



# Albemarle County

## Legislation Details (With Text)

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**Attachments:** 1. Att.A - Summary of Existing Regulations, 2. Att.B - Inventory of State Enabling Authority to Promote Active and Vibrant Development Areas, 3. Presentation

Date	Ver.	Action By	Action	Result
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**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