

# 2021 Virginia Construction Code

## CHAPTER 1 ADMINISTRATION

### SECTION 115 VIOLATIONS

#### 115.1 Violation a misdemeanor; civil penalty.

In accordance with § 36-106 of the Code of Virginia, it shall be unlawful for any owner or any other person, firm or corporation, on or after the effective date of any code provisions, to violate any such provisions. Any locality may adopt an ordinance that establishes a uniform schedule of civil penalties for violations of specified provisions of the code that are not abated or remedied promptly after receipt of a notice of violation from the local enforcement officer.

**Note:** See the full text of § 36-106 of the Code of Virginia for additional requirements and criteria pertaining to legal action relative to violations of the code.

#### 115.2 Notice of violation.

The building official shall issue a written notice of violation to the permit holder if any violations of this code or any directives or orders of the building official have not been corrected or complied with within a reasonable time. The building official may also issue a notice of violation to other persons found to be responsible in addition to the permit holder. If the violations, directives, or orders involve work without a permit, the notice of violation shall be issued to the responsible party. The notice shall reference the code section upon which the notice is based and direct the correction of the violation or the compliance with such directive or order and specify a reasonable time period within which the corrections or compliance must occur. The notice shall be issued by either delivering a copy by mail to the last known address of the permit holder or responsible party, by delivering the notice in person, by leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place if the person in charge of the premises cannot be found. The notice of violation shall indicate the right of appeal by referencing the appeals section. When the owner of the building or structure or the tenants of such building or structure are not the party to whom the notice of violation is issued, then a copy of the notice shall also be delivered to the owner or tenants.

**Note:** A notice of unsafe building or structure for structures that become unsafe during the construction process are issued in accordance with Section 118.

##### 115.2.1 Notice not to be issued under certain circumstances.

When violations are discovered more than 2 years after the certificate of occupancy is issued or the date of initial occupancy, whichever occurred later, or more than 2 years after the approved final inspection for an alteration or renovation, a notice of violation shall only be issued upon advice from the legal counsel of the locality that action may be taken to compel correction of the violation. When compliance can no longer be compelled by prosecution under § 36-106 of the Code of Virginia, the building official, when requested by the building owner, shall document in writing the existence of the violation noting the edition of the USBC the violation is under.

#### 115.3 Further action when violation not corrected.

Upon failure to comply with the notice of violation, the building official may initiate legal proceedings by requesting the legal counsel of the locality to institute the appropriate legal proceedings to restrain, correct or abate the violation or to require the removal or termination of the use of the building or structure involved. In cases where the locality so authorizes, the building official may issue or obtain a summons or warrant. Compliance with a notice of violation notwithstanding, the building official may request legal proceedings be instituted for prosecution when a person, firm or corporation is served with three or more notices of violation within 1 calendar year for failure to obtain a required construction permit prior to commencement of work subject to this code.

**Note:** See § 19.2-8 of the Code of Virginia concerning the statute of limitations for building code prosecutions.

#### 115.4 Penalties and abatement.

Penalties for violations of the USBC shall be as set out in § 36-106 of the Code of Virginia. The successful prosecution of a violation of the USBC shall not preclude the institution of appropriate legal action to require correction or abatement of a violation.

#### 115.5 Transfer of ownership.

In accordance with § 36-105 of the Code of Virginia, if the local building department 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 50 percent, the pending enforcement action shall continue to be enforced against the owner.

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