

Town Council: Ray Burger, Thelma Gillespie, Cynthia Holdren, Joy Marino, Sarah Nock and Maphis Oswald
Mayor: Fletcher Fosque | Town Manager: Matt Spuck

Planning Commission

December 5, 2022

5:30 PM Council Chambers

Agenda

- 1) Call to Order
- 2) Attendance/ Establish Quorum
- 3) Review meeting minutes from November 7, 2022, meeting
- 4) Rezoning application for 5 Fairgrounds Road from B-2 to R-1A
- 5) Ordinance change – Property Maintenance
- 6) Commissioner comments
- 7) Adjourn

ONANCOCK.
1680

Town of Onancock

Application for Rezoning

PAID
OCT 24 2022
BY: [Signature] # 3625
150.-

Parcel Street Address: 5 Fairgrounds Rd + adjoining vacant lot Parcel Tax Map I.D.: 85A3-6-23 (Lot)
85A3-6-23A

Current Owner Name: Fletcher D Fosque

Current Owner Address: 16 Market St Onancock, VA

Current Owner Email: ffosque9@gmail.com

Applicant Name: Fletcher Fosque

Applicant Address: 16 Market St. Onancock, VA

Applicant Email: Ffosque.9@gmail.com

Owner Telephone Number: 757-710-1995 Applicant Telephone Number: same

Current Zoning: B-2 Requested Zoning: 1A

Proposed use of property: residential, single-family

What purpose will be served by rezoning this property: bring it more in conformance with adjoining two residential properties

If the applicant is not the current owner, written authorization by the owner designating the applicant as the authorized agent for all matters concerning this request must accompany this application.

A fee in the amount of \$150 must accompany this application. If a public hearing is held, the cost of advertising said public hearing shall be reimbursed by the applicant no matter the outcome of the application.

[Signature] 10/24/22

Applicant signature Date Town Manager signature Date

**AN ORDINANCE TO AMEND PART II, CHAPTER 14, ARTICLE III TITLED
“PROPERTY MAINTENANCE” TO REGULATE THE ACCUMULATION OF TRASH,
GARBAGE, REFUSE, LITTER, CLUTTER, GRASS, WEEDS, AND OTHER FOREIGN
GROWTH AS PROVIDED BY THE CODE OF VIRGINIA**

WHEREAS, the Town Council of the Town of Onancock desires to promote the public safety, health, and welfare of the residents of the Town of Onancock, and

WHEREAS, it is declared to be in the public interest to regulate and restrict the accumulation of trash, garbage, refuse, litter, clutter, grass, weeds, and foreign growth within the Town; and

WHEREAS, under Section 15.2-901 of the Code of Virginia, 1950, as amended, the Town may enact ordinances for removal or disposal of trash, garbage, refuse, litter, clutter, cutting of grass and weeds, and may establish a penalty for violations of such ordinances; and

NOW, THEREFORE BE IT ORDAINED, by the Town Council of the Town of Onancock that the following provisions be enacted regulating and restricting the accumulation of trash, garbage, refuse, litter, clutter, grass, weeds, and foreign growth within the Town as follows:

Chapter 14 – ENVIRONMENT

ARTICLE III. PROPERTY MAINTENANCE¹

Sec. 14-57. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Clutter means mechanical equipment, household furniture, containers, and similar items that may be detrimental to the well-being of a community when they are left in public view for an extended period or are allowed to accumulate. Items that constitute clutter includes items not designed, built, or manufactured for outdoor use or storage.

Garbage means all trash, garbage, refuse, litter, waste, animal and vegetable matter, and other discarded materials or debris.

Grass, weeds, and other foreign growth means vegetation unmanaged or uncontrolled of every kind growing or standing on any parcel of lot over twelve (12) inches in height other than

¹State law reference(s)— Authority to require removal of garbage, trash, etc., Code of Virginia, § 15.2-901.

flowers, vegetable gardens, trees, ornamental shrubbery, or area classified as wetlands by any government body.

~~*Property* means any lot, premises, or tax map parcel comprising real property located within the Town of Onancock. *Occupied property* means any lot or parcel of land located within the Town that either contains a structure or other improvements, or is served by the Town public water system, or is served by the Town public sewage system, and on which lot or parcel any person or entity has resided, conducted any business or activity, or physically occupied such for any period within the 45 days immediately preceding any notice by the zoning administrator.~~

Owner means any person or entity holding record title to any lot or parcel of land within the Town, including fiduciaries holding title to or having the legal care, custody, control, or management of any such lot or parcel.

~~*Same set of operative facts* means the situation or facts existing either before or after an owner has been given a notice to cut by the zoning administrator officer. The operative facts shall change only after the owner has either cut such grass, weeds, or other foreign growth into compliance after such notice, or the Town has so to cut the same.~~

~~*Undeveloped property* means any lot or parcel of land located within the Town that either does not contain a structure or other improvements or is not served by the Town public water system, or system or does not have an installed sewage service or is connect to the public sewer.~~

~~*Vacant developed property* means any lot or parcel of land located within the Town that either contains a structure or other improvements, or is served by the Town public water system, or is served by the Town public sewage system, and on which lot or parcel no person or entity has either resided, conducted any business or other activity, or physically occupied such lot or parcel at any time within the 45-day period immediately preceding any Notice notice by the zoning administrator.~~

~~*Violation* means an owner fails or has failed to cut such grass, weeds, or other foreign growth from their lot or parcel to prevent it from attaining the applicable prohibited height. A notice to cut by the zoning administrator shall not be required to constitute a violation by such owner.~~

(Code 1989, § 11-13; Ord. of 6-26-2017, § 11-13)

~~**Secs. 14-58—14-72. Reserved.**~~

Sec. 14-58. Civil penalty.

- ~~(a) Notice shall be made by U.S. Postal Service. A violation of this article shall be punishable by a civil penalty. The civil penalty violation shall be \$50.00 for the first offense. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall be \$200.00.~~
- ~~(b) Each business day during which a violation is found to exist shall be a separate offense; however, in no event shall specified violations arising from the same set of operative facts be charged more frequently than once in a ten-day period. ; and further, in no event shall a series of such violations result in civil penalties of more than \$3,000.00. in a 12-month period.~~

~~(Ord. No. completed by Municode)~~

Sec. 14-59. Applicability of article.

- ~~(a) This article shall be effective in all **zoned** areas of Town, except that they shall not be effective in any land zoned for or in active farming operation **agricultural area**; or in any area in which the cutting of vegetation required by subsections 14-109 and 14-110 is otherwise prohibited by law, including but not limited to any buffer in a Chesapeake Bay Act Resource Protection Area.~~
- ~~(b) Upon receiving notice of violation under subsection 14-60 or 14-61, it shall be the responsibility of the property owner to assert a claim of entitlement to any exception and to obtain such certifications and other documentation as may be required to substantiate the claim. Failure to assert a claim of entitlement or to present necessary documentation in support of such claim prior to the reasonable time required in the notification shall be deemed a waiver of the exception.~~

~~(Ord. No. completed by Municode)~~

Sec. 14-60. Removal required Unlawful accumulation of garbage, refuse, litter and other substances.

- ~~(a) The Town considers items such as trash, garbage, refuse, litter, uncut grass, weeds, and uncultivated vegetation growing on the structure or the property a health and safety concern. It shall be unlawful for any owners of property to allow any trash, garbage, refuse, litter, or clutter or other like substances which might endanger the health or safety of other residents to accumulate on their property. The owner of real property within the Town shall, within each consecutive ten-day period, remove therefrom all trash, garbage, refuse, litter, uncut grass, weeds, and uncultivated vegetation growing on the structure on or the property, and other substances which might endanger the health or safety of residents of the Town. If any such owner shall fail to remove the listed items and other substances within any such ten-day period, the homeowners shall have a civil penalty assessed in accordance with the provisions of section 14-58.~~
- ~~(b) Whenever such owner or owners of **real** property in the Town shall fail to comply with the provisions of paragraph (a) herein, the town ~~Town~~ manager or his ~~appointed~~ designee may, after reasonable notice given to the owner or owners of such real property of the intention so to do, have such trash, garbage, refuse, litter, uncut grass, weeds, uncultivated vegetation and other like substances which might endanger the health or safety of residents of the ~~Town~~ removed by the Town's agents or employees, and all expenses resulting therefrom ~~in~~ which event the full costs and expenses and an additional administrative fee of 10% of the amount charged or \$250.00, whichever is greater shall be chargeable to and paid by the owner, or owners, of such property and may be collected by the Town in the same manner and at the same time as taxes and levies are collected. All charges not so collected shall constitute a lien against the property.~~

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(Supp. No. 43)

(Ord. No. completed by Municode)

Sec. 14-61. Cutting grass regulated Overgrowth of Vegetation.

- (a) ~~It is unlawful for Notwithstanding the provisions of subsections 14-60(a) and (b) above, the owner, or owners, of occupied or vacant properties whether developed or undeveloped real property in the Town to allow shall cut the grass, weeds and other foreign growth on such property, to exceed twelve (12) inches. or any part thereof whenever such grass, weeds and other foreign growth reach an average height of eight inches.~~
- (b) ~~Whenever such owner or owners of real property within the Town shall fail to comply with the provisions of paragraph (a) herein, the Town manager or his designee appointee may, after reasonable notice, given by him to the owner or owners via USPS of such real property of the intention so to do, have such grass, weeds and other foreign growth cut by the Town's agents or employees, and all expenses resulting therefrom in which event the costs and expenses of \$100.00 per hour per person for removal and an additional administrative fee of \$75.00 thereof shall be chargeable to and paid by the owner or owners of such property and may be collected by the Town in the same manner and at the same time as taxes and levies are collected.~~
- (c) ~~Every charge with which the owner, or owners, of any such property shall have been assessed, as provided herein, and which remains unpaid shall constitute a lien against such property. Every such charge shall be listed in the office of the Town treasurer in the name of the person, or persons, listed as owning such property at the time such lien accrued.~~
- (d) ~~It is a violation to discharge or blow grass, leaves, or clippings into any public street. This is a safety concern for bicycles, scooters, or motorcycles. Grass and yard waste also blocks storm drains which causes flooding and property damage. The civil penalties are detailed in 14-58 and 14-62.~~

(Ord. No. completed by Municode)

Sec. 14-62. Lien.

~~Every charge with which the owner of any property regulated by this Article shall have been assessed, as provided in this article, and which remains unpaid shall constitute a lien against such property. Every such charge shall be listed in the office of the TownTown Manager in the name of the person listed as owning such property at the time such lien accrued.~~

(Ord. No. completed by Municode)

State law reference(s) – Locality may provide for removal or disposal of trash and clutter, cutting of grass, weeds, and running bamboo; penalty in certain counties; penalty; Code of Virginia 15.2-901.

Process of abatement of nuisances, Code of Virginia, § 8.01-285 et seq.

Secs. 14-62—14-72. Reserved.

This ordinance shall be effective upon adoption.

Matt Spuck

From: Matt Spuck
Sent: Tuesday, November 15, 2022 2:44 PM
To: Eric Gregory
Cc: Danielle Powell
Subject: RE: Onancock Prop Maint. and Signs

Thank you both for your work.


I have a few short questions:

1. 14-59, line 3. Can I simply remove the "required by...14-110?"
2. 14-60(a), My goal in line 1-2 is to have consequences for really tall grass and, especially, growth on a house or on its stairs and ingress/egress. We have a lot of properties that are abandoned with substandard care (and others that are just horribly maintained). I was hoping this ordinance would preclude an ordinance on blighted structures. I do want the clutter/garbage, etc. to remain.
3. 14-60 (a) line4, is "might endanger" subjective?
4. 14-61 (a), same as 2 above
5. 14-61 (b), Many other municipalities charge a premium amount per hour for this work. Any reason we can't?
6. 14-61 (d), Can we use the language from state code 18.2-324? If so, is it criminal or civil? And what can we fine?

I hope those are easy questions.

Many thanks,

Matt

	Matt Spuck Town Manager t: 757-787-3363 e: matt.spuck@onancock.com w: www.onancock.com a: 15 North Street, Onancock, 23417
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From: Eric Gregory <Eric@heftywiley.com>
Sent: Monday, November 14, 2022 5:20 PM
To: Matt Spuck <matt.spuck@onancock.com>
Cc: Danielle Powell <Danielle@heftywiley.com>
Subject: RE: Onancock Prop Maint. and Signs

Matt,

Attached are draft revisions to Onancock's Property Maintenance Ordinance, in both tracked changes and a clean version. Our associate, Danielle Powell (copied) did a good job updating the ordinance and streamlining it so it is more in accord with state code and consistent with such ordinances in other jurisdictions. Let us know what you think. Thanks.

Eric

Eric A. Gregory

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HEFTY WILEY & GORE, P.C.
ATTORNEYS AT LAW

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From: Matt Spuck <matt.spuck@onancock.com>
Sent: Tuesday, September 27, 2022 3:43 PM
To: Eric Gregory <Eric@heftywiley.com>
Subject: Onancock Prop Maint. and Signs

Hi Eric,

These are the ordinances being reviewed by Planning Commission on Monday. I appreciate your counsel.

Matt



Matt Spuck
Town Manager

t: 757-787-3363

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