



TOWN COUNCIL WORK SESSION
Monday, June 4, 2018 @ 7:00pm
Town Hall Council Chambers

TOWN/STAFF RELATED ITEMS

1. Budget Amendment to Create a Separate Departmental Budget for Community Development –
Director Finance

COUNCIL/MAYOR RELATED ITEMS:

2. Off-Street Parking Requirements on Southern Part of Chester Street
3. Discussion of Addressing Blighted and Derelict Structures in Town.
4. Council Discussion/Goals *(time permitting)*

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Work Session Agenda Form

Item # 1

DATE: June 4, 2018

AGENDA ITEM: Budget Amendment to Create a Separate Departmental Budget for Community Development

SUMMARY: Council is requested to approve a FY19 Budget Amendment to create a separate departmental budget for Community Development in the amount of \$41,500. The Town currently has \$87,396.96 that has been carried forward for Community Development. A portion of funds previously set aside that have been carried forward on purchase order#28285 could be used to fund the new departmental budget. The new departmental budget would be used to retain a graphic artist, create a newsletter to send to businesses, create additional brochures that would be geared toward businesses, and other expenses associated with Community Development.

BUDGET/FUNDING:

1000-3510110 – G/F Appropriated Funds Forward	- \$41,500.00
1206-43002 – C/D Professional Services	-\$25,000.00
1206-43007 – C/D Printing & Binding	- \$5,000.00
1206-43007 – C/D Advertising	-\$1,000.00
1206-45201 – C/D Postal Services	-\$1,500.00
1206-45401 – C/D Office Supplies	-\$500.00
1206-45411 – C/D Books & Subscriptions	-\$500.00
1206-45412 – C/D Furniture & Fixtures	-\$1,000.00
1206-45413 – C/D Other Operating Expense	-\$1,000.00
1206-45504 – C/D Travel & Education	-\$4,500.00
1206-45801 – C/D Dues & Memberships	-\$1,500.00

STAFF RECOMMENDATION: Staff recommends to approve the budget amendment as written.

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	- Community Development	
Account	Name	FY19 Proposed
43002	Professional Services	25,000
43006	Printing & Binding	5,000
43007	Advertising	1,000
45201	Postal Services	1,500
45401	Office Supplies	500
45411	Books & Subscriptions	500
45412	Furniture & Fixtures	1,000
45413	Other Operating Expenses	1,000
45504	Travel & Education	4,500
45801	Dues & Memberships	1,500
	Total Operating Expenses	\$ 41,500
	Total - Department	\$ 41,500
	Annual Adopted Budget	-
	Amended Budget Amount	\$ -
	Difference from actual vs amended	

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Item # 2

DATE: June 4, 2018

AGENDA ITEM: Off-Street Parking Requirements on the Southern Portion of Chester Street

SUMMARY:

Town Code 175-870.A.17 exempts properties along East Main Street, and along the portion of Jackson Street between South Royal Avenue and Church Street, from the requirements for off-street parking, found under Town Code 148-870.A. A copy of this entire section is attached with number 17 highlighted.

The owner of the Virginia Beer Museum has initiated a request for the Town to consider amending the Off-Street Parking requirements of the Town Code. This request was initiated by the owner of the Virginia Beer Museum after Town Staff denied an application to enclose (with gate) the entire rear yard area of 14 and 16 Chester Street. The application was later amended by the applicant to only fence the rear yard, which was approved.

There are three ways that a code amendment may be initiated: 1) by Town Council through a referral to the Planning Commission, 2) by a recommendation from the Planning Commission, or 3) by a citizen application with an application fee of \$400.

BUDGET/FUNDING:

N/A

STAFF RECOMMENDATION:

Staff recognizes that many of the properties on the southern section of Chester Street are similar to those on East Main Street. For example, the separation between most buildings is minimal to zero and the buildings are surrounded by public parking areas. In addition, both sets of properties are in the historic district and zoned C-2 District. In this regards, there is some merit in the applicant's request.

However, the applicant's request raises concerns because it would reduce parking spaces that are available for the public in general. With the revitalization of the downtown, and the increased parking demand that comes with it, the Town needs to find more ways to increase and improve parking, not reduce it.

If Town Council supports amending the Town Code, one option would be to require a special use permit application. In this case, the applicant should explain in a special use permit application why it is necessary and appropriate to not have off-street parking.

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Item # 3

DATE: June 4, 2018

AGENDA ITEM: DISCUSSION OF ADDRESSING BLIGHTED AND DERELICT STRUCTURES IN TOWN

SUMMARY: Effective July 1, 2018, the General Assembly passed, and the Governor signed, Town Charter Amendments, which, among other things, now provide:

“SEC 18 CONTROL OF TOWN AFFAIRS AND PROPERTY; ENUMERATION OF POWERS.
...The council shall in addition to other powers given by law, have power to make such ordinances, orders, bylaws and regulations as they may deem proper and necessary to carry out the following powers, which are hereby vested in them:

“27. Powers and authority over blighted and derelict building and structures. The council shall have all powers and authority to remedy, remove, repair, and secure any blighted or derelict building or structure which are granted to any other city, town, or county in the Commonwealth.” [Emphasis added.]

This Charter amendment means that the Town can take advantage of any statutory authority now granted to specific localities, and not just State-wide statutory authority, to regulate blighted and derelict structures. While this does not give the Town *carte blanche* to do what it wants, because of constitutional limitations on dealing with private property, it does give the Town more latitude. Among the powers the Town does now have, the Town can:

- Adopt the Towns of Clifton Forge and Pulaski vacant derelict building registration program, on pain of a civil fine for failure to comply.
- Adopt a real estate tax abatement program which requires the owners of derelict buildings to remove or renovate derelict buildings and receive a real estate tax abatement for 15 years equal to the amount of the amount equal to the costs of demolition or an amount equal to the increase in the fair market value of the renovations.
- With the assistance of the County of Warren, cause the sale of blighted or derelict buildings, then use the City of Richmond’s statutory authority to purchase the blighted property for the nominal sum of \$1.00, turn around and sell the property to a seller who must in turn bring the property in compliance with the Building Code within two years.
- Create redevelopment and housing authorities, which have the power to engage in spot abatement programs and redevelopment programs to clean up, repair, and even purchase derelict and blighted buildings, and to redevelop areas of the Town that are felt necessary for redevelopment. My understanding is that Federal and State funds possibly may be available to help with these programs.
- Require removal or repair of buildings that are derelict, and if the owner does not do so, the locality may affect the removal and repair, and recover the costs from the owner.
- Cause the abatement or removal of buildings and structures that constitute public nuisances.
- Reconsider adopting the Property Maintenance Code and rental inspection district ordinance when the Town’s finances are on a firmer basis.
- Continue enforcing the Town’s tall grass, weed, and refuse ordinances.

Attached are ordinances from the Town of Culpeper and the City of Winchester, and a newspaper article discussing ordinances from the City of Winchester, which indicate how these two municipalities address their blighted and derelict structures. Both these municipalities seem to do a good job keeping their derelict structures under control.

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However the Town chooses to address blighted and derelict structures, it might will be a good idea to form some sort of Town committee, formal or informal, to look at each blighted structure individually at periodic intervals. Each structure may need a different approach in order to find the most effective way to deal with that property.

BUDGET/FUNDING: These programs will require varying amounts of funding to implement and would need to be explored further if Town Council is interested in possibly pursuing.

STAFF RECOMMENDATION: It is recommended that staff be tasked with obtaining more detailed information regarding each of these programs, as to the successes and lack of successes in various localities where each of the programs have been implemented, to give Town Council a better feel for further proceeding.

TOWN OF CULPEPER CODE OF ORDINANCES

- **Chapter 4 - BUILDINGS AND STRUCTURES**⁽¹⁾
- **ARTICLE I. - IN GENERAL**

- **Sec. 4-1. - Reserved.**
- **Sec. 4-2. - Adoption of Virginia Uniform Statewide Building Code.**

There is hereby adopted by the town council, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment and maintenance of buildings and structures, that certain building code known as the Virginia Uniform Statewide Building Code, latest edition. Copies of such building code may be obtained at the office of the building code official during regular office hours.

(Ord. of 6-11-02)

State Law reference— Uniform Statewide Building Code, Code of Virginia, § 36-97 et seq.; violations of Uniform Statewide Building Code, Code of Virginia, § 36-106.

- **Sec. 4-3. - Adoption of the Virginia Maintenance Code, sections 104, 105 and 106.**

There is hereby adopted by town council, for the purpose of establishing minimum regulations to govern the construction and maintenance of buildings and structures, the Virginia Maintenance Code, sections titled enforcement generally, unsafe structures or structures unfit for human habitation and appeals (Sections 104, 105 and 106 of the Virginia Maintenance Code). **[NOTE: SECTIONS 104, 105, AND 106 OF THE VIRGINIA MAINTENANCE CODE ARE ATTACHED.]**

(Ord. No. O-2013-003, § 1, 2-12-13)

- **Secs. 4-4. - Reserved.**
- **Sec. 4-5. - Exception for property owner.**

Nothing in this chapter shall be construed to prevent the owner of any property from personally performing any plumbing, building-related mechanical, or electrical work; provided, that a permit shall be obtained, and such work shall be approved by the building code official or his designee upon completion.

- **ARTICLE III. - STANDARDS FOR INSTALLATIONS**

- **Sec. 4-76. - Authority for connection of utilities systems.**

The building code official shall have the sole authority to authorize the connection of utilities systems to any distribution lines, which are new installations or modifications to existing lines. The appropriate utility supervisor shall direct the actual connection of all utility systems.

- **Sec. 4-77. - Periodic reinspections; repairs; disconnections of unsafe installations.**

The building code official shall make periodically a thorough reinspection of the installation of utility systems installed within the town. When the installation of any such system is found to be in a dangerous or unsafe condition, the person owning, using or operating the building shall be notified in writing and shall make the necessary repairs or changes required to place such system in a safe condition. Such work shall be completed within fifteen (15) days or any longer period specified by the building code official in the notice. The building code official is hereby empowered to disconnect or order the discontinuance of any utility system found to be defectively installed until the installation of such system has been made safe, as directed by the building code official.

- **Chapter 9 - HOUSING AND BUILDING MAINTENANCE STANDARDS^[1]**

- **ARTICLE I. - RESERVED**

- **Secs. 9-1—9-270. - Reserved.**

- **ARTICLE II. - REMOVING, REPAIRING OR SECURING BUILDINGS AND OTHER STRUCTURES**

- **Sec. 9-271. - Responsibility of owner.**

Every owner of property within the town shall, within sixty (60) days after notification by the town manager or his designee, remove, repair, or secure any buildings, walls or any other structure which may endanger the public health or safety of other residents of the town. Such notification shall be in

writing mailed to the owner and all lien holders by certified or registered mail, return receipt requested, to the last known address of the property owner and lien holders and in addition such notice shall be published once a week for two (2) successive weeks in a newspaper having general circulation in the locality.

State Law reference— Similar provisions, Code of Virginia § 15.2-906.

- **Sec. 9-272. - Failure of owner to act within designated time period.**

Should the owner of any building, wall or other structure designated by the town manager or his designee as a danger fail to remove, repair or secure the same within sixty (60) days after being notified by the town manager or his designee to do so, or within thirty (30) days of the return of the receipt or newspaper publication, whichever is later, then the town manager or his designee may remove, repair or secure any building, wall or any structure which might endanger the public health or safety of other residents of the town. The cost or expenses thereof shall be chargeable to and paid by the owners of such property and shall be collected by the town as taxes and levies are collected.

- **Sec. 9-273. - Outstanding fees to constitute lien.**

Any charge for costs or expenses authorized by this article with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property.

CITY OF WINCHESTER, CODE OF ORDINANCES

CHARTER

- **Sec. 6-2. - Inspection of certain structures.**

Notwithstanding any other provision of law, the Building Official, his designee and any other official of the City responsible for the safety of buildings may inspect any of the buildings or structures listed herein, whether permanent or temporary, including buildings or structures owned by the Commonwealth or its political subdivisions, and the equipment therein periodically to insure compliance with the Virginia Uniform Statewide Building Code:

(a)

Buildings or structures used to store hazardous materials;

(b)

Buildings or structures to be used or occupied by 20 or more persons who are employed, lodged, housed, assembled, served, entertained or instructed therein; and

(c)

The common areas of residential structures containing four or more units. (Ord. No. 004-88, 5-2.1, 11-15-88; Ord. No. 004-90, [5-2](#), 2-13-90; Ord. No. 023-92, [5-2](#), 12-8-92)

State Law reference— Code of Virginia, § 36-105.

- **Sec. 6-8. - Violations of Virginia Uniform Statewide Building Code, Virginia Maintenance Code; misdemeanor, civil penalties.**

(a)

Violations of Chapter 1, Section 105, Virginia Maintenance Code, unsafe structures or structures unfit for human habitation shall be deemed a misdemeanor. Penalties shall be as set out in Code of Virginia, § 36-106(A).

(b)

Violations resulting or that results in a dwelling not being a safe, decent and sanitary dwelling, as defined in Code of Virginia, § 25.1-400, shall be deemed a misdemeanor. Penalties shall be as set out in Code of Virginia, § 36-106(B).

(c)

In lieu of criminal penalties otherwise chargeable under the Virginia Uniform Statewide Building Code, Virginia Maintenance Code and in accordance with Code of Virginia, § 36-106(C), except for any violation resulting in injury to any person or persons, the following civil penalties shall be imposed upon any person who violates the provisions thereof after compliance with the initial notice has not been achieved:

Failure to obtain any required inspection:

First summons, per day \$100.00

Second or subsequent summonses, per day \$150.00

Violation of any other provision of Virginia Maintenance Code of the Virginia Uniform Statewide Building Code:

First summons, per day \$100.00

Second or subsequent summonses, per day \$350.00

Failure to display or maintain street numbers:

First summons \$75.00

Second or subsequent summonses, per summons \$150.00

(d)

With the exception of the street numbering provisions of [Section 26-3](#), each day during which a violation exists shall constitute a separate violation. However, a series of violations arising from the same operative set of facts shall not give rise to the levying of a civil penalty more frequently than once in any ten day period, and shall not result in civil penalties exceeding a total of \$4,000.00. (Ord. No. 021-2005, 6-14-05; Ord. No. 2008-04, 1-8-08; Ord. No. 2011-21, 10-11-11; Ord. No. 2013-39, 12-10-13)

• **Sec. 6-9. - Vacant building registration; penalty.**

The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section:

Owner means the person shown on the current real estate assessment books or current real estate assessment records.

Vacant means:

No person or persons actually, currently conducts a lawfully licensed business; or,

No person or person(s) lawfully resides or lives in the building as the legal or equitable owner(s) or tenant-occupant(s), or owner-occupants, or tenant(s) on a permanent, non-transient basis; or,

All residential and business activity has ceased; or,

Has been declared unsafe or unfit for human habitation as defined in the Virginia Maintenance Code and ordered vacated by the Building Official and or his designee; and,

Does not include buildings which are undergoing construction, renovation, or rehabilitation and which are in compliance with all applicable ordinances, codes, and regulations, and for which construction, renovation or rehabilitation is proceeding diligently to completion.

(a)

The owner of a vacant building which has been continuously vacant for a period of 12 months or more and which meet the definition of "derelict building" under [Section 6-132](#) of the City Code, must register the building annually with the Building Official. Such registration shall be on a form prescribed by the Building Official. A building shall be deemed "continuously vacant", as that term is used in this subsection, even if it is sporadically or intermittently occupied during the 12-month period.

(b)

The annual fee for such registration shall be \$100.00. The fee shall be paid at the time that the building is initially registered. For each subsequent year, or any part of such year, that the building remains continuously vacant, an annual and non-refundable fee of \$100.00 shall be paid within 15 days of the anniversary date of the building's initial registration.

(c)

Failure to register a vacant building as required by this section shall be punishable by a civil penalty not exceeding \$200.00.

(d)

The Building Official, or his or her designee, shall mail a Notice of violation to the owner(s) of the vacant building, at the address to which property tax notices are sent, at least 30 days prior to the assessment of the civil penalty. (Ord. No. 028-2005, 9-13-05; Ord. No. 2008-29, 6-10-08; Ord. No. 2013-39, 12-10-13)

State Law reference— Code of Virginia, § 15.2-1127.

ARTICLE IV. - BUILDING MAINTENANCE CODE

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DIVISION 1. - GENERALLY

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Sec. 6-81. - Adopted; availability of copies.

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The Virginia Uniform Statewide Building Code, Volume II, Building Maintenance Code, 1990 edition including any later amendments made thereto over time, including later editions are hereby adopted and incorporated by reference. Copies of said Code and amendments are on file in the office of the Building Official, Rouss City Hall, where they are available for public examination on Monday through Friday, from 8:00 a.m. to 5:00 p.m., holidays excepted. (Ord. No. 023-87, 5-136, 8-11-87; Ord. No. 011-89, 5-136, 3-14-89; Ord. No. 004-90, 5-136, 2-13-90; Ord. No. 023-92, 5-136, 12-8-92; Ord. No. 040-95, 9-12-95)

Sec. 6-82. - Code officials annual report.

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The Building Official shall also be the building code official and shall make reports and keep records of the activities for the enforcement of the Property Maintenance Code. (Ord. No. 023-87, 5-137, 8-11-87; Ord. No. 004-90, 5-137, 2-13-90; Ord. No. 023-92, 5-137, 12-8-92)

Sec. 6-83. - Removal, repair, etc., of buildings and other structures.

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(1)

The owners of property in the City of Winchester, shall at such time or times as the Building Official may prescribe, remove, repair or secure any building, wall or any other structure that might endanger the public health or safety of other residents of the City;

(2)

The City through its own 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 such City, if the owner and lienholder of such property, after reasonable notice and a reasonable time to do so, has failed to remove, repair, or secure the building, wall or other structure. For purposes of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. For purposes of this section, 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 City. No action shall be taken by the City 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 City may take action to prevent unauthorized access to the building within seven days of such notice if the structure is deemed to pose a significant threat to public safety and such fact is stated in the notice;

(3)

In the event the City, 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 City as taxes are collected;

(4)

Every charge authorized by this section or Code of Virginia, § 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 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Code of Virginia, Tit. 58.1, Ch. 39. The City

may 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; and

(5)

Any owner who failing to comply with a Notice issued pursuant to paragraph 2 of this Section by failing to remove, repair, or secure the building, wall, or other structure determined by the Building Official to constitute a danger to the public health or safety of other residents of the City may receive a civil penalty of \$1,000.00 for his failure to remove, repair, or secure said building, wall, or other structure. (Ord. No. 023-92, 12-8-92; Ord. No. 2011-21, 10-11-11)

State Law reference— Code of Virginia, § 15.2-906.

Sec. 6-84. - General maintenance requirements.

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Every dwelling unit shall be maintained in a clean and sanitary condition by the occupant. The shared or public parts of every structure shall be maintained by the owner in a clean and sanitary condition free from any accumulation of rubbish or garbage. (Ord. Dated 1-11-78, 11-9; Ord. No. 004-90, 5-140, 2-13-90; Ord. No. 023-92, 5-140, 12-8-92)

Cross reference— Accumulations of garbage and refuse, 11-35 et seq.

Sec. 6-85. - Storage and disposal of garbage.

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Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers meeting the requirements of Chapter 11 of this Code. Every occupant of a building or part thereof shall dispose of his garbage in a clean and sanitary manner by placing it in such containers. (Ord. Dated 1-11-78, 11-10; Ord. No. 004-90, 5-141, 2-13-90; Ord. No. 023-92, 5-141, 12-8-92)

Sec. 6-86. - Smoke detectors in existing buildings.

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Smoke detectors shall be installed in the following existing structures:

(1)

Any building containing one or more dwelling units;

(2)

Any hotel or motel;

(3)

Any rooming house;

Smoke detectors shall be battery or AC powered units installed in conformance to the Uniform Statewide Building Code. The owner shall inspect and furnish a certificate to a tenant at the beginning of each tenancy and at least annually that all detectors are present, have been inspected, and are found to be in good working order. With exception to hallways, stairwells and other common or public areas of multifamily buildings, interim testing, repair and maintenance of smoke detectors in rented or leased units shall be the responsibility of the tenant; however, the owner shall be obligated to service, repair or replace any malfunctioning smoke detector within five days of receipt of written notice from the tenant that such smoke detector is in need of service, repair, or replacement. (Ord. No. 023-92, 12-8-92)

State Law reference— Code of Virginia, § 15.2-922.

ARTICLE V. - IDENTIFICATION AND INSPECTION OF RENTAL DWELLING UNITS

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DIVISION 1. - GENERALLY

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Sec. 6-87. - Purpose and intent.

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This Article is hereby amended and reenacted so as to bring it into compliance with Code of Virginia, § 36-105.1:1.

Code of Virginia, § 36-105.1:1 authorizes the City of Winchester to inspect residential rental dwelling units for compliance with the Building Code and to promote safe, decent and sanitary housing for its citizens; and

Further, the City Council finds that such inspections required by this Article of specific properties located within Rental Inspection Districts as set forth herein are necessary to protect the public health, safety and welfare of the occupants of dwelling units and other citizens inside the designated district(s).

Therefore, the City Council finds that a program to inspect certain rental property and issue certificates of compliance within the City of Winchester should therefore be implemented pursuant to Code of Virginia, § 36-105.1:1. (Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05)

Sec. 6-88. - Definitions.

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The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section except where the context clearly indicates a different meaning:

Conditions which immediately affect safe, decent and sanitary living conditions of persons occupying a residential rental dwelling unit include items that violate fire safety; lack of or poor condition of sanitary facilities; absence of implied or expressed heating systems or equipment; items which affect the safe operation of electrical and mechanical systems; items which affect structural integrity of the building and/or the ability of the building envelope to keep out weather, or one or more other conditions that if

not corrected would be reasonably expected to become conditions that affect the safe, decent and sanitary living conditions of the occupants.

Disqualifying violation includes those conditions which affect safe, decent and sanitary living conditions of persons occupying a residential rental dwelling unit, or other conditions that violate the provisions of the Virginia Uniform Statewide Building Code, or multiple building code violations that indicate in their totality that the dwelling unit is not being properly maintained.

Dwelling Unit means a building or structure or part thereof that is used for a home or residence by one or more persons who maintain a household. The term dwelling unit shall not include hospitals, nursing homes, convalescent homes or similar facilities providing medical care to the aged, infirm or disabled.

Residential Rental Dwelling Unit means any dwelling unit leased or rented or offered for rent for occupancy. However, a dwelling unit occupied in part by the owner thereof shall not be construed to be a residential rental dwelling unit unless a tenant occupies a part of the dwelling unit which has its own cooking and sleeping areas, and a bathroom unless otherwise provided in the Zoning Ordinance by the Common Council of the City of Winchester.

Multiple-Family Rental Development means any development, consisting of ten or more dwelling units under common ownership on the same parcel of land and includes all of the multifamily buildings which are a part of the multifamily development.

Owner means the person shown on the current real estate assessment books or current real estate assessment records.

Responsible Party means an Owner of a dwelling unit or any individual, group of individuals, corporation, partnership, limited liability company or other entity having the authority, single or in combination with another, to enter into agreement for the occupancy of a dwelling unit covered by this article, any or all of whom are subject to the requirements of this article. (Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05)

Sec. 6-89. - Residential Rental Inspection District established; applicability.

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(a)

After holding a duly advertised public hearing as required by Code of Virginia, § 36-105.1:1(C)(1), the Common Council of the City of Winchester finds that within the Rental Inspection District described in subsection (b) herein below (i) there is a need to protect the public health, safety and welfare of the occupants of dwelling units inside the designated rental inspection district(s); (ii) the residential rental dwelling units within the designated rental inspection district are either (a) blighted or in the process of deteriorating, or (b) the residential rental dwelling units are in need of inspection by the Building Official

or his or her designee to prevent deterioration, taking into account the number, age and condition of residential rental dwelling units inside the rental inspection district; and (iii) the inspection of residential dwelling units inside the rental inspection district is necessary to maintain safe, decent and sanitary living conditions for tenants and other residents living in the rental inspection district.

(b)

Based on the finds of the Common Council for the City of Winchester as set forth in Section 6-89(a) hereinabove, the following area(s) are included and declared to be rental inspection districts which shall be subject to all provisions of this Article:

(1)

The general area beginning at the Corporate Limits to North Braddock to Richards Avenue to Pennsylvania Avenue to Oates Avenue to North Loudoun to the Corporate Limits.

(2)

The general area beginning at the Corporate Limits to North Kent Street to East Piccadilly to East Lane to Woodstock Lane to North Pleasant Valley Road to Virginia Avenue to Van Fossen Street to Kern Street to Fairview Avenue to Hastings Street to Smithfield Avenue to the Corporate Limits.

(3)

The general area beginning at South Pleasant Valley Road to East Cork Street to Purcell Street to Woodstock Lane to the Corporate Limits to Woodland Avenue to Elm Street to Orchard Avenue to National Avenue to North Pleasant Valley Road.

(4)

The general area beginning at Valley Avenue to Jubal Early Drive then back to Bellview Avenue to South Loudoun Street to South Braddock Street to Lamden Avenue to Valley Avenue also including Glaize Avenue.

(5)

The general area beginning at Fairmont Avenue to West Piccadilly Avenue to Washington Street to Handley Boulevard to South Braddock Street to Valley Avenue to Southwerk Avenue to Millwood Avenue to South Kent Street to East Cork Street to East Lane to East Piccadilly Street to North Cameron Street to Oates Avenue back to Commercial Street to North Loudoun to North Avenue to Fairmont Avenue.

A map showing the rental inspection districts described in Section 6-89(b) is hereby adopted as a part of this article, and shall be available for public inspection in the Department of Inspections.

<http://gis.winchesterva.gov/>

(c)

The Common Council for the City of Winchester may designate additional rental inspection districts, or alter or eliminate current rental inspection districts, after notice to all property owners within the

proposed district, and after a public hearing thereon. In evaluating additional areas for rental district designation, Council shall consider the aforementioned criteria in subsection (a) above.

(d)

The Common Council for the City of Winchester may designate an individual residential rental dwelling unit outside the rental inspection district to be subject to the provisions of Article V based on a separate finding for each dwelling unit that (i) there is a need to protect the public health, welfare and safety of the occupants of that individual dwelling unit; (ii) the individual dwelling unit is either (a) blighted or (b) in the process of deteriorating; or (iii) there is evidence of violations of the building code that affects the safe, decent and sanitary living conditions for tenants living in such individual dwelling unit.

(e)

Based on the individual findings of the Common Council for the City of Winchester as set forth in Section 6-89(d) hereinabove, the following individual dwelling unit(s) are included and declared to be rental inspection districts which shall be subject to all provisions of this Article:

(1)

Individual Dwelling Unit 2217 Harrison Street, Tax Map #269-02—7A-03 (Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05; Ord. No. 2008-07, 1-8-08; Ord. No. 2011-21, 10-11-11)

DIVISION 2. - NOTIFICATION AND INSPECTION; CERTIFICATES OF COMPLIANCE

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Sec. 6-90. - Notification.

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(a)

Upon implementation of this article, the City of Winchester Department of Inspections shall give written notice by personal delivery or first class U.S. mail to all property owners located within the rental inspection district(s) of the requirement to notify the Department of Inspections of any real property of

the owner located in a rental inspection district that is a residential rental property as defined hereinabove. The mailing of said notice by the Building Official shall be deemed sufficient notice for purposes of this article.

(b)

The owner of any residential rental dwelling unit located within a rental inspection district shall notify the Department of Inspections in writing no later than 60 days from receipt of the notice required in subsection (a) above, which property is a residential rental dwelling unit. Such notice and information shall be submitted on a form provided by the Department of Inspections. The form shall require the following information:

(1)

Address of the residential rental dwelling unit.

(2)

The name(s) of each owner of the residential rental dwelling unit and the street address(es) of the primary residence of each owner of the residential rental dwelling unit.

(3)

The name and street address of any designated responsible party other than the owner.

(c)

Within 30 days of giving the notification required under Section 6-90(b), the owner shall contact the City of Winchester Department of Inspections and arrange for an initial inspection of the residential rental dwelling unit by the Building Official or his or her designee.

(d)

The owner of any residential rental unit located in a rental inspection district shall within 30 days of title transfer, notify the Department of Inspections of any change of ownership of the residential rental dwelling unit. Failure to provide such information shall be subject to penalties under Section 6-98(b) after notification is provided under Section 6-90(a).

(e)

Any owner who fails to timely give any notice as required by this section shall be in violation of this article and shall be subject to such penalties and enforcement remedies as provided in Section 6-98 herein below. However, failure to give timely notice in accordance with paragraph (b) of this section shall not be deemed a violation if the Department of Inspections has not complied with paragraph (a) of this section. (Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05; Ord. No. 2011-21, 10-11-11)

Sec. 6-91. - Inspection required.

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(a)

The Responsible Party of each residential rental dwelling unit located in a rental inspection district shall arrange and permit an initial inspection and subsequent inspections of such residential dwelling unit as provided in this section and Section 6-92 by the Building Official or his or her designee. If the dwelling unit to be inspected is occupied at the time of a required inspection, it shall be the duty of the owner thereof to notify the occupants of such inspection and make the residential dwelling unit available for inspection. Unless a residential rental unit in a rental inspection district is exempted from inspection under this article, or receives a 48-month certificate of compliance, the term of a certificate of compliance issued for any residential rental dwelling unit in a rental inspection district shall be for a term of 12 months beginning with the first day of the month next following the month of issuance.

(b)

The initial inspection of each residential rental dwelling unit which is subject to inspection under this article shall take place no later than 180 days from the date that the owner thereof contacts the Department of Inspections to schedule such inspection. However, should the owner of a residential rental dwelling unit which is subject to inspection under this article, fail to give timely notice as required by Section 6-90, the Building Official, or his or her designee, shall inspect such unit within a reasonable time of becoming aware of such unit. Each residential rental unit for which a certificate of compliance or 48-month certificate of compliance as described in Section 6-92 below has been issued shall be again inspected within 30 days from the expiration of the certificate or earlier revocation of a 48-month certificate of compliance.

If the inspection reveals that a residential rental dwelling unit has violations, the Building Official, or his or her designee, shall indicate the existence of such violations on the Inspection Report together with the date by which such violations must be remedied, which date shall be determined by the Building Official, or his or her designee, and which date shall be reasonable. Failure to list any violation shall not be deemed a waiver of such violation. The required repairs must be verified by a follow-up inspection. If a follow-up inspection reveals that the owner has failed to remedy the noted violations by the specified date, the Building Official, or his or her designee, may proceed with any remedy provided for the enforcement of the Virginia Uniform Statewide Building Code.

As to violations which do not immediately affect the safe, decent and sanitary living conditions for persons living in such unit, and provided that all inspection fees shall have been remitted in advance, the Building Official, or his or her designee, may permit such time extensions as the Building Official, or his or her designee, shall deem reasonably necessary to allow for remediation of the violations. However, as to violations which are disqualifying violations and which pose an immediate threat to the safe, decent and sanitary living conditions for persons living in such unit, then the Building Official, or his or her designee, shall not issue an extension of time.

(c)

Reinspection shall be for the purpose of determining compliance by the owner with the list of specific violations on the Inspection Report furnished to the owner by the Building Official, or his or her designee. However, if upon reinspection, the Building Official, or his or her designee, discovers other violations that were not listed on the written list of specific violations previously furnished to the owner, the Building Official, or his or her designee, shall furnish the owner with a supplemental list of violations and shall provide the owner a reasonable opportunity to correct same.

(d)

If inspection of a residential rental dwelling unit reveals one or more disqualifying violations, the Building Official, or his or her designee, shall not issue a certificate of compliance until the disqualifying violations are satisfactorily remedied. If conditions warrant, however, the Building Official, or his or her designee, may require that the residential rental dwelling unit be vacated or remain unoccupied until brought into compliance, pursuant to his authority under Code of Virginia, § 36-98 et seq., the Virginia Uniform Statewide Building Code. Upon compliance, the Building Official, or his or her designee, shall, as provided in Section 6-92 of this article, issue a 12-month certificate of compliance.

(e)

No initial or periodic inspection pursuant to this article shall take place more than one time each year, calculated from the date of the initial or periodic inspection. The Department of Inspections has the authority under the Virginia Uniform Statewide Building Code to require the owner of the dwelling unit to submit to such follow-up inspections as deemed necessary to achieve compliance. However, nothing in this article shall modify the authority of the Building Official, or his or her designee, to conduct any other inspections, as allowed under the provisions of the Virginia Uniform Statewide Building Code, and inspections for obtaining a certificate of compliance under this article do not supplant or preclude any other inspection authorized under the Virginia Uniform Statewide Building Code.

(f)

Should the owner fail to timely contact the Department of Inspections within the required time in order to schedule any inspection required under this article, or should such owner fail to allow such inspection to proceed on the date for which it was scheduled, the owner shall be in violation of this article and shall be subject to such penalties and enforcement remedies as provided in Section 6-98 herein below.

(g)

Should a residential rental dwelling unit be sold, or the title thereto be otherwise transferred to another owner during the term of a certificate of compliance or 48-month certificate of compliance issued for such unit, the term of such certificate shall end as of the last day of the month next following the month of transfer of ownership and the new owner shall contact the Department of Inspections and arrange for inspection of the unit; provided, however, that if the last inspection of the unit pursuant to this article occurred during the calendar year of transfer of ownership, the existing certificate shall not expire until the end of such calendar year.

(h)

Requests for an inspection may be made by telephone, provided the Building Official, or his or her designee, shall, in all cases, receive notice from the owner and payment of any applicable inspection

fee(s) prior to conducting an inspection required under this article. (Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05)

Sec. 6-92. - Certificates of compliance; application; exemptions.

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(a)

The following shall apply to all residential rental dwelling units located within inspection districts, which are not exempted under Subsection 6-92(b). However, a residential rental dwelling unit for which a current certificate of compliance has been issued prior to the effective date of this ordinance shall not be subject to further inspection under this article until such certificate of compliance expires; provided however, that during such period the pre-existing certificates of compliance shall be subject to revocation. Upon revocation or expiration of the certificate, such unit shall be subject to reinspection on the same basis as a certificate of compliance issued under this section. A temporary certificate of compliance issued prior to the effective date of this ordinance shall not qualify as a pre-existing certificate of compliance.

(1)

Prior to expiration of the 12-month certificate of compliance or 48-month certificate of compliance, or upon revocation of a 48-month certificate of compliance, the owner of the residential rental dwelling unit covered thereby shall contact the Department of Inspections and arrange for an inspection of such unit. Except in the case of an inspection following revocation of a 48-month certificate of compliance, periodic inspections shall take place no later than 30 days from the date of application for said inspection.

(2)

A residential rental dwelling unit which upon inspection under this article reveals no disqualifying violations, or with one or more violations that do not affect the safe, decent and sanitary living conditions for persons living in such unit, shall not be subject to further annual inspection under this article for 48 months from date of such annual inspection, except as provided in Section 6-95, and a 48-month certificate of compliance shall be issued for such unit.

(b)

The following shall be exempt from inspection:

(1)

No inspection shall be required within 48 months of the issuance of a certificate of occupancy for newly constructed dwelling units. Thereafter said unit shall in all respects become subject to the requirements of this article.

(2)

All hotels, motels, inns, bed and breakfast establishments, and other similar facilities to the extent occupied by transients shall be exempt from compliance with this article unless a dwelling unit is occupied in excess of 30 days.

(3)

No inspection shall be required within 48 months of the issuance of a certificate of completion for a substantially remodeled dwelling unit. Substantially remodeled is defined as reconstruction, rehabilitation of a dwelling unit which the cost equals or exceeds 50 percent of the market value of the property. Thereafter said unit shall in all respects become subject to the requirements of this article. (Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05)

Sec. 6-93. - Multiple-family rental development.

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(a)

If a multiple family rental development contains more than ten residential rental dwelling units, in the initial and periodic inspections, the Building Official, or his or her designee, shall inspect no less than two units and not more than ten percent of the residential rental dwelling units.

(b)

Notwithstanding the number of residential rental dwelling units inspected, the Building Official, or his or her designee, shall charge the fee authorized by this article for inspection of no more than ten dwelling units.

(c)

Notwithstanding subsection (b) above, if the Building Official, or his or her designee, determines upon inspection of the dwelling units that there are within one or more of such units violations of the Virginia Uniform Statewide Building Code that affect the safe, decent and sanitary living conditions for the tenants of such multiple family rental development, the Building Official, or his or her designee, may inspect as many dwelling units as he or she deems reasonably necessary to assure compliance with the Virginia Uniform Statewide Building Code in which case, the fee shall be based upon a charge per dwelling unit inspected. (Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05)

DIVISION 3. - INSPECTION FEES AND ENFORCEMENT; REVOCATION OF CERTIFICATE

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Sec. 6-94. - Issuance of certificate; fees.

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(a)

Except as provided in Section 6-93 above, there shall be inspection fees for each dwelling unit inspected as established by Section 6-131 of this code.

(b)

No inspection shall be performed, nor any certificate of compliance issued, unless all fees have been paid.(Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05)

Sec. 6-95. - Revocation of certificate of compliance; reinstatement.

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(a)

If a residential rental dwelling unit covered by a certificate of compliance is found in violation of the Virginia Uniform Statewide Building Code during the term of such certificate of compliance, the Building Official, or his or her designee, may revoke such certificate of compliance and such unit shall thereupon become subject to annual inspections and the issuance of a 12-month certificate of compliance.

(b)

If a 12-month certificate of compliance is issued after the inspection necessitated by the violation of the Virginia Uniform Statewide Building Code and revocation of the extended certificate of compliance, then said residential rental dwelling unit shall again be eligible for an extended certificate of compliance only after the annual certificate of compliance has expired and as of the first subsequent periodic inspection when no disqualifying violations are found. (Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05)

Sec. 6-96. - Reserved.

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Sec. 6-97. - Appeals; effects.

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(a)

Any person aggrieved by any determination or decision of the Building Official, or his or her designee, made pursuant to this article shall have the right to appeal such determination or decision in accordance with the provisions of the Virginia Uniform Statewide Building Code, and amendments thereto.

(b)

Nothing in this article shall be construed to limit, impair, alter or extend the rights and remedies of persons in their relationship of landlord and tenant as such rights and remedies exist under applicable law.

(c)

Nothing in this article shall be construed to relieve or exempt any person from otherwise complying with all applicable laws, ordinances, standards and regulations pertaining to the condition of buildings and other structures.

(d)

Nothing in this article shall be construed to limit the authority of the Building Official, or his or her designee, to perform inspections in accordance with applicable law. (Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05)

Sec. 6-98. - Violations of chapter; penalties; right of entry.

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(a)

Any person willfully failing to comply with the inspection requirements of this article or the Virginia Uniform Statewide Building Code shall be subject to the penalties established in Sections 6-7 and 6-8 of this code.

(b)

Any person willfully failing to comply with the notice requirements of this article shall be subject to a \$50.00 civil penalty to be assessed every 30 days from the date notice is due for each property for which they fail to provide notice that they own a residential rental dwelling unit that is subject to this article.

(c)

The remedies set forth in (a) and (b) of this section are not exclusive remedies for non-compliance with the requirements of this article and the Building Official, or his or her designee, shall take such further actions as allowed by all applicable law in order to obtain compliance with the requirements of this article, including, but not limited to, seeking injunctive relief under Code of Virginia, § 15.2-1432, and obtaining inspection warrants as provided in Code of Virginia, § 36-105(C)(3). For the purposes of enforcing the provisions of this article, the Building Official, or his or her designee, shall have the right to conduct reasonable inspections of dwelling units and residential rental dwelling units located in the rental inspection district(s) at reasonable times subject to reasonable prior notice to the owner or occupant. (Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05)

Sec. 6-99. - Severability.

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If any of the sections, paragraphs, sentences, clauses or phrases of this chapter shall be declared unconstitutional or invalid by the valid judgment of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the validity of the chapter in its entirety or any of the remaining sections, paragraphs, sentences, clauses, and phrases. (Ord. No. 039-2003, 12-9-03)

Secs. 6-100—6-130. - Reserved.

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DIVISION 4. - FEES

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Sec. 6-131. - Residential rental inspection district—Inspection fees.

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The following inspection fees shall be imposed for the inspection of each dwelling unit within the designated rental inspection district(s):

INSPECTION	FEE PER DWELLING UNIT
Initial/Periodic inspection (to include one follow-up)	\$35.00
Follow-up inspection	\$50.00

(Ord. No. 017-2005, 5-10-05)

ARTICLE VI. - SPOT BLIGHT ABATEMENT

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Sec. 6-132. - Definitions.

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The following terms, when used or referred to in this Article, shall have the following respective meanings, unless a different meaning clearly appears from the context:

Blighted area means any area that endangers the public health, safety or welfare; or any area that is detrimental to the public health, safety, or welfare because commercial, industrial, or residential structures or improvements are dilapidated, or deteriorated or because such structures or improvements violate minimum health and safety standards. This definition includes, without limitation, areas previously designated as blighted areas pursuant to the provisions of this Article.

Blighted property means any individual commercial, industrial, or residential structure or improvement that endangers the public's health, safety, or welfare because the structure or improvement upon the property is dilapidated, deteriorated, or violates minimum health and safety standards, or any structure or improvement previously designated as blighted pursuant to Code of Virginia, § 36-49.1:1, under the process for determination of "spot blight."

City means the same as that term is defined in § 15.2-102.

Clerk means the clerk or secretary of the city, as the case may be, or the officer charged with the duties customarily imposed on such clerk.

Derelict building means 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 for a continuous period in excess of six months, it 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 not lawfully connected to any required water or sewer service from a utility service provider.

Federal government means the United States of America, the United States Department of Housing and Urban Development, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

Governing body means, in the case of the City of Winchester, the Common Council.

Housing project means any work or undertaking: (i) to demolish, clear or remove building from any slum area; such work or undertaking may embrace the adoption of such area to public purposes, including parks or other recreational or community purposes; or (ii) to provide decent, safe and sanitary urban or rural dwellings, apartments or other living accommodations for persons of low and moderate income; such work or undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, welfare or other purposes; or (iii) to accomplish a combination of the foregoing. The term "housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures or improvements, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith.

Real property means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

Slum means, in accordance with State Code, any area where dwellings predominate that, by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities, or any combination of these factors, is detrimental to safety, health, or morals.

Spot blight means a structure or improvement that is a blighted property as defined in this section.

Spot blight abatement plan means the written plan prepared by the owner or owners of record of the real property to address spot blight. If the owner or owners of record of the real property fail to respond as provided in this Article, the City can prepare a spot blight abatement plan to address the spot blight with respect to an individual commercial, industrial, or residential structure or improvement, but may only implement such plan in accordance with the provisions of this Article. (Ord. No. 2009-19, 7-14-09)

Sec. 6-133. - Spot blight abatement authorized; procedure.

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(a)

The City of Winchester, in accordance with Code of Virginia, § 36-49.1:1 et seq., may acquire or repair any blighted property, as defined in (b) below, by exercise of the powers of eminent domain provided in

Code of Virginia, Tit. 25, and further, shall have the power to hold, clear, repair, manage, or dispose of such property for purposes consistent with this section. In addition, the City may recover the cost of any repair or disposal of such property from the owner.

(b)

The City Manager, or his designee, shall make a preliminary determination that a property is blighted in accordance with this section. The City Manager or his designee shall send a Notice, conforming to the applicable requirements of Code of Virginia, § 36-27(b), via certified mail, postage prepaid, to the record owner or owners at their last known address as contained in the records of the treasurer, the current real estate tax assessment records, or the records of such other officer responsible for collecting taxes in the City, specifying the reasons why the property is considered blighted. The owner shall have 30 days from the date the notice is sent in which to respond in writing with a plan to cure the blight within a reasonable time.

(c)

If the owner fails to respond within the 30 day period with a written spot blight abatement plan that is acceptable to the City Manager or his designee, the City may declare the property as blighted, which declaration shall be by ordinance adopted by the governing body.

(d)

No spot blight abatement plan shall be effective until notice has been sent to the property owner or owners of record and an ordinance has been adopted by the Common Council of the City of Winchester. Written notice to the property owner shall be sent by regular mail to the last address listed for the owner on the City's assessment records for the property, together with a copy of such spot blight abatement plan prepared by the City. If the repair or other disposition of the property is approved, the City may carry out the approved plan to repair or acquire and dispose of the property in accordance with the approved plan, the provisions of this Article, and the applicable law.

(e)

If the ordinance is adopted by the Common Council of the City, the City shall have a lien on all property so repaired or acquired under an approved plan to recover the cost of improvements made by the City to bring the blighted property into compliance with applicable building codes and (ii) disposal, if any. The lien on such property shall bear interest at the legal rate of interest established in Code of Virginia, § 6.1-330.53, beginning on the date the repairs are completed through the date on which the lien is paid. The lien may be recorded as a lien among the land records of the Circuit Court, which lien shall be treated in all respects as a tax lien and enforceable in the same manner as provided in Code of Virginia, Tit. 58.1, Ch. 39, Art. 3 (§ 58.1-3940 et seq.). City Council may recover its costs of repair from the owner of record of the property when the repairs were made at such time as the property is sold or disposed of by such owner. If the property is acquired by the City through eminent domain, the cost of repair may be recovered when City Council sells or disposes of the property. In either case, the costs of repair shall be recovered from the proceeds of any such sale.

(f)

Notwithstanding the other provisions of this Article, unless otherwise provided for in Code of Virginia, Tit. 36, if the blighted property is occupied for personal residential purposes, City Council, in approving the plan, shall not allow for the acquisition of such property if it would result in a displacement of the person or persons living in the premises. The provisions of this subsection shall not apply to acquisition, under an approved plan, by the City of property which has been condemned for human habitation for more than one year. In addition, if the City is exercising the powers of eminent domain in accordance with Code of Virginia, Tit. 25, it may provide for temporary relocation of any person living in the blighted property provided the relocation is within the financial means of such persons.

(g)

In lieu of the acquisition of blighted property by the exercise of the powers of eminent domain as herein provided and in lieu of the exercise of other powers granted in subsections (a) through (h), City Council by ordinance, may declare any blighted property to constitute a nuisance, and thereupon abate the nuisance pursuant to Code of Virginia, § 15.2-900 or § 15.2-1115. Such ordinance shall be adopted only after written notice by certified mail to the owner or owners of the property at the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records. If the owner does not abate or remove the nuisance and the City abates or removes the nuisance at its expense, the costs of the removal or abatement of the nuisance shall be a lien on the property and such lien shall bear interest at the legal rate of interest established in Code of Virginia, § 6.1-330.53, beginning on the date the removal or abatement is completed through the date on which the lien is paid.

(h)

The provisions of this section shall be cumulative and shall be in addition to any remedies for spot blight abatement that may be authorized by law. (Ord. No. 029-2005, 9-13-05; Ord. No. 2007-34, 9-11-07; Ord. No. 2009-19, 7-14-09)

State Law reference— Code of Virginia, § 36-49.1:1.

Sec. 6-134. - Derelict buildings; authority to require removal or repair, etc.

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The purpose of this division shall be to encourage and expedite the abatement of derelict property and shall apply to all properties previously granted tax exemption under this ordinance.

(a)

If a building qualifies as a derelict building pursuant to the ordinance, the City shall notify the owner of the derelict building that the owner is required to submit to the City 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 a written notification provided by the City.

(b)

Such plan may be on a form developed by the City of Winchester 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 City of Winchester. The City shall deliver the written notice to the address listed on the real estate tax assessment records of the City. Written notice sent by first-class mail, with the City obtaining a U.S. Postal Service Certificate of Mailing shall constitute delivery pursuant to this section.

(c)

If the City delivers written notice and the owner of the derelict building has not submitted a plan to the locality within 90 days as provided in subsection (b) above, the City may exercise such remedies as provided in this section or as otherwise provided by law.

(d)

The owner of a building may apply to the City and request that such building be declared a derelict building for purposes of this section.

(e)

The City, 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.

(f)

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 City shall refund any building and demolition permit fees. This section shall not supersede any ordinance adopted pursuant to Code of Virginia, § 15.2-2306, relative to historic districts.

(g)

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 the 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.

Tax exemptions for abatement of derelict property shall not become effective unless the persons owning such property have complied with the requirements of Section 27-39 through 27-39.2.

(h)

Notwithstanding the provisions of this section, the City may proceed to make repairs and secure the building under § 15.2-906, or the City may proceed to abate or remove a nuisance under § 15.2-900. In addition, the City may exercise such remedies as may exist under the Uniform Statewide Building Code and may exercise such other remedies available under general and special law. (Ord. No. 2009-19, 7-14-09; Ord. No. 2011-28, 8-9-11; Ord. No. 2011-51, 11-8-11)

State Law reference— Code of Virginia, §§ 36-3, 36-49.1:1, 36-105, 48-5, 58.1-3965 and 58.1-3969.

§ 15.2-1127. Vacant building registration; penalty. — The Town of Clifton Forge, the Town of Pulaski, in a conservation and rehabilitation district of the town, and any city, by ordinance, may require the owner or owners of buildings that have been vacant for a continuous period of 12 months or more, and which meet the definition of "derelict building" under § 15.2-907.1, to register such buildings on an annual basis and may impose an annual registration fee not to exceed \$100 to defray the cost of processing such registration. The registration of buildings shall be on forms designated by the locality and filed with the agency designated by the locality. Failure to register shall be a \$200 civil penalty; however, failure to register in conservation and rehabilitation districts designated by the governing body, or in other areas designated as blighted pursuant to § 36-49.1:1, shall be punishable by a civil penalty not exceeding \$400. Notice shall be mailed to the owner or owners, at the address to which property tax notices are sent, at least 30 days prior to the assessment of the civil penalty.

http://www.winchesterstar.com/news/winchester/city-may-expand-on-rental-inspections-to-ensure-tenants-are/article_abaa218d-62e5-5d19-b976-e3d4ea449be6.html

HOT

City may expand on rental inspections to ensure tenants are provided safe housing

By BRIAN BREHM | The Winchester Star Nov 16, 2017

WINCHESTER — City Council is looking to strengthen and expand a 14-year-old inspection program that ensures landlords provide tenants with safe, functional housing.

In 2003, council adopted an ordinance that established inspection districts in areas where blight and deterioration were becoming common with rented dwellings.

There are currently six inspection districts with a total of 1,219 rental units: Downtown (525 dwellings), Kent/Smithfield (354 dwellings), Allen/Franklin (230 dwellings), Bellview (74 dwellings), North Braddock (35 dwellings) and 2217 Harrison St. (one dwelling).

At council's work session on Tuesday night, Winchester Zoning and Inspections Director Aaron Grisdale said 3,507 inspections of rental dwellings have been performed by his department in the last four years and, on average, properties don't come into compliance until the third inspection.

Each inspection costs the city approximately \$50, and properties that pass inspection are issued a certificate of compliance that, depending on the overall condition of the dwelling, is good for one or four years.

To compel property owners to keep their rental units in satisfactory condition, Grisdale is proposing higher inspection fees.

Under his proposal, the initial inspection fee would remain \$35 per dwelling. However, the fee for subsequent inspections would increase from \$50 to \$100, and possibly even higher for third or fourth inspections.

Under the current fee structure, Grisdale said there are many "repeat offenders."

Councilor Kevin McKannan said higher fees may not be enough to compel the most egregious property owners to properly maintain their rental units.

"My concern is, there's gonna be a handful of people who just won't comply and see it as the cost of doing business," McKannan said.

"Those handful of folks who are not doing what you ask, they need to be penalized," council President John Willingham said.

Grisdale said persistent offenders can eventually be taken to court to force their compliance with city and state housing regulations.

Councilor John Hill said even stricter penalties may be required.

"If they haven't been motivated by now, I don't know if they will be motivated," Hill said. "I'd like to see it addressed more forcefully than it has been."

Hill said neglected rental housing affects the entire city, creating unsafe neighborhoods and conditions where children are unable to learn and develop.

Grisdale said the rental inspection program has produced positive results. For example, the dwelling at 2217 Harrison St. is now in full compliance, and he recommended removing the rental district from the program.

He also suggested adding more districts, including:

The 200 and 300 blocks of Opequon Avenue, Shenandoah Avenue and Shawnee Avenue. More than 50 percent of the residences in this area are rental properties, and there have been a total of 172 nuisance and property maintenance violations since 2013. So far this year, emergency services have been called to the area 213 times.

York Avenue, Yorktowne Place, and Cornwallis and Sorrell Courts. Nearly two-thirds of the residences in this area are rental properties, and there have been a total of 71 nuisance and property violations since 2013. So far this year, emergency services have been called to the area 102 times.

The Winchester Inn at 1347-1351 Berryville Ave. There have been 17 nuisance, property maintenance and zoning code violations at the motel since 2013, and 456 emergency services calls since the start of the year.

Three budget motels along Valley Avenue, including Relax Inn (2645 Valley Ave.), ANS Inn and Suites (2649 Valley Ave.) and Motel 6 (2951 Valley Ave.). There have been a total of 33 nuisance, property maintenance and zoning code violations since 2013, and 276 emergency services calls since the start of the year.

"We talk about improving housing stock [in the city], and this is clearly a way of doing that in many neighborhoods that need help," Willingham said.

Council directed Grisdale to return to a future meeting with a revised rental inspection district ordinance and inspection fee structure so the panel can initiate formal discussions.

"We've got to get going on this because it seems it's out of control," council Vice President Bill Wiley said.

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Attending Tuesday night's City Council work session in Rouss City Hall were Mayor David Smith, Vice Mayor Les Veach, council President John Willingham, council Vice President Bill Wiley, and members Evan Clark, John Hill, Corey Sullivan, Kevin McKannan and Milt McInturff.

— Contact Brian Brehm at bbrehm@winchesterstar.com



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