
PART ELEVEN — HEALTH AND SANITATION CODE

ARTICLE 1109 Nuisances and Property Maintenance

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CROSS REFERENCES

Authority to eliminate—see WV Code 8-12-5(13), (23)
Animals generally—see Ord. Art. 505
Littering, deposit of refuse—see Ord. Art. 533.07

1109.01 Purpose.

To protect property values, preserve the historic and scenic character of the Town, protect and enhance the desirability of the Town as a place to reside and to conduct commercial and civic activities, to secure a safe, healthy, and more desirable living environment for its citizens and visitors, and to protect the public welfare by abating nuisances on private property within the limits of the Corporation of Harpers Ferry. This article establishes rules and regulations pertaining to nuisances and the physical condition of structures, and provides penalties for violations of this ordinance. (Ord. 2014-04, passed 09-08-2014.)

1109.02 Definition of nuisance.

For the purpose of this article, the term “nuisance” means any condition or use of premises or of building exteriors, which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located. This definition includes, but is not limited to:

- (a) The keeping, maintaining, depositing, storing on, or scattering over the premises, to include on porches, decks, patios, and unenclosed structures visible from a public right-of-way or from ground level of an adjacent property of any of the following:
 - (1) Lumber, junk, trash, refuse, garbage, ashes, or debris;
 - (2) Abandoned, discarded or unused objects or equipment including, but not limited to automobiles, automobile parts, television sets, furniture, stoves, refrigerators, washing machines, freezers, cans, and containers;
 - (3) Storage crates, storage bins and containers, indoor furniture, file cabinets, and similar household items, and unsightly accumulations of cardboard boxes; exceptions include in-use outdoor patio furniture and operable barbecue grills;
 - (4) Upholstered furniture, not manufactured for outdoor use, including, without limitation, upholstered chairs, upholstered couches and mattresses;
 - (5) Any compost pile which is of such nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease-carrying pests, animals, or insects, provided that the presence of earthworms in a compost pile shall not constitute a nuisance; or
 - (6) Any unsanitary matter which constitutes a hazard to the health of the public.

HISTORY:

Ord. 2014-04 (passed 09-08-2014) amended previous versions and reenacted Article 1109, superseding Ord. 2013-10 (passed 09-09-2013). Original ordinance was 84-1 (passed 06-25-1984).

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- (b) A property that is unfit for human habitation, occupancy or use pursuant to State law;
- (c) A property that materially increases the risk of fire to adjacent property;
- (d) A property that is subject to unauthorized entry leading to potential health and safety hazards, and where the owner has failed to take reasonable and necessary measures to secure the property to prevent unauthorized entry;
- (e) A property with the presence of vermin or accumulation of debris, uncut vegetation or physical deterioration of the structure or grounds which creates potential health and safety hazards and the owner has failed to take reasonable and necessary measures to remove such hazards; or
- (f) A property with a dilapidated appearance or other condition of the property which materially affects the welfare, including economic value, of residents in close proximity to the property and where the owner has failed to take reasonable and necessary measures to remedy said conditions. (Ord. 2015-05, passed 05-22-2015.)

1109.03 Duty of maintenance of private property.

No person owning, leasing, occupying or having charge of any premise shall maintain or keep any nuisance thereon, and no person shall keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.

- (a) The provisions of this section shall govern the minimum conditions and the responsibilities of persons for the maintenance of structures and exterior property.
- (b) A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this article.
- (c) All exterior property and premises shall be maintained in a clean, safe, and sanitary condition and maintained in a proper state of repair and free from hazardous conditions. This includes all sidewalks, walkways, stairs, driveways, and parking spaces and similar areas.
- (d) All premises and exterior property shall be maintained free from weeds or plant growth in excess of ten (10) inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants, and vegetation, other than trees or shrubs, provided; however, this term shall not include cultivated flowers and gardens.
 - (1) Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to the provisions of Article 1109.99.
 - (2) The intent of these provisions is to prevent blighted and unsafe/unhealthful property condition(s) which adversely affect property values of adjacent property owners. (Ord. 2014-04, passed 09-08-2014.)

1109.04 Exterior structure.

The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety, welfare or diminution of property values to adjacent property owners.

- (a) The following conditions shall be determined as unsafe and shall be repaired or replaced in order to mitigate the harmful and dangerous effects of such conditions and to reduce their negative impact on property values.
 - (1) Exterior walls that are not properly anchored to supported elements or are not plumb and free of holes, cracks, or breaks and loose or rotting materials.
 - (2) Veneer, cornices, belt courses, corbels, trim, wall facings, and similar decorative features not properly anchored and maintained.

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- (3) Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes, and exhaust ducts not properly anchored or maintained.
 - (4) Exterior stairs, decks, porches, balconies, and all similar appurtenances attached thereto including guards and handrails not structurally sound and/or properly anchored.
 - (5) Chimneys, cooling towers, smokestacks, and similar appurtenances not structurally sound and/or not properly anchored.
- (b) All exterior surfaces, including, but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in safe condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking, and chipped paint shall be eliminated and surfaces repainted. All metal surfaces subject to rust and corrosion, and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. (Ord. 2014-04, passed 09-08-2014.)

1109.05 Exterior storage of non-operating vehicles prohibited.

No person in charge of or in control of premises, whether as owner, lessee, tenant, occupant or otherwise, shall allow any partially dismantled, wrecked, junked, discarded or otherwise non-operable motor vehicle to remain on such property, longer than thirty days, unless said vehicle is kept and stored within an enclosed building or so located upon the premises so as not to be readily visible from any public place or from any surrounding private property. (Ord. 2014-04, passed 09-08-2014.)

1109.99 Penalty.

- (a) Any person who violates the provisions of this article or fails to comply therewith or with any of the requirements thereof shall be guilty of a misdemeanor punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00). A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
- (b) The Mayor, or such person as he or she may designate, is hereby expressly authorized and empowered to institute and maintain civil actions before any court or competent jurisdiction to restrain by injunction violations of this article, notwithstanding the penalties for the violation thereof set forth herein. (Ord. 2014-04, passed 09-08-2014.)