

## **ORDINANCE 2022-1**

### **AN ORDINANCE TO AMEND CHAPTER 4 OF THE TOWN CODE TO ADDRESS PROPERTY MAINTENANCE AND ENFORCEMENT**

WHEREAS, the Town of Warrenton's Town Code – Chapter 4 is out of date as it relates to property maintenance codes; and

WHEREAS, the Town Council has determined that the health, safety, and general welfare of the public warrant this amendment; and

WHEREAS, the Town Council initiated this text amendment on April 12, 2022; and

WHEREAS, the Town of Warrenton Town Council held a work session on June 14, 2022; and

WHEREAS, on June 14, 2022, the Town of Warrenton Town Council held a public hearing and considered the proposed text amendment; now, therefore, be it

ORDAINED by the Town Council of the Town of Warrenton this 14<sup>th</sup> day of June 2022, That the Town Council hereby approves the following text amendment to Chapter 4 of the Town Code Sections 4-1 Violations and penalties, 4-2 Building official, 4-16 Definitions, 4-17 Uniform Statewide Building Code adopted, 4-31 Purpose, 4-32 Code official, 4-33 Civil violations and penalties, 4-34 Appeals, 4-61 Dangerous Structures, and 4-62 Abatement.

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Town Clerk

Chapter 4 BUILDINGS<sup>1</sup>  
ARTICLE I. IN GENERAL  
DIVISION 1. GENERALLY

**Sec. 4-1. Violations and penalties.**

Any person guilty of a violation of the provisions of this chapter or of the Uniform Statewide Building Code shall be punished by a fine of not more than two thousand five hundred dollars (\$2,500.00). Any person convicted of a second offense committed within less than five (5) years after a first offense shall be punished by a fine of not less than one thousand dollars (\$1,000.00) nor more than two thousand five hundred dollars (\$2,500.00). Any person convicted of a second offense committed within a period of five (5) to ten (10) years of a first offense of this chapter shall be punished by a fine of not less than five hundred dollars (\$500.00) nor more than two thousand five hundred dollars (\$2,500.00). Any person convicted of a third or subsequent offense committed within ten (10) years of an offense under this chapter shall be punished by a fine of not less than one thousand five hundred dollars (\$1,500.00) nor more than two thousand five hundred dollars (\$2,500.00). Any prosecution under this section shall be commenced within the period provided for in the Code of Virginia § 19.2-8.

(Ord. No. 1994-15, 11-8-94)

State law reference(s)—~~Violations of Virginia Uniform Statewide Building~~  
Violation a misdemeanor; civil penalty, Va. Code, Code of Virginia, Ann. § 36-106.

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<sup>1</sup>Editor's note(s)—Ordinance No. 1994-15, adopted November 8, 1994, amended Ch. 4Editor's note(s)—, Arts. I-IV, §§ 1-4-9, 4-16Editor's note(s)—4-18, 4-31Editor's note(s)—4-45, 4-61Editor's note(s)—4-66, in its entirety to read as herein set out. Former Ch. 4Editor's note(s)— pertained to similar subject matter and derived from Code 1981, §§ 4-2—4-25; Ord. No. 1980-9 §§ 5-6Editor's note(s)—5-11, adopted August 5, 1980 and Ord. No. 1991-6, adopted June 11, 1991.

Cross reference(s)—Administration, Ch. 2Cross reference(s)—; garbage, trash and weeds, Ch. 8Cross reference(s)—; licenses, Ch. 9Cross reference(s)—; streets and sidewalks, Ch. 14Cross reference(s)—; properly and building numbering, § 14-91Cross reference(s)— et seq.; taxation, Ch. 15Cross reference(s)—; water and sewers, Ch. 17Cross reference(s)—; noise, § 11-19Cross reference(s)—; building operations abutting streets or sidewalks, § 14-3Cross reference(s)—; barbed wire fencing along streets, etc., § 14-9Cross reference(s)—; house sewers, § 17-196 et seq.

State law reference(s)—Authority of town relative to building regulations, to require removal, repair, etc., of buildings and other structures, Va. Code Ann. § 15.2-906; limitationLimitation of prosecutions, Va. Code of Virginia, Ann. § 19.2-8; VirginiaIndustrialized Building Safety Law, Va. Code of Virginia, Ann. § 36-70 et seq.; Uniform Statewide Building Code, Va. Code of Virginia, Ann. § 36-97 et seq.; effect of building code on Board to promulgate Statewide Code; other building codes and regulations superseded; exceptions, Va. Code of Virginia, Ann. § 36-98; enforcementEnforcement of building code, Code; appeals from decisions of local building department; inspection of buildings; inspection warrants; inspection of elevators; issuance of permits, Va. Code of Virginia, Ann. § 36-105; voluntary apprenticeshipApprenticeship Council; membership and terms of office; meetings and duties, Va. Code of Virginia, Ann. § 40.1-117 et seq.; contractorsContractors, Va. Code of Virginia Ann., § 54.1-1100 et seq.

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## Sec. 4-2. Building official.

The Town manager shall appoint a building official qualified, as required by Section 102.4.1-3 of the Virginia Uniform Statewide Building Code, who shall serve at his pleasure and under his control. The building official shall be charged with the administration and enforcement of the building code and other provisions of this chapter. The town manager may serve as the building official until such appointment is made, and he may contract with other jurisdictions for the services of a building inspector or other technical assistants.

(Ord. No. 1994-15, 11-8-94)

Cross reference(s)—Administration, Ch. 2Cross reference(s)—.

~~State law reference(s)—Power of town to enter into agreement for building code enforcement and appeals, Code of Virginia, § 36-105. State law reference(s)—~~

~~Enforcement of Code; appeals from decisions of local department; inspection of buildings; inspection warrants; inspection of elevators; issuance of permits Va. Code Ann. § 36-105.~~

## Sec. 4-3. Board of appeals.

- (a) There is hereby established a board of building code appeals.
- (b) The owner of a building or structure or any other person may appeal from a decision of the building official refusing to grant a modification of the provisions of the Uniform Basic Building Code covering the manner of construction or materials to be used in the erection, alteration or repair of a building or structure to the board of building code appeals. Application for appeals may be made when it is claimed that the true intent of the basic code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of the basic code do not fully apply, or an equally good or better form of construction can be used.
- (c) The board of appeals shall be appointed and function in conformance with the provisions of the Uniform Statewide Building Code.

(Ord. No. 1994-15, 11-8-94)

## *DIVISION 2. VIRGINIA TRADESMEN CERTIFICATION STANDARDS*

## Sec. 4-4. Official action.

The building official for the Town of Warrenton is designated to act as the enforcing agency for the enforcement of the Virginia Tradesmen Certification Standards, adopted by the Virginia Board of Housing and Community Development under authority of 54.1-1134 and 36-97, et seq. of the Code of Virginia. Enforcement shall be according to the terms of this division.

(Ord. No. 1994-15, 11-8-94)

## Sec. 4-5. Enforcement.

The enforcement of the tradesmen certification standards shall be instituted by the building official in accordance with the provisions of the Virginia Tradesmen Certification Standards.

(Ord. No. 1994-15, 11-8-94)

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#### **Sec. 4-6. Fees.**

Every person making application for examination pursuant to this division shall pay a fee of fifty dollars (\$50.00). Application fees paid pursuant to this division shall not be refunded to either successful or unsuccessful applicants.

(Ord. No. 1994-15, 11-8-94)

#### **Sec. 4-7. Appeals.**

The building code board of appeals for the Town of Warrenton is hereby designated as the appeals board to hear appeals arising from the application or interpretation of the tradesmen certification standards.

(Ord. No. 1994-15, 11-8-94)

#### **Sec. 4-8. Administrative practices.**

The building official shall establish such procedures or requirements as may be necessary for administration and enforcement of this division. The procedures are to be approved by the town council.

(Ord. No. 1994-15, 11-8-94)

#### **Sec. 4-9. Violation of division.**

It shall be unlawful for any person, firm or corporation, on or after the effective date of the ordinance from which this division derives, to violate any provision. Any such violation shall be deemed a misdemeanor and any person, firm or corporation convicted of a violation shall be punished by fine of not more than five hundred dollars (\$500.00).

(Ord. No. 1994-15, 11-8-94)

#### **Secs. 4-10—4-15. Reserved.**

### **ARTICLE II. BUILDING CODE GENERALLY**

#### **Sec. 4-16. Definitions.**

The following words and phrases when used in the building code adopted in section 4-17 shall have the meanings respectively ascribed to them in this section:

*Building department or building inspection department.* The office of the building official.

*Building official.* The building official or his designated representative.

*Municipality or name of municipality.* Whenever the words "municipality" or "name of municipality" are enclosed within brackets or parentheses or otherwise used in the building code adopted in section 4-17, they shall be held to mean the Town of Warrenton.

*State or name of state.* Wherever the words "state" or "name of state" are enclosed in brackets or parentheses or otherwise used in the building code adopted in section 4-17, they shall be held to mean the State of Virginia.

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(Ord. No. 1994-15, 11-8-94)

State law reference(s)—Uniform Statewide Building Code, Definitions ~~applicable to building code statute~~, Va. Code of Virginia, Ann. § 36-97.

#### **Sec. 4-17. Uniform Statewide Building Code adopted.**

The provisions of the ~~Building Maintenance Code of the~~ Virginia Uniform Statewide Building Code (the “building code”), as may be amended ~~or superseded~~ from time to time, together with all model codes and statutes as referenced and adopted therein ~~including, but not limited to, the BOCA National Building Code, as may be amended or superseded from time to time,~~ is hereby adopted by the town and incorporated ~~in whole herein~~ as if fully set out ~~at length herein, save and except such portions as are deleted, modified or amended by this article are hereby adopted by reference. The Virginia Uniform Statewide Building Code in its entirety. The building code~~ shall control all matters concerning the design, construction, alteration, addition, enlargement, repair, removal, demolition, conversion, use, location, occupancy and maintenance of buildings, and all other functions which pertain to the installation of systems vital to buildings and structures and their service equipment as defined by the building code, and shall apply to buildings or other structures within the town. The requirements of Part III of the building code, also known as the Virginia Maintenance Code (“VMC”), are hereby adopted as part of this code. In addition to those requirements of the building code which the town is required by law to enforce, the town does hereby elect to adopt and enforce those optional requirements of the building code and VMC.

(Ord. No. 1994-15, 11-8-94; Ord. No. 1998-16, 11-10-98; Ord. No. 2001-10, 5-8-2001)

State law reference(s)—~~Provisions of~~ Uniform Statewide Building Code, Provisions of Code of Virginia, Va. Code Ann. § 36-99.

#### **Sec. 4-18. Expansive soil testing.**

Building permits shall not be issued for residential construction for properties located in an expansive soil zone, or located within one hundred fifty (150) feet thereof, as the same is delineated on the county soils maps, until the owner shall file with the building official a report, prepared by a licensed engineer, identifying soil types located in the vicinity of the proposed building foundation. Should the report demonstrate expansive soils are present, a remediation plan must be approved by the building official prior to issuance of a building permit.

(Ord. No. 1998-16, 11-10-98)

State law reference(s)—~~Similar~~

Mandatory provisions of a subdivision ordinance, Va. Code of Virginia Ann. § 15.2-2241.

#### **Secs. 4-19—4-30. Reserved.**

### **ARTICLE III. BUILDINGVIRGINIA MAINTENANCE CODE**

#### **Sec. 4-31. AdoptionPurpose.**

Volume II, Building Maintenance Code Part III of the Virginia Uniform Statewide Building Code, ~~as may be amended or superseded from time to time, is hereby adopted by reference, including but not limited to, The BOCA National Property Maintenance Code amended by Sections 101.2 and 101.3 and adopted therein, and as may be amended or superseded from time to time, also known the Virginia Maintenance Code (“VMC”) and adopted by reference in Sec. 4-17 is~~ for the purpose of ensuring public safety, health and welfare through proper building

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maintenance and use and continued compliance with minimum standards, including the elimination of conditions that render buildings unsafe and thereby constituted serious and dangerous to life and health or to public welfare.

(Ord. No. 1994-15, 11-8-94)

#### **Sec. 4-32. Code official.**

The building official for the town shall serve as the code official for administration and enforcement of the provisions of the ~~Building Maintenance Code~~VMC.

(Ord. No. 1994-15, 11-8-94)

#### **Sec. 4-33. Civil violations and penalties.**

(a) There is hereby established civil penalties for violations of the following sections of the building code which are not abated or remedied promptly after receipt of notice of violation from the building official:

(1) VMC Sec. 301.3 (Failure to maintain vacant structures in a clean, safe, secure, and sanitary condition);

(2) VMC Sec. 302.7 (Failure to maintain accessory structures, including detached garages, fences, and walls structurally sound and in good repair);

(3) VMC Sec. 304.2 (Failure to maintain exterior protective treatments in good condition);

(4) VMC Sec. 304.13 (Failure to maintain windows, skylight, and door frames in sound condition, good repair, and weather tight);

(5) VMC Sec. 304.15 (Failure to maintain doors in good condition).

(b) The penalty for violation shall be a civil penalty of \$100.00 for the initial summons and \$350.00 for each additional summons. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any ten-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of \$4,000.00. Designation of a particular code violation for a civil penalty under this section shall be in lieu of criminal sanctions, and except for any violation resulting in injury to persons, such designation shall preclude the prosecution of a violation as a misdemeanor.

(c) Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the locality prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court. As a condition of waiver of trial, admission of liability, and payment of a civil penalty, the violator and a representative of the locality shall agree in writing to terms of abatement or remediation of the violation within six months after the date of payment of the civil penalty.

(d) If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation authorized by this section, it shall be the burden of the locality to show the liability of the violator by a preponderance of the evidence. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

(e) If the violation concerns a residential unit, and if the violation remains uncorrected at the time of assessment of the civil penalty, the court shall order the violator to abate, or otherwise remedy through hazard control, the violation in order to comply with the code. Except as otherwise provided by the court for good cause shown, any such violator shall abate, or otherwise remedy through hazard control, the violation within six

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months of the date of the assessment of the civil penalty. If the violation concerns a nonresidential building or structure, and if the violation remains uncorrected at the time of assessment of the civil penalty, the court may order the violator to abate, or otherwise remedy through hazard control, the violation in order to comply with the code. Any such violator so ordered shall abate, or otherwise remedy through hazard control, the violation within the time specified by the court.

(f) *Time limit for commencing prosecution.* Any prosecution under this section shall be commenced within the period provided for in the Code of Virginia § 19.2-8.

#### **Sec. 4-34. Appeals.**

(a) The building code board of appeals for the town is hereby designated as the appeals board to hear appeals arising from the code official's application of the ~~Building Maintenance Code~~VMC or refusal to grant a modification to the provisions of the ~~Building Maintenance Code~~VMC covering the manner of maintenance or use or the materials to be used in the maintenance or repair of that building or structure.

(b) All meetings of the board shall be open to the public and shall otherwise conform to the Virginia Freedom of Information Act. The board shall keep minutes of its proceedings, and all findings, decisions, and orders shall be reduced to writing and filed as a matter of public record in the office of the appropriate individual.

(c) The board shall conduct an annual organizational meeting to elect its officers and shall submit an annual report of the previous fiscal year's activities to the town council within 30 days of its annual organizational meeting.

(Ord. No. 1994-15, 11-8-94)

#### **Secs. 4-~~34~~35—4-60. Reserved.**

#### **ARTICLE IV. UNSAFE BUILDINGS<sup>2</sup>**

#### **Sec. 4-61. ~~When examination required~~Dangerous Structures.**

~~Whenever the town manager or his duly appointed designee shall be informed that any building or structure or part thereof in the town is dangerous or unsafe, by reason of dilapidation or otherwise, to the occupants or to persons passing in the vicinity thereof or to adjoining property, he shall cause to be made an examination of such building or structure.~~

~~(Ord. No. 1994-15, 11-8-94)~~

In addition to any other remedies provided by this Code or the Virginia Code, the town may protect public health, safety, and welfare by addressing dangerous structures as provided in this Article. The owners of property in the town shall remove, repair, or secure any building, wall or any other structure that might endanger the public

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<sup>2</sup>State law reference(s)—Authority ~~of town~~ to require removal, repair, etc., of buildings and other structures, Va. Code of Virginia, §Ann. § 15.2-906; ~~local enforcement of state regulations applicable to existing~~

Enforcement of Code; appeals from decisions of local department; inspection of buildings; inspection warrants; inspection of elevators; issuance of permits, Va. Code Ann. § 36-105.

Enforcement, collection, refunds, remedies and review of local taxes, Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1, Code of Virginia, ~~§ 36-105.~~

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health or safety of other residents of the town at such time or times as the town council may prescribe by resolution or ordinance.

**Sec. 4-62. ~~Notice to owner, etc., to show cause as to removal.~~ Abatement.**

(a) ~~—If upon examination as provided in section 4-61, it shall appear that the building or structure in question, or part thereof, is in such condition as is indicated in section 4-61, the town manager or his duly appointed designee shall issue a notice to the owner of the property or to his agent, if he is a nonresident, or to his guardian or other legal representative, as the case may be, requiring him to appear at the town planning and zoning office at a specified time, to show cause why such building or structure should not be removed or put in a safe condition.~~

(b) ~~—The notice provided for in subsection (a)~~

(a) After adoption of an ordinance or resolution under Section 4-61 of this Code, the town through its agents or employees may remove, repair, or secure any building, wall, or any other structure that might endanger the public health or safety of other residents of the town, if the owner and lien holder(s) of such property have failed to remove, repair, or secure the building, wall or other structure, after the notice provided in this section has been sent and the time to act provided in that notice has elapsed.

(1) For the purposes of the section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings.

(2) For the purposes of this section shall be served personally if possible but if the person upon whom personal service is to be made cannot be found in the town, such notice shall be sent, reasonable notice includes a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known post-office address of such person and proof thereof shall be taken and accepted in lieu of personal service the property owner and (ii) published once a week for two successive weeks in a newspaper having general circulation in the locality.

~~—(Ord. No. 1994-15, 11-8-94)~~

~~—Sec. 4-63. Order to remove or repair.~~

~~—If after hearing the case, pursuant to notice as provided in section 4-62 it shall appear that a building or structure, or part thereof, is in such condition as is indicated in section 4-61, the town manager or his duly appointed designee shall issue an order directing the owner or his agent or legal representative, within a specified time, to remove such building or structure or part thereof or to put such building or structure or part thereof in safe condition.~~

~~—(Ord. No. 1994-15, 11-8-94)~~

~~—Sec. 4-64. Procedure in event of noncompliance.~~

~~—If the building or structure or part thereof in question is not removed or put in a safe condition within the time specified in the order provided for in section 4-63, the town attorney shall cause a summons to be issued by the judge of the general district court, directing the owner or his agent or legal representative failing to comply with the order in question to appear before the general district court to show cause why the building or structure or part thereof in question should not be removed or put in a safe condition, at the expense of the owner.~~

~~—(Ord. No. 1994-15, 11-8-94)~~

~~—Sec. 4-65. Court order to comply.~~



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~~— If, at a hearing before the general district court, held pursuant to a summons issued as provided in section 4-64, no sufficient cause be shown for failure to comply with the order in question, the owner of the building or structure or part thereof in question shall be guilty of a violation of this article for each day his failure to comply with such order has continued, and the general district court shall require such building or structure or part thereof in question to be removed or put in a safe condition at the expense of the owner thereof.~~

~~— (Ord. No. 1994-15, 11-8-94)~~

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~~—Sec. 4-66. Removal, etc. by town manager.~~

~~—If the requirement of the general district court relative to the removal or putting in a safe condition of a building or structure or part thereof authorized by section 4-65, is not properly complied with, the town manager or his duly appointed designee shall have the building or structure or part thereof, in question removed or put in a safe condition and the costs thereof shall be a lien upon the real estate of the owner and may be collected as taxes or other claims due the town are collected. A suit in chancery may be brought in the circuit court of the county for the purpose of subjecting the property to the payment of such debt.~~

~~—(Ord. No. 1994-15, 11-8-94)~~

- (b) No action shall be taken to remove, repair, or secure any building, wall, or other structure for at least 30 days following the later of the return of the receipt or newspaper publication, except that the town may take action to prevent unauthorized access to the building within seven days of such notice if the structure is deemed to pose a significant threat to public safety and such fact is stated in the notice.
- (c) In the event the town, through its own agents or employees, removes, repairs, or secures any building, wall, or any other structure after complying with the notice provisions of this section, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the town as taxes are collected.
- (d) Every charge authorized by this subsection or Virginia Code § 15.2-900 with which the owner of any such property has been assessed and that remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1, Code of Virginia. The town council may by resolution waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.