

Chapter 124 Nuisances

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Chapter 124 Nuisances

[HISTORY: Adopted by the Board of Supervisors of Clarke County 01-19-1988 as Secs. 9-36 th

General References

Chapter 57 Special Events

Chapter 61 Animals

Chapter 67 Brush, Grass And Weeds, Article I Control of Johnson Grass

Chapter 112 Littering

Chapter 132 Peace And Good Order

Chapter 137 Property Maintenance

Chapter 171 Vehicles, Abandoned

Chapter 180 Water And Wastewater, Article I Sewage Disposal

Code of Virginia References

§ 19.2-59. - Search without warrant prohibited

§ 32.1-25. - Right of entry of health officials

§ 48-1 et seq. - Investigation of complaint by special grand jury

§ 48-7 et seq. - Houses and contents are nuisances subject to abatement

§ 15.2-900 - Abatement or removal of nuisances by localities; recovery of costs.

§ 18.2-347 - Keeping, residing in or frequenting a bawdy place; "bawdy place" defined.

§ 124-1. Supplemental nature of chapter.

This chapter is supplemental to other provisions of this Code in which nuisances are defined and prohibited. The provisions of this chapter relating to the abatement of nuisances shall be alternative methods and procedures for the abatement of nuisances in those instances where other methods and procedures for abatement are not provided.

§ 124-2. Nuisances prohibited.

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 statute or common law of this state or as defined by this Code or other ordinance of the Board of Supervisors at any place within the county.

§ 124-3. Nuisances enumerated.

- A. The following acts when committed or conditions when existing within the county 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 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 or 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.²⁷
 6. All sidewalks, gutters or curbstones permitted to remain in an unsafe condition or out of repair.
 7. All stables, cattle yards, hog, sheep or cow pens or yards for poultry permitted by the owner thereof or the person responsible therefor to be in such a condition as to become offensive, annoying or injurious to the public.²⁸
 8. All structures and places where explosive or combustible substances, liquids or gases are stored or used in such manner as to constitute a hazard to the safety or health of persons or a hazard to property.

- B. 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, when committed, omitted or existing within the county, is hereby declared to constitute a nuisance.

§ 124-4. Offensive or unhealthy substances.

No persons owning or in possession of any lot, house, building or enclosure shall allow or suffer to exist in or upon such premises any stagnant water, animal or vegetable matter or other substance liable to become putrid, offensive, annoying or unhealthy. Persons owning or in possession of any real estate shall provide proper and adequate drainage therefore so that no offensive, baneful or disagreeable liquids shall flow or seep into any street. Any violation of this section is hereby declared to be a nuisance.

§ 124-5. Responsibility of property owners, tenants and occupants.

Each owner, lessee, tenant, occupant or person in charge of any real property within the county and each agent or representative of any such person shall maintain and use 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 shall comply with 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 county.

§ 124-6. Inspections, investigations and complaints.

The Sheriff and the Health Officer, each within the scope of his official responsibility, shall cause inspections to be made from time to time of all portions of the county to determine whether any condition exists or activity is being practiced which constitutes a nuisance. Each such officer shall cause an investigation to be made upon complaint made by any responsible person.

§ 124-7. Right to enter private premises; reasonable notice; duty of occupants.

The Sheriff and his deputies and the Health Officer and his assistants shall have the right to enter upon private premises for the purposes specified in § 124-6, 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 sought to be made in compliance with law.

§ 124-8. Notice to cease and desist.

If at any time the Sheriff or the Health Officer shall find an activity or practice which constitutes a nuisance, he shall promptly and by the most expeditious means notify the violator to cease and desist forthwith.

§ 124-9. Notice to abate; appeal; imminent hazard.

- A. If at any time the Sheriff or the Health Officer shall find a condition which constitutes a nuisance, 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 10 days.
- B. 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 Board of Supervisors, in which case the terms of such notice shall be stayed pending action of the Board, which shall be final.
- C. If the Sheriff or the Health Officer shall state in such notice that the condition which constitutes a nuisance is 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.

§ 124-10. Recourse when notice to abate nuisance is ignored.

- A. Upon the failure of any person to whom notice has been given pursuant to § 124-9 to comply with the terms of such notice or with the terms imposed by the Board of Supervisors on appeal, as the case may be, the Sheriff or the Health Officer shall forthwith cause the remedying of the condition which is the subject of such notice, and the expense incurred in so doing shall be charged to the addressee of such notice, to be collected in the same manner as county taxes or in any other manner authorized by law.
- B. Independently, or in cooperation with the Health Officer, the county may cause the remedying of nuisances. It may obtain injunctive relief in an appropriate court in cases of noncompliance. The county may collect its costs, expenses and other appropriate fees from the owner of the property affected.
- C. Abatement of any condition which constitutes a nuisance and reimbursement to those entitled thereto of expenses incurred thereby shall not bar prosecution for maintenance of a nuisance.

§ 124-11. Violations and penalties. ²⁹

Penalties for violation of the provisions of this chapter shall be as provided in Chapter 1, General Provisions, Article I.

References

- ²⁷ Editor's Note: See also Ch. 157, Streets and Sidewalks, Art. I, Obstructions by Vehicles.
- ²⁸ Editor's Note: See also Ch. 61, Animals, Art. I, General Provisions.
- ²⁹ Editor's Note: Added at time of adoption of Code (See Ch. 1, General Provisions, Art. 1)