

CHAPTER 93: NUISANCES

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GENERAL PROVISIONS

§ 93.01 CHAPTER IS SUPPLEMENTAL TO OTHER PROVISIONS OF THIS CODE RELATING TO NUISANCES.

Various nuisances are defined and prohibited in other chapters of this code, and it is the intent of the Town Council in enacting this chapter to make it supplemental to those other chapters in which nuisances are defined and prohibited; and the provisions of this chapter relating to the abatement of nuisances shall be regarded as alternative methods and procedures for the abatement of nuisances in those instances where other methods and procedures for abatements as provided.

(Prior Code, § 9-1)

§ 93.02 NUISANCES PROHIBITED WITHIN TOWN.

It shall be unlawful for any person to cause, harbor, commit or maintain, or to suffer to be caused, harbored, committed or maintained any nuisance as defined by the statutes or common law of this state or as defined by this code or other ordinance of the town at any place within the town.

(Prior Code, § 9-2) Penalty, see § 10.99

§ 93.03 CERTAIN NUISANCES ENUMERATED.

The following acts when committed, or conditions when existing, within the town are hereby defined and declared to be nuisances: An act done or committed or aided or assisted to be done or committed by any person, or any substance, being or thing kept, maintained, placed or found in or upon any public or private place, which is injurious or dangerous to the public health or safety.

(Prior Code, § 9-3)

§ 93.04 RESPONSIBILITY OF PROPERTY OWNERS, OCCUPANTS AND OTHERS.

Each owner, lessee, tenant, occupant or person in charge of any real property within the town, and each agent or representative of any person, is hereby charged with responsibility for the maintenance and use of the real property in a manner that no use of, or activity or condition upon or within, the real property shall constitute a nuisance; and all persons are hereby charged with the duty of observing all of the provisions of this chapter, but the responsibility shall not be construed to permit any other person not charged with the responsibility to commit or maintain any nuisance upon or within any real property in the town.

(Prior Code, § 9-4)

ABATEMENT

§ 93.15 NOTICE GENERALLY.

Whenever a nuisance is found by the Mayor or his agent to exist on premises in the town, it shall be his or her duty to serve notice on the person who created the nuisance or, if the person cannot be ascertained, upon the occupant, to cause the nuisance to be abated within 48 hours, and if he or she fails to do so the same shall be abated by the town at the expense of that person, occupant or owner, as the case may be. When the premises are unoccupied, the notice shall be served upon the owner thereof, if a resident of the town, and if not, then upon the owner's agent in charge of the premises or upon the owner by publication as in § 93.16.
(Prior Code, § 9-5)

§ 93.16 NOTICE BY PUBLICATION.

If the owner of unoccupied land or premises as referred to in § 93.15 is not a resident of the town, and has no agent in the town upon whom the notice may be served, the notice required by § 93.15 may be given by publication by posting in not less than two public places within the town and the cost of the publication, if any, shall be collected as a part of the expense of effecting an abatement.
(Prior Code, § 9-6)

§ 93.17 PROCEDURE FOR ABATEMENT BY TOWN.

(A) If a nuisance remains unabated after the expiration of the time specified in the notice, referred to in § 93.15, the Mayor shall forthwith file, in duplicate, a written petition in the name of the town with the proper judicial officer, setting forth his or her determination, the manner in which the notice has been served, the location of the nuisance and a statement that the person on whom the notice was served has failed or refused to comply with the provisions of the notice.

(B) The judicial officer shall issue a summons against the defendant named in the petition to show cause why the nuisance should not be abated, which summons and a copy of the petition shall be served on the defendant requiring the defendant to appear before court to answer the summons and petition at the time indicated in the summons.

(C) If, upon the hearing, the judicial officer shall order the nuisance abated, he or she shall order the defendant to abate the nuisance within the period of time as he or she may specify.

(D) If the defendant shall fail or refuse to abate the nuisance in the time fixed by the judicial officer, he or she shall be guilty of a misdemeanor and the mayor shall abate the nuisance in the most practicable manner and the defendant shall be liable for the cost thereof.
(Prior Code, § 9-7)

§ 93.18 RECOURSE OF TOWN WHEN NOTICE TO ABATE NUISANCE IS IGNORED.

(A) Upon the failure of any person to whom notice has been given pursuant to § 93.16 to comply with the terms of the notice, or with the terms imposed by the Town Council on appeal, as the case may be, the officer giving the notice shall forthwith direct the appropriate town officer to remedy the condition which is the subject of the notice, and the expense incurred by

the town in so doing shall be charged to the addressee of the notice, to be collected as town taxes or in any other manner authorized by law.

(B) Abatement by the town of any condition which constitutes a nuisance and reimbursement to the town of expenses incurred thereby shall not bar prosecution for maintenance of a nuisance.

(Prior Code, § 9-8)

§ 93.30 Repealed

§ 93.31 Repealed

§ 93.32 Repealed

§ 93.33 Repealed

§ 93.34 Repealed

§ 93.35 Repealed

UNSAFE STRUCTURE

§ 93.36 UNSAFE BUILDING, OTHER STRUCTURE; REMOVAL, REPAIR, ETC.

(A) The owners of property in the Town of Boykins, Virginia shall at such time or times as the Town Council, through its agents or employees may prescribe, remove, repair, or secure any building, wall or any other structure that might endanger the public health or safety of the residents of the Town of Boykins.

(B) Town of Boykins, through its agents or employees, may secure any building, wall or other structure that might endanger the public health or safety of other residents of Boykins, if the owner and/or lien holder of such property, after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure the buildings, walls or other structure.

For the purposes of this section, repair may include maintenance work to the exterior of a building to prevent the deterioration of the building or other adjacent buildings. For the purposes of this section, reasonable notice shall include a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner, and (ii) published once a week for two (2) successive weeks in a newspaper having general circulation in the locality.

No action shall be taken by the Town of Boykins to remove, repair or secure any building, wall or other structure for at least thirty (30) days following the latter of the return of the receipt or newspaper publication, except that the locality may take action to prevent unauthorized access to the building within seven (7) days of such notice if the structure is deemed to pose a significant threat to public safety and if such fact is stated in the notice.

(C) In the event the Town of Boykins, through its agents or employees, removes, repairs or secures any building, wall or other structure after complying with the notice provisions of this section, the costs or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the Town of Boykins as taxes are collected.

(D) Every charge authorized by this section with which any such property has been assessed and that remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid real property 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 of the 1950 Code of Virginia, as amended.

A locality may waive such liens in order to facilitate the sale of such property. Such liens may be waived only 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 times the liens were imposed.

(E) It shall be unlawful for any owner of any parcel of land within the Town of Boykins to fail to remove, repair or secure the building, wall or other structure after reasonable notice and a reasonable time to do so, as provided herein above. In addition to collection of the costs or expenses as provided for above, the Town of Boykins may order a civil penalty in an amount not exceeding one thousand dollars (\$1,000.00) for each violation of this section.

State law references: Similar provisions, Code of Virginia, § 15.2-906
(Prior Code § 9-3) (Ordinance passed April 8, 2008)
Penalty, see § 10.99

INOPERABLE VEHICLES

§ 93.50 GENERALLY.

It shall be unlawful for any person, firm or corporation to keep no more than one inoperable motor vehicle upon said premises provided that said vehicle is covered by a form-fitted cover which completely covers the entire vehicle down to within six (6) inches of the ground or within a fully enclosed building or structure or otherwise shielded or screened from view, on any property zoned for residential or commercial or agricultural purposes any motor vehicle, trailer, or semi-trailer, as are defined in VA Code § 46.2-100, which is inoperative. As used in this section, an ***INOPERATIVE MOTOR VEHICLE*** shall mean any motor vehicle which is not in operating condition; or which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle or on which there are displayed neither valid license plates nor a valid inspection decal. However, the provisions of this subchapter shall not apply to a licensed business which on 6-26-1970, is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor. A violation of this section shall be unlawful and shall constitute a Class 4 misdemeanor.

(Prior Code, § 9-9) (Amended on April 8, 2003; Amended on August 11, 2009)
Penalty, see § 10.99

§ 93.51 REMOVAL.

(A) The owners of property zoned for residential or commercial or agricultural purposes shall within 21 days after being served written notice from the Mayor, or Town Council or their agent(s), remove there from any inoperative motor vehicles, trailers, or semi-trailers that are not kept within a fully enclosed building or structure; otherwise shield or screen the vehicle from view or cover the vehicle with a form-fitted cover which completely covers the entire vehicle down to within six (6) inches of the ground.. (Amended on August 11, 2009)

(B) The Mayor or Town Council, through their agents or employees, may remove any inoperative motor vehicles, trailers or semi-trailers, whenever the owner of the premises, after the 21-day notice, has failed to do so.

(C) In the event that the Mayor or Town Council, through its own agents or employees, removes any motor vehicles, trailers or semi-trailers, after having given notice as indicated above, the town may dispose of the motor vehicles, trailers, or semi-trailers after giving an additional 21-day notice to the owner of the vehicle and to the owner of the premises upon which the vehicle was located.
(Prior Code, § 9-9)

(D) In the event the vehicle is not removed as set forth in § 93.51 (C), the Town Sergeant shall issue a summons to the owner of the vehicle and/or the property owner for violation of § 93.50. (Amended on August 11, 2009)

(E) In accordance with Section § 93.51, this notice shall be conclusively deemed to have been served two (2) days after having been mailed by certified or registered mail. (Added on August 11, 2009)

§ 93.52 COST.

(A) The cost of any removal and disposal shall be chargeable to the owner of the vehicle or the owner of the premises and may be collected by the town as taxes and levies are collected.

(B) Every cost authorized by this subchapter with which the owner of the premises has been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of the costs has been made to the town.
(Prior Code, § 9-9)

Reference Virginia State Code §15.2-904 authority to restrict keeping of inoperable motor vehicles, etc. on residential or commercial property; removal of such vehicles.
(Added on August 11, 2009)