

## Chapter 15

# NUISANCES AND PUBLIC HEALTH AND SAFETY CODE ENFORCEMENT ORDINANCE

## ARTICLE I. IN GENERAL

### Sec. 15-1. Mission

It shall be the responsibility of the Code Enforcement Officer under the direction of the Department of Economic Development to work in partnership with the Buena Vista citizens and any and all other government offices and/or departments of the City of Buena Vista in order to promote a safe, healthy and desirable living and working environment.

### Sec. 15-2. Authority

The City of Buena Vista has adopted the 1950 Code of Virginia, Title 15.2, (as amended) Counties, Cities and Towns, Subtitle II Powers of Local Government, Chapter 9 General Powers of Local Governments, Article 1 Public Health and Safety; Nuisances, and Chapter 11, Powers of Cities and Towns, Article 1 Uniform Charter Powers. The City of Buena Vista has also adopted definitions from the International Property Maintenance Code, not inconsistent with the 1950 Code of Virginia, and subsequent amendments thereto.

### Sec. 15-3. Definitions

***Building. Any Permanent structure that has a roof and walls, designed or intended for enclosure or protection of personal property.***

*Elements.* Those aspects of inclement weather conditions for which items routinely used within a household, not designed nor intended to function or exist for extended periods of time, such as rain, wind, and temperature extremes normally associated with outdoor conditions.

*Exposed.* Circumstances under which items routinely used within a household will experience wear and tear due to their locations out of doors and/or the deleterious effects of the elements such that water may accumulate and/or which may shelter and/or encourage the harboring of rodents and/or mosquitoes, and/or materials which generate obnoxious odors and/or become an electrical shock or fire hazard. "Exposed" does not include a garage or fully enclosed porch that cannot be accessed from outside except through a closed door that can be locked.

*Exterior Property.* The open space on the premises and on adjoining property under the control of owners, operators, or tenants of such premises.

*Extermination.* The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, and trapping or by any other approved pest elimination method.

**Fence. A four sided vertical barrier of a permanent nature, at a minimum height of (6) feet, but no more than (8) feet from the ground, constructed of nontransparent material, including, solid board, composite, vinyl, or chain link with flexible privacy slats, which is reasonably compatible with the aesthetics design of the property upon which the fence resides; not to include tarpaulins, plastic or fabric covers, cloth shrubs, trees or plant material of any kind.**

*Garbage.* The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food, excluding excrement, but including the carcasses of dead animals and fowl, with the exception of cows, horses, mules and goats, coming from private premises not destined for consumption as food.

*Household appliances and furniture.* Those items routinely used within a household that have no weatherproofing qualities.

*Infestation.* The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

*Inoperable Motor Vehicle.* Any motor vehicle, trailer or semi-trailer as defined in Code of Virginia section 46.2-100, as amended, which is inoperable, as defined by any one or more of the following: (i) any motor vehicle which is not in operating condition; (ii) a motor vehicle 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, (iii) a motor vehicle on which there are displayed neither valid license plates nor a valid inspection decal. There shall be a rebuttable presumption that a motor vehicle that does not display an inspection decal or a decal which expired more than 60 days is an inoperable vehicle. Whenever the term vehicle is used in this chapter, it shall mean to include inoperable motor vehicle.

*Litter.* Includes trash, wastepaper, garbage or rubbish lying scattered about.

*Nuisance.* The doing of any act or the omission to perform any duty, or the permitting of any condition or thing to exist that endangers life or health,

obstructs, or interferes with the reasonable or comfortable use of public or private property, tends to depreciate the value of property of others, or in any way renders other persons insecure in the life of the use of property. Whenever the term nuisance is used in this chapter, it shall be deemed to be a public nuisance.

*Owner.* Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

*Penalty.* Violation of a nuisance shall constitute a class 3 misdemeanor. In addition, each day a public nuisance exists shall constitute a separate offense after the date set by the Court for its abatement.

*Person.* Person shall include individuals, corporations, partnerships, and all other legal entities, which may hold title to real or personal property.

*Premises.* A lot, plot or parcel of land, easement or public way, including any building or buildings thereon and other appurtenances.

*Property.* Both real and personal.

*Rubbish.* Any combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials, and other debris.

*Shielded or screened from view.* Not visible by someone standing at ground level from outside of the property on which the subject vehicle is located.

*Structure.* That which is built or constructed or a portion thereof, **designed or intended for enclosure or protection of personal property.**

*Tenant.* A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

*Trash.* Abandoned personal property, metal, lumber, garbage, rubbish, litter or debris openly lying on any premises or street, which might endanger the health of residents of the city.

*Weeds.* All grasses, annual plants, poison ivy, poison oak and vegetation, other than trees, shrubs, cultivated flowers, gardens or groundcover purposefully planted for bank stabilization.

#### **Sec. 15-4. Illustrative Enumeration**

The existence of any of the following activities or conditions are hereby declared to be a public nuisance provided, however, this enumeration shall not be deemed conclusive, limiting or restrictive:

- (1) Any violation of Article II of this chapter pertaining to vacant land, exterior property, vacant and accessory structures.
- (2) Any violation of Article III of this chapter pertaining to weeds or vegetation.
- (3) Any violation of Article IV of this chapter pertaining to the duty to dispose of, and the accumulation of rubbish, trash, refuse, junk and other abandoned materials, metal, lumber, or other things that cause a blighting problem or adversely affects the public health or safety.
- (4) Any violation of Article V of this chapter pertaining to any building, wall, or structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.
- (5) Any violation of Article VI of this chapter pertaining to the keeping of inoperable vehicles on any property zoned for residential, commercial or agricultural purposes.
- (6) Any violation of Article VII of this chapter pertaining to any condition which provides harborage for rats, mice, snakes or other vermin, or promotes insect infestation.
- (7) Any violation of Article VIII of this chapter pertaining to unsanitary conditions of swimming pools, spas or hot tubs,
- (8) Any violation of Article IX of this chapter pertaining to household appliances and furniture.
- (9) All disagreeable or obnoxious odors and stenches, as well as conditions, substances or other causes, which give rise to the emission or generation of such odors and stenches.
- (10) The carcasses of animals or fowl not disposed of immediately after death.
- (11) Any accumulation of stagnant water permitted or maintained on any premises.

#### **Sec. 15-5. Violations in general**

Violation of any provision, duty or conditions of this chapter shall constitute a public nuisance and shall be enforceable by the Code Enforcement Officer as set forth in Article X of this chapter.

#### **Sec. 15-6. Prohibited**

It shall be unlawful for any person to create, cause, permit, or maintain a public nuisance. It shall also be unlawful for any person to permit the continuation of a public nuisance after having been ordered to abate such nuisance.

**Sec. 15-7. Summons issued for violation of this chapter**

Whenever a nuisance is found to exist within the City, the Code Enforcement Officer shall execute a summons by delivering a copy to the owner of the property and/or tenant occupying the property, on which the nuisance is located, as more specifically set forth in the terms and conditions in Article X.

**Sec. 15-8. Contents of Summons**

The summons for violation of any article within this chapter shall command the owner's appearance at a stated date and time before the court, and shall include:

- (1) The name and address of the court;
- (2) The date and time of the court appearance;
- (3) A description of the violation; and
- (4) The location of the property.

**Sec. 15-9. Abatement by the City**

If the owner fails to comply with the Court's order to abate, the City through its agents or employees, may cause the condition to be abated, in which event the costs or expenses thereof, together with an administrative fee of \$75.00 shall be assessed and billed to the owner and may be collected by the City as taxes are collected. The City shall prepare an affidavit certifying the costs and expenses incurred by the City.

**Sec. 15-10. City's cost declared lien**

Costs and expenses incurred by the City in the abatement of a nuisance pursuant to this chapter shall constitute a lien against the property upon which the nuisance existed, which lien shall be filed, proven and collected as provided for by law, ranking on a parity with liens for unpaid taxes and shall be notice to all persons from the time of its recording.

**ARTICLE II. VACANT LAND; VACANT STRUCTURES; ACCESSORY STRUCTURES; EXTERIOR PROPERTY**

**Sec. 15-11. Vacant land; vacant structures**

It shall be the duty of the owner to maintain all vacant land and vacant structures in a clean, safe, secure and sanitary condition, free from stagnant water, filth, unsightly deposits, disagreeable or obnoxious odors and stenches including the conditions, substances or causes giving rise to the odors or stenches, and accumulation of all offensive, unwholesome, unsanitary, or unhealthy substances, which otherwise may cause a blighting problem, adversely affect the public health and safety. Further, any premises subject to be covered by

stagnant water shall be raised or drained. Failure to do so shall constitute a nuisance.

**Sec. 15-12. Accessory structures**

It shall be the duty of the owner of any premises or tenant therein, to maintain all accessory structures, including fences, detached garages and walls, in good repair and structurally sound. Failure to do so shall constitute a nuisance.

**Sec. 15-13. Exterior property**

It shall be the duty of the owner of any premises or tenant therein, to maintain all exterior property in a clean, safe, secure and sanitary condition, free from stagnant water, filth, unsightly deposits, disagreeable or obnoxious odors and stenches including the conditions, substances or causes giving rise to the odors or stenches, and accumulation of all offensive, unwholesome, unsanitary or unhealthy substances, which otherwise may cause a blighting problem or adversely affect the public health or safety. Further, any premises subject to be covered by stagnant water shall be raised or drained. Failure to do so shall constitute a nuisance.

**ARTICLE III. WEEDS AND OTHER VEGETATION**

**Sec. 15-14. Weeds prohibited; vacant developed or undeveloped property**

Weeds growing on vacant developed or undeveloped property shall constitute a nuisance. It shall be unlawful for the owner of any vacant developed or undeveloped property, including property upon which buildings or other improvements are located, to permit grass, weeds and other foreign growth on such property or any part thereof, in excess of ten (10) inches in height. This section shall not apply to property zoned in the conservation district.

**Sec. 15-15. Weeds prohibited; occupied property**

Weeds growing on occupied property shall constitute a nuisance. It shall be unlawful for the owner of any occupied property or tenant therein, to permit grass, weeds and other foreign growth on such property or any part thereof, in excess of ten (10) inches in height. This section shall not apply to property zoned in the conservation district.

**Sec. 15-16. Weeds prohibited in public rights-of-way**

Weeds permitted to scatter and accumulate in public rights-of-way shall constitute a nuisance. It shall be unlawful for the owner of any property or tenant therein to sweep or throw any dirt, weeds, or yard trimmings, including the cuttings or clippings from same, onto the sidewalks, gutters, streets, storm sewer inlets, or any public rights-of-way.

#### **ARTICLE IV. ACCUMULATION OF TRASH; DUTY TO DISPOSE**

##### **Sec. 15-17. Accumulation of trash prohibited**

Accumulation of trash shall constitute a nuisance. It shall be unlawful for the owner of any premises or the tenant therein to allow the accumulation of any trash in or around the exterior property or the interior of any structures, which might endanger the health or safety of other residents.

##### **Sec. 15-18. Garbage disposal container**

It shall be the duty of the owner of any premises or the tenant therein to dispose of all trash or other debris in privately owned metal or plastic watertight containers with a tight-fitting lid no larger than thirty-two (32) gallons in capacity, provided for such use or in authorized facilities provided for such purpose. It shall further be the duty of the owner or tenant to keep the container tightly covered at all times, except when momentarily opened to deposit garbage or have the contents removed therefrom, placed in an authorized collection vehicle, and thereafter replace the lid tightly on the container.

#### **ARTICLE V. BUILDINGS, WALLS AND OTHER STRUCTURES**

##### **Sec. 15-19. Condition of buildings, walls and other structures**

It shall be unlawful for the owner of any premises to maintain any buildings, walls or other structures in a condition which endangers the health and safety of the public, or which are dangerous, unsanitary, or detrimental to the health, morals, aesthetic sensibilities, safety, convenience and/or welfare of the inhabitants of the City. Such conditions shall constitute a nuisance.

## **ARTICLE VI. KEEPING OF INOPERABLE MOTOR VEHICLES**

### **Sec. 15-20. Restriction on keeping of inoperable motor vehicles**

**It shall be unlawful for the owner of any premises or the tenant therein to keep any inoperable motor vehicle not shielded or screened from view, by a fully enclosed fence, building, or structure, on any property zoned for residential, commercial or agricultural purposes. Failure to do so shall constitute a nuisance. The provision of this section shall not apply to a licensed business, which on June 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.**

**(Date of adoption: June 13, 2002 and repealed December 17, 2009)**

## **ARTICLE VII. RODENT HARBORAGE AND INFESTATION**

### **Sec. 15-21. Rodent harborage and infestation**

It shall be the duty of the owner of any premises or tenant therein, to keep all structures and exterior property free from rodent harborage, and insect and rodent infestation. Failure to do so shall constitute a nuisance. All structures or exterior property in which insects or rodents are found shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken by the owner to eliminate rodent harborage, and insect and rodent reinfestation.

## **ARTICLE VIII. SWIMMING POOLS; SPAS; HOT TUBS**

### **Sec. 15-22. Swimming pool unsanitary conditions prohibited**

It shall be the duty of the owner or tenant therein, of any premises on which there exists a swimming pool, spa and/or hot tub, to maintain such in a clean and sanitary condition, and in good repair. Failure to do so shall constitute a nuisance.

## **ARTICLE IX. HOUSEHOLD APPLIANCES AND FURNITURE**

### **Sec. 15-23. Household appliances and furniture prohibited outside any dwelling**

It shall be unlawful for the owner or tenant therein of any dwelling to leave or permit to remain outside of the dwelling, any household appliances or furniture in such a manner that same is exposed to the elements.

**Sec. 15-24. Exceptions**

The following shall constitute specific exceptions to any alleged violation of this article:

(1) That such furniture and/or appliance was placed in an outside location in order to allow it to be moved, or removed as part of a trash or recycling program on a day scheduled for such move or removal.

(2) That such furniture and/or appliance was temporarily placed in an outside location in order that it be offered for sale at a yard or garage sale, provided that: (i) it is located in an outside location only during the hours of 7:00 a.m. to 6:00 p.m.; (ii) the person attempting to sell the furniture and/or appliance is out side during the period of the yard or garage sale; (iii) a sign is placed near the furniture and/or appliance indicating that it is for sale; and (iv) does not apply to any furniture and/or appliance that is in an outside location for more than two days in any six-month period.

**ARTICLE X. ENFORCEMENT PROCEDURES AND PENALTIES FOR VIOLATIONS**

**Sec. 15-25. In general**

Whenever the Code Enforcement Officer determines that there has been a violation or violations of any of the provisions, duties or conditions of this chapter, enforcement procedures and penalties shall be in the manner prescribed below.

It shall be the responsibility of the Code Enforcement Officer to determine satisfactory compliance by the owner for his or her abatement of violations of any of these Articles.

**Sec. 15-26. Violations of Articles II, III Secs. 15-15 and 15-16, and IX (Vacant Land, Vacant and Accessory Structures, Exterior Property; Weeds and Other Vegetation on Occupied Premises, Public Rights-of-Way; Household Appliances and Furniture)**

(1) Summons:

(a) When the Code Enforcement Officer determines that a violation of these Articles exists, he or she shall execute a summons by delivering a copy to the owner or tenant, personally.

(b) Summons Shall:

1. State the name and address of the court;
2. State the date and time of the court appearance;

3. Include a description of the violation; and
4. Include the location of the property.

(2) Abatement by the City:

If the owner or tenant fails to comply with the Court's order to abate the violation or violations, within the time permitted for abatement, the City will direct its agents or employees to abate or complete the abatement of the violation or violations.

(3) City's Costs Declared a Lien on the Property:

In any case where, pursuant to these Articles, the Court has ordered abatement, the owner or tenant has failed to comply, and the City has abated the violation or violations, the costs together with the \$75.00 administrative fee shall be chargeable to and collected from the owner or tenant in any manner provided by law for the collection of state or local taxes. Every charge in excess of \$200.00 which has been assessed against the owner and remains unpaid shall constitute a lien against the property. Such lien shall have the same priority as other unpaid local taxes and shall be enforceable in the same manner. All such liens shall remain a personal obligation of the owner at the time the liens were imposed.

**Sec. 15-27. Violations of Article III Sec. 15-14, and Article IV (Weeds and Other Vegetation on Vacant Premises; Accumulation of Trash)**

(1) Summons:

(a) When the Code Enforcement Officer determines that a violation of these Articles exists, he or she shall execute a summons by delivering a copy to the owner via personal service or first-class mail to the last known address.

(b) Summons Shall:

1. State the name and address of the court;
2. State the date and time of the court appearance;
3. Include a description of the violation; and
4. Include the location of the property.

(2) Abatement by the City:

If the owner fails to comply with the Court's order to abate the violation or violations, within the time permitted for abatement, the City will direct its agents or employees to abate or complete the abatement of the violation or violations.

(3) City's Costs Declared a Lien on the Property:

In any case where pursuant to these Articles, the Court has ordered abatement, the owner has failed to comply, and the City has abated the violation or violations, the costs together with the \$75.00 administrative fee shall be chargeable to the owner and collected as taxes are collected. Every charge which has been assessed against the owner and remains unpaid, shall constitute a lien against the property. Such lien shall have the same priority as other unpaid local taxes and shall be enforceable in the same manner. All such liens shall remain a personal obligation of the owner at the time the liens were imposed.

**Sec. 15-28. Violations of Article V (Buildings, Walls and Other Structures)**

(1) Summons:

(a) When the Code Enforcement Officer determines that a violation of this Article exists, he or she shall execute a summons by delivering a copy to the owner and lienholder of the property, personally.

(b) Summons Shall:

1. State the name and address of the court;
2. State the date and time of the court appearance;
3. Include a description of the violation; and
4. Include the location of the property.

(2) Abatement by the City:

If the owner and lienholder fail to comply with the Court's order to abate the violation or violations, within the time permitted for abatement, the City, after not less than 30 days from the date of the Court's order to abate the property, will direct its agents or employees to remove, repair, or secure any building, wall or other structure in violation of this Article, except when the structure is deemed by the Court to pose a significant threat to public safety, the Court may direct the City take action to prevent unauthorized access to the building within seven days from the Court's determination of same.

(3) City's Costs Declared a Lien on the Property:

In any case where pursuant to this Article, the Court has ordered abatement or securing of the building, wall or structure, the owner has failed to comply, and the City has either abated or secured the building, wall or structure, the costs together with the \$75.00 administrative fee shall be chargeable to the owner and collected as taxes are collected. Every charge which has been assessed against the owner and remains unpaid, shall constitute a lien against the property. Such lien shall have the same priority as other unpaid local taxes and shall be enforceable in the same manner. All such liens shall remain a personal obligation of the owner at the time the liens were imposed.

## **Sec. 15-29. Violations of Article VI (Inoperable Vehicles)**

(1) Summons:

(a) When the Code Enforcement Officer determines that a violation of this Article exists, he or she shall execute a summons by delivering a copy to the owner, tenant, or occupant of the premises, personally.

(b) Summons Shall:

1. State the name and address of the court;
2. State the date and time of the court appearance;
3. Include a description of the violation; and
4. Include the location of the property and a description of the vehicle.

(2) Abatement by the City:

(a) If the occupant of the premises is not the owner of the premises and fails to comply with the Court's order to remove, move to a fully enclosed building or structure, or otherwise shield or screen the vehicle from view, within the permitted time, the Code Enforcement Officer shall provide reasonable notice in writing to the owner of the premises, by mailing the notice to the owner's last known address.

(b) If the owner of the premises fails to comply with the Court's order to remove, move to a fully enclosed building or structure, or otherwise shield or screen the vehicle from view, within the permitted time, the City will direct its agents or employees to remove the vehicle and, if neither the occupant or owner of the premises, is the owner of the vehicle, the City will, after giving additional notice to the owner of the vehicle in writing in the manner set forth above, dispose of the vehicle.

(3) City's Costs Declared a Lien on the Property:

In any case where pursuant to this Article, the Court has ordered removal of the vehicle, the owner has failed to comply, and the City has removed and disposed of the vehicle, the costs of both removal and disposal together with the \$75.00 administrative fee shall be chargeable to the owner of the vehicle or premises and may be collected as taxes are collected. All costs with which the owner of the premises has been assessed and remains unpaid, shall constitute a lien against the property from which the vehicle was removed and continue until actual payment has been made to the City.

**Sec. 15-30. Violations of Article VII and VIII (Rodent Harborage and Infestation; Swimming Pools, Spas and Hot Tubs)**

(1) Summons:

(a) When the Code Enforcement Officer determines that a violation of these Articles exists, he or she shall execute a summons by delivering a copy to the owner or tenant, personally.

(b) Summons Shall:

1. State the name and address of the court;
2. State the date and time of the court appearance;
3. Include a description of the violation; and
4. Include the location of the property.

(2) Abatement by the City:

If the owner or tenant fails to comply with the Court's order to abate the violation or violations, within the time permitted for abatement, the City will direct its agents or employees to abate or complete the abatement of the violation or violations.

(3) City's Costs Declared a Lien on the Property:

In any case where pursuant to these Articles, the Court has ordered abatement, the owner or tenant has failed to comply, and the City has abated the violation or violations, the costs together with the \$75.00 administrative fee shall be chargeable to and collected from the owner or tenant in any manner provided by law for the collection of state or local taxes. Every charge in excess of \$200.00 which has been assessed against the owner and remains unpaid shall constitute a lien against the property. Such lien shall have the same priority as other unpaid local taxes and shall be enforceable in the same manner. All such liens shall remain a personal obligation of the owner at the time the liens were imposed.

