

DRAFT Ordinance No. 003-22

Property Maintenance Ordinance of Onley, Virginia

A public hearing was held on _____ at _____ in the Onley Town Office located at _____ in Onley, Virginia to consider enacting Ordinance No. 2022-_____ entitled, "Property Maintenance Ordinance of Onley, Virginia" as follows:

WHEREAS, as the Town Council of the Town of Onley desire to promote the public safety, health, and welfare of the residents of the Town of Onley, and

WHEREAS, it is declared to be in the public interest to regulate and restrict the accumulation of trash, garbage, grass, weeds, and foreign growth with the Town of Onley, and

WHEREAS, pursuant to the provisions of Sections 15.2-901, 15.2-904, and 15.2-906 of the Code of Virginia, the Town of Onley may enact ordinances for removal of trash, cutting of grass and weeds, and may establish a penalty for violations of such ordinances; and

WHEREAS, the Town Council of the Town of Onley hereby repeals Ordinance No. 004-06, "Ordinance Regulating the Accumulation of Trash, Garbage, etc.; Grass, Weeds, and other Foreign Growth" and Ordinance No. 004-17, "Property Maintenance Ordinance of Onley, VA",

BE IT THEREFORE ORDAINED by the Town Council of the Town of Onley that the following provisions be enacted regulating Property Maintenance.

Section 1. Definitions

For the purpose of the Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section.

(a) **Trash** means all waste materials, refuse, garbage, litter, rubbish, and the like, including but not limited to bottles, glass, crockery, cans, scrap metal, paper, plastic, rubber, tires, garbage, construction debris, the remains of burned buildings and mobile homes, the remains of partially dismantled mobile homes, et cetera ..., and unused household appliances or junked furniture, and any substance which might endanger the life, health, or safety of any resident of the Town.

(b) **Refuse** means litter, solid wastes, garbage, trash, rubbish and the like.

(c) **Construction Debris** means all materials from demolition that are placed on the ground with no intent or ability to recycle.

(d) **Yard Debris** means branches and shrubs suitable for disposal in a chipper, brush, cuttings and twigs, leaves, grass clippings and miscellaneous organic material resulting from yard maintenance.

Section 2. General Duty to Remove

The town council or its designee may at any time, and upon complaint by any responsible person that conditions exist on any property in violation of this ordinance, shall investigate conditions existing on such property. Upon determination, following investigation, that the owner, occupant or person in charge of the property is in violation of this ordinance, the council or its designee shall give reasonable notice to the owner of record of such property, and to the person primarily responsible, if different from

the owner and if known, stating facts which constitute the violation and directing such person to take such action as may be necessary to rectify the conditions within ten days.

It shall be unlawful for the owner of any parcel of property, occupied or vacant, to allow the accumulation of trash on any parcel or property. The owner of any parcel or property shall maintain all exterior property areas in a clean, safe condition free from the accumulation of trash, garbage, refuse, litter, scrap metal or wood, construction debris, unused household appliances for junked furniture, yard debris, and any substance which might endanger the life, health, or safety of any person. The property to be kept free of litter shall include, but not be restricted to, sidewalks, alleys, and driveways; yards and grounds; fences, walls, and property lines; drainage ditches and catch basins. It shall be the duty of each owner, occupant, or person in charge of any real property to cut or remove grass, weeds, or foreign growth on such property as often as necessary to prevent breeding and harboring places for insects, reptiles, and rodents. The growth of grass, weeds, and the like in excess of seven (7) inches in height shall be *prima facie* evidence of a violation of this section, except in the case of existing wooded lots and hedgerows.

Section 3. Exemptions

The following are exempt from this ordinance:

Farm equipment, farm machinery, and farm implements

Section 4. Report of Violations

Any person aggrieved by the presence of the accumulation of trash, refuse, construction debris and/or yard debris in violation of Section 2 may report such presence to the Onley Town Office.

Section 5. Inspection of site of violation; notice to remove trash, refuse, construction debris and/or yard debris

Upon receipt of a report as referred to in Section 4, the enforcement agent shall cause the site of the reported violation to be inspected pursuant to applicable constitutional and statutory provisions. When the enforcement agent has determined from such reports and inspections or otherwise that a violation in fact exists, they shall notify the owner of the parcel or property upon which the violation exists to remove the accumulation of trash, within thirty (30) calendar days of the delivery, mailing, or posting of the notice. Such notice shall be in writing, shall be delivered by hand or by certified mail, return receipt requested, to the owner's address as it appears in the records of the Commissioner of Revenue, the Clerk of Circuit Court, or the Treasurer, and shall be complied with by the owner.

The owner of the parcel violating this Ordinance may request additional time to bring their property into compliance by entering into an agreement with the Town of Onley outlining a plan to resolve the violation or violations on the owner's parcel; the plan shall provide specific actions to be taken on or prior to specific dates and if those actions on or before the specified dates, then the owner will be in violation of this Ordinance.

Section 6. Performance of work by the Town; collection of costs

If the accumulation of trash, refuse, construction debris and/or yard debris is not removed from the owner's parcel or property within the required time as provided for in the notice under Section 5 of if

the written notice is undeliverable, the enforcement agent shall cause the trash, refuse, construction debris and/or yard debris to be removed, and the abatement costs and expense thereof to be assessed against the owner of such property. The assessment shall be collected by the Town as taxes and levies are collected. Every charge for removal of trash which the owner of any property shall have been assessed and which remains unpaid shall constitute a lien against such property on parity with liens for unpaid taxes.

Section 7. Penalty

If after receipt of the written notice from the Town or its enforcement agent, the owner of the parcel or property refuses or neglects to abate, correct, or eliminate the condition as required, such individual or entity shall be subject to a civil penalty of one hundred dollars (\$100) for the first violation or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within twelve (12) months of the first violation shall be three hundred dollars (\$300). Each calendar day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of violations arising from the same set of operative facts result in civil penalties that exceed a total of three thousand dollars (\$3,000) in a twelve (12) month period. All fines assessed from violations of this Ordinance shall be paid into the general fund of the Town of Onley.

Section 8. Appeal Process

Any aggrieved party may appeal the decision of the Zoning Administrator to the Board of Zoning Appeals.

Section 9. Severability

If any section, subsection, clause, or other portion of the Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this ordinance.

Section 10. Effective Date

That this Ordinance be in full force and effect and shall apply in the Town of Onley on and after the passage as provided by law.

Section 11. Ordinance Approval

The following vote was taken on the adoption of this Ordinance #003-22:

- _____ Corbin
- _____ Custis
- _____ Ferguson
- _____ Harmon
- _____ Pierson
- _____ Zember