

AGENDA

STATE BUILDING CODE TECHNICAL REVIEW BOARD

Friday, August 19, 2022 - 10:00am

Virginia Housing Center
4224 Cox Road Glen Allen, Virginia

- I. Roll Call **(TAB 1)**

- II. Approval of July 15, 2022 Minutes **(TAB 2)**

- III. Approval of Interpretation 02/2022 **(TAB 3)**

In Re: Jeff Senter (City of Newport News)
Interpretation Request No 04-22

- IV. Public Comment

- V. Preliminary Hearing **(TAB 4)**

In Re: TLF McClung
Appeal No 22-06

- VI. Interpretation Request No. 22-04 **(TAB 5)**

In Re: Gregory Revels (Henrico County)

Is a single conductor within a Type TC-ER cable permitted to serve both the power and remote control signal circuit when supplying PV Solar arrays with micro-inverters and controllers?

- VII. Secretary's Report
 - a. Consideration of Draft Review Board Policy #27 **(TAB 6)**
 - b. Consideration of Draft Review Board Policy #28 **(TAB 7)**
 - c. Consideration of Draft Review Board Policy #29 **(TAB 8)**
 - d. Update Board on whether members can attend VBCA training
 - e. September 2022 meeting update - location VHC

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STATE BUILDING CODE TECHNICAL REVIEW BOARD

James R. Dawson, Chair
(Virginia Fire Chiefs Association)

W. Shaun Pharr, Esq., Vice-Chair
(The Apartment and Office Building Association of Metropolitan Washington)

Vince Butler
(Virginia Home Builders Association)

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

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

David V. Hutchins
(Electrical Contractor)

Christina Jackson
(Commonwealth at large)

Joseph A. Kessler, III
(Associated General Contractors)

R. Jonah Margarella, AIA, NCARB, LEED AP
(American Institute of Architects Virginia)

Eric Mays
(Virginia Building and Code Officials Association)

Joanne D. Monday
(Virginia Building Owners and Managers Association)

Elizabeth C. White
(Commonwealth at large)

Aaron Zdinak, PE
(Virginia Society of Professional Engineers)

Vacant
(Virginia Building and Code Officials Association)

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1 **STATE BUILDING CODE TECHNICAL REVIEW BOARD**
2 **MEETING MINUTES**
3 **July 15, 2022**
4 **Virginia Housing Center**
5 **4224 Cox Road Glen Allen, Virginia 23260**
6

Members Present

Members Absent

Mr. James R. Dawson, Chairman
Mr. Vince Butler
Mr. Daniel Crigler
Mr. Alan D. Givens
Mr. David V. Hutchins
Ms. Christina Jackson
Mr. Joseph Kessler
Mr. Eric Mays, PE
Ms. Joanne Monday
Mr. W. Shaun Pharr, Esq., Vice-Chairman
Ms. Elizabeth White
Mr. Aaron Zdinak, PE

Mr. R. Jonah Margarella

7
8 Call to Order

The meeting of the State Building Code Technical Review Board (“Review Board”) was called to order at approximately 10:10 a.m. by Secretary Travis Luter.

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12 Roll Call

The roll was called by Mr. Luter and a quorum was present. Mr. Justin I. Bell, legal counsel for the Board from the Attorney General’s Office, arrived at approximately 10:30 a.m.

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16 Elections of Officers

Mr. Luter advised the board members that the terms of the officers of the Board had expired and election of officers was needed prior to moving forward with the meeting. Mr. Luter then called for nominations for Chair. Mr. Crigler nominated Mr. Dawson. The nomination was seconded by Ms. Jackson. Mr. Luter called for nominations for Chair twice more. After hearing no further nominations, Mr. Luter closed the nominations for Chair. A vote was taken and Mr. Dawson was unanimously elected as Chair.

Note: Mr. Kessler arrived to the meeting after the first nomination for Chair was made and seconded. The secretary updated him on the nomination; he had an opportunity to make a nomination during the second and third call for nominations.

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30 Chair Dawson called for nominations for Vice-Chair. Ms. Monday
31 nominated Mr. Pharr for Vice-Chair. The nomination was seconded by
32 Ms. Jackson. Chairman Dawson called for nominations for Vice-Chair
33 twice more. After hearing no further nominations for Vice-Chair, Mr.

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State Building Code Technical Review Board
July 15, 2022 Minutes - Page 2

34 Dawson closed the nominations. A vote was taken and Mr. Pharr was
35 unanimously elected as Vice-Chair.
36

37 Chair Dawson called for nominations for Secretary. Ms. Monday
38 nominated Mr. Luter for Secretary. The nomination was seconded by
39 Mr. Pharr. Chairman Dawson called for nominations for Secretary
40 twice more. After hearing no further nominations for Secretary, Mr.
41 Dawson closed the nominations. A vote was taken and Mr. Luter was
42 unanimously elected as Secretary.
43

44 Approval of Minutes The draft minutes of the May 20, 2022 meeting in the Review Board
45 members' agenda package were considered. Mr. Mays moved to
46 approve the minutes as presented. The motion was seconded by Mr.
47 Zdinak and passed with Ms. White and Messrs. Butler, Crigler, and
48 Kessler abstaining.
49

50 Final Order Appeal of Clark Construction Group and JCM Associates: Appeal No.
51 22-01:
52

53 After review and consideration of the final order presented in the
54 Review Board members' agenda package, Mr. Mays moved to approve
55 the final order as presented. The motion was seconded by Mr. Zdinak
56 and passed with Ms. White and Messrs. Butler, Crigler, and Kessler
57 abstaining.
58

59 Appeal of Monica and Michael Davis: Appeal No. 22-02:
60

61 After review and consideration of the final order presented in the
62 Review Board members' agenda package, Mr. Mays moved to approve
63 the final order as presented. The motion was seconded by Ms. Jackson
64 and passed with Ms. White and Messrs. Butler, Crigler, and Kessler
65 abstaining.
66

67 Public Comment Chair Dawson opened the meeting for public comment. Mr. Luter
68 advised that no one had signed up to speak. With no one coming
69 forward, Chair Dawson closed the public comment period.
70

71 New Business Request for Interpretation of Jeff Senter (City of Newport News):
72 Interpretation Request No. 03-22:
73

74 An interpretation request from Jeff Senter of the City of Newport News
75 was considered concerning the 2018 Virginia Statewide Fire
76 Prevention Code (SFPC), on Sections 107 and 108 related to whether
77 the Fire Official requires additional authorization from the local
78 governing body to require operational permits?
79

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80 Mr. Mays moved to change the question to “Does the local Fire Official
81 have the authority to require operational permits prescribed by Sections
82 107 and 108 of the SFPC references is table 107.2? Mr. Mays further
83 moved that the answer to the question, does the local Fire Official have
84 the authority to require operational permits prescribed by Sections 107
85 and 108 of the SFPC references is table 107.2, to be “No in accordance
86 with the Code of Virginia Section 27-98, unless authorized by the local
87 governing board”. The motion was seconded by Mr. Zdinak and
88 passed unanimously.
89

90 *Note: Ms. Jackson recused herself from consideration of this*
91 *request due to her employment with the City of Newport News.*

92
93 Request for Interpretation of Greg Revels (Hanover County):
94 Interpretation Request No. 04-22:
95

96 An interpretation request from Greg Revels of Hanover County was
97 considered concerning the 2017 National Electrical Code (NEC), on
98 Articles 100, 336.10(9), and 725.1(BB) related to whether a single
99 conductor within a Type TC-ER cable is permitted to serve both the
100 power and remote control signal circuit when supplying PV Solar
101 arrays with micro-inverters and controllers?
102

103 Mr. Mays moved to table the request until the August 19, 2022 meeting
104 due to the complexity of the question and need for Mr. Revels to attend
105 the meeting to participate in the discussion. The motion was seconded
106 by Mr. Zdinak and passed unanimously.
107

108 *Note: Barklie Estes with Nova Solar was present.*
109

110 Secretary’s Report

111 Mr. Luter distributed a draft copy of Review Board Policies #27.0,
112 #27.1, and #28, which were prepared by staff at the request of the
113 Review Board. After review, the Board provided additional guidance
114 and directed staff to update the policies in accordance with the new
115 guidance and present the policies to the Board for final review and
116 consideration at the August 19, 2022 meeting.

117 During the Board policy discussions, Mr. Mays moved that all code
118 officials who request an interpretation from the Board shall attend the
119 meeting in which the request is considered. The motion was seconded
120 by Ms. Monday and passed unanimously. The Board directed staff to
121 draft a policy for the new requirement and present it to the Board for
122 review and consideration at the August 19, 2022 meeting.
123

124 The Board discussed the desire for a retreat in the spring of 2023 to
125 discuss a plethora of items such as code updates as the 2021 cycle
126 closes, looking ahead at new issues that may be on the horizon, hot

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State Building Code Technical Review Board
July 15, 2022 Minutes - Page 4

127 topics for discussions from the members, etc. The Board also suggested
128 using the retreat to provide training such as COIA and FOIA training
129 provided by legal counsel. Mr. Bell agreed to research the suggested
130 COIA and FOIA training and report his findings to the Board at a
131 subsequent meeting.

132
133 Mr. Luter informed the Board of the current caseload for the upcoming
134 meeting scheduled for August 19, 2022.

135
136 Attorney Bell had no legal updates to provide to the Board.

137
138 Adjournment There being no further business, the meeting was adjourned by proper
139 motion at approximately 1:30 p.m.

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141
142 Approved: August 19, 2022

143
144
145 _____
146 Chairman, State Building Code Technical Review Board

147
148
149 _____
150 Secretary, State Building Code Technical Review Board

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VIRGINIA STATE BUILDING CODE TECHNICAL REVIEW BOARD

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

Interpretation Number: 2/2022

Code: Virginia Statewide Fire Prevention Code/2018

Section No(s): Sections 107 and 108

SECTION 107

PERMITS AND FEES

107.1 Prior notification.

The fire official may require notification prior to (i) activities involving the handling, storage or use of substances, materials or devices regulated by the SFPC; (ii) conducting processes which produce conditions hazardous to life or property; or (iii) establishing a place of assembly.

107.2 Permits required.

Operational permits may be required by the fire official as permitted under the SFPC in accordance with Table 107.2, except that the fire official shall require permits for the manufacturing, storage, handling, use, and sale of explosives. In accordance with Section 5601.2.3.1, an application for a permit to manufacture, store, handle, use, or sell explosives shall only be made by a designated individual.

Exception: Such permits shall not be required for the storage 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.

TABLE 107.2 OPERATIONAL PERMIT REQUIREMENTS (to be filled in by local jurisdiction)

DESCRIPTION	PERMIT REQUIRED (yes or no)	PERMIT FEE	INSPECTION FEE
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Aerosol products. An operational permit is required to manufacture, store or handle an aggregate quantity of Level 2 or Level 3 aerosol products in excess of 500 pounds (227 kg) net weight.									
Amusement buildings. An operational permit is required to operate a special amusement building.									
Aviation facilities. An operational permit is required to use a 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.									
Carnivals and fairs. An operational permit is required to conduct a carnival or fair.									
Cellulose nitrate film. An operational permit is required to store, handle or use cellulose nitrate film in a Group A occupancy.									
Combustible dust-producing operations. An operational permit is required to operate a grain elevator, flour starch mill, feed mill, or a plant pulverizing aluminum, coal, cocoa, magnesium, spices or sugar, or other operations producing combustible dusts as defined in Chapter 2.									
Combustible fibers. An operational permit is required for the storage and handling of combustible fibers in quantities greater than 100 cubic feet (2.8 m3). Exception: An operational permit is not required for agricultural storage.									
Commercial Cooking. An operational permit is required for the operation of commercial cooking appliances in occupancies other than assembly occupancies or dwellings.									
<p>Compressed gas. An operational permit is required for the storage, use or handling at normal temperature and pressure (NTP) of compressed gases in excess of the amounts listed below.</p> <p>Exception: Vehicles equipped for and using compressed gas as a fuel for propelling the vehicle.</p> <p>PERMIT AMOUNTS FOR COMPRESSED GASES</p> <table border="1" data-bbox="191 1703 883 1885"> <thead> <tr> <th data-bbox="191 1703 643 1766">TYPE OF GAS</th> <th data-bbox="643 1703 883 1766">AMOUNT (cubic feet at NTP)</th> </tr> </thead> <tbody> <tr> <td data-bbox="191 1766 643 1797">Corrosive</td> <td data-bbox="643 1766 883 1797">200</td> </tr> <tr> <td data-bbox="191 1797 643 1885">Flammable(except cryogenic fluids and liquefied petroleum gases)</td> <td data-bbox="643 1797 883 1885">200</td> </tr> </tbody> </table>	TYPE OF GAS	AMOUNT (cubic feet at NTP)	Corrosive	200	Flammable(except cryogenic fluids and liquefied petroleum gases)	200			
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Corrosive	200								
Flammable(except cryogenic fluids and liquefied petroleum gases)	200								

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Highly toxic	Any Amount																		
Inert and simple asphyxiant	6,000																		
Oxidizing (including oxygen)	504																		
Pyrophoric	Any Amount																		
Toxic	Any Amount																		
For SI: 1 cubic foot = 0.02832 m3.																			
<p>Covered and open mall buildings. An operational permit is required for:</p> <ol style="list-style-type: none"> 1.The placement of retail fixtures and displays, concession equipment, displays of highly combustible goods and similar items in the mall. 2.The display of liquid-fired or gas-fired equipment in the mall. 3.The use of open-flame or flame-producing equipment in the mall. 																			
<p>Cryogenic fluids. An operational permit is required to produce, store, transport on site, use, handle or dispense cryogenic fluids in excess of the amounts listed below.</p> <p>Exception: Operational permits are not required for vehicles equipped for and using cryogenic fluids as a fuel for propelling the vehicle or for refrigerating the lading.</p> <p>PERMIT AMOUNTS FOR CRYOGENIC FLUIDS</p> <table border="1"> <thead> <tr> <th>TYPE OF CRYOGENIC FLUID</th> <th>INSIDE BUILDING (gallons)</th> <th>OUTSIDE BUILDING (gallons)</th> </tr> </thead> <tbody> <tr> <td>Flammable</td> <td>More than 1</td> <td>60</td> </tr> <tr> <td>Inert</td> <td>60</td> <td>500</td> </tr> <tr> <td>Oxidizing (includes oxygen)</td> <td>10</td> <td>50</td> </tr> <tr> <td>Physical or health hazard not indicated above</td> <td>Any amount</td> <td>Any amount</td> </tr> </tbody> </table>		TYPE OF CRYOGENIC FLUID	INSIDE BUILDING (gallons)	OUTSIDE BUILDING (gallons)	Flammable	More than 1	60	Inert	60	500	Oxidizing (includes oxygen)	10	50	Physical or health hazard not indicated above	Any amount	Any amount			
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Inert	60	500																	
Oxidizing (includes oxygen)	10	50																	
Physical or health hazard not indicated above	Any amount	Any amount																	
For SI: 1 gallon = 3.785 L.																			
Cutting and welding. An operational permit is required to conduct cutting or welding operations within the jurisdiction.																			
Dry cleaning plants. An operational permit is required to engage in the business of dry cleaning or to change to a more																			

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hazardous cleaning solvent used in existing dry cleaning equipment.			
Exhibits and trade shows. An operational permit is required to operate exhibits and trade shows.			
Explosives, fireworks, and pyrotechnics. An operational permit is required for the storage, handling, sale or use of any quantity of explosive, explosive materials, fireworks, pyrotechnic special effects, or pyrotechnic special effects material within the scope of Chapter 56. Exception: Storage in Group R-3 or R-5 occupancies of smokeless propellant, black powder and small arms primers for personal use, not for resale, and in accordance with the quantity limitations and conditions set forth in Section 5601.1, Exceptions 4 and 12.			
Explosives, restricted manufacture. An operational permit is required for the restricted manufacture of explosives within the scope of Chapter 56.			
Explosives, unrestricted manufacture. An operational permit is required for the unrestricted manufacture of explosives within the scope of Chapter 56.			
Fire hydrants and valves. An operational permit is required to use or operate fire hydrants or valves intended for fire suppression purposes that are installed on water systems and accessible to a fire apparatus access road that is open to or generally used by the public. Exception: An operational permit is not required for authorized employees of the water company that supplies the system or the fire department to use or operate fire hydrants or valves. Flammable and combustible liquids. An operational permit is required: 1.To use or operate a pipeline for the transportation within facilities of flammable or combustible liquids. This requirement shall not apply to the offsite transportation in pipelines regulated by the US Department of Transportation (DOTn) nor does it apply to piping systems. 2.To store, handle or use Class I			

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<p>liquids in excess of 5 gallons (19 L) in a building or in excess of 10 gallons (37.9 L) outside of a building, except that a permit is not required for the following:</p> <p>2.1.The storage or use of Class I liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant, unless such storage, in the opinion of the fire official, would cause an unsafe condition.</p> <p>2.2.The storage or use of paints, oils, varnishes or similar flammable mixtures when such liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days.</p> <p>3.To store, handle or use Class II or Class IIIA liquids in excess of 25 gallons (95 L) in a building or in excess of 60 gallons (227 L) outside a building, except for fuel oil used in connection with oil-burning equipment.</p> <p>4.To remove Class I or Class II liquids from an underground storage tank used for fueling motor vehicles by any means other than the approved, stationary on-site pumps normally used for dispensing purposes.</p> <p>5.To operate tank vehicles, equipment, tanks, plants, terminals, wells, fuel-dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used.</p> <p>6.To install, alter, remove, abandon, place temporarily out of service (for more than 90 days) or otherwise dispose of an underground, protected above-ground or above-ground flammable or combustible liquid tank.</p> <p>7.To change the type of contents stored in a flammable or combustible liquid tank to a material that poses a greater hazard than that for which the tank was designed and constructed.</p> <p>8.To manufacture, process, blend or</p>			
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refine flammable or combustible liquids.																																																										
Floor finishing. An operational permit is required for floor finishing or surfacing operations exceeding 350 square feet (33 m2) using Class I or Class II liquids.																																																										
Fruit and crop ripening. An operational permit is required to operate a fruit-ripening or crop-ripening facility or conduct a fruit-ripening process using ethylene gas.																																																										
Fumigation, thermal, and insecticidal fogging. An operational permit is required to operate a business of fumigation, thermal, or insecticidal fogging and to maintain a room, vault or chamber in which a toxic or flammable fumigant is used.																																																										
Hazardous materials. An operational permit is required to store, transport on site, dispense, use or handle hazardous materials in excess of the amounts listed below. PERMIT AMOUNTS FOR HAZARDOUS MATERIALS																																																										
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Solids	
Class 4	Any amount
Class 3	10 pounds (footnote b)
Class 2	100 pounds
Class 1	500 pounds
Organic peroxides	
Liquids	
Class I	Any amount
Class II	Any amount
Class III	1 gallon
Class IV	2 gallons
Class V	No permit required
Solids	
Class I	Any amount
Class II	Any amount
Class III	10 pounds
Class IV	20 pounds
Class V	No permit required
Pyrophoric materials	
Gases	See compressed gases
Liquids	Any amount
Solids	Any amount
Toxic materials	
Gases	See compressed gases
Liquids	10 gallons
Solids	100 pounds
Unstable (reactive) materials	
Liquids	
Class 4	Any amount
Class 3	Any amount
Class 2	5 gallons
Class 1	10 gallons
Solids	
Class 4	Any amount
Class 3	Any amount
Class 2	50 pounds
Class 1	100 pounds
Water reactive materials	
Liquids	
Class 3	Any amount
Class 2	5 gallons
Class 1	55 gallons
Solids	
Class 3	Any amount
Class 2	50 pounds
Class 1	500 pounds
For SI: 1 gallon = 3.785 L, 1 pound = 0.454 kg.	
a. Twenty gallons when Section 5003.1.1	

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<p>applies and hazard identification signs in accordance with Section 5003.5 are provided for quantities of 20 gallons or less.</p> <p>b. Two hundred pounds when Section 5003.1.1 applies and hazard identification signs in accordance with Section 5003.5 are provided for quantities of 200 pounds or less.</p>			
<p>HPM facilities. An operational permit is required to store, handle or use hazardous production materials.</p>			
<p>High piled storage. An operational permit is required to use a building or portion thereof as a high-piled storage area exceeding 500 square feet (46 m²).</p>			
<p>Hot work operations. An operational permit is required for hot work including, but not limited to:</p> <ol style="list-style-type: none"> 1. Public exhibitions and demonstrations where hot work is conducted. 2. Use of portable hot work equipment inside a structure. <p>Exception: Work that is conducted under a construction permit.</p> <ol style="list-style-type: none"> 3. Fixed-site hot work equipment such as welding booths. 4. Hot work conducted within a hazardous fire area. 5. Application of roof coverings with the use of an open-flame device. 6. When approved, the fire official shall issue a permit to carry out a Hot Work Program. This program allows approved personnel to regulate their facility's hot work operations. The approved personnel shall be trained in the fire safety aspects denoted in this chapter and shall be responsible for issuing permits requiring compliance with the requirements found in this chapter. These permits shall be issued only to their employees or hot work operations under their supervision. 			
<p>Industrial ovens. An operational permit is required for operation of industrial ovens regulated by Chapter 30.</p>			
<p>Lumber yards and woodworking plants. An operational</p>			

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<p>permit is required for the storage or processing of lumber exceeding 100,000 board feet (8,333 ft³) (236 m³).</p>			
<p>Liquid-fueled or gas-fueled vehicles or equipment in assembly buildings. An operational permit is required to display, operate or demonstrate liquid-fueled or gas-fueled vehicles or equipment in assembly buildings.</p>			
<p>LP-gas. An operational permit is required for:</p> <p>1.Storage and use of LP-gas.</p> <p>Exception: An operational permit is not required for individual containers with a 500-gallon (1893 L) water capacity or less or multiple container systems having an aggregate quantity not exceeding 500 gallons (1893 L), serving occupancies in Group R-3.</p> <p>2.Operation of cargo tankers that transport LP-gas.</p>			
<p>Magnesium. An operational permit is required to melt, cast, heat treat or grind more than 10 pounds (4.54 kg) of magnesium.</p>			
<p>Miscellaneous combustible storage. An operational permit is required to store in any building or upon any premises in excess of 2,500 cubic feet (71 m³) gross volume of combustible empty packing cases, boxes, barrels or similar containers, rubber tires, rubber, cork or similar combustible material.</p>			
<p>Mobile food preparation vehicles. A permit is required for mobile food preparation vehicles equipped with appliances that produce smoke or grease laden vapors.</p> <p>Exception: Recreational vehicles used for private recreation.</p>			
<p>Open burning. An operational permit is required for the kindling or maintaining of an open fire or a fire on any public street, alley, road, or other public or private ground. Instructions and stipulations of the permit shall be adhered to.</p> <p>Exception: Recreational fires.</p>			
<p>Open flames and candles. An operational permit is required to use open flames or candles in connection with assembly areas, dining areas of restaurants or drinking establishments.</p>			

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Open flames and torches. An operational permit is required to remove paint with a torch, or to use a torch or open-flame device in a wildfire risk area.			
Organic coatings. An operational permit is required for any organic-coating manufacturing operation producing more than 1 gallon (4 L) of an organic coating in one day.			
Places of assembly. An operational permit is required to operate a place of assembly.			
Plant extraction systems. An operational permit is required to use plant extraction systems.			
Private fire hydrants. An operational permit is required for the removal from service, use or operation of private fire hydrants. Exception: An operational permit is not required for private industry with trained maintenance personnel, private fire brigade or fire departments to maintain, test and use private hydrants.			
Pyrotechnic special effects material. An operational permit is required for use and handling of pyrotechnic special effects material.			
Pyroxylin plastics. An operational permit is required for storage or handling of more than 25 pounds (11 kg) of cellulose nitrate (pyroxylin) plastics and for the assembly or manufacture of articles involving pyroxylin plastics.			
Refrigeration equipment. An operational permit is required to operate a mechanical refrigeration unit or system regulated by Chapter 6.			
Repair garages and service stations. An operational permit is required for operation of repair garages and automotive, marine and fleet service stations.			
Rooftop heliports. An operational permit is required for the operation of a rooftop heliport.			
SRCFs. An operational permit is required for the operation of a State-Regulated Care Facility where inspection by the fire official is required by state licensing regulations			
Spraying or dipping. An operational permit is required to conduct a spraying or dipping operation utilizing flammable or combustible liquids or the application of combustible powders regulated by Chapter 24.			

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Storage of scrap tires and tire byproducts. An operational permit is required to establish, conduct or maintain storage of scrap tires and tire byproducts that exceeds 2,500 cubic feet (71 m3) of total volume of scrap tires and for indoor storage of tires and tire byproducts.			
Temporary membrane structures and tents. An operational permit is required to operate an air-supported temporary membrane structure or a tent. Exceptions: 1. Tents used exclusively for recreational camping purposes. 2. Tents and air-supported structures that cover an area of 900 square feet (84 m2) or less, including all connecting areas or spaces with a common means of egress or entrance and with an occupant load of 50 or less persons.			
Tire-rebuilding plants. An operational permit is required for the operation and maintenance of a tire-rebuilding plant.			
Waste handling. An operational permit is required for the operation of wrecking yards, junk yards and waste material-handling facilities.			
Wood products. An operational permit is required to store chips, hogged material, lumber or plywood in excess of 200 cubic feet (6 m3).			

107.3 Application for permit.

Application for a permit shall be made on forms prescribed by the fire official.

107.4 Issuance of permits.

Before a permit is issued, the fire official shall make such inspections or tests as are necessary to assure that the use and activities for which application is made comply with the provisions of this code.

107.5 Conditions of permit.

A permit shall constitute permission to store or handle materials or to conduct processes in accordance with the SFPC and shall not be construed as authority to omit or amend any of

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the provisions of this code. Permits shall remain in effect until revoked or for such period as specified on the permit. Permits are not transferable.

107.6 Annual.

The enforcing agency may issue annual permits for the manufacturing, storage, handling, use, or sales of explosives to any state regulated public utility.

107.7 Approved plans.

Plans approved by the fire official are approved with the intent that they comply in all respects to this code. Any omissions or errors on the plans do not relieve the applicant of complying with all applicable requirements of this code.

107.8 Posting.

Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire official.

107.9 Suspension of permit.

A permit shall become invalid if the authorized activity is not commenced within 6 months after issuance of the permit or if the authorized activity is suspended or abandoned for a period of 6 months after the time of commencement.

107.10 Local fees.

In accordance with § 27-98 of the Code of Virginia, fees may be levied by the local governing body in order to defray the cost of enforcement and appeals under the SFPC. However, for the city of Chesapeake no fee charged for the inspection of any place of religious worship designated as Assembly Group A-3 shall exceed \$50. For purposes of this section, "defray the cost" may include the fair and reasonable costs incurred for such enforcement during normal business hours but shall not include overtime costs, unless conducted outside of the normal working hours established by the locality. A schedule of such costs shall be adopted by the local governing body in a local ordinance. A locality shall not charge an overtime rate for inspections conducted during the normal business hours established by the locality. Nothing herein shall be construed to prohibit a private entity from conducting such inspections, provided the

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private entity has been approved to perform such inspections in accordance with the written policy of the fire official for the locality.

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 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 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 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 State annual compliance inspection fees.

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Fees for compliance inspections performed by the State Fire Marshal's office shall be as follows:

1.Nightclubs.

1.1.\$350 for occupant load of 100 or less.

1.2.\$450 for occupant load of 101 to 200.

1.3.\$500 for occupant load of 201 to 300.

1.4.\$500 plus \$50 for each 100 occupants where occupant loads exceed 300.

2.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 for 3,500 square feet (325 m2) or less.

2.2.\$200 for greater than 3,500 square feet (325 m2) up to 7000 square feet (650 m2).

2.3.\$250 for greater than 7,000 square feet (650 m2) up to 10,000 square feet (929 m2).

2.4.\$250 plus \$50 for each additional 3,000 square feet (279 m2) where square footage exceeds 10,000 square feet (929 m2).

3.Assembly areas that are part of private college dormitories.

3.1.\$50 for 10,000 square feet (929 m2) or less provided the assembly area is within or attached to a dormitory building.

3.2.\$100 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 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.

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3.4.\$150 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.Hospitals.

4.1.\$300 for 1 to 50 beds.

4.2.\$400 for 51 to 100 beds.

4.3.\$500 for 101 to 150 beds.

4.4.\$600 for 151 to 200 beds.

4.5.\$600 plus \$100 for each additional 100 beds where the number of beds exceeds 200.

5.Facilities licensed by the Virginia Department of Social Services based on licensed capacity as follows:

5.1.\$50 for 1 to 8.

5.2.\$75 for 9 to 20.

5.3.\$100 for 21 to 50.

5.4.\$200 for 51 to 100.

5.5.\$300 for 101 to 150.

5.6.\$400 for 151 to 200.

5.7.\$500 for 201 or more.

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

6.Registered complaints.

6.1.No charge for first visit (initial complaint), and if violations are found.

6.2.\$51 per hour for each State Fire Marshal's office staff for all subsequent visits.

7.Bonfires (small and large) on state-owned property.

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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. 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. 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.

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. 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. 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.

107.13 Fee schedule.

The local governing body may establish a fee schedule. The schedule shall incorporate unit rates, which may be based on square footage, cubic footage, estimated cost of inspection or other appropriate criteria.

107.14 Payment of fees.

A permit shall not be issued until the designated fees have been paid.

Exception: The fire official may authorize delayed payment of fees.

107.14.1 State Fire Marshal's office certification and permit fees not refundable.

No refund of any part of the amount paid as a permit or certification fee will be made where the applicant, permit or certification holder, for any reason, discontinued an activity, changed conditions, or changed circumstances for which the permit or certification was issued. However, the permit or certification fee submitted with an application will be refunded

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if the permit or certification is canceled, revoked, or suspended subsequent to having been issued through administrative error, or if a permit being applied for is to be obtained from a locally appointed fire official.

SECTION 108

OPERATIONAL PERMITS

108.1 General.

Operational permits shall be in accordance with Section 108. The fire official may require notification prior to (i) activities involving the handling, storage or use of substances, materials or devices regulated by the SFPC; (ii) conducting processes which produce conditions hazardous to life or property; or (iii) establishing a place of assembly.

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:

1.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 SFPC.

2.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.

108.1.2 Duration of operational permits.

An operational permit allows the applicant to conduct an operation or a business for which a permit is required by Section 108.1.1 for either:

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1.A prescribed period.

2.Until renewed, suspended, or revoked.

108.1.3 Operational permits for the same location.

When more than one operational permit is required for the same location, the fire official is authorized to consolidate such permits into a single permit provided that each provision is listed in the permit.

108.2 Application.

Application for an operational permit required by this code shall be made to the fire official in such form and detail as prescribed by the fire official. Applications for permits shall be accompanied by such plans as prescribed by the fire official.

108.2.1 Refusal to issue permit.

If the application for an operational permit describes a use that does not conform to the requirements of this code and other pertinent laws and ordinances, the fire official shall not issue a permit, but shall return the application to the applicant with the refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reasons for refusal.

108.2.2 Inspection authorized.

Before a new operational permit is approved, the fire official is authorized to inspect the receptacles, vehicles, buildings, devices, premises, storage spaces or areas to be used to determine compliance with this code or any operational constraints required.

108.2.3 Time limitation of application.

An application for an operational permit for any proposed work or operation shall be deemed to have been abandoned 6 months after the date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except that the fire official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each if there is reasonable cause.

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108.2.4 Action on application.

The fire official shall examine or cause to be examined applications for operational permits and amendments thereto within a reasonable time after filing. If the application does not conform to the requirements of pertinent laws, the fire official shall reject such application in writing, stating the reasons. If the fire official is satisfied that the proposed work or operation conforms to the requirements of this code and laws and ordinances applicable thereto, the fire official shall issue a permit as soon as practicable.

108.3 Conditions of a permit.

An operational permit shall constitute permission to maintain, store or handle materials; or to conduct processes in accordance with the SFPC, and shall not be construed as authority to omit or amend any of the provisions of this code.

Note: The building official issues permits to install equipment utilized in connection with such activities or to install or modify any fire protection system or equipment or any other construction, equipment installation or modification.

108.3.1 Expiration.

An operational permit shall remain in effect until reissued, renewed, or revoked for such a period of time as specified in the permit. Permits are not transferable and any change in occupancy, operation, tenancy or ownership shall require that a new permit be issued.

108.3.2 Extensions.

A permittee holding an unexpired permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to be commenced within the time required by this section for good and satisfactory reasons. The fire official is authorized to grant, in writing, one or more extensions of the time period of a permit for periods of not more than 90 days each. Such extensions shall be requested by the permit holder in writing and justifiable cause demonstrated.

108.3.3 Annual.

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The enforcing agency may issue annual operational permits for the manufacturing, storage, handling, use, or sales of explosives to any state regulated public utility.

108.3.4 Suspension of permit.

An operational permit shall become invalid if the authorized activity is not commenced within 6 months after issuance of the permit, or if the authorized activity is suspended or abandoned for a period of 6 months after the time of commencement.

108.3.5 Posting.

Issued operational permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire official.

108.3.6 Compliance with code.

The issuance or granting of an operational permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Operational permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on other data shall not prevent the fire official from requiring the correction of errors in the provided documents and other data. Any addition to or alteration of approved provided documents shall be approved in advance by the fire official, as evidenced by the issuance of a new or amended permit.

108.3.7 Information on the permit.

The fire official shall issue all operational permits required by this code on an approved form furnished for that purpose. The operational permit shall contain a general description of the operation or occupancy and its location and any other information required by the fire official. Issued permits shall bear the original or electronic signature of the fire official or other designee approved by the fire official.

108.4 Revocation.

The fire official is authorized to revoke an operational permit issued under the provisions of this code when it is found by

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inspection or otherwise that there has been a false statement or misrepresentation as to the material facts in the application or documents on which the permit or approval was based including, but not limited to, any one of the following:

1.The permit is used for a location or establishment other than that for which it was issued.

2.The permit is used for a condition or activity other than that listed in the permit.

3.Conditions and limitations set forth in the permit have been violated.

4.Inclusion of any false statements or misrepresentations as to a material fact in the application for permit or plans submitted or a condition of the permit.

5.The permit is used by a different person or firm than the person or firm for which it was issued.

6.The permittee failed, refused or neglected to comply with orders or notices duly served in accordance with the provisions of this code within the time provided therein.

7.The permit was issued in error or in violation of an ordinance, a regulation, or this code.

QUESTION: Does the local Fire Official have the authority to require operational permits prescribed by Sections 107 and 108 of the SFPC references is table 107.2?

ANSWER: No, in accordance with the Code of Virginia Section 27-98, unless authorized by the local governing board.

This Official Interpretation was issued by the State Building Code Technical Review Board at its meeting of July 15, 2022.

Chairman, State Building Code Technical Review Board

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of TLF McClung
Appeal No. 22-06

CONTENTS

<u>Section</u>	<u>Page No.</u>
Review Board Staff Document	57
Basic Documents	63
Document Submitted by TLF McClung - City Code	73
Minutes of the Local Appeals Board Meeting	79
Supplemental Information Provided by Review Board Staff	93

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD
(For Preliminary Hearing as to Jurisdiction)

IN RE: Appeal of TLF McClung LLC
 Appeal No. 22-06

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. On October 25, 2021, the City of Salem Department of Community Development (City), the agency responsible for the enforcement of Part III of the 2018 Virginia Uniform Statewide Building Code (Virginia Maintenance Code or VMC), issued a letter for the structure located at 17 E. 7th Street, in the City of Salem, owned by TLF McClung LLC (McClung). The letter cited a violation of Section 18-38 of the City of Salem Code for dilapidated buildings deeming the structure unsafe and dangerous to the safety of other inhabitants to the city. The letter ordered that documentation outlining how the structure would be brought into compliance be submitted to the City within 15 days of the date of the letter or the City would bring the matter before the City of Salem Board of Building Appeals (appeals board). The letter cited the following needed to be repaired:

- 1) The entry way needs to be demolished or repaired.
- 2) The sidewalk needs to be repaired
- 3) The siding needs to be replaced

2. On February 17, 2022, the City issued another letter to McClung for the structure. In the letter the City again cited a violation of Section 18-38 of the City of Salem Code for dilapidated buildings and again deemed the structure unsafe and dangerous to the safety of other inhabitants to the city. The letter ordered that documentation outlining how the structure would

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be brought into compliance be submitted to the City within 15 days of the date of the letter or the City would bring the matter before the appeals board. The letter cited the following needed to be repaired:

- 1) The entry way needs to be demolished or repaired.
- 2) The sidewalk needs to be repaired
- 3) The siding needs to be replaced
- 4) All unsafe structural issues need to be made code compliant

3. The City scheduled a hearing with the appeals board for March 31, 2022¹ concerning McClung's structure for violations of Section 18-38 of the City of Salem Code.

4. In a letter from the City dated April 4, 2022, the City notified McClung that the appeals board ruled that McClung had to obtain a demolition permit within 30 days of the date of the meeting and complete demolition of the structure within 120 days of the meeting date. The appeals board also gave the City authority to proceed with demolition of the structure if McClung failed to obtain the required permit and/or complete demolition in the required timeframe. In the last paragraph of the letter the City advised that *"any person who was a party to the appeal may appeal to the State Review Board by submitting an application to such Board within 21 calendar days upon receipt by certified mail of this decision"*. The letter included the address and phone number for the Office of the Review Board.

5. After receiving the decision of the appeals board McClung, through legal counsel, further appealed to the Review Board.

6. While processing McClung's appeal, Review Board staff advised the parties that in prior cases concerning jurisdiction, the Review Board ruled it lacked jurisdiction to hear appeals

¹ McClung never filed an appeal to the appeals board on this matter

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for the application of local ordinances and/or regulations while referencing the Perry Smith Appeal No. 16-3².

7. This staff document and the Final Order for Perry Smith Appeal No. 16-3 along with a copy of the documents submitted related to the jurisdictional issue of properness before the Board will be sent to the parties and opportunity given for the submittal of additions, corrections or objections to the staff document, and the submittal of additional documents or written arguments related to the jurisdictional issue of properness before the Board to be included in the information distributed to the Review Board members for the preliminary hearing before the Review Board.

Suggested Preliminary Issues for Resolution by the Review Board

1. Whether the appeal is properly before the Board.

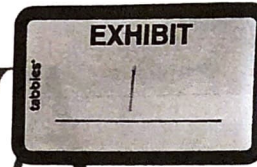
² Perry Smith Appeal No. 16-3 is from the City of Salem for cited violation of Section 18-38 of the City of Salem Code

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Basic Documents

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SALEM VA



Charles E. VanAllman, PE, LS
Director

Department of Community Development
Engineering/GIS, Inspections, Planning & Zoning

Troy D. Loving, CBO
Building Official

October 25, 2021

TLF McClung
c/o Frances Ferguson
1917 Maylin Drive
Salem, VA 24153

RE: 17 E. 7th Street (Tax Map 184-2-2)

Dear Property Owner:

It has come to our attention that a structure located at the above-mentioned property is in violation of Section 18-38 of the City of Salem Code for Dilapidated Buildings (copy enclosed). It has been determined that the structure has deteriorated to the extent that it has become unsafe and dangerous to the safety of other inhabitants of the city.

The structure must either be repaired or demolished.

The following items are in need of repair:

- The entryway needs to be demolished or repaired,
- The sidewall needs to be repaired, and
- The siding needs to be replaced.

You are hereby notified that documents must be submitted to this office on how you are going to bring this structure into compliance with the City of Salem code by either repairing or demolishing the structure within 15 days of the date of this letter. If we do not hear from you within the 15-day period, we will proceed to bring the matter before the City of Salem Board of Building Appeals.

Thank you in advance for your prompt response.

Sincerely,

Troy D. Loving, CBO
Building Official

c: Tom McClung, 1500 Hollybrook Road, Salem, VA 24153

SALEM VA



Charles E. VanAllman, PE, LS
Director

Department of Community Development
Engineering/GIS, Inspections, Planning & Zoning

Troy D. Loving, CBO
Building Official

February 17, 2022

TLF McClung
c/o Frances Ferguson
1917 Maylin Drive
Salem, VA 24153

RE: 17 7th Street (Tax Map 184-2-2)

Dear Property Owner(s):

It has come to our attention that a structure located at the above-mentioned property is in violation of Section 18-38 of the City of Salem Code for Dilapidated Buildings (copy enclosed). It has also been determined that the structure has become unsafe and dangerous to the safety of other inhabitants of the city.

The structure must either be repaired or demolished.

The following items are in need of repair:

- The entryway needs to be demolished or repaired;
- The sidewalk needs to be repaired;
- The siding needs to be replaced; and
- All unsafe structural issues need to be made code compliant.

You are hereby notified that documents must be submitted to this office on how you are going to bring this structure into compliance with the City of Salem Code by either repairing or demolishing the structure **within 15 days of the date of this letter**. Failure to do so will result in the matter being brought before the Board of Building Appeals.

If you have questions in this regard, please contact this office at (540) 375-3036.

Sincerely,

Troy D. Loving

Troy D. Loving, CBO
Building Official

c: Tom McClung, 1500 Hollybrook Road, Salem, VA 24153
Lew McClung, 1486 Hollybrook Road, Salem, VA 24153
David McClung, 1480 Hollybrook Road, Salem, VA 24153

SALEM VA



Charles E. VanAllman, PE, LS
Director

Department of Community Development
Engineering/GIS, Inspections, Planning & Zoning

Troy D. Loving, CBO
Building Official

April 4, 2022

TLF McClung
c/o Frances Ferguson
1917 Maylin Drive
Salem, VA 24153

RE: 17 7th Street (Tax Map 184-2-2)

Dear Property Owner(s):

The City of Salem Board of Building Appeals held a public hearing on Thursday, March 31, 2022, at 3:30 pm regarding the delapidated structure on your property located at 17 7th Street, Salem, Virginia. The Board unanimously voted that you have 30 days from the date of the meeting to obtain a demolition permit and 120 days from the date of the meeting to demolish the structure.

The Board also gave the City of Salem the authority to proceed with the demolition of the structure itself if you fail to acquire a demolition permit within 30 days and demolish the structure within the 120 days. You will be responsible for all costs incurred by the City for the demolition and clean-up of the project.

Any person who was a party to the appeal may appeal to the *State Review Board* by submitting an application to such Board within 21 calendar days upon receipt by certified mail of this decision. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, Virginia 23219, (804) 371-7150.

If you have questions in this regard, please contact this office at (540) 375-3036.

Sincerely,

Troy D. Loving

Troy D. Loving, CBO
Building Official on behalf of Nathan Routt, Chair,
Board of Building Appeals

c: James E. Taliaferro, II, City Manager
Jim Guynn, City Attorney
Charles E. Van Allman, Jr., Director of Community Development
Board of Appeals Members

P.O. Box 869

21 South Bruffey Street
Salem, VA 24153-0869

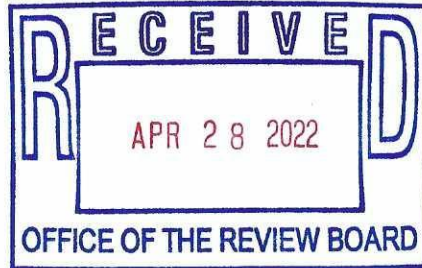
67
Telephone: 540-375-3036

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

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

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



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

TLF McCune, LLC LEW McCune, MEMBER
1917 MAYLIN DRIVE, SALEM, VA 24153
540-353-1548 LEWMCCUNE@YAHOO.COM

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

TROY D. LOVING, BUILDING OFFICIAL, CITY OF SALEM
21 SOUTH BRUFFY ST. SALEM, VA 24153
540-375-3036 TLOVING@SALEMVA.GOV

Additional Information (to be submitted with this application)

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

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of APRIL, 2022, a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

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

Signature of Applicant: Scott E. Gardner

Name of Applicant: SCOTT E. GARDNER, ATTORNEY FOR TLF, LLC
(please print or type)
501 JAMES ST
SALEM, VA 24153
540-761-5143
SCOTT@SEGGARDNERLAW.COM

ADMINISTRATIVE APPEAL

TLF MCCLUNG, LLC

v.

CITY OF SALEM BOARD OF BUILDING APPEALS

STATEMENT OF APPEAL

TLF McClung, LLC, a Virginia Limited Liability Company is owner of real property located at 17 East 7th Street, Salem, Virginia (“Subject Property”) files this appeal of the decision of the Board of Building Appeals (“Board”) from a hearing held on March 31, 202 and a letter stating the decision of the Board received by TLF on April 8, 2022.

1. On or about October 25, 2021, TLF received a letter from Troy D. Loving, a building official from the City of Salem, advising that a structure located on the Subject Property was in violation of Section 18-38 of the Virginia Uniform Statewide Building Code, adopted by the City of Salem, stating in part that “certain items are in need of repair: The entryway needs to be demolished or repaired, the sidewall needs to be repaired, and the siding needs to be replaced.” A copy of which is attached hereto as Exhibit 1.

2. On or about February 17, 2022, TLF received a second letter from Mr Loving, restating the same concerns as the above letter dated October 25, 2021, with additional language that it had “been determined that the structure has become unsafe and dangerous to the safety of other inhabitants of the city.” Also adding that “all unsafe structural issues need to be made code compliant. A copy of which is attached hereto as Exhibit 2.

3. On or about March 31, 2022, a hearing of the City of Salem Board of Building Appeals was held regarding the Subject Property. TLF did not formally appeal the decision of the building official. The hearing was requested by the Board.

4. On or about April 8, 2022, TLF received a letter from Troy D. Loving, Building Official on behalf of Nathan Routt, Chair, Board of Building Appeals, dated April 4, 2022. The letter states that the Board unanimously voted that TLF shall have 30 days from the date of the meeting to obtain a demolition permit and 120 days to demolish the structure on the Subject Property. A copy of which is attached hereto as Exhibit 3.

5. TLF is aggrieved by the unlawful, unreasonable, arbitrary and capricious decision of the Board in that the demolition of any structures on said property would irreversibly harm their interest in said property and damage its value.

6. The Board's decision was unlawful in failing to follow the provisions of the City of Salem Ordinance 18-38. The Board provided a picture of the structure alleging that it showed 33 percent or more of damages or deterioration of supporting members or 50 percent of damage or deterioration of non-supporting, enclosing or outside walls or covering. The Board's evidence presented was a photograph showing one side of the building, which cannot rise to the mathematical standard of the ordinance. A copy of which is attached hereto as Exhibit 4.

7. The Board's decision was also unlawful in that it violated the procedures set forth in Ordinance 18-38. Specifically, Section (3) states that when a building official believes a building is in violation of this section, after inspection, he shall notify the Board of his finding and the Board shall give notice in writing of such finding to the owner and set forth a time and place for a show cause hearing why such dangerous building should not be repaired, vacated or demolished. In this case, the building official provided notice to the owner, not the Board, which is in direct violation of the ordinance. In fact, the final decision of the Board was indicated by the building official, on behalf of the Board and not the Board itself.

8. The decision of the Board was unreasonable in that The Board argued that the building was unsafe, pursuant to the ordinance, which was an additional allegation from the letter dated October 25 to the letter dated February 17. At the hearing, the Board gave no evidence of the dangerous condition of the

structure and in support only stated opinion that the danger was obvious to anyone. The Board did not provide Petitioner an opportunity to present any evidence to defend or refute this allegation. The Board's decision, as stated in the letter from the building official, did not afford Petitioner an opportunity to repair the structure, without any explanation as to why an opportunity for repairs was not given to the Petitioner.

9. At the hearing, the TLF was not given an opportunity to present evidence as to the soundness of the structure, the possibility of making repairs, if needed. TLF was not given an opportunity to "show cause" or defend its property rights and alternatives to their decision of the Board for demolition.

10. TLF is requesting to have the decision of the City of Salem building official, Troy Loving and the decision of the City of Salem Board of Building Appeals deemed null and void in that the decisions were unlawful and unreasonable, arbitrary and capricious, or in the alternative, that TLF have an opportunity for a hearing to present evidence supporting their defense against the allegations of the building official, Troy Loving.

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Documents Submitted,
through legal counsel, by
TLF McClung LLC which
appears to be a copy of
the City of Salem
Code Section 18-38

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SALEM VA



Charles E. VanAllman, PE, LS
Director

Department of Community Development
Engineering/GIS, Inspections, Planning & Zoning

Troy D. Loving, CBO
Building Official

Sec. 18-38. - Amendments.

The Virginia Uniform Statewide Building Code is amended and reordained in the following respects:

- (1) Unsafe buildings. In addition to the administrative and enforcement provisions contained in the BOCA National Property Maintenance Code, adopted in the Uniform Statewide Building Code, as amended from time to time, the provisions of this section shall apply to unsafe buildings. The following words when used in this section for the purposes of this section shall have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:
 - a. *Board* means the board of appeals established under section 116.0 of volume I of the Uniform Statewide Building Code.
 - b. *Building* means every building or structure which:
 1. Shows 33 percent or more of damages or deterioration of the supporting members, or 50 percent of damage or deterioration of the nonsupporting, enclosing or outside walls or covering;
 2. Has improperly distributed loads upon the floors or roof or is otherwise overloaded, or which has insufficient strength to be reasonably safe for the purpose for which it is used;
 3. Has been damaged by fire, wind or other causes so as to become dangerous to the life, safety or health of the occupants thereof or other inhabitants of the city;
 4. Is so dilapidated, decayed or unsafe as to become dangerous to the safety of the inhabitants of the city; or
 5. Has parts thereof which are so attached that they may fall or otherwise become detached and cause personal injury or damage to other property.
 - c. *Building official* shall be as defined in section 102.0 of volume I of the Uniform Statewide Building Code.
 - d. *Occupant* means the occupants of a building in possession under a contract or lease with the owner thereof or the occupants of a building in possession under a sublease thereof.
 - e. *Owner* means every individual, firm or corporation holding legal title to a building appearing of record in the clerk's office of the circuit court of the city, where deeds are recorded; the guardian, if any, of any such owner if he is an infant and the committee, if any, of such owner if he is insane; and the trustee or mortgagee under any deed of trust or mortgage creating a lien on such building also appearing of record in such clerk's office.
- (2) All buildings defined in subsection (1) of this section are hereby declared to be public nuisances and shall be repaired, vacated or demolished, as the case may be, as required by this section.
- (3) Whenever it shall come to the attention of the building official that a building is likely to exist in violation of the provisions of this section, he shall inspect or cause an inspection to be made thereof and shall determine whether the existence of such building is in fact in violation of the provisions of this section. Upon such finding, the building official shall notify the board of his finding and the board shall give notice in writing of such finding to the owner and occupant, if any, of the building and shall set forth in such notice a time and place that the owner and occupant may appear before the board to show cause why such dangerous building should not be repaired, vacated or demolished, as the case may be.
- (4) The notice under this section shall set forth (i) the location of the building; (ii) a statement of the particulars which cause the building to exist in violation of the provisions of this section; (iii) a general statement of the work to be undertaken, if the building can be repaired; and (iv) the time and place of the hearing before the board. If, in the opinion of the building official, the continued occupancy of the building will cause imminent peril to life or property, the board or the building official may order the vacation of the building forthwith.

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Charles E. VanAllman, PE, LS
Director

Department of Community Development
Engineering/GIS, Inspections, Planning & Zoning

Troy D. Loving, CBO
Building Official

- (5) The notice under this section shall be given in the following manner:
- a. To persons who are the owners of such buildings, by delivering a copy thereof to them in person; or if they cannot be found at their usual place of abode in the city, by delivering such copy and giving information of its purport to any person found there who is a member of their family, other than a temporary sojourner or guest, above the age of 16 years; or if neither they nor any such person is found there, by leaving such copy posted at the front door of such place of abode.
 - b. To persons who are owners of such buildings who are infants or insane, by delivering a copy thereof to their guardian or committee in person; or if such guardian or committee cannot be found at his usual place of abode in the city, by delivering such copy and information of its purport to any person found there who is a member of his family, other than a temporary sojourner or guest, above the age of 16 years; or if neither he nor any such person is found there, by leaving such copy posted at the front door of such place of abode.
 - c. To a corporation, bank, trust company or other corporate entity who is the owner of such building, by delivering a copy thereof to its president or other officer, manager, director or agent thereof in the city; or if such person cannot be found at the office or place of business in the city of such corporation, bank, trust company or corporate entity, by delivering a copy to any employee thereof found at such office or place of business giving information of its purport; or if no such person is found at such office or place of business, by leaving such copy posted at the front door of such office or place of business.
 - d. If an owner of such building is unknown or cannot with reasonable diligence be found in the city or has no place of abode, office or place of business in the city, the notice shall be given by posting a copy thereof on such building in such place on the front thereof as can be easily and readily seen and by mailing a copy thereof by registered mail to the last known street and post office address of such owner, and the proof of such mailing shall be sufficient evidence of serving notice by mail.
 - e. To an occupant of any building, by delivering a copy thereof to him in person; or if he cannot be found at such building, by delivering a copy and giving information of its purport to any person found there who is a member of his family, other than a temporary sojourner or guest, above the age of 16 years; or if neither he nor any such person is found there, by leaving such copy posted at the front door of such building. If, in the opinion of the building official, the continued occupancy of the building will cause imminent peril to life or property, the board or the building official may order the vacation of the building forthwith.
 - f. The notice shall be served by any officer having authority to serve notices under Code of Virginia, § 8.01-293, who shall make return of the manner and time of service thereof to the board.
 - g. The building official shall, upon order of the board, post on the front door of such building in such place as can be easily and readily seen the following notice, and it shall be unlawful to remove such notice from the building until the order of the board with respect to the building is complied with or unless it is necessary to remove the notice in order to comply with such order:

"Warning—This building is unsafe and its use or occupancy has been prohibited by the City of Salem, Virginia. It shall be unlawful for any person, firm or corporation or their agents to remove this notice without written permission of the building official. It shall be unlawful for any person to enter this building without permission of the building official."
- (6) The board shall fix a reasonable time for the hearing and shall decide the issue within reasonable time. At the hearing before the board, the owner and occupant may appear in person, by agent or attorney, and shall be given an opportunity to be heard. The board shall have the power and it shall be its duty to enter such order or may make such requirement or determination as shall be entered or made. The concurring affirmative vote of a majority of the members of the board shall

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Building Official

be necessary to comprise the order of the board. The board shall act by formal resolution, which shall set forth the reason for its action, and the vote of each member participating therein, which shall be spread upon its records, and shall be open to public inspection. Every decision of the board shall be based upon a finding of fact and sworn testimony. The actions or decisions of the board shall be final, and its proceedings may not be stayed otherwise than by order of a court of competent jurisdiction.

If, on hearing of the case, the board shall find that the building in question is a dangerous building or structure, it shall enter an order that such building be repaired, vacated or demolished, as the case may be. The board shall:

- a. Order a building to be repaired when it can be reasonably done so that it will not exist in violation of the provisions of this section;
- b. Order the occupants thereof to vacate such building when it is in such condition as to make it detrimental to public health or safety; or
- c. Order the demolition of such building in any other case where the building cannot or will not be repaired so that it will no longer exist in violation of the provisions of this section.

The order shall specify the time in which the work is to be completed and the day on or before which the work of repair or removal is to be begun. The order shall further specify the repairs which will be necessary if the owner elects to repair rather than remove the building or structure, and such order shall further specify the time in which such vacation is to take place should such building be ordered vacated. A copy of the order shall be given to the owner or occupant or to any person appearing on the owner's behalf, and, should the board deem it advisable, the board may order a notice to be posted on the front door of such building or structure as provided in subsection (5) of this section.

- (7) If an owner fails to appear or refuses or neglects to comply with the order of the board, the board may order the building to be repaired or demolished, and the building official shall cause the building to be repaired or demolished upon such order of the board and shall submit to the city treasurer a statement of all costs incurred thereby, which shall be added to the taxes for the ensuing tax year assessed against the real estate on which the building stood and shall be collected with such taxes by any manner prescribed by law for the collection of such taxes.
- (8) If an occupant refuses or neglects to comply with the order of the board, the board shall cause a summons to be issued by the clerk of the general district court against the occupant based upon a statement made in writing by the board to the clerk under oath of the facts which authorize the removal of the occupant from the building. The summons shall be served upon the occupant, together with a copy of the statement, by the authorized officer in the manner provided for the service of the notice upon the occupant under the provisions of subsection (5) of this section. It shall be returned to the general district court and the case shall be heard and determined by such court. Such summons shall be served at least five days before the return day thereof. The case shall be heard upon a plea of not guilty, and upon this issue the court shall determine whether the occupant retains possession of the building in violation of the order of the board, and upon finding that such order is being violated, shall issue a writ directed to the authorized officer commanding him to remove the occupant and his goods or chattels from the building. All costs and expenses incurred in the issuance and service of such summons, the trial of the issue and removing the occupant and his goods and chattels shall be recoverable against the occupant in such proceeding.
- (9) Every owner or occupant who shall fail, refuse or neglect to comply with the order of the board, or otherwise violate the provisions of this section, shall be deemed guilty of a class 4 misdemeanor and be punished in accordance with the provisions of section 1-7 of the City Code.

(Code 1969, § 6-5.1)

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Meeting Minutes of
the Local Appeals
Board Hearing Held
on March 31, 2022

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Board of Building Appeals
March 31, 2022
Minutes

A meeting of the Board of Building Appeals of the City of Salem, Virginia, was held on March 31, 2022, in the Community Room, Salem Civic Center, 1001 Roanoke Boulevard, Salem, Virginia, at 3:30 p.m. concerning the dilapidated structure on the property located at 17 7th Street in the City of Salem, Virginia.

The Board—John Hildebrand, Robert Fry, III, David Botts, Nathan Routt, and Joe Driscoll; presided together with Troy D. Loving, Building Official; Jim Guynn, City Attorney, and Krystal M. Graves, Secretary; and the following business was transacted:

It was noted that notice of such hearing was published in the March 17 and 24, 2022, issues of the Salem Times-Register, a newspaper published and having general circulation in the City of Salem.

Secretary Graves called the meeting to order.

Secretary Graves stated that the first item on the agenda is to elect a chair and noted that a chair is elected at the first meeting of the calendar year.

ON A MOTION MADE BY MEMBER DRISCOLL, SECONDED BY MEMBER FRYE AND DULY CARRIED, Nathan Routt was elected chairman – the roll call vote: all – aye.

Secretary Graves asked that everyone who planned to speak at the hearing to rise, and she administered the oath.

Secretary Graves stated that the first item on the agenda to be heard is 17 7th Street.

Lew McClung, 1486 Hollybrook Road, Salem, requested to record the meeting due to having new hearing aides and not being able to write very fast.

Member Botts requested that everyone speak in a loud, clear voice as a couple of the Board members also have hearing problems.

Troy Loving, Building Official of the City of Salem, stated that it is his opinion the building located at 17 East 7th Street is in violation 18-38 of the City of Salem ordinance; the documents in the packet show the deterioration of the structure and the numerous conversations that have been had with the property owners about resolving the issues. The property owners have failed to produce any documents explaining that the building will be brought into compliance and that it is safe. He is bringing the matter to the Board in hopes that the City can get some resolution in this matter.

Chair Routt asked for speakers and for the speakers to state their name and address for the record.

Lew McClung, 1486 Hollybrook Road, Salem, member of the LLC and ownership of the building, appeared before the Board and stated that there is an interested party in the purchase of the property who is currently exploring the demolition of the building; the person has gone so far as asking demolition contractors for pricing and for hazardous waste disposal and removal. He asked the Board for 60 more days to bring a contract or some progress on that front. He stated the goal of that would be to demolition, which would be commiserate with the desires of the Board.

Chair Routt asked if there were any other speakers. No one stepped forward and he questioned if the other owners wanted to speak.

David McClung stated that they were waiting for the Board to make a decision on what they asked.

Member Driscoll stated that will come at the end.

Chair Routt stated that a decision will come at the end, but if the other owners want to speak, they can say their thoughts at this point.

Member Botts stated that the Board will discuss their request after they hear from all of the speakers.

Lew McClung questioned if the Board is opposed to his request, will the hearing continue.

Member Botts stated that the meeting would continue.

Member Driscoll questioned Mr. McClung about an email on October 25, 2021, between he and Mr. Loving where Mr. Loving had requested information from his architect or engineer regarding this code section and the building at 17 East 7th Street. In the email Mr. McClung apologized for the late response, so on and so forth; the discussion with the architect, who Mr. McClung said he had already enlisted, was waiting to get some stuff together. Member Driscoll stated that this was back in October 2021—five months ago; and inquired if he has been unable to put together the necessary stuff to do what needs to be done in five months.

Mr. McClung stated that “he” is a “she” and they have dismissed her as the architect, so the real question today he feels is would the Board allow them another 60 or 90 days to produce a contract that has an end goal of the demolition of this building, which would, he feels, would remove the need for an architect.

Member Driscoll questioned when the architect was dismissed.

Mr. McClung stated that he does not remember the exact date.

Member Driscoll stated that nothing has taken place since October other than releasing the architect.

Mr. McClung stated that he doesn't feel that is true, but nothing that he has affidavits of or have subjects present to testify.

Member Driscoll questioned if Mr. Loving has received any documentation or notification of anything.

Mr. Loving stated that he has not received anything.

Chair Routt asked if any other person(s) would like to speak.

Tom McClung, 1500 Hollybrook Road, Salem, appeared before the Board and stated that he sent a note to Mr. Loving; he hand delivered it as a matter of fact to Mr. Loving's office, stating that they had an interest from the City itself in the building, which we believe put things on hold and his actions, not having heard anything from him, would underscore that. He stated that he asked for an additional time period and Mr. Loving's response was the form of this hearing. He stated that he did make a request for an extension that was apparently denied.

Chair Routt again asked if any other person(s) would like to speak.

Lew McClung, again appeared before the Board and stated that the real matter before the Board is to accept or deny his request that they have a potential purchase pending and they are working to negotiate a contract. He stated that it sounds like the Board will exclude testimony from them in the future. If the Board agrees to the request, then there will not be a need for anyone else to bring up any points about the property. If the request is deemed not reasonable, then he asked that they have an opportunity to discuss points on the property.

Chair Routt asked for guidance.

Secretary Graves stated that typically a public hearing is held, and the Board hears from everyone who wants to speak. The public hearing is then closed, and that is when the Board would discuss and make a motion.

Chair Routt stated that the Board will hear from anyone who wants to speak regardless of what the decision will be. After all speakers have been heard, the Board will make a decision.

Mr. Lew McClung requested if an adjournment could be made long enough to make that decision and reconvene after a decision has been made. He asked the City Attorney if that was allowed by the Code.

The City Attorney stated that given Roberts Rules of Order, it would be the chairman's prerogative in that regard.

Mr. McClung questioned Member Fry if it would be reasonable to adjourn and reconvene.

Secretary Graves noted that Mr. Routt is the chair.

Mr. McClung apologized.

Chair Routt stated respectfully that he has a packet in front of him with pages and pages of emails and he feels this has been a delay tactic for a long time. He stated that it needs to be resolved today. Other Board members agreed.

Mr. McClung then stated that the notice of this meeting dated March 9, 2022, from the Building Official's office; he then questioned if the letter was the notice of this meeting.

Mr. Loving stated that the letter was notice of the hearing.

Mr. McClung then stated that the City has not followed the procedures outlined in that code section, specifically three because the procedure calls for Mr. Loving to advise the Board and for the Board to advise us in writing and he just confirmed that this came from his office and not from the Board; therefore, he asked that since the City did not follow its own rules pursuant to the code section that the case be dismissed herewith.

Chair Routt questioned where the letter was in the packet.

Secretary Graves noted that the Board received a copy of the letter separate from the packet.

Chair Routt questioned Mr. McClung's contention with the letter.

Mr. McClung stated that it was not his contention, it is the Board's rules and asked if Chair Routt had a copy of the code section in front of him.

Chair Routt stated that he did not have a copy in front of him.

Mr. McClung provided Chair Routt with a copy of the code section and stated that the process clearly was not followed in this matter and again asked that the matter be dismissed based on that.

It was noted that it's Code section 18-38, paragraph 3.

Member Hildebrand questioned Mr. McClung if he understood his opening statement to mean that it his partnership has made a decision to demolish the subject property.

Mr. McClung stated that not necessarily. If the sale is executed, then it will be demolished. If the sale isn't executed, they will look at other possibilities. He further stated that if the sale goes through, and he has every confidence that it will, there are some fine points that need to be worked on in the negotiation. He stated that they have entertained demolishing the building, but they haven't worked on all the moving parts such as the ability to reclaim some of the valuable and historic timber inside the building.

Member Botts stated that in his opinion, the Board is an entity of the City of Salem, which is also represented by the City's attorney and the Building Department is also a part of the entire entity. He stated that a letter from the Building Department calling this meeting should be as if it came from the Board.

Mr. McClung respectfully stated that is not what the code says, which is what the City should follow.

Member Driscoll respectfully stated that it is about interpretation of the code and how each person interpretes it. He is inclined to agree with Member Botts.

Chair Routt asked the City Attorney for his interpretation.

City Attorney Guynn stated that the Board is like any other corporate entity, and corporations have to act through people. The Board is active through the Building Official in giving the notice. He gives it on behalf of the Board. He doesn't have any authority otherwise; therefore, due process has been met in this case for two reasons: 1) that he acts on behalf of the Board, and 2) the notice that was given is still valid—it gave you the time, it gave you the issues and told you what would happen if you didn't show up. Due process has been met, and in his opinion it is lawful to continue.

David McClung, 1480 Hollybrook Road, Salem, appeared before the Board and asked respectfully to the city attorney, where that authority can be delegated from the Board to the employee of the City of Salem.

The City Attorney stated that it is inherent.

Mr. McClung stated that it sounds like it's in the eye of the beholder.

The City Attorney stated that he is not going to argue.

Mr. McClung stated that Mr. Loving has been speaking during parts of this meeting and he did not get sworn. He questioned if this was common process.

The City Attorney stated that he thought he was sworn because he saw him stand up and hold his arm up.

Mr. McClung stated that Mr. Loving did not, because he watched him—he thought that was going to happen and it did.

Secretary Graves stated that Mr. Loving could be sworn again and could testify again.

Mr. McClung stated that he was just inquiring.

Chair Routt asked if Mr. Loving would mind being sworn again.

Secretary Graves again administered the oath to Mr. Loving.

Mr. McClung asked that everything Mr. Loving has said before this be stricken.

Chair Routt stated that Mr. Loving will just repeat what he previously stated; and would repeat it again.

Mr. Loving again stated that he was the Building Official of the City of Salem, and that the meeting is being held today because it is his opinion that the structure at 17 E. 7th Street is in violation of Section 18-38 of the City of Salem ordinance. The Board can see from the packet that the documents show the deterioration of the structure and numerous conversations he has had with the property owners about resolving the issues. They have failed to produce any documents explaining the building will be brought into compliance and that it is safe. He brought the issue to the Board in hopes that the City can get some resolution in this matter.

Chair Routt asked if any other person(s) wanted to speak on the matter.

Lew McClung reappeared before the Board and stated that Mr. Loving sent out pictures that he hopes the Board has, with arrows pointing to deteriorated sections of the building.

The City Attorney noted that this is not an examination, it is a public hearing.

Mr. McClung then asked if the Board had photos of the deterioration.

Chair Routt stated that the Board has photos.

Mr. McClung stated that Mr. Loving points to specific areas. He asked the Board to ask Mr. Loving, even though Mr. Loving is an extension of the Board, if there is anything else that

they need to know that needs to bring the building into compliance either through repair or demolition. He stated that the arrows point to two specific areas.

Chair Routt stated that the Board is here to look at the record from the City's standpoint—to look at items Mr. Loving has addressed and Mr. Loving has addressed with you.

Mr. McClung stated that looking at that, the Board will see that the square footage of deterioration that Mr. Loving notes does not come anywhere close to what the statute calls for to be a violation of same so for that reason he would like for this case to be dismissed because there is no reason for this hearing since there is no violation of the code, and math should not be up to interpretation.

Member Driscoll stated that no one said math was up to interpretation Number One.

Mr. McClung stated that the Board is trying to prevent him from doing that.

Member Driscoll stated Number Two: Mr. McClung has been in discussions with the City as far back as October 2021. Someone has communicated on Mr. McClung's behalf named Fran—Fran Ferguson, and questioned if that was the architect.

Mr. McClung stated that it is his sister, member of the LLC and ownership of the property.

Member Driscoll stated that in one of the emails, there was a discussion about safety and that your architect said that the building as a whole was unsafe. He further stated that it doesn't matter what the building looks like, if it's unsafe, then there's an issue. As close as the building is to the road, if a good, strong wind blows that structure out onto the road and kills a passerby, there's bigger problems. He stated that the Board is not out to get anyone—the biggest thing is public safety first and foremost. He feels the building is not safe.

Mr. McClung asked Member Driscoll on what basis he makes his determination.

Member Driscoll stated 1) photos, 2) he stated that he stood outside that building today at about 12:30 this afternoon and looked at it himself.

Mr. McClung asked Member Driscoll what degree he has that would allow (i.e. engineering) for that interpretation.

Member Driscoll stated that his degree is common sense.

Mr. McClung began to ask Member Driscoll another question and Chair Routt halted the questioning. Chair Routt stated that the Board is not here for question and answer; and is not here to question Mr. McClung. It is about Mr. McClung making his statements in regard to this matter.

Mr. McClung stated that he feels this matter is a non-issue because the math does not add up to a violation of the statute. The statute clearly states the percentage of damage that has to be present and there is no way using gut feelings or anything else for that to be interpreted as having been met by this building.

Chair Routt noted Mr. McClung's statement.

Mr. McClung further stated that despite anyone's feelings otherwise, it comes down to simple math.

Member Botts stated that the Board depends on the Building Department and their authority, and their experience of knowledge of building practices to give the Board recommendation. The Building Official's recommendation is that the building is structurally unsound and unsafe. The Building Official gave the property owners every opportunity, numerous times, to provide architectural or structural engineer—certified, licensed—to prove otherwise, and it hasn't been done. It wasn't done in October, November, December, January and here it is the last day of March, and it's still being discussed. He stated that the Board is going to make a decision today based on recommendations of the Building Official.

Mr. McClung stated that he will note that Mr. Loving's recommendation was preceded by "in my opinion this building is" and he would like to have the opinion removed and replaced in a calculated fashion this building is in violation of. If it is done that way, the Board will see that there is no reason for them to be here today. He further stated that he has never seen such vitriol from a Board such as this and he would like it noted because he feels that it does seem like the Board is after someone and they are as tired of it as the Board. He further stated that the Board has let procedure walk by, a request for a sale of a building that will result in demolition go past, let common sense and common math go by, and he is interested in having it end today as well. He stated that he hoped the Board would consider it without thinking of people that complain about buildings in Salem, but think about the progression of what the property owners intend to do with the building, which is to demolish it.

Chair Routt stated that he understands Mr. McClung's request; the Board has not made any decisions—they are hearing everything that anyone wants to say.

Mr. McClung stated that he does not agree that the Board has not made a decision yet—not publicly anyway.

David McClung appeared before the Board again and presented some photographs of the property. He stated that we have not decided when he describes building what it means. On the front of the photos presented, it was a roof portrait straight down. For the point of understanding, he would like to ask the Board to have Mr. Loving to describe what portion of the building or all he is talking about.

Chair Routt stated that this is not a question and answer session.

Member Bott asked when the photos were taken.

Mr. McClung stated that the photos were taken four or five weeks ago. He stated that in the lower, center right, you can see the equipment that is preparing to take down the stable that they agreed with the Board some months ago to do. He stated that the photos were comparatively recent.

Secretary Graves noted that the stable structure was removed last year.

Mr. McClung stated that it was removed in December or somewhere along that time. He further stated that the building was built in 1890. He is 93 years old and feels there is no one alive who knows more about the building than he does. He was in the building with his father when he was 12-13 years old and has been interested in it ever since. He has a history of 80 years in the building and if the Board really wants to know something about it, he can tell you.

Chair Routt asked if there were any other person(s) to speak on the matter, and no other person(s) appeared before the Board.

Mr. McClung stated that he is not going to get any clarification as to what Mr. Loving means by a building.

Chair Routt asked if the property owners received photos like were given to the Board.

Mr. McClung stated that they received photos.

Chair Routt stated that he would be wasting time if he went through and noted everything that had been noted by the City in five photos. To save time, he is not going to read what Mr. Loving wrote, but if Mr. McClung has a copy of the photos, then he is aware.

Mr. McClung stated that he has a copy of the photos, but he can guess, but this is no time to be guessing. He thanked the Board.

Chair Routt again asked if there were any other person(s) to speak on the matter. He then asked the Board if anyone had a motion to entertain.

Member Botts stated that the Board will make a motion, second it, debate it, and then vote on it.

Member Botts moved to introduce a motion that the owner of the property located at 17 E. 7th Street be allowed 30 days to apply for a demolition permit to remove the buildings on said property. Demolition of these buildings should be completed within 120 days of this

meeting. If either of the conditions are not met, the City of Salem will proceed with the demolition and all costs will be charged to the owner and the City will place a lien on the property in the amount of the costs of the demolition and removal and disposal of the debris.

Member Frye seconded the motion.

Chair Routt asked to take a few minutes to discuss things before taking a vote.

The Board discussed the motion among themselves and asked the City Attorney a question.

Chair Routt noted that there has been a motion for the owner to apply for a demolition permit within 30 days of today.

Secretary Graves questioned 30 days to obtain a permit.

Chair Routt stated to completely pull a permit, not just apply for the permit, within 30 days of today and from that day, the day the permit is pulled.

Secretary Graves clarified that the motion was for 120 days from the date of today to complete the demolition.

Chair Routt stated that it was 30 days from today to pull a permit and 120 days from today to complete the demolition.

Member Botts confirmed the timeframe.

Chair Routt again clarified that the motion stated 30 days from today to obtain a demolition permit, and 120 days from today to complete the demolition.

Secretary Graves noted that an asbestos report would need to be submitted along with the demolition permit application; and the asbestos, if any, would have to be removed before the building could be demolished. Same as it was when the "stable" on the property was demolished.

Member Botts questioned if 30 days was ample time.

Secretary Graves stated that 30 days should be ample time.

Member Driscoll stated that the verbiage should be changed to 30 days to obtain a demolition permit.

Member Botts amended the motion and re-read it.

ON MOTION MADE BY MEMBER BOTTS, SECONDED BY MEMBER DRISCOLL, AND DULY CARRIED, the property owner of the property located at 17 E. 7th Street has 30 days from the date of the meeting to obtain a demolition permit to remove the buildings on said property; demolition of the buildings shall be completed within 120 days of the meeting; if the structures are not demolished within 120 days, the City will demolish the structure with the costs charged to the owner, and a lien will be placed on the property for said demolition – the roll call vote: all – aye.

ON MOTION MADE BY CHAIRMAN ROUTT, SECONDED BY MEMBER BOTTS, AND DULY CARRIED, the meeting was hereby adjourned at 4:18 p.m.

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Supplemental Information
Provided by Staff

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Virginia:

BEFORE THE

STATE BUILDING CODE TECHNICAL REVIEW BOARD (REVIEW BOARD)

IN RE: Appeal of Perry Smith
Appeal No. 16-3

Hearing Date: September 16, 2016

DECISION OF THE REVIEW BOARD

I. PROCEDURAL BACKGROUND

The State Building Code Technical Review Board (Review Board) is a Governor-appointed board established to rule on disputes arising from application of regulations of the Department of Housing & Community Development. See §§ 36-108 and 36-114 of the Code of Virginia. The Review Board's proceedings are governed by the Virginia Administrative Process Act. See § 36-114 of the Code of Virginia.

II. CASE HISTORY

In July of 2015, the City of Salem's Department of Engineering and Inspections (City code office), the authority

responsible for the enforcement of Part I (the Virginia Construction Code, or VCC) of the Virginia Uniform Statewide Building Code, issued a building permit under the 2012 VCC to Perry Smith (Smith) for the completion of a two-story addition onto his home at 353 Red Lane. The permit required the addition be completed within six months of the permit's issuance date.

Afterwards, the City code office reminded Smith of his need to obtain the required inspections and to provide a registered design professional's evaluation of the structural soundness of the addition's masonry walls.

In late January of 2016, the City code office notified Smith that his permit had expired and, as result, the city planned on taking his project to the City of Salem's Board of Building Appeals¹ (local appeals board).

Subsequently, the City code office scheduled a hearing with the local appeals board in March of 2016 concerning the unfinished addition. The city notified Smith of the hearing by regular mail, certified mail, by posting a notice on the exterior of his home, and by publishing a legal notice of the local newspaper.

The local appeals board held a hearing in March of 2016

¹ Smith never filed an appeal to the local appeals board on this matter.

against Smith for violations of §18-38(1) (b) (1), (4), and (5) of the Code of the City of Salem, ultimately ruling that Smith had 30 days to secure a demolition permit, then an extra 90 days from that date to complete the demolition of the addition.

After receiving the local board's decision, Smith further appealed to the Review Board.

Review Board staff, in processing Smith's appeal, informed the parties that in prior cases concerning jurisdiction, the Review Board had determined that it lacked jurisdiction to hear appeals of the application of local ordinances or regulations.

Consequently, a hearing was held before the Review Board with Smith as the only party in attendance.

FINDINGS OF THE REVIEW BOARD

Although Smith filed an appeal to the Review Board requesting additional time to complete his addition, the Review Board finds that the only issues properly before is whether it can hear an appeal of a local appeals board decision that solely based on a local ordinance (i.e. a local city code or regulation).

On this matter, the Review Board finds that no evidence or documentation was submitted by the parties to indicate that the City code office had cited Smith for any violations of the VCC. Moreover; the local appeals board did not reference or cite any VCC violations in its decision concerning Smith's project. The Review Board finds that its basic law, § 36-114 of the Code of Virginia, does not authorize it to hear appeals of local ordinances:

"The Review Board shall have the power and duty to hear all appeals from decisions arising under application of the Building Code, the Virginia Amusement Device Regulations adopted pursuant to § 36-98.3, the Fire Prevention Code adopted under the Statewide Fire Prevention Code Act (§ 27-94 et seq.), and rules and regulations implementing the Industrialized Building Safety Law (§ 36-70 et seq.), and to render its decision on any such appeal, which decision shall be final if no appeal is made therefrom. Proceedings of the Review Board shall be governed by the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), except that an informal conference pursuant to § 2.2-4019 shall not be required."

Additionally, the Review Board finds that it lacks proper jurisdiction to hear a further appeal from the decision of the local appeals board predicated on a city ordinance. Moreover, it finds that Smith's remedy on this matter is limited to an appeal of the city ordinance to the local appeals board.

FINAL ORDER

The appeal hearing has been given due regard, and for the reasons set out herein, the Review Board orders the appeal of Smith, to be, and hereby is, dismissed due to lack of jurisdiction.

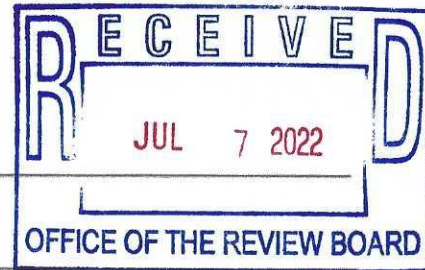
J. Robert Allen
Chairman, State Technical Review Board
Nov. 10, 2016
Date Entered

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty (30) days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with Alan McMahan, Secretary of the Review Board. In the event that this decision is served on you by mail, three (3) days are added to that period.

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REQUEST FOR INTERPRETATION

TO: OFFICE OF THE STATE BUILDING CODE TECHNICAL REVIEW BOARD
VIRGINIA DEPT. OF HOUSING AND COMMUNITY DEVELOPMENT
Main Street Centre
600 E. Main Street, Suite 300
Richmond, Virginia 23219-1321
Tel: (804) 371-7150 Fax: (804) 371-7092
Email: sbco@dhcd.virginia.gov



From: Gregory H. Revels

Phone Number: 804/501-4374

Email Address: Greg.Revels@henrico.us

Applicable Code: 2017 National Electrical Code

Code Section(s): Articles 100, 336.10(9), 725.1(B)

Submitted by (signature):

A handwritten signature in blue ink, appearing to be "Gregory H. Revels", written over a horizontal line.

Date:

7.7.2022

QUESTION(S):

Is a single conductor within a Type TC-ER cable permitted to serve as both the power and remote control signal circuit when supplying PV Solar arrays with micro-inverters and controllers?

conductors. The communications conductors shall comply with Part V of Article 800.

334.108 Equipment Grounding Conductor. In addition to the insulated conductors, the cable shall have an insulated, covered, or bare equipment grounding conductor.

334.112 Insulation. The insulated power conductors shall be one of the types listed in Table 310.104(A) that are suitable for branch-circuit wiring or one that is identified for use in these cables. Conductor insulation shall be rated at 90°C (194°F).

Informational Note: Types NM, NMC, and NMS cable identified by the markings NM-B, NMC-B, and NMS-B meet this requirement.

334.116 Sheath. The outer sheath of nonmetallic-sheathed cable shall comply with 334.116(A), (B), and (C).

(A) **Type NM.** The overall covering shall be flame retardant and moisture resistant.

(B) **Type NMC.** The overall covering shall be flame retardant, moisture resistant, fungus resistant, and corrosion resistant.

(C) **Type NMS.** The overall covering shall be flame retardant and moisture resistant. The sheath shall be applied so as to separate the power conductors from the communications conductors.

ARTICLE 336

Power and Control Tray Cable: Type TC

Part I. General

336.1 Scope. This article covers the use, installation, and construction specifications for power and control tray cable, Type TC.

336.2 Definition.

Power and Control Tray Cable, Type TC. A factory assembly of two or more insulated conductors, with or without associated bare or covered grounding conductors, under a nonmetallic jacket.

336.6 Listing Requirements. Type TC cables and associated fittings shall be listed.

Part II. Installation

336.10 Uses Permitted. Type TC cable shall be permitted to be used as follows:

- (1) For power, lighting, control, and signal circuits.
- (2) In cable trays, including those with mechanically discontinuous segments up to 300 mm (1 ft).
- (3) In raceways.
- (4) In outdoor locations supported by a messenger wire.
- (5) For Class 1 circuits as permitted in Parts II and III of Article 725.
- (6) For non-power-limited fire alarm circuits if conductors comply with the requirements of 760.49.

(7) Between a cable tray and the utilization equipment or device(s), provided all of the following apply:

- a. The cable is Type TC-ER.
- b. The cable is installed in industrial establishments where the conditions of maintenance and supervision ensure that only qualified persons service the installation.
- c. The cable is continuously supported and protected against physical damage using mechanical protection such as struts, angles, or channels.
- d. The cable that complies with the crush and impact requirements of Type MC cable and is identified with the marking "TC-ER."
- e. The cable is secured at intervals not exceeding 1.8 m (6 ft).
- f. Equipment grounding for the utilization equipment is provided by an equipment grounding conductor within the cable. In cables containing conductors sized 6 AWG or smaller, the equipment grounding conductor must be provided within the cable or, at the time of installation, one or more insulated conductors must be permanently identified as an equipment grounding conductor in accordance with 250.119(B).

Exception to (7): Where not subject to physical damage, Type TC-ER shall be permitted to transition between cable trays and between cable trays and utilization equipment or devices for a distance not to exceed 1.8 m (6 ft) without continuous support. The cable shall be mechanically supported where exiting the cable tray to ensure that the minimum bending radius is not exceeded.

- (8) Where installed in wet locations, Type TC cable shall also be resistant to moisture and corrosive agents.
- (9) In one- and two-family dwelling units, Type TC-ER cable containing both power and control conductors that is identified for pulling through structural members shall be permitted. Type TC-ER cable used as interior wiring shall be installed per the requirements of Part II of Arti-

cle 334 and, where installed as exterior wiring, shall be installed per the requirements of Part II of Article 340.

Exception: Where used to connect a generator and associated equipment having terminals rated 75°C (140°F) or higher, the cable shall not be limited in ampacity by 334.80 or 340.80.

Informational Note No. 1: TC-ER cable that is suitable for pulling through structural members is marked "JP."

Informational Note No. 2: See 725.136 for limitations on Class 2 or 3 circuits contained within the same cable with conductors of electric light, power, or Class 1 circuits.

(10) Direct buried, where identified for such use

Informational Note: See 310.15(A)(3) for temperature limitation of conductors.

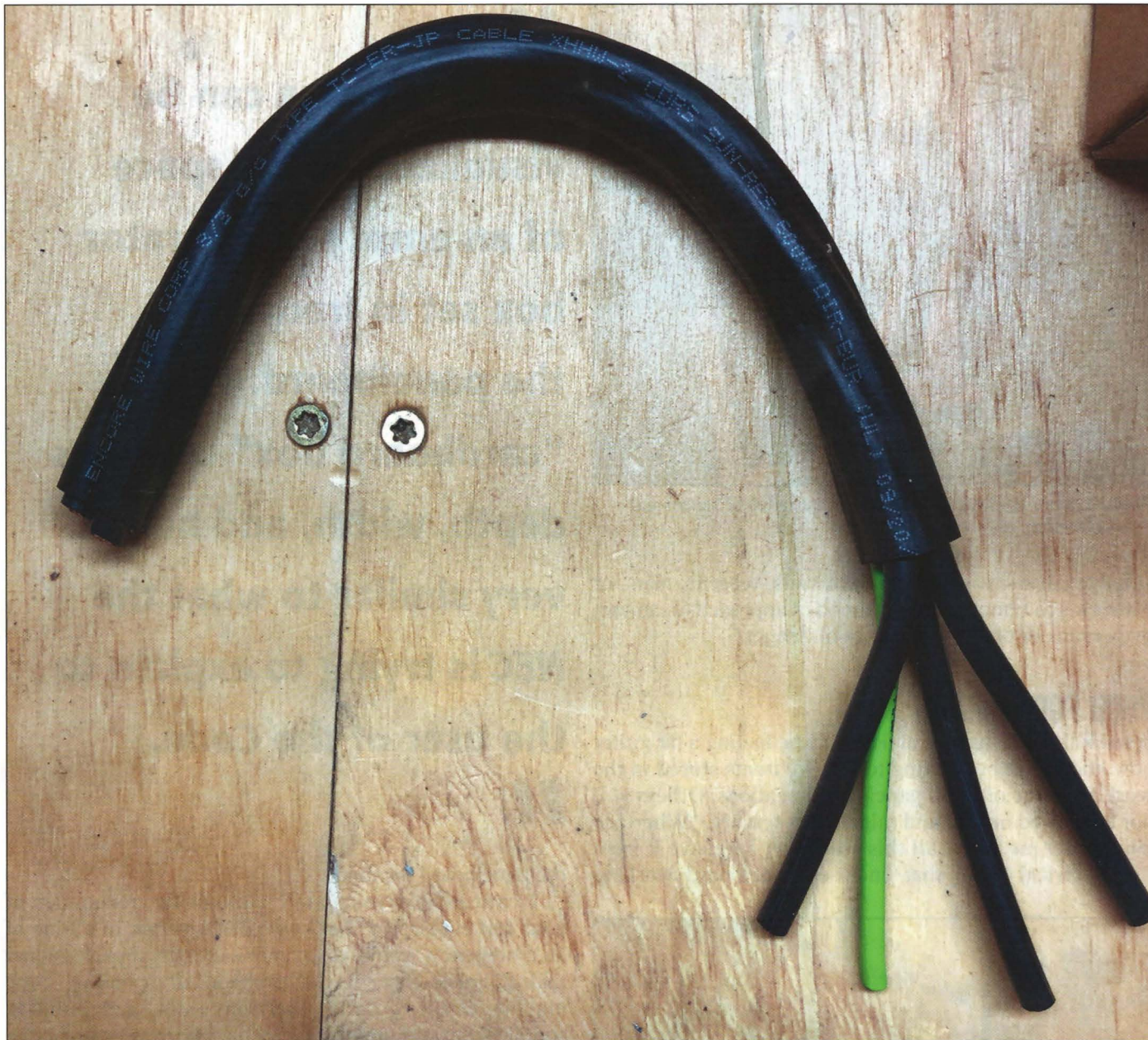


Photo 1. TC-ER-JP cable as described in NEC 2017/2020 Section 339.10(9)

Using TC-ER Cable for Inverter Output Circuits

by: Barklie Estes

Type TC-ER tray cable is a cable that has been predominantly used for industrial purposes due to its impact and crush resistance, cost-effectiveness and the fact that most products are sunlight resistant and direct burial rated. One of the important changes between the 2011 and 2014 *NEC* for solar systems using microinverters was the addition of permission to use TC-ER tray cable for inverter output circuits under certain circumstances [*NEC* 2014 690.31(D)]. However, the introduction of the 2017 *National Electrical Code (NEC)* removed the Chapter 6 permission while simultaneously adding a permission for utilizing Type TC-ER cable in

Chapter 3. This transition has raised the question under what, if any, circumstances can TC-ER cable be used for inverter output circuits per the 2017 and 2020 *NEC*?

In both editions, the first thing that jumps out in Section 336.10(9) is that the permission is limited to only one-family and two-family dwellings and thus cannot be used for non-dwelling units or buildings with more than two complete independent living facilities.

A second requirement is that the cable must be identified for pulling through structural members. A UL Listing with a Joist Pull (“JP”) rating would suffice as being “Identified” according to its Article 100 definition

In one- and two-family dwelling units, Type TC-ER cable containing both power and control conductors that is identified for pulling through structural members shall be permitted. Type TC-ER cable used as interior wiring shall be installed per the requirements of Part II of Article 334.

Exception: Where used to connect a generator and associated equipment having terminals rated 75°C (140°F) or higher, the cable shall not be limited in ampacity by 334.80 or 340.80.

Informational Note No. 1: TC-ER cable that is suitable for pulling through structural members is marked "JP."

Informational Note No. 2: See 725.136 for limitations on Class 2 or 3 circuits contained within the same cable with conductors of electric light, power, or Class 1 circuits. [NEC 336.10(9)]



Photo 2. Example of a UL Joist Pull Listing for TC-ER cable

and informational note. Although NEC 336.10(9), Informational Note No. 1, states that such cable is marked "JP", cable that has passed the UL requirement but does not have JP on its print label would be acceptable since informational notes are not enforceable code [NEC-2017, 90.5(C)]. The 2020 NEC moves the "JP" stipulation out of the informational note so inspectors enforcing the 2020 may require its presence on the print legend.

A third requirement which is especially important for solar installers who route wiring through the attic is that TC-ER cable used as interior wiring must meet the Article 334 Part II requirements. As such, it should be supported every 1.4 m (4 ½ ft) [334.30], which is less than the 1.8 m (6 ft) requirement per NEC 2014 Section 690.31(D). For trusses that are 24" on center, this means the cable should be stapled every 2nd truss instead of every 3rd. The 2017 NEC does not make explicit the securing requirements for exterior runs of TC-ER cable used in one-family and two-family dwellings. The 2020 NEC states that exterior runs need to follow Part II of Article 340 [340.10(4)], which redirects to the NM securing requirement of 1.4 m (4 ½ ft).

The stipulation to follow Article 334 Part II can also affect conductor sizing due to the requirement to use the

60°C rating [334.80] which can be more stringent than the requirement to multiply the inverter output by 125% [690.8(B)(1)]. As an example, a microinverter system with 90°C rated cable/terminations and a 42-amp aggregate continuous output rating could use 8 AWG cable (55>42*125%) under the 2014 requirements but could not under the 2017 or 2020 requirements (42>40) [2017 NEC Table 310.15(B)(16) and 2020 NEC Table 310.16].

The fourth requirement is that the cable must contain both power and control conductors. Since the only way inverters output their power is through their AC conductors, the adherence to the power conductor requirement is self-evident. Adherence to the control conductor requirement involves determining whether an inverter output circuit [defined in 690.2] meets the criteria for any of the different varieties of control circuits.

There are three types of control circuits discussed in Article 725, the relevant one for inverters being remote-control circuits. A remote-control circuit is "any electrical circuit that controls any other circuit through a relay or equivalent device" [Article 100]. Because grid-connected inverters are required to be compliant with UL 1741 and IEEE 1547, these types of inverters must be able to discontinue the production of power when the



Photo 3. Interior TC-ER cable installed under the 2017/2020 NEC should be secured every 1.4 m (4 ½ ft). If a firefighter saws through the roof with a chainsaw (a thing they do), that there is a chance they hit the cable that is stapled to the rafter. To prevent this mishap, the firemen should disconnect the service prior to venting. PV conductors in buildings have to be under 30 volts within 30 seconds of being disconnected [690.31(B)(1)]. For systems connected on the load-side (i.e. through the circuit breaker), turning off the main breaker also disconnects the PV circuits. For systems connected to the line-side, the firefighter will separately disconnect the main service and the PV service. Pulling the meter shuts down all the services in either case.

utility grid is disrupted. This mandate is referred to as “anti-islanding.” Inverters achieve this requirement by limiting the PV circuit(s) when the inverter output circuit detects grid disruption. Because the inverter output circuit is directing the function of the PV circuit(s), it would, therefore, meet the definition of a remote-control circuit.

There are also three classes of control circuits, the relevant one in this scenario being Class 1, since Class 2 and Class 3 circuits are not allowed to be contained in the same cable as power conductors [725.136]. Class 1 Circuits are defined as, “The portion of the wiring system between the load side of the overcurrent device or power-limited supply and the connected equipment” [NEC 2017 725.2]. The stipulation that the control circuit be less than 600 volts [725.41(B)] is not particularly consequential since an inverter interconnected to a one- or two-family dwelling is going to be operating at 240 volts.

As long as the inverter output circuit can exercise control over the PV circuit(s), is located between the overcurrent device and equipment, and is not exceeding 600 volts, it would qualify as a Class 1 circuit and meet the control conductor requirement in 339.10(9). Because the NEC does not preclude a conductor from simultaneously serving as both a power conductor and a Class 1 conductor, the fact that the same conductors are being used for two

different purposes does not constitute a violation.

In addition to checking the four boxes required for the 336.10(9) permission, it is also necessary to evaluate whether the application in question violates any of the three TC-ER uses not permitted [336.12].

The first clarifies that the cable should not be installed where subject to physical damage. Accordingly, the cable can be used as a substitute for other wiring methods not subject to physical damage (MC Cable, Schedule 40 PVC, LFMC, SER, etc.) but should not be used as a substitute for wiring methods that are subject to physical damage (Schedule 80 PVC, IMC, or RMC). While the topic of subject to physical is worthy of an article itself, a common qualifier is whether there are hazards (vehicles, machinery, falling objects, destructive tools) near the wiring.

The purpose of the second limitation is to prohibit the use of TC-ER cable outside of a conduit system in certain applications, but it also serves to clarify that the 336.10(9) permission being discussed is indeed about applications outside of a raceway.

The third prohibition states that TC-ER cable is not to be exposed to direct rays of the sun, unless identified for as sunlight resistant. Such cable will typically have “SUNLIGHT RESISTANT” or “SUN RES” on its print legend.

The answer to the question of whether TC-ER cable can be used for an inverter output circuit is under the

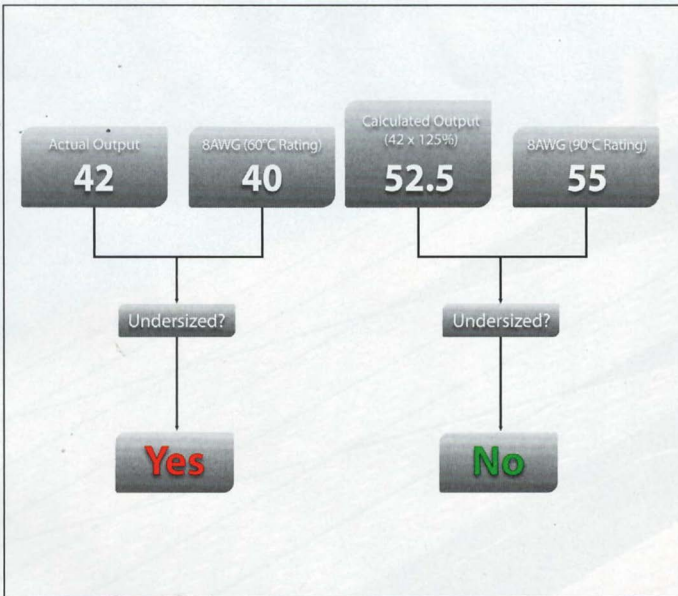


Figure 1. Example of inverter wire sizing using a 42-amp inverter output circuit

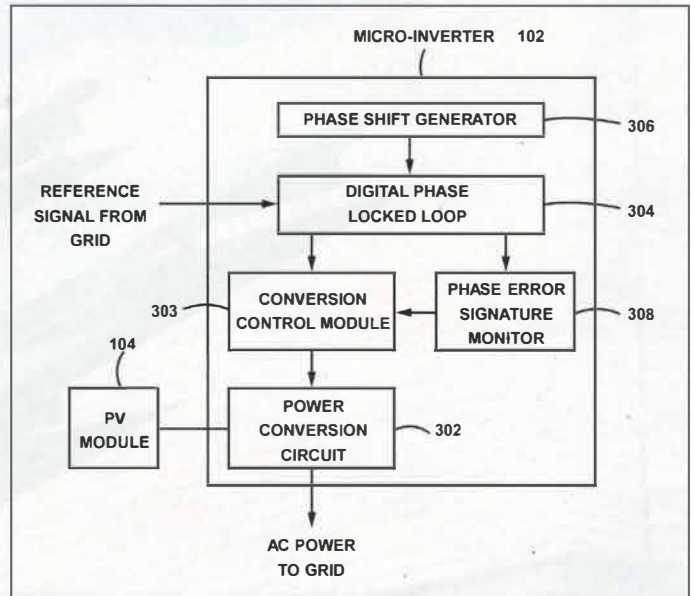


Figure 2. Example of internal components for a grid-connected microinverter



Photo 4. Exterior runs of TC-ER cable on a single-family dwelling

2017 or 2020 *NEC* is, therefore, yes, as long as 1) it is being used for a one or two-family dwelling, 2) it is UL listed for joist pull, 3) the installation meets the *NEC* 2017/2020 Article 334 Part II wire sizing and support requirements, 4) it is UL 1741/IEEE 1547 compliant, 5) is installed away

from physical hazards, and 6) the cable is sunlight resistant if used outdoors. ⚠️

Barklie Estes is the president of Nova Solar, a residential and commercial solar installation company serving DC, Maryland, and Virginia. He is a NABCEP Certified PV Associate and PV Installer. He is also a licensed Master Electrician in Maryland and Virginia.



State Building Code Technical Review Board Policy #27

Title: State Building Code Technical Review Board Secretary authority to request additional information and/or documentation from the parties to an application for appeal.

Authority: Section 36-108 et seq. of the Code of Virginia

Policy Statement: It shall be the policy of the State Building Code Technical Review Board (Board) that, when the Secretary is processing an application for appeal (appeal) and discovers additional information and/or documentation is needed, the Secretary may request the additional information and/or documentation from the applicable party. Additional information and/or documentation may be, but is not limited to, the following items:

1. Local appeals board application
2. Certificate of Occupancy for the building subject of the appeal
3. Engineering reports for the building subject of the appeal
4. Photographs of the site and or the building subject to the appeal
5. Approved building plans for the building subject of the appeal
6. Technical specifications, technical calculations, product standards, and/or manufacturer's installation instructions for installed equipment and/or products for the building subject of the appeal
7. A written copy of the meeting minutes and transcript, where a copy exists, of the local appeals board hearing
8. Any additional information and/or documentation requested by a Board member
9. Any other additional information and/or documentation deemed necessary by the Secretary

The submitted information shall be included in the Board agenda package.

Note 1: Failure to submit the requisite documentation by either party may delay the administration of the appeal.

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Note 2: When an appeal related to a HVAC system see Review Board policy #28.

**Approval
and Review:**

This Board policy was reviewed and approved on 08/19/2022.

Supersession:

This Board policy is new.

**Board Chair
at Last Review:**

James R. Dawson

DHCD Director:

Bryan Horn

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State Building Code Technical Review Board Policy #28

Title: Submittal of HVAC documentation

Authority: Section 36-108 et seq. of the Code of Virginia

Policy Statement: It shall be the policy of the State Building Code Technical Review Board (Board) that, when an appeal is related to the HVAC system of a building, the following documents, if they exist, shall be requested by the Review Board Secretary (Secretary) in accordance with the time frames established by the Secretary.

1. Entire set of approved building plans
2. Manuals S, J, and D or other approved calculations for sizing the HVAC equipment and ductwork
3. Site plan with a North Indicator
4. Set of "As Built" plans for the building
5. Manufacturer's specifications for the HVAC system
6. Schedule of materials for the building for building thermal envelope

The submitted information shall be included in the Board agenda package.

Note 1: Failure to submit the requisite documentation by either party may delay the administration of the appeal.

Approval and Review: This Board policy was reviewed and approved on 08/19/2022.

Supersession: This Board policy is new.

Board Chair at Last Review: James R. Dawson

DHCD Director: Bryan Horn

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State Building Code Technical Review Board Policy #29

Title:	Attendance of the Code Official required for all Request for Interpretations
Authority:	Section 36-108 et seq. of the Code of Virginia
Policy Statement:	It shall be the policy of the State Building Code Technical Review Board (Board) that, when a code official submits a Request for Interpretation to the Board, the Review Board Secretary (Secretary) shall inform the code official that their attendance is required at the Board meeting where the request will be considered.
Approval and Review:	This Board policy was reviewed and approved on 08/19/2022.
Supersession:	This Board policy is new.
Board Chair at Last Review:	James R. Dawson
DHCD Director:	Bryan Horn

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