

CHAPTER 15

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Sec. 15.1Abusive Language

If any person shall, in the presence or hearing of another, curse or abuse such person or use any violent, abusive language to such person concerning himself or any of his relations or otherwise use such language under circumstances reasonably calculated to provide a breach of the peace, he shall be guilty of a Class 3 Misdemeanor. *(Code 1950, Section 10-1)*

(For similar state law, see Code of Virginia, Section 18.2-416.)

Sec. 15.2Advertising Matter - Attaching to Pole, Tree or Building

It shall be unlawful for any person to tack or otherwise attach any advertising matter or other notice to any telephone, telegraph or electric transmission pole or tree or to any building within the town without the consent of the owner thereof. *(Code 1950, Section 10-3)*

Sec. 15.3 Air Guns, Slingshots, Etc.

No person shall use any instrument for projecting missiles liable to do any injury to persons or property, such as an air gun, BB gun, slingshot, grit shooter, bow and arrow, etc., in the town. *(Code 1950, Section 10-4)*

Sec. 15.4 Assault and Battery

Any person who shall commit a simple assault or assault and battery shall be guilty of a Class 1 Misdemeanor. *(Code 1950, Section 10-5)*

(For similar state law, see Code of Virginia, Section 18.2-57)

Sec. 15.5 Bad Checks

- a Any person who, with intent to defraud, shall make or draw or utter or deliver any check, draft or order for the payment of money upon any bank, banking institution, trust company or other depository, knowing, at the time of such making, drawing, uttering or delivering, that the maker or drawer has not sufficient funds in or credit with such bank, banking institution, trust company or other depository, for the payment of such check, draft or order, although no express representation is made in reference thereto, shall be guilty of larceny.

The word "credit," as used herein, shall be construed to mean any arrangement or understanding with the bank, trust company or other depository for the payment of such check, draft or order.

- b Any person who shall make, draw, utter or deliver any check, draft or order for the payment of money, upon any bank, banking institution, trust company or other depository on behalf of any business firm or corporation, for the purpose of paying wages to any employee of such firm or corporation or for the purpose of paying for any labor performed by any person for such firm or corporation, knowing, at the time of such making, drawing, uttering or delivering, that the account upon which such check, draft or order is drawn has not sufficient funds or credit with such bank, banking institution, trust company or other depository, for the payment of such check, draft or order, although no express representation is made in reference thereto, shall be guilty of a Class 1 Misdemeanor.

The word "credit," as herein used, shall be construed to mean any arrangement or understanding with the bank, banking institution, trust company or other depository for the payment of such check, draft or order.

In addition to the criminal penalty set forth herein, such person shall be personally liable in any civil action brought upon such check, draft or order.

- c In any prosecution or action under the preceding subsections of this section, the making or drawing or uttering or delivery of a check, draft or order, payment of which is refused by the drawee because of lack of funds or credit shall be prima facie evidence of intent to defraud or of knowledge of insufficient funds in or credit with,

such bank, banking institution, trust company or other depository unless such maker or drawer or someone for him shall have paid the holder thereof the amount due thereon, together with interest and protest fees, if any, within five days after receiving written notice that such check, draft or order has not been paid to the holder thereof. Notice mailed by certified or registered mail, evidenced by return receipt, to the last known address of the maker or drawer shall be deemed sufficient and equivalent to notice having been received by the maker or drawer.

If such check, draft or order shows on its face a printed or written address, home, office or otherwise, of the maker or drawer, then the foregoing notice, when sent by certified or registered mail to such address, with or without return receipt requested, shall be deemed sufficient and equivalent to notice having been received by the maker or drawer, whether such notice shall be returned undelivered or not.

When a check is drawn on a bank in which the maker or drawer has no account, it shall be presumed that such check was issued with intent to defraud and the five day notice set forth shall not be required in such case.

- d In any prosecution or action under the preceding sections, any notation attached to or stamped upon a check, draft or order which is refused by the drawee because of lack of funds or credit, bearing the terms "not sufficient funds," "uncollected funds," "account closed," or "no account in this name" or words of similar import, shall be prima facie evidence that such notation is true and correct.
- e In any civil action growing out of an arrest under subsections (a) or (b) of this section, no evidence of statements or representations as to the status of the check, draft, order or deposit involved or of any collateral agreement with reference to the check, draft, or order, shall be admissible unless such statements or representations or collateral agreement, be written upon the instrument at the time it is given by the drawer.

If payment of any check, draft or order for the payment of money be refused by the bank, banking institution, trust company or other depository upon which such instrument is drawn, and the person who drew or uttered such instrument be arrested or prosecuted under the provisions of subsections (a) or (b) of this section for failure or refusal to pay such instrument, the one who arrested or caused such person to be arrested and prosecuted or either, shall be conclusively deemed to have acted with reasonable or probable cause in any suit for damages that may be brought by the person who drew or uttered such instrument, if the one who arrested or caused such person to be arrested and prosecuted or either, shall have, before doing so, presented or caused such instrument to be presented to the depository on which it was drawn where it was refused and then waited five days after notice, without the amount due under the provisions of such instrument being paid. (*Code 1950, Section 10-6 to 10-8.*)

(*For similar state law, see Code of Virginia, Section 18.2-181 to 18.2-185.*)

Sec. 15.6 Beer and Wine - When Sale Prohibited

The sale of beer and wine in the corporate limits of the town shall be prohibited.

Sec. 15.7 Billiard Parlors, Skating Rinks, Bowling Alleys, Etc.

All billiard parlors, skating rinks, bowling alleys and other similar places of amusement in the town may be operated only between the hours of 8:00 a.m. and 12:00 midnight on weekdays.

No gambling, betting, drinking, profane language or any disorderly conduct whatsoever shall be allowed in any room in which pool or billiard tables are kept or in any skating rink, bowling alley or other similar place of amusement in the town.

Pool or billiard tables shall be kept in one open room opening on a public street, with glass doors and windows and no partition or screens and with no other room entering therein.

It shall be unlawful for any person under the age of eighteen years to frequent, play or loiter in any poolroom or billiard parlor in the town or for the proprietor thereof or his agent to permit such person to frequent, play or loiter therein.

Any person who shall violate any provision of this section shall be guilty of a Class 3 Misdemeanor. (*Code 1950, Section 10.11-10.14*)

Sec. 15.8 Carnivals, Circuses, Etc.

No carnival, circus or tent show of any kind shall be held within the town without a permit from the council in writing so to do in addition to the payment of all license taxes. (*Code 1950, Section 10-15.*)

Sec. 15.9 Disorderly Conduct

A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance or alarm or recklessly creating a risk thereof, he:

- a In any street, highway, public building or while in or on a public conveyance, or public place engages in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed; provided, however such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this Code; or
- b Willfully, or being intoxicated, whether willfully or not, disrupts any meeting of the town council or an agency of the town or of any school, literary society or place of religious worship, if such disruption prevents or interferes with the orderly conduct of such meeting or has a direct tendency to cause acts of violence by the person or persons at whom, individually, such disruption is directed; provided, that such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this Code.
The person in charge of any such building, place, conveyance or meeting may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any persons who may be called upon for such purpose.
- c Any person who shall endanger lawful pursuits of another by acts of violence or threats of bodily harm.
- d Any person who shall cause or provoke any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another or public property.
- e Any person who shall assemble or congregate with another or others and cause or provoke any fight or brawl.
- f Any person who shall use "fighting words" directed towards any person who becomes outraged and then creates turmoil.

- g Any person who shall, by acts of violence, interfere with another's pursuit of a lawful occupation.
- h Any person who shall congregate with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered to do so by a peace officer or other person having authority.

Any person violating any provision of this section shall be guilty of a Class 1 Misdemeanor. (*Code 1950, Section 10-17, 10-18.*)

(*For similar state law, see Code of Virginia, Section 18.2-415.*)

Sec. 15.10 Entering Property of Another for Purpose of Damaging It, Etc.

It shall be unlawful for any person to enter the land, dwelling, outhouse or any other building of another for the purpose of damaging such property or any of the contents thereof or in any manner to interfere with the rights of the owner, user or the occupant thereof to use such property free from interference.

Any person violating the provisions of this section shall be guilty of a Class 1 Misdemeanor. (*Code 1950, Section 10.16.*)

(*For similar state law, see Code of Virginia, Section 18.2-121.*)

Sec. 15.11 Fireworks

Except as hereinafter otherwise provided, it shall be unlawful for any person to sell, offer for sale, expose for sale or to buy, use, ignite or explode any firecracker, torpedo, skyrocket, Roman candle or other substance or thing, of whatever form or construction, containing nitrates, chlorates, exalates sulphides of lead, barium, antimony, nitroglycerine, phosphorous or any other explosive or inflammable compounds or substances intended or commonly known as fireworks.

This section shall have no application to any officer of any state, county, city or town while acting within the scope of his authority and duties as such, nor shall it be applicable to the sale or use of materials or equipment, otherwise prohibited by this section, when such material or equipment is used or to be used by any person in the operation of any railroad train or other vehicle for the transportation of persons or property for signaling or other emergency use. (*Code 1950, Section 10-20.*)

Sec. 15.12. Gambling

- a Definitions. For the purpose of this section the following words and phrases shall have the meanings respectively ascribed to them by this subsection:

Gambling Device. A gambling device includes:

- 1 Any device, machine, paraphernalia, equipment or other thing, including books, records and other papers, which are actually used in illegal gambling operation or activity, and
- 2 Any machine, apparatus, implement, instrument, contrivance, board or other thing, including but not limited to those dependent upon the insertion of a coin or other object for their operation, which operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled; provided, that the return to the user of nothing more than additional chances or the right to use such

machine is not deemed something of value within the meaning of this subsection; and provided further, that machines that only sell or entitle the user to items of merchandise of equivalent value that may differ from each other in composition, size, shape or color, shall not be deemed gambling devices within the meaning of this subsection.

Such devices are no less gambling devices if they indicate beforehand the definite result of one or more operations but not all the operations. Nor are they any less a gambling device because, apart from their use or adaptability as such, they may also sell or deliver something of value on a basis other than chance.

Illegal Gambling. The making, placing, or receipt of any bet or wager in the town of money or other thing of value, made in exchange for a chance to win a prize, stake or other consideration or thing of value, dependent upon the result of any game, contest or any other event the outcome of which is uncertain or a matter of chance, whether such game, contest or event occurs or is to occur inside or outside the limits of the town shall constitute illegal gambling.

Operator. An operator includes any person who conducts, finances, manages, supervises, directs or owns all or part of an illegal gambling enterprise, activity or operation.

- b Penalty generally. Except as otherwise provided in this section, any person who illegally gambles shall be guilty of a Class 3 Misdemeanor. If an association or pool of persons illegally gamble, each person therein shall be guilty of illegal gambling.
- c Winning by fraud. If any person, while gambling, cheats or by fraudulent means wins or acquires for himself or another money or any other valuable thing, he shall be fined not less than five nor more than ten times the value of such winnings. This penalty shall be in addition to any other penalty imposed under this article provided that no penalty shall exceed one thousand dollars.
- d Permitting gambling. If the owner, lessee, tenant, occupant or other person in control of any place or conveyance, knows, or reasonably should know, that it is being used for illegal gambling and permits such gambling to continue without having notified a law enforcement officer of the presence of such illegal gambling activity, he shall be guilty of a Class 1 Misdemeanor.
- e Accessories to gambling. Any person other than those persons specified in other subsections of this section, who knowingly aids, abets or assists in the operation of an illegal gambling activity shall be guilty of a Class 2 Misdemeanor.
- f Illegal possession, etc., of gambling device. A person is guilty of illegal possession of a gambling device when he manufactures, sells, transports, rents, gives away, places or possesses or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of any gambling device, believing or having reason to believe that the same is to be used in the advancement of unlawful gambling activity. Violation of any provision of this subsection shall constitute a Class 1 Misdemeanor.
- g Certain acts not deemed "consideration." In any prosecution under this section, no consideration shall be deemed to have passed or been given because of any person's attendance upon the premises of another; his execution, mailing or delivery of an

entry blank; his answering of questions, verbally or in writing; his witnessing of a demonstration or other proceeding or any one or more thereof, where no charge is made to, paid by or any purchase required of him in connection therewith.

- h Exemptions from section - Certain sporting events. Nothing in this section shall be construed to prevent any contest of speed or skill between men, animals, fowl or vehicles, where participants may receive prizes or different percentages of a purse, stake or premium dependent upon whether they win or lose or dependent upon their position or score at the end of such contest.

Any participant who, for the purpose of competing for any such purse, stake or premium offered in any such contest, knowingly and fraudulently enters any contestant other than the contestant purported to be entered or knowingly and fraudulently enters a contestant in a class in which it does not belong, shall be guilty of a Class 3 Misdemeanor.

- i Same - Private residences. Nothing in this section shall be construed to make it illegal to participate in a game of chance conducted in a private residence; provided, that such private residence is not commonly used for such games of chance and there is no operator as defined in subsection (a) of this section.

- j Same - Bingo games and raffles conducted by certain organizations. Nothing in this section shall apply to any bingo game or raffle conducted solely by any of the following:

- 1 The voluntary fire department or rescue squad of the town.
- 2 An organization which, for the purposes of this subsection, shall be defined as any of the following which operates without profit and which has been in existence continuously for a period of two years immediately prior to seeking a permit as hereinafter provided:
 - (a) A corporation, trust, church, association, community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, literary, community or educational purposes;
 - (b) Posts or associations of war veterans or auxiliary units or societies of any such posts or associations, if such posts, associations, units or societies are organized in the United States or any of its possessions;
 - (c) A fraternal society, order or association operating under the lodge system;
 - (d) A corporation or association organized and operated exclusively for the restoration and maintenance of historic gardens and the general promotion of beautiful gardens.

Provided, that no part of the gross receipts derived from such activity inures directly or indirectly to the benefit of any private shareholder, member, agent or employee of the volunteer fire department, rescue squad or organization; and provided further, that the volunteer fire department, rescue squad or organization, partnership or corporation of any classification whatsoever, for the purpose of organizing, managing or conducting bingo games or raffles. The volunteer fire department, rescue squad or organization may delegate the authority or duty of organizing, managing or conducting bingo games or raffles only to a natural person or persons who are bonafide members of the

volunteer fire department, rescue squad or organization. The volunteer fire department, rescue squad or organization shall not conduct any bingo game or raffle without first having obtained an annual permit from the town council. The permit shall be issued on an annual calendar year basis. If the application is not acted upon within thirty days from the date of the filing of the application, any objection by the town council shall be deemed to have been waived and the volunteer fire department, rescue squad or organizations applying for the annual permit shall have the right to operate such bingo game or games as if a valid permit had been issued. An application may be filed only where the volunteer fire department, rescue squad or organization has met on a regular basis for at least two years preceding the application for the permit. All permits shall be subject to reasonable regulation by the town council to insure the public safety in the operation thereof. The issuance of the permit shall permit the organization to conduct bingo games at its principal meeting place or any other site selected by the volunteer fire department, rescue squad or organization. Such volunteer fire department, rescue squad or organization may place or permit to be placed within the premises where such bingo game is to be conducted, but not within view of the exterior of such premises, a sign or signs advertising such bingo game; provided, that no sign or signs advertising any bingo game shall be placed within one hundred yards of the exterior of such premises. Records of all receipts and disbursements shall be kept and shall be filed annually with the town treasurer and such records shall be a matter of public record. No volunteer fire department, rescue squad, or other organization authorized to conduct bingo games and raffles hereunder shall pay to the town treasurer any fee other than a minimal recording fee as provided for by law. As to proceeds derived from the operation of bingo games as herein provided, there shall be a prima facie presumption that such proceeds are for eleemosynary or charitable purposes or activities of the organizations as specified within this section, whether such bingo games be conducted for the general public or be limited solely to the membership and the guests of such organizations. In any instance in which a permit is denied, an appeal shall be to the appropriate circuit court. The town council may revoke the permit of the volunteer fire department, rescue squad or organization found to be not in compliance with this section and any person, shareholder, agent, member or employee of any such volunteer fire department, rescue squad or organization violating this subsection shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not to exceed one thousand dollars.

Should any volunteer fire department, rescue squad or organization be found in violation of this section, then the Commonwealth's attorney of the town may, in addition to the foregoing criminal penalty, apply to any court of competent jurisdiction for an injunction against such volunteer fire department, rescue squad or organization from continuing to run bingo games or raffles for a period not to exceed three years from the date of such violation.

- k Forfeiture of money, gambling devices, etc., seized from illegal gambling enterprise; innocent owners or lienors. All money, gambling devices, office equipment and other

personal property used in connection with an illegal gambling enterprise or activity and all money, stakes and things of value received or proposed to be received by a winner in any illegal gambling transaction, which are lawfully seized by any law enforcement officer or which shall lawfully come into this custody, shall be forfeited to the town by order of the court in which a conviction under this article is obtained. Such court shall order all money so forfeited to be paid over to the town and by order shall make such disposition of other property so forfeited as the court deems proper, including award of such property to any town agency or charitable organization for lawful purposes, or in case of the sale thereof, the proceeds therefrom to be paid over to the town; provided, that such forfeiture shall not extinguish the rights of any person without knowledge of the illegal use of such property who is the lawful owner or who has a lien on the same which has been perfected in the manner provided by law. *(Code 1950, Section 10.21, 10.22, 10.28, 10.36.)*

(For state law as to gambling generally, see Code of Virginia, Section 18.2-325 et seq. As to felonious conducting of illegal gambling, see Code of Virginia, Section 18.2-328. As to immunity of witnesses from prosecution for gambling, see Code of Virginia, Section 18.2-337. As to enjoining offenses relative to gambling, see Code of Virginia, Section 18.2-339.)

Sec. 15.13 Going Out of Business Sales - Permit Required

- a It shall be unlawful for any person to advertise or conduct a sale for the purpose of discontinuing a retail business or to modify the word "sale" in any advertisement with the words "going out of business" or any other words which tend to insinuate that the retail business is to be discontinued and the merchandise liquidated, unless such person obtains a permit to conduct such a sale from the town clerk.
- b The town clerk shall issue permits to retail merchants for special sales as required by subsection (a) of this section upon the application of such merchant and shall inspect the advertisement and conducting of such sale to insure that it is being advertised and conducted in conformity with the required permit.
- c All applications for special sale permits shall be accompanied by an inventory of all goods which are to be offered for sale during the sale and only the goods specified in the inventory list may be advertised at a reduced price or sold at a reduced price during the sale period.
- d Each special sale permit shall be valid for a period of no longer than thirty days and any extension of that time shall constitute a new special sale and shall require an additional permit.
- e The fee for the issuance of special sale permits shall be fifteen dollars.
- f Any person failing to obtain a permit as required by this section shall be guilty of a misdemeanor.

(For state law basis of this section and duty of town to issue such permits, see Code of Virginia, Section 18.2-223, 18.2-224.)

Sec. 15.14 Gunpowder, Explosives, Etc.

It shall be unlawful for any person to discharge or set off in any street or alley in the town any gun powder or explosive or combustible or dangerous material, without a permit from the mayor. *(Code 1950, Section 10.23.)*

Sec. 15.15.Hotels, Motels, Campgrounds, Boarding-houses, Etc. - Defrauding

Whoever puts up at a hotel, motel, campground or boardinghouse or obtains food from a restaurant or other eating house and, without having an express agreement for credit, procures food, entertainment or accommodation without paying therefor and with intent to cheat or defraud the owner or keeper of such hotel, motel, campground, boardinghouse, restaurant or other eating house out of the pay for the same; or with intent to cheat or defraud such owner or keeper out of the pay therefor obtains credit at a hotel, motel, campground, boardinghouse, restaurant or other eating house for such food, entertainment or accommodation through any misrepresentation or false statement; or with such intent removes or causes to be removed any baggage or effects from a hotel, motel, campground, boardinghouse, restaurant or other eating house while there is a lien existing thereon for the proper charges due from him for fare and board furnished therein, shall be guilty of a Class 2 Misdemeanor. *(Code 1950, Section 10.24.)*

(For similar state law, see Code of Virginia, Section 18.2-188.)

Sec. 15.16Indecent Exposure

Every person who intentionally makes an obscene display or exposure of his person or private parts thereof, in any public place or in any place where others are present or procures another to so expose himself, shall be guilty of a Class 1 Misdemeanor. *(Code 1950, Section 10.25.)*

(For similar state law, see Code of Virginia, Section 18.2-387.)

Sec. 15.17Injury to Oil, Telegraph, Telephone, Electric, Gas or Water Facility

Any person who shall intentionally destroy or damage any facility which is used to furnish oil, telegraph, telephone, electric, gas or water service to the public, which destruction or damage may be remedied or repaired for one hundred dollars or less shall be guilty of a Class 3 Misdemeanor. *(Code 1950, Section 10.42.)*

(For similar state law, see Code of Virginia, Section 18.2-162.)

Sec. 15.18Lewd and Lascivious Cohabitation

If any persons, not married to each other, lewdly and lasciviously associate and cohabit together or, whether married or not, be guilty of open and gross lewdness and lascivious, each of them shall be guilty of a Class 3 Misdemeanor. Upon a repetition of the offense and conviction thereof, each of them shall be guilty of a Class 1 Misdemeanor. *(Code 1950, Section 10.26.)*

(For similar state law, see Code of Virginia, Section 18.2-345.)

Sec. 15.19Minors - Causing to Commit Misdemeanors

Any person eighteen years of age or older, including the parent of any child, who shall cause or encourage any child under the age of eighteen years to commit any misdemeanor or who shall send or cause any such child to go into any place for an unlawful purpose or who shall in any way subject any such child to vicious or immoral influences or who shall induce, cause, encourage or contribute toward the dependency, neglect or delinquency of any such child, shall be guilty of a Class 1 Misdemeanor. *(Code 1950, Section 10.29.)*

(For similar state law, see Code of Virginia, Section 18.2-371.)

Sec. 15.20Noise**15.20.1 Purpose**

The Noise Ordinance of Gate City Virginia shall be for the general purpose of regulating noise disturbances within town limits so as to protect the peace and quiet of the citizens and inhabitants of the town.

15.20.2 Definitions

- a For the purpose of this ordinance, a noise disturbance shall be defined as any noise in any residential zone in excess of 75 db between the hours of 6 a.m. and 10 p.m., as well as any noise in a residential zone in excess of 45 db between the hours of 10 p.m. and 6 p.m.
- b Sound level. In decibels (db), the A-weighted sound pressure level obtained by the use of a sound level meter as specified by the American National Standards Institute (ANSI S1.4-1983)

15.20.3 General Prohibitions

It shall be a Class 2 misdemeanor and a public nuisance for any person to willfully make, permit, continue or cause to be made, permitted or continue any noise disturbance within the town, as well as within one mile of the corporate limits thereof (except for normal business activities), whether located on public or private property.

15.20.4 Specific Prohibitions

Subject to the exceptions provided in 15.20.5 any of the following acts, or the causing or permitting thereof, among others, is declared to be a noise disturbance constituting a Class 2 Misdemeanor and a public nuisance, but such enumeration shall not be deemed to be exclusive:

- a Radios, television sets, musical instruments, and similar devices: operating, playing or permitting the operation or playing of any radio, amplifier, television, record, tape or compact disc player, drum, musical instrument or similar device:
 - 1. In such manner as to permit sound to be heard across a real property boundary creating a noise disturbance.
 - 2. When the sound source is located within a motor vehicle in or upon public right-of-way or public property and the sound can be heard in such a manner as to create a noise disturbance.
- b Yelling, shouting, etc.: Yelling, shouting, whistling, singing or detonating fireworks so as to create a noise disturbance across a residential real property boundary or on a public right-of-way or public property.
- c Schools, public buildings, churches, and hospitals: The creation of any noise disturbance from an outside source within any school, court, public building, church or hospital or on the grounds thereof.

15.20.5 Exceptions

Sections 15.20.3 and 15.20.4 shall have no application to any sound generated by any of the following:

- a Any speech of any kind, not in conflict with provisions of 15.20.4
- b Activities on or in municipal and school athletic facilities and on or in publicly owned property and facilities, provided that such activity has been authorized by the owner of such property or facilities or its agent.
- c Fire alarms and burglar alarms, prior to the giving of notice and a reasonable opportunity for the owner or tenant in possession of the premises served by any such alarm to turn off the alarm.
- d Noise normally emanating from firearms, equipment, vehicles, etc. provided reasonable precautions are taken by the owner and/or operator thereof to operate same in the quietest reasonable manner.

15.20.6 Intent

- a It is the intent of the Town Council that this ordinance shall be construed to secure for the people of this Town freedom from any noise disturbance as described herein without violating any of the rights secured by the Constitution to the people. And it is further the intent that lawful businesses, manufacturing, and construction as it applies to their normal operation are excluded from the requirements of this ordinance.
- b In the event that any provision hereof should ever be determined invalid for any reason, it is the intent of the Town Council that the remaining provisions continue in effect to the extent that they can be enforced notwithstanding such determination, and, therefore, this ordinance is declared severable.

15.20.7 Effective Date

Section 15.20 in its entirety as herein amended of Chapter 15 of the Gate City Code of Ordinances shall be effective at and after 12:01 a.m. of August 6, 2009.

Sec. 15.21. Obscenity

- a “Obscene” defined. The word “obscene” where it appears in this section shall mean that which, considered as a whole, has as its dominant theme or purpose an appeal to the prurient interest in sex, that is, a shameful or morbid interest in nudity, sexual conduct, sexual excitement, excretory functions or products thereof or sadomasochistic abuse and which goes substantially beyond customary limits of candor in description or representation of such matters and which, taken as a whole, does not have serious literary, artistic, political or scientific value. Obscene items shall include:
 - (1) Any obscene book.
 - (2) Any obscene leaflet, pamphlet, magazine, booklet, picture, painting, drawing, photograph, film, negative, slide or motion picture.
 - (3) Any obscene figure, object, article, instrument, novelty device or recording or transcription used or intended to be used in disseminating any obscene song, ballad, words or sounds.
- b Production, publication, sale, possession, etc., of obscene items generally. It shall be unlawful for any person knowingly to:
 - (1) Prepare an obscene item for the purposes of sale or distribution.

- (2) Print, copy, manufacture, produce or reproduce any obscene item for purposes or sale or distribution.
- (3) Publish, sell, rent, lend, transport in intrastate commerce or distribute or exhibit any obscene item or offer to do any of these things.
- (4) Have in his possession with intent to sell, rent, lend, transport or distribute any obscene item.

For the purposes of the subsection, "distribute" shall mean deliver in person, by mail, messenger or by any other means by which obscene items as defined in this section may pass from one person to another.

- c Obscene exhibitions and performances. It shall be unlawful for any person knowingly to:
- 1 Produce, promote, prepare, present, manage, direct, carry on or participate in any obscene motion picture, play, drama, show, entertainment, exposition, tableau or scene; provided, that no employee of any person or legal entity operating a theatre, garden, building, structure, room or place which presents such obscene exhibition or performance shall be subject to prosecution under this section if the employee is not the manager of the theatre or an officer of such entity and has no financial interest in such theatre other than receiving salary and wages.
 - 2 Own, lease or manage any theatre, garden, building, structure, room or place and lease, let, lend or permit such theatre, garden, building, structure, room or place to be used for the purpose of presenting such obscene exhibition or performance or to fail to post prominently therein the name and address of a person resident in the locality who is the manager of such theatre, garden, building, structure, room or place.
- d Advertising, etc., obscene items, exhibitions or performances. It shall be unlawful for any person knowingly to prepare, print, publish or circulate or cause to be prepared, printed, published or circulated any notice or advertisement of any obscene item or of any obscene performance or exhibition, stating or indicating where such obscene item, exhibition or performance may be purchased, obtained, seen or heard.
- e Placards, posters, bills, etc. It shall be unlawful for any person knowingly to expose, place, display, post up, exhibit, paint, print, mark or cause to be exposed, placed, displayed, posted, exhibited, painted, printed or marked, in or on any building, structure, billboard, wall or fence or an any street or banner, bill, writing or picture which is obscene or which advertises or promotes any obscene item or any obscene exhibition or performance or knowingly to permit the same to be displayed on property belonging to or controlled by him.
- f Coercing acceptance of obscene articles or publications. It shall be unlawful for any person, as condition to any sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical or publication to require that the purchaser or consignee receive for resale any other article, book or other publication which is obscene; nor shall any person deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure or refusal of any person to accept such articles, books or publications or by reason of the return thereof.

- g Photographs, slides and motion pictures. Every person who knowingly photographs himself or any other person, for purposes of preparing an obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution or models, poses, acts or otherwise assists in the preparation of any obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution shall be guilty of a Class 3 Misdemeanor.
- h Showing previews of certain motion pictures. It shall be unlawful for any person to exhibit any trailer or preview of any motion picture which has a motion picture industry rating which would not permit persons in the audience viewing the feature motion picture to see the complete motion picture from which the trailer or preview is taken. Persons violating the provisions of this subsection shall be guilty of a Class 1 Misdemeanor.
- i Employing or permitting minor to assist in offense under section. It shall be unlawful for any person knowingly to hire, employ, use or permit any minor to do or assist in doing any act or thing constituting an offense under this section.
- j Exceptions to application of section. Nothing contained in this section shall be construed to apply to:
 - 1 The purchase, distribution, exhibition or loan of any book, magazine or other printed or manuscript material by any library, school or institution of higher learning, supported by public appropriation.
 - 2 The purchase, distribution, exhibition or loan of any work of art by any museum of fine arts, school or institution of higher learning, supported by public appropriation.
 - 3 The exhibition or performance of any play, drama, tableau or motion picture by any theatre, museum of fine arts, school or institution of higher learning supported by public appropriation.
- 1 Punishment for first offense. Any person convicted for the first time of an offense under this section shall be guilty of a Class 1 Misdemeanor. *(Code 1950, Section 10.32.)*

(For similar state law, see Code of Virginia, Section 18.2-372 et seq.)

Sec. 15.22 Obstructing Justice by Threats or Force

If any person, by threats or force, attempts to intimidate or impede a judge, magistrate, justice, juror, witness or any officer of a court or any law enforcement officer in the discharge of his duty or to obstruct or impede the administration of justice in any court, he shall be deemed guilty of a Class 1 Misdemeanor. *(Code 1950, Section 1.8; 10.33.)*

(For similar state law, see Code of Virginia, Section 18.2-460.)

Sec. 15.23 Petit Larceny

Any person who commits larceny from the person of another of money or other thing of value of less than five dollars or commits simple larceny not from the person of another of goods and chattels of the value of less than one hundred dollars, shall be deemed guilty of petit larceny, which shall be punishable as a Class 1 Misdemeanor. *(Code 1950, Section 10.34.)*

(For similar state law, see Code of Virginia, Section 18.2-96.)

Sec. 15.24 Profane Swearing and Drunkenness

If any person profanely curses or swears or is drunk in public he shall be deemed guilty of a Class 4 Misdemeanor.

If any person shall be convicted for being drunk in public three times within one year in the town, upon the third or any subsequent conviction for such offense within the period of one year, such person shall be guilty of a Class 3 Misdemeanor. *(Code 1950, Section 10.35.)*

(For similar state law, see Code of Virginia, Section 18.2-388.)

Sec. 15.25 Railroad Trains - Bells and Whistles

Every steam railroad company operating through or in the town shall cause the bell to be rung continuously when any locomotive engine is approaching any grade crossing in the town, for the distance of two hundred yards just before reaching the crossing. No whistle on any locomotive engine shall be sounded in the corporate limits of the town except in emergency or when necessary to signal trains and train men. However, between the hours of 6:00 a.m. and 10:00 p.m., the whistles may be sounded at station crossing and crossing west of station. *(Code 1950, Section 10.38.)*

Sec. 15.26 Sunday Observance

- a On the first day of the week, commonly known and designated as Sunday, no person shall engage in work, labor or business or employ others to engage in work, labor or business except in the following industries and businesses:
- 1 Transportation, by whatever means, and supporting facilities.
 - 2 Public services and utilities, manufacturing, processing and plant operation of all types.
 - 3 Publishing, including the distribution and sale of the products thereof.
 - 4 Servicing, fueling and emergency repair of motor vehicles, boats and aircraft, including the selling of such parts and supplies of such emergency repairs.
 - 5 Operation of motion picture theatres and the production of radio and television programs.
 - 6 Medical services and other services on an emergency basis.
 - 7 Sports, athletic events and the operation of historic, entertainment and recreational facilities and the sale or rental of boats and swimming, fishing and boating equipment.
 - 8 Agriculture, including the operation of nurseries.
 - 9 Preparation and sale of prescription and nonprescription drugs and the sale of medical and hygienic supplies and baby supplies.
 - 10 Wholesale food warehouses and ship chandleries.
 - 11 Restaurants and delicatessens.
 - 12 Janitorial, custodial and like services.
 - 13 Operation of hotels and motels and funeral homes and cemeteries.
 - 14 Mining and supporting facilities.

- 15 Sale of food, ice and beverages.
 - 16 Sale of tobacco and related products.
 - 17 A drugstore, a majority of the sales receipts of which consist of prescription and nonprescription drugs, health and beauty aids.
 - 18 Sale of novelties, cameras, photographic supplies, including film and flashbulbs, antiques, pictures, paintings, art supplies, souvenirs, animals as pets, including tropical fish and pet supplies.
 - 19 Sale or leasing of noncommercial property and mobile homes.
 - 20 Providing of any service, product or other thing by means of a mechanical device not requiring the labor of any person.
 - 21 Grocery stores.
- b This section shall not be applicable to works of charity conducted solely for charitable purposes by any person or organization not organized or engaged in business for a profit.
 - c Any person violating the provisions of this section shall be guilty of a misdemeanor.
 - d Nothing contained herein shall be construed to permit any fine or penalty against any employee or agent who has been caused, directed or authorized by his employer to violate any provision of this section, in which case the employer shall be subject to the sanctions prescribed by this section.
 - e The penalties imposed by this section shall not be incurred by any person who conscientiously believes that the seventh day of the week out to be observed as a Sabbath and actually refrains from all secular business and labor on that day; provided that he does not compel an apprentice or servant, not of his belief, to do secular work or business on a Sunday. *(Code 1950, Section 10.41.)*

(For similar state law, see Code of Virginia, Section 18.2-341, 18.2-343.)

Sec. 15.27 Weapons - Discharging Firearms

It shall be unlawful for any person in the town, except a duly authorized officer in the course of his duty, to fire or discharge any gun, pistol or other firearms of any kind. *(Code 1950, Section 10-19.)*

(For similar state law, see Code of Virginia, Section 18.2-280.)

Sec. 15.28 Same - Carrying Concealed Weapons

- a If any person carrying about his person, hidden from common observation, any pistol, dirk, bowie knife, switchblade knife, razor, slingshot, metal knuckles, or any weapon of like kind, he shall be guilty of a misdemeanor and such weapon shall be forfeited to the town by order of the court trying the case, which shall make such disposition of such weapon as it deems proper by entry of an order of record.
- b This section shall not apply to any police officers, sergeants, sheriff's officers or guards of the penitentiary or other institutions or camps of the state corrections system, conservators of the peace other than notaries public, to carriers of the United States mail in the rural districts, while in the discharge of their official duties, or to any person while in his own place of abode.

- c Any circuit court, upon a written application and satisfactory proof of the good character and necessity of the applicant to carry concealed weapons, may grant permission to do so for one year. The order granting such permission shall be entered in the law order book of such court. *(Code 1950, Section 10.45.)*

(For similar state law, see Code of Virginia, Section 18.2-308.)

Sec. 15.29 Wells or Pits - Covers

- a Every person owning or occupying any land on which there is a well having a diameter greater than six inches and which is more than ten feet deep at all times keep such well covered in such a manner as not to be dangerous to human beings, animals or fowl.
- b The construction, installation and maintenance of such covers, including the manner in which any concrete used in connection therewith shall be reinforced, shall conform to the standards of the Virginia Uniform Statewide Building Code. *(Code 1950, Section 10.46.)*

(For state law as to authority of town to adopt this section, see Code of Virginia, Section 18.2-318. As to excavations generally, see Section 14.8 to 14.11 of this Code.)

Sec. 15.30 Same-Filling, Etc. Upon Abandonment

- a Any person who has caused to be dug on his own land or the land of another any well or pit, shall fill such well or pit with earth so that such well or pit shall not be dangerous to human beings, animals or fowl before such well or pit is abandoned. Any person owning land whereon any such well or pit is located shall in the same manner fill with earth any such well or pit which has been abandoned; provided that such person has knowledge of the existence of such well or pit.
- b In the case of mining operations, in lieu of filling the shaft or pit the owner or operator thereof, on ceasing operations in such shaft or pit, shall securely fence such shaft or pit and keep such shaft or pit securely fenced at all times thereafter.
- c Any person violating any provision of this section shall be deemed guilty of a Class 3 Misdemeanor.

(For similar state law, see Code of Virginia, Section 18.2-316.)

Sec. 15.20. Noise

15.20.1.....Purpose

The Noise Ordinance of Gate City Virginia shall be for the general purpose of regulating noise disturbances within town limits so as to protect the peace and quiet of the citizens and inhabitants of the town.

15.20.2.....Definitions

- a For the purpose of this ordinance, a noise disturbance shall be defined as any noise in any residential zone in excess of 75 db between the hours of 6 a.m. and 10 p.m., as well as any noise in a residential zone in excess of 45 db between the hours of 10 p.m. and 6 p.m.
- b Sound level. In decibels (db), the A-weighted sound pressure level obtained by the use of a sound level meter as specified by the American National Standards Institute (ANSI S1.4-1983)

15.20.3.....General Prohibitions

It shall be a Class 2 misdemeanor and a public nuisance for any person to willfully make, permit, continue or cause to be made, permitted or continue any noise disturbance within the town, as well as within one mile of the corporate limits thereof (except for normal business activities), whether located on public or private property.

15.20.4.....Specific Prohibitions

Subject to the exceptions provided in 15.20.5 any of the following acts, or the causing or permitting thereof, among others, is declared to be a noise disturbance constituting a Class 2 Misdemeanor and a public nuisance, but such enumeration shall not be deemed to be exclusive:

- a Radios, television sets, musical instruments, and similar devices: operating, playing or permitting the operation or playing of any radio, amplifier, television, record, tape or compact disc player, drum, musical instrument or similar device:
 - 1. In such manner as to permit sound to be heard across a real property boundary creating a noise disturbance.
 - 2. When the sound source is located within a motor vehicle in or upon public right-of-way or public property and the sound can be heard in such a manner as to create a noise disturbance.

- b Yelling, shouting, etc.: Yelling, shouting, whistling, singing or detonating fireworks so as to create a noise disturbance across a residential real property boundary or on a public right-of-way or public property.
- c Schools, public buildings, churches, and hospitals: The creation of any noise disturbance from an outside source within any school, court, public building, church or hospital or on the grounds thereof.

15.20.5.....Exceptions

Sections 15.20.3 and 15.20.4 shall have no application to any sound generated by any of the following:

- a Any speech of any kind, not in conflict with provisions of 15.20.4
- b Activities on or in municipal and school athletic facilities and on or in publicly owned property and facilities, provided that such activity has been authorized by the owner of such property or facilities or its agent.
- c Fire alarms and burglar alarms, prior to the giving of notice and a reasonable opportunity for the owner or tenant in possession of the premises served by any such alarm to turn off the alarm.
- d Noise normally emanating from firearms, equipment, vehicles, etc. provided reasonable precautions are taken by the owner and/or operator thereof to operate same in the quietest reasonable manner.

15.20.6.....Intent

- a It is the intent of the Town Council that this ordinance shall be construed to secure for the people of this Town freedom from any noise disturbance as described herein without violating any of the rights secured by the Constitution to the people. And it is further the intent that lawful businesses, manufacturing, and construction as it applies to their normal operation are excluded from the requirements of this ordinance.
- b In the event that any provision hereof should ever be determined invalid for any reason, it is the intent of the Town Council that the remaining provisions continue in effect to the extent that they can be enforced notwithstanding such determination, and, therefore, this ordinance is declared severable.

15.20.7.....Effective Date

Section 15.20 in its entirety as herein amended of Chapter 15 of the Gate City Code of Ordinances shall be effective at and after 12:01 a.m. of August 6, 2009.

Mark H. [Signature]

8/6/09

Cengel Parker
Jean Clark

8/6/09

Ordinance No. 03092010-4

An Ordinance of the Town of Gate City
to amend section 15.14 of the Gate City Town Code

Whereas the Gate City Town Council, after due consideration of this matter and after conducting a public hearing giving an opportunity for public comment, finds it necessary to amend section 15.14 of the Gate City Town Code,

Now therefore the Gate City Town Council ordains and enacts the following amendment:

The original reads:

It shall be unlawful for any person to discharge or set off in any street or alley in the town any gun powder or explosive or combustible or dangerous material, without a permit from the mayor.

The amended text reads:

It shall be unlawful for any person to discharge or set off in any street or alley in the town any gun powder or explosive or combustible or dangerous material, without a permit from the town.


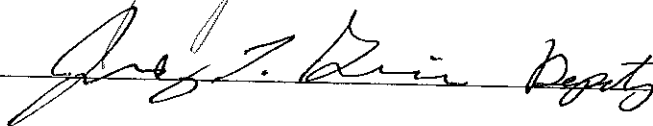
This ordinance is effective upon adoption.

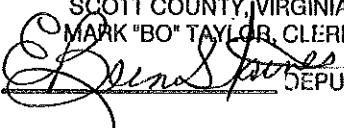
Ayes: 5

Nays: 0

Abstaining: 0

Absent: 0

 Mayor 7/29/10 Date
 Deputy Clerk 7/29/10 Date

FILED 7/30/10 Seal TIME 9:13 AM
CIRCUIT COURT CLERK'S OFFICE
SCOTT COUNTY, VIRGINIA
MARK "BO" TAYLOR, CLERK
BY  DEPUTY CLERK