

**ACTION ITEM
BOARD OF SUPERVISORS**

DATE: August 18, 2009

TO: Board of Supervisors

FROM: Joseph L. Howard, Jr.
County Attorney



ISSUE: Amend the County Code Regarding Chapter 24, "Vegetation"

STAFF RECOMMENDATION: Approval

BUDGET IMPACT: N/A

ATTACHMENTS: (2)

- [1] Background Report
- [2] **Reso/Ord/Proc #** O09-33
- [] **Reso/Ord/Proc #**
- [] **Reso/Ord/Proc #**

REVIEW: [X] County Administrator's Office



[X] Planning & Zoning



- [] **Consent Agenda**
- [] **Discussion Item**
- [] **New Business**
- [] **Other Business**
- [] **Presentation**
- [X] **Public Hearing**
- [] **Unfinished Business**

PRESENTATION BY: N/A

ELECTION DISTRICTS: N/A

BACKGROUND REPORT

The Board requested the General Assembly to amend the State Code to allow the County to cut overgrown grass on occupied residential property as part of its legislative initiatives. Currently the County has authority to cut grass only on vacant property. SB 881 was approved by the 2009 General Assembly giving the County authority to enact an ordinance to cut grass on occupied residential property.

In addition, other provisions of Chapter 24 were modified to come into compliance with current corresponding State Code provisions.

Staff recommends approval of proposed Ordinance O09-33, which would grant the County authority to (1) cut grass on vacant developed or undeveloped property, not being actively farmed, where the grass is six (6) inches in height or taller; (2) cut grass on occupied residential property where the grass is twelve (12) inches in height or taller; (3) charge such costs and expenses to the owner of the property; (4) collect these costs and expenses as taxes are collected; and (5) charge an individual who destroys vegetation upon any park authority land with a Class 3 misdemeanor. These amendments would reflect the changes in the Va. State Code enabling legislation and the desires of the Board.

PROPOSED

BOARD OF SUPERVISORS
COUNTY OF STAFFORD
STAFFORD, VIRGINIA

ORDINANCE

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the 18th day of August, 2009:

MEMBERS:

George H. Schwartz, Chairman
Harry E. Crisp II, Vice Chairman
M. S. "Joe" Brito
Mark Dudenhefer
Paul V. Milde III
Cord A. Sterling
Robert "Bob" Woodson

VOTE:

On motion of , seconded by , which carried by a vote of , the following was adopted:

AN ORDINANCE TO AMEND AND REORDAIN STAFFORD
COUNTY CODE, CHAPTER 24, ENTITLED "VEGETATION"

WHEREAS, the Board requested the General Assembly to grant Stafford County the authority to cut grass on occupied residential property, similar to the authority it has to cut grass on vacant property; and

WHEREAS, the General Assembly granted the County the authority to cut grass on occupied residential property through SB 881; and

WHEREAS, the Board desires to amend and reenact Stafford County Code, Chapter 24, entitled "Vegetation", to allow Stafford County to cut grass on occupied, residential property that is 12 inches in height or taller; and

WHEREAS, the Board has conducted a public hearing and carefully considered the recommendations of staff and the testimony at the public hearing; and

WHEREAS, the Board finds that public necessity, convenience, and general welfare requires adoption of such an ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 18th day of August, 2009, that Stafford County Code, Chapter 24, be and it hereby is amended and reordained as follows, all other portions remaining unchanged:

ARTICLE I. IN GENERAL

Sec. 24-1. Removing, damaging, etc., vegetation.

(a) It shall be unlawful for any person to pick, pull, pull up, tear, tear up, dig, dig up, cut, break, injure, burn or destroy, in whole or in part, any tree, shrub, vine, plant, flower or turf found growing or being upon the land of another, or upon any land reserved, set aside or maintained by the state or the county as a public park or as a refuge or sanctuary for wild animals, birds or fish, or upon any land reserved, set aside or maintained as a public park by a park authority created under the provisions of Code of Virginia, § 15.2-5702, without having previously obtained the permission in writing of such owner or his agent, or of the superintendent or custodian of such park, refuge or sanctuary, so to do, unless the same be done under the personal direction of such owner, his agent, tenant or lessee, or superintendent or custodian of such park, refuge or sanctuary.

(b) Any person violating this section shall be guilty of a class 3 misdemeanor; provided, however, that the approval of the owner, his agent, tenant or lessee, or the superintendent or custodian of such park, refuge or sanctuary afterwards given in writing or in open court shall be a bar to further prosecution or suit.

(Code 1979, § 19-19)

Cross references: Penalty for class 3 misdemeanor, § 1-11; removing or damaging vegetation on church or cemetery property, § 17-17.

State law references: Similar provisions, Code of Virginia, § 18.2-140.

Secs. 24-2--24-15. Reserved.

ARTICLE II. WEEDS*

***Cross references:** Accumulations of solid waste on private property, Code of Virginia, § 21-51 et seq.

Sec. 24-16. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Director: The director of ~~code compliance~~ Planning and Zoning.

Sec. 24-17. Cutting and removal of grass, weeds and other foreign growth from on vacant property.

(a) The owners of ~~all vacant developed or undeveloped property, within the boundaries of platted subdivisions and other areas zoned for residential, business, commercial and industrial use in the county including such property upon which buildings or other improvements are located,~~ shall cut and remove the grass, weeds and other foreign growth from on such property or any part thereof and maintain such growth to six (6) inches in height or less at all times.

(b) Reasonable notice by Stafford County for the cutting ~~and removal~~ of such grass, weeds and other foreign growth shall be given by ~~registered return receipt first class mail or personal delivery or by delivery of a written notice~~ first class mail or personal delivery to the owner of such vacant ~~let~~ property to cut such grass, weeds or other foreign growth, as provided in such notice, the county administrator may have such grass, weeds, and other foreign growth cut and ~~bill the owner for the work charge the cost and expense to the owner of the property and may collect these costs and expenses as taxes are collected.~~

~~(e) Upon the owner's failure to pay such bill, it shall be placed upon the tax bill of the owner and collected as taxes are collected.~~

(c) If an owner is unknown or cannot be found, the notice referred to in subsection (b) of this section shall be dispensed with.

~~(d) Owners of occupied residential real property (property zoned R-1, R-2, R-3, R-4, PD-1, PD-2 and A-2) shall cut the grass or lawn area of less than one half acre on such property or any part thereof when growth on such grass or lawn area exceeds twelve (12) inches in height; or may whenever the governing body deems it necessary, after reasonable notice, have such grass or lawn area 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 county as taxes and levies are collected. Violation of such ordinance may be punishable by a civil penalty of one hundred dollars (\$100.00).~~

~~(e)~~ (d) Subsection ~~(d)~~ (a) above shall not apply to land in active farming operation or land that has been reserved, set aside or maintained by the State, a park authority or the County as a public park, regardless of how such land is zoned.

State law references: Cutting and removal of grass, weeds and other foreign growth from vacant property, Code of Virginia, §§ ~~15.1-11~~ 15.2-901.

~~Sec. 24-18. Report of violation of section 24-17.~~

~~Any person aggrieved by the presence of weeds in violation of section 24-17 may report such presence of weeds to the director, which report shall be in writing and signed by the person aggrieved.~~

Sec. 24-18. Cutting of grass on occupied residential real property

(a) Owners of occupied residential real property shall cut the grass or lawn area of less than one-half acre on such property or any part thereof and maintain such growth on such grass or lawn area to twelve (12) inches in height or less at all times.

(b) Reasonable notice by Stafford County for the cutting of such grass, weeds and other foreign growth shall be given by first class mail or personal delivery to the owner of such occupied property. Upon the failure of the owner of such occupied lot to cut such grass, weeds or other foreign growth, as provided in such notice, the county administrator may have such grass, weeds, and other foreign growth cut; charge the cost and expense to the owner of the property; and may collect these costs and expenses as taxes are collected.

State law references: Authority to cut growth of grass or lawn area in certain counties, Code of Virginia, §§ 15.2-1215.

Sec. 24-19. ~~Inspection and notice to cut.~~ Penalties

~~(a) Upon receipt of a report pursuant to section 24-18, the director shall cause the site of the reported violation to be inspected. When the director has determined, from such report and inspection or otherwise, that a violation of section 24-17 exists, he shall notify the owner of the land or lot on which the violation exists to cut or cause to be cut the weeds complained of within such reasonable time as is specified in the notice. Such notice shall be in writing and given by certified mail to the last known address of the owner. It shall be unlawful and a Class 4 misdemeanor for any such owner to fail to comply with such notice.~~

(a) A violation of Section 24-17(a) herein may be subject to a civil penalty of \$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 such 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.

~~(b) If an owner is unknown or cannot be found, the notice referred to in subsection (a) of this section shall be dispensed with and the director shall proceed as provided in section 24-20.~~

(b) A violation of Section 24-18(a) herein may be punishable by a civil penalty not to exceed \$100.

State law references: Authority to require cutting of weeds, Code of Virginia, § ~~15.1-11~~, 15.2-901 and 15.2-1215.

~~Sec. 24-20. Cutting by county.~~

~~(a) If weeds are not cut within the time required by the notice provided for in section 24-19, the director shall cause them to be cut and the cost and expense thereof assessed against the owner of such property. Such assessment shall be collected by the county as taxes and levies are collected.~~

~~(b) Every charge authorized by this section with which the owner of any property shall have been assessed and which remains unpaid shall constitute a lien against such property.~~

~~**State law references:** Authority for above section, Code of Virginia, § 15.1-11.~~

AJR:JLHjr:GGR:ce