

AN ORDINANCE REGARDING THE REMOVAL
AND ABATEMENT OF NUISANCES

WHEREAS, the Town of Dayton has an interest in the safety, health, and welfare of the town;

WHEREAS, pursuant to Virginia Code Sections 15.2-1115 and 15.2-900 *et seq.*, the Town of Dayton is authorized to compel the abatement or removal of all nuisances; and

WHEREAS, the Town of Dayton seeks to set out with particularity which conditions constitute a nuisance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Dayton that the Code of Ordinances is amended by repealing Title 1, Part 4, Sections 1-53 and 1-53.1 and repealing and reenacting Title 1, Part 4, Section 1-48 as follows:

Part 4
Nuisances

§ 1-48 Abatement or Removal of Nuisances

- (a) The term “nuisance” is defined herein as the doing of 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 term nuisance is used in this Part, it shall be deemed to mean a public nuisance.
- (b) The Town Council, acting either as a body or through the Town Superintendent or other delegated officer, may compel the abatement or removal of all nuisances.
- (c) 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 those acts and conditions which are defined as nuisances in other portions of this Code or state law.
 - (1) *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.
 - (2) *Obstructions on streets or sidewalks.* All obstructions on any street or sidewalk, including but not limited to snow, plant matter, metal, lumber, timber, refuse, trash, furniture, mattresses, lawn equipment, tools, motor vehicles, or tires.

- (3) *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.
- (4) *Stagnant water; discharges into public streets.* All ponds or pools of stagnant water, and all foul or dirty water or liquid. “Stagnant water” shall mean any water that is absent of flow or filtration by natural or mechanical means. Stagnant water discharged into any public place or property is also a nuisance.
- (5) *Septic tanks, privies, etc.* 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.
- (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 1-48.1.
- (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 or bin shall not be deemed to be stored outside.
- (10) *Outside storage of abandoned or unused objects.* Outside storage on a Residential Property of any offensive, unwholesome, unsanitary, or unhealthy item or substance, including but not limited to abandoned, unused, or discarded objects such as household furniture, appliances, equipment, mattresses, tools, lumber, building materials, and other objects that may cause a blighting problem. For the purpose of this subsection, the term “Residential Property” shall mean a property zoned R-1, R-2, or R-3, or a property zoned A-1 or A-2 on which the principal use is a residence. 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 Superintendent, is being diligently pursued.

- (11) *Artificial light.* Artificial light which creates an unreasonable burden on adjoining property.
 - (12) *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.
- (d) Whenever a nuisance is found to exist within the town, the Town Superintendent or other delegated officer shall provide written notice to the owner or occupants of the property on which the nuisance exists. Mailing of the notice to the owner or occupant at the address upon which the nuisance is occurring or the address of the owner according to the real property records of the town shall constitute compliance with the requirements of this ordinance. 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, charging the cost thereof to such owner or occupant and collecting such costs in the same manner as the real estate tax.
- (e) If a nuisance has not been abated or removed by the deadline as set forth in the written notice, or if in the opinion of the Town Superintendent or other delegated officer that the nuisance constitutes an imminent, substantial, or compelling threat to the public health or safety, the town may abate or remove the nuisance without providing written notice. The town may charge the cost of any abatement or removal of a nuisance to the owner, occupant, or both. The costs shall be collected in the same manner as the local real estate tax. Enforcement of this Section shall not exclude the town's right to proceed under other civil remedies.
- (f) The owner or occupant of the property on which the nuisance exists may request a hearing by submitting a written request to the Town Superintendent or other delegated officer at least 48 hours before the deadline for abatement or removal of the nuisance. The Town Superintendent or other delegated officer shall promptly hold a hearing and provide notice of such hearing to the owner or occupants of the property on which the nuisance exists. If, after considering the evidence, the Town Superintendent or other delegated officer finds by a preponderance of the evidence that the nuisance does not exist, he or she may dismiss the notice.
- (g) The maintenance of nuisances is unlawful. Each business day a nuisance continues after the date set by the Town Superintendent for its abatement constitutes a separate offense or violation. In addition to liability for the town's costs of abatement, persons who fail to

comply with a notice issued pursuant to this Section requiring them to abate a nuisance shall be subject to civil penalties as follows:

- (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.

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.

Adopted: October 10, 2016

<u>NAME</u>	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Charles T. Long, Mayor				
Laura J. Daily				
Jeffrey S. Daly				
Steven J. Dean				
Josh O. Lyons				
Shelley P. Newman				
Tara R. Worthy				

CERTIFICATE

The undersigned Mayor and Clerk of the Town Council of the Town of Dayton, Virginia hereby certify that the foregoing constitutes a true and correct copy of an ordinance entitled An Ordinance Regarding the Removal and Abatement of Nuisances adopted by the Town Council at a meeting held on October 10, 2016. A record of the roll-call vote by the Town Council is as follows:

Date: October 10, 2016

ATTEST: _____
 Clerk, Town Council of the
 Town of Dayton, Virginia

 Mayor, Town of Dayton, Virginia