



**Amherst County Board of Supervisors
County Ordinance No. 2022-0004**

AN ORDINANCE, NO. 2022-0004

Amending and reenacting Chapter 10, Offenses and Miscellaneous Provisions,
Article V, Abatement of Refuse and Weeds.

Approved as to form and legality by the Amherst County Attorney

**FIRST READING: Board of Supervisors, May 3, 2022
PUBLIC HEARING: Board of Supervisors, May 17, 2022**

THE COUNTY OF AMHERST HEREBY ORDAINS:

§ 1. That Secs. 10-70 through 10-78 of the Code of Amherst County, 1987, as amended, is amended, reenacted, and recodified as follows:

WHEREAS, it has come to the attention of the Board of Supervisors that there is a significant amount of garbage, refuse, litter and weeds on property located in Amherst County which threaten the health, safety and welfare of the citizens of Amherst County; and

WHEREAS, the Board of Supervisors believes it important to commence enforcement efforts in order to diligently rectify this issue in as expeditious a manner as possible; and

WHEREAS, the Board of Supervisors deems it necessary to place the enforcement authority of this effort in the hands of the Director of Public Works or his/her designee;

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Amherst, County, that Chapter 10, Offenses and Miscellaneous Provisions, Article V, Abatement of Refuse and Weeds by amended and reenacted as follows:

Sec. 10-70. Authority for and purpose of article.

This article is enacted pursuant to the authority granted at Code of Virginia, § 15.2-901, for the purposes of promoting the general welfare of Amherst County and the safety, health, peace, good order, comfort, convenience and morale of its inhabitants.

Sec. 10-71. Definitions.

The following definitions shall apply to these words when used in this article:

Director means the director of public works or his/her designee.

Farming means the use of land for the production, cultivation, growing, harvesting or processing of (i) plants, whether horticultural, floricultural, viticultural, or silvicultural in nature, or (ii) livestock, poultry, or other animals.

Garbage means readily putrescible discarded materials composed of animal, vegetable, or other organic matter.

Litter means any manmade material that, if thrown, discarded, or disposed of, as prohibited by this article, may create a danger to public health, safety, or welfare or degrades the environment of the county. Litter shall include, but is not limited to, any garbage, trash, refuse, rubbish, newspaper, magazine, glass, metal, plastic or paper container, construction waste or any discarded object likely to injure any person, create a traffic hazard, or degrade the environment.

Notice means such written notice of overgrown grassy areas, garbage, litter, refuse, or weeds as the sheriff or director may establish.

Owner means the owner of any real property in the county, including, but not limited to, any person in possession thereof as an executor, administrator, trustee, guardian, or agent. It shall not include any person occupying the property solely as a tenant or lessee.

Property means any lot, premises, or tax map parcel comprising real property located within Amherst County.

Refuse means all solid waste products having the character of a solid rather than a liquid and which are composed wholly or partially of materials such as any garbage, trash, rubbish, litter, abandoned personal property, or other debris discarded materials.

Rubbish means combustible or slowly putrescible discarded materials which include, but are not limited to, trees, wood, leaves, trimmings from shrubs and trees, printed matter, plastic and paper products, grass, rags and other combustible or slowly putrescible materials not included under the term "garbage".

Trash means combustible and noncombustible discarded materials and is used interchangeably with the term rubbish.

Sheriff means the Amherst County Sheriff or his designee.

Weeds means any plant, grass or other vegetation over twelve (12) inches in height. It shall not include trees, ornamental shrubbery, vegetable and flower gardens, cultivated crops, or undisturbed woodland.

Sec. 10-72. Obligation to maintain property free of refuse, garbage, and weeds.

- (a) All county property owners shall, within ten (10) days of the date of issuance of notice from the sheriff or director pursuant to section 10-74, remove from their property and properly dispose of refuse.

- (b) All county property owners shall, within three (3) days of the date of issuance of notice from the sheriff or director pursuant to section 10-74, remove from their property and properly dispose of garbage. If the sheriff or director finds that an emergency exists in that the garbage poses an immediate and serious threat to the public health and welfare, he shall include that finding in the notice and the property owner shall thereafter have twenty-four (24) hours to dispose of the garbage.
- (c) All county property owners of vacant developed or undeveloped property, including property upon which buildings or other improvements are located, shall within ten (10) days of the date of issuance of notice from the sheriff or director pursuant to section 10-74, cut back or wholly eradicate weeds.
- (d) Beginning July 1, 2014, all county property owners of occupied developed or undeveloped property, including property upon which buildings or other improvements are located, shall within ten (10) days of the date of issuance of notice from the sheriff or director pursuant to section 10-74, cut back or wholly eradicate weeds.

Sec. 10-73. Enforcement.

- (a) Upon receipt of a complaint regarding refuse, garbage, litter or weeds, the sheriff or director shall examine the subject property. If he determines that there exists on the property refuse, garbage, litter or weeds which constitute a public nuisance, he shall give the property owner notice as provided in section 10-74.
- (b) If the property owner does not remove the refuse or garbage, cut the weeds, or make other arrangements with the sheriff or director within ten (10) calendar days of service pursuant to section 10-74, the sheriff or director shall deem the property owner in violation of County Code and shall designate the property as "neglected property."
- (c) If the sheriff or director deems the property owner in violation of County Code and designates the property as "neglected property," he may designate an agent to go onto the property and remove the refuse or garbage, or cut the weeds at the property owner's sole cost. Any invoices for such work shall be forwarded to the county administrator for payment.

Sec. 10-74. Notice to cut weeds or remove refuse.

- (a) The sheriff or director shall establish the form and content of notices issued under section 10-73, and may make such changes to such form and content from time to time as he may deem necessary.
- (b) All notices shall be served either (i) by personal service, or (ii) by publication, posting, or certified mail, which procedures shall be deemed the equivalent of personal service.
- (c) If a property owner does not reside within the county and does not have an agent in the county upon whom notice can be served, notice may be served by sending the same by certified mail to the last known address of the nonresident property owner, which address shall be that shown on the current real estate tax assessment records. A copy of the notice also shall be posted on the front door of any house on the

property, or if there is no house, in such other conspicuous place as the sheriff or director may determine.

Sec. 10-75. Charges to owner.

- (a) The sheriff or director shall assess all costs incurred for removing the refuse or cutting the weeds upon the property owner, including tipping fees required for disposition of the refuse at the county landfill.
- (b) In addition to the costs assessed upon the property owner for abatement under subsection (a), there also shall be imposed (i) an administrative fee of one hundred fifty dollars (\$150.00) or twenty-five (25) percent of the total abatement costs, whichever is less; however, in no event shall the fee be less than twenty-five dollars (\$25.00), and (ii) interest on any unpaid balance of the abatement cost and expenses accruing at a rate of ten (10) percent per annum from date of the assessment until paid.
- (c) If the costs, fees, and interest have not been paid in full within fourteen (14) days of being assessed, the county attorney shall file a lien for the amount of such costs, charges, and interest in the Amherst County Circuit Court Clerk's office. The lien shall indicate that interest continues to accrue until the lien is satisfied, and may be enforced in the same manner as a lien for unpaid county taxes.

Sec. 10-76. ~~Civil penalties~~Penalties.

- (a) Any property owner who is deemed in violation of section 10-72 shall be subject to a civil penalty of fifty dollars (\$50.00) for the first violation, or violations arising from the same set of operative facts.
- (b) If within twelve (12) months of the first finding of a violation, the sheriff or director finds the same property owner again in violation of section 10-72, based on new incidents not associated with the first violation, the property owner shall be subject to a civil penalty in the amount of two hundred dollars (\$200.00). Each business day during which the same violation is found to exist shall constitute a separate offense and shall subject the property owner to an additional civil penalty of two hundred dollars (\$200.00); except that in no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of three thousand dollars (\$3,000.00) in a twelve-month period.
- (c) In the event three civil penalties have previously been imposed on the same defendant for the same or similar violations, not arising from the same set of operative facts, within a 24-month period, any subsequent violation may be charged as a class 3 misdemeanor. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.
- ~~(e)~~(d) Such civil penalties shall be sought in addition to the charges that may be imposed pursuant to section 10-75.

Sec. 10-77. Civil action.

- (a) The county attorney may file suit for the assessment and recovery of civil penalties, and may include in the requested relief the authority to establish a lien against the

property in the amount of any civil penalties that are not paid within thirty (30) days of entry of the circuit court order.

- (b) The requested relief also may include, in the county attorney's discretion, authority to sell the property to satisfy any liens established for (i) the civil penalties, and (ii) the charges imposed pursuant to section 10-75.

Sec. 10-78. Article not to apply.

- (a) This article shall not apply to any property located within the corporate limits of the Town of Amherst.
- (b) The provisions of section 10-72(c) and (d) shall not apply to any property that is (i) outside the boundary of a platted subdivision, (ii) outside the boundary of any areas zoned for residential, business, commercial or industrial use, (iii) located in the A-1 agricultural residential district, or (iv) in active farming operation.
- (c) This article shall not apply in cases where the sheriff is pursuing criminal charges pursuant to Chapter 8 of Title 33.2 (Code of Virginia, § 33.2-800 et seq.) or Article 3 of Chapter 14 of Title 10.1 (Code of Virginia, § 10.1-1414 et seq.).

Secs. 10-79 – 10-110. Reserved.

§ 2. That this ordinance shall be in force and effect upon adoption.

Adopted this 17th day of May 2022.



David W. Pugh, Jr., Chair
Amherst County Board of Supervisors

Member

Member	Vote
David W. Pugh, Jr., Chair.....	<u>AYE</u>
Tom Martin, Vice-Chair.....	<u>AYE</u>
L. J. "Jimmy" Ayers, III.....	<u>AYE</u>
Claudia D. Tucker.....	<u>AYE</u>
Drew Wade.....	<u>AYE</u>

ATTEST:



Dean C. Rodgers, Clerk
Amherst County Board of Supervisors