

April XX, 2020

The Honorable Nancy Pelosi  
Speaker  
U.S. House of Representatives

The Honorable Kevin McCarthy  
Minority Leader  
U.S. House of Representatives

The Honorable Mitch McConnell  
Majority Leader  
U.S. Senate

The Honorable Charles E. Schumer  
Democratic Leader  
U.S. Senate

Dear Speaker Pelosi, Leader McConnell, Senator Schumer, and Leader McCarthy:

As Congress considers additional legislation to assist our nation's response to the COVID-19 pandemic, the undersigned organizations and businesses request that resources be targeted to assist building and fire prevention departments in continuing their essential functions through virtual solutions. The U.S. Department of Homeland Security (DHS) has determined code officials to be essential to the nation's response to the coronavirus pandemic and no state has made a contrary determination. Yet, while two-thirds of departments report personnel are working remotely, six in ten building and fire prevention departments do not possess the capability to remotely carry out critical aspects of their work.<sup>1</sup>

These departments, and the building, fire, plumbing, and mechanical officials and inspectors that comprise them, conduct critical work. They enforce regulations that require disinfection of ventilation through mechanical systems in hospitals, adequate facilities to ensure handwashing, and safe and sanitary plumbing systems that mitigate the spread of contagions, including water, sanitary, drainage, and medical gas systems. They also ensure healthcare centers are structurally sound, a critical function given reports of a facility collapsing and the call for temporary healthcare facilities to create additional medical surge capacity.

Code officials and property maintenance officials inspect existing infrastructure, including plumbing, mechanical, ancillary, and fire and life safety systems to verify that they are being maintained in a safe and sanitary condition within their original design parameters. More broadly, code officials protect the health and welfare of building occupants by identifying dangerous or unsafe sanitary, air quality, structural, or electrical hazards. Code officials also have responsibility for addressing other national, state, and community priorities, including the implementation of energy efficiency requirements and the safe deployment of renewable energy technologies.

With hurricane, tornado, and wildfire season rapidly approaching, functioning code departments are vital. According to FEMA, modern and well enforced building codes are one of the most effective means to mitigate communities against natural hazards.<sup>2</sup> Strong code enforcement also plays a critical role, capable of reducing losses 15 to 25 percent.<sup>3</sup>

Effective building and fire prevention departments enable ongoing construction activity that is essential to our pandemic response and maintaining economic activity. That's why a recent letter to DHS, spearheaded by the National Association of Homebuilders (NAHB) with 90 company and organizational

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<sup>1</sup> <https://www.iccsafe.org/about/periodicals-and-newsroom/survey-of-u-s-code-officials-shows-trends-in-code-compliance-during-covid-19/>.

<sup>2</sup> See FEMA's 2018-2022 Strategic Plan (2018).

<sup>3</sup> Czajkowski, J. et. al., *Demonstrating the Intensive Benefit to the Local Implementation of a Statewide Building Code* (2017).

signatories, stressed that “[t]o keep the housing sector running during this economic crisis caused by the COVID-19 pandemic, DHS should . . . [p]ermit government functions related to the building and development process, such as inspections, permitting and plan review services, to be modified to protect the public health. This can be done in a way that allows these functions to continue and serve the construction of housing.”<sup>4</sup>

DHS agrees. The Department’s Cybersecurity and Infrastructure Security Agency’s (CISA) latest list of “Essential Critical Infrastructure Workers,” which determines critical functions that should continue normal operations in light of the COVID-19 pandemic, expressly recognizes as essential code officials who administer building inspection, plan review, and permitting work.<sup>5</sup>

Given DHS and states across the country have determined the work of building and fire prevention departments to be essential, according to more than 1150 building and fire prevention department respondents to a survey conducted by the International Code Council between March 22 and April 1, 2020, 93 percent of offices are still performing inspections. Yet, with employees in two-thirds of departments working remotely, nearly a quarter of departments lack needed hard copy code books, 4 in 10 departments do not have the capability to conduct electronic/remote plan review, 3 in 10 departments do not have the capability to conduct electronic/remote permitting, and 6 in 10 departments do not have the capability for electronic/remote inspections.<sup>6</sup>

These results are consistent with construction industry reporting. According to survey data from NAHB collected between March 31<sup>st</sup> and April 6<sup>th</sup>, 86% of builders have noted delays with obtaining plan review and 82% have cited delays with inspections.<sup>7</sup> Of the respondents to a National Multifamily Housing Council survey conducted April 9<sup>th</sup> to April 14<sup>th</sup>, 56% reported construction delays in their jurisdiction, with 77% of those who reported experiencing construction delays experiencing delays in permitting.<sup>8</sup>

With many departments already under resourced and many state and local governments facing severe revenue downturns, it is critical that federal coronavirus response funding be directed to building and fire prevention departments that need it to continue their essential functions. According to ISO/Verisk, which evaluates the effectiveness of building code implementation in close to 28,000 communities across the U.S., communities with ratings in the top quarter are investing three times more per capita in their building departments. Communities with ratings in the bottom eighth, have allocated a quarter of the national average investment per capita in their building departments and a sixth of what the top quarter of communities are investing. Well-resourced, higher performing, departments tend to be the same departments with the most sophisticated virtual capabilities, while departments that are under resourced tend to have no or limited virtual capabilities.

Investments that establish virtual capabilities, including the deployment of technology that enables remote plan review, permitting, and inspections, as well as online access to codes and standards, will allow departments to continue their necessary functions, while protecting both code officials and the public, and mitigate permitting challenges for ongoing and future construction—speeding the restart of the economy

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<sup>4</sup> <http://nahbnow.com/2020/03/90-organizations-urge-dhs-to-designate-residential-construction-essential/>.

<sup>5</sup> See CISA, Memorandum on Identification of Essential Critical Infrastructure Workers during COVID-19 Response (Apr. 17, 2020).

<sup>6</sup> <https://www.iccsafe.org/about/periodicals-and-newsroom/survey-of-u-s-code-officials-shows-trends-in-code-compliance-during-covid-19/>.

<sup>7</sup> <http://nahbnow.com/2020/04/nearly-all-builders-in-recent-survey-say-buyer-traffic-is-down/>.

<sup>8</sup> <https://www.bdcnetwork.com/nmhc-multifamily-construction-survey-shows-significant-delays-apartment-construction>.

and producing lasting reductions in departmental operation costs and permitting timelines. Delays associated with permitting and plan review because of the lack of virtual capabilities will obviously delay construction and renovation, including getting people back to work. As a Nation, we cannot afford that.

Thank you for your consideration.

Sincerely,

Cc: Members of the House Transportation and Infrastructure Committee  
Members of the Senate Homeland Security and Government Affairs Committee  
Members of the House Appropriations Subcommittee on Homeland Security  
Members of the Senate Appropriations Subcommittee on Homeland Security