

ORDINANCE 2024-XX

AN ORDINANCE AMENDING THE TOWN'S IMPLEMENTATION OF THE UNIFORM STATEWIDE BUILDING CODE

WHEREAS, Virginia Code § 36-106 empowers the Town of Warrenton to impose civil penalties for Uniform Statewide Building Code violations; and

WHEREAS, Virginia Code § 15.2-1115 empowers the Town of Warrenton to “compel...the razing or repair of all unsafe, dangerous or unsanitary public or private buildings, walls or structures which constitute a menace to the health and safety of the occupants thereof or the public,” to abate the nuisance itself if the responsible party fails to do so after reasonable notice, and to “collect the cost thereof from the owner or owners, occupant or occupants of the property affected in any manner provided by law for the collection of state or local taxes;” now, therefore

BE IT ORDAINED by the Warrenton Town Council this ___ day of _____ 2024, that Warrenton Town Code Sec. 4-1, 4-33, 4-61 and 4-62 are repealed and replaced with the following:

Sec. 4-1. Violations and ~~penalties~~Penalties.

~~Any person guilty of a violation of the provisions of this chapter or of the Uniform Statewide Building Code shall be punished by a fine of not more than two thousand five hundred dollars (\$2,500.00). Any person convicted of a second offense committed within less than five (5) years after a first offense shall be punished by a fine of not less than one thousand dollars (\$1,000.00) nor more than two thousand five hundred dollars (\$2,500.00). Any person convicted of a second offense committed within a period of five (5) to ten (10) years of a first offense of this chapter shall be punished by a fine of not less than five hundred dollars (\$500.00) nor more than two thousand five hundred dollars (\$2,500.00). Any person convicted of a third or subsequent offense committed within ten (10) years of an offense under this chapter shall be punished by a fine of not less than one thousand five hundred dollars (\$1,500.00) nor more than two thousand five hundred dollars (\$2,500.00). Any prosecution under this section shall be commenced within the period provided for in the Code of Virginia § 19.2-8.~~

~~(Ord. No. 1994-15, 11-8-94; Ord. No. 2022-1, 6-14-22)~~

~~State law reference(s)—Violation a misdemeanor; civil penalty, Code of Virginia, § 36-106.~~

(a) Statement of Policy

(1) The Town of Warrenton's policy is to seek voluntary compliance with all enforcement cases throughout the Town of Warrenton. If voluntary compliance cannot be achieved, as a last resort, further enforcement and penalties shall follow the language below.

(b) Criminal

(1) Any person guilty of a violation of the provisions of this chapter or of the Uniform Statewide Building Code resulting in injury to a person shall be punished by a fine of not more than two thousand five hundred dollars (\$2,500.00) unless a civil penalty applies as provided in subsection (b) of this section.

(2) Any person convicted of a second offense committed within less than five (5) years after a first offense shall be punished by a fine of not less than one thousand dollars (\$1,000.00) nor more than two thousand five hundred dollars (\$2,500.00).

(3) Any person convicted of a second offense committed within a period of five (5) to ten (10) years of a first offense of this chapter shall be punished by a fine of not less than five hundred dollars (\$500.00) nor more than two thousand five hundred dollars (\$2,500.00).

(4) Any person convicted of a third or subsequent offense committed within ten (10) years of an offense under this chapter shall be punished by a fine of not less than one thousand five hundred dollars (\$1,500.00) nor more than two thousand five hundred dollars (\$2,500.00).

(5) Any prosecution under this section shall be commenced within the period provided for in the Code of Virginia § 19.2-8.

(c) Civil

(1) The penalty for any violation of the Uniform Statewide Building Code not resulting in injury to a person shall be a civil penalty of \$100 for the initial summons and \$350 for each additional summons.

(2) Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of \$4,000.

(3) Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the department of finance or the treasurer of the locality prior to the date fixed for trial in court. Any person so

appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court. As a condition of waiver of trial, admission of liability, and payment of a civil penalty, the violator and a representative of the locality shall agree in writing to terms of abatement or remediation of the violation within six months after the date of payment of the civil penalty.

(4) If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation authorized by this section, it shall be the burden of the locality to show the liability of the violator by a preponderance of the evidence. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

(5) If the violation concerns a residential unit, and if the violation remains uncorrected at the time of assessment of the civil penalty, the court shall order the violator to abate, or otherwise remedy through hazard control, the violation in order to comply with the Code. Except as otherwise provided by the court for good cause shown, any such violator shall abate, or otherwise remedy through hazard control, the violation within six months of the date of the assessment of the civil penalty.

(6) If the violation concerns a nonresidential building or structure, and if the violation remains uncorrected at the time of assessment of the civil penalty, the court may order the violator to abate, or otherwise remedy through hazard control, the violation in order to comply with the Code. Any such violator so ordered shall abate, or otherwise remedy through hazard control, the violation within the time specified by the court.

Sec. 4-33. Civil violations and penalties.

(a) There is hereby established civil penalties for violations of the following sections of the building code which are not abated or remedied promptly after receipt of notice of violation from the building official:

(1) VMC § 301.3 (Failure to maintain vacant structures in a clean, safe, secure, and sanitary condition);

(2) VMC § 302.7 (Failure to maintain accessory structures, including detached garages, fences, and walls structurally sound and in good repair);

(3) VMC § 304.2 (Failure to maintain exterior protective treatments in good condition);

(4) VMC § 304.13 (Failure to maintain windows, skylight, and door frames in sound condition, good repair, and weather tight);

~~(5) VMC § 304.15 (Failure to maintain doors in good condition).~~

~~(b) The penalty for violation shall be a civil penalty of one hundred dollars (\$100.00) for the initial summons and three hundred fifty dollars (\$350.00) for each additional summons. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any ten (10) day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of four thousand dollars (\$4,000.00). Designation of a particular code violation for a civil penalty under this section shall be in lieu of criminal sanctions, and except for any violation resulting in injury to persons, such designation shall preclude the prosecution of a violation as a misdemeanor.~~

~~(c) Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the locality prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court. As a condition of waiver of trial, admission of liability, and payment of a civil penalty, the violator and a representative of the locality shall agree in writing to terms of abatement or remediation of the violation within six (6) months after the date of payment of the civil penalty.~~

~~(d) If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation authorized by this section, it shall be the burden of the locality to show the liability of the violator by a preponderance of the evidence. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.~~

~~(e) If the violation concerns a residential unit, and if the violation remains uncorrected at the time of assessment of the civil penalty, the court shall order the violator to abate, or otherwise remedy through hazard control, the violation in order to comply with the code. Except as otherwise provided by the court for good cause shown, any such violator shall abate, or otherwise remedy through hazard control, the violation within six (6) months of the date of the assessment of the civil penalty. If the violation concerns a nonresidential building or structure, and if the violation remains uncorrected at the time of assessment of the civil penalty, the court may order the violator to abate, or otherwise remedy through hazard control, the violation in order to comply with the code. Any such violator so ordered shall abate, or otherwise remedy through hazard control, the violation within the time specified by the court.~~

~~(f) Time limit for commencing prosecution. Any prosecution under this section shall be commenced within the period provided for in the Code of Virginia § 19.2-8.~~

~~(Ord. No. 2022-1, 6-14-22)~~

Sec. 4-33 – Reserved.

Sec. 4-61. --Dangerous Structures--Abatement of unsafe, dangerous or unsanitary public or private buildings, walls or structures which constitute a menace to the health and safety of the occupants thereof or the public.

~~In addition to any other remedies provided by this Code or the Virginia Code, the town may protect public health, safety, and welfare by addressing dangerous structures as provided in this article. The owners of property in the town shall remove, repair, or secure any building, wall or any other structure that might endanger the public health or safety of other residents of the town at such time or times as the town council may prescribe by resolution or ordinance.~~

~~(Ord. No. 2022-1, 6-14-22)~~

(a) A notice of unsafe structure, pursuant to the Virginia Maintenance Code, shall be reasonable notice for the purposes of Virginia Code § 15.2-1115 and this section.

(b) The Town may abate or obviate the unsafe structure if the owner fails to do so after notice as provided in subsection (a) of this section.

(c) If the Town abates or obviates the unsafe structure, the Town Treasurer shall charge and collect the cost thereof from the owner or owners, occupant or occupants of the property affected in any manner provided by law for the collection of state or local taxes.

Sec. 4-62 – Reserved. Abatement

~~(a) After adoption of an ordinance or resolution under section 4-61 of this Code, the town through its 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 the town, if the owner and lien holder(s) of such property have failed to remove, repair, or secure the building, wall or other structure, after the notice provided in this section has been sent and the time to act provided in that notice has elapsed.~~

~~(1) For the purposes of the section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings.~~

~~(2) For the 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 service the property owner and (ii) published once a week for two (2) successive weeks in a newspaper having general circulation in the locality.~~

~~(b) No action shall be taken to remove, repair, or secure any building, wall, or other structure for at least thirty (30) days following the later of the return of the receipt or newspaper publication, except that the town may take action to prevent unauthorized access to the building within seven (7) 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.~~

~~(c) In the event the town, 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 town as taxes are collected.~~

~~(d) Every charge authorized by this subsection or Virginia Code § 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 chapter 39 of title 58.1, Code of Virginia. The town council may by resolution 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.~~

~~(Ord. No. 2022-1, 6-14-22)~~

Votes:

Ayes:

Nays:

Absent from Meeting:

For Information:

ATTEST: _____

Town Recorder