

# COUNTY OF YORK

## MEMORANDUM

**DATE:** November 4, 2024  
**TO:** York County Board of Supervisors  
**FROM:** Mark L. Bellamy, Jr., County Administrator   
**SUBJECT:** Adoption of Virginia Maintenance Code

At Mr. Drewry's request, this memorandum provides a summary of the additional sections of the Virginia Maintenance Code (VMC), which the County has not adopted. Should the Board have interest in this, my specific recommendation would be to amend Section 19.6 of the County Code, which could address additional types of plant growth rather than adopting the VMC.

Attachment:

- Memorandum from Jeanne Sgroi, Senior Planner

# COUNTY OF YORK

## MEMORANDUM

**DATE:** November 4, 2024

**TO:** Mark L. Bellamy, Jr., County Administrator

**FROM:** Jeanne Sgroi, Senior Planner 

**SUBJECT:** Consideration of Adoption of the Virginia Maintenance Code

### ISSUE

Consider the adoption of the Virginia Uniform Statewide Building Code, Part III, Maintenance, commonly referred to as the Virginia Maintenance Code (VMC).

### BACKGROUND

The VMC is a tool localities can use to address blight and protect residents from unsafe structures. It contains regulations pertaining to the maintenance of existing structures to facilitate public health, safety, and welfare. It has provisions designed to provide and maintain barrier-free access for the physically handicapped and aged and prevent overcrowding, rodent or insect infestation, and garbage accumulation.

Localities can choose to adopt all or specific sections of the code. By law, all localities must adhere to Chapters 1, Administration, and 2, Definitions, of the VMC, which address unsafe structures, elevators, escalators, and related conveyances except for elevators in single-family and two-family townhouses. All Virginia localities are also required to investigate complaints relating to unlivable conditions in rental properties. In addition, York County has already adopted one section of Chapter 4 and the majority of Chapters 6 and 7 with some caveats. Section 403.3, which is in Chapter 4, addresses cooking facilities in dormitory units. York County enforces Chapter 6 (which discusses mechanical and electrical requirements) in its entirety for all buildings except single-family residential dwellings that are owner-occupied and not for rent. The County also enforces Chapter 7 (which addresses fire safety requirements) in its entirety for all buildings except for those in the R-5 use group<sup>1</sup>.

According to the Virginia Department of Housing and Community Development (DHCD) in June of 2024, approximately 45% of Virginia's cities and counties have a property maintenance official on staff—that includes 95% of cities and 25% of counties. Staff surveyed ten localities including five cities and five counties and found no correlation between population size and number of inspectors. Staff size ranged between one inspector per 6,000 citizens to one inspector per 46,000 citizens. Through interviews, we learned that the number of inspectors is driven more by enforcement tactics than population size. Some localities have only adopted portions of the VMC, others only enforce the VMC in specific

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<sup>1</sup> The R-5 use group includes one and two family dwellings (detached dwellings and townhouses) not more than three stories in height with a separate means of egress and their accessory structures.

areas of their locality, and some localities do not investigate possible violations unless a citizen has submitted a written complaint. All of these tactics reduce the need for staff, but introduce consistency issues relating to the appearance of fairness.

Staff also surveyed these localities about the number of cases that are taken to court each year. Again, through surveys, staff found that the number of cases that are taken to court each year is driven predominantly by enforcement policies rather than population size or number of inspectors. For example, Fairfax County, which has the largest population of any locality in Virginia, only took 0.003% of its population to court over non-compliance with property maintenance issues and each inspector only had about 1.3 of their cases go to court last year. In comparison, Portsmouth takes about 0.15% of its citizens to court over non-compliance with property maintenance issues and each inspector has about 9.6 of their cases go to court each year. Through interviews, we learned that the number of notices issued and extensions granted to non-complaint properties varied depending on the goals and objectives of each locality.

By adopting the property maintenance code in its entirety, York County would be adopting, in addition to what is currently adopted, Chapter 3, the remainder of Chapter 4, and Chapter 5. Chapter 3 covers general requirements like maintenance of grading and drainage systems, sidewalks and driveways, accessory structures, pools, exteriors (gutters, roofing, paint, siding, decorative features, etc.), gates, doors, building security devices like locks and latches, interior finishes (like flooring, doors, paint, plaster, trim, etc.), and carbon monoxide detectors. This chapter would require residents to protect properties from rodent and pest harborage and exterminate when rodents and pests are found. Insect screening and functioning screen doors that have self-closing mechanisms would be required and properties would be required to be free of excessive garbage. Chapter 4 includes requirements to maintain natural or artificial lighting and ventilation in all habitable spaces. It also includes requirements relating to the use of individual rooms or areas and prevents rooms from being changed from their original purpose shown on the approved Certificate of Occupancy. For example, kitchens cannot be used as sleeping areas, and bedrooms are not permitted to be accessed solely through another bedroom. Chapter 5 requires plumbing systems and facilities to be maintained, public and employee facilities to be operable at all times of occupancy (except when closed for maintenance), and stormwater conveyance systems to be maintained to prevent the accumulation of runoff.

Some notable items that have been *removed* from the VMC include provisions requiring property owners to remove tall weeds/plants and inoperable vehicles from their properties (unless the inoperable vehicle is stored inside of a structure at all times). York County enforces both of these issues and others through its Code. Section 19-6(a) of the York County Code requires property owners to keep their property free from any accumulation of solid waste, trash, garbage, refuse, litter, or other substances that might endanger the health or safety of other residents of the County or otherwise constitute a nuisance. Section 19-6(b) and (c) require property owners to maintain grass and weeds at twelve inches or less. Section 15-49 requires inoperable vehicles to be screened from view of the public.

## **BUDGET IMPACT**

Adoption of the VMC will result in the need for additional staffing in the Department of Planning and Development Services. Given the expertise required and the number of inspections involved, the County’s current zoning and building inspection staff do not have the capacity for these additional responsibilities. Staff estimates that at least four full-time inspectors, a property maintenance official/supervisor, and a permit technician would be required to enforce the VMC. All of these employees must be certified by the Virginia DHCD. Each inspector and the property maintenance official would need a vehicle, cell phone, tablet, laptop, and office space. The additional court caseload may have an impact on the County Attorney’s office as well.

Property maintenance inspectors would earn the same wage as building inspectors, so staff has estimated the cost of staff using the York County pay scale for building inspectors. Staff also relied on the County’s total compensation calculator to estimate the cost of the staff members’ benefits to the County. A property maintenance inspector would earn between \$43,000 and \$95,500 annually depending on experience. The anticipated expense of one full-time employee in this role would be approximately \$64,500 to \$143,500 per year with salary and benefits. A property maintenance official would earn a salary between \$80,500 and \$134,500, which would cost the County between \$111,000 and \$192,000 annually. A permit technician would be paid between \$37,000 and \$61,500 per year, which would cost the County \$57,000 and \$71,000 per year. Certifications for inspectors, the permit technician, and the property maintenance official would cost about \$400 each. According to the County’s Fleet Services Division, each vehicle would cost about \$43,500 the first year and \$10,500 each additional year for at least seven years. This cost includes insurance, fuel, maintenance, and vehicle replacement. A cell phone, tablet, and laptop with service, for each inspector and the property maintenance official, would cost the County approximately \$3,500 for the first year and \$100 each subsequent year. The permit technician would only need a laptop, which would cost approximately \$2,500. Overall, the cost of the program could range anywhere from \$666,400 to \$1,077,400 in the first year. Subsequent years could range from \$479,000 to \$890,000 annually. These figures do not include the cost of office space, technology maintenance, or the impact on the County Attorney’s office.

<b>Starting Salary and Benefits</b>				
Position	Frequency	Cost to County	Number of Positions	Total Cost
Inspector I	Annual	\$64,500	4	\$258,000
Property Maintenance Official	Annual	\$111,000	1	\$111,000
Permit Technician	Annual	\$57,000	1	\$57,000
<i>Total Cost</i>	<i>Annual</i>			<i>\$426,000</i>

<b>Maximum Salary and Benefits</b>				
Position	Frequency	Cost to County	Number of Positions	Total Cost
Inspector IV	Annual	\$143,500	4	\$574,000
Property Maintenance Official	Annual	\$192,000	1	\$192,000
Permit Technician	Annual	\$71,000	1	71,000
<i>Total Cost</i>	<i>Annual</i>			<i>\$837,000</i>

<b>Certifications</b>				
Item/Service	Frequency	Cost to County	Number Needed	Total Cost
Certification	First Year	\$400	6	\$2,400

<b>Vehicles</b>				
Item/Service	Frequency	Cost to County	Number Needed	Total Cost
Vehicle, Registration, Insurance, Maintenance	First Year	\$43,500	5	\$217,500
Registration, Insurance, Maintenance, Vehicle Replacement	Subsequent Years Annual	\$10,500	5	\$52,500

<b>Technology</b>				
Item/Service	Frequency	Cost to County	Number Needed	Total Cost
Cell Phone	First Year	\$0	5	\$0
Tablet	First Year	\$1,000	5	\$5,000
Laptop	First Year	\$2,500	6	\$15,000
Cellular Data	Annual	\$100	5	\$500
<i>Total Cost</i>	<i>First Year</i>			<i>\$20,500</i>
<i>Total Cost</i>	<i>Annual</i>			<i>\$500</i>

**CASE STUDIES**

Staff has provided two case studies involving examples of properties with maintenance issues. Both scenarios are real situations that have occurred in the County. Staff will show how the VMC would be applied to each property's issues.

**Case Study 1**

Scenario: An abandoned house that has foundation and footing issues caused by termites and water damage. This damage has caused the foundation to compress. The chimney is on a separate foundation. The roof has become lower in the areas where the foundation is compressed causing damage to the roof around the chimney, which has a stable foundation. The siding has buckled and is no longer fully attached to the structure because of the deterioration of the foundation and footings. Paint is missing from areas of the doors and windows. Building inspectors have deemed it unsafe to occupy.

Under the County's current laws, the property owner would be compelled to repair or demolish the building at no cost to the County. If the County adopted the VMC, enforcement measures could have been taken as soon as the condition of the house was brought to the County's attention to compel the owner to repair the issues before the damage became great enough to condemn the building.

## **Case Study 2**

Scenario: An abandoned house that is almost completely obscured by overgrown shrubs and trees. Vines cover the visible facades of the house. A section of soffit is hanging down and a few shingles are missing from the roof, but there appears to be no sagging in the roof surface. Inspectors are unable to access the inside of the property because they need permission to enter and the property owner is unreachable.

With our current laws, the County cannot do anything to address this issue until the degradation of the structure becomes great enough to cause the Building Official to declare it an unsafe structure. If the County adopted the property maintenance code, the missing shingles and the hanging soffit could be addressed but the VMC does not address the overgrowth of shrubs or vines that are not affecting the structural integrity of the home. However, the Code of Virginia Section § 15.2-901 permits localities to adopt regulations regarding provisions for cutting overgrown shrubs, trees, and other such vegetation. If the York County Code was amended to include this provision, the zoning enforcement staff of the County could address the overgrowth.

## **RECOMMENDATION**

The VMC can be a useful tool to address blight and maintain the housing stock; however, it can be expensive and unpopular among the citizenry when enforcement measures are pursued. If adopted in additional parts, or its entirety, the VMC will need to be enforced equally in every part of the county, regardless of the location or value of the house. Unlike building, electrical, plumbing, and mechanical permits that generate revenue through fees collected, permits will not be required for many of the corrective measures needed to satisfy property maintenance violations. Additional revenue will only be generated if the repairs require permits.

Each locality must reconcile the conflict between individual property rights and the collective welfare of the community. Historically, the York County Board has chosen not to include the typical single-family privately owned and occupied dwelling. Staff recommends determining the public's opinion of the adoption of the VMC prior to the public hearing if the Board wishes to take action.

A phrase staff heard repeatedly from the property maintenance officials interviewed was "ugly is not a violation." Repairs must be functional but the VMC does not require them to be aesthetically pleasing. For example, a balcony without railings could be remedied by boarding up the doors that lead out to it. The two case studies demonstrate how the VMC could address property maintenance issues in the County. In Case Study One, the VMC could have compelled the property owners to repair the structure before it became unsafe to occupy. Case Study Two was not resolved because the main issue—the overgrowth of shrubs and vines—was not addressed by the VMC. Section 19-6 of the County Code addresses tall grass and weeds. To address the overgrowth issue, staff recommends the amendment to Section 19-6 that encompasses provisions for cutting overgrown shrubs, trees, and other such vegetation as permitted by State Code Section § 15.2-901. Additionally, there are services available that assist local governments in locating absentee property owners. Staff's enforcement efforts would be enhanced by the procurement of this service.

Mark L. Bellamy, Jr.  
November 4, 2024  
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Attachments:

- Virginia Code Section § 15.2-901
- York County Code Section 19-6. Maintenance of premises; duty of owner.

## § 15.2-901. Locality may provide for removal or disposal of trash and clutter, cutting of grass, weeds, and running bamboo; penalty in certain counties; penalty

A. Any locality may, by ordinance, provide that:

1. The owners of property therein shall, at such time or times as the governing body may prescribe, remove therefrom any and all trash, garbage, refuse, litter, clutter, except on land zoned for or in active farming operation, and other substances that might endanger the health or safety of other residents of such locality, or may, whenever the governing body deems it necessary, after reasonable notice, have such trash, garbage, refuse, litter, clutter, except on land zoned for or in active farming operation, and other like substances that might endanger the health of other residents of the locality removed by its own agents or employees, in which event the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected. For purposes of this section, "clutter" includes 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.
2. Trash, garbage, refuse, litter, clutter, except on land zoned for or in active farming operation, and other debris shall be disposed of in personally owned or privately owned receptacles that are provided for such use and for the use of the persons disposing of such matter or in authorized facilities provided for such purpose and in no other manner not authorized by law.
3. The owners of occupied or vacant developed or undeveloped property therein, including such property upon which buildings or other improvements are located, shall cut the grass, weeds, and other foreign growth, including running bamboo as defined in § 15.2-901.1, on such property or any part thereof at such time or times as the governing body shall prescribe, or may, whenever the governing body deems it necessary, after reasonable notice as determined by the locality, have such grass, weeds, or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected. For purposes of this provision, one written notice per growing season to the owner of record of the subject property shall be considered reasonable notice. No such ordinance adopted by any county shall have any force and effect within the corporate limits of any town. No such ordinance adopted by any county having a density of population of less than 500 per square mile shall have any force or effect except within the boundaries of platted subdivisions or any other areas zoned for residential, business, commercial, or industrial use. No such ordinance shall be applicable to land zoned for or in active farming operation. However, in any locality located in Planning District 6 or in Planning District 22, no such ordinance shall be applicable to land zoned for agricultural use unless such lot is one acre or less in area and used for a residential purpose. In any locality within Planning District 23, such ordinance may also include provisions for cutting overgrown shrubs, trees, and other such vegetation.

4. The owners of any land, regardless of zoning classification, used for the interment of human remains shall cut the grass, weeds, and other foreign growth, including running bamboo as defined in § 15.2-901.1, on such property or any part thereof at such time or times as the governing body shall prescribe, or may, whenever the governing body deems it necessary, after reasonable notice as determined by the locality, have such grass, weeds, or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected. For purposes of this provision, one written notice per growing season to the owner of record of the subject property shall be considered reasonable notice. No such ordinance shall be applicable to land owned by an individual, family, property owners' association as defined in § 55.1-1800, or church.

B. Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local real estate 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. A locality may 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.

C. The governing body of any locality may by ordinance provide that violations of this section shall be subject to a civil penalty, not to exceed \$50 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a 12-month period or, in the case of property that is zoned or utilized for industrial or commercial purposes, \$6,000 in a 12-month period.

D. Except as provided in this subsection, adoption of an ordinance pursuant to subsection C shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. The governing body of any locality may, however, by ordinance provide that such violations shall be a Class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

Code 1950, § 15-14; 1962, cc. 400, 623, § 15.1-11; 1964, c. 31; 1968, c. 423; 1974, c. 655; 1978, c. 533; 1983, cc. 192, 390; 1990, c. 177; 1992, c. 649; 1994, c. 167; 1997, c. 587; 1999, c. 174; 2000, c. 740; 2001, c. 750; 2003, c. 829; 2006, c. 275; 2009, c. 446; 2010, cc. 161, 403, 641; 2011, cc. 542, 695; 2012, cc. 311, 403, 430, 431; 2013, cc. 189, 490, 508; 2014, cc. 383, 384, 385; 2017, cc. 118, 213, 392, 610; 2020, cc. 13, 136, 399, 597; 2021, Sp. Sess. I, c. 125; 2023, c. 724; 2024, c. 731.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

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**Sec. 19-6. Maintenance of premises; duty of owner.**

- (a) *Duty to maintain free from health and safety endangering substances and nuisances.* It shall be the duty of the owners of real property in the county to maintain such property at all times free from any accumulation of solid waste, trash, garbage, refuse, litter or other substances which might endanger the health or safety of other residents of the county or otherwise constitute a nuisance.
- (b) *Duty to cut grass on occupied residential property.* It shall be the duty of the owners of occupied residential property to cut grass and lawn areas as frequently as necessary to maintain such areas at twelve inches (12") in height or less and in accordance with the distances to surrounding properties and rights-of-way prescribed in subsection (c) below, or to a maximum coverage of one-half acre, whichever is less.
- (c) *Duty to cut grass, weeds, and other foreign growth, on any other occupied or vacant developed or undeveloped property.* It shall be the duty of the owners of any occupied or vacant developed or undeveloped real property in the county not covered by subsection (b) above to provide for the cutting of grass, weeds and other foreign growth on such property or any part thereof as provided for in this section.
- (1) Mowing on the portions of such property located 150 feet or less from an existing principal building or structure on any surrounding property shall occur as frequently as necessary to maintain the grass/weeds at a height of twelve (12) inches or less.
- (2) Mowing of property shall occur as frequently as necessary to maintain the grass/weeds at a height of twelve (12) inches or less within fifty (50) feet of the road right-of-way line in the following cases:
- a. Any property abutting an existing public street/road within the Virginia Department of Transportation system which was platted and constructed as part of a subdivision development; or
  - b. Any property abutting an existing private street which was platted and constructed as part of a subdivision development and which is owned and maintained by a property owner's association; or
  - c. Any property zoned for commercial or industrial use and which abuts a road in the Virginia Department of Transportation Primary System.
- (d) In addition to the mowing required by the preceding sections, mowing shall be required on such other property as is determined by the County Administrator, in consultation with the Division of Animal Control, to be a breeding and harboring place for insects, reptiles or rodents, or to constitute any other hazards that endanger or may endanger the public health, safety, or welfare.

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- (e) The mowing requirements set forth in subsections (b), (c), and (d) above shall not apply to:
- (1) Property that is being actively farmed for crop production or maintained as pasture land for livestock grazing purposes or which is zoned RC, RR, IL or IG;
  - (2) Protected wetland areas or other environmentally sensitive and regulated areas;
  - (3) Areas being maintained and designated as natural "hazards" on an active and operational golf course;
  - (4) The forest "floor" in any mature wooded area where the predominant tree height is four (4) feet or greater;
  - (5) An area being reforested which meets the survival rate standards of the Virginia Department of Forestry and where the trees have reached a height of four (4) feet or greater;
  - (6) Any areas that are within the distance from principal buildings or structures specified above, but which are separated from said principal buildings or structures by a mature wooded buffer area at least fifty (50) feet in width and being sufficiently dense in plant material to meet the Type 50 Transitional Buffer standards of the York County Zoning Ordinance;
  - (7) Areas within fifty (50) feet of streets/roads prescribed above but which are separated from the adjacent roadway by an area parallel to the roadway in which trees and/or bushes of sufficient density and maturity as to screen direct views of the grass/weeds beyond; and
  - (8) Any areas where the County Administrator determines mowing to be unnecessary or impractical due to extenuating circumstances such as, but not limited to, topography, accessibility, or the adequacy of buffering for adjacent principal buildings or structures.
- (f) *Special provisions regarding control of running bamboo.*
- (1) For the purposes of this section, "running bamboo" means any bamboo that is characterized by aggressive spreading behavior, including species in the genus *Phyllostachys*.
  - (2) No landowner shall allow running bamboo to grow without proper upkeep and appropriate containment measures, including barriers and trenching; and
  - (3) No landowner shall allow running bamboo to spread from his property to any public right-of-way or adjoining property not owned by the landowner.
- (g) *Authority of administrator to investigate and cause work to be done.* The County Administrator may investigate conditions existing on any real property in the county at any time and, upon a determination that the owner of such property stands in

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violation of his duty as provided in this section, written notice shall be provided to the owner and to the person primarily responsible if different from the owner of such property stating the facts which constitute a violation of paragraphs (a), (b) or (c) above and directing the owner to take such action as may be necessary to rectify such conditions within seven (7) days of the date of the notice and, if the owner shall fail to comply with the notice to cut the overgrown grass, weeds or foreign growth, then the County Administrator shall cause to be done such work as may be necessary to abate the offending condition by agents or employees of the county. Only one (1) such notice of violation shall be required for any individual property per growing season and if the property owner fails to keep the grass, weeds or other foreign growth on the property cut so as not to exceed twelve inches (12") in height the County's agents or employees may be immediately engaged to correct the violation and to bill the costs of such corrective actions to the property owner. In the case of running bamboo, failure to implement appropriate containment measures in accordance with a notice of violation shall be cause for assessment of the penalties set forth in subsection (j) below.

- (h) *Billing and collection of expenses.* All expenses resulting from the correction of a violation by the agents or employees of the county shall be billed to the owner and shall, unless paid in full within fifteen (15) days, be certified by the County Administrator to the County Treasurer who shall collect such amount as taxes and levies are collected; and all charges not so collected shall constitute a lien against such property.
- (i) *When notice deemed served.* Any notice required by this section shall be conclusively deemed to have been served when mailed by certified or registered mail to the current owner at the address shown on the land records of the Commissioner of the Revenue of the county or when personally delivered to such owner of record.
- (j) *Penalty for violation.*
  - (1) A violation of subsections (b) shall be subject to a civil penalty, not to exceed \$100.
  - (2) A violation of subsections (a), (c), (d), and (f) shall be subject to a civil penalty, not to exceed \$50 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200. Each business day during which a violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a 12-month period.

(Ord. No. 08-6, 4-15-08; Ord. No. 08-13(R), 9-2-08; Ord. No. 15-4, 5-19-15; Ord. No. 18-9, 4-17-18; Ord. No. 20-2, 2-18-20; Ord. No. 24-6, 5-7-24)