

## Chapter 78

### BUILDINGS, REPAIR OR REMOVAL OF

[HISTORY: Adopted by the Town Council of the Town of Pennington Gap 9-15-2003 by Ord. No. 4-2003. Amendments noted where applicable.]

[Amended Reasonable Notice def. on December 21,2020]

[Adopted § 78-9, 10, 11, 12, 13, 14 by Council vote on April 18, 2022]

#### GENERAL REFERENCES

Numbering of buildings — See Ch. 74.

Nuisances — See Ch. 129.

Property maintenance — See Ch. 136.

#### § 78-1. Purpose.

It is the purpose of the Town Council of the Town of Pennington Gap to help protect the public health and safety of the residents of the Town by enacting this chapter requiring an owner of a building to repair, secure or remove any building, wall or other structure that endangers the public health and safety of the residents of the Town.

#### § 78-2. Definitions.

For the purpose of this chapter the following terms and phrases shall have the meaning given here:

**CORRECTIVE ACTION** —% The taking of steps which are reasonably expected to be effective to repair, secure or remove any building, wall or other structure that endangers the public health and safety of the residents of the Town.

**OWNER** —% The record owner of real property.

**REASONABLE NOTICE** —% Includes a written notice (1) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner or (2) published once a week for two successive weeks in a newspaper having general circulation in the locality. No action shall be taken by the locality to remove, repair or secure any building, wall or other structure for at least 30 days following the later of the return receipt or newspaper publication.

**TOWN** —% The Town of Pennington Gap, Virginia.

#### § 78-3. Failure to take corrective action.

The locality, through its own agents or employees, may remove, repair or secure any building, wall or other structure which might endanger the public health or welfare of its residents, if the owner and lien holder of such property, after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure the building, wall or other structure. For purposes of this section, “repair” may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. No

corrective action shall be undertaken by the Town to remove, repair or secure any building, wall or other structure for at least 30 days following the later of the return receipt of notice or the newspaper publication.

**§ 78-4. Assessment of costs.**

If the Town undertakes the corrective action with respect to the property after complying with the notice provisions found herein, the costs and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the Town in the same manner as taxes and levies are collected. Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property with the same priority as 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, Title 58.1 of the Code of Virginia (1950), as amended.

**§ 78-5. Corrective action by owner.**

If the owner of such property takes timely corrective action pursuant to this chapter, the Town shall deem the problem abated and shall close the proceeding without any charge or costs to the owner and shall promptly provide written notice to the owner that the proceeding has been terminated satisfactorily. The closing of a proceeding shall not bar the Town from initiating a subsequent proceeding, should it become necessary at a later date.

**§ 78-6. Additional rights or remedies.**

Nothing in this chapter shall be construed to abridge or waive any rights or remedies of any owner of property at law or in equity.

**§ 78-7. Statutory authority.**

This chapter is adopted pursuant to § 15.2-906 of the Code of Virginia, 1950, as amended.

**§ 78-8. Violations and penalties.**

An owner who fails to take corrective action following reasonable notice, as provided herein, shall be subject to civil penalties in an amount not to exceed \$1,000, in addition to the costs and expenses specified in § 78-4 above.

**§ 78-9. Violations.**

Unless otherwise specified, any person violating any provision of this article shall be guilty of a class 2 misdemeanor. Each day a violation continues shall be deemed a new and separate violation.

Definitions;

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Enforcement officer means the town enforcement officer or his designee.

Derelict building means a residential or nonresidential building or structure, whether or not construction has been completed, that might endanger the public's health, safety or welfare, and for a continuous period in excess of six months has been:

(1)Unoccupied; (2) boarded up; and (3) Not lawfully connected to electric service from a utility service provider, or not lawfully connected to any water or sewer service from a utility service provider.

Person means any individual, firm, owner, sole proprietorship, partnership, corporation, unincorporated association, governmental body, municipal corporation, executor, administrator, trustee, guardian, agent, occupant or other legal entity.

**§ 78-10. Enforcement.**

The enforcement officer is hereby vested with the authority to require the abatement of derelict buildings pursuant to the provisions of this article and other applicable codes, laws and regulations.

- (a) Whenever it shall com to the knowledge of the enforcement officer that there exists upon land in the town any derelict building, he shall notify the owner of the derelict building that the owner must submit a work plan within 90 calendar days to either demolish the derelict building or renovate the derelict building so that lawful use and occupancy of the building or structure is possible.
- (b) The notice of declaration of derelict building shall be sent by certified mail to the owner at the address in the real estate tax assessment records. If the owner's address on the real estate tax assessment records is the address of the derelict building, the enforcement official may also post a copy of the notice on the derelict build.
- (c) The notice of declaration of derelict building shall also constitute legal notice under article I of this chapter.
- (d) Any person sent a notice of declaration of derelict building pursuant to this section who shall fail to comply with the time specified for submitting a work plan shall be guilty of a class 2 misdemeanor.
- (e) Nothing in this article shall prohibit an owner from requesting that his building or structure be evaluated for a declaration of derelict building.

**§ 78-11. Submittal of work plan by owner; approval by enforcement official.**

- (a) The work plan required to be submitted by the owner shall be on a form prescribed by the enforcement official. The work plan must provide a proposed time within which the plan must be commenced and completed. The work plan may include one or more adjacent properties of the owner, whether or not all have been declared to contain a derelict building. The contents of the plan and the proposed schedule shall be subject to approval by the enforcement officer and shall be deemed noncompliant until such plan is approved.
- (b) Once the enforcement officer approves the work plan, the contents of the work plan and the schedule for commencement and completion of the work plan shall be binding on the owner. Failure to comply with the contents of the approved work plan or the dates for commencement and completion shall constitute a class 2 misdemeanor.

- (c) Any approval granted by the enforcement officer under this section shall not relieve the owner of property located in any historic district from complying with the approval requirement established by relevant provisions of the zoning ordinance before any permit can be issued or any demolition/renovation work can commence.

**§ 78-12. Work plan completion; permit fee refund.**

- (a) If approved work plan calls for demolition of the derelict building, upon submittal of proof of demolition within the prescribed time period, the owner shall be given a refund of the demolition permit fees.
- (b) If the approved work plan calls for renovation of the derelict building, upon submittal of proof of renovation in the prescribed time period, the owner of the derelict building shall be given a refund of 50 percent of the building permit fees.

**§ 78-13. Tax abatement.**

- (a) Prior to commencement of an approved work plan to demolish or renovate a derelict building, the owner may request the real estate assessor to make an assessment of the derelict building.
- (b) After demolition, at the request of the owner, the real estate assessor shall reflect the reduction in the assessment as a result of the removal of the derelict building.
- (c) After renovation, at the request of owner, the real estate assessor shall reflect the fair market value of the renovation improvements in the real estate tax assessment records. The real estate tax in an amount equal to the increase in fair market value of the renovations shall be abated for a period of 15 years, and is transferable with the property.
- (d) Notwithstanding the provisions of the section, the tax abatement process is not available for any property which either is a registered state landmark or is determined by the state department of historic resources to contribute to the significance of a registered historic district.

**§ 78-14. Additional remedies of the town.**

Notwithstanding the provisions of this article, the town may proceed to make repairs, secure the derelict building, demolish the derelict building, abate the nuisance, or exercise any and all other remedies, pursuant to the Code of Virginia, title 15.2, the uniform statewide building code, and this Code.