

# CAMPBELL COUNTY CODE OF 1988

## CHAPTER 5

### BUILDINGS

For state law as to Uniform Statewide Building Code and enforcement by County, see VA. CODE ANN. §36-97 et seq. (Repl. Vol. 2005 and Cum. Supp. 2009).

As to Industrial Development Authority, see §§2-11 to 2-19 of this Code. As to erosion and sedimentation control, see Chapter 8 of this Code. As to fire protection generally, see Chapter 10 of this Code. As to utilities, including sanitary sewers, see Chapter 18 of this Code. As to subdivision of land generally, see Chapter 21 of this Code.

#### Article I. Building Generally.

- § 5-1. Virginia Uniform Statewide Building Code in effect in County.
- § 5-2. Department of building inspections generally.
- § 5-3. Permit fees.
- § 5-4. Issuance of building permit by Building Official.
- § 5-4.1. Reserved.
- § 5-4.2. Asbestos inspection of buildings to be renovated or demolished; exceptions.
- § 5-4.3. Inspection and review of plans of buildings under construction; occupancy permit.
- § 5-4.3:1. Inspection of certain residential units upon complaint of violation of USBC; issuance of inspection warrants.
- § 5-4.3:2. Transfer of ownership of building or structure while enforcement action pending.
- § 5-4.4. Inspections of elevators, escalators, and related conveyances in existing buildings and enforcement of Building Code for elevators; exceptions.
- § 5-5. Building Code Board of Appeals.
- § 5-6. Removal, repair, etc., of buildings and other structures.
- § 5-7. Violations; penalties.

#### Article II. Local Certification Of Plumbers, Building-Related Mechanical Workers, And Electricians.

- §§5-8 to 5-13. Reserved.

## **Article I. Building Generally.**

### **Sec. 5-1. Virginia Uniform Statewide Building Code in effect in County.**

The Virginia Uniform Statewide Building Code, with additional provisions of local applicability, shall control all matters concerning the construction, rehabilitation, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings or part or parts thereof, and all other functions which pertain to the installation of systems vital to all buildings and structures, or part or parts thereof and their service equipment as defined by the Virginia Uniform Statewide Building Code, and shall apply to existing and proposed buildings or structures, or part or parts thereof, in the County.

For state law as to Virginia Uniform Statewide Building Code, see VA. CODE ANN. §36-97 et seq. (Repl. Vol. 2005 and Cum. Supp. 2009). As to duty of County to enforce Virginia Uniform Statewide Building Code, see VA. CODE ANN. §36-105 (Cum. Supp. 2009).

Cross-reference: For description of provisions of local ordinances applicable to single family residential construction superseded by the Uniform Statewide Building Code, see VA. CODE ANN. §36-98 (Cum. Supp. 2009). However, pursuant to VA. CODE ANN. §36-98, the USBC shall not supersede proffered conditions accepted as part of a rezoning application, conditions imposed upon the grant of special exceptions, special or conditional use permits or variances, conditions imposed upon a clustering of single family homes and preservation of open space development through standards, conditions, and criteria established by a locality pursuant to subdivision 8 of VA. CODE ANN. §15.2-2242 or VA. CODE ANN. §15.2-2286.1, or land use requirements in airport or highway overlay districts, or certain historic districts created pursuant to VA. CODE ANN. § 15.2-2306, or local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program.

Editor's note: The Uniform Statewide Building Code currently in effect in Virginia is the 2006 Edition, which became effective May 1, 2008. The USBC is divided into three stand-alone parts: (1) Part I contains regulations pertaining to the construction of new buildings and structures and alterations, additions and change of occupancy in existing buildings and structures and is known as the "Virginia Construction Code"; (2) Part II, known as the "Virginia Rehabilitation Code," contains *optional* regulations relating to rehabilitation of existing buildings that *may* be used as an acceptable alternative to the Virginia Construction Code (Part I of USBC); and (3) Part III, known as the "Virginia Maintenance Code," contains *optional* regulations for the maintenance of existing structures. At this time, Campbell County, through its Department of Building Inspections, enforces regulations as to construction and rehabilitation in Campbell County.

[THE 1982 AMENDMENT deleted "as currently in effect and as amended in the future" from the first line following "Code."]

[THE 1988 AMENDMENT inserted "or part or parts thereof" three times.]

[THE JULY 6, 2004 AMENDMENT inserted “rehabilitation.”]

**Sec. 5-2. Department of building inspections generally.**

There is hereby established a Department of Building Inspections whose responsibility it is to enforce the provisions of the Virginia Uniform Statewide Building Code for construction and rehabilitation. The cost of enforcement may be defrayed through the levying of fees as set out in Section 5-3 of this Code. The department shall have a Building Official who shall be appointed by the County Administrator with the approval of the Board of Supervisors. The Building Official shall appoint inspectors and other necessary personnel as authorized by the County Administrator and the Board of Supervisors, and the Building Official shall be responsible for the organization and daily operation of the department.

For state law as to duty of County to enforce Virginia Uniform Statewide Building Code see VA. CODE ANN. §36-105 (Cum. Supp. 2009).

[THE JULY 6, 2004 AMENDMENT inserted “for construction and rehabilitation” at the end of the first sentence.]

**Sec. 5-3. Permit fees.**

No permit to begin work for new construction or other building operation shall be issued until the fees prescribed by the Board of Supervisors, in supplementary local provisions to the Virginia Uniform Statewide Building Code, have been paid. A copy of the fees required by this section shall be maintained on file in the office of the Building Official and shall be available for inspection during regular business hours.

For state law as to authority of County to require building permits and to levy fees, see VA. CODE ANN. §36-105 (Cum. Supp. 2009).

Cross-reference.--For schedule of fees imposed under authority of this section, see also Appendix of Fees Imposed Under the Campbell County Code of 1988, which follows Chapter 22 of this Code. As to policy regarding refund requests for active building permits, also see same Appendix.

**Sec. 5-4. Issuance of building permit by Building Official.**

(a) No person shall commence the construction, rehabilitation, enlargement, alteration or demolition of any building or structure or part or parts thereof located in the County, or make other changes which are regulated by the Virginia Uniform Statewide Building Code, until there shall have first been obtained from the Building Official a permit in writing, signed by such official or his authorized agent.

(b) The Building Official shall issue such permits, when the same are required, to every person who shall apply therefor and describe with reasonable certainty, the kind and the character of the work to be done and the estimated cost thereof; and each permit shall state the matter so described.

(c) Such permits when issued shall be prominently displayed at the site of the construction, repair or improvements so as to be available for inspection by agents of the Board of Supervisors, the Building Official, Sheriff and other County law enforcement agencies.

(d) This section does not apply to any person constructing, repairing or improving any property located within the corporate limits of any town which issues its own building permits. (3-20-72, §. 3.)

For state law authority, see VA. CODE ANN. §36-105 (Cum. Supp. 2009).

Editor's note.--See VA. CODE ANN. §36-99 B. (Repl. Vol. 2005), as to exemption of certain non-residential farm buildings and structures from provisions of the Uniform Statewide Building Code. Such farm buildings or structures lying within a flood plain or in a mudslide-prone area shall be subject to flood-proofing or mudslide regulations. A building or a portion of a building located on a farm that is operated as a restaurant as defined in VA. CODE ANN. §35.1-1 (Repl. Vol. 2005) and licensed as such by the Board of Health pursuant to VA. CODE ANN. §35.1-11 et seq. shall not be exempted from provisions of the Uniform Statewide Building Code.

Cross reference: See VA. CODE ANN. §54.1-1111 (Repl. Vol. 2009) for requirement that applicant for building permit or certain other permits furnish license or certification number issued pursuant to VA. CODE ANN. §54.1-1100 through §54.1-1135 (Repl. Vol. 2009) or evidence of exemption from such licensure/certification requirements. Also see §22-31 C. of this Code as to requirements that site plans or plans of development, or alterations thereof, shall be submitted and approved prior to the issuance of building permits to assure compliance with regulations and requirements as to water, sewer and other facilities.

[THE 1988 AMENDMENT inserted "or part or parts thereof" in (a).]

[THE JULY 6, 2004 AMENDMENT inserted "rehabilitation" in (a).]

#### **Sec. 5-4.1. Reserved.**

#### **Sec. 5-4.2. Asbestos inspection of buildings to be renovated or demolished; exceptions.**

(a) The Building Official shall not issue a building permit allowing a building for which an initial building permit was issued before January 1, 1985, to be renovated or demolished until the Building Official receives certification from the owner or his agent that the affected portions of the building have been inspected for the presence of asbestos by an individual licensed to perform such inspections pursuant to VA. CODE ANN. §54.1-503 (Repl. Vol. 2009) and that no asbestos-containing materials were found or that appropriate response actions will be undertaken in accordance with the requirements of the Clean Air Act National Emission Standard for the Hazardous Air Pollutant (NESHAPS) (40 CFR 61, Subpart M) and the asbestos worker protection requirements established by the U. S. Occupational Safety and Health Administration for construction workers (29 CFR 1926.1101). Local educational agencies that are subject to the requirements established by the Environmental Protection Agency under the Asbestos Hazard Emergency Response Act (AHERA) shall also certify compliance with 40 CFR 763 and subsequent amendments thereto.

(b) To meet the inspection requirements of subsection (a) except with respect to schools, asbestos inspection of renovation projects consisting only of repair or replacement of roofing, floorcovering, or siding materials may be satisfied by a statement that the materials to be repaired or replaced are assumed to contain friable asbestos and that asbestos installation, removal, or encapsulation will be accomplished by a licensed asbestos contractor.

(c) The provisions of this section shall not apply to single-family dwellings or residential housing with four or fewer units, unless the renovation or demolition of such buildings is for commercial or public development purposes. The provisions of this section shall not apply if the combined amount of regulated asbestos-containing material involved in the renovation or demolition is less than 260 linear feet on pipes or less than 160 square feet on other facility components or less than 35 cubic feet off facility components where the length or area could not be measured previously.

(d) An abatement area shall not be reoccupied until the building official receives certification from the owner that the response actions have been completed and final clearances have been measured. The final clearance levels for reoccupancy of the abatement area shall be 0.01 or fewer asbestos fibers per cubic centimeter if determined by Phase Contrast Microscopy analysis (PCM) or 70 or fewer structures per square millimeter if determined by Transmission Electron Microscopy analysis (TEM).

For state law basis, VA. CODE ANN. §36-99.7 (Repl. Vol. 2005).

Editor's note: VA. CODE ANN. §54.1-503 was amended in 1997 to provide, in its subsection B., that "It shall be unlawful for any person who does not possess a valid asbestos analytical laboratory license issued by the [Virginia] Board [for Asbestos and Lead] to communicate the findings of an analysis, verbally or in writing, for fee, performed on material known or suspected to contain asbestos for the purpose of determining the presence or absence of asbestos." For additional qualifications for persons performing any work on an asbestos project or performing any lead abatement activity or work on a lead abatement project, see subsections A., C., and D. of §54.1-503 (Repl. Vol. 2009).

[THE MARCH 1989 ACT adopted this section.]

[THE 1989 AMENDMENT rewrote (a).]

[THE 1990 AMENDMENT redesignated former (b) as (c) and inserted new (b).]

[THE 1993 AMENDMENT, in the first sentence of (a), deleted "After January 1, 1989" at the beginning of (a) and "built prior to 1978" preceding "to be renovated or demolished," substituted "affected portions of the building have" for "building has" and "the presence of asbestos by an individual licensed to perform such inspections pursuant to VA. CODE ANN. §54.1-503 (Cum. Supp. 1993) and that no asbestos-containing materials were found or that appropriate" for "asbestos, as defined in VA. CODE ANN. §2.1-526.12 (Cum. Supp. 1992), in accordance with standards developed pursuant to subdivision 1 of subsection A. of VA. CODE ANN. §2.1-526.14:1 (Cum. Supp. 1992), and that," deleted "the management standards for asbestos-containing materials prepared by the Department of General Services in accordance with VA. CODE ANN. §2.1-

526.14:2 (Cum. Supp. 1992)" following "(40 CFR 61, Subpart M)" and added last sentence in (a), substituted "or" for a comma preceding "residential housing" in first sentence of (c), and added language beginning "unless the renovation or demolition..." therein, deleted from the end of the first sentence in (c) "farm buildings, buildings with less than 3,500 square feet and buildings with no central heating system, or to public utilities required by law to give notification to the Commonwealth of Virginia and to the Environmental Protection Agency prior to removing asbestos in connection with the renovation or demolition of a building" added second sentence in (c) and added (d).]

[THE MARCH 17, 1997 AMENDMENT inserted "for which an initial building permit was issued before January 1, 1985," in first sentence in (a), deleted "or a licensed RFS contractor; or" at the end of paragraph 1 in (b), and deleted paragraph 2 in (b) which read: "A certification by the owner that sampling of the material to be renovated was accomplished by an RFS inspector as defined in VA. CODE ANN. §54.1-500 (Repl. Vol. 1994) and analysis of the sample showed no asbestos to be present."]

[THE FEBRUARY 2, 1998 AMENDMENT substituted "(29 CFR 1926.1101)" for "(29 CFR 1926.58)" in first sentence in (a), deleted paragraph designation "1" in (b) preceding "a statement that the materials," and inserted "friable" preceding "asbestos and that asbestos installation" in (b).]

**Sec. 5-4.3. Inspection and review of plans of buildings under construction; occupancy permit.**

(a) Inspections of buildings other than state-owned buildings under construction and the review and approval of building plans for these structures for enforcement of the Uniform Statewide Building Code shall be the sole responsibility of the County Building Official. Upon completion of such structures, responsibility for fire safety protection shall pass to the State Fire Marshal pursuant to the Statewide Fire Prevention Code in those localities which do not enforce the Statewide Fire Prevention Code (VA. CODE ANN. §27-94 *et seq.* (Repl. Vol. 2009)) unless such responsibility is encompassed within those provisions of the Statewide Fire Prevention Code which have been designated by the Campbell County Board of Supervisors by duly adopted ordinance for local enforcement by the local Fire Marshal. The State Fire Marshal shall also have the authority, in cooperation with any local governing body, to enforce the Statewide Fire Prevention Code.

(b) Any building or structure may be inspected at any time before completion, and shall not be deemed in compliance until approved by the county inspecting authority. Where the construction cost is less than \$2,500.00, however, the inspection may, in the discretion of the inspecting authority, be waived. The building official may issue an annual permit for any construction regulated by the Building Code. The building official shall coordinate all reports of inspection for compliance with the Building Code, with inspections of fire and health officials delegated such authority, prior to the issuance of an occupancy permit.

For state law basis, see VA. CODE ANN. §36-105 (Cum. Supp. 2009), VA. CODE ANN. §36-105.1 (Repl. Vol. 2005), VA. CODE ANN. §27-98 (Repl. Vol. 2009) and VA. CODE ANN. §27-34.4 (Repl. Vol. 2009).

Cross-reference. For similar provisions regarding responsibility for inspection and review of building plans and buildings under construction in re fire safety, see §10-20 of this Code.

[THE 1989 ACT adopted this section.]

[THE MARCH 17, 1997 AMENDMENT designated existing provisions as (a), added the last sentence therein, and added (b).]

[THE AUGUST 7, 2000 AMENDMENT inserted language beginning “unless such responsibility” at the end of the second sentence in (a).]

[THE JULY 7, 2008 AMENDMENT inserted the third sentence in subsection (b).]

**Sec. 5-4.3.1. Inspection of certain residential units upon complaint of violation of USBC; issuance of inspection warrants.**

(a) Upon a finding by the local building department, following a complaint by a tenant of a residential dwelling unit that is the subject of such complaint, that there may be a violation of the unsafe structures provisions of the Building Code as those provisions may have limited applicability in Campbell County, the local building department shall enforce such provisions.

(b) If the local building department receives a complaint that a violation of the Building Code exists that is an immediate and imminent threat to the health or safety of the owner, tenant, or occupants of any building or structure, or the owner, occupant or tenant of any nearby building or structure, and the owner, occupant, or tenant of the building or structure that is the subject of the complaint has refused to allow the local building official or his agent to have access to the subject building or structure, the local building official or his agent may present sworn testimony to a magistrate or a court of competent jurisdiction and request that the magistrate or court grant the local building official or his agent an inspection warrant to enable the building official or his agent to enter the subject building or structure for the purpose of determining whether violations of the Building Code exist. The local building official or his agent shall make a reasonable effort to obtain consent from the owner, occupant or tenant of the subject building or structure prior to seeking the issuance of an inspection warrant.

For state law authority, see VA. CODE ANN. §36-105 at C.2 and C.3. (Cum. Supp. 2009).

[THE JUNE 17, 2002 ACT adopted this section.]

[THE JULY 6, 2004 AMENDMENT substituted “dwelling” for “rental” in (a); and, in the first sentence in (b), inserted “a magistrate or” and “magistrate or.”]

[THE JULY 2, 2007 AMENDMENT inserted “as those provisions may have limited applicability in Campbell County” in (a).]

[THE JULY 19, 2010 AMENDMENT substituted “the owner, tenant, or occupants of any building or structure, or the owner, occupant or tenant of any nearby building or structure, and the owner, occupant, or tenant of the building or structure” for “the owner or tenant of a residential dwelling unit or a nearby residential dwelling unit and the owner

or tenant of the residential dwelling unit” and “building or structure” for “dwelling in two places in the first sentence of (b) and substituted “occupant, or tenant of the subject building or structure” for “or tenant of the subject dwelling” in the second sentence of (b).

**Sec. 5-4.3.2. Transfer of ownership of building or structure while enforcement action pending.**

If the County Department of Building Inspections has initiated an enforcement action against the owner of a building or structure and such owner subsequently transfers the ownership of the building or structure to an entity in which the owner holds an ownership interest greater than fifty percent (>50%), the pending enforcement action shall continue to be enforced against the owner.

For state law authority, see VA. CODE ANN. §36-105 C.4. (Cum. Supp. 2009).

[THE JULY 2, 2007 ACT adopted this section.]

**Sec. 5-4.4. Inspections of elevators, escalators, and related conveyances in existing buildings and enforcement of Building Code for elevators; exceptions.**

The County Department of Building Inspections shall be responsible for inspection and enforcement of the Virginia Uniform Statewide Building Code for elevators, escalators, or related conveyances except for elevators in single- and two-family homes and townhouses. Such inspection of elevators in existing buildings and enforcement of the Building Code for elevators shall be in compliance with the regulations adopted by the Virginia Board of Housing and Community Development. The Building Inspections Department may also provide for such inspection by an approved agency or through agreement with other local certified elevator and escalator inspectors. For the purposes of this section, an approved agency includes any individual, partnership or corporation who has met the certification requirements established by the Board of Housing and Community Development.

For state law authority, see VA. CODE ANN. §36-105 C.5. (Cum. Supp. 2009) and VA. CODE ANN. §36-105.01 (Repl. Vol. 2005).

Cross reference: For certification of elevator mechanics, see VA. CODE ANN. §54.1-1140 et seq. (Cum. Supp. 2008).

[THE AUGUST 7, 2000 ACT adopted this section.]

[THE JULY 19, 2010 AMENDMENT added “escalators and related conveyances” in the catchline and in the first sentence, and added “and escalators” in the third sentence.]

**Sec. 5-5. Building Code Board of Appeals.**

(a) There is hereby established within the Department of Building Inspections a Building Code Board of Appeals whose composition, duties, and responsibilities shall be as prescribed in the Building Code.

(b) The owner of a building or structure, the owner's agent, or any other person involved in the design or construction of the building or structure, or, in the case of certain unsafe conditions in existing buildings or structures, including but not limited to those encompassed by §5-4.3:1 or §5-4.4 of this Code as such provisions may have limited application in Campbell County, the owner of the building or structure, the owner's agent, or any other person involved in the use of a building or structure, may appeal a decision of the Building Official concerning the application of the Uniform Statewide Building Code (USBC) to such building or structure and may also appeal a refusal by the Building Official to grant a modification to the provisions of the USBC pertaining to such building or structure to the Building Code Board of Appeals. An application for appeal shall be made in writing in accordance with the applicable timetables and procedures required under the USBC regulations. Application for appeal may be made when it is claimed that the true intent of the Virginia Uniform Statewide Building Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of the Virginia Uniform Statewide Building Code do not fully apply, or an equally good or better form of construction can be used.

(c) The Building Code Board of Appeals shall be appointed and function in conformance with the applicable provisions of the Uniform Statewide Building Code and the administrative amendments.

(d) Compensation shall be determined by the Board of Supervisors.

(e) No appeal to the State Building Code Technical Review Board shall lie prior to a final determination by the local Building Code Board of Appeals.

For state law basis, see VA. CODE ANN. §36-105 (Cum. Supp. 2009).

Cross-reference. For provisions regarding appeals concerning application of the Statewide Fire Prevention Code, see §10-37 of this Code.

[THE 1987 AMENDMENT redesignated former (a), (b), and (c) as (b), (c), and (d), and added present (a).]

[THE 1988 AMENDMENT substituted "Section 116 of the Uniform Statewide Building Code" for "§126 of the BOCA Basic Building Code" in (c) and added (e).]

[THE AUGUST 7, 2000 AMENDMENT substituted "the applicable provisions" for "Section 116" in (c).]

[THE JULY 6, 2004 AMENDMENT, in the first sentence in (b), inserted "the owner's agent" and "involved in the design, construction, or maintenance of the building or structure pursuant to Part III of the USBC, as that part may be applicable in Campbell County," substituted "concerning application of the Building Code or refusal to grant a

modification to” for “refusing to grant a modification of” and deleted “covering the manner of construction or materials to be used in the erection, alteration or repair of a building or structure” preceding “to the Building Code Board of Appeals.”]

[THE JULY 2, 2007 AMENDMENT, in subsection (b), revised the first sentence by substituting “design or construction of the building or structure” for “design, construction, or maintenance of the building or structure pursuant to Part III of the USBC as that part may be applicable in Campbell County”; by inserting the clause beginning “, or, in the case of certain unsafe conditions . . . . person involved in the use of a building or structure”; by substituting “Uniform Statewide Building Code (USBC) to such building or structure and may also appeal a refusal by the Building Official” for “Building Code or refusal”; and by substituting “USBC pertaining to such building or structure” for “Virginia Statewide Building Code”; added the second sentence; and made other minor non-substantive changes in order to more closely track the authorizing statute.]

**Sec. 5-6. Removal, repair, etc., of buildings and other structures.**

(a) The owners of property in the County shall, at such time or times as the Board of Supervisors may prescribe, remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the County.

(b) The Board of Supervisors 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 other residents of the County, if the owner and lien holder of such property after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure such 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 Campbell County. No action shall be taken by Campbell County to remove, repair or secure any building, wall or other structure for at least thirty (30) days following the later of the return of the receipt or newspaper publication, except that Campbell County may take action to prevent unauthorized access to the building within seven (7) days of such notice if the structure is deemed to pose a significant threat to public safety and such fact is stated in the notice.

(c) In the event the Board of Supervisors, 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 thereof shall be chargeable to and paid by the owners of such property and may be collected by the County as taxes are collected.

(d) Every charge authorized by this section or VA. CODE ANN. §15.2-900 (Repl. Vol. 2008) with which the owner of any such property has 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 (Repl. Vol. 2009). A locality 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.

(e) The civil penalty for a violation of any provision of this section shall be a fine of one hundred dollars (\$100) for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall be a fine of one hundred, fifty dollars (\$150). In no event shall such civil penalties exceed a total of \$1,000. Designation of such violations for a civil penalty shall be in lieu of criminal sanctions and shall preclude prosecution of such violations as criminal misdemeanors. Imposition of civil penalties shall not preclude an action for injunctive, declaratory or other equitable relief, nor shall it preclude any action authorized under the preceding subsections hereof. Monies raised pursuant to this subsection shall be placed in the General Fund of Campbell County.

For state law basis, see VA. CODE ANN. §15.2-906 (Repl. Vol. 2008). For other state laws regarding abatement or removal of nuisances, including unsanitary or unsafe buildings, walls, or structures by localities, see also VA. CODE ANN. §15.2-900 et seq. (Repl. Vol. 2008 and Cum. Supp. 2009) and §48-1 et seq. (Repl. Vol. 2009). For state code authority for subsection (e), see paragraph 5 in VA. CODE ANN. §15.2-906 (Repl. Vol. 2008).

Cross-reference: VA. CODE ANN. §15.2-900 (Repl. Vol. 2008) provides that a locality may maintain an action to compel a responsible party to abate, raze, or remove a public nuisance. If the public nuisance presents an *imminent and immediate threat to life or property*, then the locality may abate, raze, or remove the nuisance and maintain an action to recover costs incurred for the provision of public emergency services reasonably required to abate such public nuisance. The definition of “nuisance” contained in §15.2-900 is broad, including but 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, as well as unsafe, dangerous, or unsanitary public or private buildings, walls, or structures. That statute is self-executing, such that its provisions may be enforced by Campbell County without the necessity of the County adopting a specific ordinance re same.

[THE 1992 AMENDMENT inserted "and lien holder" in (b) and added language beginning "ranking on a parity" at the end of (d).]

[THE 1994 AMENDMENT added the second and third sentences in (b).]

[THE MARCH 17, 1997 AMENDMENT substituted the present second, third, and fourth sentences in (b) for the former second and third sentences therein providing for the filing of a bill in equity in the circuit court for the locality asking owners of an unsafe building, wall or other structure to remove, repair or secure same as appropriate and providing for alternate service of notice by publication.]

[THE MAY 17, 1999 AMENDMENT substituted “§15.2-1427 (Cum. Supp. 1998)” for “§15.1-504 (Repl. Vol. 1989)” at the end of the third sentence in (b).]

[THE AUGUST 7, 2000 AMENDMENT added second, third, and fourth sentences in (d).]

[THE JULY 6, 2004 AMENDMENT, in (b), substituted “if” for “wherein” in the first sentence; deleted “the” preceding “purposes” in the second sentence; in the third sentence, substituted “purposes” for “the purpose” and “includes” for “shall include,” inserted “once a week for two successive weeks” and deleted “in accordance with the applicable provisions of VA. CODE ANN. §15.2-1427 (Cum. Supp. 2002)”]; and inserted “(30)” in the fourth sentence; in (c), deleted “and levies” preceding “are collected”; in (d), inserted “or VA. CODE ANN. §15.2-900 (Repl. Vol. 2003),” substituted “has” for “shall have,” inserted parenthetical statutory citations, and updated a state code citation in the first sentence; and added subsection (e) providing for a civil penalty of \$100 for first violations and a civil penalty of \$150 for subsequent violations, such civil penalties not to exceed a total of \$1,000.]

[THE JULY 2, 2007 AMENDMENT added the clause beginning “except that . . .” at the end of the last sentence in (b).]

#### **Sec. 5-7. Violations; penalties.**

(a) Any owner or any other person, firm or corporation violating the provisions of this chapter, the Virginia Uniform Statewide Building Code or any rule or regulation adopted pursuant thereto shall be guilty of a misdemeanor punishable by a fine of not more than \$2,500.00. In addition, each day the violation continues after conviction or the court-ordered abatement period has expired shall constitute a separate offense. 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 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. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense. Any person convicted of a second offense committed within less than five years after a first offense under this chapter shall be punished by a fine of not less than \$1,000.00 nor more than \$2,500.00. Any person convicted of a second offense committed within a period of five to ten years of a first offense under this chapter shall be punished by a fine of not less than \$500.00 nor more than \$2,500.00. Any person convicted of a third or subsequent offense involving the same property committed within ten years of an offense under this chapter after having been at least twice previously convicted shall be punished by confinement in jail for not more than ten (10) days and fine of not less than \$2,500.00 nor more than \$5,000.00, either or both. No portion of the fine imposed for such third or subsequent offense committed within ten years of an offense under this chapter shall be suspended. All fines imposed hereunder shall be collected and paid to the credit of the General Fund of the County. (11-15-82)

(b) Any owner or any other person, firm or corporation violating any Uniform Statewide Building Code provisions relating to lead hazard controls that poses a hazard to the health of pregnant women and children under the age of six years who occupy the premises shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine of not more than \$2,500.00. If

the court convicts pursuant to this subsection and sets a time by which such hazard must be controlled, each day the hazard remains uncontrolled after the time set for the lead hazard control has expired shall constitute a separate violation of the Uniform Statewide Building Code

(c) As provided in VA. CODE ANN. §19.2-8 (Cum. Supp. 2009), any prosecution under this section or VA. CODE ANN. §36-106 (Cum. Supp. 2010) shall commence within one year of discovery of the offense by the owner or by the building official; provided that such discovery occurs within two years of the date of initial occupancy or use after construction of the building or structure or the issuance of a certificate of use and occupancy for the building or structure, whichever is later. However, prosecutions under this section or VA. CODE ANN. §36-106 (Cum. Supp. 2010) relating to certain unsafe conditions in existing buildings or structures, including but not limited to those encompassed by §5-4.3:1 or §5-4.4 of this Code as such provisions may have limited application in Campbell County, shall commence within one year of the discovery of the offense.

For similar state law, see VA. CODE ANN. §36-106 (Cum. Supp. 2010) and VA. CODE ANN. §19.2-8 (Cum. Supp. 2009).

Cross-reference: See VA. CODE ANN. §54.1-503 C. (Repl. Vol. 2009) for state law requiring state licensure of any person performing lead inspection, evaluation, or abatement activities.

[THE 1982 AMENDMENT deleted "or revenue" after "General" in next to last line.]

[THE 1987 AMENDMENT added "\$1,000.00" at the end of the first sentence.]

[THE 1988 AMENDMENT deleted the former second sentence which read: "Each day such violation continues shall constitute a separate offense."]

[THE 1991 AMENDMENT designated existing provisions as (a) and added new (b).]

[THE 1992 AMENDMENT substituted "\$2,500.00" for "one thousand dollars (\$1,000.00)" in the first sentence in (a), added the clause beginning "additionally, if the violation" at the end of thereof, inserted second sentence in (a), substituted "\$2,500.00" for "\$1,000.00" at the end of the first sentence in (b), and added new (c).]

[THE 1993 AMENDMENT substituted "owner or any other person, firm or corporation" for "person" in first sentence of (a) and inserted new third, fourth, fifth and sixth sentences in (a), and substituted language beginning "of discovery of the offense by..." for "as provided in VA. CODE ANN. §19.2-8 (Cum. Supp. 1992)" at the end of (c).]

[THE 1994 AMENDMENT deleted "additionally" following "\$2,500.00" in first sentence and divided former second sentence into present second and third sentences in (a).]

[THE MARCH 17, 1997 AMENDMENT, in (c), inserted "As provided in VA. CODE ANN. §19.2-8 (Cum. Supp. 1996)" at beginning of first clause, inserted "or VA. CODE ANN. §36-106 (Repl. Vol. 1996)" preceding "shall be commenced" in first clause,

substituted "one year" for "two years" in first clause and "two years" for "one year" in second clause; deleted "as provided in VA. CODE ANN. §19.2-8 (Cum. Supp. 1994)" at end of second clause, and added third clause which begins "however, prosecutions..."]

[THE MAY 17, 1999 AMENDMENT, in (a), deleted "additionally" following "\$2,500.00" at end of first sentence and made former proviso language thereafter the present second sentence, and inserted new fourth sentence; and, in (c), substituted "shall commence" for "shall be commenced" in first clause of first sentence.]

[THE AUGUST 7, 2000 AMENDMENT, in (a), inserted a new second sentence, deleted "if the violation concerns a residential unit and" from the beginning of the present third sentence, substituted "Each day" for "Each fifteen-day period" at the beginning of fifth sentence, and substituted "by confinement in jail for not more than ten (10) days and fine of not more than \$2,500.00, either or both" for "by a fine of not less than \$1,500.00 nor more than \$2,500.00" at end of eighth sentence, and deleted former ninth sentence which had provided "Notwithstanding the foregoing, those provisions requiring a minimum fine shall apply only to convictions for building code violation, which cause a building or structure to be unsafe or unfit for human habitation."]

[THE JULY 2, 2001 AMENDMENT, in the eighth sentence in (a), inserted "involving the same property" and "after having been at least twice previously convicted," and substituted "not less than \$2,500.00 nor more than \$5,000.00" for "not more than \$2,500.00;" and inserted the next-to-last sentence in (a).]

[THE JULY 2, 2007 AMENDMENT, in subsection (b), substituted "lead hazard controls that" for "the removal or the covering of lead base paint which" in the first sentence, substituted "controlled" for "abated," "uncontrolled" for "unabated," and "lead hazard control" for "abatement" in the second sentence, and deleted the third and fourth sentences regarding termination of rental agreement where landlord financially unable to abate lead paint hazard; and, in the second sentence in subsection (c), substituted "certain unsafe conditions in" for "the maintenance of," and "including but not limited to those encompassed by §5-4.3:1 or §5-4.4 of this Code as such provisions may have limited application in Campbell County" for "as contained in the Uniform Statewide Building Code.]

## **Article II. Local Certification.**

### **Sec. 5-8 through 5-13. Reserved.**

Editor's note. - Former VA. CODE ANN. §15.1-11.4 and VA. CODE ANN. §36-99.1 were repealed by Chapter 895 of the 1994 Acts of the Virginia General Assembly, effective July 1, 1995.

Cross-reference.—For state license requirements for certain contractors, see VA. CODE ANN. §54.1-1100 et seq. (Repl. Vol. 2009).

[THE MARCH 17, 1997 AMENDMENT formally deleted §§5-8 through 5-13 which had regulated *local* certification of building-related work by plumbers, mechanical workers and electricians.]