

MERCERTRIGIANI

PROCEDURES TO RESPOND TO HOARDING CONCERNS

Hoarding creates health and safety matters that require timely attention. If left unaddressed, hoarding can create dangerous conditions to the property, owner, and surrounding properties. Upon a report of suspected hoarding, take care to document conditions with available information including pictures, written observations, and any interactions with the owner.

County agencies are best equipped to address hoarding concerns and provide support services to the owner, but the Association may, nevertheless, have an obligation or authority to address property conditions.

1. CONTACT LOCAL AUTHORITIES

Local agencies responsible for responding to hoarding concerns:

A. Arlington County Hoarding Task Force

- i. Website: <https://www.arlingtonva.us/Government/Programs/Building/Resources/Hoarding-Task-Force>
- ii. Code Enforcement: (703) 228-3232 (Main Response Team)
- iii. Office of the Fire Marshal through the Office of Emergency Management: (703) 558-2222 (Fire Hazards)
- iv. Adult Protective Services through the Department of Human Services: (703) 228-1700 (Health and Welfare Concerns)

B. Fairfax Code Compliance

- i. Website: <https://www.fairfaxcounty.gov/code/hoarding>
- ii. Online Complaint Form: <https://www.fairfaxcounty.gov/code/submit-hoarding-complaint>
- iii. Code Compliance: (703) 324-1300

C. Alexandria Hoarding Task Force

- i. Website: <https://www.alexandriava.gov/code-administration/maintenance-code-division>
- ii. Maintenance Code Division: (703) 746-4311

D. Loudoun County Health and Human Services

- i. Website: <https://www.loudoun.gov/3885/What-Can-I-Do-About-Hoarding>
- ii. Online Complaint Form: https://iframe.publicstuff.com/#/?client_id=1295&request_type_id=1008577

E. Prince William Department of Neighborhood Services

- i. Website: <https://www.pwcva.gov/department/neighborhood-services/unsafe-living-conditions/>
- ii. Online Complaint Form: <https://311.pwcva.gov/PWC311/s/>
- iii. Neighborhood Services: (703) 792-4311

2. INITIATE ASSOCIATION ACTION

In tandem with assistance from local government agencies, the association should also begin to take action under the Governing Documents or Condominium Instruments.

A. Authority

Association authority to address lot or interior unit conditions is limited, *unless* the condition involves non-compliance with the Governing Documents or Condominium Instruments or association rules and regulations.

- i. Condominium Associations
 - (a) Section 55.1-1955.A of the Virginia Condominium Act provides:
... ALL POWERS AND RESPONSIBILITIES, INCLUDING FINANCIAL RESPONSIBILITY, WITH REGARD TO MAINTENANCE, REPAIR, ... OF THE CONDOMINIUM SHALL BELONG ... (II) TO THE INDIVIDUAL UNIT OWNER IN THE CASE OF ANY UNIT OR ANY PART OF SUCH UNIT ...
 - (b) Condominium Instruments
 - 1. Many condominium instruments include provisions related to unit owner responsibility to maintain units in good order and in clean and sanitary condition.
 - 2. Some condominium instruments include provisions related to health and safety.
- ii. Property Owners' Associations
 - (a) Governing Documents
 - 1. The recorded Governing Documents may include express authority for the Association to remedy specific conditions on a lot.
 - 2. The Governing Documents may also include authority for the Association to contract with lot owners to provide services on an individual lot.

B. Voluntary Action

- i. The Governing Documents or Condominium Instruments may include express authority for the association to take action to remedy unit or lot

conditions and assess the cost of the work performed by the association to remedy the non-compliance to the owner.

- ii. It is strongly recommended that all association actions on a lot or unit be undertaken with the consent of the owner, or pursuant to a court order discussed below.

C. Due Process Procedures

- i. Complaint of alleged violation
- ii. Verification of non-compliance, if possible
 - (a) No non-compliance
 - 1. Complaint dismissed
 - (b) Evidence collected of potential non-compliance
 - (c) Written notice of non-compliance to owner
 - (d) Reasonable time period to correct violation
 - 1. Non-compliance corrected with proof of correction from owner
 - a. Complaint dismissed
 - (e) Non-compliance continues after time to correct
 - (f) Notice of hearing to owner specifying actions that may be taken by the association at hearing (at least 14 days prior to hearing)
 - (g) Hearing (whether or not requested by owner)
 - (h) Notice of hearing result (within 7 days of hearing)
 - 1. Monetary charges (if authorized by recorded association documents)
 - 2. Suspension of privileges (if authorized by recorded association documents)
 - 3. Self-Help (if authorized by recorded association documents)
 - 4. Refer for legal action
 - 5. Finding of no non-compliance – complaint dismissed

D. General District Court Abatement – Completed Association Due Process Procedures is Prerequisite

- i. Warrant in Debt filed in clerk's office
 - (a) Requests the court make a finding that the owner violated the Governing Documents or Condominium Instruments
- ii. Service of Process to owner at address of record

- (a) Provides owner with notice of court hearing and that legal action is being initiated
 - (b) Provides date matter will be reviewed by court
- iii. Hearing
 - (a) Owner appears before the court and responds to the allegations
 - (b) If the owner contests, trial date is set
 - (c) If the owner agrees to allegations, judgement is entered
- iv. Trial
 - (a) Bill of Particulars outlining allegations is filed
 - (b) Owner may file an answer and defense
- v. Judgment
 - (a) Court order granting permission to enter property to remedy violation
 - (b) Judgment may include an award of costs and attorneys' fees