



Albemarle County

Legislation Text

File #: 20-581, **Version:** 1

AGENDA DATE: 12/16/2020

TITLE:

Options to Address Blight and Building Maintenance

SUBJECT/PROPOSAL/REQUEST: Work session to discuss various property maintenance options

ITEM TYPE: Regular Action Item

STAFF CONTACTS: Richardson, Walker, Kamptner, Herrick, Filardo, McCulley, Dellinger, Svoboda

PRESENTERS: Andy Herrick, Amelia McCulley

LEGAL REVIEW: Yes

REVIEWED BY: Jeffrey B. Richardson

BACKGROUND: The Board's FY 20-22 Strategic Plan envisions a community with active and vibrant development areas. It identifies revitalizing "aging urban neighborhoods" as one of the Board's high priorities. A stated goal of the County's Comprehensive Plan is that our Development Areas will be vibrant active places with attractive neighborhoods. The presence of blighted and deteriorated properties can have an economic and environmental impact on property and lead to criminal activities and other public nuisances.

"Blighted property" is defined as a structure or improvement that is dilapidated, or deteriorated because it violates the minimum health and safety standards (*Virginia Code* § 36-3). Though blight is more often considered in the context of development areas; it exists also in the Rural Areas.

As outlined in Attachment A, the Community Development Department (CDD) currently administers several regulations that relate to blight and building maintenance:

- * uncontrolled vegetation (*County Code* § 7-501 *et seq.*)
- * stagnant water (*County Code* § 7-505 *et seq.*)
- * inoperable vehicles (*County Code* § 9-500)
- * trash and refuse (*County Code* § 13-302)
- * safety/health-related upkeep of residential rental properties (*Virginia Uniform Statewide Building Code* (USBC) § 104.1), and
- * unsafe buildings and structures (*County Code* § 5-300 *et seq.*)
- * Zoning Ordinance provisions that prohibit junk yards and the keeping of inoperable vehicles.

In addition, a more recently enabled regulation enforced by the Albemarle County Police Department relates to parking on secondary roads. (*County Code* § 9-102)

Please also see the County Attorney's Inventory of State Enabling Authority to Promote Active and Vibrant Development Areas (Attachment B).

On April 6, 2016, the Board also authorized staff to address problem properties using the County's spot blight abatement authority under *Virginia Code* § 36-49.1:1, discussed in more depth below. This process has been used once, for the property located at 2514 Smithfield Road.

Only 1% of complaints received by CDD (about three or four per year) fall into a property maintenance category of concerns that appear not to be covered by current regulations. These maintenance cases often appear to neighbors as public nuisances. Though aesthetics are often a neighborhood concern, existing enabling authority is not geared toward aesthetics. As a result, this work session will not focus on aesthetics, but on the costs and benefits of three enabled options to address blight and building maintenance.

STRATEGIC PLAN: Quality Government Operations Ensure County government's capacity to provide high quality service that achieves community priorities

DISCUSSION: This work session will focus on the pros and cons of spot blight abatement and two additional tools .

1) Spot blight abatement

Summary: *Virginia Code* § 36-3 defines "blighted property" as a 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..." A property-specific uncodified ordinance is adopted for each individual property determined to be blighted. If the owner does not respond with an acceptable abatement plan, the locality may carry out an approved plan to repair or acquire and dispose of the property and place a lien to cover the costs.

Analysis: *Though a spot blight abatement can correct health or safety issues, other issues may remain. For example, even if visually unattractive, a plywood covering over a hole in the roof (or wall) is considered a satisfactory blight abatement. Though a spot blight abatement may not fully address neighbors' aesthetic concerns, it does focus on minimum requirements to adequately address public health or safety.*

2) Tax Abatement Program to demolish or renovate "derelict" buildings

Summary: Under *Virginia Code* § 15.2-907.1, localities may adopt a tax abatement program to address derelict buildings and require the owners to demolish or renovate them. A "derelict building" is defined as "a building that might endanger the public's health, safety, or welfare and for a continuous period in excess of six months, has been

- i) vacant;
- ii) boarded up in accordance with the building code, and
- iii) not lawfully connected to electric service or required water or sewer service."

Once notified, the owner must provide a plan to demolish or renovate the building. Failure to do so can result in civil penalties. Alternatively, the locality may prescribe, remove, repair or secure any structure that might endanger the public health or safety of other residents.

Analysis: *County Code Chapter 5, Article 3 already allows the County to address unsafe buildings and structures. Under that authority, County Building Officials have consistently determined that fencing off the structure or securing openings to the building adequately protect public safety. As the County continues to urbanize, if property eligible for redevelopment is blighted, the County could adopt a tax abatement program under this State enabling authority. However, like spot blight abatement, this program may not address aesthetic complaints because it focuses on minimum requirements to adequately address public health or safety.*

3) Property maintenance code

Summary: Localities are enabled to enforce Part III of the USBC, known as the Virginia Maintenance Code (VMC). The VMC requires property owners to reasonably maintain structures on their property and addresses a range of maintenance issues, including:

- * maintenance of the exterior of 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 adequate sanitary waste elimination (chapter 5);
- * mechanical and electrical systems (chapter 6); and
- * egress and fire safety equipment in public buildings (chapter 7).

Among other requirements, the VMC requires that exterior surfaces be maintained in good condition and that peeling, flaking, and chipped paint be eliminated and surfaces repainted.

If the County elected to enforce the VMC, it would need to take "official action" by adopting an ordinance or resolution stating that it was electing to enforce the provisions of the VMC, before doing so. USBC, Part III, § 104.1. The County would also need to appoint a Code Official (in addition to the existing Building Official).

Analysis: The VMC applies only to properties constructed under the USBC (from 1973 to present). Therefore, many aging structures, perhaps those most in need of repair, would remain unaddressed. For example, because the subject of the prior spot blight abatement (2514 Smithfield Road) was constructed in 1972, it would be exempt from the VMC.

Enabling authority for a partial adoption of the VMC is unclear at best. If a partial adoption is enabled, staff recommends application of the VMC only to smaller lot urban properties (Development Areas) and not to rural properties.

Even partial adoption of the VMC could impose financial hardship on those who may be least able to afford compliance. In addition, the required action may not address aesthetic concerns - the owner may choose simply to board up a portion of the structure.

Implementing a property maintenance (PM) program would involve additional staffing with not only the Code Official but also PM staff responsible for inspections and enforcement. Additional staff resources would depend on the extent of the VMC adopted and whether it was a responsive or proactive program. Localities with similar populations that have adopted the VMC report PM staffs from 2 to 15 full-time equivalents. While the current numbers of property maintenance aesthetic complaints are low, staff would expect complaints to substantially increase with even a partial adoption of the VMC.

One of the strategic plan objectives relating to revitalizing aging urban neighborhoods is to "Implement improvement actions developed from neighborhood inventory data to address neighborhood level needs." This neighborhood inventory from the Thomas Jefferson Planning District Commission is expected soon. Understanding what infrastructure, features and qualities distinguish a thriving aging neighborhood from declining ones will provide key guidance towards achieving this goal.

Of the three options discussed, there appears to be no single solution to address the issue of public nuisance in aging urban neighborhoods. Of the three, a partial application of the Virginia Maintenance Code to smaller properties warrants study for the future in terms of costs and benefits. However, because of the substantial cost to initiate a new program, the current and anticipated volume of cases do not appear to justify it at this time. As County continues to urbanize, staff will continue to monitor and revisit this issue.

BUDGET IMPACT: Adopting the VMC would create a substantial budget impact. To better estimate resource needs and associated costs, staff would need further Board direction. The extent of the Code adopted and whether it was proactive or responsive would greatly impact the costs of a new program. Additional funding for contracting work necessary under the existing regulations when property owners are not compliant (uncontrolled vegetation, unsafe buildings, etc.) is being considered for next fiscal year.

RECOMMENDATION:

Staff recommends that the Board accept the information provided for discussion and consideration. We further recommend the Board direct staff to conduct monitoring and evaluation of public nuisance cases that are not addressed through current regulatory tools.

ATTACHMENTS:

Attachment A - Summary of Existing Regulations

Attachment B - Inventory of State Enabling Authority to Promote Active and Vibrant Development Areas

Summary of Existing RegulationsLaws that the County has implemented

The following are summaries of the State laws that have been implemented by the County to address the issues that, if not addressed, hinder the Development Areas from being attractive and vibrant areas for residents and businesses.

- A. Removing, repairing, or securing unsafe buildings and structures: County Code §§ 5-300, 5-301, and 5-302 allow the County to require that any building, wall, or other structure that might endanger the public health to be removed, repaired, or secured. The County may require the owner to take the required action or do so itself if the owner fails to take required action. "Repair" includes maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. With the consent of the owner, the County may remove or demolish a derelict building. *Virginia Code § 15.2-906*.
- B. Prohibiting tall grass, weeds, and other uncontrolled vegetation on vacant developed or undeveloped parcels: County Code § 7-501 *et seq.* require an owner of vacant developed or undeveloped property to cut or otherwise control grass, weeds, and uncontrolled vegetation in excess of 12 inches in height. If the owner fails to control the vegetation, the County may do so and charge the owner. *Virginia Code § 15.2-901*.
- C. Prohibiting stagnant water: County Code §§ 7-505 and 7-506 prohibit an owner or occupant from allowing stagnant water from remaining or accumulating in any swimming pool, hot tub, or any other container on the property. *Virginia Code § 15.2-901*.
- D. Prohibiting abandoned or unattended vehicles on public property, and certain unattended vehicles on private property: County Code § 9-114 authorizes the police to direct the removal of abandoned or unattended vehicles from public property and to remove unattended vehicles on private property without the property owner's consent where the vehicle has been unattended by its owner for 10 or more days. *Virginia Code § 46.2-1213*
- E. Prohibiting keeping inoperable vehicles: County Code § 9-500 prohibits parking or storing more than two inoperable vehicles outside of a fully enclosed building in the Rural Areas zoning district, and more than one inoperable vehicle outside of a fully enclosed building in the residential zoning districts, provided that two inoperable vehicles may be kept for active vehicle restoration and repair. Any inoperable vehicles must either be covered or screened from view. *Virginia Code § 15.2-905*. This subject matter is also regulated in the Zoning Ordinance.
- F. Prohibiting dumping or disposing of refuse on public highways or on private property: County Code § 13-300 prohibits dumping or otherwise disposing of refuse or other unsightly matter on public highways and other public property, or on private property without the owner's consent.
- G. Prohibiting the accumulation or storage of refuse on private property: County Code § 13-302 prohibits an owner from storing, accumulating, or dumping refuse on its property "in such quantities or in such a manner or for such a period of time" as to

Attachment A

constitute a nuisance or endanger the health or safety of county residents. *Virginia Code § 15.2-901.*

Perhaps the most notable things to say about this list are that it is very short, the matters that are regulated are reactive to deteriorated conditions, and if any of these matters are to be addressed, they are complaint-driven under current County practices.

Source: Memorandum to the Albemarle County Board of Supervisors from Greg Kamptner, County Attorney dated February 11, 2019 entitled "Inventory of State Enabling Authority to Promote Active and Vibrant Development Areas"

COUNTY OF ALBEMARLE



MEMORANDUM

TO: Albemarle County Board of Supervisors

FROM: Greg Kamptner, County Attorney

DATE: February 11, 2019

RE: *Inventory of State Enabling Authority to Promote Active and Vibrant Development Areas*

1. Introduction

The goal of the County's Growth Management Policy, as stated in the Comprehensive Plan, is: "Albemarle County's Development Areas will be attractive, vibrant, areas for residents and businesses, supported by services, facilities, and infrastructure." The goal of the policies for the Development Areas, also stated in the Comprehensive Plan, expresses a similar sentiment: "Albemarle County's Development Areas will be vibrant active places with attractive neighborhoods, high quality, mixed-use areas, thriving business and industry, all supported by services, infrastructure, and multimodal transportation networks."

The Board's FY 20-22 Strategic Plan, adopted November 7, 2018, narrows the focus of the goals stated above and identifies revitalizing "aging urban neighborhoods" as one of the Board's upcoming high priorities. The Strategic Plan identifies implementing "improvement actions developed from neighborhood inventory data to address neighborhood level needs." The Board received a report from staff about the results of Phase I of the neighborhood inventory project. Phase II is forthcoming.

This memorandum provides an inventory of the State enabling authority that the Board has already implemented (Section 2) and that which it may implement (Section 3), to promote active and vibrant Development Areas in the County. The primary emphasis of this inventory is on State enabling authority other than that provided for zoning and the land development processes (subdivisions, site plans, erosion and sediment control, and stormwater management). With the beginning of developing the form-based zoning district to implement the Rio/29 Small Area Plan, the County's zoning regulations are on the verge of what may be a significant evolution. The County's subdivision, site plan, erosion and sediment control, and stormwater management regulations are, to a significant extent, required by State law with little County discretion.

2. Laws that the County has implemented

The following are summaries of the State laws that have been implemented by the County to address the issues that, if not addressed, hinder the Development Areas from being attractive and vibrant areas for residents and businesses.

- A. Removing, repairing, or securing unsafe buildings and structures: County Code §§ 5-300, 5-301, and 5-302 allow the County to require that any building, wall, or other structure that might endanger the public health to be removed, repaired, or secured. The County may require the owner to take the required action or do so itself if the owner fails to take required action. "Repair" includes maintenance work to the exterior of a

building to prevent deterioration of the building or adjacent buildings. With the consent of the owner, the County may remove or demolish a derelict building. *Virginia Code § 15.2-906.*

- B. Prohibiting tall grass, weeds, and other uncontrolled vegetation on vacant developed or undeveloped parcels: County Code § 7-501 *et seq.* require an owner of vacant developed or undeveloped property to cut or otherwise control grass, weeds, and uncontrolled vegetation in excess of 12 inches in height. If the owner fails to control the vegetation, the County may do so and charge the owner. *Virginia Code § 15.2-901.*
- C. Prohibiting excessive or unwanted sound: County Code § 7-100 *et seq.* prohibit noise that is audible from property lines or from within residences and hotel rooms, and in other circumstances; with exemptions. *Virginia Code § 15.2-1200.* Noise from land uses are regulated in the Zoning Ordinance.
- D. Prohibiting stagnant water: County Code §§ 7-505 and 7-506 prohibit an owner or occupant from allowing stagnant water from remaining or accumulating in any swimming pool, hot tub, or any other container on the property. *Virginia Code § 15.2-901.*
- E. Prohibiting abandoned or unattended vehicles on public property, and certain unattended vehicles on private property: County Code § 9-114 authorizes the police to direct the removal of abandoned or unattended vehicles from public property and to remove unattended vehicles on private property without the property owner's consent where the vehicle has been unattended by its owner for 10 or more days. *Virginia Code § 46.2-1213*
- F. Prohibiting keeping inoperable vehicles: County Code § 9-500 prohibits parking or storing more than two inoperable vehicles outside of a fully enclosed building in the Rural Areas zoning district, and more than one inoperable vehicle outside of a fully enclosed building in the residential zoning districts, provided that two inoperable vehicles may be kept for active vehicle restoration and repair. Any inoperable vehicles must either be covered or screened from view. *Virginia Code § 15.2-905.* This subject matter is also regulated in the Zoning Ordinance.
- G. Prohibiting dumping or disposing of refuse on public highways or on private property: County Code § 13-300 prohibits dumping or otherwise disposing of refuse or other unsightly matter on public highways and other public property, or on private property without the owner's consent.
- H. Prohibiting the accumulation or storage of refuse on private property: County Code § 13-302 prohibits an owner from storing, accumulating, or dumping refuse on its property "in such quantities or in such a manner or for such a period of time" as to constitute a nuisance or endanger the health or safety of county residents. *Virginia Code § 15.2-901.*

Perhaps the most notable things to say about this list are that it is very short, the matters that are regulated are reactive to deteriorated conditions, and if any of these matters are to be addressed, they are complaint-driven under current County practices.

3. Laws that enable the County to promote active and vibrant Development Areas

A. Services

- 1. Garbage and refuse pickup and disposal: The County may contract with any person for garbage and refuse pickup and disposal services within the County. *Virginia Code § 15.2-931(B).*
- 2. Public transportation system: The Board of Supervisors may, upon finding a need for a system of public transportation and the inability of the governing body to reach a reasonable agreement for membership with an existing transportation district, may create, operate, maintain or contract for a system of public transportation to be operated in such county or city for the safety, comfort and convenience of the public. *Virginia Code § 15.2-947.*

3. Support senior recreational or daycare services: The County may make gifts and donations of property, real or personal, or money to any nonprofit organization providing recreational or daycare services to persons 65 years of age or older. *Virginia Code § 15.2-953(B)*.
4. Electric vehicle charging stations: The County may locate and operate a retail fee-based electric vehicle charging station on property the locality owns or leases. The County may restrict the use of the station to County employees and authorized visitors. *Virginia Code § 15.2-967.2*.

B. Infrastructure

1. Infrastructure for affordable housing loan or grant program projects: The County may, by ordinance establishing an affordable housing loan or grant program (see subsection (C) below), provide for the installation, construction, or reconstruction of streets, utilities, parks, parking facilities, playgrounds, and other site improvements essential to the development, preservation, or rehabilitation planned. *Virginia Code § 15.2-958*.
2. Parking facilities: The County may provide off-street automobile parking facilities and open them to the public, with or without charge. The County also may lease space in the parking facility for private commercial purposes which are necessary for sound fiscal management of the parking facility or which space is not suitable for parking. *Virginia Code § 15.2-967*.
3. Improve, maintain, clean, and light streets: The County may improve, maintain, repair, clean, and light: streets and other types of rights-of-way. *Virginia Code § 15.2-2001*.
4. Install and maintain suitable lights: The County may install and maintain “suitable lights” on public rights-of-way in the County. *Virginia Code § 15.2-2020*.
5. Convert sidewalks to bicycle paths: The County may convert sidewalks to bicycle paths. *Virginia Code § 15.2-2001*
6. Require the removal of snow and ice: The County may require, by ordinance, reasonable criteria and requirements for owners or other persons in charge of occupied property to remove accumulations of snow and ice from public sidewalks. *Virginia Code § 15.2-5025*.

C. Housing assistance

1. Support senior housing: The County may make gifts and donations of property, real or personal, or money to any charitable institution or nonprofit or other organization providing housing for persons 60 years of age or older or operating a hospital or nursing home. *Virginia Code § 15.2-953(B)*.
2. Grants or loans for affordable housing: The County may, by ordinance, provide for the use of local funds to make grants or loans to owners of residential rental property occupied, or to be occupied, after rehabilitation or after construction if new, by persons of low and moderate income, for the purpose of rehabilitating or producing the property. Owners assisted in this manner must provide a minimum of 20 percent of the units for low and moderate income persons as defined by the locality for a minimum of 10 years. The County also may make loans or grants of local funds to qualifying (VHDA income) individuals for the purpose of rehabilitating owner-occupied residences or assisting in the purchase of an owner-occupied residence in designated conservation or rehabilitation districts. *Virginia Code § 15.2-958*.
3. Grants, loans, or other housing assistance to County or School employees: The County may, by ordinance, provide for the use of local funds to provide grants, loans, and other assistance for County and School Board employees, as well as employees of local constitutional officers, to purchase or rent residences, for use as the employee’s principal residence, within the County. *Virginia Code § 15.2-542 (applies only to counties under the county executive form of government)*. *Virginia Code § 15.2-958.2* grants similar authority to all localities but imposes a \$25,000 limit on each grant or loan.

4. Waive building permit and other local fees for affordable housing: The County may, by ordinance, provide for the waiver of building permit fees and other local fees associated with the construction, renovation or rehabilitation of housing by a 501(c)(3) organization with a primary purpose of assisting with the provision of affordable housing. *Virginia Code § 15.2-958.4*.
5. Experiment in housing alternatives: The County is authorized to “engage in research, studies, and experimentation in housing alternatives, including the rehabilitation of existing housing stock and the construction of additional housing.” This authority applies only to localities such as the County that do not have a redevelopment and housing authority. *Virginia Code § 15.2-959*.

D. The condition of buildings and other structures

1. Demolish or renovate a building declared a “derelict building”: The County may, by ordinance, declare a building a derelict building and require the owner to demolish or renovate the building. A “derelict building” is “a residential or nonresidential building or structure, whether or not construction has been completed, that might endanger the public’s health, safety, or welfare and for a continuous period in excess of six months, it has been: (i) vacant; (ii) boarded up in accordance with the Building Code; and (iii) not lawfully connected to electric service from a utility service provider or not lawfully connected to any required water or sewer service from a utility service provider. *Virginia Code § 15.2-907.1*.
2. Facilitate renovation of a derelict building for a by-right use under current zoning: If the property owner’s plan is to renovate the derelict building, and no rezoning is required for the owner’s intended use of the property, the County is required to expedite the site plan or subdivision application and the building permit, as applicable, shall be expedited. In addition, the subdivision, site plan, and building permit fees are capped at the lesser of 50 percent of the standard fees for the application or permit of \$5,000 per property, and the County may refund all or part to the owner. *Virginia Code § 15.2-907.1(7)*.
3. Abate the costs of demolition or an amount equaling the increase in FMV of renovations to a derelict building: An owner of a derelict building may declare the costs of demolition, or the costs of materials and labor to complete the renovation. At the request of the property owner, after demolition or renovation of the derelict building, the County Assessor shall reflect the fair market value of the demolition costs or the fair market value of the renovation improvements, and that value in the real estate tax assessment records. The real estate tax on an amount equal to the costs of demolition or an amount equal to the increase in the fair market value of the renovations shall be abated for a period of not less than 15 years and is transferable with the property. *Virginia Code § 15.2-907.1(8)*.
4. Remove or repair of defaced structures: The County may, by ordinance, undertake or contract for the removal or repair of the defacement of any public or private building, wall, fence or other structure if the defacement is visible from any public right-of-way. The ordinance may provide that whenever the property owner, after reasonable notice, fails to remove or repair the defacement, the locality may have such defacement removed or repaired by its agents or employees. “Defacement” means the unauthorized application by any means of any writing, painting, drawing, etching, scratching, or marking of an inscription, word, mark, figure, or design of any type. *Virginia Code § 15.2-908*.
5. Green roof incentive program: The County may establish a “rate incentive program” designed to encourage the use of green roofs in the construction and remodeling of residential and commercial buildings. If established, the incentives shall be based on the percentage of stormwater runoff reduction the green roof provides. “Green roof” means a roof or partially covered roof consisting of plants, soil, or another lightweight growing medium that is installed on top of a waterproof membrane and designed in accordance with the Virginia Stormwater Management Program’s standards and specifications for green roofs, as set forth in the Virginia BMP Clearinghouse. *Virginia Code § 15.2-977*. The statute does not explain what “rate” is being incentivized.
6. Create a land bank: The County may by ordinance create a land bank entity as either an authority or a corporation, under an appropriate name and title, for the purpose of assisting the locality to address vacant, abandoned, and tax delinquent properties. *Virginia Code § 15.2-7500 et seq.*

7. Cooperate in housing projects: The County, for the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects located within the County, may: (i) dedicate, sell, convey or lease any of its interest in any property, or grant easements, licenses or any other rights or privileges therein to any a housing authority; (ii) provide parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works the County is authorized to provide, adjacent to or in connection with housing projects; (iii) provide streets, roads and sidewalks; and (iv) make exceptions from building regulations and ordinances. *Virginia Code § 36-6 (partial list)*. "Housing projects" mean land clearing or projects that provide housing for persons of low and moderate income, or a combination of the two.
7. Abate spot blight: The County has the power to acquire or repair any blighted property by purchase or through the exercise of the power of eminent domain. The County also has the power to hold, clear, repair, manage or dispose of blighted property for purposes to promote providing safe, sanitary, and affordable housing. *Virginia Code § 36-49.1:1*. "Blighted property" means any 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 and safety standards, or any structure or improvement previously designated as blighted pursuant to Virginia Code § 36-49.1:1, under the process for determination of "spot blight."
8. Adopt the Maintenance Code: Virginia Code § 36-105 requires localities to enforce the provisions of the Maintenance Code pertaining to unsafe buildings in response to complaints made by tenants of residential units. Virginia Code §§ 36-105 and 36-105.01 require localities to enforce the provisions of the Maintenance Code pertaining to inspecting elevators except those in single- and two-family dwellings and townhouses. Otherwise, the Maintenance Code is optional for localities. *Virginia Code § 36-105*. Generally, the optional provisions of the Maintenance Code require that buildings and structures be maintained in good repair in accordance with the version of the Uniform Statewide Building Code (the first edition of which was adopted in 1973) that was in effect when the building or structure was constructed. The Maintenance Code requires, for example, that exterior surfaces be maintained in good condition and that peeling, flaking, and chipped paint be eliminated and surfaces repainted.
9. Inspection program for rental units: The County may adopt an ordinance to inspect residential rental dwelling units for compliance with the Building Code and to promote safe, decent and sanitary housing for its citizens. To implement this ordinance, the County can either create a rental inspection district after statutory findings are made or can adopt an ordinance on a case by case basis. *Virginia Code § 36-105.1:1(B)*.
10. Pursue grants from funds in the Virginia Removal or Rehabilitation of Derelict Structures Fund: The Virginia Removal or Rehabilitation of Derelict Structures Fund, managed by the Department of Housing and Community Development, exists for grants to localities to finance the acquisition, removal, rehabilitation, repair or demolition of derelict structures. No grant may exceed \$1,000,000. Each grant shall be conditioned upon a 100 percent match of funds by the local government. *Virginia Code § 36-155*.

E. Public amenities

1. Re-create historical or cultural events: The County may provide for the re-creation and portrayal of important historical or cultural events associated with or which have taken place within the locality. The County may donate funds to nonprofit organizations for these re-creations or portrayals. *Virginia Code § 15.2-942*.
2. Support commemorating historical events: The County may make like gifts and donations to any and all public and private nonprofit organizations and agencies engaged in commemorating historical events. *Virginia Code § 15.2-953(B)*.

3. Donate to beautify and maintain or prevent deterioration: The County may make gifts and donations of property, real or personal, or money to any nonprofit association or organization furnishing services to beautify and maintain communities or to prevent neighborhood deterioration. *Virginia Code § 15.2-953(B)*.
4. Stadiums and arenas: The County may provide and operate stadiums and arenas and the lands, structures, equipment and facilities appurtenant thereto, and provide for their management and operation by a County agency. *Virginia Code § 15.2-1808*.
5. Trail systems: The County may establish, conduct, and regulate a system of hiking, biking, and horseback riding trails and may set apart for trail use any land or buildings owned or leased by it and may obtain licenses or permits for that use on land not owned or leased by it. *Virginia Code § 15.2-1806*.
6. Water activities: The County may establish, conduct, and regulate a system of boating, canoeing, kayaking, or tubing activities on waterways and may set apart for those activities any land or buildings owned or leased by it and may obtain licenses or permits for that use on land not owned or leased by it. *Virginia Code § 15.2-1806*.
7. Facilitate special events, including parades and other events requiring street closures: The County may designate one or more tourism activity zones as areas that may be used for special events, including parades, events requiring temporary street closures, and indoor and outdoor entertainment activities. *Virginia Code § 15.2-982*.

F. Commercial areas

1. Construct industrial shell buildings or renovate existing buildings for sale or lease: The County may participate in a program known as the "Virginia Shell Building Initiative," a program administered by the Virginia Economic Development Partnership (VEDP) to make available moneys to localities for the purpose of constructing industrial shell buildings, or renovating existing buildings, to be sold or leased to any person that will locate thereon any manufacturing, processing, technology-related or similar establishment. *Virginia Code § 15.2-941*. Based on a review of the VEDP website, this program does not appear to be an active program.

G. Vegetation

1. Control running bamboo: The County may, by ordinance, prohibit landowners from allowing running bamboo to grow without proper upkeep and appropriate containment measures, and from allowing running bamboo from spreading from its property to any public right-of-way or an adjoining parcel not owned by the landowner. *Virginia Code § 15.2-901.1*.
2. Prevent, control, and abate certain noxious weeds: The County may, by ordinance, prevent, control and abate the growth, importation, spread and contamination of uninfested lands by the species of grass *Sorghum halepense*, commonly known as Johnson grass, or by the woody shrub *rosa multiflora*, commonly known as multiflora rose, and other identified noxious weeds. *Virginia Code § 15.2-902*.
3. Plant trees along areas dedicated for public use: The County may establish reasonable rules, regulations, and schedules for planting trees in and along areas dedicated for public use where trees have been destroyed in the construction process. *Virginia Code § 15.2-959*.
4. Cut tall grass: The County may, by ordinance, require that the owner of occupied residential real property cut the grass or lawn area of less than one-half acre on the property or any part thereof when the grass or lawn exceeds 12 inches in height. If the owner does not cut the grass, the County may give reasonable notice to the owner and have the grass or lawn area cut by the County's agents or employees, and charge the owner for the expense. *Virginia Code § 15.2-1215*. This authority is different

from the enabling authority already implemented in County Code 7-501 *et seq.*, which applies only to vacant developed or undeveloped parcels (see Section 2(B), above).

5. Plant and maintain shade trees on streets: The County may plant and maintain shade trees on streets and other public rights-of-way. *Virginia Code § 15.2-2001*.

H. Districts and zones allowing incentives and flexibility

1. Arts and cultural districts: The County itself, or in combination with other localities, may establish by ordinance one or more arts and cultural districts for the purpose of increasing awareness and support for the arts and culture in the County. The County may provide incentives for the support and creation of arts and cultural venues in each district. The County may also grant tax incentives and provide certain regulatory flexibility in each arts and cultural district. *Virginia Code § 15.2-943.1*.
2. Economic revitalization zones: The County may establish by ordinance one or more economic revitalization zones for the purpose of providing incentives to private entities to purchase real property and interests in real property to assemble parcels suitable for economic development. A zone must be composed of "one or more tax parcels not commonly owned." The County may grant incentives and provide regulatory flexibility. *Virginia Code § 15.2-1232.2*.
3. Local housing rehabilitation zones: The County may establish by ordinance one or more housing rehabilitation zones for the purpose of providing incentives and regulatory flexibility in the zone. *Virginia Code § 36-55.64*.
4. Housing revitalization zones: The County may apply to the State to establish one or more housing revitalization zones. A qualifying zone must meet at least one of the following criteria; (i) have per capita income below eighty percent of the median per capita income for the planning district or (ii) have a residential vacancy rate that is at least 120 percent of the average vacancy rate for the planning district. Once the zone is established, qualified business firms and qualified owner occupants may apply for grants funded by the Housing Revitalization Zone Fund, administered by the Virginia Housing Development Authority. The County must also grant incentives and regulatory flexibility within the zone. *Virginia Code § 36-157 et seq.*
5. Local technology zones: The County may establish by ordinance one or more technology zones. The County may grant tax incentives and provide certain regulatory flexibility in a technology zone. *Virginia Code § 58.1-3850*.
6. Local tourism zones: The County may establish by ordinance one or more tourism zones. The County may grant tax incentives and provide certain regulatory flexibility in a tourism zone. *Virginia Code § 58.1-3851*. Under Virginia Code § 58.1-3851.1, a tourism zone can be used to expand the role of the tourism zone to apply to "tourism projects" for which certain sales and use tax revenues generated from the project can be rebated to the project to provide gap financing.
7. Defense production and support service zones: The County may establish by ordinance one or more defense production and support services zones. The County may grant incentives and provide certain regulatory flexibility in a defense production and support services zone. "Defense contractor" means a business, other than a defense production business, that is primarily engaged in providing services in support of national defense, including but not limited to logistics and technical support. "Defense production business" means a business engaged in the design, development, or production of materials, components, or equipment required to meet the needs of national defense. The County may also include as a defense production business any business that performs functions ancillary to or in support of the design, development, or production of such materials, components, or equipment. *Virginia Code § 58.1-3853*.
8. Green development zones: The County may establish one or more green development zones. The County may grant tax incentives and provide certain regulatory flexibility to green development

businesses located in a green development zone or to businesses operating in an energy-efficient building located in a green development zone. A “Green development business” is a business engaged primarily in the design, development, or production of materials, components, or equipment used to reduce negative impact on the environment. “Energy-efficient building” is also defined in the statute. *Virginia Code § 58.1-3854.*

The incentives and regulatory flexibility allowed in these districts and zones are relatively similar. Tax incentives in a district or zone may be provided for up to a specified period (ten years or longer) and may include, but not be limited to: (i) reducing permit fees; (ii) reducing user fees; and (iii) reducing any type of gross receipts tax.

The regulatory flexibility in a district or zone may include, but not be limited to: (i) special zoning for the district; (ii) permit process reform; (iii) exemption from ordinances (some expressly exclude the Virginia Stormwater Law from the exemption); and (iv) any other incentive adopted by ordinance, which would be binding on the County.

I. Partial tax exemptions and tax credits

1. Partial tax exemption for certain rehabilitated, renovated, or replaced residential structures: The County may by ordinance establish a partial tax exemption program for eligible rehabilitated, renovated, or replaced residential structures. Any structure or other improvement which is at least 15 years old and which has undergone substantial rehabilitation, renovation or replacement for residential use is eligible. The ordinance may restrict eligibility to real property within described districts. The exemption would run with the land for up to 15 years. The exemption may not exceed an amount: (i) equal to the increase in assessed value or a percentage of that increase resulting from the rehabilitation, renovation or replacement; or (ii) up to 50% of the cost of rehabilitation, renovation or replacement. The ordinance may reduce the amount of the exemption in annual steps over the duration of the exemption. *Virginia Code § 58.1-3220.* Similar partial tax exemptions also exist for hotel or motel structures at least 35 years old (*Virginia Code § 58.1-3220.1*), and commercial and industrial structures at least 15 years old (*Virginia Code § 58.1-3221*).
2. Tax credits on certain rehabilitated, renovated, or replaced residential structures: The County may by ordinance establish a partial tax exemption program for eligible rehabilitated, renovated, or replaced residential structures. Any structure which is at least 15 years old and which has undergone substantial rehabilitation, renovation or replacement for residential use is eligible. The tax credit is available to property owners who purchased a structure which at the time of purchase contained property tax liens exceeding 50% of the assessed value of the property when it was purchased, and the tax credit may not exceed the amount of the property tax liens at that time. The tax credit must be used by the owner of the property and can be put towards the real property taxes. The tax credit may be divided over a period of 10 years. The County may establish other criteria to determine which properties qualify and may also include credit for multifamily residential units. *Virginia Code § 58.1-3220.01.*

J. Miscellaneous

1. Action to abate a public nuisance: The County may maintain an action to compel a responsible party to abate, raze, or remove a public nuisance. If the public nuisance presents an imminent and immediate threat to life or property, then the County may abate, raze, or remove such public nuisance, and then bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any such public nuisance. The term “nuisance” includes, but is not limited to, dangerous or unhealthy substances which have escaped, spilled, been released, or which have been allowed to accumulate in or on any place and all unsafe, dangerous, or unsanitary public or private buildings, walls, or structures which constitute a menace to the health and safety of the occupants thereof or the public. *Virginia Code § 15.2-900.*
2. Allow on-street parking in residential areas: The County may by ordinance permit the parking of vehicles within residential areas in a public right-of-way that constitutes a part of the state highway system so long as the vehicle does not obstruct the right-of-way. *Virginia Code § 15.2-968.01.*

3. Regulate or prohibit parking on secondary highways: The County may by ordinance: (i) restrict or prohibit parking on any part of a secondary highway; (ii) classify the vehicles that are regulated or prohibited; and (iii) provide that the violation of the ordinance shall constitute a traffic infraction and prescribe penalties. *Virginia Code § 46.2-1222*.
4. Authorize certain building improvements to encroach on public right-of-way: The County may authorize owners or occupants of property abutting upon any public rights-of-way, within the limitations prescribed by the County, to construct and maintain within a public right-of-way awnings, fire escapes, shutters, signs, cornices, gutters, downspouts, bay windows and other appendages to buildings. The authorization is in the form of a revocable license. *Virginia Code § 15.2-2010*.
5. Accelerated sale of certain tax delinquent property: The County may petition the Circuit Court to have real estate on which there are delinquent taxes sold at a delinquent tax sale following the second anniversary of the date on which the taxes become due. However, the property may be sold following the first anniversary of the date on which the taxes become due if it: (i) contains any structure that has been condemned by the Building Official; (ii) contains any nuisance as that term is defined in Virginia Code § 15.2-900; (iii) contains any derelict building as that term is defined in Virginia Code § 15.2-907.1; or (iv) has been declared to be blighted as that term is defined in Virginia Code § 36-49.1:1. *Virginia Code § 58.1-3965*. The statute provides additional authority to allow properties to be sold at public auction.
6. Transfer of tax delinquent property: In lieu of a sale at public auction and upon petition by the County, the Circuit Court may transfer title to a tax delinquent property to the County that meets all of the following: (i) each parcel has delinquent real estate taxes or the locality has a lien against the parcel for removal, repair or securing of a building or structure; removal of trash, garbage, refuse, litter; or the cutting of grass, weeds or other foreign growth; (ii) each parcel has an assessed value of \$50,000 or less; and (iii) the taxes and liens, together, including penalty and accumulated interest, exceed 50 percent of the assessed value of the parcel or such taxes alone exceed 25 percent of the assessed value of the parcel. *Virginia Code § 58.1-3970.1*.
7. Expand the scope and use of incentive zoning: The County is authorized to provide incentive zoning in its Zoning Ordinance. At present, the Zoning Ordinance allows density bonuses for affordable housing, maintaining wooded areas, and other design elements. "Incentive zoning" means "the use of bonuses in the form of increased project density or other benefits to a developer in return for the developer providing certain features, design elements, uses, services, or amenities desired by the locality, including but not limited to, site design incorporating principles of new urbanism and traditional neighborhood development, environmentally sustainable and energy-efficient building design, affordable housing creation and preservation, and historical preservation, as part of the development." *Virginia Code §§ 15.2-2201, 15.2-2286(A)(10)*.