

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 256

An Act to amend and reenact §§ 36-97, 36-99.6, and 36-105 and to repeal § 36-99.6:1 of the Code of Virginia, relating to the Uniform Statewide Building Code.

[H 289]

Approved April 4, 1994

Be it enacted by the General Assembly of Virginia:

1. That §§ 36-97, 36-99.6, and 36-105 of the Code of Virginia are amended and reenacted as follows:

§ 36-97. Definitions.

As used in this chapter, unless the context or subject matter requires otherwise, the following words or terms shall have the meaning herein ascribed to them, respectively:

"Board" means the Board of Housing and Community Development.

"Review Board" means the State Building Code Technical Review Board.

"Building Code" means the Uniform Statewide Building Code *and building regulations adopted and promulgated pursuant thereto*.

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

"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 any county or municipality, 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 affect the manner of construction or materials to be used in the erection, alteration or repair of a building or structure.

"Municipality" means any city or town in this Commonwealth.

"Local governing body" means the governing body of any city, county or town in this Commonwealth.

"Local building department" means the agency or agencies of any local governing body charged with the administration, supervision, or enforcement of ~~building codes~~ *the Building Code* 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~~.

"State agency" means any state department, board, bureau, commission, or agency of this Commonwealth.

"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 farm employees shall be exempt from the provisions of the Uniform Statewide Building Code, but such buildings 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 "building" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning.

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

"Construction" means the construction, reconstruction, alteration, repair or conversion of buildings *and structures*.

"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 *or structure*.

"Director" means the Director of the Department of Housing and Community Development.

"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, *storage tanks (underground and aboveground)*, 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.

"Department" means the Department of Housing and Community Development.

§ 36-99.6. Underground and aboveground storage tank inspections.

A. The Board of Housing and Community Development is ~~authorized to incorporate~~ *shall incorporate*, as part of the Building Code, regulations ~~developed~~ *adopted and promulgated* by the State Water Control Board governing the installation, *repair, upgrade* and closure of underground *and aboveground* storage tanks.

B. The Board is also authorized to incorporate, as part of the Building Code, regulations developed by the State Water Control Board pursuant to § 62.1-44.34:15.1 governing aboveground storage tanks.

C. B. Inspections undertaken pursuant to such *Building Code* regulations shall be done by employees of the local building department or another individual authorized by the local building department.

§ 36-105. Enforcement of Code; appeals from decisions of local department; inspection of buildings.

Enforcement of the Building Code shall be the responsibility of the local building department. There shall be established within each local building department a local board of Building Code appeals whose composition, duties and responsibilities shall be prescribed in the Building Code. Appeals from the local building department concerning application of the Building Code or refusal to grant a modification to the provisions of the *Building Code* covering the manner of construction or materials to be used in the erection, alteration or repair of a building or structure shall first lie to the local board of Building Code appeals. No appeal to the State Building Code Technical Review Board shall lie prior to a final determination by the local board of Building Code appeals. Whenever a county or a municipality does not have such a building department or board of Building Code appeals, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the Department for such enforcement and appeals resulting therefrom. For the purposes of this section, towns with a population of less than 3,500 may elect to administer and enforce the Building Code; however, where the town does not elect to administer and enforce the Building Code, the county in which the town is situated shall administer and enforce the Building Code for the town. In the event such town is situated in two or more counties, those counties shall administer and enforce the Building Code for that portion of the town which is situated within their respective boundaries. Fees may be levied by the local governing body in order to defray the cost of such enforcement and appeals.

Any building *or structure* may be inspected at any time before completion, and shall not be deemed in compliance until approved by the inspecting authority. Where the construction cost is less than \$1,000, however, the ~~building~~ inspection may, in the discretion of the inspecting authority, be waived. ~~A local governing body may provide that buildings and structures, permanent or temporary, which are used to store hazardous materials, or occupied or to be used by twenty or more persons who are employed, lodged, housed, assembled, served, entertained or instructed therein, or the common areas of residential structures containing four or more units, including buildings owned by the Commonwealth or by any of its political subdivisions and the equipment therein, be inspected periodically after completion to insure that the Building Code regulations are properly maintained.~~ The building official shall coordinate all reports ~~with~~ *of* inspections for compliance ~~of~~ *with* the Building Code, ~~from~~ *with* inspections of fire and health officials delegated such authority, prior to issuance of an occupancy permit.

The local governing body may *also* inspect and enforce the ~~building regulations promulgated by the Board Building Code~~ for existing buildings *and structures*, whether occupied or not. Such *inspection and* enforcement shall be carried out by an agency or department designated by the *local* governing body.

2. That § 36-99.6:1 of the Code of Virginia is repealed.