

BLACKLINE

ORDINANCE — To Add Article VII Titled “Repair or removal of defacement, criminal blight, and bawdy houses” to Chapter 6; to Repeal Article I of Chapter 10 Titled “In general”; and to Amend and Reordain Section 10-100 Titled “Unlawful storage or accumulation of refuse,” Section 10-102 Titled “Cleanup of premises by county; lien for unpaid charges,” and Section 22-6 Titled “Reserved” of the Code of the County of Henrico, To Transfer Code Sections to Different Chapters of the County Code, Amend the Definition of Criminal Blight, and Require Removal of Clutter from Certain Properties

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF HENRICO COUNTY, VIRGINIA:

1. That Article VII be added to Chapter 6 of the Code of the County of Henrico as follows:

ARTICLE VII. REPAIR OR REMOVAL OF DEFACEMENT, CRIMINAL BLIGHT, AND BAWDY HOUSES

Sec. 6-150. Repair or removal of defacement of buildings, walls, fences, and other structures.

(a) The building official is hereby authorized to repair or remove defacement of the following if the property owner fails to remove or repair the defacement within 30 days of the mailing of written notice to the owner's address shown on the real property records of the county.

- (1) Any public building, wall, fence or other structure; or**
- (2) Any private building, wall, fence or other structure if the defacement is visible from a public right-of-way.**

(b) The building official may have the defacement removed or repaired by county employees or agents at county expense.

Sec. 6-151. Repair, removal or securing of buildings and other structures harboring illegal drug use or other criminal activity.

(a) Definitions. For the purpose of this section, the following terms have the following meanings:

Affidavit means the affidavit sworn to under oath in accordance with subsection (c).

Commercial sex acts means any specific activities that would constitute a criminal act under Code of Virginia, title 18.2, ch. 8, art. 3 (Code of Virginia, § 18.2-344 et seq.) or a substantially similar local ordinance if a criminal charge were to be filed against the individual perpetrator of such criminal activity.

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

Corrective action means (i) taking specific actions with respect to the buildings or structures on property that are reasonably expected to abate criminal blight on such real property, including the removal, repair, or securing of any building, wall, or other structure, or (ii) changing specific policies, practices, and procedures of the real property owner that are reasonably expected to abate criminal blight on real property. A local law-enforcement official will prepare an affidavit on behalf of the locality that states specific actions to be taken on the part of the property owner that the locality determines are necessary to abate the identified criminal blight on such real property and that do not impose an undue financial burden on the owner.

Criminal blight means a condition existing on real property that endangers public health or the safety of county residents and is caused by (i) the regular presence of persons in possession or under the influence of controlled substances; (ii) the regular use of the property for the purpose of illegally possessing, manufacturing, or distributing controlled substances; (iii) the regular use of the property for the purpose of engaging in commercial sex acts; or (iv) the discharge of a firearm that would constitute a criminal act under Code of Virginia, title 18.2, ch. 7, art. 4 (Code of Virginia, § 18.2-279 et seq.) or a substantially similar local ordinance if a criminal charge were to be filed against the individual perpetrator of such criminal activity.

Law-enforcement official means an official designated to enforce criminal laws within a locality, or an agent of such law-enforcement official. The law-enforcement official will coordinate with the building or fire code official of the locality as otherwise provided under applicable laws and regulations.

Owner means the record owner of real property.

Property means real property.

(b) Abatement authorized. The building official is hereby authorized to take reasonable steps to abate criminal blight on real property, such as removal, repair or securing of a building, wall or other structure, after complying with the notification provisions of this section.

(c) Initial notification procedures. Before any corrective action is taken, the chief of police will execute and send the building official an affidavit that cites Code of Virginia, § 15.2-907, and states the following:

- (1) Criminal blight exists on the property;**
- (2) The grounds for determining that criminal blight exists on the property;**
- (3) The police division has been unable to abate the criminal blight despite diligent efforts to do so; and**
- (4) The criminal blight constitutes a present threat to the public's health, safety or welfare.**

The building official will send a copy of the affidavit by (i) certified mail, return receipt requested; (ii) hand delivery; or (iii) overnight delivery by a commercial service or the United States Postal Service, to the owner of the property at his current address in the county's assessment records along with a notice stating that the owner has 30 days from the date of the notice to take corrective action and that, upon the owner's request, the county will assist the owner in determining and coordinating the corrective action. If the owner notifies the county in writing within the 30-day period that additional time to complete the corrective action is needed, the county will allow such owner an extension for an additional 30-day period to take such corrective action.

(d) Additional notification. If no corrective action is taken during the 30-day period, or during the extension if such extension is granted by the county, the building official will send an additional notice to the owner by certified mail, return receipt requested, at the address stated in subdivision (c). The notice will state the date on which the county may commence (i) corrective action to abate the criminal blight or (ii) legal action in a court of competent jurisdiction to obtain a court order to require that the owner take such corrective action or, if the owner does not take corrective action, a court order to revoke the certificate of occupancy for such property, which date must be no earlier than 15 days after the date of mailing of the additional notice. The notice must also describe the county's contemplated corrective action and state that the costs of corrective action taken by the county will be charged to the owner. Upon reasonable notice to the county, the owner may seek judicial relief, and the county may not take corrective action during the pendency of a proper petition for relief in a court of competent jurisdiction.

(e) Costs of corrective action. If the county takes corrective action after complying with the requirements of this section, the county may charge the costs and expenses of the corrective action to the owner and may collect them as taxes are collected. Every charge authorized by this section that remains unpaid constitutes a lien against the property with the same priority as liens for unpaid local real estate taxes and is enforceable in the same manner as provided in Code of Virginia, title

58.1, ch. 39, arts. 3 (Code of Virginia, § 58.1-3940 et seq.) and 4 (Code of Virginia, § 58.1-3965 et seq.).

(f) Corrective action by owner. If the owner of the property takes timely and effective corrective action pursuant to the provisions of this section, the building official will deem the criminal blight abated, close the proceedings without any charge or costs to the owner, and promptly provide a written notice to the owner that the proceeding has been terminated satisfactorily. The closing of a proceeding does not bar the county from initiating a subsequent proceeding if the criminal blight recurs.

(g) Owner's rights preserved. Nothing in this section will be construed to abridge, diminish, limit, or waive any rights or remedies of an owner of property at law or any permits or nonconforming rights the owner may have under Code of Virginia, title 15.2, ch. 22 (Code of Virginia, § 15.2-2200 et seq.) or under the Code. If an owner in good faith takes corrective action, and despite having taken such action, the specific criminal blight identified in the affidavit persists, such owner will be deemed in compliance with this section. Further, if a tenant of a rental dwelling unit, or a tenant on a manufactured home lot, is the cause of criminal blight on such property and the owner in good faith initiates legal action and pursues the same requesting a final order by a court of competent jurisdiction, as otherwise authorized by the Code of Virginia, against such tenant to remedy such noncompliance or to terminate the tenancy, such owner will be deemed in compliance with this section.

Sec. 6-152. Repair, removal or securing of buildings and other structures harboring a bawdy place.

(a) Definitions. For the purpose of this section, the following terms have the following meanings:

Affidavit means an affidavit prepared in accordance with subsection (c) of this section.

Bawdy place means the same as that term is defined in Code of Virginia, § 18.2-347.

Corrective action means the taking of steps which are reasonably expected to be effective to abate a bawdy place on real property, such as removal, repair or securing of any building, wall or other structure.

Owner means the record owner of real property.

(b) Abatement authorized. The building official is hereby authorized to take reasonable steps to abate a bawdy place on real property, such as removal, repair

or securing of a building, wall or other structure, after complying with the notification provisions of this section.

(c) Initial notification procedures. Before any corrective action is taken, the chief of police will execute and send the building official an affidavit that cites Code of Virginia, § 15.2-908.1, and states the following:

- (1) A bawdy place exists on the property and in the manner described therein;**
- (2) The police division has been unable to abate the bawdy place despite diligent efforts to do so; and**
- (3) The bawdy place constitutes a present threat to the public's health, safety or welfare.**

The building official will send a copy of the affidavit by regular mail to the owner of the property at his current address in the county's assessment records along with a notice stating that the owner has 30 days from the date of the notice to take corrective action to abate the bawdy place and that, upon the owner's request, the county will assist the owner in determining and coordinating the corrective action.

(d) Additional notification. If no corrective action is taken during the 30-day period, the building official will send an additional notice to the owner by regular mail. The notice must state that the county may take corrective action to abate the bawdy place after 15 days from the date of the additional notice, and it must describe the county's contemplated corrective action. The notice must also state that the costs of corrective action taken by the county will be charged to the owner. Upon reasonable notice to the county, the owner may seek equitable relief, and the county may not take corrective action during the pendency of a proper petition for relief in a court of competent jurisdiction.

(e) Costs of corrective action. If the county takes corrective action after complying with the requirements of this section, the county may charge the costs and expenses of the corrective action to the owner and may collect them as taxes are collected. Every charge authorized by this section which remains unpaid constitutes a lien against the property with the same priority as liens for unpaid local real estate taxes and is enforceable in the same manner as provided in Code of Virginia, title 58.1, ch. 39, arts. 3 (Code of Virginia, § 58.1-3940 et seq.) and 4 (Code of Virginia, § 58.1-3965 et seq.).

(f) Corrective action by owner. If the owner of the property takes timely and effective corrective action, the building official will deem the bawdy place abated, close the proceedings without any charge or costs to the owner, and promptly provide a written notice to the owner that the proceeding has been terminated

satisfactorily. The closing of a proceeding does not bar the county from initiating a subsequent proceeding if the bawdy place recurs.

(g) Owner's rights preserved. Nothing in this section will be construed to abridge or waive any rights or remedies of an owner of property at law or in equity.

2. That Article I of Chapter 10 of the Code of the County of Henrico is repealed in its entirety.

3. That Section 10-100 of the Code of the County of Henrico be amended and reordained as follows:

Sec. 10-100. Unlawful storage or accumulation of refuse.

(a) *Prohibited storage or accumulation.* It shall be unlawful for any owner of property to allow the storage or accumulation of trash, garbage, refuse, litter, clutter, except on land zoned for or in active farming operation, and other substances which that might endanger the health or safety of other residents of the county. For purposes of this section, “clutter” includes 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.

(b) *Use of containers required.* All garbage, trash, refuse, and litter, clutter, except on land zoned for or in active farming operation, and other debris shall be placed in watertight containers and be kept covered until transported to the county landfill or until taken from the premises by trash or garbage collectors or otherwise disposed of as permitted by law.

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4. That Section 10-102 of the Code of the County of Henrico be amended and reordained as follows:

Sec. 10-102. Cleanup of premises by county; lien for unpaid charges.

If the owner refuses or fails to clean up the property after receiving the notice required by section 10-101, the county inspector may issue a summons and the county's agents or employees may remove trash, garbage, refuse, litter, clutter, except on land zoned for or in active farming operation, or and other substances which that might endanger the health of other residents of the county, and the cost and expenses of removal shall be charged to the owner. Such costs and expenses may be collected by the county as taxes and levies are collected. Every charge to the owner and lienholder under this section which remains unpaid shall constitute a lien against such property on a parity with liens for unpaid local real estate taxes.

5. That Section 22-6 of the Code of the County of Henrico be amended and reordained as follows:

Sec. 22-6. Reserved Keeping inoperable motor vehicles.

(a) Restrictions. It is unlawful to keep more than one inoperable motor vehicle outside a fully enclosed building or structure on property zoned or used for residential purposes, or any property zoned for commercial or agricultural purposes. For purposes of this section, the term "inoperable motor vehicle" means any motor vehicle, trailer or semitrailer, as defined in Code of Virginia, § 46.2-100, which:

- (1) Is not in operating condition;**
- (2) Does not display valid license plates;**
- (3) Does not display an inspection decal that is valid; or**
- (4) Displays an inspection decal that has been expired for more than 60 days.**

(b) *Shielding or screening required.* One inoperable motor vehicle may be kept outside a fully enclosed building or structure if it is shielded or screened from view. As used in this section, the term "shielded or screened from view" means not visible to someone standing at ground level from outside of the property on which the subject vehicle is located.

(c) *Exceptions.* This section does not apply to a licensed business that is regularly engaged in business as an automobile dealer, salvage dealer, or scrap processor.

(d) *Enforcement.* The director of community revitalization is responsible for enforcement of this section.

(e) *Penalty.* A violation of this section is punishable by a fine or imprisonment not exceeding the penalty provided in general law of the Code of Virginia for the violation of a class 1 misdemeanor.

6. That this ordinance will be in full force and effect on and after September 1, 2021.