



## Home Builders Association of Virginia

*Representing Virginia's Residential Construction and Land Development Industry*

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### *DPOR Extension of Licenses, Certifications, and Other Credentials*

This morning, the Department of Professional and Occupational Regulation (DPOR) announced that they will be extending the validity of licenses, certifications, and other credentials issued by its regulatory boards that would otherwise expire during the declared state of emergency or be eligible for renewal or reinstatement during the state of emergency under applicable regulations, until the 30th day after the date by which the state of emergency is lifted.

DPOR also announced that they will be waiving any regulations of regulatory boards under the DPOR that prohibit or limit online, electronic, or distance theoretical instruction, in order to prevent and mitigate the spread of the coronavirus (COVID-19). This waiver does not waive statutory requirements or limitations, nor does it waive practical (hands-on) instruction required by a board's regulations. This waiver shall take effect on March 18, 2020, and shall remain in full force and in effect until June 10, 2020, unless sooner amended or rescinded by further executive order.

More information from DPOR can be found [here](#).

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### **Issues with Recording, Indexing and Scanning Local Land Records**

On Monday, the Chief Justice of the Supreme Court of Virginia issued a declaration of judicial emergency, which suspended all non-essential, non-emergency Circuit and District court proceedings with some exceptions, [which can be found here](#). The Chief Justice's declaration also stated that "the courts and clerks' offices shall remain operational and provide **essential services** while balancing the health and safety needs of court visitors and personnel."

We believe that the Chief Justice's declaration and underlying judicial protocols hold that indexing, scanning and recording by the Clerks' Offices are deemed "essential functions" of the Virginia court system.

However, we have received several reports of challenges with the recording, indexing and scanning of local land records.

**If you run into any challenges with local Circuit Court Clerks and the recording, indexing, and scanning of land records, please contact HBAV's Vice President of Government Affairs, Andrew Clark, at [AClark@HBAV.com](mailto:AClark@HBAV.com) as soon as possible.**

We have been in frequent communication with the Virginia REALTORS and the Virginia Court Clerks Association to resolve any challenges that arise during these unprecedented times. **In order to resolve these issues in a timely manner, it is helpful to consolidate our communications to the relevant stakeholders through HBAV.**

*This is an update to HBAV's COVID-19 Housing Industry Update from yesterday, which can be found below.*

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### **HBAV 's COVID-19 Update - March 17th**

As you know, the COVID-19 outbreak is having a significant impact on all aspects of Virginian's daily lives as well as the residential land development and construction industry.

Over the last week, HBAV has been in contact with the various state regulatory agencies and local governments about their plan of operation for the foreseeable future. The Commonwealth is in fairly uncharted waters and as a result, many state agencies and local governments are still in the process of formulating their policies and disseminating information to the business community.

In the coming days, we hope to provide you with additional information from the Department of Professional and Occupational Regulation and the Department of Environmental Quality. We will also be sending out an update regarding the Virginia Supreme Court's recent declaration of judicial emergency and that declaration's impact on processing of land records and other court functions related to real-estate.

Below you will find several updates, including:

- **News and Resources**
- **Governor Announces New Measures to Combat COVID-19 (March 17th)**
- **Status of Local Building Departments**
- **Local Boards of Supervisors, City Council, Planning Commission Meetings**
- **Department of Housing and Community Development Meetings**
- **Williams Mullen: OSHA's Planning Guidance to Employers**

If you have any questions, concerns, or feedback on issues that are impacting the residential land development and construction industry, please contact Andrew Clark at [AClark@HBAV.com](mailto:AClark@HBAV.com).

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**[News and Resources](#)**

[Virginia Department of Health's COVID-19 Resources](#)

[NAHB: Coronavirus Could Affect OSHA Compliance on Home Building Sites](#)

[Congress Expected to Pass Coronavirus Response Act Requiring Employer-Paid Sick and Medical Leave \(3/16/2020\)](#)

[Federal Reserve Provides Stimulus – Including for Housing \(3/15/2020\)](#)

[Fed Cuts Interest Rates to Zero \(3/15/2020\)](#)

[Small Businesses Hurt by Coronavirus May Be Eligible for Low-Cost Loans \(3/13/2020\)](#)

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### **Governor Northam Announces New Measures to Combat COVID-19 and Support Impacted Virginians**

Today, Governor Northam announced additional steps to help Virginians impacted by novel coronavirus, or COVID-19, stop the spread of the virus in the Commonwealth, and protect public health. [The press release can be found here.](#)

#### Further Reducing Public Gatherings

Governor Northam told Virginians to avoid non-essential gatherings of more than 10 people, per federal guidelines. This does not include normal operations at essential services such as manufacturers, distribution centers, airports, bus and train stations, medical facilities, grocery stores, or pharmacies.

#### Protecting High-Risk Virginians

Those with chronic health conditions or aged 65 or older should self-quarantine. Public health experts advise that individuals with underlying medical conditions and those aged 65 or older are at increased risk of severe illness from COVID-19. Governor Northam encouraged neighbors and friends to stay in touch and regularly check in with high-risk individuals.

#### Increasing Social Distancing

All restaurants, fitness centers, and theaters are mandated to significantly reduce their capacity to 10 patrons, or close. Restaurants are encouraged to continue carry-out and takeaway options.

#### Support for Affected Workers

Governor Northam announced the following actions to protect working Virginians impacted by the COVID-19 outbreak:

- No waiting for unemployment benefits. Governor Northam has directed the Commissioner of the Virginia Employment Commission to waive the one-week waiting period to ensure workers can receive benefits as soon as possible.

- Enhanced eligibility for unemployment. Workers may be eligible to receive unemployment benefits if an employer needs to temporarily slow or cease operations due to COVID-19. If a worker has been issued a notice to self-quarantine by a medical or public health official and is not receiving paid sick or medical leave from their employer, they may be eligible to receive unemployment benefits. In addition, a worker may be eligible for unemployment benefits if they must stay home to care for an ill family member and are not receiving paid family medical leave from their employer.
- Fewer restrictions. For individuals receiving unemployment insurance, Governor Northam is directing the Virginia Employment Commission to give affected workers special consideration on deadlines, mandatory re-employment appointments, and work search requirements.

#### Support for Impacted Employers

- Regional workforce teams will be activated to support employers that slow or cease operations. Employers who do slow or cease operations will not be financially penalized for an increase in workers requesting unemployment benefits.
- The Governor is authorizing rapid response funding, through the Workforce Innovation and Opportunity Act, for employers eligible to remain open during this emergency. Funds may be used to clean facilities and support emergency needs.
- Governor Northam is directing all employers to follow U.S. Department of Labor guidance on workplace safety.

#### Department of Motor Vehicle Office Closures

- Virginia's 75 DMV offices, as well as mobile units, will close to the public.
- Online services will remain available, and anyone needing to renew a license or vehicle registration is encouraged to do so online.
- For those who cannot renew online, or whose license or registration expires before May 15, DMV will grant a 60-day extension.

#### Courts

Governor Northam requested and the Supreme Court of Virginia granted a judicial emergency in response to COVID-19. From Monday, March 16 through Monday, April 6, non-essential, non-emergency court proceedings in all district and circuit courts are suspended absent a specific exemption. This includes a prohibition on new eviction cases for tenants who are unable to pay rent as a result of COVID-19. All non-exempted court deadlines are tolled and extended for a period of 21 days.

#### Utilities

The State Corporation Commission (SCC) issued an order directing utilities it regulates, such as electric, natural gas, and water companies in Virginia, to suspend service disconnections for 60 days to provide immediate relief for any customer, residential and business, who may be financially impacted by the COVID-19 outbreak.

For a comprehensive list of actions Governor Northam has announced to combat COVID-19 in Virginia, visit [virginia.gov/coronavirus](https://www.virginia.gov/coronavirus).

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## Status of Local Building Departments

Local governments around Virginia are in the process of evaluating procedures and protocols to help ensure the health and safety of local government staff and the general public while also maintaining core services, to the greatest extent possible. Given the constantly evolving nature of the COVID-19 outbreak, it is extremely challenging for HBAV to provide a single “clearinghouse” of the all updates from local governing bodies, planning commissions, and the various local departments that impact the residential land development and construction industry – information is changing by the hour.

**The best way to get information about the status of your local building department is to visit the local department’s website.**

Working with the Department of Housing and Community Development, HBAV has compiled a list of every locality’s homepage, building department page, and any pages that localities have created specifically for the COVID-19 outbreak’s impact on core local government functions.

[You can download a copy of the document here](#)– please make sure to review the links contained in columns K – M for information about the current status of local building departments. The document also contains the contact information for every building official in the Commonwealth. We will continue to update this page as new information is made available.

The Department of Housing and Community Development has also published a [“Frequently Asked Questions”](#) page to provide guidance to the industry and local building officials.

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## Local Boards of Supervisors, City Council, Planning Commission Meetings

In the wake of various recommendations from health officials aimed at preventing and minimizing the transmission of COVID-19, local governing bodies have been struggling to figure out how to conduct business while at the same time being encouraged to minimize or reschedule group meetings.

Currently, the Code of Virginia only allows local governing bodies to meet by electronic communications without a quorum of the public body **physically** assembled at one location during a state of emergency provided that “(i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) **the purpose of the meeting is to address the emergency.**” This code section places significant restrictions on the ability for local governing bodies to utilize modern technology during these unprecedented times.

Although the recommendations from Governor Northam and various state health officials are prudent and important measures to help prevent and minimize the transmission of COVID-19, they have the unintended effect of potentially “freezing” all land-use/development applications if local governments do not have the authority or ability to utilize modern technology to conduct their business.

HBAV believes that the current de facto “freeze” or restriction on the ability for local governments to review and take action on land-use applications will disrupt the pipeline of economic and community development projects in localities throughout the Commonwealth. This will exacerbate

the dire supply/demand gap that exists in Virginia’s housing market and thwart our efforts to address Virginia’s affordable housing crisis.

Recognizing the significant impact that these restrictions could have on local government’s ability to budget/appropriate funds and evaluate/take action on various land-use applications, the Virginia Municipal League (VML) proactively sought an Attorney General’s opinion on Virginia Code Section 44-146.21, which states that during a state of emergency (state or local), “the director of emergency management of each political subdivision or any member of the governing body, may.....[among other powers] proceed without regard to time-consuming procedures and formalities prescribed by law (except mandatory constitutional requirements) pertaining to the performance of public work...”

The request for an Attorney General’s opinion, [which can be found here](#), was submitted by Senator Jeremy McPike and Delegate Rip Sullivan and contained three questions:

1. Does [Virginia Code 44-146.21](#) allow local governing bodies, upon declaration of a state of emergency, to hold their meetings solely by electronic communication during the pendency of the emergency?”
2. Since the Governor has declared a state of emergency, may local governing bodies hold their meetings solely by electronic communication during the pendency of the emergency pursuant to [Virginia Code 2.2-3708.2.A.3?](#)
3. If Virginia Code does not allow solely electronic meetings of local governing bodies, can the Governor expand his declaration of “state of emergency” to allow for electronic meetings of local governing bodies or must the General Assembly convene a special/emergency Session to amend the Code of Virginia?

On Monday, the Home Builders Association of Virginia contacted the Attorney General’s office to reiterate that inaction on this issue could have a significant impact on economic and community development projects around the Commonwealth – and could exacerbate the Commonwealth’s already dire housing supply/demand gap. HBAV will continue to provide updates on this matter as they become available.

Please contact HBAV’s Vice President of Government Affairs, Andrew Clark, at [AClark@HBAV.com](mailto:AClark@HBAV.com) if you have any questions or concerns – or would like to pass along any information that you have received from your local governments.

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### **Department of Housing & Community Development Meeting Cancellations**

The Department of Housing and Community Development is closely monitoring the COVID-19 outbreak and continuing to review the need to cancel or reschedule meetings, events, and trainings – this includes meetings of the Board of Housing and Community Development, the State Technical Review Board, and the Virginia Building Code Academy. [Please click here for an update on these meetings.](#)

HBAV's General Counsel, Williams Mullen, [recently provided an update to clients regarding recent guidance developed by OSHA, in conjunction with the CDC, for employers facing the COVID-19 outbreak.](#)

[The guidance](#) explains what COVID-19 is, how it's transmitted, and how its spread could affect workplaces. [The guidance](#) then urges employers to act by reducing the risk of worker exposure through traditional practices: Engineering, administrative and work practice controls (in that hierarchy), supplemented by personal protective equipment. Of course, OSHA recommends that employers adopt a formal plan of action.

The guidance recognizes that employer action should be commensurate with actual occupational risk of exposure. Healthcare workers, for example, are at very high risk, while home-based workers with little physical contact with clients or teammates fall into the lower band of the risk spectrum. OSHA provides general best practices for every workplace and then offers specific guidance for each level of exposure risk, including team members working abroad.

Finally, OSHA acknowledges what it doesn't know about COVID-19. The guidance is intentionally flexible to account for the learning curve associated with the disease. OSHA has devoted an entire page of its website to posting the latest resources about COVID-19 [here](#). Additional guidance on preparing for COVID-19 is also [available here](#).

The prudent employer should consider OSHA's guidance and periodically check the resources available (with no fear of exposure to COVID-19). Of course, the guidance does not address every potential occupational safety-related issue presented by the outbreak. Employers are encouraged to review all policies and personnel decisions related to COVID-19 for compliance with applicable occupational safety requirements.

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