

## CHAPTER 22 ENVIRONMENT

### ARTICLE VI. GRASS, WEEDS, AND OTHER FOREIGN GROWTH ON PRIVATE PROPERTY

#### SEC. 22-158 Definitions:

For purposes of this Article VI, the following words and terms shall have the meaning respectively ascribed to them by this section:

#### **(A). Owner:**

Any person or entity holding record title to any lot or parcel of land within the Town, including fiduciaries holding title to or having the legal care, custody, control, or management of any such lot or parcel.

#### **(B). Grass, weeds, and other foreign growth:**

Uncontrolled or unmanaged vegetation of every kind standing or growing on any lot or parcel other than trees, ornamental shrubbery or vegetation, flowers, vegetable gardens, or grasses or bushes classified as wetlands under any local, state, or federal law.

#### **(C). Undeveloped property:**

Any lot or parcel of land located within the Town that either (a) does not contain a structure or other improvements, or (b) is not served by the Town public water system, or (c) does not have an installed sewage disposal system approved by the Eastern Shore Health District.

#### **(D). Vacant developed property:**

Any lot or parcel of land located within the Town that either (a) contains a structure or other improvements, or (b) is served by the Town public water system, or (c) has an installed sewage disposal system approved by the Eastern Shore Health District, and on which lot or parcel no person or entity has either resided, conducted any business or other activity, or physically occupied such lot or parcel at any time within the 45 day period immediately preceding any Notice by the Zoning Administrator/Code Compliance Officer as provided for by SEC. 22-163 hereof.

#### **(E). Occupied property:**

Any lot or parcel of land located within the Town that either (a) contains a structure or other improvements, or (b) is served by the Town public water system, or (c) has an installed sewage disposal system approved by the Eastern Shore Health District, and on which lot or parcel any person or entity has resided, conducted any business or activity, or physically occupied such for any period within the 45 days immediately preceding any notice by the Zoning Administrator or Code Enforcement Officer pursuant to SEC. 22-163 hereof.

#### **(F). Same set of operative facts:**

Means the situation or facts existing either before or after an owner has been given a Notice to Cut by the Zoning Administrator/Code Compliance Officer. The “operative facts” shall change only after either the owner has cut such grass, weeds, or other foreign growth to compliance after such Notice, or the Town has so cut.

#### **(G). Violation:**

A violation occurs when any such owner fails to cut such grass, weeds, or other foreign growth from their lot or parcel so as to prevent it from attaining the applicable prohibited height. A

Notice to Cut by the Zoning Administrator/Code Compliance Officer shall not be required to constitute a violation by such owner.

**SEC. 22-159 DUTY OF OWNER TO CUT AND/OR MAINTAIN ANY VACANT DEVELOPED PROPERTY**

Any owner, as herein defined, shall cut the grass, weeds, and other foreign growth on any vacant developed property, as defined herein, located within the Town when the height of such grass, weeds, or other foreign growth exceeds ten inches (10") to a height cut not to exceed five inches (5"). Notwithstanding the preceding provisions, that part of any such property located twenty five feet, or more, rearward of any structure on said property and not actively used in conjunction with the structure(s) on said property shall be cut in accordance with the provisions of §22-161.

**SEC. 22-160 DUTY OF OWNER TO CUT AND/OR MAINTAIN ANY OCCUPIED PROPERTY**

Any owner, as herein defined, shall cut the grass, weeds, and other foreign growth on any occupied property, as defined herein, located within the Town when the height of such grass, weeds, or other foreign growth exceeds ten inches (10") to a height cut not to exceed five inches (5"). Notwithstanding the preceding provisions, that part of any such property located twenty five feet, or more, rearward of any structure on said property and not actively used in conjunction with the structure(s) on said property shall be cut in accordance with the provisions of §22-161.

**SEC. 22-161 DUTY OF OWNER TO CUT AND/OR MAINTAIN ANY UNDEVELOPED PROPERTY**

Any owner, as herein defined, shall cut the grass, weeds, and other foreign growth on any Undeveloped property for a width or depth of 5 feet from the boundary of any adjacent Occupied property or Vacant developed property, any street, roadway, easement or right-a-way when the height of such grass, weeds or other foreign growth exceeds ten inches (10") to a height cut not to exceed five inches (5").

**SEC. 22-162 PENALTIES FOR VIOLATION(S)**

Any owner who violates any provision of this Article by not cutting the grass, weeds or other foreign growth on any lot or parcel as provided for herein shall be subject to a civil penalty of Fifty Dollars (\$50.00) for the first violation, or a subsequent violation arising from the same set of operative facts. The penalty for subsequent violations not arising from the same set of operative facts within twelve (12) months of the first violation shall be Two Hundred Dollars (\$200.00). 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 operative facts result in civil penalties that exceed a total of Three Thousand Dollars (\$3,000.00) in a twelve (12) month period.

Violation of any provision of this Article shall be a Class 3 misdemeanor in the event three (3) civil penalties have been imposed on the same defendant for the same or similar violations, not arising from the same set of operative facts, within a twenty-four (24) month period. The punishment for a Class 3 Misdemeanor shall be a fine not to exceed Five Hundred Dollars (\$500.00). Classifying such subsequent violations as criminal offences shall preclude the imposition of civil penalties for the same violation.

**SEC. 22-163 NOTICE TO CUT**

When there exists upon any vacant developed property, occupied property, or undeveloped property as defined herein within the Town grass, weeds, or other foreign growth, as prohibited herein, the Zoning Administrator/Code Compliance Officer shall immediately notify the owner of such lot or parcel to cut such grass, weeds, or other foreign growth exceeding ten inches (10") to a height cut not to exceed five inches (5"). Such notification

shall be by certified mail to the address of such owner as appearing on the real estate tax records of the Town of Chincoteague. Such owner shall cut such grass, weeds, or other foreign growth exceeding ten inches (10") to a height cut not to exceed five inches (5") within ten (10) days of the posting of such Notice or the Town may take the action provided under Sec. 22-164.

**SEC. 22-164 CUTTING BY THE TOWN**

If such grass, weeds, other foreign growth has not been cut as required under the provisions hereof within ten (10) days from the posting of such Notice to Cut by the Zoning Administrator/Code Compliance Officer, the Zoning Administrator/Code Compliance Officer shall cause such grass, weeds or other foreign growth to be cut to the required height by the employees or agents of the Town, or any contractor at the cost of such owner.

Where grass, weeds, or other foreign growth have not been cut by the owner within ten (10) days from the date of the Notice to Cut by the Zoning Administrator/Code Compliance Officer pursuant to the provisions of this section, and it is necessary for the Town to cut as provided herein, the cost of such cutting shall be billed to the owner of the property. If such bill is not paid within fifteen (15) days, it shall be added to the Town real estate tax bill on such property and shall be a lien on such property to the same extent and effect as real estate taxes.

The Town may waive such lien(s) in order to facilitate the sale of the property. Such lien(s) may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and/or who has no business association with the owner. All such lien(s) shall remain a personal obligation of the owner of the property at the time the liens were imposed even if waived.

**SEC. 22-165 AUTHORITY**

This Article VI is adopted pursuant to the provisions of §15.2-901, §15.2-1102, and §15.2-1115 of the Code of Virginia of 1950 as amended.

**SEC. 22-166 EFFECTIVE DATE**

The provisions hereof shall be effective upon adoption by the governing body of the Town of Chincoteague. Adopted October 1, 2012