

Chapter 24 NUISANCES [\[1\]](#)

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State Law reference— Power of Town to prevent injury or annoyance from anything dangerous, offensive or unhealthy and to cause any nuisance to be abated, Code of Virginia, § 15.2-1115; abatement of nuisances, Code of Virginia, § 15.2-900 et seq.; abating public nuisances generally, Code of Virginia, § 48-1 et seq.[\(Back\)](#)

ARTICLE I. IN GENERAL

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Sec. 24-1. "Nuisance" defined.

- (a) Every condition or activity in the town which is offensive or prejudicial to the health or general welfare of the residents shall be deemed to be a nuisance, and where not so specified by law or ordinance, the town manager shall have the power and authority to determine whether an activity or condition constitutes a nuisance, as defined in this section.
- (b) The term "nuisance" includes, but is not limited to, dangerous or unhealthy substances which have escaped, spilled, been released or which have been allowed to accumulate in, or on, any place and all unsafe, dangerous or unsanitary public or private buildings, walls or structures which constitute a menace to the health and safety of the occupants thereof or the public.
- (c) The term "responsible party" includes, but is not limited to, the owner, occupier or possessor of the premises where the nuisance is located, the owner or agent of the owner of the material which

escaped, spilled or was released and the owner or agent of the owner who was transporting or otherwise responsible for such material and whose acts or negligence caused such public nuisance.

(Code 1972, § 20-1; Code 1992, § 16-1)

State Law reference— Nuisance defined, Code of Virginia, § 15.2-900.

Sec. 24-2. Powers and duties of town manager.

The town manager is hereby vested with authority to require the abatement of any nuisance. When necessary, he shall cause to have instituted legal proceedings in the name of the town for the abatement of such nuisance and for the recovery of any expenses incurred by the town in abating the same.

(Code 1972, § 20-2; Code 1992, § 16-2)

Sec. 24-3. Abatement notice generally.

Whenever a nuisance is found by the town manager to exist on any premises in the town, it shall be his duty to serve a notice on the person who created the nuisance or, if such person cannot be ascertained, upon the occupant, to cause such nuisance to be abated within 48 hours, and if such person fails to do so, the nuisance shall be abated by the town at the expense of such person, occupant or owner, as the case may be. When such premises are unoccupied, such 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 provided in section 24-4.

(Code 1972, § 20-3; Code 1992, § 16-3)

Sec. 24-4. Abatement notice by publication.

If the owner of any unoccupied land or premises is not a resident of the town, and has no agent in the town upon whom notice may be served, the notice required by section 24-3 may be given by publication by posting in not less than two public places within the town, and the cost of such publication, if any, shall be collected as a part of the expense of effecting an abatement.

(Code 1972, § 20-4; Code 1992, § 16-4)

Sec. 24-5. Procedure for abatement by town.

- (a) If a nuisance remains unabated after the expiration of the time specified in the notice referred to in section 24-3, the town manager shall forthwith file, in duplicate, a written petition in the name of the town with the proper judicial officer, setting forth the determination of the town manager, the manner in which such 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) Such judicial officer shall issue a summons against the defendant named in the petition to show cause why such 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 the court to answer such summons and petition at the time indicated in the summons.
- (c) If, upon the hearing, the judicial officer shall order the nuisance abated, he shall order the defendant to abate such nuisance within such period of time as he may specify.

- (d) If the defendant shall fail or refuse to abate such nuisance in the time fixed by the judicial officer, he shall be guilty of a Class 1 misdemeanor, and the town manager shall abate such nuisance in the most practicable manner and the defendant shall be liable for the cost thereof.

(Code 1972, § 20-5; Code 1992, § 16-5)

Secs. 24-6—24-28. Reserved.

ARTICLE II. REGULATION OF NOISE

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Sec. 24-29. Short title and application of article generally.

This article shall be known and referred to as the "Noise Ordinance of the Town of Christiansburg, Virginia." It shall be applicable to the control of noises originating within the jurisdictional limits of the town.

(Ord. No. 2010-4, 10-19-2010)

Sec. 24-30. Declaration of policy.

At certain levels, noise can be detrimental to the health, welfare, safety, peace, and quality of life of the citizens of Town of Christiansburg, and in the public interest, noise should be controlled. Therefore, it is hereby declared to be the public policy of the Town of Christiansburg to promote an environment for its citizens that is free from excessive, unnecessary, harmful, or annoying noises, which jeopardize their health or welfare or degrades the quality of life within the Town of Christiansburg.

(Ord. No. 2010-4, 10-19-2010)

Sec. 24-31. Administration and enforcement.

This article shall be enforced and administered by the town chief of police, with the assistance of other town departments, as required.

(Ord. No. 2010-4, 10-19-2010)

Sec. 24-32. Definitions.

For purposes of this article, the following words and phrases shall have the meaning assigned to them in this section.

Chief means the chief of police of the town, or his duly appointed designees.

Dwelling unit means one or more rooms arranged, designed or intended to be occupied as separate living quarters by one or more persons and including permanent provisions for living, sleeping, eating, cooking and sanitation.

Motor vehicle means every vehicle defined as a motor vehicle by Code of Virginia, § 46.2-100 (1950), as amended.

Noise means any sound which:

- (1) Endangers or injures the safety or health of any person;
- (2) Annoys or disturbs a reasonable person of normal sensitivities; or
- (3) Endangers or injures personal or real property.

Owner means the person owning, controlling or possessing land, premises or property.

Person means any individual, partnership, corporation, firm, association, trust, estate, society, club, private institution, group of persons acting in concert, organization or agency, or any legal successor, representative, agent or agency of the foregoing. The term "person" shall not include the federal, state, county, town, city or local government, or any agency or institution thereof.

Plainly audible means any sound that can be detected by a person using his unaided hearing faculties.

Property boundary means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned, leased or otherwise legally controlled by one person from that owned, leased or otherwise legally controlled by another person, including intra-building real property divisions.

Public property means any real property owned or controlled by the town or any other governmental entity.

Residential area refers to any area of the town, regardless of zoning district, where a person maintains a permanent or temporary place of abode.

Sound means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium, and which propagates at finite speed. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound-amplifying equipment means any machine, device or equipment for the amplification of the human voice, music or any other sound. The term "sound-amplifying equipment" shall not include warning devices on authorized emergency vehicles or horns or other warning devices on other vehicles used only for traffic-safety purposes.

(Ord. No. 2010-4, 10-19-2010)

Sec. 24-33. Loud noises prohibited.

It shall be unlawful for any person to:

- (1) Use, operate or play a radio, phonograph, television, record, compact disc or tape player, musical instrument, loudspeaker, sound-amplifying equipment or other machine or device

capable of producing or reproducing sound in such a manner or with such volume or duration that it is plainly audible:

- a. Inside the confines of the dwelling unit, house or apartment of another person; or
 - b. At a distance of 50 feet or more from the device, except for devices permitted to be used at public parks or recreation fields, sporting events, school-sponsored activities on school grounds, or duly authorized parades, public functions or commemorative events.
- (2) Allow noise between the hours of 10:00 p.m. and 7:00 a.m. that is plainly audible either inside the confines of the dwelling unit, house or apartment of another person or at a distance of 50 feet or more.
- (3) Allow any animal (except farm animals in agricultural districts) to create noise that it is plainly audible at least once a minute for ten consecutive minutes:
- a. Inside the confines of the dwelling unit, house, or apartment of another; or
 - b. At a distance of 50 feet or more from the animal.

This provision shall not apply if the noise is due to harassment of or injury to the animal, or due to a trespass upon the premises where the animal is located.

- (4) Operate, install, have or permit on the inside or outside of any store, shop, business establishment, warehouse or commercial building, any loudspeaker, sound-amplifying equipment or other sound-producing or reproducing device capable of emitting music, noise, sounds, tapes or voice in such manner that it is plainly audible on any public sidewalk or street, unless it is used only intermittently for announcing or paging an individual or unless it signals the ringing of a telephone, danger from smoke, a fire or a burglary or the beginning or stopping of work or school, or unless it is operated in accordance with conditions of zoning.
- (5) Play, or permit the playing of, any radio, stereo, tape player, compact disc player, loud speaker, sound-amplifying equipment or other electronic device or mechanical equipment used for the amplification of sound, within a motor vehicle and which is plainly audible from outside the motor vehicle at a distance of 50 feet or more from the vehicle. This provision shall not apply to sirens, loud speakers and emergency communications radios in public safety vehicles; nor shall this provision apply to motor vehicle alarms or other security devices.
- (6) Create plainly audible noise in residential areas between 10:00 p.m. and 7:00 a.m. in connection with the loading and unloading of refuse, waste or recycling.
- (7) Create plainly audible noise in residential areas between 10:00 p.m. and 7:00 a.m. in connection with lawn care, leaf removal, gardening, tree maintenance or tree removal, and other landscaping, lawn or timbering activities.
- (8) Operate, or cause to be operated, any equipment used on an active site in the construction, repair, alteration or demolition of buildings, streets, roads, alleys or appurtenances thereto between the hours of 10:00 p.m. and 7:00 a.m. The use of construction vehicles as transportation to and from an active construction site may be done at any time.
- (9) Repair, rebuild or modify any motor vehicle or other mechanical equipment or device between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at a distance of 50 feet or more from the source.
- (10) Fail to deactivate an alarm system plainly audible at a distance of 50 feet or more from such alarm within 30 minutes of hearing the alarm or receiving notice of the alarm's activation.

(Ord. No. 2010-4, 10-19-2010)

Sec. 24-34. Exemptions from this article.

The following specific activities or sources of noise shall be exempt from the regulations set forth in this article:

- (1) Sounds generated in business, industrial and mixed-use zoning districts that are necessary and incidental to the uses permitted therein.
- (2) Sounds generated from any agricultural activity or agribusiness.
- (3) Activities or land use for which a permit has been issued or an exception has been granted by the town council.
- (4) Activities for which the regulation of noise has been preempted by federal law.
- (5) Sounds emitted in the performance of emergency work or for the purpose of alerting persons to the existence of an emergency.
- (6) Sounds generated by the performance of any governmental function.
- (7) Lawful activities on, or in, public and school athletic facilities and on, or in, publicly owned properties and facilities.
- (8) Activities which are part of any town- or state-sponsored festival or activity.
- (9) Military activities of the Commonwealth of Virginia or of the United States of America.
- (10) Religious services, religious events or religious activities or expressions, including, but not limited to, music, singing, bells, chimes and organs, that are a part of such service, event, activity or expression.
- (11) Religious or political gatherings and other activities protected by the First Amendment to the United States Constitution.
- (12) Sounds generated from or incidental to emergency repairs to public and private utilities.
- (13) Sounds generated from or incidental to any emergency public works function.
- (14) Sounds generated from construction and maintenance to public roads, highways and bridges.
- (15) Sounds generated from erosion and sediment mitigation.
- (16) Sounds generated from airplanes and trains.

(Ord. No. 2010-4, 10-19-2010)

Sec. 24-35. Penalties.

- (a) Any person violating any of the provisions of this article shall be subject to the following penalties:
 - (1) For the first offense, either imprisonment of not more than ten days or a fine of not less than \$75.00.
 - (2) For the second offense within 12 months of a previous conviction, either imprisonment of not more than ten days or a fine between \$250.00 and \$750.00.
 - (3) For the third offense within 24 months of a previous conviction, either imprisonment of not more than ten days or a fine between \$500.00 and \$1,000.00.
 - (4) For the fourth or subsequent offense within 24 months of a previous conviction, the person shall be guilty of a Class 1 misdemeanor.
- (b) Each separate act on the part of the person violating this article shall be deemed a separate offense, and each day a violation is permitted to continue unabated shall constitute a separate offense.

- (c) The person operating or controlling a noise source shall be guilty of any violation caused by that source. If that person cannot be determined, any owner, tenant or resident physically present in, or on, the property where the violation is occurring is rebuttably presumed to be guilty of the violation.
- (d) In addition to, and not in lieu of, the criminal penalties prescribed in this section, the town may apply to the circuit court for an injunction against the continuing violation of any of the provisions of this article, and the town may seek any other remedy or relief authorized by law.

(Ord. No. 2010-4, 10-19-2010)

Sec. 24-36. Undue hardship waiver.

- (a) Any person responsible for a noise source may apply to the town manager or town designee for a waiver, or partial waiver, from the provisions of this article. The town manager or town designee may grant such waiver, or partial waiver, upon a finding that any of the following circumstances exists:
 - (1) The noise does not endanger the public health, safety or welfare; or
 - (2) Compliance with the provisions of this article from which a waiver is sought would produce serious economic hardship without producing substantial benefit to the public.
- (b) In determining whether to grant such waiver, the town manager or town designee shall consider the time of day the noise will occur, the duration of the noise, whether the noise is intermittent or continuous, the technical and economic feasibility of bringing the noise into conformance with this article, and such other matters as are reasonably related to the impact of the noise on the health, safety and welfare of the community and the degree of hardship which may result from the enforcement of the provisions of this article.
- (c) No waiver, or partial waiver, issued pursuant to this article shall be granted for a period to exceed one year, but any such waiver, or partial waiver, may be renewed for successive like periods if the town manager or town designee shall find such renewal is justified pursuant to the standards set forth in this article. No renewal shall be granted except upon written application therefor.

(Ord. No. 2010-4, 10-19-2010)

Sec. 24-37. Other remedies.

No provision of this article shall be construed to impair any common law or statutory cause of action or legal remedy of any person for injury or damage to person or property arising from violation of this article or arising from noise that either is exempted or does not violate this article.

(Ord. No. 2010-4, 10-19-2010)

Secs. 24-38—24-62. Reserved.

ARTICLE III. DEBRIS, WEEDS, WILD GROWTH ^[2]

[Sec. 24-63. Definitions.](#)

[Sec. 24-64. Authority and purpose of article.](#)

[Sec. 24-65. Prohibited conditions on property.](#)

[Sec. 24-66. Removal of grass, weeds, debris.](#)

[Sec. 24-67. Presumption of detriment.](#)

[Sec. 24-68. Discarded or abandoned refrigerators, etc.](#)

[Sec. 24-69. General penalty.](#)

[Sec. 24-70. Removal or disposal of trash; cutting of grass and weeds.](#)

Sec. 24-63. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Debris includes cuttings of weeds, trees or bushes, garbage, trash, junk, refuse, litter, discarded motor vehicles or parts thereof, or any other material which may endanger the health or safety of the residents of the town or which may provide harborage for snakes, rats or mosquitoes, or any thing or any condition which may be a fire menace or breeding place for rats and mosquitoes or which gives off obnoxious or offensive odors.

Grass or weeds means uncultivated grass or weeds of any kind, poison ivy, poison oak and honeysuckle. The term "grass" or "weeds" shall not include town-owned property, conservation easements or trees, shrubbery, hedges, flowers and garden vegetables or other farm crops planted or cultivated and harvested in the regular course of agricultural pursuits.

Person responsible for real property means the owner or occupant of real property or any person in possession thereof or having charge thereof, as tenant, executor, administrator, trustee, guardian or agent, and the beneficiary of any easement or writ of use thereof.

Tall grass or tall weeds means growth in excess of 12 inches in height.

(Code 1972, § 15-39.1; Code 1992, § 24-106; Ord. No. 2013-3, § 24-106, 3-5-2013)

Sec. 24-64. Authority and purpose of article.

Permitting debris, trash, rubbish, grass or weeds, as defined by this article, to remain on land located within the corporate limits of the town is hereby found and declared to be a detriment to the comfort, convenience, general welfare, health and safety of the citizens of the town. This article is adopted pursuant to the authority of Code of Virginia, §§ 15.2-901, 15.2-1115, 15.2-2013, 15.2-2029 and other sections of the Code of Virginia.

(Code 1972, § 15-39; Code 1992, § 24-107; Ord. of 11-2-1999(1))

Sec. 24-65. Prohibited conditions on property.

- (a) It shall be unlawful for any person who is the owner, lessee, tenant, occupant or person responsible for any lot, parcel of land or other premises within the town to permit accumulation of tall grass and tall weeds, or to permit stagnant water, filth, trash, old tires and debris; or to permit the growing or accumulation of cuttings of tall grass or tall weeds on such premises within the town; or to permit unsightly accumulation of trash or rubbish on such premises.
- (b) It shall be unlawful for any person responsible for real property which consists of unimproved or vacant land located within the corporate limits of the town to permit tall grass or tall weeds to grow thereon within a distance of 300 feet of a public street, a residence or commercial property which are located within the town. This provision shall not apply to property in the A Agricultural Zoning District and in active use for agricultural operations, property owned or controlled by the town, or any local, state or federally recognized conservation area.

(Code 1972, § 15-39.2; Code 1992, § 24-108)

Sec. 24-66. Removal of grass, weeds, debris.

- (a) The town manager, or designee, is hereby authorized to notify, in writing, the person responsible for any real property to cut and remove, either or both, any grass or weeds or debris found growing, lying or located on such property in violation of this article. Such notice shall state the time within which the action or work ordered to be done is to be completed.
- (b) The notice provided for in this section shall be personally served upon the person responsible for the real property involved by the town manager, or designee, who shall note the time, place and manner of such service on a duplicate copy of the notice to be kept by the town manager or designee. In lieu of such personal service, such notice may be by registered or certified mail, addressed to such responsible person at his last known address. If the town manager, or designee, after a reasonable effort, cannot locate the person responsible for such property, such notice may be served by posting a copy thereof on such property for a period of ten days.
- (c) A person receiving notice pursuant to this section shall immediately proceed to clear off and remove from the property involved all grass, weeds or debris or take such other corrective action specified in the notice; and shall complete such work within ten days from the date of the notice. The failure or refusal of such persons to do so shall constitute a misdemeanor and prosecution therefor shall not bar the town from proceeding to have the work done in accord with subsection (d) of this section.
- (d) Upon failure, neglect or refusal of any person, upon whom notice has been served pursuant to subsection (b) of this section, to comply with such notice within the time indicated in the notice, the town manager, or designee, may have the cutting or removal, either or both, performed by the town forces or by contract, and the actual cost of such cutting or removal shall be charged to the person to whom the notice was directed.
- (e) If the town manager, or designee, after reasonable attempt, cannot determine who the person responsible for the real property is, and notice has been posted on the property for a period of ten days pursuant to subsection (b) of this section, the town manager, or designee, may then proceed to have the cutting or removal, either or both, performed by the town forces or by contract.
- (f) If the cost of cutting or removal, either or both, is to be charged to the person responsible for the real property, as provided for in this section, the town manager, or designee, shall make out a bill in the name of such person, showing the actual cost of the cutting or removal, either or both, as the case may be, and shall mail one copy thereof to such person. If such bill is not paid within 30 days from the date of posting the same in the regular course of mail, the town may collect such costs as taxes are collected in accordance with Code of Virginia, § 15.2-901.

(Code 1972, § 15-39.3; Code 1992, § 24-109)

Sec. 24-67. Presumption of detriment.

Any condition existing on real property within the corporate limits of the town in violation of this article shall be presumed to be detrimental to the comfort, convenience, general welfare, health and safety of the citizens of the town.

(Code 1972, § 15-39.4; Code 1992, § 24-110)

Sec. 24-68. Discarded or abandoned refrigerators, etc.

- (a) It shall be unlawful for any person to discard, abandon, leave or allow to remain in any place any icebox, refrigerator or other container, device or equipment of any kind with an interior storage area

of more than two cubic feet of clear space which is airtight, without first removing the doors or hinges from such icebox, refrigerator, container, device or equipment.

- (b) This section shall not apply to any icebox, refrigerator, container, device or equipment which is being used for the purpose for which it was originally designed, or is being used for display purposes by any retail or wholesale merchant, or is crated, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment thereof.
- (c) Any violation of the provisions of this section shall be punishable as a Class 3 misdemeanor, in accordance with section 1-11.

(Code 1972, § 15-41; Code 1992, § 24-111)

State Law reference— Abandoning or discarding certain appliances, containers, etc., Code of Virginia, § 18.2-319.

Sec. 24-69. General penalty.

Except as otherwise provided in this article, a violation of any provisions of this article shall constitute a Class 1 misdemeanor.

(Code 1972, § 15-39.5; Code 1992, § 24-112)

Sec. 24-70. Removal or disposal of trash; cutting of grass and weeds.

- (a) The owners of property within the town shall, at such time, or times, as the governing body may prescribe, remove therefrom any and all trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of the town therein; or may, whenever the town council deems it necessary, after reasonable notice, have such trash, garbage, refuse, litter and other like substances which might endanger the health of the other residents of the town therein, removed by its agents or employees, in which event the costs or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the town therein as taxes are collected.
- (b) Trash, garbage, refuse, litter and other debris shall be disposed of in personally owned or privately owned receptacles that are provided for such use and for the use of the person disposing of such matter or in authorized facilities provided for such purpose and in no other not authorized by law.
- (c) The owners of vacant developed or undeveloped property within the town, including such property upon which buildings or other improvements are located, shall cut the grass, weeds and other foreign growth on such property or any part thereof at such time, or times, as the town council shall prescribe; or may, whenever the town council deems it necessary, after reasonable notice have such grass, weeds or foreign growth cut by its agents or employees, in which event the costs and expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the town therein as taxes are collected.
- (d) Every charge authorized by the section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Code of Virginia, § 58.1-3940 et seq. and Code of Virginia, § 58.1-3965 et seq.

(Code 1992, § 24-113; Ord. of 11-2-1999(1))

FOOTNOTE(S):

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State Law reference— Authority to provide for removal of trash, cutting of grass and weeds, Code of Virginia, § 15.2-901.[\(Back\)](#)