

**TOWN OF TIMBERVILLE**

**TITLE 3**

**HEALTH AND SAFETY**

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TOWN OF TIMBERVILLE

TITLE 3

HEALTH AND SAFETY

**ARTICLE I – GENERAL**

**§3-1.1 Trash, garbage, etc., ordinance.**

- A. All trash and recycling receptacles shall be placed on the street no earlier than 3:00 p.m. the day before scheduled collection and no later than 6:30 a.m. the day of collection. All trash and recycling receptacles shall be removed from the street no later than 7:00 p.m. the day following collection.
- B. It shall be unlawful for the owner, tenant or other occupant of any lot or parcel of land within the Town to permit, at any time, any trash, garbage, refuse, litter or other such like substances to remain on such property, or on any other property within the Town (including streets, alley ways and rights of way) unless such substance is stored in a building or in an enclosure which hides it from view. Trash, garbage, refuse, litter and other like substances are defined as any worn out, cast off discarded articles or other waste matter of any substance, including signs or other notices posted by any person, for themselves or for any firm, corporation or other entity.
- C. It shall be unlawful for any person to place or leave on any property in the Town any indoor furniture, dilapidated furniture, appliance, machinery, equipment, building material or other item which is either in a wholly or partially rusted, wrecked, junked, dismantled or inoperative condition and which is not completely enclosed within a building or dwelling. Any such item which remains on the property of any occupant for a period of ten (10) days

after notice of violation of this section shall be presumed to be abandoned and subject to being removed from the property by the Town without further notice with the cost of such removal being charged back to the owner of the premises.

- D. If the condition is not corrected within five (5) days of receipt of notice, or after the notice is returned as unclaimed mail, the Mayor or designated official may order the trash, garbage, refuse, litter, and other like substances which might endanger the health of other residents removed by its own agents or employees. The cost or expenses of such removal shall be chargeable to and paid by the owners of such property and may be collected by the Town as taxes and levies are collected and shall constitute a lien against the property.
- E. Any violating the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifteen dollars (\$15) nor more than fifty dollars (\$50) for the first conviction and not less than twenty-five (\$25) nor more than five hundred (\$500) for each subsequent conviction. Each seven-day period during which the failure to correct the condition continues to exist shall be deemed a separate offense.
- F. The Town may contract with a commercial contractor for the removal of solid waste from the Town. The cost of the removal of said waste may, at the option of the Town Council, be passed on to the Residential/Commercial/Industrial customer. The Town's cost of removal of all solid waste in excess of 4 cubic yards per Commercial/Industrial customer shall be passed on to the customer. The cost shall be assessed on a quarterly basis.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

This ordinance shall be effective from the date of its passage.

[Amended and Re-Enacted 1/11/2018]

**§3-1.2 Grass and weed ordinance.**

- A. It shall be unlawful for the owner of any lot or parcel of land within the Town to permit, at any time, to remain on such property any weeds, brush or other uncultivated or untrimmed vegetation in excess of ten (10) inches in height. It shall further be unlawful for the owner of any lot or parcel of land within the Town to permit to grow or remain on the property any hedge, shrub, tree or other vegetation, any part of which overhangs, extends or protrudes into any street, sidewalk or public alley so as to obstruct or impede the movement of pedestrians or vehicles thereon.
- B. Whenever the Mayor, or an official appointed by the Mayor, determines any such unlawful condition exists, the Mayor, or designated official, shall notify the property owner of record of such determination by certified mail, return receipt requested, sent to the address listed in the real estate tax records for the property, requiring the owner to correct the condition. If the condition is not corrected within five (5) days of receipt of notice, or after the notice is returned as unclaimed mail, the Mayor or designated official may order the condition cleared or corrected, by Town maintenance personnel or by private contractor. A statement of costs, plus an administrative handling charge of fifteen dollars (\$15), shall be mailed to the property owner and, if not paid within ten (10) days, shall be added to, and collected in the same manner as, real estate taxes on the property and shall constitute a lien against the property.
- C. Any owner who violates the provisions of this section, after having been mailed notice as provided herein, shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) for

each offense; each seven (7) day period during which the failure to correct the condition continues to exist shall be deemed a separate offense.

- D. If the owner of the property is unknown, or the property owner's address is unknown, the Mayor or designated official shall order the condition cleared or corrected as provided above and the expenses shall be charged against the property in the manner described above.

STATUTORY REFERENCE: §§15.1-11, 15.1-13, AND 15.1-867 VA. CODE (Repl. Vol. 1981)

[Adopted 7/11/1985]

**§3-1.3 Nuisance ordinance.**

- A. It shall be unlawful for any person, firm, or organization to create or maintain a nuisance on any public or private property within the Town. A nuisance shall be defined as anything that endangers life or health, gives offense to the senses, violates normal bounds of decency or obstructs the reasonable and comfortable use of property. The term nuisance shall include, but not be limited to, accumulations of offensive, unsanitary, or unhealthy substances in or on any place or premises; portions of any lot adjacent to a street where the difference in level between the lot and the street constitutes a danger to life and limb; unsafe, dangerous or unsanitary public or private buildings, walls, or structures; and use of any public place or property of any description in a manner not permitted to the general public without prior consent of the Town.
- B. Whenever the Zoning Administrator, or an official appointed by the Mayor, determines that any such nuisance exists on private property, the Mayor or designated official shall

notify the property owner of record of such determination by certified mail, return receipt requested, sent to the address listed in the real estate tax records for the property. Such notice shall require the owner to abate, remove, or otherwise correct the nuisance within five (5) days after the receipt thereof. Notice shall also be sent to any tenant or other occupant of such property, if other than the record owner. Whenever the Mayor, or other official, determines that a nuisance exists on public property, the notice of violation shall be sent to the home or business address of the person or organization creating or maintaining such nuisance; except in the case of use of public property without prior consent of the Town. In such case, notice shall not be necessary and the person or organization creating or maintaining such nuisance shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty dollars (\$50) nor more than one hundred fifty dollars (\$150). Each day's continuance of the nuisance shall be a separate offense.

- C. If a nuisance, other than the use of public property without permission, is not abated, removed, or corrected within five (5) days of receipt of notice, or after the notice is returned as unclaimed mail, the Mayor or designated official may order the nuisance removed or corrected by its own agents or employees. The cost or expense of such removal shall be chargeable to and paid by the owners of such private property or the person or organization creating or maintaining the nuisance on public property and may be collected by the Town as taxes and levies are collected or by civil proceedings and shall constitute a lien against private property.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

STATUTORY REFERENCE: §§15.1-11, 15.1-13, AND 15.1-867 VA. CODE (Repl. Vol. 1981).

**§3-1.4 Public Nuisance Noise.**

**A. Declaration of policy.** At certain levels, noise can be detrimental to the health, welfare, safety, and quality of life of inhabitants of the town, and in the public interest noise should be restricted. It is the policy of the town to reduce, eliminate where possible, excessive noise and related adverse conditions in the community, and to prohibit unnecessary, excessive, harmful, and annoying noises from all sources subject to its police power.

**B. Definitions.**

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

“Daytime hours” means 7:00 a.m. through 10:00 p.m. each day of the week.

“Excessive noise” means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans. Specific examples of prohibited excessive noise are set forth in Section D of this chapter.

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

“Motorcycle” means every motor vehicle designed to travel on not more than three wheels in contact with the ground, other than farm tractors or mopeds.

“Nighttime hours” means 10:00 p.m. through 7 a.m. each day of the week.

“Owner” means the person owning, controlling, or possessing land, premises, or personalty.



“Person” means any individual, partnership, corporation, association, society, club, group of people acting in concert, or organization. This term shall not include the federal, state, county, town, or local government, or any agency or institution thereof.

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

“Plainly audible” means any sound that can be heard clearly by a person using his or her unaided hearing facilities. When music is involved, the detection of rhythmic bass tones shall be considered plainly audible sounds.

“Public right-of-way” means any street, avenue, boulevard, highway, sidewalk, or alley.

“Residential” refers to single-unit, two-unit, and multi-unit dwellings, and residential areas of planned residential zoning district classifications, as set out in the Town of Timberville zoning ordinance, as amended.

“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 a finite speed. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.

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

“Town” means Town of Timberville, Virginia.

“Town manager” means the town manager or the chief of police, or their respective designees.

### **C. Violations.**

Any person violating any of the provisions of this chapter shall be deemed guilty of a Class 4 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than two hundred fifty dollars (\$250.00) for each offense. Each day the violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

The person operating or controlling a source of excessive noise shall be guilty of any violation of the provisions in this chapter. If the person operating or controlling the source of excessive noise cannot be determined, any owner, tenant, resident or manager physically present on the property where the violation is occurring is rebuttably presumed to be operating or controlling the source of excessive noise.

### **D. Prohibited Conduct.**

Subject to the exceptions provided in Section 26-30, any of the following acts, or the causing or permitting thereof, is declared to be excessive noise, constituting a Class 4 misdemeanor and a public nuisance:

- (1) Animals. The owning, keeping, or possessing of any animal or animals which frequently or habitually howl, bark, squawk or make such other noise in such a manner as to permit sound to be plainly audible within fifty (50) feet from the animal or through partitions common to two (2) dwellings units within a building. This section shall not apply to any bona fide agricultural activity.

- (2) Commercial vehicle and trash collection vehicle operation. The operation of a commercial vehicle or trash collection vehicle during nighttime hours in such a manner as to be plainly audible at any residence one hundred (100) or more feet away.
- (3) Construction. The erection, including excavation, demolition, alteration, or repair of any building or improvement during nighttime hours, except in the case of emergency under a permit granted by the town manager. In considering the granting, conditioning, or denial of permit, the town manager shall be guided by the following standards: (i) nature of the emergency; (ii) proposed extended hours of operation; (iii) duration of period of requested extended hours; (iv) character of the area surrounding the construction site; and (v) the number of residential units which would be impacted by the extended hours of construction.
- (4) Explosives, fireworks and similar devices. Using or firing any explosives, fireworks or similar devices which create impulsive sound in such a manner as to permit sound to be plainly audible at a distance of fifty (50) feet from the source of the sound or through partitions common to two (2) dwelling units within a building, or any public right-of-way or public property.
- (5) Horns, whistles, etc. Sounding or permitting the sounding of any horn, whistle or other auditory sounding device on or in any motor vehicle on any public right-of-way or public property, except as a warning of danger.
- (6) Loading or unloading. Operating, loading or unloading any vehicle, including but not limited to trucks, or the opening and destruction of bales, boxes, crates and containers outdoors within one hundred (100) or less feet of an occupied dwelling during nighttime hours.

- (7) Loudspeakers, public address systems and sound trucks. Using, operating or permitting the operation of any loudspeaker, public address system, mobile sound vehicle or similar device amplifying sound for any purpose during nighttime hours in such a manner as to permit sound to be plainly audible at fifty (50) feet from the source of the sound or in a manner that permits sound to be heard through partitions common to two (2) dwelling units within a building.
- (8) Pneumatic hammer, chainsaw, etc. The operation during nighttime hours of any chain saw, pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other appliance whose use is attended by sounds that are plainly audible within fifty (50) feet of the device or through partitions common to two (2) dwelling units within a building.
- (9) Radios, television sets, computers, musical instruments, and similar devices. Operating, playing or permitting the operation or playing of any radio, television, computer, record, tape or compact disc player, drum, music instrument, or similar device in such a manner as to permit sound to be plainly audible at fifty (50) feet from the building in which it is located or in a manner that permits sound to be heard through partitions common to two (2) dwelling units within a building.
- (10) Schools, public buildings, places of worship, hospitals, and clinics. The creation of any noise on the grounds of any school, public building, place of worship, hospital, or clinic in a manner that is plainly audible within such school, court, public building, place of worship, hospital, or clinic and interferes with the operation of the institution.
- (11) Vehicles.

- (a) Operation of a motor vehicle or motorcycle within the town while not equipped with a muffler that is compliant with Section 46.2-1047, Code of Virginia (1950), as amended.
  - (b) Operation of a motor vehicle or motorcycle within the town equipped with an intake or exhaust system that permits the escape of noise in excess of that permitted by the standard factory equipment intake or exhaust system of motor vehicles or motorcycles of standard make.
  - (c) The spinning, squealing of tires or unnecessary revving of the motor of any motor vehicle or motorcycle when starting from a stopped position, when shifting gears, when moving, or when coming to a stop or slowing the speed of the motor vehicle.
  - (d) Operation of sound amplifying equipment in a motor vehicle at a volume sufficient to be plainly audible at a distance of seventy-five (75) feet or more from the vehicle.
- (12) Yelling, shouting, etc. Yelling, shouting, whistling, or singing during nighttime hours in such a manner as to permit sound to be plainly audible within fifty (50) feet of the source of the sound or through partitions common to two (2) dwelling units within a building.

**E. Exceptions.**

Sections C and D shall have no application to any sound generated by any of the following:

- (1) Activities on or in municipal, county, state, United States, or school athletic facilities, or on or in publicly owned property and facilities.
- (2) Agricultural activities.

- (3) Fire alarms and burglar alarms, including false alarms occurring less than once per owner per sixty (60) days, prior to the giving of notice and a reasonable opportunity for the owner or person in possession of the premises served by any such alarm to turn off the alarm.
- (4) Household tools and other lawn care equipment with manufacturer's recommended mufflers and installed that are operated during daytime hours.
- (5) Lawful discharge of firearms.
- (6) Locomotives and other railroad equipment, and aircraft.
- (7) Military activities of the Commonwealth of Virginia or of the United States of America.
- (8) Noises resulting from events sanctioned by the town council taking place during daytime hours.
- (9) Parades, fireworks displays, and other such public special events or public activities that are other lawful.
- (10) Public speaking and public assembly activities conducted on any public right-of-way or public property in accordance with applicable law.
- (11) Radios, sirens, horns, and bells on police, fire, or other emergency response vehicles.
- (12) Religious services, religious events, or religious activities or expressions, including but not limited to music, singing, bells, chimes, and organs which are a part of such service, event, activity, or expression.
- (13) School band performances or practices, athletic contests or practices, and other school-related activities conducted on the grounds of public or private schools.
- (14) Sound which is necessary for the protection or preservation of property or the health, safety, life, or limb of any person.

(15) The striking of clocks.

(16) The use of a loudspeaker for making auction sales when used in the vicinity of the property being sold provided such use is limited strictly to the selling at auction of such property and occurs during daytime hours.

[Adopted & Enacted 5/13/2010]

**§3-1.5 Snow removal; penalty for failure to clean off snow; costs.**

A. No occupant of any building, owner of any vacant building or owner of any unimproved lot of land lying on any street, alley or other public place within the Town where there is a paved footway or sidewalk shall permit snow to remain along the front or side of the premises longer than 24 hours after the snow has ceased to fall.

B. Each violation of this Section shall be punished by a fine not to exceed \$50.

C. If the snow is not cleaned off, the Chief of Police may order the snow cleaned off the paved footway or sidewalk, by whatever reasonable means, by Town agents or employees. The cost or expense shall be charged to and paid by the occupant or owner of the property. The cost or expense may be collected by the Town as taxes and levies are collected and shall constitute a lien against private property.

[Adopted & Enacted 5/12/2006]

**§3-1.6 Garage/Yard Sales.**

A. Definition. The term “yard sale” shall include “garage sale,” “basement sale,” “attic sale,” “rummage sale,” and shall be defined as the sale of personal property operated out of a single-family dwelling, a two-family dwelling or a multi-family dwelling, on a vacant lot or elsewhere.

B. Permits. All residents conducting a garage or yard sale shall first obtain a garage or yard sale permit from the Town Office at least three (3) business days before the sale is to take place. The resident shall complete a Garage/Yard Sale Permit Application at the Town Office. There shall be no charge for a permit required by this ordinance, provided, however, that if more than two (2) such permits are issued during any calendar year for yard sale at the same location, a fee of \$10 shall be charged for each permit after the first two (2). Such fee shall not be prorated for any reason, but in case a sale for which such fee has been paid is rained out, no fee will be charged for the next sale date advertised. No resident shall have more than ten (10) garage/yard sales per calendar year. All permitted garage/yard sales must be completed within 48 hours of their commencement unless they are held on a 3-day holiday observed by the Federal Government.

C. Exemptions. Unpaid agents or members of a nonprofit organization conducting a yard sale for the purpose of raising money to be used solely for charitable, community service, nonprofit recreational or religious purposes, consistent with the organization's charter or organizational purpose, shall be exempt from the fee provided for in subsection B of this ordinance. Such exemption may be granted by the Town Treasurer, upon receipt of a written request setting forth the use to which proceeds of the sale will be applied, together with such proof as may be required by the Treasurer as to the nonprofit status of the organization.

D. Signs. All signs for each permitted garage/yard sale shall comply with the following:

1. All signs shall bear the name, address, telephone number, and permit number of the resident and the hours of the sale.



2. No sign shall be erected on any private property without the consent of the landowner and a permit.
3. No signs shall be erected on public property without a permit.
4. No sign shall be erected as to obscure or impede traffic or vision of traffic or erected in a manner which would cause an unsafe condition.
5. All signs must be removed within 48 hours after completion of the sale or they will be removed at the expense of the resident/non-resident.

E. Penalty. It shall be unlawful for any resident, owner, tenant, or other occupant of any lot or parcel of land within the Town to permit, or permit to be conducted upon their premises, at any time, a garage or yard sale on their premises within the Town, unless in compliance with this ordinance. This ordinance also applies to any non-resident who places a garage/yard sale sign within the town limits. Anyone violating the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifteen dollars (\$15) nor more than fifty dollars (\$50) for the first conviction and not less than twenty-five dollars (\$25) nor more than one hundred (\$100) for each subsequent conviction. Each seven-day period during which the failure to correct the condition continues to exist shall be deemed a separate offense.

[Adopted & Enacted 6/9/1994]

**§3-1.7 Inoperable Motor Vehicles.**

A. As used in this section, Inoperable Motor Vehicle means (1) any motor vehicle which is not in operating conditions; or (2) which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential

parts required for operation of the vehicle or (3) there are no valid license plates or (4) a valid inspection decal is not properly displayed. However, the provisions of this section shall not apply to a licensed business which is properly zoned and permitted to be regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

B. It shall be unlawful for any person to keep, except within a fully enclosed building, on any property zoned for residential or commercial or agricultural purposes any motor vehicle, trailer or semi trailer, as such are defined in VA Code § 46.2-100, which is inoperable.

C. (1) The owners of property shall, at such time or times as the Town prescribes, remove therefrom any such inoperable motor vehicles, trailers or semi trailers that are not kept within a fully enclosed building or structure. The Town, through its own agents or employees, may remove any such inoperable motor vehicles, trailers or semi trailers, whenever the owner of the premises, after 15 days notice, has failed to do so.

(2) In the event the Town, through its own agents or employees, removes any such motor vehicles, trailers or semi trailers, after having given such 15 day notice, the Town may dispose of such motor vehicles, trailers or semi trailers after giving an additional 5 day notice to the owner of the vehicle. The cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the Town as taxes are collected.

(3) Every cost or fine authorized by this section with which the owner of the premises has been assessed shall constitute a lien against the property from which the vehicle was removed, and the lien shall continue until actual payment of such costs has been made to the Town.

(4) Anyone violating the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifteen dollars (\$15.00) nor more than fifty dollars (\$50.00) for the first conviction, and not less than twenty-five dollars (\$25.00) nor more than five hundred (\$500.00) for each subsequent conviction. Each seven-day period during which the failure to correct the condition continues to exist shall be deemed a separate offense.

[Adopted & Re-Enacted August 9, 2018]

**§3-1.8 Accumulation of unused personal property on premises in open view.**

- A. *Generally.* It shall be unlawful for any person to allow any items of personal property to remain unused and unmoved for a period exceeding thirty days (30) and to be visible from the street or to remain or accumulate on their premises, except when the unused personal property is in a building or enclosure, which hides the unused personal property from view.
- B. *Abatement of violation.* Any person violating the provisions of this section shall, within fifteen (15) days after receiving notice of the violation, bring the premises into conformance with subsection (A) of this section.
- C. *Notice of violation.* The notice provided for in subsection (B) of this section shall be by letter stating the manner in which this section is being violated, the description and location of the premises, the name of the occupant owner of the premises, and the period of time within which the premises shall be cleared of the violation. The letter shall be signed by the Zoning Administrator on behalf of the town and shall be served upon the owner by an officer of the town's police department, or sent to the owner by certified mail.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

[Adopted & Enacted 9/12/2013]

**§3-1.9 Spot Blight Abatement Authorized; Procedure.**

- A. The Town of Timberville, in accordance with Code of Virginia, 1950, as amended, Sections 36-49.1:1 *et seq.* may acquire or repair any blighted property, as defined in (B) below, by exercise of the powers of eminent domain provided in Title 25 of the Code of Virginia, 1950, as amended, and further, shall have the power to hold, clear, repair, manage, or dispose of such property for purposes consistent with this section. In addition, the Town may recover the cost of any repair or disposal of such property from the owner.
- B. The Planning commission shall make a preliminary determination that a property is blighted in accordance with this section. The Planning Commission shall send a Notice, conforming to the applicable requirements of §36-27(b) of the Code of Virginia, via certified mail, postage prepaid, to the record owner or owners at their last known address as contained in the records of the treasurer of the Town, specifying the reasons why the property is considered blighted. The owner shall have thirty (30) days from the date the notice is sent in which to respond in writing with a plan to cure the blight within a reasonable time.
- C. If the owner fails to respond within the thirty (30) day period with a written spot blight abatement plan that is acceptable to the Planning Commission, the Town may declare the property as blighted, which declaration shall be by ordinance adopted by the governing body.
- D. No spot blight abatement plan shall be effective until notice has been sent to the property owner or owners of record and an ordinance has been adopted by the Town Council.

Written notice to the property owner shall be sent by regular mail to the last address listed for the owner on the Town's assessment records for the property, together with a copy of such spot blight abatement plan prepared by the Town. If the repair or other disposition of the property is approved, the Town may carry out the approved plan to repair or acquire and dispose of the property in accordance with the approved plan, the provisions of this Article, and the applicable law.

- E. If the ordinance is adopted by the Town Council, the Town shall have a lien on all property so repaired or acquired under an approved plan to recover the cost of (i) improvements made by the Town to bring the blighted property into compliance with applicable building codes and (ii) disposal, if any. The lien on such property shall bear interest at the legal rate of interest established in §6.1-330.53 of the Code of Virginia, beginning on the date the repairs are completed through the date on which the lien is paid. The lien may be recorded as a lien among the land records of the Circuit Court, which lien shall be treated in all respects as a tax lien and enforceable in the same manner as provided in Articles 3 (§58.1-3940, *et seq.*) of Chapter 39 of title 58.1 of the Code of Virginia, as amended. The Town may recover its costs of repair from the owner of record of the property when the repairs were made at such time as the property is sold or disposed of by such owner. If the property is acquired by the Town through eminent domain, the cost of repair may be recovered when Town Council sells or disposes of the property. In either case, the costs of repair shall be recovered from the proceeds of any such sale.
- F. Notwithstanding the other provisions of this Article, unless otherwise provided for in Title 36 of the Code of Virginia, as amended, if the blighted property is occupied for personal residential purposes, Town Council, in approving the plan, shall not allow for the

acquisition of such property if it would result in a displacement of the person or persons living in the premises. The provisions of this subsection shall not apply to acquisition, under an approved plan, by the Town of property which has been condemned for human habitation for more than one year. In addition, if the Town is exercising the powers of eminent domain in accordance with title 25 of Code of Virginia, it may provide for temporary relocation of any person living in the blighted property provided the relocation is within the financial means of such persons.

- G. In lieu of the acquisition of blighted property by the exercise of the powers of eminent domain as herein provided and in lieu of the exercise of other powers granted in subsections (A) through (H), Town Council by ordinance, may declare any blighted property to constitute a nuisance, and thereupon abate the nuisance pursuant to Code of Virginia, 1950, as amended, Section 15.2-900 or 15.2-1115. Such ordinance shall be adopted only after written notice by certified mail to the owner or owners of the property at the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records. If the owner does not abate or remove the nuisance and the Town abates or removes the nuisance at its expense, the costs of the removal or abatement of the nuisance shall be a lien on the property and such lien shall bear interest at the legal rate of interest established in §6.1-330.53 of the Code of Virginia, beginning on the date the removal or abatement is completed through the date on which the lien is paid.
- H. The provisions of this section shall be cumulative and shall be in addition to any remedies for spot blight abatement that may be authorized by law.

(Adopted & Enacted 10/ 14/ 2010)

**§3-1.10 Penalties.**

A. *Violations.* Any person found in violation of any section of Title 3 Article 1 shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty dollars (\$50) nor more than one hundred fifty dollars (\$150). Each day's continuance of the non-abatement shall be a separate offense. Furthermore, if there is no abatement within fifteen (15) days of notice the zoning administrator may order the personal property removed by the town's own agents or employee's and cost. The cost or expense of such removal shall be chargeable to and paid by the owners of such private property or the person or organization creating or maintaining the nuisance on public property and may be collected by the Town as taxes and levies are collected or by civil proceedings and shall constitute a lien against the private property.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

(Adopted & Enacted 9/ 12/ 2013)

**§3-1.10 Spot Blight Ordinances by Property.**

A. **304 2<sup>nd</sup> Avenue, Timberville, Virginia.** By Resolution adopted 10/19/17, the Town Council of the Town of Timberville, Virginia resolved that 304 2<sup>nd</sup> Avenue, Timberville, Virginia was declared to be blighted, pursuant to § 15.2-1115 of the Code of Virginia, 1950, as amended and § 3-19 of the Ordinances of the Town of Timberville, Virginia; and furthermore the Property was razed and demolished, with the debris destroyed or removed and any basement filled in and covered with adequate ground cover to be placed over the Property. In addition, said work as set forth above was done by the Town of Timberville, Virginia or its agents at the expense of the landowners, Barbara Ann Tusing, Sharon Jean

Tusing, and Crystal Gail Ferguson and in accordance with § 36-49.1:1(E) of the Code of Virginia, 1950, as amended “The lien authorized by this subsection may be recorded as a lien among the land records of the circuit court, which lien shall be treated in all respects as a tax lien and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1 of the Code of VA.

(Adopted & Enacted 12/13/ 2018)

**B. 157 North Main Street, Timberville, Virginia.** By Resolution adopted February 14, 2019, the Town Council of the Town of Timberville, Virginia resolved that 157 North Main Street, Timberville, Virginia was declared to be blighted, pursuant to § 15.2-1115 of the Code of Virginia, 1950, as amended and § 3-19 of the Ordinances of the Town of Timberville, Virginia; and furthermore the Property shall be razed and demolished, with the debris destroyed or removed and any basement filled in and covered with adequate ground cover to be placed over the Property. In addition, said work as set forth above was done by the Town of Timberville, Virginia or its agents at the expense of the landowner, Mission Rummage with Care, Inc. and in accordance with § 36-49.1:1(E) of the Code of Virginia, 1950, as amended “The lien authorized by this subsection may be recorded as a lien among the land records of the circuit court, which lien shall be treated in all respects as a tax lien and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1 of the Code of VA.

(Adopted & Enacted 2/14/ 2019)



## **ARTICLE II - FIRE PREVENTION**

Adopted October 8, 29 1987

### **§3-2.1 Accumulation of combustible materials.**

No person shall permit any waste, paper, straw, litter, weeds, or any other combustible material to accumulate on property owned or occupied by him in such a manner as to create an unreasonable risk of fire.

### **§3-2.2 Defective chimneys, etc.**

No person shall permit a chimney, roof, or stove pipe to be in such condition as to create an unreasonable risk of fire.

### **§3-2.3 Carrying of open flames.**

No person shall ignite any open flame in or carry open flame where combustible materials are stored.

### **§3-2.4 Deposit of materials likely to cause fires.**

No person shall deposit hot ashes, smoldering coals, any flammable petroleum based material, or any other material likely to create or support a spontaneous ignition near any combustible material so as to create an unreasonable risk of fire.

### **§3-2.5 Open Air Fires.**

(a) All open air fires must be permitted 24 hours in advance by the Town and the county.

(b) The open air fire cannot have combustible materials piled higher than three (3) feet high or six (6) feet wide.

(c) Extinguishment capabilities shall be located within twenty-five (25) feet of the fire. A minimum of a fire extinguisher with a 4-A rating or other approved on-site fire extinguishing equipment, such as loose dirt, sand, water barrel, garden hose that is connected to a water supply.

(d) All open fires must be twenty-five (25) from any structure.

(e) Only ordinary wooden combustibles are permitted to be burned. The burning of pressure treated wood and pallets are prohibited. No rubbish may be burned, such as discarded furniture.

### **§3-2.6 Recreational fires.**

No recreational fires shall be kindled or maintained within twenty-five (25) feet of any building nor shall any open fire be left unattended. This section shall not be construed as authorization for the starting of any fire except for recreational purpose.

(a) The fire MUST be contained within a fire ring that will not allow a fire to be greater than three (3) feet in diameter. The fire ring can be made of any non-combustible material such as rock, metal, etc.

(b) No more than one (1) fire at any one time per property.

(c) Extinguishment capabilities shall be located within twenty-five (25) feet of the fire ring. A minimum of a fire extinguisher with a 4-A rating or other approved on-site fire

extinguishing equipment, such as loose dirt, sand, water, water barrel, garden hose that is connected to a water supply.

(d) If the recreational fire is in violation of ANY of these items, the fire will be ordered to be extinguished and a Notice of Violation will be issued. Subsequent violations will result in a summons being issued.

(e) If complaints from surrounding properties are made the recreational fire MAY be ordered extinguished.

(f) During the period of February 15 through April 30 of each year, recreational fires are permitted only between the hours of 4:00 p.m. and midnight.

### **§3-2.7 Portable Outdoor Fireplaces (Chimenea, etc.)**

Portable Outdoor Fireplaces (Chimenea, etc.) shall be used in accordance with the manufacturer's instructions and shall not be operated within fifteen (15) feet of a structure. Portable Outdoor Fireplaces shall only be used at one or two family dwellings.

## ARTICLE III – JUVENILE CURFEW

Adopted October 8, 1987

### **§3-3 Juvenile curfew ordinances.**

A. Definitions. For the purpose of this ordinance the following terms shall have the meaning given herein:

a. “Town” is the Town of Timberville, Rockingham County, Virginia.

b. “Minor” is any person under the age of eighteen (18) years.

c. “Parent” is any person having legal custody of a minor as a natural or adoptive parent, as a legal guardian, as a person who stands in loco parentis, or as a person to whom legal custody has been given by order of court.

d. “Street” is a way or place to the use of the public as a matter of right for purposes of vehicular travel or, in the case of a sidewalk, for pedestrian travel. The term street includes cartway or traffic lanes, the curb, the sidewalks, whether paved or unpaved, and any grass plots or other grounds found within the legal right of way of a street. The term street applies irrespective of what is formerly named, whether alley, avenue, court, road, or otherwise.

B. Curfew. It shall be unlawful for any minor to be or remain in or upon the streets within the Town of Timberville at night between the hours of 11:00 p.m. and 6:00 a.m.

C. Exceptions. In the following exceptional cases a minor on a street of the Town during the nocturnal hours shall not be considered in violation of this ordinance:

a. When accompanied by a parent of such minor.

b. When accompanied by an adult authorized by a parent of such minor to take said parent’s place in accompanying the minor for a designated period of time and purpose within a specified area.

c. When returning home, by direct route from (and within thirty (30) minutes of the termination of) a school activity, an organized dance, a theater or sporting event, or an activity of a religious or other voluntary association.

d. When the minor is on the sidewalk of the place where such minor resides, or on the sidewalk of either next door neighbor as long as such neighbor has not communicated an objection to a police officer.

e. When on a direct route travelling to or from an emergency errand which shall include, but not be limited to, travelling to obtain the services of a doctor, hospital, fire station, rescue squad, or police department.

f. When going to or returning home, by a direct route, from a place of employment at which said minor is employed during hours that necessitate the minor's travel on the streets during curfew hours.

g. When the minor is, with parental consent, in a motor vehicle. This contemplates normal travel such as bonafide interstate movement through the Town of Timberville and interstate travel beginning or ending in the Town of Timberville.

D. Parental Responsibility. It shall be unlawful for a parent having legal custody of a minor knowingly to permit or by inefficient control to allow, such minor to be or remain upon any street of the Town under circumstances not constituting an exception to, or otherwise beyond the scope of, this curfew ordinance. The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody.

E. Penalties. Anyone violating the provisions of this article shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00).

**~~ARTICLE IV—SUNDAY SALE OF BEER AND WINE~~**

**~~§3-4—Sunday Sale of Beer and Wine.~~**

~~No person shall sell beer or wine within the Town of Timberville between the hours of 12 midnight of each Saturday and 6:00 a.m. of each Sunday. Any person violating this section shall be fined not more than \$500.00.~~

## **ARTICLE IV – OUTDOOR WOOD-FIRED FURNACES:**

Adopted the 12<sup>th</sup> day of May, 2016

### **§3-5.1 Purpose.**

This article is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of Timberville due to the air pollutions from outdoor wood-fired furnaces, pursuant to Virginia Annotated Code § 15.2-1116.

### **§3-5.2 Definitions.**

*Chimney* means flue or flues that carries off exhaust from an outdoor wood-fired furnace firebox or burn chamber.

*Existing wood-fired furnace* means any wood-fired furnace which is fully installed and operable as of the date of the enactment of this article.

*Outdoor wood-fired furnace* means any equipment, device, appliance or apparatus or any part thereof, which is installed, affixed or situated outdoors and is hand-loaded or continuously fed (automatically fueled) for the purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. An outdoor wood-fired furnace may also be referred to as an outdoor wood boiler, or hydronic heater.

*New wood-fired furnace* means any wood-fired furnace which is not an existing wood fired furnace.



### **§3-5.3 Permit required.**

Except as otherwise provided by section 3-5.8, no person shall construct, establish, install, operate, or maintain the use an outdoor wood-fired furnace within the town, nor shall any person cause or allow the construction, establishment, installation, operation or use of an outdoor wood-fired furnace on his property within the town without first having obtained a permit from Rockingham County and the Town Zoning Administrator. Application for permit shall be made to the Town Manager on the forms provided. The issuance of a permit shall be conditioned upon compliance with the applicable provisions of this article.

### **§3-5.4 Building permit required prior to installation.**

All applicable building permits including, but not limited to, electrical and plumbing permits shall be obtained from Rockingham County and the Town Zoning Administrator.

### **§3-5.5 Regulations.**

A. No person shall, from the effective date of ordinance, construct, install, establish, operate or maintain an outdoor wood-fired furnace other than in compliance with the applicable sections of this article.

B. Except as otherwise provided by section 3-5.8, all outdoor wood-fired furnaces shall be constructed, established, installed, operated and maintained in conformance with the manufacturer's installation instructions and/or owner's manual, the original or copies of which shall be provided to Rockingham County and Town Zoning Administrator and the requirements

of this article. In the event of a conflict, the requirements of this article shall apply unless the manufacturer's instructions are more strict, in which case the manufacturer's instructions shall apply.

C. Any person seeking a permit for a new outdoor wood-fired furnace shall be required to produce a site plan to Rockingham County and the Town Zoning Administrator, specifically indicating the proposed location of the new outdoor wood-fired furnace.

D. All new outdoor wood-fired furnaces shall be laboratory tested and listed to appropriate safety standards such as UL, CAN/CSA, ANSI or other applicable safety standards.

E. Notwithstanding compliance with the applicable provisions of this article, if any new or existing outdoor wood-fired furnace creates a public nuisance the owner shall be subject to any and all remedies available to the town by the Code of Virginia or this Article.

### **§3-5.6 Substantive requirements.**

Outdoor wood-fired furnaces shall be operated and maintained pursuant to the following conditions:

(1) Fuel burned in any new or existing outdoor wood-fired furnace shall be only natural wood, wood pellets, corn products, biomass pellets or other listed fuels specifically permitted by the manufacturer's instructions which are not prohibited by subsection (2) hereof.

(2) The following fuels are strictly prohibited in new and existing outdoor wood-fired furnaces:

- a. Wood that has been painted, varnished, or coated with similar material and/or has been pressure treated with preservatives and contains resins or glues as in plywood or other composite wood products.
- b. Rubbish or garbage, including but not limited to food wastes, food packaging and food wraps.
- c. Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
- d. Rubber including tires or other synthetic rubber-like products.
- e. Newspaper, cardboard, or any paper with ink or dye products.
- f. Any other items not specifically allowed by the manufacturer or this provision.

**§3-5.7 Setbacks and heights requirements for outdoor wood-fired furnaces.**

(a) All new outdoor wood-fired furnaces shall:

- (1) Be located at least 25 feet from the property line and any existing structures;
- (2) Be located at least 100 feet from any residence that is not served by the outdoor wood-fired furnace;
- (3) Be located on the property in compliance with manufacturer's recommendations and/or testing and listing requirements for clearance to combustible materials.

(b) All new and existing outdoor wood-fired furnaces must meet or exceed 2016 Environment Protection Agency regulations and specifications.

**§3-5.8 Existing outdoor wood-fired furnaces.**

Any person owning, maintaining, or operating an existing wood-fired furnace shall have 90 days from the enactment of this article to bring such existing wood-fired furnace into compliance with this Article.

**§3-5.9 Penalties.**

Any person found in violation of any section of Title 3 Article V shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty dollars (\$50) nor more than one hundred fifty dollars (\$150). Each day's continuance of the non-abatement shall be separate offense. Furthermore, if there is no abatement within fifteen (15) days of notice the zoning administrator may order the outdoor wood-fired furnace removed by the town's own agents or employee's and cost. The cost and expense of such removal shall be chargeable to and paid by the owners of such private property or the person or organization creating and maintaining the violation and may be collected by the Town as taxes and levies are collected or by civil proceedings and shall constitute a lien against the private property.

(Adopted & Enacted 5/12/ 2016)

## **ARTICLE VI – ANIMAL CONTROL**

Adopted the 14 day of May, 2015

### **§3-6.1 Running at large.**

It shall be unlawful for the owner of any animal to allow such animal to run at large within the town. Violation of this section shall constitute a Class 4 misdemeanor.

### **§3-6.2 Conditions of the premises where animals are kept.**

The party in possession or control of the premises where animals are kept shall ensure that buildings, pens or other areas where animals are kept, are maintained in a sanitary and healthy condition.

### **§3-6.3 Owner, custodian to maintain control of all animals.**

(a) The owner or custodian of any animal shall keep all of his animals under control at all times while such animals are within the town limits.

(b) "Under control" shall mean direct physical control of the animal. Voice control shall not be construed as physical control. An animal on the real property of another, whether restrained or not, without the permission of the person in possession of such real property, shall be construed to be not under control.

(c) Any person may, at any time, humanely take temporary control of any animal not under the control of its owner or custodian and immediately notify the police department.

(d) This section shall not apply to police, search or rescue dogs engaged in training activities or on official duties.

(e) The first violation of this section shall constitute a Class 4 misdemeanor.

**§3-6.4 Allowing animals to defecate on public property or on private property of other persons.**

It shall be unlawful for any owner or person in control of any animal to fail to immediately remove the fecal matter deposited by their animal on public property or on the property of another without the consent of the owner or the person having control of the premises. A violation of this section shall constitute a Class 4 misdemeanor, to be punished by a fine of not less than one hundred dollars (\$100.00) and not more than the maximum permissible by state law. This section shall not apply to a person with a disability being accompanied by a service dog.

**§3-6.5 Confinement of animals in vehicles prohibited.**

It shall be unlawful for any person to confine an animal in an enclosed vehicle so as to endanger it by exposure to excessive heat, cold or inadequate ventilation. Any animal control or other law enforcement officer may access the enclosed vehicle by any reasonable means, remove such endangered animal and take temporary control of such animal. Cost of caring for the animal while under the temporary control of the officer shall be charged to the custodian of the animal. The officer shall ensure that the animal is cared for in accordance with standards prescribed by the state veterinarian.