

**REPORT OF THE
BOARD OF HOUSING AND COMMUNITY DEVELOPMENT**

**THE MARKETING AND SALE
OF AGRICULTURAL PRODUCTS
IN FARM STRUCTURES AND
THE UNIFORM STATEWIDE
BUILDING CODE**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 17

**COMMONWEALTH OF VIRGINIA
RICHMOND
1999**



COMMONWEALTH of VIRGINIA

James S. Gilmore, III
Governor

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Barry E. DuVal
Secretary of
Commerce and Trade

William C. Shelton
Director

November 16, 1998

TO: The Honorable James S. Gilmore III, Governor of Virginia

and

Members of the Virginia General Assembly

The 1998 General Assembly, through House Bill 935, directed the Board of Housing and Community Development to "*study the use of Virginia farm buildings and structures in the marketing and sale of agricultural goods and services.*" In conducting its study, the bill directed the Board to seek the input and expertise of agricultural enterprises and organizations, local building code officials, and other interested parties and to determine the feasibility and appropriateness of establishing certain requirements under the Uniform Statewide Building Code for farm buildings and structures used in such marketing and sales activities to protect the public health and safety. The Board appointed an advisory committee composed of building and fire safety professionals and persons representing various agricultural enterprises and organizations to assist in this study.

Enclosed for your review and consideration is the report of the Board of Housing and Community Development which has been prepared in response to House Bill 935.

Respectfully submitted,

H. Richard Ashe

Chairman

Board of Housing and Community Development



PREFACE

Virginia statute (Section 36-99 of the Code of Virginia) exempts most buildings used for farm purposes from the building safety requirements of the Uniform Statewide Building Code (the "USBC"). During the 1998 General Assembly, House Bill 935 (Chapter 755 of the 1998 Acts of Assembly) was passed to allow increased public uses and public assembly in farm buildings that are exempt from the USBC. This legislation also directed the Board of Housing and Community Development to determine, for protection of public health and safety, the feasibility and appropriateness of establishing certain requirements under the Uniform Statewide Building Code for farm buildings and structures used in marketing and sales activities.

The Board appointed an advisory committee to assist in this study and to consider both the impacts on farm businesses from regulating farm buildings and the need to provide for public safety. This committee was composed of Virginia building and fire safety officials and persons representing various agricultural enterprises and organizations. Advisory Committee members met in Richmond on three separate occasions to discuss issues related to farm building regulation and public safety. The Board expresses its appreciation for the work of the Advisory Committee members, staff of the Department of Housing and Community Development and staff of the Department of Agriculture and Consumer Services for their contributions to this study.

HOUSE BILL 935
REPORT ON THE APPROPRIATENESS OF ESTABLISHING
REQUIREMENTS UNDER THE
UNIFORM STATEWIDE BUILDING CODE FOR FARM BUILDING AND
STRUCTURES USED IN MARKETING AND SALES ACTIVITIES

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I. EXECUTIVE SUMMARY

The 1998 General Assembly passed House Bill 935 (Chapter 755 of the 1998 Acts of Assembly) directing the Board of Housing and Community Development (the "Board") to study the use of Virginia farm buildings and structures in the marketing and sale of agricultural goods and services. The bill also directed the Board to determine the feasibility and appropriateness of establishing certain requirements under the Uniform Statewide Building Code for farm buildings and structures used in marketing and sales activities to protect public health and safety.

In order to assure a comprehensive study considering the full range issues and impacts of regulating farm buildings to protect public health and safety, the Board established an advisory committee composed of Virginia building and fire safety officials and persons representing various agricultural enterprises and organizations. Advisory Committee members met in Richmond on three separate occasions to discuss issues related to farm building regulation and public safety. A listing of the Advisory Committee members is provided in Appendix C of this report.

During 1998, the Board of Housing and Community Development, its Advisory Committee on the Farm Building Study and staff of the Department of Housing and Community Development have conducted research, gathered information through statewide and interstate surveys and convened meetings to consider the issue of public safety in farm buildings and structures and the impact of requiring building safety requirements in farm buildings. This process identified key issues related to farm businesses and public safety that require additional information, analysis and consideration. The Board therefore recommends that the study of farm buildings pursuant to House Bill 935 (1998) be continued during 1999. The Board will report its findings and final recommendations to the Governor and the 2000 Session of the General Assembly. During 1999, the study of farm buildings and public safety and will include the following:

1. **Additional Meetings:**

The Board will reconvene the Advisory Committee to continue discussions among farm industry representatives and building and fire safety officials, leading to the development of a definition of the terms "farm" and "public use." This would assist in establishing criteria for determining when a building or structure is no longer used primarily for farm purposes.

2. Additional Information:

Obtain additional information and documentation on property losses personal injuries, or deaths occurring in Virginia farm buildings during the last ten years.

3. Possible Site Visits:

To obtain a better understanding of the broad range of business activities taking place in farm buildings in Virginia several farm operations where public use and assembly currently take place may be visited.

Therefore, it is the recommendation of the Board to amend to the third enactment of House Bill 935 (1998) as follows:

3. That the Board of Housing and Community Development (the Board) shall study the use of Virginia farm buildings and structures in the marketing and sale of agricultural goods and services. In conducting its study, the Board shall seek the input and expertise of agricultural enterprises and organizations, local building code officials, and other interested parties. The Board shall determine the feasibility and appropriateness of establishing certain requirements under the Uniform Statewide Building Code for farm buildings and structures used in such marketing and sales activities to protect the public health and safety. The Board shall report its findings and recommendations to the Governor and the ~~1999~~ 2000 Session of the General Assembly.

II. BACKGROUND

Prior to 1972, localities were allowed to develop and enforce their own building codes. Local building code requirements varied greatly; many localities in the state did not have any building code or building safety requirements. Because of the wide range of building requirements throughout the state, the 1972 Virginia General Assembly directed the State Board of Housing to promulgate statewide building safety regulations to be enforced in all localities and to supercede all local building codes in Virginia. During 1973, the State Board of Housing adopted the Uniform Statewide Building Code (USBC). Several localities were allowed to maintain their local building code for up to two years during the transitional period.

The stated purpose of the USBC was *“to protect the health, safety and welfare of the residents of this State, provided that buildings and structures should be permitted to be constructed at the least possible cost consistent with recognized standards of health and safety.”* In protecting health, safety and welfare, the USBC regulated construction and maintenance of buildings, with “building” being defined as *“a combination of any materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons, or property.”*

In order to limit possible financial burdens on farmers from the requirements of the USBC for farm buildings that would not be used by the public or for residential use, the 1974 General Assembly provided within the USBC that *“farm buildings not used for residential purposes and frequented generally by the owner, members of his family, and farm employees shall be exempt from the provisions of the Uniform Statewide Building Code.”*

During 1975 another definition was added to the USBC providing the definition to the term “structure” as *“an assembly of materials forming a construction for occupancy or use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, trestles, piers, wharves, swimming pools, storage binds, and other structures of this general nature; provided, however, that farm structures not used for residential purposes shall be exempt from the provisions of the Uniform Statewide Building Code...”* This definition provided an exemption from the USBC for all farm structures which are not used for residential purposes. Therefore, in determining if a farm building is exempt from the USBC, it is no longer necessary to determine if farm buildings, not used for residential purposes, are “frequented generally by the owner, members of his family, and farm employees...” The all inclusive definition of “structure” superceded the language for “building” (Virginia Attorney General Opinion, November 23, 1984) and

therefore, all nonresidential farm buildings were exempt from the USBC. This language has remained in the Code of Virginia as part of the USBC until 1998.

The 1998 General Assembly added new exemption language and a definition for “farm building or structure” to specifically allow certain public uses and public assembly in farm buildings. The 1998 statute provides the following expanded definition of a “farm building or structure” for the exemption from the USBC:

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

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

The provisions of this 1998 legislation are scheduled by statute to expire on July 1, 2000 (see House Bill 935 in Appendix A of this report). It is the use of farm buildings by the general public beyond simple visitation that has increased concern for public health and safety. It was the purpose of the Board and the Advisory Committee to the Board to identify potential risks to public health and safety in farm buildings and to develop possible ways to assure safety within farm buildings used by the public.

III. STATE BUILDING CODE TECHNICAL REVIEW BOARD

The State Building Code Technical Review Board (the “TRB”) was established by the General Assembly in 1972 to provide building code officials a

means to have issues and questions regarding the USBC and the Statewide Fire Prevention Code (the "SFPC") interpreted and to provide the citizens of Virginia a means to appeal decisions arising under the application of the USBC, the SFPC, the Industrialized Building Safety Law, the Virginia Manufactured Housing Construction and Safety Standards Law and the Virginia Certification Standards. The TRB issues interpretations upon request and hears appeals cases monthly.

Section 36-118 of the Code of Virginia authorizes the TRB to interpret the provisions of the USBC and the SFPC. There have been several interpretations made by the TRB on issues relating to farm buildings and their use. These interpretations are summarized below.

Interpretation 70-75 (December 16, 1977): Greenhouses are only exempt from the provisions of the USBC when they are used as an accessory building on a farm. If a greenhouse is accessible to the public, then it is classified as Group M, Mercantile. If not, it is classified as Group S, Storage.

Interpretation 31-78 (April 25, 1980): Since farm structures are exempt from the USBC, a farm storage building with a dirt floor did not require electrical outlets with ground fault protection.

Interpretation 80-84 (August 21, 1987): An office building located on a hog farm and associated with the hog operation is a farm building and is therefore exempt from the USBC.

Section 36-114 of the Code of Virginia establishes the TRB as the appeal board for decisions arising under the application of the USBC. There have been three appeals cases heard by the TRB regarding farm buildings and farm building use. These cases and the TRB decision for each are summarized below.

Appeal Case 80-4 Lairds Nursery (July 25, 1980): A room (18 feet by 12 feet) that is part of a "farm building" and is used for seasonal farm sales of nursery products to the public is required to have a building permit.

Appeal Case 93-3 Green Thumb Enterprises (September 17, 1993): A building that was being used for storage was not a farm building but a storage building. Therefore, it was subject to the USBC.

Appeal Case 97-7 Totier Creek Winery (November 21, 1997): Areas of a building proposed for winery related uses related to sales and business offices fall within the exemption for farm structures. However, the areas proposed for tasting wines, the library, the public restrooms and the exterior

deck did not fall within the exemption for the farm structures and were subject to the USBC.

It was the decision of Appeal Case 97-7 that resulted in the 1998 legislation amending the definition of "farm building or structure" and allowing increased public use and assembly in farm buildings that are exempt from the USBC. Because state statute directs the TRB to provide recommendations to the Board of Housing and Community Development regarding a USBC and the SFPC, two members of the TRB served on the Advisory Committee to the Board for this study.

IV. STATEWIDE SURVEY

In order to obtain information regarding the use of farm buildings by the public and the safety concerns related to such public use, the Department of Housing and Community Development conducted a statewide survey of all 169 local building departments in Virginia. There were 117 localities that responded to the survey. Of the responding localities, forty-two (42) indicated that there were buildings or structures located on a farm that are used or visited by the public (35.8% of the respondents). Twenty-four (24), or 19.7% of the respondents, indicated problems or incidents that could have posed a threat to public health or safety. Nine (9), or 7.7% of the localities responding, indicated that they were aware of incidents in which someone was injured or there was property loss due to structurally unsafe conditions of a farm building or structures. The majority of respondents that provided additional comments indicated that they believe farm buildings used by the public should comply with the building safety regulations of the Uniform Statewide Building Code. Details of the survey are provided in Appendix D of this report.

V. ADVISORY COMMITTEE

An advisory committee, composed of building and fire safety professionals and representatives from various agricultural enterprises and organizations, was appointed by the Board to assist in this study. The Advisory Committee met three times in Richmond to discuss public safety issues regarding farm building use and the potential problems of regulation farm buildings and farm building use. The Advisory Committee requested Department of Housing and Community Development staff to conduct research on farm building regulation in other states and farm building regulation provided in the national model building codes. The results of this research are summarized in the following section. A listing of the members of the Advisory Committee is provided in Appendix C of this report.

VI. OTHER STATES AND NATIONAL MODEL BUILDING CODES

During this study, staff of the Department of Housing and Community Development was requested to conduct a survey of several other states and to review provisions of the national model building codes to provide information and to identify other options regarding the regulation of farm buildings and structures. Staff conducted this research and provided a presentation of the findings during the second meeting of the Advisory Committee.

Department staff was specifically requested to include Kentucky in the survey because of its wide range of agricultural businesses, including horse-related activities. States neighboring Virginia as well as other states were included in the survey to provide a comprehensive presentation of how states regulate farm buildings and structures. The states included in the survey were Kentucky, North Carolina, West Virginia, Tennessee, Ohio, New Jersey, and California. A general consensus of the seven states surveyed was that they each regulated building safety for new construction, but provided exemptions for farm buildings that would not be used by the public. Most states specifically exempt only those buildings that are not to be occupied by the public, used for any commercial/retail business activities, used as a place of employment or used for public assembly. Several states have established an occupant load as a threshold for regulation.

All three of the national model building codes - BOCA National Building Code, the Uniform Building Code, and the Standard Building Code - and the combined International Building Code, contain provisions for new construction of farm buildings that will not be used by the public. Most states have adopted one of the three model building codes. The model code provisions are generally minimal structural and fire safety requirements. As mentioned above, most states provide an exemption to even these minimal requirements for buildings to be used only for farm purposes with no public use. The model codes provide that any building that will be used by the public shall comply with the building safety requirements of the appropriate building use group.

VII. RECOMMENDATION

During 1998, the Board of Housing and Community Development, its Advisory Committee on the Farm Building Study and staff of the Department of Housing and Community Development have conducted research, gathered information through statewide and interstate surveys and convened three meetings to consider the issue of public safety in farm buildings and structures. This process identified key issues related to farm businesses and public safety that require additional information, analysis and consideration. The Board therefore recommends that the study of farm buildings pursuant to House Bill 935 (1998) be

continued during 1999. The Board will report its findings and final recommendations to the Governor and the 2000 Session of the General Assembly. During 1999, the study of farm buildings and public safety and will include the following:

1. Additional Meetings:

The Board will reconvene the Advisory Committee to continue discussions among farm industry representatives and building and fire safety officials, leading to the development of a definition of the terms "farm" and "public use." This would assist in establishing criteria for determining when a building or structure is no longer used primarily for farm purposes. Likewise, there will be discussions on what constitutes "farm activities" that would allow a building to be exempt from the building code. A better understanding of the difference between a public use and a farm use of a building on a farm will determine the feasibility and appropriateness of establishing requirements under the Uniform Statewide Building Code for certain buildings located on farms. The Advisory Committee shall complete its work and report its findings and recommendations to the Board by the September 1, 1999.

2. Additional Information:

Obtain additional information and documentation on property losses personal injuries, or deaths occurring in Virginia farm buildings during the last ten years. Some injuries, deaths and property losses were reported by respondents to the statewide survey of local building departments conducted this year by the Department of Housing and Community Development. During 1999, research will focus on obtaining additional information and documentation relating to these and other farm building incidents that have resulted in casualties or property losses. There will be an effort to include identification of the probable causes of the losses and injuries.

3. Possible Site Visits:

To obtain a better understanding of the broad range of business activities taking place in farm buildings in Virginia and to assist in identifying the need for possible increased public safety measures in these buildings, several farm operations where activity and assembly currently take place may be visited.

It is the recommendation of the Board to amend to the third enactment of House Bill 935 (1998) as follows:

3. That the Board of Housing and Community Development (the Board) shall study the use of Virginia farm buildings and structures in the marketing and sale of agricultural goods and services. In conducting its study, the Board shall seek the input and expertise of agricultural enterprises and organizations, local building code officials, and other interested parties. The Board shall determine the feasibility and appropriateness of establishing certain requirements under the Uniform Statewide Building Code for farm buildings and structures used in such marketing and sales activities to protect the public health and safety. The Board shall report its findings and recommendations to the Governor and the ~~1999~~ 2000 Session of the General Assembly.

CHAPTER 755

An Act to amend and reenact §§ 36-97 and 36-99 of the Code of Virginia, relating to the Uniform Statewide Building Code; farm buildings and structures.

[H 935]

Approved April 16, 1998

Be it enacted by the General Assembly of Virginia:

1. That §§36-97 and 36-99 of the Code of Virginia are amended and reenacted as follows:

§36-97. Definitions.

As used in this chapter, unless the context or subject matter requires otherwise, the following words or terms shall have the meaning herein ascribed to them, respectively:

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

"Review Board" means the State Building Code Technical Review Board.

"Building Code" means the Uniform Statewide Building Code and building regulations adopted and promulgated pursuant thereto.

"Code provisions" means the provisions of the Uniform Statewide Building Code as adopted and promulgated by the Board, and the amendments thereof as adopted and promulgated by such Board from time to time.

"Building regulations" means any law, rule, resolution, regulation, ordinance or code, general or special, or compilation thereof, heretofore or hereafter enacted or adopted by the Commonwealth or any county or municipality, including departments, boards, bureaus, commissions, or other agencies thereof, relating to construction, reconstruction, alteration, conversion, repair, maintenance, or use of structures and buildings and installation of equipment therein. The term does not include zoning ordinances or other land use controls that do not affect the manner of construction or materials to be used in the erection, alteration or repair of a building or structure.

"Municipality" means any city or town in this Commonwealth.

"Local governing body" means the governing body of any city, county or town in this Commonwealth.

"Local building department" means the agency or agencies of any local governing body charged with the administration, supervision, or enforcement of the Building Code and regulations, approval of plans, inspection of buildings, or issuance of permits, licenses, certificates or similar documents.

"State agency" means any state department, board, bureau, commission, or agency of this Commonwealth.

"Building" means a combination of any materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons, or property; ~~however, farm buildings not used for residential purposes and frequented generally by the owner, members of his family, and farm employees~~

~~shall be exempt from the provisions of the Uniform Statewide Building Code, but such buildings lying within a flood plain or in a mudslide-prone area shall be subject to flood proofing regulations or mudslide regulations, as applicable.~~ The word "building" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning.

"Equipment" means plumbing, heating, electrical, ventilating, air-conditioning and refrigeration equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

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

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

"Construction" means the construction, reconstruction, alteration, repair or conversion of buildings and structures.

"Owner" means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, or lessee in control of a building or structure.

"Director" means the Director of the Department of Housing and Community Development.

"Structure" means an assembly of materials forming a construction for occupancy or use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, storage tanks (underground and aboveground), trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature but excluding water wells. ~~Farm structures not used for residential purposes shall be exempt from the provisions of the Uniform Statewide Building Code, but such structures lying within a flood plain or in a mudslide-prone area shall be subject to flood proofing regulations or mudslide regulations, as applicable.~~ The word "structure" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning.

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

§36-99. Provisions of Code.

A. The Building Code shall prescribe building regulations to be complied with in the construction of buildings and structures, and the equipment therein as defined in §36-97, and shall prescribe regulations to insure that such regulations are properly maintained, and shall also prescribe procedures for the administration and enforcement of such regulations. The provisions thereof shall be such as to protect the health, safety and welfare of the residents of this Commonwealth, provided that buildings and structures should be permitted to be constructed at the least possible cost consistent with recognized standards of health, safety, energy conservation and water conservation and barrier-free provisions for the physically handicapped and aged. Such regulations shall be reasonable and appropriate to the objectives of this chapter.

B. In formulating the Code provisions, the Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations, including, but not limited to, the standards of the Southern Building Code Congress, the Building Officials Conference of America and the National Fire Protection Association. *Notwithstanding the provisions of this section, farm buildings and structures shall be exempt from the provisions of the Building Code. However, farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to flood-proofing regulations or mudslide regulations, as applicable.*

C. Where practical, the Code provisions shall be stated in terms of required level of performance, so as to facilitate the prompt acceptance of new building materials and methods. When generally recognized standards of performance are not available, such provisions shall provide for acceptance of materials and methods whose performance has been found by the Board, on the basis of reliable test and evaluation data, presented by the proponent, to be substantially equal in safety to those specified.

2. That the provisions of the first enactment of this act shall expire on July 1, 2000.

3. That the Board of Housing and Community Development (the Board) shall study the use of Virginia farm buildings and structures in the marketing and sale of agricultural goods and services. In conducting its study, the Board shall seek the input and expertise of agricultural enterprises and organizations, local building code officials, and other interested parties. The Board shall determine the feasibility and appropriateness of establishing certain requirements under the Uniform Statewide Building Code for farm buildings and structures used in such marketing and sales activities to protect the public health and safety. The Board shall report its findings and recommendations to the Governor and the 1999 Session of the General Assembly.

**BOARD OF HOUSING AND COMMUNITY
DEVELOPMENT**

Mr. H. Richard Ashe
Chairman

Mr. Oliver P. Farinholt
Vice Chairman

Mr. Don Bosserman

Mr. John H. Clements, Sr.

Ms. Inez Fleming

Ms. Nancy A. Bright

Mr. Fred Grohgan, Jr.

Mr. Richard Harris

Mr. Leonard S. Hobie Mitchel

Mr. H. Ronnie Montgomery

Ms. Shirley Page

Mr. Gordon F. Rainey, Jr.

Mr. John Ritchie, Jr.

William C. Shelton
*Director of the Department of Housing and
Community Development and Secretary to the
Board*

FARM BUILDING STUDY

ADVISORY COMMITTEE

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Advisory Committee Members and Organizations:

- | | | |
|-----|---|-----------------------------|
| 1. | Virginia Farm Bureau | Martha Moore and David Root |
| 2. | Virginia Agribusiness Council | Ed Scott |
| 3. | Virginia Wineries Association | Patrick Duffler |
| 4. | VBCOA (Building Code Officials Assoc.) | Eric Mays |
| 5. | Virginia Horse Industry Board | Andrea Heid |
| 6. | Virginia Horse Council | Dean Jacobson |
| 7. | Virginia Fire Prevention Association | Robin Preece |
| 8. | State Building Code Technical
Review Board | W. O. Jones III |
| 9. | State Building Code Technical
Review Board | Greg Revels |
| 10. | M.D. Barns of the Mid-Atlantic | Susan Streaker |
| 11. | Board of Housing and Community
Development | Fred Grohgan |
| 12. | Virginia Horse Journal | Darlene Jacobson |

Invited but did not Participate:

Virginia Nursery and Landscape Association
 Virginia Chapter: Dairy Farmers of America

Staff:

Steve Calhoun	DHCD Policy Office
Jack Proctor	DHCD Building and Fire Regulation
Roy Seward	Agriculture and Consumer Services
Larry Redford	Agriculture and Consumer Services
Ed Altizer	State Fire Marshal

**BUILDING OFFICIAL SURVEY
SUMMARY OF SURVEY RESPONSES
COMMONWEALTH OF VIRGINIA
FARM BUILDINGS AND STRUCTURES
August 1998**

1. Name of locality:

At the time of this survey, there are one hundred and sixty nine (169) local building departments. All 169 of these departments were surveyed. One hundred and seventeen (117) local building departments responded to the survey. The survey response rate was 69.2%. The attached table and map indicate the localities that participated in the survey.

2. Are you aware of any buildings or structures located on a farm that are used or visited by the public (for example, the sale of agricultural goods from a greenhouse)? If yes, please describe.

There were forty-two (42) localities – 35.9% of the respondents - that responded that they were aware of farm buildings or structures being used or visited by the public. These included a broad range of public uses including general retail sales (vegetable sales, open markets and novelty shops), nursery sales, music festivals, product tasting, tours and riding arenas.

3. Are you aware of any problems or incidents where farm buildings or structures could have posed a threat to public health or safety? If yes, please describe.

There were twenty-four (24) localities – 19.7% of the respondents - that responded that they were aware of problems or incidents where farm buildings or structures could have posed a threat to public health or safety. These problems include vacant and deteriorating buildings, building collapses, lack of exits and exit signs, and improper electrical wiring. Local building officials indicated that because farm buildings are exempt from building regulations, the officials do not inspect these buildings. Consequently, they usually would be unaware of safety problems that may exist in farm buildings or structures.

4. Are you aware of any incidents in which someone was injured or there was property loss due to structurally unsafe conditions of a farm building or structure?

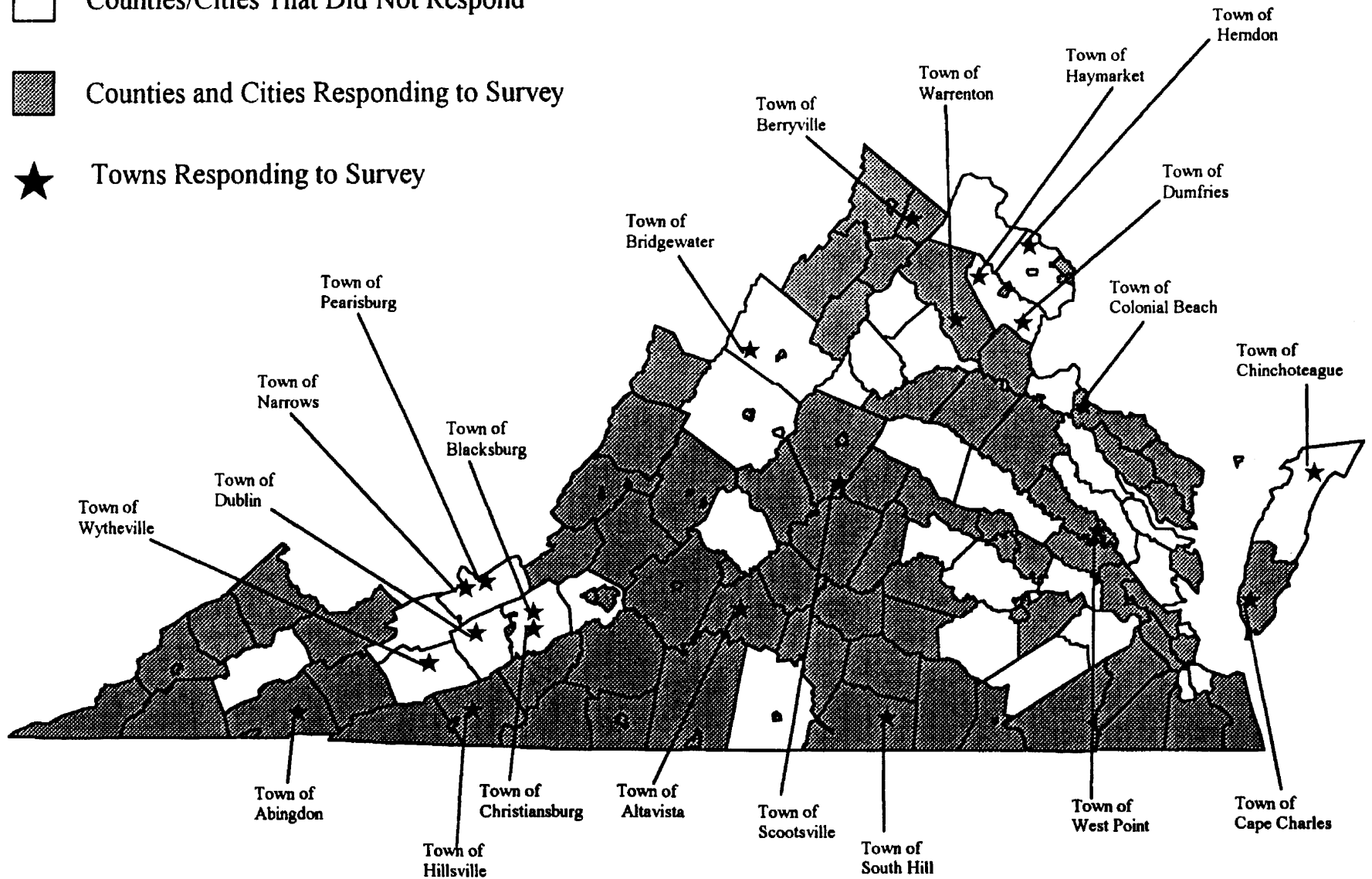
There were nine (9) localities – 7.7% of the respondents - that responded that they were aware of incidents in which someone was injured or there was property loss due to structurally unsafe conditions of a farm building or structure. These losses were primarily property losses from collapsed buildings. There were several injuries or deaths reported.

5. Additional information or comments:

The primary response to this request for additional comments from building officials was the belief that if buildings are to be used by the public, they should be protected by and covered by the building safety requirements of the Uniform Statewide Building Code.

Building Official Survey Commonwealth of Virginia Farm Buildings and Structures

- Counties/Cities That Did Not Respond
- Counties and Cities Responding to Survey
- ★ Towns Responding to Survey



October 23, 1998

TO: Farm Building Study Advisory Committee

FROM: Martha Moore, Virginia Farm Bureau Federation
Donna Pugh Johnson, Virginia Agribusiness Council
Dean Jacobson, Virginia Horse Council
Patrick Duffeler, Virginia Wineries Association

RE: Farm Building Study

We appreciate the opportunity to work with the Farm Building Study Committee to examine the issue of whether or not to regulate farm structures. However, we are concerned that at both meetings the industry has attended there has been a push to come to a conclusion irrespective of either side fully understanding the facts of the issue. Some committee members have readily admitted that they do not understand agriculture and we have admitted that we do not fully understand BOCA standards. This mutual lack of understanding coupled with a seemingly unrealistic and arbitrary time line established by the staff of the Farm Building Study Advisory Committee has been very frustrating. The Study Committee did not have its first meeting until August with the second meeting in October. This has not provided sufficient time to address all the issues. Therefore, any recommendations put forward to the Board of Housing and Community Development, the Governor, or the General Assembly would be premature under this schedule. We believe that if a specific timeframe with reasons for the extension were presented to these parties that an extension would be granted by the General Assembly.

The only thing that has been accomplished at the first two meetings is a better understanding of other states' regulations and national BOCA standards. No time has been spent on educating each other about agriculture and building code regulations in Virginia. Therefore, we want to put forth a good faith effort into better understanding what type of regulations would be applicable and likewise wish to educate the study committee better on the unique requirements of agriculture. To accomplish this, we suggest visiting farm structures in use at a farm winery, a horse farm, another livestock operation, a nursery operation and a vegetable farm during March/April of 1999. During this same time, we would like to visit similar facilities that have been cited as regulated operations. This approach will allow both sides to better understand the issue and help determine if common ground exists.

We serve as representatives of various agricultural organizations and as such, we cannot solely speak for our membership without first updating them with the information from these Study Committee meetings and receiving specific direction through policy development. Each of the organizations that we represent does not have an annual meeting in which policy positions are adopted until late November or early December.

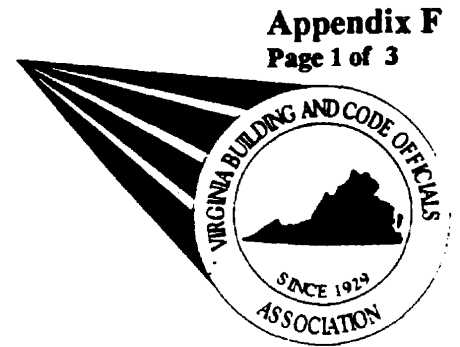
In addition, as requested at both meetings, we would like more specific identification of situations or agricultural operations where public safety is believed to be in jeopardy. This is an essential component for constructive discussion for future meetings.

We look forward to continuing the dialogue but believe that at this time it is impossible for anyone to come to any responsible conclusions.

C: General Laws Subcommittee #1 The Honorable Vance Wilkins
The Honorable Alan Diamonstein The Honorable Andy Guest
Steve Calhoun, DHCD Policy Office/Board Liaison

Virginia Building and Code Officials Association

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RECOMMENDATION SECTION EXTRACTED FROM THE

POSITION PAPER

ON THE APPLICATION

OF THE

UNIFORM STATEWIDE BUILDING CODE

TO

FARM BUILDINGS AND STRUCTURES

November 9, 1998

PREPARED BY:
Virginia Building and Code Officials Association

A. Regulate Farm Buildings and Structures in a Manner Consistent with the Proposed International Building Code

Consistent with the legislative intent in Section 36-99, VBCOA believes that Virginia's Uniform Statewide Building Code should be consistent with the standards recommended by nationally recognized organizations. VBCOA specifically recommends the adoption of the International Code Council's, International Building Code, Appendix Chapter 3, Division II Agricultural Buildings (see Appendix A). These standards do not exempt farm buildings and structures but provide lesser standards for buildings that are used for agricultural purposes.

There are a growing number of situations where retail and restaurant establishments, intended primarily to encourage the public to attend, are constructed on the farm. Production facilities employing a number of employees may also be constructed on the farm where the product is grown or the animals raised. VBCOA does not believe there is any basis to provide less protection to the public through the minimum standards of the building codes when such buildings are located on a farm as opposed to off a farm.

Under this approach, the exemption for farm buildings and structures in the Code of Virginia is not needed and can be deleted.

B. Alternatively, Amend Section 36-97 of the Code of Virginia to remove any public use from the definition of "farm buildings and structures"

If the General Assembly believes some lesser standards should be in place for farm buildings than those recommended by the Proposed International Building Code, VBCOA believes that any exemption for farm buildings and structures should not apply to buildings where the general public is being actively solicited and invited into these farm buildings on a regular basis for the purpose of assembly and the conduct of business. In such cases, the VBCOA believes that a minimum standard for health, safety and welfare should be provided.

Accordingly, the VBCOA urges the following amendments to Section 36-99 of the Code of Virginia:

"Farm building or structure" means a building or structure located on a farm that is not used for residential purposes or not intended primarily for public use, but ~~located on property where farming operations take place, and~~ used primarily for any of the following uses or combination thereof:

1. Storage, handling, or production, ~~display, sampling or sale~~ of agricultural, horticultural, floricultural or silvicultural products produced on ~~in~~ the farm;
2. Sheltering, raising, or handling, ~~processing or sale~~ of agricultural animals or agricultural animal products;

3. Business or office uses relating to the farm operations with an occupancy load of less than eleven people;
4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery or equipment used on the farm;
5. Storage or use of supplies and materials used on the farm; or
6. Implementation of best management practices associated with farm operations.

C. Provide a Definition of "Farm"

VBCOA supports and promotes the concept of the USBC being applied uniformly and consistently throughout Virginia. The application of the exemption for "farm buildings and structures" has not been uniformly and consistently applied because there is no consensus on the meaning of "farm." If the General Assembly believes an express exemption for "farm buildings and structures" is appropriate, the VBCOA strongly encourages the addition of a definition for "farm" in Section 36-97 of the Code of Virginia. VBCOA offers the following definition.

"Farm" means property or a portion thereof used for the production of agricultural, horticultural, floricultural or silviculture products in which the property is at least five (5) acres in size or generates at least \$2,500 in agricultural, horticultural, floricultural or silviculture products annually.

