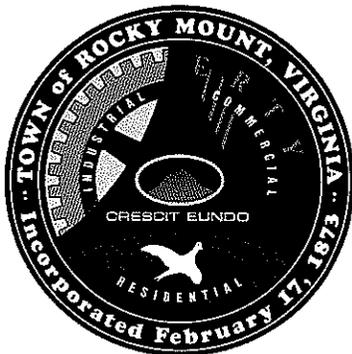


TOWN OF ROCKY MOUNT
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PLANNING COMMISSION
JANET STOCKTON, *Chair*
JOHN SPEIDEL, *Vice Chair*

BUD BLANCHARD JERRY W. GREER, SR.
INA CLEMENTS DERWIN HALL
JOHN TIGGLE

C. JAMES ERVIN, *Town Manager*
MATTHEW C. HANKINS, *Assistant Town Manager*
& *Community Development Director*

PLANNING COMMISSION AGENDA
Tuesday, December 4, 2012 • 6 p.m.

Call to Order and Welcome

Janet Stockton, Chair

1. Roll Call of Members Present
2. Approval of Agenda
3. Old Business
 - a. iPads
4. New Business
 - a. Proposed changes to the Town Code regarding Weed & Trash Abatement
 - b. 2013 Meeting Calendar
5. Commissioner Concerns & Staff Updates
6. Adjournment

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TOWN COUNCIL
STEVEN C. ANGLE, MAYOR
GREGORY B. WALKER, VICE MAYOR

BOBBY M. CUNDIFF P. ANN LOVE
JERRY W. GREER, SR. BOBBY L. MOYER
BILLIE W. STOCKTON

MATTHEW C. HANKINS
Assistant Town Manager
Director, Community Development

MEMORANDUM

To: Planning Commission

From: Matthew C. Hankins
Assistant Town Manager *MCH*

Date: November 26, 2012

Re: Town Council Referral

Members of the Commission:

Please read the enclosed referral from Town Council and supporting documents. Essentially, you are being asked to review whether the Town Code should be amended to decrease the amount of time and the number of notices required for properties with weed, trash and junk issues. Additionally, you are being asked to make a recommendation on the amount of the civil penalties to be imposed by the staff in the event of violations on first and repeat bases.

Your attorney will be drafting language based on your input for your review and council's review in January.

ITEM(S) TO BE CONSIDERED UNDER:

- Hearing of Citizens
 Consent Item
 Old Business
 New Business
 Committee Report
 Other (Referrals to Planning Commission)

FOR COUNCIL MEETING DATED:	November 13, 2012
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STAFF MAKING REQUEST:	Matthew Hankins, Assistant Town Manager
BRIEF SUMMARY OF REQUEST:	<p>Council Member Greer has asked that staff look for ways to speed up the Town code enforcement process. He has received complaints from citizens that our process is often too long to make a meaningful dent in the problem regardless if it is weeds, trash or vehicles.</p> <p>Upon reviewing the code (Section 22-56 to 22-62 attached) and the enabling Virginia Code 15.2-901 (also attached), it appears that the length of time we allow from the notice to the required abatement of the nuisance can be set by the Town. Currently, this is 14 days (see 22-59 a and 22-60 a). These notice and abatement times could be shortened in our code. Is there a consensus among Council to shorten this period?</p> <p>Additionally, 22-61 states that the issuance of a notice of a code violation should come with a \$50.00 civil penalty if it is the first offense in a 12 month period or a \$100.00 civil penalty if it is the second or greater offense in a 12 month period. Town staff has not historically applied the civil penalty and I have asked staff for options to initiate this. Are these charges fair and reasonable and does Council wish to address them prior to staff assessing these fees with each violation? Staff believes that the "repeat offender" penalty would be useful in addressing code enforcement issues. If Council consents to the application of the fee, staff proposes that the first time offender fee be adjusted to \$25.00 and the repeat offender fee remain at \$100.00.</p>
ACTION NEEDED:	Staff seeks a consensus of Council on these issues so that code can be drafted and presented by your attorney to the Planning Commission so that the process is ready for the spring code enforcement process.

Attachment(s): Yes

FOLLOW-UP ACTION: (To be completed by Town Clerk)

Rocky Mount, Virginia, Code of Ordinances >> PART II - CODE >> Chapter 22 - ENVIRONMENT >> ARTICLE II. - NUISANCES >> DIVISION 2. - WEED AND TRASH ABATEMENT >>

DIVISION 2. - WEED AND TRASH ABATEMENT

Sec. 22-56. - Definitions.

Sec. 22-57. - Weeds and trash declared public nuisance; abatement required.

Sec. 22-58. - Weeds and trash prohibited; duty of owner to remove weeds and trash.

Sec. 22-59. - Notice of removal of weeds; preabatement hearing.

Sec. 22-60. - Abatement of public nuisance.

Sec. 22-61. - Accounting for abatement costs; civil penalty for subsequent abatement.

Sec. 22-62. - Notice to owner of hearing on abatement costs; post-abatement hearing.

Secs. 22-63—22-100. - Reserved.

Sec. 22-56. - Definitions.

- (a) Abatement cost means the town's cost of labor, equipment and supplies for, or the contract price of and any charges to the town with respect to, its removal and disposal of weeds or trash from a parcel.
- (b) Town manager means the town manager or his designee.
- (c) Public nuisance means a state of facts requiring governmental action for the establishment and maintenance of public health, safety, order and convenience.
- (d) Owner means any person shown by any public record maintained by any circuit court, general district court, treasurer, commissioner of revenue or town clerk to have an interest in real estate located in the town, as of the date of the abatement of public nuisance under this article or any successor in title taking with actual or constructive notice of the existence of a public nuisance.
- (e) Parcel means any real estate (and any interest therein) located in the town identified by a tax map and parcel number according to the county land books, except any parcel located in a RA residential agricultural district as defined elsewhere in this Code.
- (f) Trash means abandoned personal property, garbage, refuse or debris openly lying on any parcel, which might endanger the health of other residents of the town.
- (g) Weed or weeds means any plant, grass or other vegetation over 14 inches high growing upon private property in the town, including, but not limited to, any sage brush, poison oak, poison ivy, Ailanthus Altissima (commonly called Tree of Heaven or Paradise Tree), ragweed, dandelions, milkweed, Canada thistle, and any other undesirable growth, excluding trees, ornamental shrubbery, vegetable and flower gardens purposefully planted and maintained by the property owner or occupant free of weed hazard or nuisance, hayfields, cultivated crops, or undisturbed woodland not otherwise in violation.

Sec. 22-57. - Weeds and trash declared public nuisance; abatement required.

Weeds growing or trash lying on any parcel shall constitute a public nuisance, except that in the case of a parcel greater than one acre in area, natural vegetation growing not more than five feet from every property line shall not constitute a public nuisance. It shall be unlawful to cause or allow a

public nuisance with respect to any parcel. The owner of any parcel shall abate any public nuisance with respect to his parcel.

(Ord. of 11-14-06, § 2; Ord. of 12-11-06)

Sec. 22-58. - Weeds and trash prohibited; duty of owner to remove weeds and trash.

It shall be unlawful and a public nuisance for the owner of any parcel to allow weeds, as defined herein, to grow or trash to stand upon such parcel. It shall be the duty of the owner of any parcel to immediately cut, remove or destroy any and all weeds and to remove trash on his parcel. Any owner who shall violate any provision of this section shall be deemed to be guilty of a class 4 misdemeanor, and each day that such weeds shall remain uncut or such trash is allowed to stand after the period within which they are required hereunder to be cut or removed shall be deemed to constitute a separate offense under this section.

(Ord. of 3-11-06, § 3; Ord. of 12-11-06)

Sec. 22-59. - Notice of removal of weeds; preabatement hearing.

- (a) Whenever the town manager determines that a public nuisance exists with respect to any parcel, he shall mail by United States postal service certified mail to the owner of the parcel at the owner's address, as determined from public records, written notice that there exists a public nuisance with respect to the parcel and demand the abatement of the nuisance within 14 days following the mailing of the notice. Such notice, when so addressed and deposited with the postal service with proper postage prepaid, shall be deemed complete and sufficient. In the event that such notice is returned by the postal authorities or if the owner's address is unknown, the town manager shall cause a copy of the notice to be posted in a conspicuous place on the parcel. The posting shall be accomplished at least 14 days prior to the abatement of the public nuisance with respect to that parcel.
- (b) The notice shall:
 - (1) Be in writing;
 - (2) Set forth the alleged violation of this article;
 - (3) Describe the parcel of real property where the violations are alleged to exist or to have been committed;
 - (4) Advise that if the weeds or trash are not removed within the prescribed time, the town will proceed to abate the nuisance with the costs thereof together with an administrative fee, penalty, and interest authorized by this article being specially assessed against the owner and the parcel;
 - (5) Advise that the cost of abatement together with the administrative fee, civil penalty, and interest constitutes a lien against the property in favor of the town; and
 - (6) Advise that within seven days of the certified mailing of the notice or posting, whichever is applicable, the owner may appeal to the town manager stating in detail the reasons why the proposed action should not be taken.
- (c) In the event the owner appeals the proposed abatement as provided for above, the town manager shall set a hearing and notify the owner of the time and location of a hearing to be held within five days from the date of the town manager's receipt of the appeal. At any hearing, the town manager shall hear and investigate any objection that may be raised and take action in response as he may deem reasonable.

(Ord. of 3-11-06, § 3; Ord. of 12-11-06)

Sec. 22-60. - Abatement of public nuisance.

- (a) If the owner shall fail or neglect to complete abatement of the public nuisance as required within 14 days of mailing of notice or of posting, whichever is applicable, the town manager may direct in writing that town forces abate or complete the abatement of such public nuisance; or the town manager may contract for this abatement on behalf of the town with a private contractor.
- (b) Any owner may abate the public nuisance himself without liability to the town, provided that he completes the abatement prior to commencement or abatement by town personnel or any private contractor on behalf on the town.

(Ord. of 8-14-00, § 0; Ord. of 12-11-05)

Sec. 22-61. - Accounting for abatement costs; civil penalty for subsequent abatement.

The town manager shall keep an account of the cost of abating public nuisances and embody such account in periodic reports with assessment lists which shall be transmitted to the town finance director at convenient intervals. The copy retained by the town finance director shall be available for public inspection. The reports shall refer to each parcel as to which public nuisance was abated by description sufficient to identify the parcel, and specify and include an additional administrative fee of \$50.00 hereby ordained to be assessed against each owner; the cost of abatement including but not limited to a minimum of two hours labor as well as other reasonable charges for equipment; and interest authorized by this article. If an owner is found to have a subsequent abatement not arising from the same set of operative facts within 12 months of the first abatement, the owner shall be assessed a civil penalty of \$100.00 in addition to the abatement costs and administrative fee.

(Ord. of 8-14-00, § 0; Ord. of 12-11-05)

Sec. 22-62. - Notice to owner of hearing on abatement costs; post-abatement hearing.

- (a) Upon completion of the reports and assessments list, the town manager shall send by certified mail to each owner at his address as determined from public records a notice including a statement to the owner of the abatement cost, administrative fee, and civil penalty. The notice shall also advise the owner of his right to object to, to be heard upon, and contest the amount of the abatement costs. The notice shall further provide that upon confirmation by the town manager of the abatement cost, administrative fee, and civil penalty, they shall constitute special assessments against the owner and the parcel, a personal obligation to the owner, and a lien upon the owner's parcel from the date and time of the recordation of the notice of lien, and from the date of such confirmation, until paid, bear interest at the legal rate, and that any fees, charges or costs for the abatement of a nuisance thereof shall be collected in any manner provided by the Code of Virginia for the collection of state and local taxes.
- (b) The owner shall have 14 days from the date of receipt of the notice of assessment to appeal the amount of the assessment to the town manager. The town manager shall set a hearing and notify the owner of the time and location of a hearing for the purpose of hearing the owner's objections to and comments upon the report and proposed assessment, of correcting any mistakes or inaccuracies in these documents and of confirming the same. If the owner does not appeal the assessment as stated in the notice, the assessment shall be deemed to be confirmed.
- (c) With respect to all assessments remaining unpaid 14 days after confirmation, the town manager shall cause a notice of the lien of the special assessment prepared by the town attorney to be recorded in the clerk's office of the circuit court of the county. The town attorney

may take appropriate steps including a personal or in rem suit or action in the appropriate court to enforce the lien to satisfy the special assessment.

- (d) The finance director, when in his discretion it is just and proper to do so, may waive liens imposed pursuant to this section whenever doing so will facilitate the sale of the property and encourage its productive reuse. 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.

(Ord. 18-11-00 § 7.04 of 12-11-00)

Secs. 22-63—22-100. - Reserved.

§ 15.2-901. Locality may provide for removal or disposal of trash, cutting of grass and **weeds**; 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 and other substances which 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 and other like substances which 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;

2. Trash, garbage, refuse, litter 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 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 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. In the Counties of James City and Prince George, the Cities of Colonial Heights, Hopewell, Newport News, Williamsburg, and Winchester, and the Towns of Ashland and Chincoteague, and in a locality within Planning District 8, an ordinance adopted pursuant to this subdivision may also apply to owners of occupied property therein. 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.

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 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.

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.

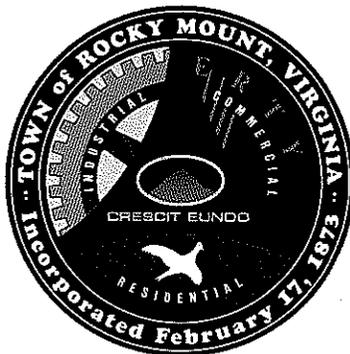
(Code 1950, § 15-14; 1962, cc. 400, 623, § 15.1-11; 1964, c. 31; 1968, c. 423; 1974, c. 655; 1978, c. 533; 1983, cc. 192, 390; 1990, c. 177; 1992, c. 649; 1994, c. 167; 1997, c. 587; 1999, c. 174; 2000, c. 740; 2001, c. 750; 2003, c. 829; 2006, c. 275; 2009, c. 446; 2010, cc. 161, 403, 641; 2011, cc. 542, 695; 2012, cc. 311, 403, 430, 431.)

Legislative Information System

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BILLIE W. STOCKTON

STACEY B. SINK, *CMC*
Deputy Clerk
Planning Technician

MEMORANDUM

TO: Mayor Angle and Rocky Mount Town Council
Madame Chair Stockton and Rocky Mount Planning Commission
Chairman Hutto and Rocky Mount Board of Zoning Appeals

CC: Patricia Keatts, Town Clerk
James Ervin, Town Manager
Matthew Hankins, Assistant Town Manager

FROM: Stacey Sink, Deputy Clerk

DATE: November 21, 2012

RE: 2013 Meeting Calendar

Attached is a spreadsheet detailing a proposed meeting schedule for 2013. I generally publish these dates in the newspaper at the beginning of each calendar year.

I have identified specific meeting dates which conflict with holidays or other special days of the year. These conflicts are highlighted in yellow on the spreadsheet.

I ask that each body please review these dates (respective to each body) and make any changes necessary so that I may proceed with completing the 2013 meeting calendar. Early consideration of these changes is necessary so that our advertising requirements are met in a timely fashion.

2013 TC/PC/BZA PROPOSED REGULAR MEETING DATES

TOWN COUNCIL		PLANNING COMMISSION		BOARD OF ZONING APPEAL	
Regularly Scheduled Meeting	Suggested Change	Regularly Scheduled Meeting	Suggested Change	Regularly Scheduled Meeting	Suggested Change
Monday, January 14, 2013		Tuesday, January 01, 2013	Tuesday, January 08, 2013	Thursday, January 03, 2013	
Monday, February 11, 2013		Tuesday, February 05, 2013		Thursday, February 07, 2013	
Monday, March 11, 2013		Tuesday, March 05, 2013		Thursday, March 07, 2013	
Monday, April 08, 2013		Tuesday, April 02, 2013		Thursday, April 04, 2013	
Monday, May 13, 2013		Tuesday, May 07, 2013		Thursday, May 02, 2013	
Monday, June 10, 2013		Tuesday, June 04, 2013		Thursday, June 06, 2013	
Monday, July 08, 2013		Tuesday, July 02, 2013		Thursday, July 04, 2013	Thursday, July 11, 2013
Monday, August 12, 2013		Tuesday, August 06, 2013		Thursday, August 01, 2013	
Monday, September 09, 2013		Tuesday, September 03, 2013		Thursday, September 05, 2013	
Monday, October 14, 2013	**	Tuesday, October 01, 2013		Thursday, October 03, 2013	
Monday, November 11, 2013	Tuesday, November 12, 2013	Tuesday, November 05, 2013	Wednesday, November 06, 2013	Thursday, November 07, 2013	
Monday, December 09, 2013		Tuesday, December 03, 2013		Thursday, December 05, 2013	
Monday, January 13, 2014		Tuesday, January 07, 2014		Thursday, January 03, 2014	

HOLIDAYS	
New Years' Day	Tuesday, January 01, 2013
MLK, Jr. Day	Monday, January 21, 2013
Presidents' Day	Monday, February 18, 2013
Good Friday	Friday, March 29, 2013
Memorial Day	Monday, May 27, 2013
Independence Day	Thursday, July 04, 2013
Labor Day	Monday, September 02, 2013
Veterans' Day	Friday, January 11, 2013
Thanksgiving	Thursday, November 28, 2013
Black Friday	Friday, November 29, 2013
Christmas Day	Wednesday, December 25, 2013
New Years' Day	Wednesday, January 01, 2014
**Columbus Day	Monday, October 14, 2013
ELECTION DAY	Tuesday, November 05, 2013

** Town offices DO NOT close for Columbus Day