Town of Dumfries
Council Meeting

Meeting Date: October 1, 2013

Agenda Item# XIV - B

AGENDA ITEM FORM

TYPE OF AGENDA ITEM:
- ☐ CONSENT AGENDA
- ☐ PRESENTATION
- ☑ ACTION ITEM
- ☐ TOWN MANAGER & STAFF COMMENTS
- ☑ PUBLIC HEARING
  - ☑ Duly Advertised

PURPOSE OF ITEM:
- ☐ INFORMATION ONLY
- ☐ DISCUSSION ONLY
- ☑ DISCUSSION AND/OR DECISION
  - ☐ Introduction ☐ Resolution
  - ☐ Ordinance ☐ Grant/MOU
  - ☑ By Motion ☐ Bylaws
  - ☐ Certificate

PRESENTER: Laura O'Dell **PRESENTER TITLE:** Planner/Zoning Administrator

AGENDA ITEM:
Public Hearing on the Adoption of Virginia Maintenance Code'

BACKGROUND / SUMMARY:
The Virginia Maintenance Code (VMC) is a supplemental chapter under the Uniform Statewide Building Code (USBC) and not required by state code. The Town has adopted the USBC, but the VMC has not been adopted. The VMC sets minimum standards of maintenance for the interior and exterior of structures. The VMC is a vital to preserving the health, safety, and welfare of residents and the buildings they occupy in Town. Town Staff regularly receive complaints about buildings in Town. We currently do not have any means to require property owners to maintain these structures. The Blight Code only applies to structures that have been vacated for a period of over one year, therefore if a property is occupied there is very little that the Town can enforce to correct properties that need repair. The VMC sets a minimum standard for health and safety at the least possible cost to the property owner, thus preventing the development of a blighted property.

ATTACHMENTS:
Proposed Ordinance

REQUESTED ACTION: ☐ NO ACTION REQUESTED
Vote on Introduction of the Ordinance(if approved will move to the consent agenda 11-12-13)

FOR MORE INFORMATION, CONTACT: Name:
Phone#: E-mail:

FOR USE DURING MEETING **VOTE:** ☐ PASSED ☐ NOT PASSED

Y	N		Y	N		Y	N	
☐	☐	Brewer	☐	☐	Foreman	☐	☐	Forrester
☐	☐	Reynolds	☐	☐	Toney	☐	☐	Washington
☐	☐	Wood						

AT A REGULAR MEETING OF THE DUMFRIES TOWN COUNCIL, HELD ON NOVEMBER 12, 2013, IN COUNCIL CHAMBERS, 17755 MAIN STREET, DUMFRIES, VIRGINIA: ON A MOTION MADE BY , AND SECONDED BY , THE FOLLOWING ORDINANCE WAS REQUESTED TO MOVE FORWARD TO A PUBLIC HEARING BY THE FOLLOWING VOTE:

Charles C. Brewer, ;
Gerald M. Foreman, II, ;
Kristin W. Forrester, ;
Helen D. Reynolds, ;
Willie J. Toney, ;
Gwen P. Washington, ;
Derrick R. Wood, ;

AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF DUMFRIES, VIRGINIA, AS AMENDED, BY ADDING ARTICLE IV, TO CHAPTER 14, SECTIONS 190-195 RELATING GENERALLY TO MAINTENANCE AND CARE FOR RESIDENTIAL PROPERTIES

WHEREAS, a review of the Dumfries own Code shows there is no Town Ordinance requiring a minimum standard of maintenance and care for residential properties, and

WHEREAS, it is in the public interest, health, safety and welfare that the Town Council adopt a maintenance code to provide for minimum standards of maintenance for residential properties in Town; and

WHEREAS, Town Council discussed the matter at their August 20, 2013 meeting and directed staff to move forward with scheduling a public hearing on an ordinance to adopt the Virginia Maintenance Code of the Virginia Uniform Statewide Building Code to require property owners to maintain their property, and

WHEREAS, Town Council requested the Town Manger advertise a public hearing at their September 3, 2013 meeting, and

WHEREAS, Town Council held a duly advertised public hearing on October 1, 2013.

NOW, THEREFORE BE IT ORDAINED by the Council of the Town of Dumfries on this the 12th day of November, 2013, that the Code of Ordinances, Town of Dumfries, Virginia, as amended, is further amended by adding Article IV, to Chapter 14, Sections 14-190 through Section 14-195 and is enacted as follows:

Article IV of Chapter 14, Virginia Maintenance Code

Sect. 14-190 Code Official

The Zoning Administrator shall be appointed to Code Official, or any Town official with requirements as set forth by the State of Virginia by having achieved Advance Official certification by the VA Department of Housing and Community Development.

Sect. 14-191 Adoption

The Maintenance Code provisions, Part III of the Virginia Uniform Statewide Building Code and amendments thereto, as adopted by reference and promulgated by the State Board of Housing and Community Development, are hereby adopted by reference as the official Property Maintenance Code of the Town of Dumfries (the "Maintenance Code"). A copy of the Maintenance Code will be available for review at the Town office.

The Maintenance Code shall be the standard of maintenance, rehabilitation, development, and reuse of existing buildings and structures, and their associated equipment, whether occupied or vacant, after completion of construction, or where not otherwise regulated by the building code.

Sect. 14-192 Enforcement

Inspections and enforcement shall be conducted by the Code Official and/or Technical Assistant. The Code Official shall be responsible for assuring that all powers are carried out in accordance with the provisions of the Maintenance Code.

Interior inspections shall not be conducted unless invited into the dwelling by the occupant, or unless authorized by the court. Interior inspections will be used only to ensure adequate living standards are provided to the tenant from the landlord; however, life safety concerns will prevail in all circumstances.

Sect. 14-193 Landlord Tenant Disputes

All tenants reporting property maintenance complaints must first show proof that they have contacted the owner and allowed a reasonable amount of time for repairs to be made. If legal proceedings have begun between the tenant and landlord the Town will not become involved.

Sect. 14-194 Penalties

Whoever violates any provisions of this Chapter, by doing a prohibited act, or failing to perform a required act, or failing to perform permitted acts in the prescribed manner shall be subject to the penalties as specified in the USBC.

A. Criminal

Unless designated otherwise in this Article, violations of this Chapter are misdemeanors and, upon conviction, may be punished by a fine of not more than that amount authorized for violations of the USBC by Code of Virginia, Sect. 106 of Chapter 36; additionally if the violation remains uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in good order to comply with the Code. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within six months of the date of conviction. Each day during which the violation continues after the court ordered abatement period has ended shall constitute a separate offense.

B. Civil Penalties

1. There are hereby established civil penalties for any violation of the provisions of Part III of the USBC, known as the Virginia Maintenance Code (Maintenance Code), excluding the provisions of Section 105 of The Code - Unsafe Structures or Structures Unfit for Human Habitation, which are prosecuted as set forth in Subsection (14-194A) above. Upon failure to abate or remedy pursuant to a notice of violation, the Code Official or designee may issue a civil summons to any person in violation of any of the provisions of the Maintenance Code as enumerated herein. The penalty for any one violation shall be a civil penalty of not more than $150 for the initial summons, and not more than $150 for each additional summons. However, subsequent specified violations arising from the same operative set of facts shall not be charged more frequently than once in a ninety 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 $3,000.

2. Any person summoned for a scheduled violation may make an appearance in person or in writing by mail to the Town Treasurer 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 person 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 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.

3. 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.

4. If the violation concerns a residential unit, and if the violation remains uncorrected at the time of the 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.

Sect. 14-195 Appeals

The Maintenance 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 Maintenance Code.

This ordinance shall become effective on November 12, 2013.

By Order of Council:

_____
Gerald M. Foreman, Mayor

Attest: _____
Dawn Hobgood, Town Clerk