

PRESENTED: March 21, 2017

ADOPTED: March 21, 2017

ORDINANCE NO. 2017 – 03 . 08

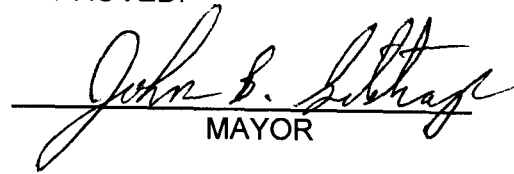
AN ORDINANCE AMENDING THE CODE OF THE CITY OF DANVILLE, VIRGINIA, 1986, AS AMENDED TO PROVIDE FOR CIVIL PENALTIES FOR CERTAIN VIOLATIONS OF THE UNIFORM STATEWIDE BUILDING CODE.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Danville, Virginia, that Section 9-4, entitled "References to Virginia Uniform Statewide Building Code", of Article I, entitled "In General", of Chapter 9, entitled "Building and Development Regulations" of the Code of the City of Danville, Virginia, 1986, as amended, be, and the same is hereby, amended and reordained as attached hereto and made a part hereof as if set forth fully herein; and

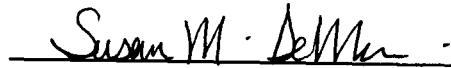
BE IT FURTHER ORDAINED by the Council of the City of Danville, Virginia, that Section 9-88, currently entitled "Reserved", of Article IIII, entitled "Maintenance of existing Buildings", of Chapter 9, entitled "Building and Development Regulations" of the Code of the City of Danville, Virginia, 1986, as amended, be, and the same is hereby, amended and reordained as attached hereto and made a part hereof as if set forth fully herein; and

BE IT FURTHER ORDAINED that all Chapters, Sections, Subsections, Subsubsections, Paragraphs, Subparagraphs, Class Descriptions, and provisions of the Code of the City of Danville, Virginia, 1986, as amended, which are not amended or repealed by this Ordinance, shall continue in full force and effect unless and until the same be, and are hereby, reordained.

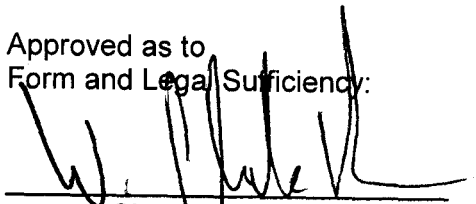
APPROVED:


MAYOR

ATTEST:


CLERK

Approved as to
Form and Legal Sufficiency:


City Attorney

Sec. 9-4. - References to Virginia Uniform Statewide Building Code.

Unless a later date is specified, all references in this Code to the Virginia Uniform Statewide Building Code, or to any part, section, or portion thereof, shall refer to the Virginia Uniform Statewide Building Code (VAC 5-61-10 et seq.), as from time to time amended, supplemented, or repromulgated, as the context may indicate. Violations of the Virginia Uniform Statewide Building Code, as it may from time to time be amended, shall be misdemeanors, unless otherwise designated herein, punishable as provided by section 36-106 of the Code of Virginia, 1950, as amended, as it may from time to time be amended.

Sec. 9-88. – Civil penalties for certain violations.

In lieu of any criminal penalty otherwise chargeable under the Virginia Uniform Statewide Building Code or by Section 36-106 of the Code of Virginia, 1950, as amended, civil penalties may be levied for certain violations of the Virginia Uniform Statewide Building Code in accordance with this Section.

- (a) Violations subject to civil penalty. Every violation of Part III of the Virginia Uniform Statewide Building Code, known as the Virginia Maintenance Code, shall be subject to civil penalty in accordance with this Section; provided, however, that any violation of Section 105 of the Virginia Maintenance Code relating to unfit structures or structures unfit for human habitation shall be prosecuted as a misdemeanor offense as is otherwise provided by this Code.
- (b) Issuance of summons. Upon a violator's failure to timely abate or remedy any of the violations identified above in compliance with a Notice of Violation issued by the Code Official or designee of the same, the Code Official, or designee, may issue a summons to such violator enumerating every individual violation found to exist at the offending property and specifying the amount of the civil penalty charged.
- (c) Schedule of penalties. The civil penalty charged in any summons issued in reference to an offending property shall be determined by the following schedule; provided, however, that a series of specified violations arising from the same set of operative facts shall not result in civil penalties which exceed a total of \$4,000.00.
 - (1) Initial summons. The civil penalty charged for any one violation found to exist at an offending property shall be \$100.00 for the initial summons issued; provided, however, that the total penalty charged by any initial summons shall not exceed \$1,000.00, irrespective of the number or nature of individual violations found to exist at that property.
 - (2) Subsequent summons. The civil penalty charged for any one violation arising from the same operative facts as any summons previously issued shall be \$350.00 for the second summons issued, and each subsequent such summons issued thereafter; provided, however, that the total penalty charged by any second or subsequent summons shall not exceed \$3,000.00, irrespective of the number or nature of individual violations found to exist at that property.

- (d) Continuing violations. Each day during which any violation identified above is found to exist shall constitute a separate offense; however, specified violations arising from the same set of operative facts shall not be charged more frequently than once in any ten (10) day period.
- (e) Waiver of trial; admission of liability. Any violator issued a summons for a violation identified above may make an appearance prior to the date fixed for trial in court, in person or in writing by mail, to the Department of Finance or the City Treasurer. Any violator who so appears may enter a waiver of trial, admit liability for the cited violation or violations, and pay the civil penalty for the violation charged. Any such person waiving trial and admitting liability shall be informed of their right to stand trial, and that a signature to an admission of liability will have the same effect as a judgment of court. As a condition of waiving trial and admitting liability, the violator and a representative of the Department of Finance or City Treasurer shall agree in writing to the terms of abatement or remediation of the violation or violations admitted within six months of the date liability is admitted and the civil penalty is paid.
- (f) Trial. If a person issued a summons for any violation identified above does not elect to enter a waiver of trial and admit liability, the violation shall be tried in general district court in the same manner, and with the same rights of appeal, as provided by law. In any such trial, it shall be the burden of the City to show liability for any cited violation by a preponderance of the evidence.
- (1) Abatement period for residential structures. If liability is found for any violation concerning a residential unit, and such violation remains uncorrected at the time of trial, the court shall order the violator to abate, or otherwise remedy through hazard control, the violation to comply with the Virginia Uniform Statewide Building Code. Except as otherwise provided by the court for good cause shown, the court shall order such violator to conduct such abatement or hazard control within six months of the date liability is found.
- (2) Abatement period for non-residential structures. If liability is found for any violation concerning a non-residential building or structure, and such violation remains uncorrected at the time of trial, the court shall order the violator to abate, or otherwise remedy through hazard control, the violation to comply with the Virginia Uniform Statewide Building Code within a time specified by the court.
- (g) Effect on criminal sanctions. Designation of any violation of the Uniform Statewide Building Code for civil penalty pursuant to this Section shall be in lieu of criminal sanctions for that violation, and, except for any violation which results in injury to any person or persons, such designation shall preclude the prosecution of any violation as a misdemeanor. No finding of liability or admission of liability, for any such violation shall be a criminal conviction for any purpose.