

CHAPTER 10

NUISANCES; CONDITION OF PREMISES; GARBAGE COLLECTION

Division 1 - Nuisances; Condition of Premises

Article I - Nuisances

- Sec. 10-1. Definitions.
- Sec. 10-2. Illustrative enumeration.
- Sec. 10-3. Prohibited.
- Sec. 10-4. Abatement of public nuisance - procedure.
- Sec. 10-5. Public Nuisance - animals or fowls.
- Sec. 10-6. Abatement of Public Nuisance - Costs Taxed.
- Sec. 10-7. Abatement Costs - Town Property.
- Sec. 10-8. Liability imposed by other laws not decreased.
- Sec. 10-9. Enforcement by injunction.
- Sec. 10-10. Penalties.
- Sec. 10-11. Severability of Provisions.

Article II - Garbage, Rubbish, etc.

- Sec. 10-12. Use of place for deposit of garbage, etc.
- Sec. 10-13. Littering or dumping refuse, grass trimmings, or other debris on public property, highway, right-of-way, school, or park; civil penalty.
- Sec. 10-14. Throwing slops, etc., in or on street, etc.
- Sec. 10-15. Allowing filth, etc., to accumulate upon premises, etc.
- Sec. 10-16. Dumping trash, etc., on highway, right of way or private property.

Article III - Condition of Premises

- Sec. 10-17. Cutting and removal of weeds and other foreign growth from vacant property.
- Sec. 10-18. Removal of trash, garbage, etc., from property.

Replacement Page. (Sec. 10-13 amended 10/2/18).

Division 2. - Collection of Garbage by Town

Article IV - Collection of Garbage by Town

Sec. 10-19.	Definitions.
Sec. 10-20.	Solid waste disposal procedure.
Sec. 10-21.	Commercial solid waste collection.
Sec. 10-22.	Fencing of inground swimming pools.
Sec. 10-23.	Repealed and reserved.
Sec. 10-24.	Repealed and reserved.
Sec. 10-25.	Repealed and reserved.
Sec. 10-26.	Repealed and reserved.
Sec. 10-27.	Repealed and reserved.
Sec. 10-28.	Repealed and reserved.

Division 1 - Nuisances; Condition of Premises

Article I - Nuisances

Sec. 10-1. Definitions.

The following words whenever used in this chapter shall have the meanings respectively set forth unless a different meaning is clearly required by the context:

A. *Building*: Any structure for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

B. *Noise*: Any loud, confused, or senseless shouting or outcry from whatever source that stimulates the auditory organ.

C. *Noxious weeds*: The species of grass *Sorghum halepense*, commonly known as Johnson grass or the woody shrub *rosa multiflora*, commonly known as multiflora rose, the weed designated as *Carduus nutans* L., a biennial weed of the Compositae family, or curled thistle and the weed designated as *Carduus acanthoides* L., an annual and biennial weed of the Compositae family.

D. *Nuisance*: Any person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

1. Injures or endangers the comfort, repose, health or safety of others; or
2. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage; or

Replacement Page. (Secs. 10-19, 10-20 and 10-21 amended 11/1/11. Secs. 10-22 through 10-28 repealed and reserved 11/1/11. Sec. 10-22 added 12/5/17, effective 4/1/18. Sec. 10-1 amended 11/7/17).

3. In any way renders other persons insecure in life or the use of property;
or

4. Essentially interferes with the comfortable enjoyment of life and property, or

5. Devalues the property of others.

E. *Odor*: Any smell from whatever source resulting from a quality of something that stimulates the olfactory organ.

F. *Premises*: A tract of real property with a building or buildings thereon and shall include its grounds and other appurtenances.

G. *Property*: Both real property and personalty.

H. *Overgrown vegetation*: Trees, shrubs, climbing plants and other vegetation which has been permitted to grow to the point that it is in contact with the walls or roof of the buildings on the property so as to prevent the flow of air onto the said surfaces.

Sec. 10-2. Illustrative enumeration.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

A. Noxious weeds and other rank vegetation, including such growth between the property line and the street curblin, and overgrown vegetation.

B. Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.

C. Any condition which provides harborage for rats, mice, snakes and other vermin, including overgrown vegetation.

D. Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, is open and/or unsecured from entry, or presents a fire hazard to the building itself and/or to other properties in the vicinity where it is located.

E. All obnoxious odors and stench, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stench.

F. The carcasses of animals or fowl not disposed of immediately after the death of such animal or fowl.

G. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.

H. Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.

I. Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.

J. Emission or release of dense smoke and/or noxious fumes, for a continuing period in excess of 15 minutes. Burning of leaves and brush not to exceed four times per year is excepted from this Subparagraph J.

Replacement Page. (Sec. 10-1 and 10-2 amended 11/7/17).

Sec. 10-3. Prohibited.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance.

Sec. 10-4. Abatement of public nuisance - procedure.

A. Every activity or condition which has been declared to be a public nuisance by the Town Council pursuant to the procedure set forth in this Section 10-4 shall be abated by the owner or occupant of the property from which the public nuisance emanates said abatement to be accomplished at the expense of the said owner or occupant.

B. Prior to declaring the activity or condition in question a public nuisance said owner or occupant shall be afforded reasonable notice and opportunity for a hearing before Town Council, which shall if necessary, specially convene for this purpose.

C. In the event that, after said hearing duly held before the Town Council, the Council finds that the activity or condition complained of is in fact a public nuisance the Town Council shall give the said owner or occupant a reasonable time to abate said public nuisance taking into account the urgency of the need for abatement and the difficulty involved in abatement. Failure by said owner to abate said public nuisance within the said time limit shall constitute a violation of this ordinance and shall be punishable as prescribed in Section 10-10 of this Article. Upon the failure of said owner or occupant to abate said public nuisance within the time limit as established by Council the Town Clerk or any duly authorized agent of the Town may abate said public nuisance by whatever means are deemed reasonable and necessary by the Town Clerk.

D. Should any public nuisance be of such a nature as to pose an immediate threat to the health or safety of the public, such public nuisance shall be abated immediately by the owner or occupant of the property from which said public nuisance emanates or arises.

In the event that said public nuisance is of such a serious and immediate nature as to pose an imminent threat to the health and safety of the community or any part thereof, or should said public nuisance fall within the legal classification of a public nuisance per se, or a public nuisance in fact, the Town Clerk or other duly authorized agent of the Town shall cause the Town Police to serve notice upon the owner or occupant of the property from which the public nuisance emanates to abate said public nuisance within such period as the Town Clerk deems expedient for public health and safety. In the event that said owner fails to abate said public nuisance the said Town Clerk or duly authorized agent may take immediate and summary action to abate said public nuisance to the extent that the imminence and the seriousness of said public nuisance are reasonably reduced to a safe level. In this event the right to

notice and hearing to the owner or occupant of property from which said public nuisance emanates or arises shall be afforded said owner as soon after said public nuisance is abated as is possible.

The Council shall at the hearing render a decision as to the permanent abatement of said public nuisance and said decision shall be implemented in the same manner as set forth in subparagraph C. above.

E. Any decision of Town Council with regards to a public nuisance after such notice and hearing shall be subject to judicial review by the Circuit Court of Pittsylvania County upon appeal to said court.

Sec. 10-5. Public Nuisance - animals or fowls.

A. Definitions. The following words, terms and phrases when used in this article shall have the meanings ascribed to them in this section:

Animal or fowl: Every animal or fowl, specifically including dogs, kept within the boundaries of the Town of Hurt. As used hereinafter the term "animal" shall refer to both animals and fowls.

Own and owner: Includes any person having a right of property in an animal and any person who keeps or harbors an animal or has it in his care, or who acts as its custodian, and any person who permits an animal to remain on or about any premises occupied by him.

Public nuisance: For the purposes of this article,

1. Any animal that molests passersby or passing vehicles or interferes with traffic;
2. Any animal that attacks other animals;
3. Any animal that trespasses on school grounds and interferes with school activities;
4. Any animal that habitually turns over garbage cans of any person other than the owner or custodian thereof;
5. Any animal that damages private or public property; or
6. Any animal that by loud, frequent or habitual crying, barking, howling or other noise causes annoyance and disturbance of the peace and quiet of any person or neighborhood;
7. Any aggregation of animals creating a foul odor, shall be deemed a public nuisance.

B. The keeping of any animal or animals within the boundaries of the Town in such a manner as to constitute a public nuisance as that term is defined in Section 10-1 of the Code of the Town of Hurt (hereinafter referred to as "the Code") or as set forth in Subsection A. above, is prohibited and shall be abated by the owner of said animal or animals and shall be subject to the abatement procedures set forth in this Chapter 10.

C. Any animal or animals causing a disturbance or annoyance in any manner described above or any combination thereof so as to cause complaint to the Town by the person or persons so disturbed three or more times within a period of 60 days shall constitute a public nuisance within the meaning of Section 10-1 of the Code and this Section 10-5. Upon receipt of such complaint the Town Police shall serve upon the owner of the offending animal or animals notice of said complaint along with a copy of this Chapter of the Code. Upon the receipt of the second and third complaints the owner shall be served with similar notices, the third notice stating that the offending animal or animals appears to constitute a public nuisance and is subject to abatement procedures under this Chapter 10.

In addition to the above provision any animal causing a disturbance or annoyance in any manner described above or any combination thereof shall constitute an apparent public nuisance within the meaning of Section 10-1, and subject to the abatement procedures hereunder, if no less than three persons familiar with said animal or animals petition the Town complaining about the animal or animals causing the said disturbance.

D. Any owner of animal or animals so reported as being a public nuisance shall be subject to the procedure set forth in Section 10-4 A., B., C., D., and E. and upon a finding by the Town Council that said animal or animals constitutes a public nuisance Council shall give the owner of said animal or animals a reasonable time to take such measures as may be reasonably necessary to abate the said nuisance, including, but not limited to, confining said animal or animals or removing the same beyond the Town limits. Upon the failure of said owner to comply with the said abatement order of Council within the prescribed time, the Town may confiscate the said animal or animals and dispose of same according to law.

Failure by said owner to comply with said order shall constitute a violation of this ordinance and shall be punishable as prescribed in Section 10-10 of this Article.

Sec. 10-6. Abatement of Public Nuisance - Costs Taxed.

Where any public nuisance is abated by the Town pursuant to the provisions of this Article, the costs of said abatement shall be taxed against the owner or occupant of the property from which said public nuisance emanates or arises and shall be collectible by the town in any manner provided by law for the collection of State and local taxes. Upon the completion of said abatement the Town Clerk shall send by certified mail to said owner a bill for the costs of said abatement with the notation thereon that such charges are collectible by the town in any manner provided by law for the collection of State and local taxes and that failure to pay said bill within 60 days of the date thereof will result in the institution of collection procedures. Upon the owner's failure to pay such bill by the date set thereon the Town Clerk may, pursuant to law, institute such collection procedures as he or she may deem necessary.

Sec. 10-7. Abatement Costs - Town Property.

Whenever any person or business causes a public nuisance to exist on property belonging to the Town lying within or beyond the corporate limits of the Town and the Town abates same under this Article, said person or business shall be taxed with the costs of said abatement as provided under Section 10-6 of this Article.

Sec. 10-8. Liability imposed by other laws not decreased.

Nothing contained in this Article shall be construed as making lawful any act or omission which is now unlawful, or as decreasing the liability, civil or criminal, or any person, imposed by existing laws.

Sec. 10-9. Enforcement by injunction.

Nothing herein contained shall prevent the Town of Hurt from enforcing the terms of this article by means of injunction obtained in the Circuit Court of Pittsylvania County.

Sec. 10-10. Penalties.

Any person violating the provisions of this article shall be guilty of a Class 3 misdemeanor.

Sec. 10-11. Severability of Provisions.

Should any section or provision of this Article be decided to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of any other section or provision of this Article.

Article II - Garbage, Rubbish, etc.¹

Sec. 10-12. Use of place for deposit of garbage, etc.

Subject to the provisions of this chapter, garbage, offal or filth shall not be removed from private premises and deposited at any place in the town except at such place as may be provided by the town council.

1. For state law as to unauthorized deposit of trash, garbage, etc., upon land of another, see Code of Va., Sec. 18.1-178. For state law as to dumping trash, garbage, etc., on public highway or private property, see Code of Va. Sec. 33-279.1. For state law as to putting or casting glass, etc., in public road, see Code of Va. Sec. 33-288. For state law as to putting or depositing nails, tacks, etc., on highways, see Code of Va. Sec. 33-288.1.

Sec. 10-13. Littering or dumping refuse, grass trimmings, or other debris on public property, highway, right-of-way, school, or park; civil penalty.

A. No person shall litter, place, deposit, or cast or cause to be blown, ejected, cast or deposited upon or in any street, sidewalk, park, playground, school ground, stormwater drain, or other publicly owned land or building within the town any refuse or substance or debris whatever which may create an unsafe condition on or detract, mar or constitute littering of, any such land or building, including, but not limited to, grass trimmings, yard clippings, or sweepings.

B. When a violation of the provisions of this section has been observed by any person and the matter dumped or disposed of has been ejected or discarded from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting or disposing of such matter. However, such presumption shall be rebuttable by competent evidence.

C. When a violation of this section has occurred because of grass trimmings and yard clippings or other debris being blown, ejected, cast or deposited onto a street, sidewalk, or right-of-way, or other public property, the property owner adjacent to the violation with a recently mowed or trimmed yard shall be presumed to be the violator. However, such presumption shall be rebuttable by competent evidence.

D. Infractions and civil penalties.

1. In the event of a violation of any provision of this ordinance the person violating this ordinance shall be subject to a civil penalty of \$50.00 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall be \$100.00. Each business day during which the same violation is found to have existed shall constitute a separate offense. 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 \$3,000.00 in a 12-month period.

2. A summons shall be issued to the person committing such violation. Such summons shall contain the following information:

- a. The name and address of the person charged.
- b. The nature of the infraction and the ordinance provision(s) being violated.
- c. The location, date and time that the infraction occurred or was observed.
- d. The amount of the civil penalty assessed for the infraction.
- e. The manner, location and time in which the civil penalty shall be paid to the Town.
- f. A statement that failure to timely pay the penalty will result in a charge of a Class 4 misdemeanor to be tried in the Pittsylvania County General District Court.

3. The summons shall provide that not later than 7 days after the date the summons is served the person summoned shall pay the civil penalty by making an appearance in person to the Clerk's Office at the Hurt Town Hall enter an admission of liability and pay the civil penalty established for the offense charged. Timely payment of the penalty and admission of liability shall preclude the prosecution of a violation as a criminal misdemeanor. Payment of the penalty and admission of liability shall not be considered a criminal conviction for any purpose.

4. If a person summoned for a violation does not admit liability and timely pay the penalty the violation such person shall be charged with a Class 4 misdemeanor and such person shall be tried in the Pittsylvania County General District Court in the same manner and with the same right of appeal as provided by law.

5. The remedies provided for in this section are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

Sec. 10-14. Throwing slops, etc., in or on street, etc.

It shall be unlawful for any person to throw or deposit any slops, soapsuds or water in or on any street, alley or sidewalk in the town.

Sec. 10-15. Allowing filth, etc., to accumulate upon premises, etc.

A. It shall be unlawful for the owner, lessee or person in control of any property in the town to allow the following to accumulate upon such property whether improved or vacant:

1. Trash, refuse, junk and other abandoned materials, metals and/or lumber.
2. Disassembled household appliances, dismantled mechanicalized equipment and auto parts.
3. Motor vehicle tires.
4. Any unhealthy substance including but not limited to filth, offal, garbage or other matter conducive to the spread of disease.
5. The carcasses of animals or fowl.
6. Stagnant water.

B. Infractions and civil penalties.

1. In the event of a violation of any provision of this ordinance the person violating this ordinance shall be subject to a civil penalty of \$50.00 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall be \$100.00. Each business day during which the same violation is found to have existed shall constitute a separate offense. 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 \$3,000.00 in a 12-month period.

2. A summons shall be issued to the person committing such violation. Such summons shall contain the following information:

Replacement Page. (Sec. 10-13 amended 10/2/18)

- a. The name and address of the person charged.
- b. The nature of the infraction and the ordinance provision(s) being violated.
- c. The location, date and time that the infraction occurred or was observed.
- d. The amount of the civil penalty assessed for the infraction.
- e. The manner, location and time in which the civil penalty shall be paid to the Town.
- f. A statement that failure to timely pay the penalty will result in a charge of a Class 4 misdemeanor to be tried in the Pittsylvania County General District Court.

3. The summons shall provide that not later than 7 days after the date the summons is served the person summoned shall pay the civil penalty by making an appearance in person to the Clerk's Office at the Hurt Town Hall enter an admission of liability and pay the civil penalty established for the offense charged. Timely payment of the penalty and admission of liability shall preclude the prosecution of a violation as a criminal misdemeanor. Payment of the penalty and admission of liability shall not be considered a criminal conviction for any purpose.

4. If a person summoned for a violation does not admit liability and timely pay the penalty the violation such person shall be charged with a Class 4 misdemeanor and such person shall be tried in the Pittsylvania County General District Court in the same manner and with the same right of appeal as provided by law.

5. The remedies provided for in this section are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

Sec. 10-16. Dumping trash, etc., on highway, right of way or private property.¹

A. Any person shall be guilty of a misdemeanor who shall dump or otherwise dispose of trash, garbage, refuse or other unsightly matter, on a public street, highway, right-of-way, or on private property without the written consent of the owner thereof or his agent.

B. When any person is arrested for a violation of this section, and the matter alleged to have been dumped or disposed of on the highway, public street, right-of-way or private property has been ejected from a motor vehicle, the arresting officer may comply with the provisions of Sec. 46.1-178 of the Code of Virginia of 1950, as amended, in making such arrest.

C. When a violation of the provisions of this section has been observed by any person, and the matter dumped or disposed of on the highway, public street, right-of-way or private property has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting such trash, garbage, refuse or other unsightly matter; provided, however, that such presumption shall be rebuttable by competent evidence.

D. Any person convicted of such violation shall be guilty of a Class 1 misdemeanor and punished accordingly.

1. Va. Code Ref. Sec. 33-279.1

Article III. Condition of Premises¹

Sec. 10-17. Condition of Premises.

(a) *Weeds* shall mean any plant, grass, or other vegetation over twelve (12) inches high, excluding therefrom the following:

- (1) Trees.
- (2) Ornamental shrubbery and/or flowering landscaping.
- (3) Agricultural plants.
- (4) Growth located on banks of continually flowing streams.
- (5) Natural and undisturbed slopes of a vertical angle of thirty (30) degrees or greater.
- (6) Cliffs, bluffs, ravines, and other similar areas with vegetation foliage.
- (7) Natural and undisturbed wooded areas.

(b) It shall constitute a public nuisance for an owner and/or occupant of any property in the Town, whether such property be improved or vacant, to permit weeds, as defined in subsection (a) above, to grow thereon or on the public right-of-way between such property bordering on a public street and the curb line or pavement edge of the street.

(c) It shall be unlawful for any owner or occupant of a property in the Town to cause or allow a public nuisance as described in this section to exist with respect to such property or such area of public right-of-way. An owner or occupant of such a property shall abate any such public nuisance on said property and where required on any public right-of-way bordering such property.

(d) Upon determination by the Mayor, or his or her designee, that there exists on any property within the Town, including the area between such land or premises and the curb line or pavement edge, any weeds as defined in subsection (a) above constituting a public nuisance under the provisions of subsection (b) above, notice shall be served on the owner of such property or his agent, or on the occupant thereof, or both, to cause such weeds to be cut and removed from such property within five (5) calendar days from the date of delivery of such notice. Such notice shall state that if such owner fails to cut and remove said weeds by the time specified the Town may do so and in such event said owner will be charged with the expense thereof including an administrative fee of \$75.00. In the event of extenuating circumstances upon request made prior to the expiration of the five (5) day period, the Mayor or designee may grant one extension of not more than five (5) days such extension to be made in writing.

(e) Service of the notice provided for in subsection (d) shall be by first class mail with delivery confirmation, personal delivery or posting in a conspicuous place upon the property; provided, however, that if the property is unoccupied and the owner or his agent cannot be found by the exercise of due diligence or is unknown, such notice shall be sufficient against the owner if given by first class mail to the owner's mailing address as

1. Va. Code Ref. Sec. 15.1-11

listed in the Treasurer's Office of Pittsylvania County for assessment of real estate taxes and posted in a conspicuous place upon the property. The Mayor, or his or her designee, is hereby authorized to deliver or post such notices.

(f) In the event that said owner and/or occupant fails to cut and remove said weeds from such property within the time specified in the notice provided for in subsection (d) the Town may have such weeds cut by its agents or employees, in which event the cost and expenses thereof including an administrative fee of \$75.00 shall be chargeable to and paid by the owner of such property and may be collected by the Town as taxes are collected.

(g) Every charge authorized by this 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 58.1-3965 et seq. The Town may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

(h) Upon the completion of such removal, the Mayor or designee shall send by certified mail to such owner a bill for the cost and expenses of the removal including an administrative fee of \$75.00 with the notation thereon that such charges are collectible by the Town as taxes are collected and that failure to pay the bill within 60 days of the date thereof will result in a lien being perfected against the property and the institution of other collection procedures. Upon the owner's failure to pay such bill by the date set thereon, the Mayor shall perfect such lien by recording the lien in the Clerk's Office of the Circuit Court of Pittsylvania County and may, pursuant to law, institute such collection procedures as he or she may deem necessary.

(i) *Infractions and Civil Penalties.*

1. In the event of a violation of any provision of this ordinance the person violating this ordinance shall be subject to a civil penalty of \$50.00 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall be \$100.00. Each business day during which the same violation is found to have existed shall constitute a separate offense. 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 \$3,000.00 in a 12-month period.

2. A summons shall be issued to the person committing such violation. Such summons shall contain the following information:

- a. The name and address of the person charged.
- b. The nature of the infraction and the ordinance provision(s) being violated.
- c. The location, date and time that the infraction occurred or was observed.

- d. The amount of the civil penalty assessed for the infraction.
- e. The manner, location and time in which the civil penalty shall be paid to the Town.
- f. A statement that failure to timely pay the penalty will result in a charge of a Class 4 misdemeanor to be tried in the Pittsylvania County General District Court.

3. The summons shall provide that not later than 7 days after the date the summons is served the person summoned shall pay the civil penalty by making an appearance in person to the Clerk's Office at the Hurt Town Hall enter an admission of liability and pay the civil penalty established for the offense charged. Timely payment of the penalty and admission of liability shall preclude the prosecution of a violation as a criminal misdemeanor. Payment of the penalty and admission of liability shall not be considered a criminal conviction for any purpose.

4. If a person summoned for a violation does not admit liability and timely pay the penalty the violation such person shall be charged with a Class 4 misdemeanor and such person shall be tried in the Pittsylvania County General District Court in the same manner and with the same right of appeal as provided by law.

5. The remedies provided for in this section are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

Sec. 10-18. Removal of trash, garbage, etc., from property.¹

The owner of any property in the Town shall remove trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of the Town from such property at intervals to be designated by the Town Council.

Reasonable notice of the date fixed by the Council for the removal of such trash, garbage, refuse, litter and other substances which might endanger the health of other residents of the Town shall be given by newspaper publication, mail or by delivery of a written notice to each owner of property. Upon the failure of the owner of property to remove such trash, garbage, refuse, litter and other substances which might endanger the health of other residents of the Town, as provided in such notice, the mayor may have such trash, garbage, refuse, litter and other substances which might endanger the health of the other residents of the Town removed and bill the owner for the work.

Upon the owner's failure to pay such bill by tax billing time, such bill shall be placed upon the tax bill of the owner so delinquent and collected as taxes are collected.

1. Va. Code Ref. Sec. 15.1-11

Division 2 - Collection of Garbage by Town

Article IV - Collection of Garbage by the Town

Sec. 10-19. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them in this section:

Ashes. "Ashes" means the residue from burning of wood, coal, coke or other combustible materials.

Authorized person shall mean any town employee, any person employed by the town on a temporary basis, or any person designated by the town, to remove solid waste, or any person appointed by the town to provide automated container or other collection service.

Automated collection container shall mean a container supplied by the Town or its contractor which shall be used for the automated collection service; hereinafter, referred to as "container".

Garbage. "Garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation and consumption of foods.

Trash means nonputrescible, solid wastes consisting of paper, cardboard, wood, tin cans, glass, yard clippings, bedding, crockery, metals, rubbish, sweepings, litter and all other similar substances.

Solid waste. "Solid waste" means all waste materials, except body waste and shall include garbage, rubbish and trash.

Sec. 10-20. Solid waste disposal procedure.

(a) *Automated collection system.* After the effective date of this ordinance, all solid waste generated in the town shall be collected using an automated disposal system contracted by the Town. The disposal contractor will supply each residence with a 95-gallon container to be used by the resident(s) for placement of their solid waste for collection as provided herein.

(b) *Automated collection containers.* Each residence and each business generating one such 95-gallon container or less of solid waste per week will receive one such 95-gallon container at no cost. Residents must make arrangements directly with the disposal service for additional containers and pay any charges therefore directly to the disposal service. The containers shall not exceed 300 pounds when placed at the curb for pickup.

(c) *Placement of containers.* Containers shall be placed in the following manner:
(1) Containers shall be placed at the curb or street edge directly in front of residences, not less than five feet from any other obstacle, i.e. cars, trees, shrubs and mail boxes. Containers shall be placed so that traffic is not impeded.

Replacement Page. (Sec. 10-19 amended 11/1/11. Sec. 10-20 amended 11/1/11 and 11/7/17).

(2) All containers from residences shall be placed out for collection not earlier than 2:00 p.m. on the day prior to collection or not later than 7:00 a.m. on the day which collection is scheduled to be made. Empty containers shall be removed from the street or sidewalk to a position out of the Town's right of way not later than Noon on the day after collections are made.

(3) All solid waste shall be drained free of liquids before placing it in the container.

(4) No ashes or hazardous materials shall be placed out for collection by the disposal service.

(5) No dead animals shall be placed in the containers. Dead animals will require special pickup by VDOT or authorized person.

(6) The containers shall be kept clean by a thorough rinsing and draining as often as necessary to prevent the accumulation or residue of material on the bottom or sides of the containers.

(7) The containers shall remain the property of the disposal service. Containers which are too badly damaged to hold refuse or be handled safely or that allow contents to be spilled shall be reported to the disposal service for repair. If the damage is due to neglect or abuse the resident or business may be charged for the cost of the repairs or a \$50.00 fee to replace the container as specified by the disposal service.

(8) All solid waste that is to be picked up as part of the regular collection must be placed inside the container and at the designated location. Items outside the container will not be picked up.

(9) Solid waste placed in containers other than those provided by the disposal service will not be collected.

(10) *Certain solid waste not to be collected-generally.* Manure, topsoil, earth, stone, rock, brick, concrete, asphalt, heavy metal, sheet rock, plate or large broken glass, poisons, caustics, acids, hazardous waste, trees, stumps, explosives, or other dangerous materials, or rubbish from construction, remodeling, razing and repair operations on houses, commercial buildings and other structures shall not be placed out for collection by any person and shall not be removed by any unauthorized person.

(d) *Physically challenged service.* Any person who is physically unable to transport the container from the residence to the locations described in subsection (c)(1) of this section may apply to the disposal service for assistance after providing such evidence of need as is required by the disposal service.

(e) *Collection schedules.* Collection will take place on one day per week to be determined by agreement between the Town and the disposal service. The collection day may be changed by the disposal service after reasonable notice to the citizens and during periods of inclement weather.

(f) Street litter containers placed in the town by the disposal service are intended only for the use of the general public for litter. They are not provided for the benefit of residents and/or businesses for weekly and/or daily refuse disposal.

(g) *Infractions and Civil Penalties.* Failure to comply with the requirements of this ordinance after having been served with a written Notice of Violation shall constitute an infraction hereof. Each day's failure to comply after such written Notice of Violation shall constitute a separate offense.

1. In the event of a violation of any provision of this ordinance the person violating this ordinance shall be subject to a civil penalty of \$25.00 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall be \$50.00. Each business day during which the same violation is found to have existed shall constitute a separate offense. 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 \$3,000.00 in a 12-month period.

2. A summons shall be issued to the person committing such violation. Such summons shall contain the following information:

- a. The name and address of the person charged.
- b. The nature of the infraction and the ordinance provision(s) being violated.
- c. The location, date and time that the infraction occurred or was observed.
- d. The amount of the civil penalty assessed for the infraction.
- e. The manner, location and time in which the civil penalty shall be paid to the Town.
- f. A statement that failure to timely pay the penalty will result in a charge of a Class 4 misdemeanor to be tried in the Pittsylvania County General District Court.

3. The summons shall provide that not later than 7 days after the date the summons is served the person summoned shall pay the civil penalty by making an appearance in person to the Clerk's Office at the Hurt Town Hall enter an admission of liability and pay the civil penalty established for the offense charged. Timely payment of the penalty and admission of liability shall preclude the prosecution of a violation as a criminal misdemeanor. Payment of the penalty and admission of liability shall not be considered a criminal conviction for any purpose.

4. If a person summoned for a violation does not admit liability and timely pay the penalty the violation such person shall be charged with a Class 4 misdemeanor and such person shall be tried in the Pittsylvania County General District Court in the same manner and with the same right of appeal as provided by law.

5. The remedies provided for in this section are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

Sec. 10-21. Commercial solid waste collection.

(a) *Generally.* All businesses generating in excess of one 95 gallon container (as defined in Sec. 10-19) of solid waste per week, all mobile home parks, and all rental properties containing four (4) or more rental units in a single building or lying on a single parcel of land, must use a private contractor to collect all solid waste, whether it be from a dumpster service or other collection service. All dumpsters and other solid waste containers must be equipped with properly functioning lids and maintained so that no solid waste material can escape the dumpster or container and no vermin or dogs can gain access and to minimize the escape of odors. Dumpsters or solid waste containers are the property and responsibility of the private contractor but in the case that a dumpster or solid waste container is not in compliance with this section the business owner will be contacted. It will then be the responsibility of that owner to contact the private contractor to have the dumpster or solid waste container repaired or replaced.

(b) *Dumpster standards.*

(1) Dumpsters shall be placed in a location that is clearly accessible to the servicing vehicle.

(2) Dumpsters shall be placed only on a concrete slab or asphalted area.

(3) Lids must function properly and be closed tightly at all times so that no material or odors can escape and no animals can gain access.

(4) Dumpsters in which garbage and food waste are placed must be regularly treated with lime and/or Clorox or similar disinfectants to minimize spoilage and odors.

(c) *Application of dumpster regulations.* Dumpster regulations shall apply to all residential and commercial districts in the Town.

(d) *Violation of ordinance.* Violation of this ordinance shall constitute a Class Four misdemeanor and each day's continued violation after written Notice of Violation is served on the owner of the property upon which the dumpster is placed shall constitute a separate offense.

Sec. 10-22. Fencing of inground swimming pools.

A. Definitions. For the purposes of this section:

1. "Fence" means a close type vertical barrier not less than four feet in height above ground surface. A woven steel wire, chain link, picket or solid board type fence or a fence of similar construction which will prevent the smallest of children from getting through shall be construed as within this definition.

2. "Swimming pool" includes any inground structure designed or used to hold water for the purpose of providing a swimming or bathing place for any person.

B. Inground swimming pools shall be fenced.

Replacement Page. (Sec. 10-21 amended 11/1/11. Secs 10-22 through 10-28 repealed and reserved 11/1/11. Sec. 10-22 added 12/5/17, effective 4/1/18. Sec. 10-20 amended 11/1/11 and 11/7/17).

1. It shall be unlawful for any person to construct, maintain, use, possess or control any inground pool on any property in the Town of Hurt, without having a fence completely around such pool.

2. Every gate in such fence shall be capable of being securely fastened at a height of not less than four feet above ground level.

3. It shall be unlawful for any such gate to be allowed to remain unfastened while the inground pool is not in use.

4. Such fence shall be constructed so as to come within two inches of the ground at the bottom and shall be at least five feet from the edge of the inground pool at any point.

C. Punishment for violation. Violation of this ordinance shall be punishable as a Class 4 misdemeanor. Each day's violation may be construed as a separate offense.

D. Applicability retroactive. This ordinance shall be applicable to pools constructed before, as well as those constructed after, the adoption hereof.

Sec. 10-23. Repealed and reserved.

Sec. 10-24. Repealed and reserved.

Sec. 10-25. Repealed and reserved.

Sec. 10-26. Repealed and reserved.

Sec. 10-27. Repealed and reserved.

Sec. 10-28. Repealed and reserved.

Supplement Page. (Secs. 10-22 through 10-28 repealed and reserved 11/1/11.
Sec. 10-22 added 12/5/17, effective 4/1/18).