

ROCKBRIDGE COUNTY CODE

Chapter 7

BUILDINGS AND BUILDING SAFETY REGULATIONS

Sec. 7-1. Building code adopted.

The County hereby adopts and incorporates by reference the Virginia Uniform Statewide Building Code (“USBC”), 2003, Edition, Part I, The Virginia Construction Code, including all future editions thereof and all amendments thereto, a copy of which shall be maintained in the building safety regulation department. The provisions of the USBC as adopted shall be controlling in the County of Rockbridge, except as otherwise specifically provided in this chapter, as to all matters concerning the construction, alteration, addition, repair, removal, demolition, use, location, occupancy, and maintenance of all buildings, and all other functions which pertain to the installation of systems vital to all buildings and structures and their service equipment as defined by the Virginia Uniform Statewide Building Code.

Sec. 7-2. Building safety regulation department established; organization.

There is hereby established a building safety regulation department whose responsibility it is to enforce the provisions of the Virginia Uniform Statewide Building Code. The cost of enforcement may be defrayed through the levying of fees by the locality, and said fees shall be established and modified from time to time by the board of supervisors and shall be kept on file with the building safety regulation department. The department shall have a building official or inspector who shall be appointed by the board of supervisors of the county. The building official, in concurrence with the chief appointing authority, shall be responsible for the organization and daily operation of the department in accordance with the USBC.

Sec. 7-3. Building safety regulations and procedures.

The building official is authorized to establish regulations and procedures as required to aid in the implementation and enforcement of the Virginia Uniform Statewide Building Code.

Sec. 7-4. Violations and penalties.

(a) ***Criminal penalties; continuing violations.*** It shall be unlawful for any owner or any other person, firm or corporation to violate any provisions of the code adopted in this chapter. Any such violation shall be deemed a misdemeanor and any owner or any other person, firm or corporation convicted of such a violation shall be punished 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 and not 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 article shall be punished by a fine of not less than \$500.00 and not 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 days and a 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.

(b) *Civil penalties.*

(1) In lieu of criminal prosecution as authorized in subsection (a) of this section, there are hereby established civil penalties for violation of the USBC which are not abated or remedied promptly after receipt of notice of violation or notice to comply from the building official. Upon failure to abate or remedy pursuant to a notice, the building official may issue a civil summons or ticket to any person in violation of any provision of the USBC or in non-compliance with the requirements thereof or the requirements of this chapter, in accordance with the Uniform Schedule of Civil Penalties set forth in subparagraph (b)(2) below. Each day during which the violation is found to have existed shall constitute a separate offense. However, the specified violations arising from the same operative set of facts shall not be charged more frequently than once in any ten-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of \$3,000.00. Designation of a particular building code violation pursuant to this subsection shall be in lieu of criminal sanctions and shall preclude prosecution of the violation as a misdemeanor, except for any violation that results in injury to persons.

(2) The uniform civil penalties adopted for all violations of the USBC or this chapter shall be as follows:

First offense--\$100.00

Second and each subsequent offense--\$150.00

(3) Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the Director of Fiscal Services or the Rockbridge County Treasurer prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court. As a condition of waiver of trial, admission of liability, and payment of a civil penalty, the violator and the building official shall agree in writing to terms of abatement or remediation of the violation within six months after the date of payment of the civil penalty.

(4) If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation authorized by this section, it shall be the burden of the locality to show the liability of the violator by a preponderance of the evidence. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

(5) If the violation concerns a residential unit, and if the violation remains uncorrected at the time of assessment of the civil penalty, the court shall order the violator to abate or remedy the violation in order to comply with the USBC. 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 the assessment of the civil penalty.

Sec. 7-5. Unsafe Structures.

(a) Statutory authority.

This section is enacted pursuant to §15.2-906 of the Code of Virginia (1950, as amended).

(b) Duty of owners to maintain.

It shall be the duty of all property owners in Rockbridge County to remove, repair, or secure any building, wall or other structure which might endanger the public health or safety of other residents of the county. For the purpose of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings.

(c) Complaints.

1. All complaints of violation hereof shall be made in writing, contain the name and address of the complaint(s) and shall be referred to the Building Official (or designee), who shall visit the site and make a report to the County Administrator.

2. In determining whether a building or other structure might endanger the public health or safety of residents of the county, the Building Official shall consider whether the building or other structure is in a state of dilapidation, deterioration or decay to the extent that it is in danger of collapse or structural failure and whether the building or other structure is located in proximity to occupied dwellings, businesses or community facilities.

(d) Notice to comply; action by county; recovery of costs.

1. If the Building Official determines that the site or structure complained of is in violation of this section and declares in writing that the building, wall or

other structure is unsafe, he shall issue a written Notice to Comply to the property owner to remove, repair or secure the building, wall, or other structure within 30 days or such additional reasonable time as the Building Official specifies. A copy of this section shall be provided with said notice. The written Notice to Comply shall be (i) given to the property owner by registered or certified 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 the County.

2. Such Notice to Comply shall state with reasonable particularity the defects or other condition of the building, wall or structure which render it unsafe and shall specify the period of time within which repairs or corrections shall be made or the building wall or structure, or a portion or portions thereof, demolished and removed.

3. If the property owner, or a lien holder, does not comply with the written Notice to Comply, the Building Official, through his agents or employees, shall be authorized to remove, repair or secure the unsafe building, wall or structure, or portion thereof. No action will be taken for at least thirty (30) days following the later of the return of the receipt or the newspaper publication, except that the Building Official 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 has been stated in the Notice.

4. In any case where notice is required to be given to the property owner and either the identity of the owner or the owner's address is unknown, then such notice shall also be posted at a conspicuous place at the site complained of for the period specified in §7-5(d)(1).

5. In the event that the Building Official, through his own agents or employees, removes, repairs or secures any building, wall or any other structure, or portion thereof, after complying with the notice provisions hereof, all costs and expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the county as real estate taxes and levies are collected.

(e) Charges to be lien.

In the event that the subject property is found to be in violation hereof, all mailing and publication costs associated with actions taken to enforce this section shall be charged to the owner. Every charge authorized by this section 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 and 4 of Chapter 39 of Title 58.1, Code of Virginia. The county 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.

(f) Appeal.

Any owner or lien holder aggrieved by a decision of the Building Official pursuant to this section shall have such rights of appeal or review by a court of competent jurisdiction as provided by general law.

(g) Effect on other provisions.

The provisions hereof shall be supplemental to and shall not preempt the right and authority of the Building Official with respect to unsafe structures as provided by the Uniform Statewide Building Code.

Secs. 7-6--7-7. Reserved.