

**Town of Capon Bridge**  
**Nuisance Lot Ordinance**

**Section 1: PUBLIC NUISANCES PROHIBITED.**

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Town of Capon Bridge, or within the police jurisdiction of the Town.

**Section 2: PUBLIC NUISANCES DEFINED.**

**(a) Generally.**

A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public; or
- (2) In any way render the public insecure in life or in the use of property; or
- (3) Greatly offend the public morals or decency; or
- (4) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way.

**(b) Public Nuisances Affecting Health and Safety.**

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health and safety nuisances but shall not be construed to exclude other health and safety nuisances coming within the definition of subsection (a) hereof.

- (1) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;
- (2) Carcasses of animals, birds or fowl not buried or otherwise disposed of in a sanitary manner within twenty-four hours after death;
- (3) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, abandoned vehicles or machinery, scrap metal or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed, or which may constitute a fire hazard;
- (4) All stagnant water in which mosquitoes, flies or other insects can multiply;
- (5) Garbage which is not secured from all animals including flies and vermin;
- (6) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the Town limits in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property;
- (7) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes or other substances;

- (8) Any use of property, substances or things within the Town emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, effluvia or stenches which are extremely repulsive to the physical senses of ordinary persons and/or which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Town;
- (9) Any barn, stable yard, shed, pen or other place where animals or fowl are kept which is not maintained in a clean condition; or any animals or fowl which because of disease, unsanitary conditions, odor or noise injure or discomfort the health or well-being of residents of the Town;
- (10) All abandoned wells not securely covered or secured from public use;
- (11) Any obstruction to watercourses, drainage ditches or ravines;
- (12) Grass, weeds or any vegetation whatsoever, not edible or planted for some useful or ornamental purpose, that exceeds a height of twelve inches, emits any unpleasant or noxious odor, conceals any unsanitary or rubbish deposit, or that affords a breeding place for insects, reptiles, or rodents
- (13) Failure to properly remove or dispose of yard waste including grass clipping and weeds.
- (14) Building materials not being used for immediate construction which are not stored in an enclosed accessory or other structure. Tarping shall not constitute a storage structure for the purposes of this section, and the use of tarping for such purposes is prohibited.
- (15) Upholstered furniture constructed for interior use, carpeting, mattresses, box springs, clothing and any such fabric items stored or placed on the exterior of a structure. Structures intended for storing such items shall be constructed so as to be secure from the elements and rodent infestation.

**(c) Public Nuisances Offending Morals and Decency.**

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of subsection (a) hereof.

- (1) All disorderly houses, bawdy houses, houses of ill fame, and buildings or structures kept or resorted to for the purpose of prostitution,
- (2) All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license required by the laws of the State or the ordinances of the Town;
- (3) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State or the ordinances of the Town;
- (4) Any place that the owner, his agents or employees permit, condone or foster the violation of Town ordinances or State laws relating to public health, safety, peace, morals or welfare openly, continuously, repeatedly or intentionally; and
- (5) Any place that the owner, his agents or employees permit, condone or foster the creation, sale, use, or distribution of controlled substances, as defined in West Virginia Code 60A-1-101 et seq., within or upon the establishment.

**(d) Public Nuisances Affecting Peace and Safety.**

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of subsection (a) hereof.

- (1) All unauthorized signs, signals, markings or devices which purport to be or may be mistaken as official traffic control devices placed or maintained upon or in view of any public highway or railway crossing;
- (2) All use or display of fireworks except as provided by the laws of the State and ordinances of the Town;
- (3) All buildings or structures so dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use;
- (4) All wires over streets, alleys or public grounds which are strung less than fifteen feet above the surface of the street or ground;
- (5) All loud and discordant noises or vibrations of any kind;
- (6) All debris or foreign matter or excess water in, and all obstructions of, streets, alleys, sidewalks, or crosswalks, stormwater facilities and all excavations in or under the same, except as permitted by the ordinances of the Town or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable length of time after the purpose thereof has been accomplished;
- (7) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk;
- (8) All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside by pushing with the strength of a small child;
- (9) Any structure, material or condition which constitutes a fire hazard or will impair extinguishing a fire;
- (10) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks;
- (11) Any nuisance described in the laws of the State.

**(e) Storing, Parking or Leaving Abandoned, Dismantled or Other Such Motor Vehicles.**

No person shall park, store, leave, or permit the parking, storing, or leaving of any motor vehicle of any kind which is unlicensed, abandoned, wrecked, dismantled, inoperative, rusted, junked, or partially dismantled whether attended or not, upon any public or private property within the Town for a period in excess of ten days, except when stored by a licensed business for the purpose of vehicle repair or improvement.

- (1) The presence of such vehicles or parts thereof on private or public property shall be declared a public nuisance.
- (2) This subsection shall not apply to any vehicle properly enclosed within a building on private property.

**(f) Garbage, Trash, or Debris.**

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances, but such enumeration shall not be construed to exclude other nuisances coming within the provisions of other provisions of this Ordinance.

- (1) It shall be unlawful for any person to place, throw, leave or permit to remain any rubbish, paper, dirt, waste, leaves, grass clippings, debris or garbage upon any street, gutter, sidewalk, alley, park or other public ground and it shall be the duty of each and every owner or occupant of any real property to clear any such rubbish from all adjacent streets, gutters, sidewalks, ditches or alleys.
- (2) The contents of all containers shall be so protected that the wind cannot blow out and scatter same over the streets, alleys and premises of the town.
- (3) Refuse containers and garbage containers shall not be placed upon town streets or sidewalks or any town property for pick-up prior to 4:00 p.m. on the evening before the assigned pick-up day for the particular area of the town and all such aforementioned refuse containers shall be removed and placed back upon private property by 6:00 p.m. the day of the pick-up assignment.
- (4) Except for the placement of containers on the public way for trash collection, an owner of any dwelling, business or structure shall be deemed to have allowed an unsanitary condition and nuisance to exist at that dwelling, business, or structure whenever containers for the storage of garbage, trash or debris are not screened or are otherwise viewable from the street.
- (5) Garbage, trash and debris, whether in containers or bags or not, shall not be stored in vehicles, trailers or similar facilities unless the entirety of the vehicle, trailer or similar facility is screened or otherwise not viewable from the street.
- (6) Businesses should have adequate space for garbage storage in a dumpster or similar receptacle. Such receptacle shall be screen or otherwise not viewable from the street.

### **Section 3: ENFORCEMENT AND ABATEMENT OF PUBLIC NUISANCES.**

#### **(a) Inspection of Premises.**

Either when a complaint is made that a public nuisance exists / has existed within the Town, or when any Capon Bridge Police or Code Enforcement Officer has reason to suspect the existence of a nuisance; an Officer from the Capon Bridge Police Department or the Capon Bridge Code Enforcement Office shall inspect or cause to be inspected the premises and shall make a written report of his findings. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Town Clerk.

#### **(b) Notice.**

If at any time an Officer of the Capon Bridge Police Department or Capon Bridge Code Enforcement Office determines that a nuisance as defined under this Ordinance exists, he or she shall give notice in writing to the residents of the property, the person(s) causing the nuisance, or the owner of the property describing the conditions creating the nuisance as defined in this Ordinance.

#### **(c) Warning Period at Officer Discretion.**

Upon the determination that a public nuisance exists and service of notice of such as described in Subsection (b) above, the investigating officer may, at his or her sole discretion, issue a warning directing such addressee to remedy the condition within the time stated in such warning, which shall be not more than ten days; and no such residents of the property, person(s) causing the nuisance, or property owner shall fail to comply with the terms of such warning.

#### **(d) General Penalty.**

Whoever violates any provision of this article shall be fined not more than five hundred dollars (\$500.00) for each offense, and upon summons, shall be required to appear before the Municipal Judge of the Town of Capon Bridge.

**(e) Enforcement Generally.**

- i. Each day any such violation continues shall constitute a separate offense.
- ii. In addition to any other remedy which may be available to the Mayor and Town Council to correct any or all conditions referred to in this ordinance, the Town Clerk, Town Administrator, Town Council, Mayor, Chief of Police, or Office of Code Enforcement may publish or caused to be published, digitally or in print, a list of properties, occupants, or property owners (or any combination thereof) in violation of this ordinance for which an appeal has not been perfected.
- iii. Any person violating this ordinance shall be guilty of a misdemeanor.

**(f) Abatement by Town.**

If the nuisance is not abated within ten days of the date on which the notice is given to the addressee, or if the person causing the nuisance cannot be found; the Mayor or Chief of Police may cause the abatement or removal of such public nuisance. The costs of this abatement shall be assessed as a fine, not to exceed \$500 per abatement, to the residents of the property, the person(s) causing the nuisance, and/or the property owner.

**(g) Appeal.**

A determination by an officer of the Capon Bridge Police Department or the Capon Bridge Code Enforcement Office may be appealed by the owner of the property or other party cited to the Town of Capon Bridge Municipal Judge within thirty (30) days of the property owner's first receipt of violation notice.

If the Municipal Judge affirms the prior determination, the property owner may appeal the decision to the Circuit Court of Hampshire County within twenty (20) days of the decision.

**Section 4: REPEAL OF PRIOR NUISANCE ORDINANCES AND EFFECTIVE DATE**

All existing Town Nuisance Ordinances are hereby repealed; parts of other Ordinances in conflict herewith are hereby repealed. This Ordinance shall take effect immediately upon publication following its adoption.

This ordinance shall become effective upon passage after second reading.

1<sup>st</sup> Reading: June 14, 2022

Public Hearing: July 12, 2022, 7:30 p.m.

2<sup>nd</sup> and Final Reading July 12, 2022

Attested: \_\_\_\_\_

Recorder, Tracey Grassi

*Upon the motion duly made and seconded, the regular rules were suspended by the Town of Capon Bridge Council members and the above ordinance having been read a first and second was passed to be effective from this date.*

*As adopted this date 12th July, 2022, by the vote of the Town Council of Capon Bridge, Inc.*

A motion to accept the ordinance as presented was made, a roll call vote was as follows: *motion adopted*

Members	First Reading	2 <sup>nd</sup> and Final Reading
Christopher Turner, Councilman	Yea	<i>Yea</i>
Nathan Spencer, Councilman	Yea	<i>Yea</i>
Thomas Hinkle, Councilman	Absent	<i>Absent</i>
Michelle Warnick, Councilwoman	Yea	<i>Yea</i>
David McMaster, Councilman	Yea	<i>Yea</i>
Mayor Laura Turner (if tie)		

The following votes were recorded, 4 votes yea, one absent. On first reading the motion passed.

Signed: *Laura Turner*  
Laura Turner, Mayor

Signed: *Michelle Warnick*  
Michelle Warnick, Councilwoman

Signed: *Christopher Turner*  
Christopher Turner, Councilman

Signed: *David McMaster*  
David McMaster, Councilman

Signed: *Nathan Spencer*  
Nathan Spencer, Councilman

Signed: \_\_\_\_\_  
Thomas Hinkle, Councilman

Date: *July 13<sup>th</sup>*, 2022

*Tracey Grassi*  
Attest: Tracey Grassi, Recorder