

AN ORDINANCE NO. 23-2

Amending §§ 244-5.1, 244-6, 244-8, 244-9, 244-10, and 244-12 of Chapter 244, Solid Waste, of the Colonial Heights City Code, to define “clutter”; to prohibit clutter; to change the method of giving real property owners written notice of violations regarding exterior storage of certain objects and tall grass, weeds, or other foreign growth; reducing from ten to seven days the time period to remedy such violations; providing for a \$100 administrative charge per violation and a \$100 civil penalty on property owners with two or more tall grass, weeds, or other foreign growth violations in a growing season; and establishing liens on real estate for charges that remain unpaid 20 or more days after notice of a violation is given. Also, deleting current § 244-11 of Chapter 244, which has language that is duplicative of amended § 244-10; and changing current § 244-11.1 to new § 244-11.

THE CITY OF COLONIAL HEIGHTS HEREBY ORDAINS AS FOLLOWS:

1. Sections 244-5.1, 244-6, 244-8, 244-9, 244-10, and 244-12 of Chapter 244, Solid Waste, of the Colonial Heights City Code, are amended; and current Section 244-11.1 is changed to new Section 244-11, as follows:

**§ 244-5.1. Definitions.**

For the purpose of this article, the following words and phrases shall have the following meanings:

**CLUTTER**

*Mechanical equipment, household furniture, containers, and similar items that may be detrimental to the community’s well-being when they are left in public view for 30 days or more or are allowed to accumulate. “Clutter includes, but is not limited to, those not designed, built, or manufactured for outdoor use or storage.*

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**§ 244-6. Property owners to remove unsafe substances.**

Whenever there exists upon any property in the City any trash, garbage not collected by the City, refuse, rubbish, litter, clutter, and other substances which might endanger the health, comfort or general welfare of other residents of the City, the owner of the property shall forthwith remove, or cause to be removed, such materials or substances.

**§ 244-8. Notice to correct dangerous situations.**

Whenever it appears to the City Manager, or his designee that there exists upon any property in the City any trash, garbage, refuse, rubbish, litter, clutter, and other substances which might endanger the health, comfort or general welfare of other residents of the City; or whenever there exists upon any developed or undeveloped property in the City, whether vacant or occupied, any grass, weeds, or other foreign growth which exceeds 12 inches in height, the City Manager or his designee shall notify the owner of such property by written notice which shall set forth the provisions of § 244-6 or § 244-7, as applicable, the location of the property, and his order for such owner to comply with the provisions of § 244-6 or § 244-7.

**§ 244-9. Contents of notice; service.**

- A. The notice referred to in § 244-8 shall specify the time, not less than ~~40~~ seven days, within which such owner shall comply with the order of the City Manager, or his designee, and the provisions of § 244-6 or § 244-7. The notice shall be sent by first-class mail to the address of the owner listed in the City Assessor's Office. The notice also shall be posted on or near the front door of the dwelling located on the real property in violation.
- ~~B. For owners of such property who reside in the City, the notice shall be served on them by delivering it to them in person; or if they are not found, by delivering the notice and giving information of its purpose to any family member, other than a temporary sojourner or guest, above the age of 16 years; or if neither the owners nor such a family member is found, by leaving the notice posted on the front door of the owners' usual place of abode.~~
- ~~C. If an owner is not a City resident, service of such violation notice shall occur in one of the following ways:
  - ~~(1) By serving the owner personally;~~
  - ~~(2) By serving the owner by certified mail, return receipt requested, at the owners last known address;~~~~

~~(3) By personally serving the agent of the owner. In addition, the owner shall be sent the notice by first-class mail at his last known address; or~~

~~(4) If service is not obtained pursuant to Subsection C(1), (2) or (3) above, serving by publishing the notice once in a newspaper having general circulation in the City. In addition, the notice shall be sent by certified mail, return receipt requested, to the owner's last known address. Pursuant to §§ 244-10 and 244-11, the cost of the publication shall be chargeable to and paid by the owner.~~

DB. As to any property with grass, weeds, or other foreign growth that exceeds 12 inches in height, the service of one written notice per growing season to the property owner of record constitutes reasonable notice; and no further notice need be provided to the owner during the growing season.

**§ 244-10. Failure to comply; removal by City.**

A. Upon the failure, neglect, or refusal of those so notified as provided in this article to comply within the specified time with the provisions of §§ 244-6, 244-7 and 244-8, the City Manager or his designees may, at his sole discretion, cause such trash, garbage, refuse, rubbish, litter, clutter, and other like substances which might endanger the health, comfort or general welfare of other residents of the City to be removed by the agents or employees of the City; or he may, at his sole discretion, cause to have removed, or cut and removed, by the agents or employees of the City all grass, weeds, or other foreign growth on developed or undeveloped property, whether vacant or occupied, that exceeds 12 inches in height, in which event the cost and expenses thereof shall be chargeable to and paid by the owners of such property. ~~Upon completion of such removal, or cutting and removal, the City Manager or his designee shall transmit to the Director of Finance a statement of all costs or expenses incurred thereby, which shall be added to the taxes assessed against such property on which such removal, or cutting and removal, was made for the ensuing tax year and shall be collected with such taxes by any manner~~

~~prescribed by law for the collection of City taxes.~~

- B. The City shall establish by competitive bidding, ~~prior to each growing season,~~ the cost to cut and remove grass, weeds, or other foreign growth that exceeds 12 inches in height. To such cost, the City shall add a ~~\$30~~100 administrative charge for which the responsible property owner is liable. *In addition, any person who, pursuant to this section, has his grass, weeds, or other foreign growth cut and removed a second or subsequent time in a growing season shall be subject to a civil penalty of \$100 for the second and each subsequent violation.*
- C. *For a violation of § 244-6, instead* ~~instead~~ of engaging in the enforcement action specified in this section, the City Manager or his designee may pursue the criminal penalties provided for in § 244-12 of this Code; or he may simultaneously pursue both the enforcement action specified in this section and the criminal penalties specified in § 244-12.
- D. Every charge made pursuant to the provisions of this article and which remains unpaid for 20 or more days after giving the written notice specified in Section 244-8, shall constitute a lien against the real property ranking on a parity with liens for unpaid taxes and enforceable in the same manner as prescribed by law for the collection of City taxes. The City Manager shall treat such unpaid charges as a lien against real property superior to the interests of any owner, lessee, or tenant and next in succession to the City real estate taxes on the property. The unpaid charges shall be added to the amount of City real estate taxes due on such property.*

**~~§ 244-11. Unpaid charges to constitute a lien.~~**

~~Every charge made pursuant to the provisions of this article and which remains unpaid shall constitute a lien against such property, as provided by the applicable provisions of § 15.2-901 of the Code of Virginia.~~

**§ ~~244-11.1~~244-11. Exterior storage of objects and equipment.**

A. Except as provided herein, no person who owns or is in possession of, in charge of, or in control of any real property shall store, deposit, scatter or keep on the exterior of the premises in any residential area any of the following: lumber, scrap metal, construction materials, machinery components, equipment, appliances, furniture not designed and intended for exterior use, or any similar object which is not clearly intended for outdoor use, on the exterior of the premises. Moreover, no such person shall allow for clutter on the real property.

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D. The City Manager or his designee, upon observation or upon complaint that conditions exist on any real property in the City that violate this section, shall investigate the conditions existing upon such property. If as a result of such investigation the City Manager or his designee determines that the property owner, occupant or ~~person in charge of such property~~ tenant is in violation of this section, the City Manager, or his designee shall give written notice by first-class mail to the ~~person found to be in violation~~ owner at the address listed in the records of the City Assessor, specifying the nature of the violation and directing the person to take such action within the time specified in the notice, which shall be not less than 40seven days, as ~~shall be~~ necessary to rectify the violation identified in the notice. ~~Such notice may be given by certified mail to such person's last known address or it may be given as provided in § 244-9 herein.~~ A copy of the notice of violation also shall be posted on or near the front door of the dwelling located on the real property that is in violation.

**§ 244-12. Criminal penalties for offenses.**

A. Every person who shall fail, refuse, or neglect to comply with the order of the City Manager or his designee, or who otherwise violates the provisions of this article, shall upon conviction thereof, be punished by the following fine:

~~A.1.~~ First offense: \$100;

~~B.2.~~ Second offense: \$200;

~~C.3.~~ Third and subsequent offense: a minimum of \$300 and a maximum of \$500, at the Court's discretion.

B. The criminal penalties specified in Subsection A of this Section shall not apply to violations relating to tall grass, weeds, or other foreign growth.

2. This ordinance shall be effective upon approval on second reading.

Approved:

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

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I certify that the above ordinance was:

Adopted on its first reading on \_\_\_\_\_.

Ayes: \_\_\_\_\_. Nays: \_\_\_\_\_. Absent: \_\_\_\_\_. Abstain: \_\_\_\_\_.

The Honorable Kenneth B. Frenier, Councilman: \_\_\_\_\_

The Honorable Elizabeth G. Luck, Councilwoman: \_\_\_\_\_

The Honorable John E. Piotrowski, Councilman: \_\_\_\_\_

The Honorable Dr. Laura F. Poe, Councilwoman: \_\_\_\_\_

The Honorable John T. Wood, Councilman: \_\_\_\_\_

The Honorable Robert W. Wade, Vice-Mayor: \_\_\_\_\_

The Honorable T. Gregory Kochuba, Mayor: \_\_\_\_\_

Adopted on its second reading on \_\_\_\_\_.

Ayes: \_\_\_\_\_. Nays: \_\_\_\_\_. Absent: \_\_\_\_\_. Abstain: \_\_\_\_\_.

The Honorable Kenneth B. Frenier, Councilman: \_\_\_\_\_

The Honorable Elizabeth G. Luck, Councilwoman: \_\_\_\_\_

The Honorable John E. Piotrowski, Councilman: \_\_\_\_\_

The Honorable Dr. Laura F. Poe, Councilwoman: \_\_\_\_\_

The Honorable John T. Wood, Councilman: \_\_\_\_\_

The Honorable Robert W. Wade, Vice-Mayor: \_\_\_\_\_

The Honorable T. Gregory Kochuba, Mayor: \_\_\_\_\_

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney