

Chapter 129

NUISANCES

[HISTORY: Adopted by the Town Council of the Town of Pennington Gap as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Repair or removal of buildings — See Ch. 78.

Open burning — See Ch. 83.

ARTICLE I

Removal or Repair of Buildings Harboring Illegal Drug Use [Adopted 8-18-2003 by Ord. No. 3-2003]

§ 129-1. Definitions.

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

AFFIDAVIT —% The affidavit prepared by the Town Manager in accordance with this article.

CONTROLLED SUBSTANCE —% The same as that term is defined in § 54.1-3401, Code of Virginia.

CORRECTIVE ACTION —% The taking of steps which are reasonably expected to be effective to abate drug blight on real property, such as removal, repair or securing of any building, wall or other structure.

DRUG BLIGHT —% A condition existing which tends to endanger the public health or safety of residents of the Town and is caused by the regular presence on the property of persons under the influence of controlled substances or the regular use of the property for the purpose of illegally possessing, manufacturing or distributing controlled substances.

OWNER —% The record owner of real property.

§ 129-2. Affidavit and notice requirements.

In addition to enforcement procedures established elsewhere, the Town Manager is authorized to undertake corrective action with respect to drug blight on real property in accordance with the procedures described herein.

- A. The Town Manager shall execute an affidavit, citing § 15.2-907, Code of Virginia (1950), as amended, and this article, and affirming that drug blight exists on certain property in the manner described therein; that the Town has used due diligence without effect to abate the drug blight; and that the drug blight constitutes a present threat to the public's health, safety and welfare.

- B. The Town Manager shall submit the affidavit to the Town Attorney, requesting that the last known owner of the property be notified by regular mail sent to the last known address as it appears in the assessment records of the Town. The notice and a copy of the affidavit shall advise the owner that the owner has up to 30 days from the date thereof to undertake corrective action to abate the drug blight described in the affidavit and that, if requested to do so, the Town will assist the owner in determining and coordinating the appropriate corrective action to abate the drug blight described in the affidavit.

§ 129-3. Failure to take corrective action.

If no corrective action is undertaken by the owner of the property within 30 days from the receipt of notice from the Town as provided for in § 129-2, the Town Attorney shall send by regular mail an additional notice to the owner of the property at the address stated in the assessment records of the Town. This final notice shall state the date on which the locality may commence corrective action to abate the drug blight on the property, which date shall be no less than 15 days after the date of mailing of the final notice. Such notice shall also reasonably describe the corrective action contemplated by the Town, and said action may include, but not be limited to, the removal of the building or other structure so as to abate the drug blight on the property. Upon receipt of this final notice, the owner shall have the right, upon reasonable notice to the Town, to seek equitable relief, and the Town shall initiate no corrective action while a proper petition is pending before a court of competent jurisdiction.

§ 129-4. 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.

§ 129-5. Corrective action by owner.

If the owner of such property takes timely corrective action pursuant to this article, the Town shall deem the drug blight 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 if the drug blight occurs.

§ 129-6. Abridgement of rights.

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