



Albemarle County

Legislation Text

File #: 22-117, **Version:** 1

AGENDA DATE: 2/16/2022

TITLE:

Ordinance to Amend County Code Chapter 13, Solid Waste Disposal and Recycling, to Address Clutter

SUBJECT/PROPOSAL/REQUEST: Schedule a public hearing to consider the adoption of an Ordinance to amend County Code Chapter 13, Solid Waste Disposal and Recycling, to prohibit storing or accumulating clutter

ITEM TYPE: Consent Action Item

STAFF CONTACT(S): Richardson, Walker, Kamptner, DeLoria, Filardo, Svoboda, Green

PRESENTER (S): N/A

LEGAL REVIEW: Yes

REVIEWED BY: Jeffrey B. Richardson

BACKGROUND: Virginia Code § 15.2-901 (as amended in 2021) now enables localities to adopt an ordinance requiring landowners to remove or dispose of trash, garbage, refuse, litter, clutter (excepting that on land zoned for farming or in active farming), and other substances that might endanger the health or safety of other residents. The statute authorizes the County to impose civil and criminal penalties.

STRATEGIC PLAN: Mission - To enhance the well-being and quality of life for all community members through the provision of the highest level of public service consistent with the prudent use of public funds.

DISCUSSION: The attached draft ordinance would:

- 1) make it unlawful for any owner or occupant of property not zoned for farming or used for farming to store or accumulate clutter (mechanical equipment, household furniture, containers, and similar items that may be detrimental to the well-being of the community when left in public view), along with existing prohibitions against the storage or accumulation of trash and other refuse, on their property;
- 2) allow the County to require the owner or occupant to remove clutter or for the County to remove clutter itself as it is already authorized to do with trash and other refuse upon reasonable notice to the owner or occupant;
- 3) allow the County to charge the owner for the costs of removal and to impose a lien for the unpaid expenses on the property that would be treated the same as a lien for unpaid real estate taxes;
- 4) allow for the imposition of civil penalties for the unlawful storage or accumulation of clutter (\$50 for each business day a violation continues under the same operative; \$200 for violations arising from different set of operative facts; penalties limited to \$3,000 per 12-month period);
- 5) allow for criminal charges (Class 3 misdemeanor, punishable by a fine of not more than \$500) for fourth or subsequent offenses not arising from the same set of operative facts within a 24-month period; and
- 6) declare that the remedies set forth in Chapter 13, Article III, are not exclusive and do not preclude the County from pursuing other remedies such as injunctive relief, orders of abate, or nuisance declarations.

Code Compliance Officers in the Community Development Department will enforce the proposed ordinance in

the same manner as they enforce zoning violations involving unlawful trash and inoperable vehicle storage and accumulation, uncontrolled vegetation growth, and stagnant water. Enforcement will be complaint-based. Consistent with current practices, staff will educate and cooperate with property owners and occupants to obtain voluntary compliance.

BUDGET IMPACT: No budget impact is anticipated. Staff expects that the Code Compliance team in the Community Development Department will enforce this ordinance similar to how they address zoning violations involving trash and inoperable vehicle storage and accumulation. When voluntary compliance is not achieved, the County will continue to seek civil penalties and judicial decrees (abatement orders and injunctions) to resolve violations. The County has yet to use staff or outside contractors to remedy violations involving unlawful trash storage or accumulation.

RECOMMENDATION:

Staff recommends that the Board schedule the attached draft ordinance (Attachment A) for a public hearing.

ATTACHMENTS:

A - Draft Ordinance