

**AN ORDINANCE TO REPEAL AND REPLACE CHAPTER 42
OF THE CODE OF THE TOWN OF LURAY, VIRGINIA**

WHEREAS, the Town of Luray, Virginia (the “Town”), has previously adopted an ordinance regulating nuisances, which is codified as Chapter 42 of the Town Code; and

WHEREAS, the Town Council wishes to repeal and replace Chapter 42 of the Town Code in order to better define certain conditions which constitute nuisances, and to adopt a system of civil penalties for nuisances.

NOW, THEREFORE, in order to preserve and promote the health, safety, and welfare of the Town, the Council of the Town of Luray, Virginia, hereby ordains as follows:

1. Chapter 42 of the Town Code is hereby repealed and replaced to state, in its entirety, as follows:

Sec. 42-1. – Nuisances Defined.

- (a) The term “nuisance” is any act, omission to perform any duty, or the permitting of any condition or thing to exist that endangers life or health, obstructs or interferes with the reasonable or comfortable use of property, or tends to depreciate the value of the property of others. Whenever the word “nuisance” is used in this Chapter, it means a public nuisance.
- (b) The following activities or conditions are hereby declared to be nuisances. This enumeration shall not be construed to be limiting or restrictive, and is in addition to other acts and conditions which are nuisances, including any acts and conditions which are defined as nuisances in other portions of the Town Code or state law.
 - (1) *Stagnant water; liquid discharges into public streets or property.* All ponds or pools of stagnant water, and all foul, dirty, or hazardous liquid discharged into or onto any public street, public place, or public property. “Stagnant water” shall mean any water that is absent of flow or filtration by natural or mechanical means.
 - (2) *Dangerous structures.* All dwellings, accessory structures, or other structures of whatever character which are unsafe, dangerous, unhealthy, or injurious to the public. Examples of dangerous structures include, but are not limited to, structures with exposed or faulty electrical wiring, broken windows, visible rotting or molding wood or other materials, and structures which are likely to collapse or fall over.
 - (3) *Obstructions on streets or sidewalks.* All obstructions on any street or sidewalk, including but not limited to snow, ice, mud, plant matter, metal, lumber, timber, refuse, trash, furniture, mattresses, lawn equipment, tools, motor vehicles, or tires.

- (4) *Conditions which pose a danger to transportation.* Any condition or action which interferes with, obstructs or tends to obstruct, or renders dangerous passage on any public or private street. Such conditions shall include but not be limited to obstructions to line of sight and obstruction of roadside signs.
- (5) *Septic tanks, privies, etc.* Any disposal of sewage, including but not limited to any septic tanks, privies, cesspools, or privy vaults, of a type prohibited by state law or by rules and regulations promulgated by authority of state law, or which are maintained in any manner contrary to state law or rules and regulations promulgated by authority of state law or which otherwise constitute a menace to the health of, or are offensive to, persons in the neighborhood thereof.
- (6) *Rats and other vermin.* Any condition which provides harborage for rats, mice, snakes, and other vermin.
- (7) *Grass, weeds, and plants.* Grass, weeds, brush, or other plants which have reached a stage of growth so as to provide cover or harborage or potential cover or harborage for rats or vermin, or to cause a blighting problem, or adversely affect the public health and safety. Grass and weeds are further subject to the provisions of Chapter 90.
- (8) *Vacant buildings.* Any vacant or abandoned buildings that are not sealed so as to prevent the entry of persons or rats and other vermin.
- (9) *Trash, garbage, refuse, and other substances.* Outside storage on any property of junk, trash, rubbish, garbage, refuse, litter, waste materials, tires, motor vehicle parts, wheels, metal scraps, plumbing fixtures, broken appliances or machines, and other objects or substances which might constitute a fire hazard or endanger the public health or safety. Trash or garbage which is placed within a trash can, bin, or dumpster shall not be deemed to be stored outside. Automobile graveyards or junkyards lawfully operating in accordance with state and local laws shall not constitute a nuisance.
- (10) *Outside storage of abandoned or unused objects.* Outside storage of abandoned, unused, dismantled, or discarded household furniture, appliances, equipment, machinery, mattresses, tools, lumber, building materials, and other similar objects that may cause a blighting problem. Nothing contained herein shall prohibit storage of materials used in conjunction with a construction project for which a building permit has been issued and which, in the opinion of the Town Manager, is being diligently pursued.
- (11) *Artificial light.* Artificial light which creates an unreasonable burden on adjoining property.
- (12) *Explosives, fireworks and other similar devices.* Using any explosives, fireworks or similar devices in such a manner as to permit sound to be heard across a residential property boundary or through a partition between

multiple dwelling units within the same building, or as to be plainly audible at a distance of 50 feet or more from the sound or the building where the sound is located, between 10:00 p.m. and 6:00 a.m.. An exception to this subsection may be granted by the Town through a fireworks permit.

- (13) *Dangerous grades.* Any portion of a lot adjacent to a street or alley where the difference in the level between the lot and the street or alley constitutes a danger to life or limb, and which is not fenced so as to prevent harm.

Sec. 42-2. – Written Notice of Nuisance

- (a) If the town manager or a designee determines that a nuisance exists, the town manager or their designee shall provide written notice to the “Responsible Party”, who shall be (i) the owner or occupants of the property on which the nuisance exists, or (ii) the person whose acts or omissions caused the nuisance to exist, if different from the owner or occupants of the property. Notice shall be provided to the Responsible Party by mailing to their last known address. If the Responsible Party is the owner of the property on which the nuisance exists, mailing the notice to the address of the owner listed on the real property records of the Town shall constitute compliance with the notice requirement.
- (b) The written notice shall state:
- (1) The location of the nuisance;
 - (2) A description of what constitutes the nuisance;
 - (3) A statement of acts necessary to abate or remove the nuisance;
 - (4) A deadline reasonable under the circumstances by which the nuisance shall be abated or removed; and
 - (5) A statement that if the nuisance is not abated or removed by the deadline, the town may abate or remove the nuisance, charge the cost to the owner or occupant, and collect the costs in the same manner as real estate taxes.

Sec. 42-3. – Abatement and Removal by the Town

- (a) If a nuisance has not been abated or removed by the deadline specified in the written notice described in Section 42-2, the town may abate or remove the nuisance and charge the costs of abatement and removal to the Responsible Party. The costs shall be collected in the same manner as real estate taxes.
- (b) If the town manager believes that a nuisance constitutes an imminent, substantial, or compelling threat to the public health or safety, the town may abate or remove a nuisance pursuant to Section 42-3(a) without providing written notice.

Sec. 42-4. – Hearing

- (a) The Responsible Party may request a hearing by submitting a written request to the town manager at least 48 hours before the deadline for abatement or removal of the nuisance.
- (b) The town manager or a designee shall promptly hold a hearing and provide notice of the hearing, including the date, time, and location, to the Responsible Party.
- (c) The town manager or other delegated officer shall dismiss the notice if he or she finds by a preponderance of the evidence that the nuisance does not exist.

Sec. 42-5. – Penalties

- (a) The maintenance of a nuisance is unlawful and punished by civil penalties set forth herein.
- (b) In addition to liability for the town’s costs of abatement or removal, a Responsible Party who fails to comply with a notice issued pursuant to Section 42-2 shall be subject to the following civil penalties:
 - (1) \$50 for the first violation or violations arising from the same set of operative facts; or
 - (2) \$200 for subsequent violations not arising from the same set of operative facts within 12 months of a first violation.
- (c) Each business day a nuisance continues after the deadline for abatement specified in the notice issued pursuant to Section 42-2 constitutes a separate offense or violation.
- (d) 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 twelve-month period.

Sec. 42-6. – Other Remedies Preserved

The remedies available to the town pursuant to this Chapter shall not prevent the Town from availing itself of any other legal right or remedy. The fact that a condition or substance constitutes a nuisance hereunder shall not be a defense to any criminal charge for a violation of the Town Code or state law arising from the same set of operative facts.

(Ord. of **M-D-YEAR**, § 1)

State Law reference— Authority of town to compel the abatement or removal of nuisances, Code of Virginia §§ 15.2-900, 15.2-901, 15.2-1115.

- 2. This Ordinance will take effect immediately.

Adopted: MONTH XX, 201X

Mayor

CERTIFICATE

I certify that I am the Clerk of the Town of Luray, Virginia, and that the foregoing is a true copy of an Ordinance adopted by the Council of the Town of Luray, Virginia, on MONTH XX, 201X, upon the following vote:

NAME	AYE	NAY	ABSTAIN	ABSENT
Mayor Presgraves ¹				
Ronald "Ron" Vickers				
Jerry Dofflemyer				
Jerry Schiro				
Leroy Lancaster				
Joey Sours				
Leah Pence				

Date: MONTH XX, 201X

[SEAL]

ATTEST: _____
Clerk, Town Council of
Town of Luray, Virginia

¹ Votes only in the event of a tie.