

CHAPTER XII - ENVIRONMENT

ARTICLE I. - IN GENERAL

Secs. 12-1—12-18. - Reserved.

ARTICLE II. - NUISANCES

Section 12-19. - Definitions.

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

“Nuisance” shall be construed as the unlawful doing of any act or the omitting to perform any duty, which act or omission either injures or potentially endangers the health, morals or safety of others; or any act that substantially interferes with the rights of citizens to enjoyment of life and property.

Section 12-20. - Certain Nuisances Enumerated

The following acts when committed, or conditions when existing, within the Town are hereby defined and declared to be nuisances:

- (a) All buildings, bridges, or other structures of whatever character which are in an unsafe, dangerous, or unsanitary condition.
- (b) All public and private property which is grown up in weeds or bushes or upon which other unsightly and flammable materials have been allowed to accumulate.
- (c) All trees which are unsafe, dangerous, unhealthy, injurious, or annoying to the public.
- (d) All ponds or pools of stagnant water, and all foul or dirty water or liquid when discharged through any drain, pipe, or spout, or thrown into or upon any street, public place or lot to the injury or annoyance of the public, and all lots or parcels of land which due to their slope or configuration are conducive to the accumulation of stagnant waters or other noxious substances.
- (e) All mosquito breeding areas in receptacles, containers or other vessels capable of holding water, within eight hundred (800) yards of buildings used for human habitation.
- (f) Any 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.

The nuisances described in this section shall not be construed to be exclusive.

Section 12-21. - Prohibited; abatement.

- (a) It shall be unlawful for any person to maintain or allow to exist any nuisance, as defined by this Chapter, or by any other statute or common law of the Commonwealth of Virginia, on any premises owned or occupied by him.
- (b) The Town Council, law enforcement officers of the Town, or other designee(s) or authorized agent(s) of Town Council, are hereby vested with authority to require the abatement of any and all conditions in the Town which constitute a nuisance or which are detrimental to the public health, safety and morals of others. In the exercise of such authority, those representatives of the Town shall have the right to enter upon and inspect any and all private property of whatsoever nature.
- (c) Any person found maintaining any nuisance or any offensive or unwholesome matter upon property either owned or occupied by him shall, upon notice from the Town Clerk or other authorized agent of Town Council, abate such nuisance in a manner to be approved by the authorized agent of Town Council within a period of five days after notice is given, and the failure to comply with such notice shall be deemed to constitute a separate violation of this section.
- (d) Any person who violates any provision of this section or maintains a nuisance or allows such nuisance to exist on his premises shall be guilty of a Class 3 misdemeanor, and each day's continuance of such violation or maintenance or existence of such nuisance shall constitute a separate offense. In addition thereto, upon conviction, if the nuisance is not abated by the owner or occupant, the judge shall cause such nuisance to be abated and shall direct a Town official or a police officer to enter upon the premises and eliminate such nuisance or remove the same, with the least possible cost or expense, which cost shall be charged to the defendant.
- (e) The cost to the Town of enforcing this section on private property shall constitute a lien on such private property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in §§ 58.1-3940 et seq., and 58.1-3965 et seq., *Code of Virginia*, as amended.

State Law reference— Power to have nuisances removed, collection of costs, § 15.2-1115, *Code of Virginia*, as amended; Abatement or removal of nuisances, § 15.2-1115, *Code of Virginia*, as amended.

Secs. 12-21—12-43. - Reserved.

ARTICLE III. - RODENT CONTROL

Section 12-44. - Definitions.

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

“Hardware cloth” means wire screening of such thickness and spacing as to afford

reasonable protection against the entrance of rats and mice.

“Owner or manager.” Whenever any person is in actual possession of or has charge, care or control of any property within the Town, as executor, administrator, trustee, guardian or agent, such person shall be deemed and taken to be the owner of such property, within the true intent and meaning of this article, and shall be bound to comply with the provisions of this article to the same extent as the owner, and notice to any such person of any order or decision of the director of health shall be deemed and taken to be a good and sufficient notice, as if such person were actually the owner of such property, except that whenever an entire premises or building is occupied as a place of business, such as a store, factory, warehouse, roominghouse, junk yard, lumber yard or any other business under a single management, the person in charge of such business shall be considered the owner or manager.

“Rat harborage” means any place where rats live and nest without fear of frequent molestation or disturbance.

“Ratproof container” means a waterproof container of metal, plastic, or other composition, of a capacity not exceeding 35 gallons. Such containers are completely sealed or closed and are of sufficient durability to accommodate the intended use, considering the weather, and all factors consistent with cleanliness and health.

“Ratproofing” means the closing of openings in building foundations and openings under and around doors, windows, vents and other places, which could provide means of entry for rats, with concrete, sheet iron, hardware cloth or other types of ratproofing material approved by the director of health.

State Law reference— Rodent control, § 32.1-247, *Code of Virginia*, as amended.

Section 12-45. - Violations.

A violation or failure to comply with any of the provisions of this article shall constitute a misdemeanor on the following schedule:

- (1) First violation: Class 4 misdemeanor.
- (2) Second and further violation: Class 3 misdemeanor.

Section 12-46. - Right of entry to enforce article; abatement of violations.

- (a) Notwithstanding the duty placed on owners and managers of private property by other provisions of this article, the authorized agent of Town Council, shall have the authority, whenever, in his or her sound opinion, an emergency exists affecting or likely to affect the public health and reasonable need therefor appears, to enter and go upon any vacant and unimproved property, or into any abandoned or unoccupied building, and into any vacant building or structure which has been condemned and placarded by authorized officials, for the purposes of controlling or abating any condition on such property or in such building or structure which is known to constitute a rat harborage, a place for the feeding of rats or a route regularly used for the travel of rats on such property, and to cause such action to be taken on such

property or in such building or structure as to effectively control or abate any condition found to exist contrary to any provisions contained in this article.

- (b) The authorized agent of Town Council shall give the owner of any property violating this article a written notice directing the owner to effectively control or abate any condition found to exist contrary to any provision contained in this article within ten days from the date of the notice.
- (c) The authorized agent of Town Council shall be authorized to promulgate policies, rules, and regulations with respect to the abatement, except that the establishment of fees shall be the responsibility of the Town Council. Such policies, rules, and regulations shall be intended to protect the public health, safety and welfare, to promote good sanitation and cleanliness, and to protect the environment and shall be enforceable as if fully set forth herein.
- (d) If the owner of any property fails to comply with a notice given pursuant to subsection (b) of this section, the authorized agent of Town Council may have any condition on private property mentioned in subsection (a) of this section be controlled or abated by agents or employees of the Town. The cost to the Town of controlling or abating any condition on private property mentioned in subsection (a) of this section shall constitute a lien on such private property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in §§ 58.1-3940 et seq., and 58.1-3965 et seq., *Code of Virginia*, as amended.

Section 12-47. - Elimination of rat harborages.

Whenever accumulations of rubbish, wood, boxes, lumber, scrap metal, car bodies or any other materials provide rat harborage, the person owning or in control of such materials shall cause the materials to be removed or so stored so as to eliminate the rat harborage. Lumber, boxes and similar materials shall be neatly piled and such piles shall be raised at least one foot above ground. When the owner of the materials cannot be found, after reasonable search, the owner or manager of the premises on which the materials are stored shall be responsible for disposal or proper piling of the materials.

Section 12-48. - Accumulations of materials serving as rat food.

No person shall place, or allow to accumulate, any materials that may serve as a food for rats in a site accessible to rats. Any waste material that may serve as food for rats shall be stored in ratproof containers.

Section 12-49. - Extermination.

Whenever rat holes, burrows or other evidence of rat infestation are found on any premises or in any building within the Town, it shall be the duty of the owner or manager of such property to exterminate the rats or to cause the rats to be exterminated. Within ten days after extermination, the owner or manager shall cause all of the rat holes or burrows in the ground to be filled with earth, ashes or other suitable material.

Section 12-50. - Ratproofing of buildings.

- (a) It shall be the duty of the owner or manager of any building in the Town to make such building reasonably ratproof, to replace broken basement windows and, when necessary, to cover the basement window openings with hardware cloth or other suitable material for preventing rats from entering the building through such window openings.
- (b) The owner or manager of any premises upon which sheds, barns, or similar buildings are located shall eliminate the rat harborages from within and under such buildings by ratproofing, raising the buildings above the ground, or by some other suitable method, or such sheds, barns, coops or other buildings shall be razed.

Secs. 12-51—12-69. - Reserved.

ARTICLE IV - DROUGHT MANAGEMENT

Section 12-70. - Purpose.

The purpose of this article is to provide for voluntary and mandatory restriction of use of the Town of Iron Gate's public water system during declared water shortages or water emergencies.

Section 12-71. - Scope.

This Article shall apply to all Town of Iron Gate residents and businesses which are served by the public water system.

Section 12-72. - Drought Response Plan.

The Upper James River Basin Drought Preparedness and Response Plan, adopted by resolution of Town Council on October 27, 2011, is in effect until specifically repealed by vote of Town Council.

Section 12-73. - Drought Indicators.

The indicators used to indicate drought severity shall be defined as those in the Upper James River Basin Drought Preparedness and Response Plan.

Section 12-74. - Drought Stages.

The drought stages shall be: Drought Watch; Drought Warning; and Drought Emergency; as determined by vote of Town Council, pursuant to the Upper James River Basin Drought Preparedness and Response Plan and State Water Control Board Regulation 9VAC25-780-120, "Drought Response and Contingency Plans."

Section 12-75. - Declaration.

Upon notification to the Town Council that a drought stage exists, as defined in

Section 12-104, the Town Council may issue a declaration of a drought stage. The Town Council may declare a drought stage in the absence of a declaration by any other authority. The Town Council must declare a drought stage upon such a declaration by the Commonwealth of Virginia.

Section 12-76. - Drought Stage Responses.

Upon declaration by the Town Council of a Drought Watch or Drought Warning, voluntary conservation measures will be requested of residents and businesses as set forth in the Upper James River Basin Drought Preparedness and Response Plan. Upon declaration of a Drought Emergency, mandatory restrictions shall apply as set forth in the Plan.

Section 12-77. - Waiver of Restrictions.

Upon prior written request by an individual, business, or other water user, the Town Council, or its designee, may permit less than full compliance with any drought restrictions if good cause can be shown, including evidence that the applicant is affected in a substantial manner not common to other businesses or persons generally.

No waiver shall be granted by the Town Council or its designee unless the Town Council or its designee determines that the public health, safety, and welfare of the Town will not be adversely affected by the waiver. All waivers granted by the Town Council or its designee shall be reported at the Town Council's next regular or special meeting.

Section 12-78. - Penalties.

Any person who shall violate any of the provisions of this Article shall, upon conviction thereof, be fined not less than two hundred dollars (\$200), nor more than five hundred dollars (\$500). Each act or each day's continuation of the violation shall be considered a separate offense.

Section 12-79. - Repeal of all prior Ordinances.

All prior Ordinances related to or involving drought management or water use restrictions, specifically including the Water Use Ordinance approved on February 28, 2008, are hereby repealed.

(Amends Drought Management Ordinance No. 10-2011.)

State Law reference— State Water Control law, §§ 62.1-44.15 and 62.1-44.38:1, *Code of Virginia*, as amended.