



Legislation Details (With Text)

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Title: Ordinance to Amend and Reenact Section 24-37 of the City Code of the City of Hampton, Virginia, Entitled, "Unlawful Property Maintenance Conditions" Pertaining to Regulation of Clutter
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| Date | Ver. | Action By | Action | Result |
|----------|------|----------------------------------|----------|--------|
| 6/9/2021 | 1 | City Council Legislative Session | approved | Pass |

Ordinance to Amend and Reenact Section 24-37 of the City Code of the City of Hampton, Virginia, Entitled, "Unlawful Property Maintenance Conditions" Pertaining to Regulation of Clutter

Background Statement:

This amendment is in response to additional authority granted localities by House Bill 1778 (2021), which amended section 15.2-901 of the Code of Virginia. As of July 1st, 2021, the City of Hampton is granted additional powers to regulate clutter. Approval of this amendment would make clutter unlawful when left public view for an extended period of time or when it is allowed to accumulate.

Recommendations:

Staff Recommendation:
Approve the ordinance.

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

CHAPTER 24 - OFFENSES-MISCELLANEOUS

ARTICLE I. - IN GENERAL

. . . .

Sec. 24-37. - Unlawful property maintenance conditions.

(a) Accumulations of trash, garbage, refuse, litter, clutter, and other like substances. It shall be

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

(1) Debris

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

(2) Clutter

Clutter shall not be permitted unless stored within a fully enclosed building or structure, or completely screened by a solid, rigid, six-foot opaque fence composed of standard fencing materials. The placing, draping or securing of a tarpaulin or other non-rigid cover over and around the clutter shall not be sufficient to comply with the requirements of this section. Notwithstanding the foregoing, clutter that is enclosed or screened in such a manner, but which is deemed a hazard to the health or safety of other residents, shall not be permitted. In the event the owner, occupant, or other person responsible for any property shall fail or refuse to remove any unlawful clutter, or in the event the property upon which such clutter is found is unoccupied, the city manager or his designee shall give written notice to the owner of such property to clear off and remove from the property all such clutter within thirty (30) days from the date of such notice. A violation of this subsection shall be punishable as a criminal misdemeanor with a fine of at least \$100.00 but not more than \$1,000.00 per violation. Each day during which the condition is ongoing shall constitute a separate offense.

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

- (i) "Clutter" means mechanical equipment, household furniture, containers, and similar items that may be detrimental to the well-being of a community when they are left in public view for an extended period or are allowed to accumulate.
- (ii) "Extended period" means thirty (30) days or more.

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

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

- (1) In areas required to be vegetated by the Chesapeake Bay Preservation Overlay District of the Zoning Ordinance of the City of Hampton:
 - (i) The cutting of grass and weeds is required where a lawn has been legally established.
 - (ii) A property owner may establish a naturally vegetated buffer area, and exceed the maximum grass height, where a legally established lawn exists, subject to the following requirements:
 - (a) The property owner shall submit a buffer establishment application to the City of Hampton Zoning Administrator for approval;
 - (b) If the buffer establishment application is approved, the property owner shall then maintain the naturally vegetated buffer in perpetuity unless otherwise permitted by the Zoning Ordinance; and
 - (c) The property owner shall post and maintain signage designating the vegetated buffer in perpetuity, which shall be approved by the Zoning Administrator prior to installation.
- (2) For the purposes of this section, a “lawn” shall mean an area of grasses or other durable plants which are maintained at a short height for aesthetic or recreational purposes.

In the event the owner, occupant or other person responsible for any property shall fail or refuse to, maintain said grass, weeds and other foreign growth, the city manager or his designee shall give written notice to the owner of such property to cut or remove said growth as required by this subsection within seven (7) days from the date of such notice and to so maintain it. One such written notice per growing season (March 1 through November 30) shall satisfy the notice requirement above to authorize the city to remove or contract for the removal of any excessive growth of grass, weeds and other foreign growth for the entire growing season. A violation of this subsection shall be punishable as a criminal misdemeanor with a fine of at least \$100.00 but not more than \$1,000.00. Each day during which the condition is ongoing shall constitute a separate offense.

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

- (1) Overgrowth shall be unlawful if any one or more of the following applies:
 - (i) The overgrowth is abandoned, neglected, or not adequately maintained;
 - (ii) The overgrowth has caused the primary improvements on the property to be wholly or substantially screened from view from pedestrians standing at ground level upon any right-of-way abutting any property line;
 - (iii) The overgrowth obstructs the view of address numerals;

- (iv) The overgrowth obstructs access to emergency escape and rescue opening points, as defined by the Virginia Uniform Statewide Building Code, or path of travel from any street to the primary entrance of any primary or accessory structure;
 - (v) The overgrowth is growing into or on primary to accessory structures in a manner that is detrimental to the structure or has caused damaged to a structure;
 - (vi) The overgrowth constitutes a public health, safety, welfare, or fire hazard; or
 - (vii) The overgrowth is likely to result in rodent harborage on the property.
- (2) In areas required to be vegetated by the Chesapeake Bay Preservation Overlay District of the Zoning Ordinance of the City of Hampton, the owner shall comply with and obtain all required permits in accordance with the Zoning Ordinance prior to the removal of vegetation.

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

(d) **Exceptions.** The requirements of subsections (c) & (d) above shall have no application in the following areas of the city:

- (1) Vegetated wetlands, as defined in the wetlands ordinance (Chapter 41.1 of this Code);
 - (2) Coastal primary sand dunes;
 - (3) State-designated Wildlife Habitat Areas;
 - (4) Banks of detention ponds, streams, and other bodies of water, natural or manmade;
 - (5) Banks of drainage easements;
 - (6) Woodlands. For the purpose of this exemption, the term "woodlands" shall include productive and nonproductive forest lands and other areas which are used primarily to promote and preserve the growth of trees and seedlings and land covered to the extent that the operation thereon of a tractor with weed cutting apparatus is not practicable;
 - (7) Property that is currently under development, from the date duly approved land disturbance begins until a certificate of occupancy is issued; except that if work is discontinued for more than 14 consecutive days, the property is no longer exempt from these requirements; and
 - (8) Any other area required to be vegetated by reason of the application of the city zoning ordinance, subdivision ordinance, site plan ordinance, stormwater management ordinance, or any other ordinance or provision of law.
- (e) Construction sites shall be maintained in such a manner as to contain trash and/or construction-related debris on the buildable portion of the site. The failure of the person responsible for or in

charge of construction sites to contain trash and/or construction-related debris shall result in the issuance of a notice to correct the violation within 24 hours. Failure to obey the terms of the notice regarding construction trash or debris shall be punishable as a criminal misdemeanor with a fine of at least \$100.00 but not more than \$1,000.00 per violation. Each day during which the condition is ongoing shall constitute a separate offense.

- (f) In case the notice referred to in paragraph (a), (b), (c), or (d) above cannot reasonably be served on the owner, or when such notice is mailed to the owner's last known address as shown in the office of the assessor, and such owner fails to comply with such notice within seven (7) days for violations of section (a) or (c), or thirty (30) days for violations of section (b) or (d), the land may be cleared off, cut, or cleaned by the city and the necessary expenses of such clearing, cutting, and removal shall be chargeable to such owner. The city manager shall certify such expenses to the city treasurer. Such expenses, when so certified, together with a one hundred fifty dollar (\$150.00) service charge, shall be collected by the treasurer pursuant to the same procedures and in the same manner as real estate taxes and shall be a real estate tax lien upon such land.
- (g) If a violation of (a), (b), (c), or (e) above is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with this section.

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

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

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