

CHAPTER 7
BUILDINGS AND BUILDING REGULATIONS

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ARTICLE I. IN GENERAL¹

Sec. 7-1. Building inspection department; Code official.

(a) There is hereby established a building inspection department for Bath County which shall be responsible for enforcement of the provisions of the Virginia Uniform Statewide Building Code and this Chapter.

(b) The department shall have a Code official who shall be appointed by the Board of Supervisors. The Code official shall be responsible for the organization and operation of the department.

(c) Inspections of buildings and structures under construction, other than State-owned buildings and structures, review and approval of building plans for buildings and structures, and enforcement of the Uniform Statewide Building Code shall be the sole responsibility of the Code official.

State law reference-Similar provisions, Code of Virginia, §§ 36-105, 36-105.1.

ARTICLE II. BUILDING CODE

Sec. 7-2. Adoption of Building Code.

There is hereby adopted by reference thereto the Virginia Uniform Statewide Building Code as described and defined in § 36-97 *et seq.* of the Code of Virginia, 1950, as amended. The provisions of the Virginia Uniform Statewide Building Code shall control all matters concerning the construction, alteration, addition, repair, removal, demolition, use location, occupancy and maintenance of all buildings and all other functions which pertain to the installation of such systems vital to buildings and structures and their service equipment, as defined by said Code, and shall apply to existing and proposed buildings or structures in the County.

Sec. 7-3. Definitions.

Blighted or deteriorated property means a property with a building or buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement of design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, is detrimental to the safety, health, morals or welfare of the community.

Board means the Board of Housing and Community Development.

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

¹ Contents of this Chapter are based upon the following County ordinances - Ord. of 11-13-73, pertaining to building inspections, Ord. of 6-13-89, pertaining to unsafe buildings and structures, and Ord. of 5-11-04 regarding amendments to fees.

farm employees shall be exempt from the provisions of the Uniform Statewide Building Code, but such buildings lying within flood plain or in a mudslide-prone area shall be subject to flood proofing regulations or mudslide regulations, as applicable.

The word "building" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning, and shall include but not be limited to walls, floors, roofs, water and sewer lines, electrical lines and other component parts of said building as well as equipment appertaining thereto.

Building Code as used in this Chapter or elsewhere in this Code shall mean the Uniform Statewide Building Code as defined in § 36-97 of the Code of Virginia.

Board of Building Code Appeals means the five (5) member board charged with hearing appeals of decisions of the building official or inspector.

Building inspection department means the department charged with the administration, supervision, or enforcement of building codes and regulations, approval of plans, inspection of buildings, or issuance of permits, licenses, certificates or similar documents prescribed or required by State or local building regulations.

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

Code official means the individual appointed by the Board of Supervisors of Bath County to be responsible for the organization and operation of the building inspection department.

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

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

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

Nuisance includes, but is not limited to, dangerous or unhealthy substances which have escaped, spilled, been released or which have been allowed to accumulate in or on any place and all unsafe, dangerous, or unsanitary public or private buildings, walls, or structures which constitute a menace to the health and safety of the occupants thereof or the public.

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

Responsible party includes, but is not limited to, the owner, occupier, or possessor of the premises where a nuisance is located, the owner or agent of the owner of the material which escaped, spilled, or was released and the owner or agent of the owner who was transporting or otherwise responsible for such material and whose acts or negligence caused a public nuisance.

Review board means the State Building Code Technical Review Board.

Structure means an assembly of materials forming a construction for occupancy or use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature but excluding water wells. Farm structures not used for residential purposes shall be exempt from the provisions of the Uniform Statewide Building Code, but such structures lying within a flood plain or in a mudslide-prone area shall be subject to flood proofing regulations or mudslide regulations as applicable.

The word "structure" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning, and shall include but not be limited to walls, floors, roofs, water and sewer lines, electrical lines and other component parts of said structure as well as equipment appertaining thereto.

Cross reference-Definitions and rules of construction generally, § 1-2. **State law reference-**Virginia Uniform Statewide Building Code, Code of Virginia, § 36-97 et seq.

ARTICLE III. CONSTRUCTION FEES²

Sec. 7-4. Permit fees.

(a) See also Section 16-14 "Solid Waste Fees for Construction Projects", Chapter 16, Solid Waste, Article 5, Fee Structure, in order that building permit applicants conform with County Code regulations regarding solid waste fees for new construction, renovations, remodeling, repairs, etc., and demolition and that permit applicants provide an affidavit to the Building Official to appropriately dispose of the construction waste from new construction, renovations, remodeling, repairs, etc., and demolition projects.

(b) No permit required by the building code to begin work for new construction or any other building operation shall be issued until the fees prescribed by this section have been paid, nor shall an amendment to a permit be approved until the additional fee, if any, has been paid. The fees shall be affixed as follows:

² Section 7.4 Permit Fees (a) and (b) was amended by the Board of Supervisors after a duly advertised public hearing on 11-13-07.

(1) Method of Calculating Fees for New Construction.

A. Except as noted below, fees for new construction and additions will be based upon the permit holder's job cost estimate or the Code official's estimate, whichever is higher.

B. The Code official will estimate project construction cost in accordance with latest Building Valuation Data as determined by the International Code Council. This data represents average square footage costs for each building Use Group/Type category listed in table 503 of the 2000 edition of the International Building Code.

C. The Code Official's estimate of construction shall be determined using the following formula:

Cost Estimate = Gross Area x Cost per square foot x Regional Cost Modifiers.

- * Gross Area = Total plan area of each floor of a structure in square feet.
- * Cost per square foot = Square foot construction cost for Table 1 of the International Code Councils Building Valuation Data sheet
- * Regional Cost Modifiers = From Table 2 of the International Code Councils Building Valuation Data sheet. Currently (.89) for Virginia.

D. If the cost estimate determined above is less than the contractor's estimate, the contractor's estimate shall be used to calculate the permit fee. If the cost estimate determined above is greater than the contractor's estimate, it shall be used to calculate the permit fee.

E. The permit fee shall be determined as follows:

Permit Fee = Cost estimate x Permit Fee Multiplier

F. Permit Fee Multiplier is a factor determined by the Code Official and approved by the Board of Supervisors each year in the County budget approval process. It is a ratio of the building department annual operating budget to be defrayed by building permit fees by the estimated annual construction value plus a 1.75% Department of Housing and Community Development fee levy which is used to support the training programs of the Virginia Building Code Academy.

G. The currently approved Permit Fee Multiplier is 0.003 for construction projects less than \$200,000 and 0.004 for construction projects \$200,000 and larger.

(2) Method of Calculation for Renovations, Remodeling, Repairs, etc.

A. The following require fees based upon actual job cost.

- * Renovations
- * Residential Accessory Buildings

- * Remodeling
- * Repairs
- * Separate electrical, plumbing, mechanical, and insulation installations.

B. When the permit is issued, the fee will be based upon the owner or contractor's estimate. A statement will be added to the permit stating [The permit is for the value of the permit only. If, during the period of work, the actual cost exceeds the estimate, the permit shall be revised to reflect the actual cost]. If, upon completion of the work, actual costs were less than estimated, the excess fee will be refunded. See subparagraph (a)(5) below.

C. An amendment to a permit necessitating an additional fee because of the additional work involved will not be issued until the additional fee has been paid.

D. Fees for the above shall be determined by the following formula:

$$\text{Permit Fee} = \text{Construction Cost} \times \text{Permit fee multiplier}$$

E. If, in the opinion of the Code official, the value of the work appears to be under estimated on the application, the permit shall be denied unless the applicant can show detailed estimated costs to meet the approval of the Code official.

(3) Construction Costs.

A. Permit construction valuations shall include total cost, such as plumbing, electrical, mechanical equipment and other systems.

B. The term 'cost', as used herein, means the reasonable value of all services, labor, materials and use of scaffolding and other appliances or devices entering into and necessary to the prosecution and completion of the work ready for occupancy. The cost of landscaping, and of painting, decorating or other work that is merely for embellishment or not necessary for the safe and lawful use of the building or structure, is not deemed part of such estimated cost.

(4) Minimum Fee.

There shall be a \$25.00 minimum for any required building permit.

(5) Fee Refunds.

A. In the event of a revocation of a permit, excess fee for renovation or abandonment of a project, the permit fee shall be refunded for that portion of the work not completed less a \$10.00 handling charge.

B. The refund will be calculated as follows:

$$\text{Revised Fee} = \text{Est. Cost of work completed} \times \text{Permit Fee Multiplier}$$

$$\text{Fee Refund} = \text{Original Fee} - \text{Revised Fee}$$

(6) Site Plan Review Fee.

When a site plan is required on the application, an additional fee of \$25.00 is required. This fee is to defray the cost of review for compliance with the Land Use Regulations.

(7) Amusement Devices Inspection Fee.

A permit fee of \$25.00 is required and the inspection shall be performed by an independent state certified inspector provided for and at the owner or lessee of the amusement devices expense.

(8) Fee Payment.

Payment of permit fees shall be by check made to the order of "Bath County Treasurer" and presented at the Code official's office.

(9) 'No-Fee' Permits.

A. Fees are waived for places of worship. For purposes of this Subsection, "*places of worship*" shall include structures in which regular worship services are conducted by entities which meet the requirements for exemption from Federal income taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code (or substantially similar provisions which may be enacted in the future).

B. Fees are waived for governmental agencies, but only for those projects wherein such agency is serving as the general contractor.

C. Each permit for building must be applied for either in person or by mail and no work or construction shall begin until said permit has been issued.

(10) Manufactured housing.

Singlewide: \$150.00*

Doublewide: \$200.00*

* Fee does not include decks

(11) Demolition Fee.

A permit fee of \$25.00 is required for demolition of a structure over 150 square feet.

State law reference-Authority of County to levy above fees, Code of Virginia, § 36-105.

Sec. 7-5. Pre-permit Inspection Fee.

Upon discovery of work begun prior to obtaining a required building permit the Code Official or designee may issue a field correction notice. Upon issuance there shall be a pre-permit inspection fee of \$75.00 (seventy-five dollars). This shall be in addition to regular permit fees.

Sec. 7-6. Re-inspection Fee.

When building inspection is requested pursuant to the building code, and the building is not open for inspection at the time designated for inspection at such time, there shall be a fee of twenty-five dollars (\$25.00). Such charge shall be in addition to other fees prescribed in this Article.

Sec. 7-7. Violations.

Violations of the Virginia Statewide Building Code are a misdemeanor, subject to fines and imprisonment as permitted in the Code of Virginia, 36-106, or substantially similar provision as may be adopted from time to time.

State law reference - Authority of County to levy above fees, Code of Virginia 36-105.

Secs. 7-8 to 7-9. Reserved.

ARTICLE IV. UNSAFE BUILDINGS AND PUBLIC NUISANCES

Sec. 7-10. Existing buildings; occupied or not.

The Code official may inspect and enforce the building regulations for existing buildings, whether occupied or not.

Sec. 7-11. Repair or removal of unsafe buildings.

(a) *Possible dangers to public health or safety.* The owners of buildings and structures upon real estate shall henceforth be required to remove, repair, or secure any building, wall, or other structure which might endanger the public health or safety of others.

(b) *Removal by Bath County.* Bath County through its own agents or employees may remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of others, if the owner and lien holder of such property after reasonable notice and a reasonable time to do so, have failed to remove, repair or secure the building, wall or other structure. For purposes of this section, *repair* may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. For purposes of this Section, *reasonable notice* includes a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner and (ii) published once a week for two successive weeks in a newspaper having general circulation in the locality. No action shall be taken by Bath County to remove, repair or secure any building, wall or other structure for at least thirty days following the later of the return of the receipt or newspaper publication.

(c) *Costs charged to owner.* In the event Bath County, through its own agents or employees, removes, repairs or secures any building, wall or any other structure after complying with the notice provisions of this section, the cost or expenses therefor shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected.

(d) *Lien for unpaid charges.* Every charge authorized by this Section with which the owner of any property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 *et seq.*) and 4 (§ 58.1-3965 *et seq.*) of Chapter 39 of Title 58.1 of the Code of Virginia. The Bath County Board of Supervisors may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

Cross reference-Authority for above section, Code of Virginia, § 15.2-906.

Sec. 7-12. Repair or removal of unsafe buildings-Code official.

(a) *Unsafe buildings or structures.* All buildings, structures, and their component parts, as well as equipment appertaining thereto, that through damage, deterioration, infestation, improper maintenance, neglect, or for other reasons have become unsanitary, or deficient in adequate exit facilities, and which constitute a hazard, or are otherwise dangerous to human life, health, safety, or the public welfare shall be deemed unsafe and be declared a public nuisance, and unfit for habitation. All such buildings shall be made safe, or vacated, and either secured against human entry or taken down and removed.

(b) *Authority of Code official.* The Board of Supervisors hereby authorizes and empowers the Code official as designated in this Chapter to examine every building or structure or part thereof reported unsafe or which the Code official has reasonable cause to believe is unsafe.

(c) *Code official shall prepare reports.* The Code official shall prepare a report setting forth a description of the unsafe conditions found, the use of the building or structure, and the extent of damages, if any, that would be caused by the conditions found if not abated.

(d) *Notice of unsafe buildings or structures.* If the Code official finds a building to be unsafe, he shall notify in writing the owner, owner's agent, or person in control of the unsafe building or structure. The notice shall specify the required repairs or improvements to be made to the building or structure, or require the unsafe building or structure, or a portion of the building or structure to be taken down and removed within a stipulated time. Such notice shall require the person notified to declare to the Code official without delay acceptance or rejection of the terms of the notice. Whenever possible, the notice of unsafe building or structure should also be given to the tenants of the unsafe building or structure. A copy of the notice shall also be sent to the County Administrator; however, failure to do this shall not affect the validity of any action taken pursuant to the provisions of this Chapter.

(e) *Person named in notice cannot be located.* If the person named in the notice of unsafe building or structure cannot be found after diligent search, such notice shall be sent by registered or certified mail to the last known address of such person. A copy of the notice shall be posted in a conspicuous place on the premises. Such procedure shall be deemed to be the equivalent of personal notice.

(f) *Non-Compliance with requirements of notice.* Upon refusal or neglect of the person served with a notice of unsafe building or structure to comply with the requirements of the notice to abate the unsafe conditions, the Code official may revoke the certificate of occupancy. In the case of a vacant building, including one vacated through revocation of the certificate of occupancy, the Code official may cause the building or structure to be closed through any available means.

(g) *Immediate danger of failure or collapse.* When in the opinion of the Code official, there is actual and immediate danger of failure or collapse of a building or structure or any part of the building or structure which would endanger life, or when any building or structure or part of a building or structure has fallen and life is endangered by occupancy of the building or structure; or when any other hazardous condition poses an immediate and serious threat to life; or when a building is declared a public nuisance, and unfit for human habitation, the Code official may order the occupants to vacate the building. The Code official shall post a notice at each entrance of such building or structure that reads "THIS STRUCTURE IS DECLARED UNSAFE FOR HUMAN OCCUPANCY OR USE. IT IS UNLAWFUL FOR ANY PERSON TO USE OR OCCUPY THIS BUILDING AFTER _____. Any Unauthorized Person Removing This Sign WILL BE PROSECUTED," or substantially similar language. Upon the posting of the notice, no person shall enter such building except upon authorization of the Code official for the following purposes:

- (1) to make the required repairs;
- (2) to take the building down and remove it; or
- (3) to make inspections.

(h) *Immediate danger; temporary measures.* When in the opinion of the Code official, there is immediate danger of collapse or failure of a building or structure or any part of a building or structure, whether vacant or occupied, which would endanger life, or when a violation of this Chapter results in a hazard that creates an immediate, serious and eminent threat to the life and safety of the occupants, the Code official shall be authorized to have the necessary work done to make such building or structure or part of the building or structure temporarily safe whether or not legal action to force compliance has begun.

(i) *Danger is not immediate.* In those instances where the danger is not immediate in the opinion of the Code official, and the owner of such property after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure said building or structure or a part thereof, and further has failed to note an appeal of the Code official's determination within the appropriate time, then the Code official shall forthwith report the failure to comply to the Board of Supervisors. The Board of Supervisors, through its own agents or employees, may take appropriate action, including condemnation, necessary to abate the unsafe building or structure or parts thereof, and the cost or expenses thereof shall be chargeable to and paid by the owner or owners of such property and shall be collected by the Treasurer for the County in the same manner as taxes and local levies are collected. Every charge authorized by this Chapter with which the owner of any such property shall have been assessed, and which remains unpaid, shall constitute a lien against such property, upon docketing of a judgment or filing a memorandum of lien by the Treasurer.

(1) *The Building Maintenance Code; applicability.* To the extent possible, the actions of the Code official shall be in accordance with the provisions of the Virginia Uniform Statewide Building Code - Vol. II - The Building Maintenance Code.

Cross reference-Virginia Uniform Statewide Building Code, Vol. II, The Building Maintenance Code, as adopted by this Chapter. **State law reference-** Authority for above section, Code of Virginia, § 15.1-11.2.

Sec. 7-13. Blighted property may be declared a nuisance.

(a) *Blighted property a nuisance.* The Bath County Board of Supervisors may, by specific ordinance, declare any blighted property to constitute a nuisance. Such ordinance shall be adopted only after written notice by certified mail to the owner or owners at the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records.

(b) *Action to compel removal.* If a property constitutes a public nuisance, as declared by Sec. 7-13(a) above, in addition to all other remedies provided by law, the Bath County Board of Supervisors may maintain an action to compel a responsible party to abate, raze, or remove such public nuisance. If the public nuisance presents an imminent and immediate threat to life or property, then the Bath County Board of Supervisors, or its designated agent, may abate, raze, or remove such public nuisance, and bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any such public nuisance.

State law reference-Authority for above section, Code of Virginia, §§ 36-49.1:1(H) and 15.2-900.

Secs. 7-14 to 7-15. Reserved.

ARTICLE V. APPEALS³

Sec. 7-16. Appeals from decisions of Code official.

The owner, or owner's agent shall have the right to appeal the finding of the Code official to the Board of Building Code Appeals. Notice of the appeal must be given to the Board of Building Code Appeals and Code official in writing within ten (10) days of the date of the notice of the finding of the Code official and must specify the grounds for the appeal. The determination made by the Code official pursuant to this Chapter shall remain in full force and effect pending disposition of the appeal by the Board of Building Code Appeals.

Sec. 7-17. Form of decision; notification.

Every action of the Board of Building Code Appeals on an appeal shall be by resolution. Certified copies shall be furnished to the appellant and to the Code official.

³ **State law reference-**Authority for this Article, Code of Virginia, § 36-105; Similar provisions, Virginia Uniform Statewide Building Code, § 121.0.

Sec. 7-18. Enforcement of decision.

The Code official shall take immediate action in accordance with the decision of the Board of Building Code Appeals.

Sec. 7-19. Appeals from decisions of the Board of Building Code Appeals.

Any person aggrieved by a decision of the Board of Building Code Appeals, who was a party to the appeal, or any member of the Board of Supervisors, may appeal the decision to the State Building Code Technical Review Board. Application for review shall be made to the State Building Code Technical Review Board within fifteen (15) days of receipt of the decision of the Board of Building Code Appeals by the aggrieved party.

Sec. 7-20. Enforcement of decision of State Building Code Technical Review Board.

Upon receipt of the written decision of the State Building Code Technical Review Board, the Code official shall take immediate action in accordance with the decision.

Sec. 7-21. Court review.

Decisions of the State Building Code Technical Review Board shall be final if no appeal is made. An appeal from the decision of the State Building Code Technical Review Board shall be to the Circuit Court of Bath County, Virginia, in accordance with the provisions of the Administrative Process Act, Virginia Code Section 2.2-4000, et seq.

ARTICLE VI. VIOLATIONS

Sec. 7-22. Violation of chapter a misdemeanor.

(a) It shall be unlawful for any owner or any other person, firm or corporation, to violate any provision of this Chapter. Each such violation shall be a Class 1 misdemeanor. Additionally, if the violation concerns a residential unit and if the violation remains uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in order to comply with the Building Code. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within six months of the date of conviction.

(b) Any owner or any other person, firm or corporation violating any Building Code provisions relating to the removal or the covering of lead-base paint which poses a hazard to the health of pregnant women and/or children under the age of six years who occupy the premises shall, upon conviction, be guilty of a Class 1 misdemeanor. Upon a conviction pursuant to this subsection, the court shall set a time by which such hazard must be abated, and each day the hazard remains unabated after the time set for the abatement has expired shall constitute a separate violation. Upon a reasonable showing to the court by a landlord, as defined in § 55-248.4 of the Code of Virginia, that such landlord is financially unable to abate the lead-base paint hazard, the court shall order any rental agreement related to the affected premises terminated effective thirty days from the entry of the court order. For the purposes of the

preceding sentence, termination of the rental agreement shall not be deemed noncompliance by the landlord pursuant to § 55-248.21 of the Code of Virginia.

(c) Any prosecution under this section shall be commenced within two years as provided in § 19.2-8 of the Code of Virginia.

Cross reference-Penalty for a Class 1 misdemeanor, § 1-14. **State law reference**-Similar provision, Code of Virginia, § 36-106.

ARTICLE VII. MISCELLANEOUS

Sec. 7-23. Farm buildings and structures.

Farm buildings and farm structures shall be exempt from the requirement to obtain a building permit under this Chapter if such buildings or structures meet the conditions for exemption as set forth in the Uniform Statewide Building Code, including but not limited to the conditions with respect to construction in a floodplain or mudslide-prone area.

State law references-Similar provision, Code of Virginia, § 36-99; Virginia Uniform Statewide Building Code, Volume I, § 101.7(1).