

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 448

An Act to amend and reenact § 36-97 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 36-114.1, relating to Uniform Statewide Building Code; stop work orders; appeals of State Building Code Technical Review Board decisions; recovery of costs.

[S 1263]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 36-97 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 36-114.1 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 a different meaning herein ascribed to them, respectively:

"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. 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. "Building" does not include roadway tunnels and bridges owned by the Department of Transportation, which shall be governed by construction and design standards approved by the Commonwealth Transportation Board.

~~"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 of such state or local governments, relating to construction, reconstruction, alteration, conversion, repair, maintenance, or use of structures and buildings and installation of equipment therein. The term "Building regulations" 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.

~~"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 the Board from time to time.~~

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

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

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

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

"Farm building or structure" means a building or structure not used for residential purposes, located on property where farming operations take place, and used primarily for any of the following uses or combination thereof:

1. Storage, handling, production, display, sampling, or sale of agricultural, horticultural, floricultural, or silvicultural products produced in the farm;

2. Sheltering, raising, handling, processing, or sale of agricultural animals or agricultural animal products;

3. Business or office uses relating to the farm operations;

4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery, or equipment on the farm;

5. Storage or use of supplies and materials used on the farm; or

6. Implementation of best management practices associated with farm operations.

~~"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 the Building Code and regulations, approval of plans,

inspection of buildings, or issuance of permits, licenses, certificates, or similar documents.

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

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

"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.

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

"State agency" means any state department, board, bureau, commission, or other unit of this state government in the 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. 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. "Building" shall not include roadway tunnels and bridges owned by the Department of Transportation, which shall be governed by construction and design standards approved by the Commonwealth Transportation Board.

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

"Farm building or structure" means a building or structure not used for residential purposes, located on property where farming operations take place, and used primarily for any of the following uses or combination thereof:

- 1. Storage, handling, production, display, sampling or sale of agricultural, horticultural, floricultural or silvicultural products produced in the farm;*
- 2. Sheltering, raising, handling, processing or sale of agricultural animals or agricultural animal products;*
- 3. Business or office uses relating to the farm operations;*
- 4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery or equipment on the farm;*
- 5. Storage or use of supplies and materials used on the farm; or*
- 6. Implementation of best management practices associated with farm operations.*

"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.

"Stop work order" means a legally binding written order to immediately cease work on a building or structure that (i) is issued by a local building official to a property owner, the property owner's agent, or the person performing the work; (ii) identifies the specific violations of the Building Code in regard to the work being performed; and (iii) states the conditions under which such work may be resumed.

"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, underground and aboveground 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. 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. "Structure" shall not include roadway tunnels and bridges owned by the Department of Transportation, which shall be governed by construction and design standards approved by the Commonwealth Transportation Board.

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

§ 36-114.1. Appeals of Review Board decisions related to stop work orders.

If, during an appeal pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) of the Review Board's decision with respect to the issuance of a stop work order by a local building official, the court finds in favor of the party that was issued the stop work order, such party shall be entitled to recover its actual costs of litigation, including court costs, attorney fees, and witness fees, from the locality responsible for issuing the stop work order.