



Understanding Virginia's Farm Building Exemption

Often people refer to Virginia's farm building exemption, which in general exempts farm buildings from the Virginia Building Code under § 36-99. It is important to understand this exemption and the impact it could have on other activities you may conduct on your farm. Just because you have a farm, or what you may think is a farm doesn't mean your building qualifies under the exemption. It's important to review the exemption, and the definition of what a Farm Building Structure is how it relates to the Uniform Statewide Building Code (USBC).

What does §36-99 say related to farm buildings?

§ 36-99. Provisions of Code; modifications.

*B. In formulating the Code provisions, the Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations, including, but not limited to, the standards of the International Code Council and the National Fire Protection Association. **Notwithstanding the provisions of this section, farm buildings and structures shall be exempt from the provisions of the Building Code, except for a building or a portion of a building located on a farm that is operated as a restaurant as defined in § 35.1-1 and licensed as such by the Board of Health pursuant to Chapter 2 (§ 35.1-11 et seq.) of Title 35.1. However, farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to flood-proofing regulations or mudslide regulations, as applicable.***

Notes to remember:

- *Not exempt are "a building or a portion of a building located on a farm that is operated as a restaurant as defined in § 35.1-1 and licensed as such by the Board of Health pursuant to Chapter 2 (§ 35.1-11 et seq.) of Title 35.1.*
- *Farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to flood-proofing regulations or mudslide regulations, as applicable.*

How does the Virginia Code §36-97 and Virginia Administrative Code (VAC) 13VAC5-63-200 Chapter 2 define the meaning of the farm building or structure.

"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 on 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.*

Notes to remember:

- *Must be located on property where farming operations take place*
- *Must be **used primarily** for any of the 6 uses or combination of described above*

How are farming operations defined in Virginia Code?

A farm is defined in § 3.2-300 of the Code of Virginia:

§ 3.2-300. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agricultural operation" means any operation devoted to the bona fide production of crops, or animals, or fowl including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and the production and harvest of products from silviculture activity.

"Production agriculture and silviculture" means the bona fide production or harvesting of agricultural or silvicultural products but shall not include the processing of agricultural or silvicultural products or the above ground application or storage of sewage sludge.

My county is requiring me to sign an affidavit stating my building I am planning to build is a farm building or structure, can they do that?

This has become a trend in several localities around the state. While they do not have a problem with the exemption of farm buildings from the building code, localities are having to be more stringent in who makes the claim. Often someone will claim the building is "farm building" to be exempt from building codes, but they do not meet any of the six approved uses under Virginia Code §36-97 and Virginia Administrative Code (VAC) 13VAC5-63-200 Chapter 2. There is nothing currently preventing a locality from asking you to sign the affidavit. It's important to remember that the use of one of these six uses must be the primary use of the building.

Note: Always remember to make sure your farm and building is a safe place when you have an occasional visitor. The exemption is in place because the structure is not intended to be open to the public. If you have visitors, such as a farm tour, make sure you follow safe practices such as marking exits, have fire extinguishers available, remove any hazards, etc.

