

STEPHENS CITY CODE

**Chapter 13**

**NUISANCES**

**Article I      In General, §§13-1 – 13-25**

**Article II     Abatement, §§13-26 – 13-31**

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**\*Cross references:** Animals, ch.3; buildings, ch.4; erosion and sediment control, ch.5; fire prevention and protection, ch.6; floodplain districts, ch.7; keeping of inoperative motor vehicles, etc., on residential or commercial property, §10-47; music and entertainment festivals, ch. 11; noise, ch. 12; offenses-miscellaneous, ch.14; duty of police to report nuisances, §15-5; refuse and weeds, ch.16, trailers and trailer camps, ch.21; water, sewers and sewage, ch. 22.

**State law references-**Authority of Town to cause nuisances to be abated or removed, Code of Virginia, §§15.1-1-14; 15.1-867; abating public nuisances generally, Code of Virginia, §48-1 et seq.

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### ARTICLE 1. IN GENERAL

#### **Sec. 13-1. Chapter supplemental to other provisions 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. 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 abatement are provided. (Code 1975, §11-1)

#### **Sec 13-2. 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 statute or common law of this state or as defined by this Code or other ordinance of the Town at any place within the town. (Code 1975, §11-2)

#### **Sec. 13-3. Nuisances enumerated; list not exclusive.**

The following acts when committed, or conditions when existing, within the Town are hereby defined and declared to be nuisances:

- (1) 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.
- (2) All buildings, bridges or other structures of whatever character kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthy, injurious or annoying to the public.
- (3) All trees and other appendages of or to realty kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthy, injurious or annoying to the public.
- (4) All ponds or pools of stagnant water, and all foul or dirty water of liquid when discharged through any drain, pipe or spout, or thrown into or upon any street, public place or lot to the injury or annoyance of the public.
- (5) All obstructions caused or permitted on any street or sidewalk to the danger or annoyance of the public, and all stones, rubbish, dirt, filth, slops, vegetable matter or other article thrown or placed by any person on or in any street, sidewalk or other public place, which in any way may cause any injury or annoyance to the public.
- (6) All sidewalks, gutters or curbstones permitted to remain in an unsafe condition or out of repair.
- (7) All stables, cattleyards, hog, sheep or cow pens or yards or structures for poultry, permitted by the owner thereof or the person responsible therefor to be harboring or breeding places for rodents or otherwise to be in such a condition as to become offensive, annoying or injurious to the public or to persons in the neighborhood thereof.

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- (8) All houses or buildings used for special storage of powder, dynamite or other explosive substances, except those maintained pursuant to a permit issued by competent authority.
- (9) All septic tanks, privies, cesspools and 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.

The nuisances described in this section shall not be construed as exclusive, and any act of commission or omission and any condition which constitutes a nuisance by statute or common law of the state is, when committed, omitted or existing within the Town hereby declared to constitute a nuisance.

(Code 1975, §11-3)

**Cross References** – Animals, ch.3; buildings, ch.4; fire prevention and protection, ch.6; streets, sidewalks and public places, ch.17; water, sewers and sewage, ch.22.

### **Sec. 13-4. Responsibility of property owners, occupants, etc.**

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

(Code 1975, §11-4)

### **Sec. 13-5 – 13-25. Reserved.**

## **ARTICLE II. ABATEMENT\***

### **Sec. 13-26. Authority of certain officers to make inspections; duty of certain officers.**

(a) The county health officer, the county building official during any period when he is also Town building official, the chief of police, the chief of the fire department and the town building official, their deputies and assistants, are hereby authorized to make inspections from time to time of all portions of the Town to determine whether any condition exists or activity is being carried on which constitutes a nuisance, The Chief of Police, the Chief of the fire department and the town building official shall make or cause to be made such investigation upon complaint made in writing by any responsible person.

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\*State Law reference-Authority of Town to cause nuisances to be abated or removed, Code of Virginia, §15.1-14.

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(b) The officers mentioned in subsection (a) of this section shall have the right to enter upon private premises for the purposes therein specified, upon compliance with all applicable provisions of law. Unless it appears probable that advance warning would defeat the purpose of such entry, occupants of premises to be entered shall be given reasonable notice in advance, and in any case it shall be unlawful for any owner or occupant to prevent such entry which is south to be made in compliance with law.

(Code 1975, §11-5)

### **Sec. 13-27. Certain county officers may report nuisances to Chief of Police for action.**

Upon finding by any county officer mentioned in Section 13-26(a), after inspection having been made by him, that a condition exists or that an activity is being carried on within the Town which constitutes a nuisance, such officer may report his findings, in writing, to the Chief of Police, who then shall be authorized to accept such findings as his own and to take action thereon as provided in this article.

(Code 1975, §11-6)

### **Sec. 13-28. Notice to cease and desist when activity constitutes a nuisance.**

If at any time a Town officer shall find that an activity or practice which constitutes a nuisance is occurring within the Town, he shall promptly and by the most expeditious means notify the violator to cease and desist forthwith.

(Code 1975 §11-7)

### **Sec. 13-29. Notice to abate condition constituting nuisance; appeal.**

If any time a Town officer shall find that a condition which constitutes a nuisance exists within the Town, he shall give notice in writing to the owner, occupant or person in charge of the premises upon which such condition exists, stating therein the condition which constitutes a nuisance, and directing such addressee to remedy the condition within the time stated in such notice which shall be not more than ten days. It shall be unlawful for any such owner, occupant or person in charge to fail to comply with the terms of such notice; provided, that any owner, occupant or person in charge may, within two days from the service thereof, appeal to the Town Council, which shall be final; provided further, that if the officer giving notice shall state in such notice that the condition which constitutes a nuisance is such as to be an imminent hazard to the health, safety or welfare of the public or any person within or near the premises upon which such nuisance exists, then the addressee shall comply with the terms of such notice.

(Code 1975, §11-8)

### **Sec. 13-30. 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 section 13-29 to comply with the terms of such notice, or with the terms imposed by the Town Council on appeal, as the case may be, the officer giving such notice shall forthwith direct the appropriate Town officer to remedy the condition which is the subject of such notice, and the expense

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incurred by the Town in so doing shall be charged to the addressee of such 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.

(Code 1975, §11-9)

### **Sec. 13-31. Article does not prohibit arrest for committing or maintaining nuisance.**

Nothing in this article shall be construed to prohibit any police officer from arresting any person for committing or maintaining a nuisance when such arrest is made pursuant to law.

(Code 1975, §11-10)