

**TOWN OF IRVINGTON**

**ORDINANCE # 2024-07-uc**

**ORDINANCE ON KEEPING STREETS, SIDEWALKS AND SIGNS CLEAR OF SOILS, DEBRIS, AND OVERHANGING TREES, LIMBS, AND BRANCHES**

**WHEREAS**, the Town of Irvington regulates various nuisances in the Town Code, but does not specifically regulate the blocking of streets, sidewalks or traffic signs by encroaching soil, branches, or debris from adjacent properties.

**WHEREAS**, complaints have arisen about the failure to maintain a passable sidewalk as a result of tree branches and debris encroaching into the walking path, and tree branches impeding safe passage of cars on Town streets, as well traffic and 911 signs obscured by vegetation.

**WHEREAS**, authority for the Town of Irvington to regulate nuisances is contained in Article IX ("Additional Powers") of the Town Charter and in the Code of Virginia section 15.2-1115 (1950), as amended; as well as sections 15.2-2009 and 15.2-2011 (1950) as amended; and

**WHEREAS**, the Town Council wishes to adopt specific regulations on keeping sidewalks streets and traffic control devices safe and clear from obstructions such as soil, debris and overhanging trees, limbs, and branches.

**NOW, THEREFORE, THE TOWN CODE OF THE TOWN OF IRVINGTON IS HEREBY AMENDED AS FOLLOWS:**

**CHAPTER 91: NUISANCES**

91.01 - Purpose and intent.

(A) The purpose of this subchapter is to provide for the repair, closing or demolitions of buildings within the town which are unsafe for human habitation or occupancy, or use, or which are otherwise dangerous or inimical to public safety, health or welfare of the residents of the town; defining such buildings or property; providing for remedies and procedures thereto; providing for assessment of costs of such remedies and proceedings against the owner, or owners of the land, premises or property affected thereby.

(B) It should be the further intent of this subchapter to correct, repair or remove serious property hazards identified by the ~~zoning administrator and the council of the town~~ code enforcement officer as dangerous open holes, pits, uncapped wells, hazardous waste and materials, unsafe and unsanitary septic systems, and storage of inoperable, deteriorated construction equipment, trailers and other such vehicles in disrepair.

(C) It shall also be the intent of this subchapter to minimize infestation of vermin such has mice, rats, and other rodents which could constitute a health hazard, by regulating or eliminating attractive habitats for such pests within the town.

(D) It shall also be the intent of this chapter to minimize physical and personal hazards and obstructions to public property, to include sidewalks and streets, to prevent injury to the public, damage to property, and to allow unfettered access to all public rights of way.

(E) It shall also be the intent of this chapter to minimize vehicular hazards and facilitate emergency response with respect to ensuring traffic control signs and devices, as well as street and property identification signs remain unobscured from view.

91.02 - Auto, boats, boat trailers, other marine vehicles, graveyard prohibitions.

(A) It shall be unlawful for any person to keep, except within a fully enclosed building or structure or otherwise shielded or screened from public view, on any property located within the town and zoned for residential or commercial purposes, any motor vehicle, trailer, semitrailer, boat or other marine vehicle, as such defined in Code of Virginia, §46.2-100, which is inoperative.

(B) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

Inoperative motor vehicle. Any motor vehicle or marine vehicle or trailer, which is not in operating condition; or which, for a period of 90 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; and for which there is no valid license plate and inspection sticker.

(C)

1. The ~~town council~~ code enforcement officer shall serve notice on the owner of such property to cause such vehicle to be removed within seven days. If the owner of such property is a resident, such notice shall be mailed to his or her local address.
2. If the owner is a nonresident, notice shall be served upon the owner's agent in charge thereof, or upon the owner by publishing such notice in at least two issues of a newspaper published or having general circulation in the town.
3. The cost of such publication shall be collected from the owner of such premises, in addition to the expense of making such removal.
4. If any motor vehicle, trailer or semitrailer of such condition is permitted to remain on any property after the expiration of time specified in the notice referred to in this division (C), the ~~town council~~ code enforcement officer shall cause such motor vehicle, trailer or semitrailer of such condition be removed at the expense of the owner of such property and shall assess the cost of such remedy to the owner, or owners, of the property affected thereby, and such assessment shall be collected in the same manner in which town tax levies upon real estate are authorized to be collected.

Section 91.03 - Cutting of weeds and grass required.

(A) In furtherance of section 91.01 (C), it shall be a nuisance for the owner, or any occupant or other person who is responsible for the maintenance and upkeep of any

developed or undeveloped property within the town limits, to permit weeds more than 12 inches in height within 150 feet of any occupiable structure, adjacent property, or public street or sidewalk.

(B) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning:

"Weeds" will include grass, fescue, wire grass, weeds, hay, sod, poison ivy, poison oak, or any other foreign growth other than trees, actively tended flowers and shrubs, actively tended garden vegetables, and commercially farmed produce.

(C) This section shall not apply to land more than 50 feet from the boundary line of property developed for residential use if such land is enrolled in and follows a state or federal conservation program and is more than two acres in size.

(D) This section shall not apply to land more than 50 feet from the boundary line of property developed for residential use if such land is enrolled in and follows a state or federal conservation program and is more than two acres in size.

(E) This section shall not apply to land within the RPA.

(F) This section shall not apply to any land zoned for or in active agricultural operation, as determined by an authorized official.

(G) This section shall not apply to undisturbed or natural woodlands and undisturbed or natural brush lands as determined by an authorized official, or to any natural slope whose grade exceeds 30 degrees.

(H) This section shall not apply to a Managed Natural Landscape, as defined.

- a. "Managed Natural Landscape" is defined as a planned, intentional, and continuously and actively maintained planting of native or non-native grasses, wildflowers, forbs, ferns, shrubs, or trees, including but not limited to rain gardens, Meadow Vegetation (as defined), and ornamental plantings. Managed Natural Landscapes meeting this definition may include plants and grasses of any height and which have gone to seed. Managed Natural Landscapes shall not include any plant identified by any applicable government agency as a noxious weed, or that due to location and/or manner of growth, constitute a hazard to the public.
- b. "Meadow Vegetation" is defined as grasses and flowering broad-leaf plants that are native to, or adapted to, and that are commonly found in local meadow and prairie plant communities.

(State law reference-Authority to prohibit weeds, Code of Virginia, §15.2-901)

91.04 - Obstructions of Streets and Sidewalks and Traffic Control Signs or Devices Prohibited

(A) It shall be the duty of landowners to maintain trees and other vegetation growing on their property in such a manner that no limbs, branches or other such obstructions project over any public street at a height of less than fourteen (14) feet, or public sidewalk at a height of less than eighty-four (84) inches.

(B) It shall be unlawful for any landowner to own or maintain, either on private property or a public street or sidewalk, vegetative material, soil, wire, fences, walls or similar structures which create a physical obstruction along the fully installed width of the street or sidewalk.

(C) It shall be unlawful for any landowner to maintain trees, shrubs, grass or other such vegetation on their property that obstructs the view of Emergency 911 address number placards (even if on private property), street identification signs, as well as any State or Town installed traffic control devices or signs.

~~91.03~~ 91.05 - Investigation procedures.

(A) Where it shall be found that there does exist a buildings unfit for human habitation, or occupancy, or use, due to dilapidation, disrepair, structural defects increasing the hazards of fire, accidents or other calamities, or property containing conditions unsafe, unsanitary and detrimental to the health and safety of the residents of the town, the county building official will upon receipt of a written request/complaint from the ~~zoning administrator~~ code enforcement official, investigate and make decisions in accordance with Code of Virginia, §15.2-906.

(B) If a preliminary investigation shall disclose to the said public officer a basis for the charges filed, he or she shall issue and cause to be served upon the owner of the parties in interest in such building a complaint stating the charges in that respect.

(C) The owner and parties in interest shall have the right to file an answer to the complaint, or appear in person before the governing body in response to said conditions; or correct the conditions to comply with the provisions of this subchapter.

(D) If the owner fails to comply with an order to repair, alter or improve, or at the option of the owner, to vacate and close the building or property, the governing body may cause such building or property to be repaired, altered or improved, or to be vacated and closed. Assessment of costs of such remedy shall be made to the owner, or owners of the property affected thereby.

(E) Nothing in this subchapter shall be construed to abrogate or impair the powers of appeal to the courts.

(Ord. passed - -)

## REMOVAL AND ABATEMENT OF NUISANCES

### 91.15 - Removal and abatement.

(A) Pursuant to Code of Virginia, §15.2 1115, as amended, the ~~town~~ code enforcement officer may compel:

1. The abatement or removal of all nuisances, including, but not limited to, trash, garbage, refuse, litter, lumber, junk, debris, implements, equipment or other personal property including, but not limited to, furniture, appliances, boats and other watercrafts, and similar personal property which is unused or unusable and is in view, unsheltered, uncovered or unhoused;
2. The trimming, mowing or removal of weeds from private and public property and snow from sidewalks;
3. The covering or removal of offensive, unwholesome, unsanitary or unhealthy substances allowed to accumulate in or on any place or premises;
4. The raising or draining of grounds subject to be covered by stagnant water;  
~~and~~
5. The razing or repair of all unsafe, dangerous or unsanitary public or private buildings, walls or structures which constitute a menace to the health and safety of the occupants thereof or the public; and
6. The abatement and removal of all unlawful obstructions prohibited in 91.04 above.

(B)

1. Whenever there exists any such condition or nuisance upon any property or premises in the town as set forth hereinabove, the code enforcement officer shall serve notice on notify the owner or occupant of the property or premises in writing that such condition or nuisance must be abated or obviated within seven days of the receipt of such notice.
2. If the owner or occupant of such property or premises is a resident, notice shall be served on given to him or her personally or left at their last known address or sent by certified mail.
3. If the owner or occupant is a nonresident, notice shall may be served upon provided to the owner's or occupant's agent in charge thereof in person or left at their

last known address or sent by certified mail, or upon the owner or occupant may be notified by either publishing such notice in at least two issues of a newspaper published or having general circulation in the town.

4. The cost of such publication shall be collected from the owner or occupant of such property or premises.

(C) If after seven days of the receipt of such reasonable notice, as described in division (B) above, the owner or occupant of the property or premises affected by the provisions of this section shall fail to abate or obviate the condition or nuisance, the code enforcement officer shall cause any such condition or nuisance to be abated or obviated at the expense of the owner or occupant of such property or premises, and the town may charge and collect the cost thereof from the owner or occupant of the affected property in any manner provided by law for the collection of state or local taxes, including making said charges a lien upon the affected property.

(D)

1. Every charge authorized by this section in excess of \$200.00 which has been assessed against the owner of any such property or premises and which remains unpaid for 30 days shall constitute a lien against such property.
2. Such liens shall have the same priority as other unpaid taxes and shall be enforceable in the same manner as provided in Code of Virginia, §58.1-3940 et seq. and Code of Virginia, §58.1-3965 et seq. of Code of Virginia, Title 58.1, Chapter 39, as may be amended from time to time.
3. The town council may waive any 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.
4. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

(E) If a code enforcement officer determines that there is a violation of Section 91.03 (Cutting of weeds and grass required), or Section 91.04 (Obstructions of Streets and Sidewalks and Traffic Control Signs and Devices Prohibited) then in lieu of the above procedure, a code enforcement officer shall provide a verbal warning in person, by phone, email or other means, and then, if necessary, a written warning, no sooner than 14 days after the verbal warning. If the nuisance has not been mitigated 14 days after the written warning, then the violation shall be subject to a civil penalty, not to exceed \$50 for the first violation before warning within 12 months, and \$150 for each day of continuing violation within 12 months of the written warning for the first violation. Each day during which a violation exists after warning until mitigation shall constitute a separate offense. In no event shall a series of specified violations existing after warning and before mitigation result in civil penalties that exceed a total of \$3,000 in a 12-month period.

(State law reference-Authority to prohibit weeds, Code of Virginia, §15.2-901)

**BE IT FURTHER ORDAINED AND ENACTED**, that this ordinance shall take effect immediately.

ADOPTED:

AYES:

NAYS:

ABSTENTIONS:

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\_\_\_\_\_, Clerk