

VIRGINIA ACTS OF ASSEMBLY -- 2012 SESSION

CHAPTER 184

An Act to amend and reenact § 32.1-164.1 of the Code of Virginia, relating to inspections of onsite sewage systems.

[H 1231]

Approved March 8, 2012

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-164.1 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-164.1. Appeals from denials of septic tank permits; inspections.

A. Whenever administrative action is taken to deny a septic tank permit or to grant a septic tank permit with conditions or to refuse to issue, or grant with conditions, a letter recognizing the appropriateness of onsite sewage site conditions in lieu of issuing an onsite sewage system permit, the applicant shall be advised in writing of the administrative remedies that are available to obtain a reversal of the denial or refusal or a modification or elimination of the conditions, or, if no further administrative remedies are available, of the right of appeal provided for hereinafter. After exhausting his administrative remedies, as set forth in § 32.1-164.1:1 et seq., any person aggrieved by a case decision of the Review Board shall have the right to judicial review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

The decision may be recorded in the land records of the clerk of the circuit court in the jurisdiction where all or part of the site or proposed site of the septic system is located so as to be binding notice to the public, including subsequent purchases of the land in question.

B. The holder of any permit for a septic tank issued with conditions shall have the permit recorded in the land records of the clerk of the circuit court having jurisdiction over the site of the septic system. The holder of the permit and any subsequent holders of the permit through land purchase or transfer shall be bound by the conditions stated in the permit unless the holder or subsequent holder obtains an additional permit for modification or alteration of the septic system to meet any new use conditions.

C. In adopting regulations prescribing criteria for the granting or denial of permits for septic tanks, the Board shall consider varying circumstances such as population density, extent of use of the septic tank and such other circumstances as may affect the stringency of the criteria necessary to protect the public health and promote the general welfare and may provide for the issuance of permits for septic tanks subject to such conditions as may be necessary to protect the public health.

D. Upon receipt of an application for a septic tank permit or a letter recognizing the appropriateness of onsite sewage site conditions in lieu of issuing onsite sewage system permits, the local health department shall notify the governing body of the county or city where the septic tank will be located or the official designated by the governing body for ~~the~~ that purpose and shall provide such information concerning the application and the actions taken on the application as the governing body or officer may request.

E. Whenever a construction permit has been issued pursuant to an evaluation and design certified by a licensed professional engineer or onsite soil evaluator, the certifying licensed professional engineer or onsite soil evaluator shall inspect that system at the time of installation and provide an inspection report to the Department. The Department may, but is not required to, inspect the installation of such onsite sewage system. In the event that the certifying licensed professional engineer or onsite soil evaluator does not inspect the system in a timely manner or declines to certify that the installation was completed substantially in accordance with the evaluation and design, the owner may petition the Department to inspect the installation and render a final case decision approving or disapproving the installation. The Department shall not be required to convene an informal fact finding proceeding in accordance with § 2.2-4019 prior to rendering such decision.