



**Amherst County Board of Supervisors
County Ordinance No. 2019-0011**

AN ORDINANCE, NO. 2019-0011

Amending Sections 10-70 and 10-78 of Article V. Abatement of Refuse and Weeds in Chapter 10 Offenses and Miscellaneous Provisions; and amending Sections 13-26 through 13-39 of Article II. Litter Prevention and Control in Chapter 13 Solid Waste of the Amherst County Code.

Approved as to form and legality by the County Attorney

**FIRST READING: August 6, 2019
PUBLIC HEARING: August 20, 2019**

THE COUNTY OF AMHERST HEREBY ORDAINS:

§ 1. That Sections 10-70 and 10-78 of Article V. Abatement of Refuse and Weeds in Chapter 10 Offenses and Miscellaneous Provisions; and Sections 13-26 through 13-39 of Article II. Litter Prevention and Control in Chapter 13 Solid Waste, of the Code of the County of Amherst be and hereby are amended as follows:

CHAPTER 10—OFFENSES AND MISCELLEOUS PROVISIONS

Article V.—Abatement of Refuse and Weeds

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 of the Code of Virginia, 1950, as amended, 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.

(Statutory Reference: Va. Code § 15.2-901)

Sec. 10-71. – Definitions.

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

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.

Notice means such written notice of overgrown grassy areas, refuse, or weeds as the sheriff 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 any trash, litter, abandoned personal property, or other debris.

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 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 pursuant to section 10-74, remove from their property and properly dispose of garbage. If the sheriff 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 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 pursuant to section 10-74, cut back or wholly eradicate weeds.

Sec. 10-73. – Enforcement.

- (a) Upon receipt of a complaint regarding refuse, garbage, or weeds, the sheriff shall examine the subject property. If he determines that there exists on the property refuse, garbage, 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 within ten (10) calendar days of service pursuant to section 10-74, the sheriff shall deem the property owner in violation of County Code and shall designate the property as "neglected property."

- (c) If the sheriff 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 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 may determine.

Sec. 10-75. – Charges to owner.

- (a) The sheriff 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.

- (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 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) 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.

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.

- (a) 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 6 ~~8~~ of Title 33.1-2 (Code of Virginia, § 33.1-2 344-800 et seq.) or Article 3 of Chapter 14 of Title 10.1 (Code of Virginia, § 10.1-1414 et seq.).

CHAPTER 13 – SOLID WASTE

Article II—Litter Prevention and Control

Sec. 13-26. – Title; authority.

This article shall be known and may be cited as the Amherst County Litter Prevention and Control Ordinance. The Board of Supervisors adopts this article pursuant to its authority under the Code of Virginia, including but not limited to Sections 33.2-802 and 15.2-928 of the Code of Virginia, 1950, as amended, to promote the public health, safety, and general welfare.

Sec. 13-27. – Definitions.

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

Abatement cost means the county's cost for labor, equipment, and supplies for, or the contract price of, and any charges to, the county, with respect to the removal and disposal of litter, garbage, rubbish, or refuse from a property.

~~*Commercial handbill* shall mean any handbill which:~~

- ~~(1) Advertises for sale or lease any item or service; or~~
- ~~(2) Directs attention to any business or other commercial activity for the purpose of either directly or indirectly promoting the interest thereof by sales or by other means; or~~

~~(3) Contains reading or pictorial matter other than advertising but which is predominately a commercial advertisement and is distributed or circulate for advertising purposed or for the private benefit of any person so engaged as advertiser or distributor.~~

Commercial waste means any and all solid waste originating from commercial establishments, including but not limited to restaurants, food stores and produce or meat markets.

Construction site means any and all residential, commercial, industrial or other area, lot or site at which construction or demolition of any type is conducted, including roads, at buildings, and at all other places actively being constructed, demolished, renovated, or repaired.

Construction waste means solid waste that is produced or generated during construction, demolition, remodeling, or repair of pavements, houses, commercial buildings, and other structures. Construction wastes include, but are not limited to lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, paving materials, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids and garbage are not construction wastes.

Court means the appropriate judicial body by which violations of the law are tried in the county, which may include the juvenile, general district or circuit court.

Discard means to abandon, dispose of, burn, incinerate, accumulate, store or treat before or instead of being abandoned, disposed of, burned or incinerated.

Discarded material means a material that is abandoned, disposed of, burned, incinerated, accumulated, stored or treated before or instead of being abandoned, disposed of, burned or incinerated.

Dispose means to discharge, deposit, inject, dump, spill, leak or placement of any solid waste into or on any land or water so that such solid waste or any constituent of it may enter the environment or be emitted into the air or discharged into any waters.

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

Handbill means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter, without regard to its purpose of content.

Household waste means any and all solid waste normally originating from single-family, duplexes, multi-family and mobile homes. Refer to subsection 13-1(c) for listing of items originating from households that are prohibited from deposit or discard in county-owned or authorized bulk containers.

~~*Handbill* means any printed or written matter or literature which is not delivered by U.S. mail; irrespective of content.~~

Institution means any public or private establishment which educates, instructs, treats for health purposes or otherwise performs a service or need for the community, county, region, state or nation.

Litter means all waste materials that, if thrown, discarded, or disposed 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, offal, 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.

Litter receptacle means a container with a capacity of not less than ten (10) gallons, constructed and placed for use as a depository for litter.

Person means any natural person, corporation, partnership, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary, representative or group of individuals or entities of any kind.

Private property means property owned by any person as defined herein, including but not limited to yards, grounds, driveways, entrance or passageways, parking areas, storage areas, any body of water, vacant land and recreation facilities.

Public property means any area that is used or held out for use by the public, whether owned or operated by public or private interests, including but not limited to highways, streets, alleys, parks, recreation areas, sidewalks, medians, lakes, rivers, streams, ponds, or other bodies of water.

Receptacle means a container that is specifically designed, constructed, and placed for use as a depository for litter or solid waste.

Refuse means all solid waste products having the character of solids rather than liquids and that are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up of spills or contamination, or other discarded materials.

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

Solid waste or *waste* means any garbage, refuse, rubbish, trash, or other discarded material, but does not include solid or dissolved materials in domestic sewage, solid or dissolved materials in irrigation return flows, industrial discharges, or special nuclear or by-product materials.

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

Vehicle means every device capable of being moved upon a public highway or public waterway and in, upon or by which any person or property may be transported or drawn upon a public highway or public waterway, and shall also include any watercraft, boat, ship, vessel, barge, or other floating craft, except devices moved by human power, or used exclusively upon stationary rails or tracks.

Sec. 13-28. – Administration and enforcement.

- (a) *Administration.* The director of solid waste management, or his or her agent, shall be responsible for the administration of this article and shall have the authority to enforce compliance through the use of civil and criminal penalties as authorized by this article. Further, any law enforcement officer, fire marshal, any assistant fire inspector, sworn special police officer, litter control officer, or animal control officer is authorized and shall have the authority to enforce all sections of this article.
- (b) *Authorization to bring civil action.* Whereas Code of Virginia § 10.1-1418.1 authorizes the county to bring a civil action against any person who improperly disposes of solid waste on any land within the jurisdiction of the county. Whenever a court of competent jurisdiction finds that a person has improperly disposed of solid waste upon land within the county's jurisdiction, the court shall assess a civil penalty of up to five thousand dollars (\$5,000.00) against such defendant, along with costs and reasonable attorney's fees. Any civil penalty assessed pursuant to this subsection shall be paid into the county's treasury and appropriated back into the solid waste fund.

- (c) *Assign-A-Highway.* For cleanup of roadside litter and identified illegal dumps within the county, ~~it is hereby established~~ the county hereby establishes a program pursuant to Code of Virginia § 53.1-129, and the sheriff of the county and any of his or her deputies and any sworn special police officer or litter control officer who has been approved by a court of competent jurisdiction shall be permitted to utilize probationers or remove inmates from the county or regional jail under their supervision to work in this program providing that any such inmate has been specifically approved to be permitted to participate in this program by the sheriff and by the court. Probationers will be assigned to two-mile designated sections of highway, cleaned up every two (2) weeks for the duration of their assignment to the program. Inmates shall be utilized only for the clean-up of illegal dumps identified by the litter control officer. During the clean-up of illegal dumps, the special sworn police officer, litter control officer or the sheriff or his or her deputies will be present during the volunteer work.

(Statutory Reference: Va. Code §§ 10.1-1418.1, 53.1-129.)

Sec. 13-29. – Unlawful disposal of litter.

- (a) *General restrictions.* ~~No person shall drop, cast, sweep, deposit, discard, or otherwise dispose of any litter in or upon any exterior public or exterior private property within the county including but not restricted to any street, sidewalk, park, body of water, or vacant or occupied lot.~~ It is unlawful for any person to dump or otherwise dispose of trash, garbage, refuse, litter, a companion animal for the purpose of disposal, or other unsightly matter on public property, including a public highway, right-of-way, or property adjacent to such highway or right-of-way, or on private property without the written consent of the owner or his agent, except by placement in a proper receptacle or in an area designated and approved by the county as a permitted disposal site.
- (b) *Rebuttable presumption.* When a violation of the provisions of this article has been observed by any person, and the litter has been ejected or removed from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting or disposing of such litter, provided however, that such presumption shall be rebuttable by competent evidence.
- (c) *Ownership inference.* In a prosecution for violation of this section, evidence that litter was found upon a road, street, or other public property and that such litter contained articles of mail or other documents on which appear the name and address of a person and that such articles or documents were found distributed throughout such litter shall be prima facie evidence that the litter is the property of the person whose name and address appear on such articles or documents and that such person disposed of the same in violation of this section, provided however, that such presumption shall be rebuttable by competent evidence.

(Statutory Reference: Va. Code § 33.2-802, 15.2-928.)

Sec. 13-30. – Securing and covering loads.

- (a) *Securing loads.* All vehicles used to transport any material along streets, roads, or highways of the county, shall be constructed, maintained, and loaded as to prevent such vehicle's contents from dropping, sifting, leaking, or otherwise escaping. This subsection shall not apply to any:
- (1) Motor vehicle that is used exclusively for agricultural purposes as provided in Code of Virginia § 46.2-698 and is not licensed in any other state;
 - (2) Agricultural vehicle, tractor, or other vehicle exempted from registration and licensing requirements under state law;

- (3) Motor vehicle transporting forest products, poultry, or livestock; or
- (4) Public service company vehicle, pickup truck, or emergency snow removal equipment while engaged in snow removal operations.
- (b) *Transportation of waste.* No person shall transport any litter or solid waste in an open or uncovered vehicle along the streets, roads, or highways of the county, unless the load is covered by a tarpaulin or other suitable cover in such manner as to contain the entire load. If any of the contents of the load shall be blown, spilled, fall, or become scattered in or upon any public way or place, such person shall immediately cause such contents to be gathered up and removed and shall pay any cost of the cleanup. This subsection shall not apply to any: public service company vehicle, pickup, or emergency equipment applying sand or any substances for increasing traction, or water, or other substance which may be sprinkled on a roadway in the cleaning or maintaining of such roadway.
- (c) *Rebuttable presumption.* When a violation of the provisions of this section has been observed by any person, and the matter dumped or disposed of has been ejected or removed from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting or disposing of such matter, provided however, that such presumption shall be rebuttable by competent evidence.
- (d) *Penalty.* Violation of this section shall constitute a traffic infraction punishable by a fine not to exceed two hundred fifty dollars (\$250.00). In lieu of imposition of a fine, the court may order the defendant to perform community service in litter abatement activities.

(Statutory Reference: Va. Code §§ 46.2-1155, 10.1-1424, 33.2-802, 15.2-928.)

Sec. 13-31. – Duty of owners and occupants.

- (a) *General requirement.* It shall be the responsibility of each owner, agent, occupant, or lessee to keep his or her property free of litter. The owner, agent, occupant, or lessee of any property shall be responsible for removing litter accumulating on said property.
- (b) *Litter prohibited.* No owner, agent, occupant, or lessee of any property shall allow the storage or accumulation of litter on the exterior of said property outside of a receptacle that is covered, secured, and maintained so as to prevent blowing, spilling, scattering, or leaking of the litter and waste contained therein, except that this requirement shall not apply to an area designated and approved by the county as a permitted disposal site.
- (c) *Adjacent and surrounding areas.* It shall be the responsibility of each proprietor and each operator of any business, industry, or institution to keep the adjacent and surrounding areas free of litter. These areas include, but are not limited to public and private sidewalks, roads, and alleys; grounds; parking lots; loading and unloading areas; and all vacant lots that are owned or leased by such establishment or institution. Removal of any litter shall be performed in accordance with this article.
- (d) *Curbside collection of solid waste.* Each owner, agent, occupant, or lessee who subscribes with a public or private waste hauler for regular scheduled curbside collection of solid waste shall place said waste in durable, tight, nonabsorbent containers with tight fitting lids. Other material or refuse shall be either wrapped, boxed, or tied up in such a manner as to prevent blowing, spilling, scattering, or leaking of the litter and waste contained therein. Garbage shall not be placed on the curb before 6:00 p.m. the night before assigned regular scheduled service. Such collection shall be deemed to be regular if such collection regularly occurs at least once

per week or more frequently. All containers must be removed from the curb within twelve (12) hours of collection.

- (e) *Sidewalks.* Each owner, agent, occupant, or lessee whose property faces on the sidewalks in the county or the strips between the streets and sidewalks shall be responsible for keeping such sidewalks and strips free of litter. Removal of any litter shall be performed in accordance with this article.

(Statutory Reference: Va. Code § 15.2-901, 15.2-928, 33.2-802.)

Sec. 13-32. – Sweeping litter into the street.

It shall be unlawful to sweep or push litter or solid waste from any public or private sidewalk or driveway into the streets. Such litter shall be deposited in a proper receptacle which shall be covered to prevent scattering by wind or animals.

(Statutory Reference: Va. Code § 15.2-928, 33.2-802.)

Sec. 13-33. – Construction sites.

- (a) *Litter prohibited.* It shall be unlawful for any owner or agent of a construction site, or any contractor on a construction site, to cause, permit, or allow the presence of litter on such site outside of a proper receptacle or to cause, permit, or allow litter or waste to be spilled, discharged, or blown by wind or water, except for the wind and water from hurricanes, tornadoes, and floods. It shall be the responsibility of the owner or agent of the property and each contractor performing work on the site to keep the property free of litter.
- (b) *Receptacles required.* The owner, agent, or contractor in charge of a construction site shall furnish on such site receptacles sufficient to contain worker's litter and receptacles sufficient to contain all construction waste. All receptacles shall be conveniently available and maintained and secured or covered so as to prevent litter and waste from being spilled, discharged, or blown by wind or water, except for the wind and water from hurricanes, tornadoes, and floods. The number and capacity of receptacles should be determined by the primary contractor, but no less than one (1) receptacle for worker's litter and no less than one (1) receptacle for construction waste shall be placed at each construction site. Receptacles required under this subsection shall be not less than ten (10) gallons capacity. All receptacles shall be emptied as necessary, but not less frequently than weekly, except that receptacles used exclusively to contain construction waste shall be serviced with sufficient frequency to prevent spillage from overflow and to prevent offensive odors. All receptacles required under this subsection shall remain conveniently available on the site from the time construction activity commences until the construction activity ceases.
- (c) *Occupancy permit.* No occupancy permit shall be issued for any structures by the county building inspector unless and until the owner or agent of a construction site, or any contractor on a construction site provides satisfactory evidence that all construction debris and waste has been disposed of properly.
- (d) *Exclusion.* The requirement for receptacles in this section shall not apply to any construction site on which only repair or renovation of a building is taking place, provided that no litter or construction waste is placed, stored, or otherwise accumulated on the exterior of the property outside of a proper receptacle and any such receptacle is maintained in accordance with this article.

(Statutory Reference: Va. Code §§ 15.2-901, 15.2-928, 33.2-802.)

Sec. 13-34. – Handbills and advertising material.

- (a) *General requirement.* It shall be unlawful for any person distributing ~~commercial~~ handbills, leaflets, flyers, or any other advertising and informational material to distribute material in such a manner that it litters either public or private property.
- (b) *Receptacle required.* Any person using public property for the sale or distribution of ~~commercial~~ handbills shall provide receptacles for the disposal of litter that may be created in the immediate vicinity by such sale or distribution, or shall not sell or distribute such items more than twenty-five (25) feet from a litter or recycling receptacle.

(Statutory Reference: Va. Code §§ 15.2-928, 33.2-802.)

Sec. 13-35. – Litter receptacles at places frequented by the public.

- (a) *Receptacles required.* Every owner, occupant, tenant, or lessee in control of any property that is held out to the public as a place for assemblage, for the transaction of business or recreation, or as a public way shall provide adequate receptacles of sufficient number and size to contain all litter generated by those persons frequenting that public place. The number and size of the receptacles shall be determined by the owner, occupant, tenant, or lessee in control of any property, except that no less than one (1) receptacle shall be placed at each site. Receptacles shall be no less than ten (10) gallons in capacity and clearly marked and designed to prevent the escape of litter and waste. Any person owning or in control of any property at which receptacles are required by this chapter shall at his or her own expense be responsible for the procurement, placement, and maintenance of such receptacles as required by this article.
- (b) *Periodic emptying of receptacles.* All litter and solid waste shall be removed from receptacles as necessary, but not less frequently than weekly, and all receptacles shall be maintained in a sanitary and serviceable condition.
- (c) *Upsetting or tampering with receptacles.* No person shall cause the unauthorized removal, upsetting, mutilation or defacing of, or tamper with any receptacle, or cause the contents thereof to be spilled or to be strewn in or upon any public or private property.
- (d) *Penalty.* Any person who fails to place and maintain receptacles in the number and manner required under this section shall be subject to a fine of twenty-five dollars (\$25.00) for each day of violation.

(Statutory Reference: Va. Code § 15.2-928.)

Sec. 13-36. – Notice of violation; summons or warrant.

- (a) *Notice of violation.* The county may commence enforcement of any provision of this article by notifying in writing the owner, lessee, occupant, or person in responsible charge or in possession of a property or premises, of the existence of an unlawful condition on such property or premises. Such written notice shall be sent to the owner, lessee, occupant, or person in responsible charge or in possession of a property by registered or certified mail, or may be served by the sheriff, to the last known address of the owner as indicated in the county's current real estate tax assessment records. Such notice shall contain a description of the nature of the violation; any corrective action needed to be taken by such person to come into compliance with this article; and the time frame within which such corrective action shall be completed. The amount of time allowed to abate, correct, or eliminate the unlawful condition shall not exceed ten (10) days.

- (b) *Abatement required.* Every owner, lessee, occupant, or person in responsible charge or in possession of a property or premises shall, upon written notice of an unlawful condition, abate, correct, and eliminate such condition within the timeframe required by such notice.
- (c) *Summons or warrant.* Sections 13-29 and 13-30 of this article may be enforced by summons or warrant.

Sec. 13-37. – Removal of litter by county.

- (a) *Abatement required.* After receipt of a written notice of violation, it shall be unlawful for the owner, lessee, occupant, or person in responsible charge or in possession of a property or premises on which the unlawful condition exists to fail to abate, correct, or eliminate such condition within the timeframe as such written notice requires.
- (b) *Removal by county.* Ten (10) days after due notice is given to any owner, agent, occupant, operator, contractor in charge, or lessee of any property, business, industry, institution, or construction site to remove litter from the premises, the county is authorized to clean up such property, by use of county employees or by employing an agent of the county, and bill such owner or agent for the abatement costs thereof. If the bill has not been paid within thirty (30) days, execution may be issued by the county against the property for the abatement cost, and such execution shall constitute a lien on the property, on a parity with liens for unpaid taxes, until the claim has been satisfied. Execution of the notice to remove litter shall be in writing and shall be in the form of a registered or certified letter. Nothing in this section shall be deemed to bar the prosecution of any person for violation of this article.

(Statutory Reference: Va. Code § 15.2-901.)

Sec. 13-38. – Equitable remedies.

In addition to the penalty provided in section 13-37, the director may initiate injunction, mandamus, abatement, or any other appropriate action to prevent, enjoin, abate, or remove a violation of any of the provisions of this article in the manner provided by law. Proceeding under this article shall not be construed as an election of remedies.

Sec. 13-39. – Penalty.

Except where otherwise noted, a violation of any provision of this article shall constitute a misdemeanor punishable by a fine of not less than two hundred fifty dollars (\$250.00) or more than two thousand five hundred dollars (\$2,500.00) or confinement in jail for not more than twelve (12) months, or both such fine and imprisonment. In lieu of imposition of a fine or confinement in jail, the court may order the defendant to perform a mandatory minimum of 10 hours of community service in litter abatement activities.

(Statutory Reference: Va. Code § 33.2-802, 15.2-1429.)

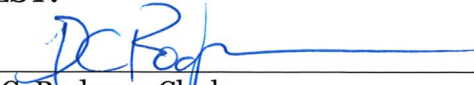
§ 2. That this ordinance shall be in force and effect upon adoption.

Adopted this 20th day of August, 2019.



L. J. Ayers III, Chairman
Amherst County Board of Supervisors

ATTEST:



Dean C. Rodgers, Clerk
Amherst County Board of Supervisors

Ayes 5

Nays 0

Abstentions 0