

An Ordinance to repeal, amend and re-ordain Section 34-32 of the Code of the Town of Altavista, 1968, relating to procedure.

Be it ordained by the Town Council of the Town of Altavista:

1. That Section 34-32 of the Code of the Town of Altavista, 1968, be repealed, amended and re-ordained as follows:

Sec. 34-32. Procedure.

- (a) Every public nuisance shall be abated by the ~~owner or occupant~~ responsible party or parties of the property from which the public nuisance emanates, at the expense of such ~~owner or occupant~~ responsible party or parties pursuant to the procedure set forth in this section.
- (b) Whenever an apparent public nuisance is found to exist within the town, the Town Manager or his/her agent shall provide written notice to the responsible party or parties of the property on which such apparent nuisance exists. Mailing of the notice to the responsible party or parties at the address upon which the apparent public nuisance is occurring or the address of the responsible party or parties according to the real property records of the town shall constitute compliance with the requirements of this ordinance. The written notice shall state:
 - (i) The location of the apparent public nuisance;
 - (ii) A description of what constitutes the apparent public nuisance;
 - (iii) A statement of acts necessary to abate or remove the apparent public nuisance;
 - (iv) A deadline reasonable under the circumstances by which the apparent public nuisance shall be abated or removed; and
 - (v) A statement that if the apparent public nuisance is not abated or removed by the deadline, or if the responsible party or parties disputes the existence of such public nuisance the ~~Prior to declaring the activity or condition in question a public nuisance, such owner or occupant~~ responsible party or parties shall be afforded reasonable notice and opportunity for a hearing before town council, which shall, if necessary, specially convene for this purpose.
- (c) If, after such hearing duly held before the town council, the council finds that the activity or condition complained of is in fact a public nuisance, the town council shall give the ~~owner or occupant~~ responsible party or parties a reasonable time to abate the public nuisance, taking into account the urgency of the need for abatement and the difficulty involved in abatement. Failure by the ~~owner~~ responsible party or parties to abate such public nuisance within the time limit shall constitute a violation of this article and shall be subject punishable as prescribed in section. ~~to the provisions of Sections 34-34, 34-35, 34-37 and 34-38.~~

Upon the failure of the ~~owner~~ responsible party or parties ~~or occupant~~ to abate such public nuisance within the time limit as established by the council, the town manager or any duly authorized agent of the town may abate such public nuisance by whatever means are deemed reasonable and necessary by the town manager.

- (d) Immediate threats to public safety. Should any public nuisance be of such a nature as to pose an immediate threat to the health or safety of the public, such public nuisance shall be abated immediately by the ~~owner or occupant~~ responsible party or parties of the property from which such public nuisance emanates or arises. If such public nuisance is of such a serious and immediate nature as to pose an imminent threat to the health and safety of the community or any part thereof, ~~or should such public nuisance fall within the legal classification of a public nuisance per se, or a public nuisance in fact,~~ the town manager or other duly authorized agent of the town shall cause the town police to serve notice upon the ~~owner or occupant~~ responsible party or parties of the property from which the public nuisance emanates to abate such public nuisance within such period as the town manager deems expedient for public health and safety. If such ~~owner~~ responsible party or parties fails to abate such public nuisance, the town manager or duly authorized agent may take immediate and summary action to abate such public nuisance to the extent that the imminence and the seriousness of such public nuisance are reasonably reduced to a safe level. In this case, the right to notice and hearing to the ~~owner or occupant~~ responsible party or parties of property from which such public nuisance emanates ~~or arises~~ shall be afforded to such responsible party or parties ~~owner~~ as soon after such public nuisance is abated as is possible. The council shall at the hearing render a decision as to the permanent abatement of such public nuisance, and such decision shall be implemented and enforced in the same manner as set forth in subsection (c) of this section. See Sections 34-34, 34-35, 34-73 and 34-38.
- (e) Any decision of town council with regards to a public nuisance after such notice and hearing shall be subject to judicial review by the ~~county~~ Circuit Court of Campbell County upon appeal to such court.

2. This Ordinance shall become effective immediately upon passage by the Town Council of the Town of Altavista.