject to other applicable requirements of this code. Notwithstanding the above, when the *code official* determines that an *unsafe structure* or a *structure unfit for human occupancy* constitutes such a hazard that it should be razed or removed, then the *code official* shall be permitted to order the demolition of such *structures* in accordance with applicable requirements of this code.

Note: *Structures* which become unsafe during construction are regulated under the VCC.

Delete without substitution:

106.2 Inspection of unsafe or unfit structures. The *code official* shall inspect any *structure* reported or discovered as unsafe or unfit for human habitation and shall prepare a report to be filed in the records of the local enforcing agency and a copy issued to the *owner*. The report shall include the use of the *structure* and a description of the nature and extent of any conditions found.

Revise as follows:

106.3 Notice of unsafe structure or structure unfit for human occupancy structure. When a *structure* is determined to be unsafe or unfit for human occupancy by the *code official* to be an *unsafe structure*, a written notice of *unsafe structure* or *structure unfit for human occupancy* shall be issued by personal service to the *owner*, the *owner's* agent or the person in control of such *structure*. If the notice is unable to be issued by personal service, then the notice shall be sent by registered or certified mail to the last known address of the responsible party and a copy of the notice shall be posted in a conspicuous place on the *premises*. The notice shall specify the section numbers for any code provisions cited, the corrections necessary to comply with this code, or if the *structure* is required to be demolished, the notice shall specify the time period within which the demolition must occur. Requirements in Section 105.2 for notices of violation are also applicable to notices issued under this section to the extent that any such requirements are not in conflict with the requirements of this section. The notice of *unsafe structure* shall indicate the right of appeal by referencing the appeals section of this code. The person to whom the notice has been issued shall be responsible for contacting the *code official* within the timeframe established for any re-inspections to assure the violations have been corrected. The *code official* will be responsible for making such inspection and verifying the violations have been corrected.

Note: Whenever possible, the notice should also be given to any *tenants* of the affected *structure*.

106.3-1 106.4 Vacating unsafe structure. If the *code official* determines there is actual and immediate danger to the *occupants* or public, or when life is endangered by the occupancy of an *unsafe structure*, the *code official* shall be authorized to order the *occupants* to immediately vacate the unsafe structure. When structure of prohibit occupancy of the unsafe structure. When an *unsafe structure* is ordered to be vacated or prohibited from occupancy, the *code official* shall post a notice with the following wording at each entrance: "THIS STRUCTURE IS UNSAFE AND ITS OCCUPANCY (OR USE) IS PROHIBITED BY THE CODE OFFICIAL." After posting, occupancy or use of the *unsafe structure* shall be prohibited except when authorized to enter to conduct inspections, make required repairs or as necessary to demolish the *structure*. include the order in the notice of unsafe structure, or issue a separate order.

Delete without substitution:

106.4 Posting of notice. If the notice is unable to be issued by personal service as required by Section 106.3, then the notice shall be sent by registered or certified mail to the last known address of the responsible party and a copy of the notice shall be posted in a conspicuous place on the *premises*.

Revise as follows:

106.5 Posting of placard. In the case of a *structure* unfit for human habitation, at the time the notice is issued, a placard An *unsafe structure* that has been issued an order to vacate or prohibited from occupancy shall be posted with the following wording shall be posted at the each entrance to the structure: "THIS STRUCTURE IS UNFIT FOR HABITATION UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL." In the case of an *unsafe structure*, if the notice is not complied with, a placard with the above wording shall be posted at the entrance to the *structure*. After a *structure* is placarded, entering the *structure* shall be prohibited except as authorized by the *code official* to make inspections, to perform required repairs or to demolish the *structure*. In addition, the placard shall not be removed until the *structure* is determined by the *code official* to be safe to occupy, nor shall the placard be defaced.

106.6 Revocation of certificate of occupancy. If a notice of *unsafe structure* or *structure unfit for human habitation* is not complied with within the time period stipulated on the notice, the *code official* shall be permitted to request the local building department to revoke the certificate of occupancy issued under the VCC.

106.7 Vacant and open structures. When an *unsafe structure* or a *structure* unfit for human habitation is open for public entry at the time a placard

is issued under Section 106.5, the *code official* shall be permitted to authorize the necessary work to make such *structure* secure against public entry whether or not legal action to compel compliance has been instituted.

106.8 Emergency repairs and demolition. To the extent permitted by the locality, the *code official* may authorize emergency repairs to ~~unsafe structures~~ ~~structures~~ or ~~structures unfit for human habitation~~ when it is determined that there is an imminent danger of any portion of the ~~unsafe structure~~ or ~~structure unfit for human habitation~~ collapsing or falling and when life is endangered. Emergency repairs may also be authorized where there is a code violation resulting in the immediate serious and imminent threat to the life and safety of the *occupants*. The *code official* shall be permitted to authorize the necessary work to make the *structure* temporarily safe whether or not legal action to compel compliance has been instituted. In addition, whenever an *owner* of an ~~unsafe structure~~ or ~~structure unfit for human habitation~~ fails to comply with a notice to demolish issued under Section 106.3 in the time period stipulated, the *code official* shall be permitted to cause the structure to be demolished. In accordance with §§ 15.2-906 and 15.2-1115 of the Code of Virginia, the legal counsel of the locality may be requested to institute appropriate action against the property *owner* to recover the costs associated with any such emergency repairs or demolition and every such charge that remains unpaid shall constitute a lien against the property on which the emergency repairs or demolition were made and shall be enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1 of the Code of Virginia.

Note: *Code officials* and local governing bodies should be aware that other statutes and court decisions may impact on matters relating to demolition, in particular whether newspaper publication is required if the *owner* cannot be located and whether the demolition order must be delayed until the *owner* has been given the opportunity for a hearing. In addition, *historic building* demolition may be prevented by authority granted to local historic review boards in accordance with § 15.2-2306 of the Code of Virginia unless determined necessary by the *code official*.

106.9 Closing of streets. When necessary for public safety, the *code official* shall be permitted to order the temporary closing of sidewalks, streets, public ways or *premises* adjacent to unsafe or unfit structures and prohibit the use of such spaces.

Reason Statement: The overall intent of this code change is to simplify the unsafe building provisions of the VMC and get rid of the two version of "unsafe", unsafe structure and structure unfit for human occupancy, and combine them into one definition and process.

Unsafe Structure and Structure Unfit for Human Occupancy definitions- The two definitions are a distinction without a difference. Both definitions are defining structures that are "determined by the code official to be dangerous to the health, safety, and welfare of the occupants of the structure or the public." That is the base definition in both definitions. They are the same. Technically, unfit for human occupancy is a subset of unsafe structure. If you declare a building unfit for human occupancy, since it is then by definition dangerous to the health, safety, and welfare of the occupants of the structure or the public, it is also by definition an unsafe structure. Where they differ is in what constitutes the quoted phrase in each definition. Why does it matter? Dangerous is dangerous. To correct this both definitions have been combined into the definition of Unsafe structure, and Structure Unfit for Human occupancy has been deleted. The new list in the unsafe structure definition is a combination of both lists from both definitions. With the deletion of the Unfit for Human Occupancy definition, the term has been deleted throughout the code sections.

The Virginia Maintenance Code has included structures unfit for human habitation (or occupancy) within the Unsafe Building (later Unsafe Structure) section as a descriptor of unsafe buildings/structures until the 2003 edition of the USBC when the title of the section was changed to Unsafe Structures or Structures unfit for Human Habitation and some minor distinctions in the section were created. Even in the current 2018 code the two are somewhat blurred together in section 106 and the terms unfit for human habitation and unfit for human occupancy are still used haphazardly and interchangeably. The difference in code application between the two definition is subtle and hard to justify, as detailed below:

"Structure Unfit for Human occupancy" verses "unsafe structures"

106.1 - No difference in code application

106.2 - No difference in code application

106.3 - No difference in code application

106.3.1 - Grants code official authority to vacate an unsafe structure if there is an immediate danger, or life is endangered, which is always the case if a building meets the definition of unsafe structure. Vacating a structure unfit for human habitation (occupancy) is addressed in section 106.5 with a very slight difference in it is based on posting the placard.

106.4 - No difference in code application

106.5 - Refers to structure unfit for human habitation, if you assume that unfit for human habitation is a synonym for unfit for human occupancy (which is defined) then the difference between unfit for human occupancy and unsafe structure is that if it is unfit you must post the placard, if it is unsafe, you post the placard if the notice is not complied with.

106.6 - No difference in code application

106.7 - No difference in code application

106.8 - No difference in code application

106.9 - No difference in code application

As detailed in the above list the only difference in code application is in 106.3.1 and 106.5. 106.3.1 grants authority to vacate and unsafe structure and 106.5 implies based on placarding an unfit structure that entering the unfit structure is prohibited. Effectively what is the difference? The difference is subtle to negligible. Clearly not enough to justify separate definitions and subtle differences in code provisions that make little sense. The other difference is the requirement to immediately placard if unfit verses placard if notice is not complied with for unsafe. Why the difference?

Lastly there has been some confusion regarding application of the USBC (VCC) section 104.1 provision in the second paragraph of the section. In VCC section 104 it states that following: upon a finding by the local building department, following a complaint by a tenant of a residential dwelling unit that is the subject of such complaint, that there may be a violation of the unsafe structures provisions of part III of the USBC, also known as the VMC, the local building department shall enforce such provisions. The confusion is that some localities have interpreted this to mean that this provision only applies to "unsafe structures" and not "structures unfit for human occupancy." The first error in this interpretation is that all unfit structures are also, by definition unsafe. Further investigation into the legislative and code development history shows that the legislative intent was to enforce all unsafe provisions on tenant occupied property, including structures unfit for human occupancy. Please see the attached documentation (Files attached to this code change in cdpVA) that chronicles the legislative actions that created this requirement and the associated code provisions that were in effect when each bill was enacted. It is clear that the legislature intended for all unsafe and unfit conditions to be addressed in what is now VCC section 104.1. When the legislation was passed to create the requirement that is now in VCC 104.1, unfit for human habitation was a descriptor of unsafe buildings (the terms at the time) in the Unsafe Buildings section of USBC Volume 2. So clearly the legislative intent was to apply the requirement to enforce unsafe and unfit building provisions for both conditions, not just unsafe buildings. The next bill that was passed, which affected the unsafe building provisions was HB2109. Originally in HB2109 the law referenced a specific section number in USBC volume two. At the time HB 2344, which addressed search warrants and inspection, was presented the section number in the code for unsafe building had changed so the bill included a cleanup of the statute to remove the USBC section number (which is subject to change) and just refer to the section title "unsafe structure". It was not until the 2003 edition of the USBC, without any additional changes to the statute, that structures unfit for human habitation was pulled into the section title and treated as a separate companion term to unsafe structure. Clearly unfit for human habitation was not broken out by the General Assembly to limit application of VCC section 104.1 as is the assumption used for the incorrect interpretation.

I asked DHCD staff for their opinion on this matter and Jeff Brown informed me that the question had previously been raised to DHCD staff and he provided me the following email regarding application of VCC 104.1 to structures unfit for human occupancy. I also asked if DHCD had a documented reason statement or any other documentation that described the intent of the code change that added unfit for human habitation to the title of the unsafe structures section in the 2003 USBC and Jeff informed me that DHCD did not have any such documentation.

----- Forwarded message -----

From: Brown, Jeffrey <jeff.brown@dhcd.virginia.gov>

Date: Fri, Jul 12, 2019 at 2:15 PM

Subject: Re: FW: USBC 104.1, complaints by tenants of residential dwelling units

To: REDACTED

Cc: Potts Richard ilv62300 <richard.potts@dhcd.virginia.gov>, King, Thomas <thomas.king@dhcd.virginia.gov>, Harper Roger hqb65995 <skip.harper@dhcd.virginia.gov>, Cindy Davis <cindy.davis@dhcd.virginia.gov>

Hi REDACTED,

The requirement in VCC 104.1 comes from state law. See § 36-105(C)(2) of the Code of Virginia:

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

My first thought was that since the VMC (and the state law where the language comes from) is specific to "unsafe structures", it wouldn't apply to "unfit structures"....then I did some historical research and went back to the 1996 USBC (link below):

<https://www.dhcd.virginia.gov/sites/default/files/Docx/building-codes-regulations/archive-codes/1996/1996-virginia-uniform-statewide-building-code.pdf>

See Section 105.1.1 of Part I (USBC) and then see Section 129.1 of Part II (VMC). It appears that when the state law was passed, the unsafe/unfit provisions were not so separate/distinct. Also at the time the original law was passed, the law said "section 105" and not "unsafe provisions", so it would have been clear at that time that it applied to both unsafe and unfit. In 2001 (while the 1996 USBC was in effect) the language was amended to say "the unsafe provisions", but again, at that time a structure unfit for human habitation was an unsafe structure. Here is a link to the bill from

2001:

<http://lis.virginia.gov/cgi-bin/legp604.exe?011+sum+HB2344>

HB2344 was really related to warrants and it looks like they were just trying to clean up the reference to the unsafe section so that it wasn't tied to a specific USBC section number. I don't think the intent was to limit it any further, because again at that time, there was no clear distinction between unsafe/unfit.

Over the years, changes have been made to the VMC to make them distinct, but it appears to me that when the law was passed, it would have applied to what we now call unfit structures as well. If the requirement was only in the VMC, I would say it definitely only applies to unsafe and not unfit. Since it is a law, just because we monkeyed around with the unsafe provisions and created a separate definition and notice requirements for unfit structures, I am not sure it should make the law not apply to unfit structures now.

As a side note....In my opinion, if a BO in a locality that does not enforce the VMC, gets a complaint from a tenant of a rental dwelling unit and they allege the dwelling is unsafe, the BO has an obligation to inspect and prepare a report per section 106.2. That decision can then be appealed by the tenant if they are aggrieved.

Those are my thoughts, but I've copied some others to chime in if they have differing opinions...

Sincerely,

JEFF BROWN, MCP

Director of State Building Codes Office

Section specific change reason statements:

103.2- Removed reference to *structure unfit for human occupancy*.

105.2- Since an unsafe structure is a violation requiring notice, and this is a general section on notices, reports and orders, the unsafe structure notice is proposed to be added to the list of notices detailed in this section.

105.4 Exception #1 deletion- Exception #1 does not provide a definable exception. It does not specify what it is exempting. The proposed amendments to section 106 address the provisions addressed in this section relatable to unsafe structures so that Section 106 will stand on its own.

105.6 and 105.6.1- Since an unsafe structure is a violation and a notice of unsafe structures is equivalent to a notice of violation, the unsafe structure notice is proposed to be added to this section. This is further supported by the current reference in section 106.3 that the requirements of Section 105.2 for notices of violation are also applicable.

106 (Title)- Removed reference to *structure unfit for human occupancy*.

106.1- Removed reference to *structure unfit for human occupancy*. The terminology "razed or removed" was replaced with the term "demolished" for consistency because the term demolished is used in other sections within Section 106.

106.2- This section is proposed for deletion. Inspections are addressed in section 104.5.3. Taken literally, which is the intent of code language, this section assumes someone other than the code official can discover an unsafe/unfit structure and then based on that discovery the code official is compelled to inspect and prepare a report on the conditions, not determine if it is unsafe or unfit for occupancy. Someone other than the code official cannot determine if a structure is unsafe or unfit for human occupancy; therefore, the validity of this section is questionable.

106.3- Removed references to *structure unfit for human occupancy*. This section relies on a very interpretive reference back to 105.2 "to the extent that such reference does not conflict with this requirement." I also question if the referenced section number is complete or correct as other section of 105 should be applicable. To clean this up and make it clear the reference to 105.2 has been replaced by bringing the necessary requirements from 105 over to 106.3 that includes: the right of appeal, responsibility of the person issued the notice, the timeframe to correct, the responsibility of the code official to reinspect. Additionally, since this section addresses service, and section 106.4 also addresses service, the provisions of section 106.4 that addresses when the notice is unable to be served by personal service are proposed to be relocated in this section so that all of the service options are available in the one section.

106.3.1, 106.4- With the service provision in 106.4 proposed to be relocated to 106.3 and the fact that vacating an unsafe structure is a stand-alone provision, 106.3.1 is proposed to be renumbered 106.4. Additionally, the statement about actual and immediate danger is proposed to be removed because the other qualifier is "or when life is endangered by occupancy". Since the definition of Unsafe structure is "dangerous to the health safety and welfare of the occupants" any declaration of unsafe structure is going to establish the structure is dangerous or endangers life. All of the phrasings of dangerous are synonymous. The phrase "prohibit occupancy" was added as that language is used on the required placard in current

sections 106.3.1 and 106.5. The requirement to post the placard is proposed for deletion and the placard requirement in 106.5 will remain and be used; there is no need to have two separate slightly different placard wording requirements. Lastly, the last sentence is proposed to clearly state that an order to vacate an unsafe structure shall be included in the notice or issued in a separate notice.

106.5- Removed references to *structure unfit for human occupancy* and added the reference to unsafe structures. The section already applied to unsafe structures where the notice of unsafe structures had not been complied with (even though the placard refers to "Structure unfit for human habitation"). This proposed change removes the reference to unfit and moves the requirement to placard from 106.4 (prior 106.3.1) to this section. Basically this is a consolidation of current sections 106.3.1 and 106.5.

106.6- Removed references to *structure unfit for human occupancy*.

106.7- Removed references to *structure unfit for human occupancy*. The at the time a placard is issued qualifier to authorize securing the property against entry is proposed to be deleted because in most vacant building cases the initial securing of the building gets defeated by vandals or squatters and has to be re-installed.

106.8- Removed references to *structure unfit for human occupancy*.

106.9- Removed references to *structure unfit for human occupancy*.

Cost Impact: The code change proposal will not increase or decrease the cost of construction
This is an editorial code change and has no impact on construction cost.

Resiliency Impact Statement: This proposal will neither increase nor decrease Resiliency
This is an editorial code change and has no impact on resiliency.

Attached Files

- **Unsafe.Unfit code change documentation part 2.pdf**
<https://va.cdpassess.com/proposal/1128/1531/files/download/666/>
- **Unsafe.Unfit code change documentation part 1.pdf**
<https://va.cdpassess.com/proposal/1128/1531/files/download/665/>

Workgroup Recommendation

2021 Workgroups Workgroup Action: None

2021 Workgroups Reason:

Workgroup Action

- Consensus Approval
 - Consensus Disapproval
 - Carry Over to Next Meeting
 - Carry over to Final
 - Non-Consensus
 - None
-

Public Comments for: PM103.2-21

This proposal doesn't have any public comments.

PM103.2.3-21

Proponents: Christina Jackson (jacksoncd@nnva.gov)

2018 Virginia Maintenance Code

Revise as follows:

103.2.3 Responsibility. The *owner* of a *structure* shall provide and maintain all buildings, *structures*, systems, facilities and associated equipment in compliance with this code unless it is specifically expressed or implied that it is the responsibility of the *tenant* or *occupant*.

Note: Where an *owner* states that a *tenant* is responsible for performing any of the owner's duties under this code, the *code official* may request information needed to verify the owner's statement, as allowed by § 55-11209 A 5 of the Code of Virginia, Virginia but not to exceed the provisions of owner(s) responsibility as protected under the Virginia Residential Landlord and Tenant Act.

Reason Statement: This code change has become problematic for code officials throughout Virginia. In the Hampton Roads area, it has become very troublesome with these Rent to Own Buyers. Many of these owners are taking properties that have multiple code violations and requiring a large down payment to move into these very properties. Once the occupant/tenant moves into the property, they find mechanical, plumbing, electrical issues, and in some cases find unfit conditions for human occupancy. The tenant will then report their concerns to the local code official and the conditions warrant notice of violation. The owner then in turn cites this NOTE of 103.2.3 that the tenant is responsible for making major repairs to the property. When the tenant cannot make the repairs or the conditions worsen, the "owners" are foreclosing on their "rent to own" agreement and evicting people in the process. The owners of the property are not making the repairs before starting this cycle all over again. At issue is that the tenants do not have the financial means nor will they get any financial gains at fixing some of these major issues that are wrong with these properties. The tenants cannot pull permits on the owner's behalf to make the repairs to these properties. The current owner who is abusing the intent of this code has a YouTube page (link below) that lists over 400 properties in the Hampton Roads area. His push back in multiple emails and conversations once he receives the code violations " well my agreement says you all have to make them responsible for fixing the issue" The problem is so bad that advocates, state representatives, and local news stations are looking at other remedies that can be taken against this type of predatory renting. Adding the language that the repairs cannot be anything that is not a provision protected under the Virginia Landlord Tenant Act will help code officials and the local city attorney's cases in court when holding the owner responsible for these repairs. I would like to change the code to help spell out the intent of the code.

72019 LLC's YouTube Page <https://youtube.com/user/69joeychianese>

I have additional supporting documentation

Cost Impact: The code change proposal will not increase or decrease the cost of construction
This code change proposal will not increase or decrease the cost of construction

Resiliency Impact Statement: This proposal will neither increase nor decrease Resiliency
This proposal will neither increase nor decrease Resiliency

Workgroup Recommendation

2021 Workgroups Workgroup Action: None

2021 Workgroups Reason:

Workgroup Action

- Consensus Approval
- Consensus Disapproval
- Carry Over to Next Meeting
- Carry over to Final
- Non-Consensus
- None

Public Comments for: PM103.2.3-21

This proposal doesn't have any public comments.