

1 **Ordinance to Amend and Reenact Section 24-37 of the City Code of the City of Hampton,**
2 **Virginia, Entitled, “Unlawful Property Maintenance Conditions” Pertaining to Regulation**
3 **of Clutter**

4 **BE IT ORDAINED** by the Council of the City of Hampton, Virginia that Section 24-37 of the City
5 Code of the City of Hampton, Virginia, be amended and re-enacted as follows:
6

7 **CHAPTER 24 - OFFENSES—MISCELLANEOUS**

8
9 **ARTICLE I. - IN GENERAL**

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11

12
13 **Sec. 24-37. – Unlawful property maintenance conditions.**

14 **(a) Accumulations of trash, garbage, refuse, litter, clutter, and other like substances.** It
15 shall be unlawful for the owner of any property, or any occupant or other person who is
16 responsible for the maintenance and upkeep of any property, occupied or vacant, including
17 the area adjoining such property extending to the curb line or the paved portion of the
18 roadway and/or the center line of an abutting alley, to permit the accumulation on such
19 property of trash, garbage, refuse, litter *(collectively, for purposes of this section, “debris”),*
20 *clutter,* and other like substances *that might endanger the health of other residents of the*
21 *locality,* except as may be placed there for purposes of collection in accordance with
22 chapter 32.1 of this Code. *The following provisions shall further apply:*

23 *(1) Debris*

24 *(i)* In the event the owner, occupant or other person responsible for any property shall
25 fail or refuse to remove any *debris* accumulation referred to above, or in the event the
26 property upon which such *debris* accumulation is found is unoccupied, the city manager
27 or his designee shall give written notice to the owner of such property to clear off and
28 remove from the property all *debris* such trash garbage, refuse, litter and other like
29 substances *that might endanger the health or safety of other residents,* within seven (7)
30 days from the date of such notice. A violation of this subsection shall be punishable as a
31 criminal misdemeanor with a fine of at least \$100.00 but not more than \$1,000.00 per
32 violation. Each day during which the condition is ongoing shall constitute a separate
33 offense.

34 *(2) Clutter*

35 *Clutter shall not be permitted unless stored within a fully enclosed building or structure,*
36 *or completely screened by a solid, rigid, six-foot opaque fence composed of standard*
37 *fencing materials. The placing, draping or securing of a tarpaulin or other non-rigid cover*
38 *over and around the clutter shall not be sufficient to comply with the requirements of this*
39 *section. Notwithstanding the foregoing, clutter that is enclosed or screened in such a*
40 *manner, but which is deemed a hazard to the health or safety of other residents, shall*
41 *not be permitted. In the event the owner, occupant, or other person responsible for any*
42 *property shall fail or refuse to remove any unlawful clutter, or in the event the property*
43 *upon which such clutter is found is unoccupied, the city manager or his designee shall*
44 *give written notice to the owner of such property to clear off and remove from the*
45 *property all such clutter within thirty (30) days from the date of such notice. A violation of*

46 *this subsection shall be punishable as a criminal misdemeanor with a fine of at least*
47 *\$100.00 but not more than \$1,000.00 per violation. Each day during which the condition*
48 *is ongoing shall constitute a separate offense.*

49 *For purposes of this section, the following terms shall have the following definitions:*

50 (i) *“Clutter” means mechanical equipment, household furniture, containers, and*
51 *similar items that may be detrimental to the well-being of a community when they*
52 *are left in public view for an extended period or are allowed to accumulate.*

53 (ii) *“Extended period” means thirty (30) days or more.*

54 *The provisions of section 24-37(a)(2) shall become effective July 1, 2021.*

55

56 (b) **Cutting of grass and weeds near residential and commercial structures.** It shall be
57 unlawful for the owner of any land, or any occupant or other person who is responsible for
58 the maintenance and upkeep of any land, occupied or vacant, including the area adjoining
59 such property extending to the curb line or the paved portion of the roadway and or the
60 center line of an abutting alley, to permit grass, weeds and other foreign growth on such
61 property to exceed a height of eight (8) inches, within one hundred fifty (150) feet of any
62 residential or commercial structure, or any structure designed for use in connection
63 therewith.

64 (1) In areas required to be vegetated by the Chesapeake Bay Preservation Overlay
65 District of the Zoning Ordinance of the City of Hampton:

66 (i) The cutting of grass and weeds is required where a lawn has been legally
67 established.

68 (ii) A property owner may establish a naturally vegetated buffer area, and
69 exceed the maximum grass height, where a legally established lawn
70 exists, subject to the following requirements:

71 (a) The property owner shall submit a buffer establishment application
72 to the City of Hampton Zoning Administrator for approval;

73 (b) If the buffer establishment application is approved, the property
74 owner shall then maintain the naturally vegetated buffer in
75 perpetuity unless otherwise permitted by the Zoning Ordinance;
76 and

77 (c) The property owner shall post and maintain signage designating
78 the vegetated buffer in perpetuity, which shall be approved by the
79 Zoning Administrator prior to installation.

80 (2) For the purposes of this section, a “lawn” shall mean an area of grasses or other
81 durable plants which are maintained at a short height for aesthetic or recreational
82 purposes.

83 In the event the owner, occupant or other person responsible for any property shall fail or
84 refuse to, maintain said grass, weeds and other foreign growth, the city manager or his
85 designee shall give written notice to the owner of such property to cut or remove said
86 growth as required by this subsection within seven (7) days from the date of such notice
87 and to so maintain it. One such written notice per growing season (March 1 through
88 November 30) shall satisfy the notice requirement above to authorize the city to remove or

89 contract for the removal of any excessive growth of grass, weeds and other foreign growth
90 for the entire growing season. A violation of this subsection shall be punishable as a
91 criminal misdemeanor with a fine of at least \$100.00 but not more than \$1,000.00. Each
92 day during which the condition is ongoing shall constitute a separate offense.

93

94 (c) **Cutting of overgrown shrubs, trees, and other such vegetation.** It shall be unlawful for
95 the owner of any land, or any occupant or other person who is responsible for the
96 maintenance and upkeep of any land, occupied or vacant, including the area adjoining such
97 property extending to the center line of an abutting alley, to permit overgrown shrubs, trees,
98 and other such vegetation (collectively, for purposes of this section, "overgrowth") to exist in
99 a manner that is in violation of this section. Overgrowth shall include, but not be limited to,
100 noxious weeds, vines, ivy, and any other plant material that may inhibit the growth of native
101 vegetation.

102 (1) Overgrowth shall be unlawful if any one or more of the following applies:

103 (i) The overgrowth is abandoned, neglected, or not adequately maintained;

104 (ii) The overgrowth has caused the primary improvements on the property to
105 be wholly or substantially screened from view from pedestrians standing
106 at ground level upon any right-of-way abutting any property line;

107 (iii) The overgrowth obstructs the view of address numerals;

108 (iv) The overgrowth obstructs access to emergency escape and rescue
109 opening points, as defined by the Virginia Uniform Statewide Building
110 Code, or path of travel from any street to the primary entrance of any
111 primary or accessory structure;

112 (v) The overgrowth is growing into or on primary to accessory structures in a
113 manner that is detrimental to the structure or has caused damaged to a
114 structure;

115 (vi) The overgrowth constitutes a public health, safety, welfare, or fire hazard;
116 or

117 (vii) The overgrowth is likely to result in rodent harborage on the property.

118 (2) In areas required to be vegetated by the Chesapeake Bay Preservation Overlay
119 District of the Zoning Ordinance of the City of Hampton, the owner shall comply
120 with and obtain all required permits in accordance with the Zoning Ordinance
121 prior to the removal of vegetation.

122 In the event the owner, occupant or other person responsible for any property shall fail or
123 refuse to remove or maintain the unlawful overgrowth, the city manager or his designee
124 shall give written notice to the owner of such property to remove or maintain the overgrowth
125 as required by this subsection within thirty (30) days from the date of such notice and to so
126 maintain it in compliance with this subsection. Such written notice shall satisfy the notice
127 requirement above to authorize the city to remove or contract for the removal of any
128 unlawful overgrowth. A violation of this subsection shall be punishable as a criminal
129 misdemeanor with a fine of at least \$100.00 but not more than \$1,000.00. Each day during
130 which the condition is ongoing shall constitute a separate offense.

131

132 (d) **Exceptions.** The requirements of subsections ~~(b)~~-(c) & ~~(e)~~ (d) above shall have no
133 application in the following areas of the city:

134 (1) Vegetated wetlands, as defined in the wetlands ordinance (Chapter 41.1 of this
135 Code);

136 (2) Coastal primary sand dunes;

137 (3) State-designated Wildlife Habitat Areas;

138 (4) Banks of detention ponds, streams, and other bodies of water, natural or manmade;

139 (5) Banks of drainage easements;

140 (6) Woodlands. For the purpose of this exemption, the term "woodlands" shall include
141 productive and nonproductive forest lands and other areas which are used primarily to
142 promote and preserve the growth of trees and seedlings and land covered to the extent
143 that the operation thereon of a tractor with weed cutting apparatus is not practicable;

144 (7) Property that is currently under development, from the date duly approved land
145 disturbance begins until a certificate of occupancy is issued; except that if work is
146 discontinued for more than 14 consecutive days, the property is no longer exempt from
147 these requirements; and

148 (8) Any other area required to be vegetated by reason of the application of the city
149 zoning ordinance, subdivision ordinance, site plan ordinance, stormwater management
150 ordinance, or any other ordinance or provision of law.

151 (e) Construction sites shall be maintained in such a manner as to contain trash and/or
152 construction-related debris on the buildable portion of the site. The failure of the person
153 responsible for or in charge of construction sites to contain trash and/or construction-related
154 debris shall result in the issuance of a notice to correct the violation within 24 hours. Failure
155 to obey the terms of the notice regarding construction trash or debris shall be punishable as
156 a criminal misdemeanor with a fine of at least \$100.00 but not more than \$1,000.00 per
157 violation. Each day during which the condition is ongoing shall constitute a separate
158 offense.

159 (f) In case the notice referred to in paragraph (a), (b), ~~(c)~~, or (d) above cannot reasonably be
160 served on the owner, or when such notice is mailed to the owner's last known address as
161 shown in the office of the assessor, and such owner fails to comply with such notice within
162 seven (7) days for violations of section (a) or ~~(b)~~ (c), or thirty (30) days for violations of
163 section ~~(e)~~ (b) or (d), the land may be cleared off, cut, or cleaned by the city and the
164 necessary expenses of such clearing, cutting, and removal shall be chargeable to such
165 owner. The city manager shall certify such expenses to the city treasurer. Such expenses,
166 when so certified, together with a one hundred fifty dollar (\$150.00) service charge, shall be
167 collected by the treasurer pursuant to the same procedures and in the same manner as real
168 estate taxes and shall be a real estate tax lien upon such land.

169 (g) If a violation of (a), (b), (c), or (e) above is uncorrected at the time of the conviction, the
170 court shall order the violator to abate or remedy the violation in compliance with this
171 section.

172 **Cross reference**— Penalty for Class 1 misdemeanor, § 1-11; solid waste, Ch. 32.

173 **State Law reference**— Authority for above section, Code of Virginia, §§ 15.2-901, 15.2-1115.

