

**ARTICLE 1109**  
**Nuisances**

<b>1109.01 Article is supplemental to other provisions.</b> <b>1109.02 Nuisances prohibited.</b> <b>1109.03 Nuisances defined and declared.</b> <b>1109.04 Maintenance of premises.</b> <b>1109.05 Dangerous conditions.</b> <b>1109.06 Inspections, investigations and complaints; enforcement officer.</b>	<b>1109.07 Right to enter private premises; duty of occupants.</b> <b>1109.08 Notice to cease and desist.</b> <b>1109.09 Notice to abate; appeal.</b> <b>1109.10 Recourse of Town when notice to abate nuisance is ignored.</b> <b>1109.11 Committing or maintaining nuisance.</b>
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**CROSS REFERENCES**

Authority to regulate - see WV Code 8-12-5(10), (13)  
Power to abate public nuisances - see WV Code 8-12-5(23)  
Abatement of nuisances - see WV Code 16-3-6

**1109.01 ARTICLE IS SUPPLEMENTAL TO OTHER PROVISIONS.**

Various nuisances are defined and prohibited in other parts of the Codified Ordinances, and it is the intent of Council in enacting this article to make it supplemental to those other parts in which nuisances are defined and prohibited; and the provisions of this article relating to the abatement of nuisances shall be regarded as alternative methods and procedures for the abatement of nuisances in those instances where other methods and procedures for abatement are provided.

**1109.02 NUISANCES PROHIBITED.**

No person shall cause, harbor, commit or maintain, or permit to be caused, harbored, committed or maintained any nuisance as defined by the statute or common law of this State or as defined by the Codified Ordinances or other ordinance of the Town at any place within the Town, or at any place beyond the Town limits which is owned by the Town or over which the Town has a right of way; or at any other place beyond the Town limits but within one mile thereof, and not in any other incorporated municipality, wherever the powers and authority granted by this article cannot be reasonably and efficiently exercised by confining the exercise thereof within the corporate limits of the Town.

**1109.03 NUISANCES DEFINED AND DECLARED.**

The following acts when committed, or conditions when existing, within the Town or within the area surrounding the Town and within the extraterritorial jurisdiction of Council as provided in section two of this article are hereby defined and declared to be nuisances:

- (a) An act done or committed or aided or assisted to be done or committed by any person, or any substance, being or thing kept, maintained, placed or found in or upon any public or private property, which is injurious or dangerous to the public health or safety.
- (b) All buildings, bridges or other structures of whatever character kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthy, injurious or annoying to the public.
- (c) All trees, shrubs and other appendages of or to realty kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthy, injurious or annoying to the public.
- (d) All ponds or pools of stagnant water, and all foul or dirty water or liquid when discharged through any drain, pipe or spout or thrown into or upon any street, public place or lot to the injury or annoyance of the public.
- (e) All obstructions caused or permitted on any street or sidewalk to the danger or annoyance of the public, and all stones, rubbish, dirt, filth, slops, vegetable matter, trees, shrubs, or other article thrown or placed by any person on or in any street, sidewalk or other public place, which in any way may cause any injury or annoyance to the public.
- (f) All sidewalks, gutters or curbstones permitted to remain in an unsafe condition or out of repair.
- (g) All houses, buildings, structures or enclosures used for special storage of powder, dynamite or other explosive or highly flammable substances or gases, except those maintained pursuant to permit issued by competent authority.
- (h) Any litter, trash, garbage, or refuse or any abandoned unlicensed motor vehicle or any part thereof, which is or may be offensive to the neighborhood or citizens generally.
- (i) Any offensive or unwholesome substance or growth of grass, weeds exceeding eight inches in height, or brush upon any lot or parcel of ground.

The nuisances described in this section shall not be construed as exclusive, an any act of commission or omission and any condition which constitutes a nuisance by statute or common law of the State is, when committed, omitted or existing within the Town or within the extra-territorial jurisdiction of Council as provided in section two of this article is hereby declared to constitute a nuisance.

#### **1109.04 MAINTENANCE OF PREMISES.**

No person owning or in the possession of any lot, parcel, house, building or enclosure shall allow or suffer to exist in or upon such premises any stagnant water, animal or vegetable matter or other substance liable to become putrid, offensive, annoying or unhealthy. Persons owning or in possession of any real estate shall provide proper and adequate drainage therefore so that no offensive, baneful or disagreeable liquids shall flow or seep into any street. Any violation of this section is hereby declared to be a nuisance. Ownership shall include, in addition to the land within its

boundaries, all land adjacent to and extending beyond the property line to the curb line of adjacent streets, and where no curb exists, to the existing street surface, and all land lying between the property line and the center line of adjacent alleyways or unimproved street right of ways. This also includes sidewalks.

#### **1109.05 DANGEROUS CONDITIONS.**

No person who, being the owner, lessee or occupant of any lot or parcel of land, shall knowingly permit to remain thereon any structure, tree, machine or appliance, combustible materials or any other materials or combination of materials which create a fire hazard or a hazard to adjoining public or private property or to persons using or occupying such adjoining public or private property, or neglect or refuse to remove or abate the nuisance occasioned thereby within twenty-four hours after such person has knowledge of the existence of such nuisance upon any of the above described premises, owned, leased or occupied by him. Any violation of this section is hereby declared to be a nuisance.

#### **1109.06 INSPECTIONS, INVESTIGATIONS AND COMPLAINTS; ENFORCEMENT OFFICER.**

(a) The Chief of Police, the Fire Chief and the Building Inspector shall cause inspections to be made from time to time within the Town and, when they deem it in the interest of the Town so to do, within the extraterritorial jurisdiction of the Town as provided in section two of this article, determine whether any condition exists or activity is being practiced which constitutes a nuisance; and each such officer shall cause an investigation to be made upon written complaint made by any responsible person. Any public health officer having jurisdiction within the Town is hereby vested with the authority conferred by this article on a Town Health Officer, and he may exercise such authority when authorized so to do by his own superiors.

(b) Each officer mentioned in subsection (a) hereof shall, for the purposes of this article, be designated as an "enforcement officer".

#### **109.07 RIGHT TO ENTER PRIVATE PREMISES; DUTY OF OCCUPANTS.**

Enforcement officers shall have the right to enter upon private premises for the purposes specified in section six of this article, upon proper identification and in compliance with all applicable provisions of law. Unless it appears probable that advance warning would defeat the purpose of such entry, occupants of premises to be entered shall be given reasonable notice in advance, and in any case no owner or occupant shall prevent such entry which is sought to be made in compliance with law.

#### **1109.08 NOTICE TO CEASE AND DESIST.**

If at any time an enforcement officer shall find that an activity or practice which constitutes a nuisance is occurring within the Town or within the area surrounding the Town and within the extraterritorial jurisdiction of the Town as provided in section two of this article, he shall promptly and by the most expeditious means notify the violator to cease and desist forthwith.

**1109.09 NOTICE TO ABATE; APPEAL.**

If at any time an enforcement officer shall find that a condition which constitutes a nuisance exists within the Town or within the area surrounding the Town and within the extraterritorial jurisdiction of the Town as provided in section two of this article he shall give notice in writing to the owner, occupant or person in charge of the premises upon which such condition exists, stating therein the condition which constitutes a nuisance and directing such addressee to remedy the condition within the time stated in such notice, which shall be not more than ten days; and no such owner, occupant or person in charge shall fail to comply with the terms of such notice. Provided, however, any owner, occupant or person in charge may, within two days from the service thereof, appeal to Council, in which case the terms of such notice shall be stayed pending action of Council, which shall be final. Provided further however, that if the enforcement officer shall state in such notice that the condition which constitutes a nuisance is such as to be an imminent hazard to the health, safety or welfare of the public or any person within or near the premises upon which such nuisance exists, then the addressee shall comply with the terms of such notice.

**1109.10 RECOURSE OF TOWN WHEN NOTICE TO ABATE NUISANCE IS IGNORED.**

(a) The failure of any person to whom notice has been given pursuant to section nine of this article to comply with the terms of such notice, or with the terms imposed by Council on appeal, as the case may be, is an offense that shall be punished by a fine of one hundred dollars (\$100.00). Each day of noncompliance with such order is a separate offense, and the aforementioned fine shall be imposed for each offense.

(b) The enforcement officer shall direct the appropriate Town officer to remedy the condition which is the subject of such notice, and the expense incurred by the Town in so doing shall be charged to the addressee of such notice, as well as to the owner of the premises which is the subject of such notice, jointly and severally, to be collected as Town taxes or in any other manner authorized by law for the collection of money due the Town.

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

**1109.11 COMMITTING OR MAINTAINING NUISANCE.**

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

(Passed 10-12-10)