

Attachment A

Options to Address Unmaintained Buildings

Current Status

The County's building inspections office currently provides three types of building-related services:

1. Safety/health-related upkeep of residential rental properties -- Virginia Uniform Statewide Building Code (USBC) § 104.1

This section protects the welfare of tenants of residential rental properties. The inspection and administration actions under this section must be initiated by a complaint from an actual tenant of a residential property.

2. Building code-related violations discovered within two years of final inspection or issuance of Certificate of Occupancy -- USBC § 115.2

3. Unsafe buildings and structures -- Albemarle County Code, Chapter 5, Article III

The unsafe buildings and structures authority applies to buildings or structures that "might endanger the public health or safety of other residents of the county." Because USBC § 104.1 (above) addresses the health and safety of residential tenants of potentially unsafe structures, the County's unsafe buildings and structures authority applies solely to abandoned structures. The Building Official can order the securing, repair or removal of an unsafe structure. The County's costs to secure, repair and/or remove an unsafe structure are charged to the property owner and may be collected by the County using the same process used to collect taxes.

Although some structures have been removed by property owners, over the past twenty years, the Building Official has never ordered the removal of a structure. He has instead consistently determined that fencing off an offending structure or securing grade-level openings to a building can adequately protect the public, while recognizing that those measures may not prevent a determined and aggressive act of trespass.

Two Additional Options for Addressing Unmaintained Buildings

The County has at least two additional options for addressing unmaintained buildings. The recommended budget for the Community Development Department includes \$50,000 to proactively repair or demolish buildings (under either option) that are in violation of any unmaintained building standard. The County would hire outside contractors to perform this work. Though the County's up-front costs may ultimately be recovered from a property's owners, up-front funding is necessary, regardless of which option is used.

As with existing enforcement, both of the following options would be enforced on a complaint-driven basis.

Option 1 – Spot Blight Abatement

Virginia Code § 36-49.1:1 enables localities to identify and remedy “spot blight.” *Virginia Code* § 36-3 defines “blighted property” as:

“[A]ny individual commercial, industrial, or residential structure or improvement that endangers the public’s health, safety, or welfare because the structure or improvement upon the property is dilapidated, deteriorated, or violates minimum health or safety standards, or any structure or improvement previously designated as blighted pursuant to § 36-49.1:1, under the process for determination of ‘spot blight.’”

This enabling authority authorizes a locality’s chief executive (or designee) to determine that a property is blighted, and require the owner to develop an abatement plan within 30 days. If the owner fails to respond within 30 days with an acceptable abatement plan, the chief executive may request that the Board adopt a specific uncodified ordinance declaring the property as blighted. Once the owner has been provided written notice of the ordinance and the locality’s abatement plan, the locality may carry out the approved plan to repair or acquire and dispose of the property. If the ordinance is adopted by the Board, the locality shall have a lien on the property to recover its costs of repairing or acquiring property under an approved spot blight abatement plan.

This option would not require the Board of Supervisors to adopt a general spot blight ordinance, amend any existing part of the County Code, or adopt another property maintenance regulation. However, it would require the Board to adopt a specific uncodified ordinance for each individual property determined to be blighted if there is not compliance by the property owner to correct the blighted condition.

Option 2 – Adoption of the Virginia Maintenance Code (VMC)

Localities are enabled to adopt Part III of the Virginia Uniform Statewide Building Code (USBC), known as the Virginia Maintenance Code (VMC). The VMC requires property owners to reasonably maintain structures on their property.

With adoption of the VMC, local Code Officials have several enforcement powers. Under [*Virginia Code* § 36-105\(C\)\(3\)](#), if the local building department receives a complaint that a violation of the Building Code exists that is an immediate and imminent threat to health or safety, and the owner, occupant, or tenant of the subject building or structure has refused to allow access, the local building official may seek an inspection warrant to enable entry into the subject building or structure for the purpose of determining whether violation(s) of the Building Code exist.

Failure to reasonably maintain structures on one’s property may result in civil or criminal penalties. Specifically, *Virginia Code* § 36-106(C) and the USBC, Part I, § 115.1 authorize localities to adopt an ordinance establishing a uniform schedule of civil penalties for specified violations of the USBC. The civil penalty can be up to \$100 for the initial violation and up to \$350 for each additional summons. Each day a violation continues constitutes a separate offense. If not so classified as a civil violation, a violation of the USBC is a misdemeanor punishable by a fine up to \$2,500.

Though civil or criminal penalties are the VMC's primary enforcement mechanisms, Code Officials also have the authority to secure, repair, vacate, condemn, and even demolish unsafe structures and structures that are unfit for human occupancy. Under [VMC § 105](#), the Code Official may authorize emergency repairs to unsafe structures or structures unfit for human habitation when it is determined that there is an immediate danger of any portion of such structure collapsing or falling and when life is endangered. Emergency repairs can also be authorized when a code violation poses an immediate serious and imminent threat to the life and safety of the occupants. In addition, whenever the Code Official determines that an unsafe structure or unfit structure constitutes a "hazard" and the owner of such structure fails to comply with a notice to demolish, the code official can cause the structure to be demolished. Demolition is not limited to situations where a structure is in danger of collapse. Any condition that poses a hazard will justify the demolition of a structure. The costs of the emergency repairs or demolition can be billed to the owner of the premises and such costs, if unpaid, constitute a lien against the property.

Administration and enforcement of the VMC is not mandatory, but may be implemented by a local government through the adoption of a local ordinance. The other two parts of the USBC, the Virginia Construction Code (Part I) and the Virginia Rehabilitation Code (Part II), are mandatory and are already fully enforced in Albemarle County.

The VMC is available on-line at <http://www.dhcd.virginia.gov/images/SBC/CodeBooks/2012%20Virginia%20Maintenance%20Code.pdf>, and addresses a range of maintenance issues, including:

- Maintenance of the exterior property, including swimming pools, the exterior and interior elements of buildings, the interior accumulation of rubbish and garbage, and pest elimination (Chapter 3)
- Interior lighting and ventilation, and occupant load limitations (Chapter 4)
- Plumbing systems, including the supply of potable water to and throughout the building, and adequate sanitary waste elimination (Chapter 5)
- Mechanical and electrical systems, including the supply of electricity to and throughout the building (Chapter 6)
- Egress and fire safety equipment in public buildings (Chapter 7)

To use this option, the County must first adopt the VMC by ordinance and appoint a Code Official, which is a position distinct from the existing Building Official. Under the USBC, the Code Official is charged with administering Part III of the USBC, and the Building Official administers Parts I and II. The Code Official could be an existing staff member serving in a dual role.

Implementing the Virginia Maintenance Code for existing structures would require thorough review and planning by County staff, based on Board direction, and the adoption of the implementing ordinance by the Board of Supervisors.