

AN ORDINANCE PROVIDING PROCEDURES FOR IDENTIFYING PUBLIC  
HEALTH NUISANCES AND FOR THE ABATEMENT OF SUCH NUISANCES

**BE IT ORDAINED AND ORDERED**

BY THE COUNTY COMMISSION OF HARRISON COUNTY, WEST VIRGINIA, A  
PUBLIC BODY CORPORATE OF HARRISON COUNTY, WEST VIRGINIA that,

WHEREAS, by enacting Chapter Sixteen of the West Virginia Code, as amended, the  
Legislature has declared public health nuisances to be a serious threat to public health, safety  
and welfare;

NOW, THEREFORE, an ordinance providing procedures for identifying public health  
nuisances and for abatement of such nuisances is enacted, as follows:

**ARTICLE 1.           AUTHORITY, EFFECTIVE DATE, TITLE, PURPOSE,  
                          JURISDICTION AND SEVERABILITY.**

**Section 1.1    Authority**

This ordinance is adopted pursuant to the authority granted in Chapter  
Sixteen, Article Three of the West Virginia Code, as amended.

**Section 1.2    Effective Date**

This ordinance shall become effective thirty (30) days after the date on which  
the County Commission of Harrison County adopts it.

**Section 1.3    Title**

This ordinance shall be titled and cited as the Harrison County Health  
Nuisance Ordinance.

**Section 1.4    Purpose**

The purpose of this ordinance is to protect the health, safety and welfare of  
Harrison County, West Virginia residents by providing a procedure for  
identifying and removing public health nuisances.

**Section 1.5**    **Jurisdiction**

This ordinance applies to all buildings and land within Harrison County, West Virginia and not wholly within the boundaries of a municipal corporation except for: buildings or land owned by the United States Government or any department, division or agency thereof; buildings or land owned by the State of West Virginia or any political subdivision, agency or instrumentality thereof; and buildings or land owned by a municipal corporation.

**Section 1.6**    **Severability**

If any article, section, subsection or provision of this ordinance is declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

**ARTICLE 2.            INTERPRETATION AND DEFINITIONS**

**Section 2.1**    **Interpretation**

For the purposes of this ordinance, the following interpretations shall apply:

- (A)    Words used in the present tense include the future tense.
- (B)    The singular includes the plural.
- (C)    The plural includes the singular.
- (D)    The word "*person*" includes a natural person, corporation, unincorporated association chartered association, general partnership, limited partnership, limited liability company, joint venture, joint stock company, club company, business trust, or any manager, agent, servant, officer or employee of any of them.
- (F)    The term "*shall*" is mandatory and the term "*may*" is permissive.
- (G)    The word "*county*" refers to Harrison County, West Virginia.
- (H)    If any provision of this ordinance conflicts with a provision of any other county ordinance which establishes a more stringent standard for protection of the health and safety of county residents, such other ordinance shall

prevail. If any provision of this ordinance conflicts with a provision of any other county ordinance which establishes a less stringent standard for protection of the health and safety of county residents, this ordinance shall prevail; and such other provisions are hereby declared to be repealed to the extent they conflict with this ordinance.

## Section 2.2 Definitions

As used in or in conjunction with this ordinance, unless the context clearly requires otherwise, the following words or phrases shall mean:

(A) **Commission** the duly elected County Commission of Harrison County, West Virginia

(B) **County Clerk** the duly elected Clerk of the County Commission of Harrison County, West Virginia.

(C) **Health Department** A Board of Health organized pursuant to Chapter 16, Article 2 or Article 2A of the West Virginia Code

(D) **Planning Commission** the Harrison County Planning Commission created pursuant to Chapter 8, Article 24 of the West Virginia Code.

(E) **Public Health Nuisance** any thing, any act, any failure to act, any occupation or use of property which shall annoy, injure or endanger the safety, health, comfort or repose of any person and shall be deemed to include, but shall not be limited to, diseased animals running at large; decayed food offered for sale to the public; ponds, pools of water or vessels holding stagnant water in which mosquitoes can breed; carcasses of animals not buried or otherwise disposed of in a sanitary manner within eighteen hours after death; accumulations of manure or rubbish which are breeding places for flies, mosquitoes or vermin; privy vaults and garbage cans which are not airtight; the pollution of any body of water, stream, creek or river by sewage, industrial wastes, or other substances; noxious weeds and other rank growth of vegetation upon public or private property; dense smoke, noxious fumes, gas, soot or cinders in such quantities as to render property unsafe to be occupied; and all other acts, omissions to act, occupations and uses of property which are in fact a menace or detriment to the public health.

**ARTICLE 3. PROCEDURES FOR IDENTIFICATION AND ABATEMENT**

**Section 3.1 Filing of Complaint**

The Sheriff of Harrison County, any Deputy Sheriff, the Chief or any member of any County Fire Department, any member of the Health Department, the Executive Director or any member of the Harrison County Solid Waste Authority, the Director, Inspector or any member of the Planning Commission, or any person residing in Harrison County may file a complaint, verified under oath and penalty of perjury, alleging the existence of a public health nuisance and requesting that such nuisance be removed. Such complaint shall be filed with the County Clerk.

**Section 3.2 Investigation of Complaint**

The Commission shall refer any such complaint to the Planning Commission for investigation and recommendation. The recommendation of the Planning Commission shall be in writing and shall be returned to the Commission no later than fourteen (14) days after the date of reference.

**Section 3.3 Commission Determination**

After receipt and review of the Planning Commission's recommendation, the Commission shall make a determination by motion in public session as to whether sufficient evidence exists to issue a notice to show cause why a public health nuisance should not be abated.

**Section 3.4 Notice to Show Cause**

- (A) If the Commission determines that sufficient evidence exists to issue a notice to show cause why a public health nuisance should not be abated, the County Clerk shall cause written notice to be served upon the complainant and the landowner or occupant charged with creation of such nuisance, which notice shall require such landowner or occupant to appear before the County Commission at a designated time and show cause why a public health nuisance should not be abated. Such notice shall be served as provided under Rule Four (4) of the West Virginia Rules of Civil Procedure, and a copy of the complaint shall be attached to the notice served on the landowner or occupant charged with creation of such nuisance.
- (B) The County Clerk shall record on the file copy of the notice the method by which service was made, the date of service; and, if service was made by personal service, shall cause the person making personal service to certify the date on which and upon whom personal service was made.

**Section 3.5 Public Hearing; Disposition of Complaint**

- (A) Pursuant to such notice to show cause, the Commission shall conduct a public hearing at which both the complainant and the landowner or occupant charged with creation of a public health nuisance, together with such witnesses as they may produce, shall have an opportunity to be fully heard.
- (B) A continuance of such hearing may be granted at the instance of either party for proper cause shown.
- (C) If the Commission determines after such hearing that a public health nuisance exists which should be abated, it shall issue an order which shall require that the landowner or occupant charged with the duty to remove such nuisance shall do so no later than ten (10) days after the date such order is entered.
- (D) Such order shall be served upon the landowner or occupant charged with the duty to remove such nuisance by the County Clerk by United States certified mail, postage prepaid, return receipt requested.

**Section 3.6 Abatement of Nuisance by Injunction**

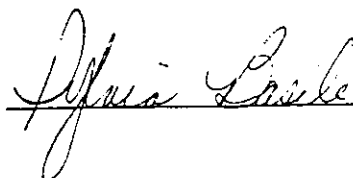
The Commission may apply to the Circuit Court of Harrison County for an injunction to abate such nuisance if the landowner or occupant charged with the duty to remove such nuisance does not do so within ten (10) days after the date the Commission enters an order to remove such nuisance.

Passed by the Harrison County Commission on FIRST READING on this the 26<sup>th</sup> day of March, 2001.

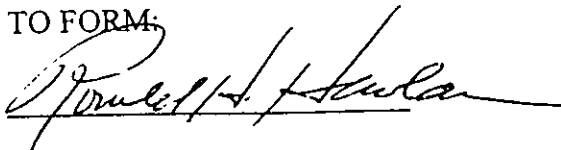
Passed by the Harrison County Commission on SECOND READING on this the 9<sup>th</sup> day of April, 2001.

  
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President, Harrison County Commission

ATTEST:

County Clerk   
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APPROVED AS TO FORM:

County Attorney   
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