



TOWN OF HAYMARKET TOWN COUNCIL

SPECIAL MEETING ~ AGENDA ~

Shelley M. Kozlowski, Clerk of Council
<http://www.townofhaymarket.org/>

15000 Washington St
Haymarket, VA 20169

Monday, April 16, 2018

5:00 PM

Council Chambers

I. Call to Order

II. Agenda Item

1. Blight Ordinance Review

III. Adjournment

Sec. 22-3. - Offensive or detrimental conditions on private property generally.

- (a) *Definitions.* The following words, terms and phrases, when used in sections 22-3 and 22-4, shall have the meanings ascribed to them in this sub-section, except where the context clearly indicates a different meaning:

Building. Any structure for the support, shelter or enclosure of person, animals, chattels or property of any kind.

Nuisance. Includes, but [is] not limited to, dangerous or unhealthy substances which have escaped, have spilled, have been released or have been allowed to accumulate in or on any place, and all unsafe, dangerous, or unsanitary public or private buildings, walls, or structures which constitute a menace to the health and safety of occupants thereof or the public.

Odor. Any smell, from whatever source, resulting from a quality of something that stimulates the olfactory organ.

Premises. A tract of real property with a building thereon, and shall include its grounds and other appurtenances.

Trash. Any worthless or discarded material or objects.

Yard waste. Decomposable waste materials generated by yard and lawn care and includes leaves, grass trimmings, brush, wood chips, and shrub and tree trimmings. Yard waste shall not include roots or stumps that exceed six inches in diameter.

- (b) *Nuisances generally.* No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.
- (c) *Offensive odors.* No person owning, leasing, occupying or having charge of any premises shall cause, suffer, allow or permit the creation or continuation of a nuisance, from any source, resulting in the frequent or habitual discharge of any odor objectionable to individuals of ordinary sensibility.

(Ord. No. 2016-003, § 1, 4-4-2016)

Sec. 22-4. - Accumulation of trash or growth of weeds.

- (a) It shall be unlawful for the owner of any property within the town to permit the accumulation thereon of any trash, garbage, refuse, yard waste, recyclables, litter or other substance which might endanger the health or safety of other residents of the town or the growth thereon of any weeds or other agricultural growth, including grass, to a height of 12 inches or more. However, the provision on the growth of weeds or other agricultural growth shall not apply to any portion of a parcel in the conservation zoning district.
- (b) The town manager or authorized agent shall give the owner of any property within the town written notice to remove from such property, within 48 hours, any condition which is in violation of subsection (a) of this section. Failure to comply with such notice shall constitute a class 1 misdemeanor. Such notice shall be by certified mail to the last known address of the owner of the property. If such last known address is different from the address on the town tax records, a copy of such notice shall likewise be sent by certified mail to the address upon the tax records, a copy of such notice shall likewise be sent by certified mail to the address upon the tax records applicable to such property. If a condition enumerated in subsection (a) of this section exists which poses an immediate threat to the health, safety and welfare of citizens of the town, then the town manager or authorized agent shall give such notice as is reasonable under the circumstance. The town need only give one notice per calendar year to the property owner relating to growth of weeds or other agricultural growth, including grass.

- (c) Upon the failure, neglect or refusal of the owner of any property to whom notice has been given as provided in subsection (b) of this section to remove the trash, garbage, refuse, yard waste, recyclables, litter or other like substances or to cut the weeds or other natural growth, including grass, on the property in question within the time indicated in the notice, the town manager or authorized agent shall have the right to enter the subject property and may have the requisite work done by the town or by a town procured and paid contractor.
- (d) When the town manager or authorized agent has accomplished the removal of the trash, garbage, refuse, yard waste, recyclables, litter or other substance, the town shall bill the owner of the land or premises for the actual cost of removal, expense and the cost of publication, if any. If such bill is not paid within 30 days, the town manager or authorized agent shall transmit such bill to the treasurer, who shall include such amount in the next regular tax bill of the owner of such property. Every charge authorized in this section which remains unpaid shall constitute a lien against such property and may be collected as taxes are collected.
- (e) Notices provided under subsection (b) of this section for growth of weeds or other agricultural growth, including grass, shall state that no further notice by the town shall be given for the remainder of the calendar year. The notice shall further state that the town shall take corrective action as needed until the end of the calendar year, and that such costs (including overhead) shall be charged as provided in this section.

(Ord. No. 2016-003, § 1, 4-4-2016)

Sec. 22-5. - Dangerous structure, derelict buildings, and spot blight abatement.

- (a) In addition to any other remedies provided by this Code or the Virginia Code, the town may protect public health, safety and welfare by addressing dangerous structures as provided in this subsection.
 - (1) The owners of property in the town shall remove, repair or secure any building, wall or structure that might endanger the public health or safety of other residents of the town at such time or times as the town council may prescribe by resolution or ordinance.
 - (2) The town through its agents or employees may remove, repair or secure any building, wall or any other structure that might endanger the public health or safety of other residents of the town, if the owner and lien holder(s) of such property have failed to remove, repair, or secure the building, wall or other structure, after the notice provided in this subsection (a) has been sent and the time to act provided in that notice has elapsed.
 - a. For the purposes of this subsection, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings.
 - b. For purposes of this subsection, 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 the locality.
 - c. No action shall be taken to remove, repair, or secure any building, wall, or other structure for at least 30 days following the later of the return of the receipt or newspaper publication, except that the town may take action to prevent unauthorized access to the building within seven days of such notice if the structure is deemed to pose significant threat to public safety and such fact is stated in the notice.
 - (3) In the event the town, 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 town as taxes are collected.
 - (4) Every charge authorized by this subsection or Virginia Code §15.2-900 with which the owner of any such property has been assessed and that 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 (§58.1-3840 et seq.) and 4 (§58.1-3965 et seq.) of Chapter 39 of Title 58.1, Code of Virginia. The town council may by resolution 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.

- (5) The town may impose and collect civil penalties, not to exceed a total of \$1,000.00, for violations of this section.
- (b) In addition to the remedies provided by this Code or the Virginia Code, the town may protect public health, safety and welfare by addressing derelict buildings as provided in this subsection.
 - (1) The owners of property in the town shall, at such time or times as the town council may prescribe by resolution, submit a plan to demolish or renovate any building that has been declared a "derelict building". For purposes of this section, "derelict building" shall mean a residential or nonresidential building or structure, whether or not construction has been completed, that might endanger the public's health, safety, or welfare and that, for a continuous period in excess of six months, has been (i) vacant, (ii) boarded up in accordance with the building code, and (iii) not lawfully connected to electric service from a utility service provider or lawfully connected to any required water or sewer service from a utility service provider.
 - (2) If a building qualifies as a derelict building pursuant to this section, the town shall notify the owner of the derelict building that the owner is required to submit to the town a plan, within 90 days, to demolish or renovate the building to address the items that endanger the public's health, safety, or welfare as listed in the written notification provided by the town. Such a plan may be on a form developed by the town and shall include a proposed time within which the plan will be commenced and completed. The plan may include one or more adjacent properties of the owner, whether or not all of such properties may have been declared derelict buildings. The plan shall be subject to approval by the town. The town shall deliver the written notice to address listed on the real estate tax assessment records of the town. Written notice sent by first-class mail, with the town obtaining a U.S. Postal Service Certificate of Mailing, shall constitute delivery pursuant to this section.
 - (3) If the town delivers written notice and other owner of the derelict building has not submitted a plan to the locality within 90 days as provided in subsection (b)(2) of this section, the town may exercise such remedies in this subsection or as otherwise provided by law.
 - (4) The owner of a building may apply to the town and request that such a building be declared a derelict building for purposes of this section.
 - (5) The town, upon receipt of the plan to demolish or renovate the building, at the owner's request, shall meet with the owner submitting the plan and provide information to the owner on the land use and permitting requirements for demolition or renovation.
 - (6) If the property owner's plan is to demolish the derelict building, the building permit application of such owner shall be expedited. If the owner has completed the demolition within 90 days of the date of the building permit issuance, the town shall refund any building and demolition permit fees. This section shall not relieve a property owner of the requirement to obtain a certificate of appropriateness for demolition or exterior alteration for a historic structure under section 58-554 of this Code.
 - (7) If the property owner's plan is to renovate the derelict building, and no rezoning is required for the owner's intended use of the property, the site plan or subdivision application and building permit, as applicable, shall be expedited. The site plan or subdivision fees may be refunded, all or in part, but in no event shall the site plan or subdivision fees exceed the lesser of 50 percent of the standard fees established by the ordinance for site plan or subdivision applications for the proposed use of the property, or \$5,000.00 per property. The building permit fees may be refunded, all or in part, but in no event shall the building permit fees exceed the lesser of 50

percent of the standard fees established by the ordinance for building permit applications for the proposed use of the property, or \$5,000.00 per property.

- (8) Prior to commencement of a plan to demolish or renovate the derelict building, at request of the property owner, the last tax assessment of the property in its current derelict condition will be utilized. On the building permit application, the owner shall declare the costs of demolition, or the costs of materials and labor to complete the renovation. At the request of the property owner, after the demolition or renovation of the derelict building the town treasurer will inquire with the commissioner of revenue to provide a new assessment of the property that reflects the fair market value of the demolition costs or the fair market value of the renovation improvements, and reflect such value in the real estate tax assessment records. The real estate tax on an amount equal to the costs of demolition or amount equal to the increase in the fair market value of the renovations shall be abated for a period of five years, and is transferable with the property. The abatement of taxes for demolition shall not apply if the structure demolished is a registered Virginia landmark or is determined by the department of historic resources to contribute to the significance of a registered historic district.
- (c) It is the policy of the town to address spot blight abatement in appropriate cases, using all remedies provided by law, including those contained in Virginia Code §36-49.1:1. In determining whether a property is blighted for the purposes of applying that section, the town shall apply the definition of "blighted property" contained in Virginia Code §36-3 and may consider any pertinent factors, including but not limited to the following:
- (1) *Condemned structure.* A structure on the property has been continuously vacant for at least one year and has been condemned as unfit for human occupancy by the building official in accordance with the Virginia Uniform Statewide Building Code, but has neither been demolished nor repaired by the owner as directed by the building official.
 - (2) *Rat and rodent infestation.* There is evidence of rat or rodent infestation or harborages caused by conditions on the property.
 - (3) *Previous citations.* The property has been used or maintained in a condition which has resulted in the following actions:
 - a. The owner or owners have been cited on at least three separate occasions because activities or conditions on the property violate state or town laws or ordinances governing the use or maintenance of property, and those activities or conditions pose a substantial risk to public health, safety and welfare of the community; or
 - b. The owner or owners have not abated one or more violations as order by the court or have repeated conduct involving the use or maintenance of property for which the owner or owners have been convicted of violating state laws or town ordinances in the past.
 - (4) *Inadequate facilities.* The property has inadequate sewage, septic, plumbing, well or heating facilities based on current new construction codes.
 - (5) *Potential trespass.* If the property is vacant, the owner has failed to take adequate precautions to prevent the use of or access to the property by trespassers.
 - (6) *Nuisance to children.* A potential attractive nuisance to children exists on the property, including, but not limited to, abandoned wells, basements, excavations or broken fences.
 - (7) *Fire hazard.* Any condition exist on the property that has been specifically identified as a fire hazard by the fire department or building official.
 - (8) Substantial dilapidation of buildings or structures as evidence by either:
 - a. Collapse of either interior or exterior structural elements such as floors, walls, roofs, decks and similar appendages which do not pose a danger to the public; or
 - b. Removal or rotting of exterior siding, roofing or sheathing exposing structural members to the weather.

(Ord. No. 2016-003, § 1, 4-4-2016)