

1 **Ordinance to Amend and Reenact the City Code of the City of Hampton, Virginia**
2 **by Amending Chapter 24, Offenses, Article II, pertaining to the definitions relating**
3 **to criminal blight and options available for corrective action with respect to**
4 **criminal blight, in order to make that section consistent with recently amended**
5 **state code authority.**

6
7 **BE IT ORDAINED** by the City Council of the City of Hampton, Virginia, that Chapter 24
8 of the City Code of the City of Hampton, Virginia be amended to read as follows:

9
10 **CHAPTER 24 – OFFENSES**

11
12 **ARTICLE II. - DRUG *CRIMINAL* BLIGHT**

13
14 **Sec. 24-111. - Definitions.**

15
16 The following words, terms, and phrases, when used in this article, shall have the
17 following meanings, unless the content clearly indicates otherwise:

18
19 Affidavit means the affidavit *sworn to under oath* prepared by the chief of police, or his
20 designee, in accordance with subsection 24-112(b)(1).

21
22 *Commercial sex acts means any specific activities that would constitute a criminal act*
23 *under Article 3 (§ 18.2-344 et. seq.) of Chapter 8 of Title 18.2 or a substantially similar*
24 *ordinance under Article I of this chapter if a criminal charge were to be filed against*
25 *the individual perpetrator of such criminal activity.*

26
27 Controlled substance means illegally obtained controlled substances or marijuana, as
28 defined in § 54.1-3401 of the Code of Virginia, as amended.

29
30 Corrective action means ~~the~~ *(i) taking specific actions with respect to the buildings or*
31 *structures on property that are* ~~of steps which are~~ *reasonably expected to be effective*
32 *to abate drug criminal blight on such real property, including, such as the removal,*
33 *repair or securing of any building, wall or other structure-, or (ii) changing specific*
34 *policies, practices, and procedures of the real property owner that are reasonably*
35 *expected to abate criminal blight on real property. The chief of police, or his designee*

36 *shall prepare an affidavit on behalf of the city that states specific actions to be taken*
37 *on the part of the property owner that the city determines are necessary to abate the*
38 *identified criminal blight on such real property and that do not impose an undue*
39 *financial burden on the owner.*

40 ~~Drug~~ *Criminal* blight means a condition existing on real property ~~which tends to~~
41 ~~endanger~~ *that endangers* the public health or safety of residents of the city and is
42 caused by (i) the regular presence on the property of persons under the influence of
43 controlled substances; ~~or~~ (ii) the regular use of the property for the purpose of illegally
44 possessing, manufacturing or distributing controlled substances; ~~or~~ (iii) *the regular use*
45 *of the property for engaging in commercial sex acts; or (iv) repeated acts of the*
46 *malicious discharge of a firearm within any building or dwelling that would constitute a*
47 *criminal act under § 18.2-279 or a substantially similar ordinance under Article 2 of*
48 *Chapter 40 of Hampton City Code.*

49

50 Owner means the record owner of real property.

51

52 Property means real property.

53 **Sec. 24-112. - Corrective action for buildings and other structures harboring**
54 **illegal drug activity *use or other criminal activity*; abatement**

55

56 (a) This section is adopted pursuant to the powers vested in the city by section
57 15.2-907 of the Code of Virginia, 1950, as amended

58 (b) The city may *require the owner of real property to* undertake corrective action
59 with respect to property which has been determined to be the situs of ~~drug~~
60 *criminal* blight, *or the city may undertake corrective action* in accordance with
61 the procedures described herein:

62 (1) The chief of police, or his designee, shall execute and forward to the director
63 of ~~codes compliance~~ *community development* an affidavit, citing this section
64 and § 15.2-907 of the Code of Virginia of 1950, as amended, to the effect (i)
65 that ~~drug~~ *criminal* blight exists on the property and in the manner described
66 therein; (ii) the city has used diligence without effect to abate the ~~drug~~
67 *criminal* blight; and (iii) the ~~drug~~ *criminal* blight constitutes a present threat to
68 the public's health, safety or welfare.

69 (2) The director of ~~codes compliance~~ *community development*, or his designee,
70 shall then send a notice to the owner of the property, to be sent by regular
71 (i) *certified mail, return receipt requested; (ii) hand delivery; or (iii) overnight*
72 *delivery by a commercial service or the United States Postal Service*, to the
73 last address listed for the owner on the city's assessment records for the
74 property, together with a copy of such affidavit, advising that (a) the owner
75 has up to thirty (30) days from the date thereof to undertake corrective

76 action to abate the drug *criminal* blight described in such affidavit, and (b)
77 the city will, if requested to do so, assist the owner in determining and
78 coordinating the appropriate corrective action to abate the drug *criminal*
79 blight described in such affidavit. *If the owner notifies the city in writing*
80 *within the 30-day period that additional time to complete the corrective*
81 *action is needed, the city shall allow such owner an extension for an*
82 *additional 30-day period to take such corrective action.*

83 (3) If appropriate corrective action is not undertaken during such thirty-day
84 period, *or during the extension if such extension is granted by the city*, the
85 director of codes compliance *community development*, or his designee, shall
86 send by ~~regular~~ *certified* mail, *return receipt requested*, an additional notice
87 to the owner of the property, at the address stated in ~~the preceding~~
88 ~~paragraph~~ *subsection b(2)*, stating (i) the date on which the city may
89 commence corrective action to abate the drug *criminal* blight on the property
90 *or (ii) the date on which the city may commence legal action in a court of*
91 *competent jurisdiction to obtain a court order to require that the owner take*
92 *such corrective action or, if the owner does not take corrective action, a*
93 *court order to revoke the certificate of occupancy for such property*, which
94 date shall be no earlier than fifteen (15) days after the date of mailing of the
95 notice. Such notice shall also reasonably describe any corrective action
96 contemplated to be taken by the city. Upon receipt of such notice, the owner
97 shall have a right, ~~upon reasonable notice to~~ *within 20 days after mailing*
98 *notice* by the city, to seek equitable *judicial* relief, and the city shall initiate
99 no corrective action while a proper petition for relief is pending before a
100 court of competent jurisdiction.

101 (c) If the city undertakes corrective action with respect to the property after
102 complying with the provisions of subsection (b) (3), the costs and expenses
103 thereof shall be chargeable to, and paid by, the owner of such property and
104 may be collected by the city as taxes are collected.

105 (d) Every charge authorized by this section with which the owner of any such
106 property has been assessed and which ~~that~~ *that* remains unpaid shall constitute a
107 lien against such property with the same priority as liens for unpaid local taxes
108 and enforceable in the same manner as provided in articles 3 (§ 58.1-3940 et
109 seq.) and 4 (§ 58.1-3965 et seq.) of chapter 39 of title 58.1, Code of Virginia of
110 1950, as amended.

111 (e) *A criminal blight proceeding pursuant to this section shall be a civil proceeding*
112 *in a court of competent jurisdiction in the Commonwealth.*

113 (f) If the owner of such *real* property takes timely corrective action pursuant to this
114 section, the city shall deem the drug *criminal* blight abated, shall close the
115 proceeding without any charge or cost to the owner, and the director of codes
116 compliance, or his designee, shall promptly provide written notice to the owner
117 that the proceeding has been terminated satisfactorily. The closing of a
118 proceeding shall not bar the city from initiating a subsequent proceeding if the
119 drug *criminal* blight recurs.

120 (g) *Nothing in this section shall be construed to abridge, diminish, limit, or waive*
121 *any rights or remedies of an owner of property at law or any permits or*

122 *nonconforming rights the owner may have under Chapter 22 of Title 15.2, Code*
123 *of Virginia of 1950, as amended or under this ordinance. If an owner in good*
124 *faith takes corrective action, and despite having taken such action, the specific*
125 *criminal blight identified in the affidavit of the city persists, such owner shall be*
126 *deemed to be in compliance with this section. Further, if a tenant in a rental*
127 *dwelling unit, or a tenant on a manufactured home lot, is the cause of criminal*
128 *blight on such property and the owner in good faith initiates legal action and*
129 *pursues the same by requesting a final order by a court of competent*
130 *jurisdiction, as otherwise authorized by Code of Virginia of 1950, as amended,*
131 *against such tenant to remedy such noncompliance or to terminate the tenancy,*
132 *such owner shall be deemed in compliance with this section.*

133

134 State Law reference— Authority to require removal, repair, etc., of buildings and
135 other structures harboring illegal drug use *or other criminal activity*, Code of
136 Virginia, § 15.2-907 et seq.