



AT A REGULAR MEETING OF THE COUNCIL OF  
THE TOWN OF BOONES MILL  
HELD AT TOWN HALL ON SEPTEMBER 11, 2018

A quorum then and there being present and upon motion duly made and seconded, the following resolution was adopted:

**WHEREAS**, the Council held a public hearing on this matter on September 11, 2018,

**WHEREAS**, legal notice and advertisement have been provided by law.

**WHEREAS**, the Town Council of the Town of Boones Mill, Virginia is desirous of amending the November 16, 1987, Nuisance Ordinance; and

**WHEREAS**, pursuant to 15.2-900, 15.2-901 Code of Virginia (1950) as Amended, empowers any city or town to "prevent injury or annoyance from anything dangerous, offensive or unhealthy and cause any nuisance to be abated."

**NOW, THEREFORE BE IT ORDAINED**, that the Town Council of the Town of Boones Mill, Virginia adopts the following **Nuisance Ordinance**:

**Article I. In General.**

**Sec. 1-1. Nuisance prohibited within the Town.**

It shall be unlawful for any person to cause, harbor, commit or maintain, or to suffer to be caused, harbored, committed or maintained any nuisance as defined by the statute or common law of this state or as defined by this Code or other ordinance of the Town at any place within the Town.

**Sec. 1-2. Certain nuisances enumerated, but this list is not exclusive.**

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

- (A) An act done or committed or aided or assisted to be done or committed by any person, or any substance, being or thing kept, maintained, placed or found in or upon any public or private place, which is injurious or dangerous to the public health or safety.

(B) All buildings, bridges or other structures of whatever character kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthy, injurious or annoying to the public.

(C) All trees and other appendages of or to realty kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthy, injurious or annoying to the public.

(D) At all public and private road intersections, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision. A building, fence, wall, sign, hedge, trellis, arbor or other planting exceeding thirty-six (36) inches in height which materially obstructs vision creating a traffic hazard is prohibited. Supplemental regulations apply; see Section Sec. 1-3.B Sight Distance Triangles.

(E) Trash: Abandoned personal property, garbage, refuse, rubbish or debris, which shall include an accumulation of cut weeds over fifteen (15) inches long, openly lying on any parcel of property.

(F) Weed or weeds: Any plant, grass or other vegetation covering substantially all of a parcel of property which is over fifteen (15) inches long, other than trees, shrubbery, and agricultural plants.

(G) 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.

(H) All obstructions caused or permitted on any street or sidewalk to the danger or annoyance of the public, and all stones, rubbish, dirt, filth, slops, vegetable matter or other article thrown or placed by any person on or in any street, sidewalk, or other public place, which in any way may cause injury or annoyance to the public.

(I) All sidewalks, gutters or curbstones permitted to remain in an unsafe condition, or out of repair.

(J) All stables, cattle yards, hog, sheep, or cow pens or yards or structures for poultry, permitted by the owner thereof or the person responsible thereof to be harboring or breeding places for rodents or otherwise to be in such a condition as to become offensive, annoying or injurious to the public or to persons in the neighborhood thereof.

(K) All houses or buildings used for special storage of powder, dynamite or other explosive substances, except those maintained pursuant to a permit issued by competent authority.

(L) All septic tanks, privies, cesspools and privy vaults of a type prohibited by state law, or which are maintained in any manner contrary to state law or rules and regulations

promulgated by authority of state law or which otherwise constitute a menace to the health of, or are offensive to, persons in the neighborhood thereof.

The nuisances described in this section shall not be construed as exclusive, and any act of commission or omission and any condition which constitutes a nuisance by statute or common law of the state is when committed, omitted or existing within the Town hereby declared to constitute a nuisance.

### **Sec. 1-3 Responsibility of property owners, occupants and others:**

Each owner, lessee, tenant, occupant or person in charge of any real property within the Town, and each agent or representative of any such person, is hereby charged with the responsibility for the maintenance and use of such real property in such manner that no use of, or activity or condition upon or within, such real property shall constitute a nuisance; and all such persons are hereby charged with the duty of observing all of the provisions of this chapter, but such responsibility shall not be construed to permit any other person not charged with such responsibility to commit or maintain any nuisance upon or within any real property in the Town.

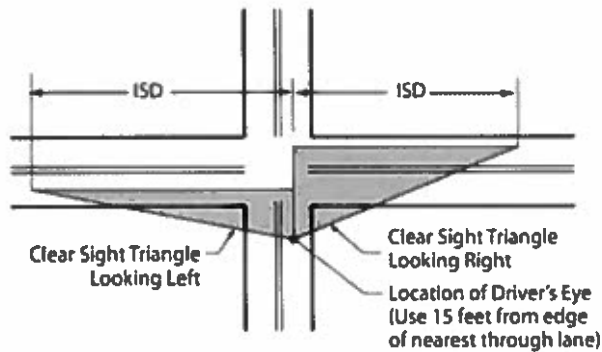
### **Sec. 1-3-B Clear Sight Triangle**

Insufficient sight distance can be a contributing factor in intersection traffic crashes. Intersection sight distance (ISD) is typically defined as the distance a motorist can see approaching vehicles before their line of sight is blocked by an obstruction near the intersection. The driver of a vehicle approaching or departing from a stopped position at an intersection should have an unobstructed view of the intersection, including any traffic control devices, and sufficient lengths along the intersecting roadway to permit the driver to anticipate and avoid potential collisions. Examples of obstructions include crops, hedges, trees, parked vehicles, utility poles, buildings, barriers, etc. extending above thirty-six (36) inches in height. In addition, the horizontal and vertical alignment of the roadway approaching the intersection can reduce the sight triangle of vehicles navigating the intersection.

It is important for approaching motorists on the major road to see side street vehicles approaching a stop sign, and for minor road motorists to see approaching major road vehicles before entering the intersection. Poor sight distance can lead to rear-end crashes on the approaches and to angle crashes within the intersection because motorists may be unable to see and react to traffic control devices or approaching vehicles.

Refer to the Federal Highway Administration, *Manual on Uniform Traffic Control Devices*, Washington, DC: December 2009 for more information. The MUTCD can be accessed at <http://mutcd.fhwa.dot.gov>

The area needed for provision of this unobstructed view is called the Clear Sight Triangle (see below).



*Modified from the American Association of State Highway and Transportation Officials (AASHTO) publication Policy on Geometric Design of Highway and Streets, 5th Edition, 2004.*

## Article II. Abatement

### **Sec. 1-4 Authority to certain officers to make inspections; duty of certain Town officers.**

(A) The Town Manager or his/her designee are hereby authorized to make inspections from time to time of all portions of the Town to determine whether any condition exists or activity is being carried on which constitutes a nuisance; and the Town Manager or his/her designee shall make or cause to be made such investigation upon complaint made in writing by any responsible person.

(B) The officers mentioned in subsection (A) of this section shall have the right to enter upon the private premises for the purposes therein specified, upon compliance with all applicable provisions of law. Unless it appears probable advance warning would defeat the purpose of such entry, occupants of premises to be entered shall be given reasonable notice in advance, and in any case, it shall be unlawful for any owner or occupant to prevent such entry which is sought to be made in compliance with the law.

### **Sec. 1-5. Nuisances shall be reported to the Town Manager for action.**

After inspection has been made and a condition exists or is being carried on within the Town which constitutes a nuisance, the Town Manager, or designee may report his/her findings, in writing, to the Town Council, who then shall be authorized to accept such findings as their own and take action thereon as provided in this article.

### **Sec. 1-6. Notice to cease and desist when an activity constitutes a nuisance.**

If any time the Town Manager or designee shall find that an activity or practice which constitutes a nuisance is occurring within the Town he shall promptly and by the most expeditious means notify the violator to cease and desist forthwith.

**Sec. 1-7. Notice to abate condition constituting a nuisance**

If at any time the Town Manager or designee shall find a condition which constitutes a nuisance exists within the Town he/she shall give notice to the Town Council. Town Council or its designee will then give notice in writing to the owner, occupant or person in charge of the premises upon which the condition exists, stating therein the condition which constitutes a nuisance, and directing such addressee to remedy the condition within ten (10) days. It shall be unlawful for any such owner, occupant or person in charge to fail to comply with the terms of such notice.

**Sec. 1-8. Recourse of Town when notice to abate a nuisance is ignored.**

(A) Upon the failure of any person to whom notice has been given pursuant to section 1-7 to comply with the terms of such notice, the Town Manager or designee giving such notice shall forthwith direct the appropriate remediation and the expense incurred by the Town in so doing shall be charged to the addressee of such notice, to be collected as Town taxes or in any other manner authorized by law.

(B) Abatement by the Town of any condition which constitutes a nuisance and reimbursement to the Town of expenses incurred thereby shall not bar prosecution for maintenance of a nuisance.

**Sec. 1-9 Article does not prohibit arrest for committing or maintaining a nuisance.**

Nothing in this article shall be construed to prohibit any police officer from arresting any person for committing or maintaining a nuisance when such arrest is made pursuant to law.

Given under my hand this 11<sup>th</sup> day of September 2018.

On motion of Peggy Steele to adopt the Ordinance, and carried by the following recorded vote:

Ayes:

Sarah Eames Jason Masching, Dale Fisher, Keith Christman, Mike Smith

Nays:

NO ONE

A COPY TESTE:

Juan P. Rucker

Town Clerk

Town of Boones Mill