

BK0001 PG0059

HARRISON COUNTY COMMISSION

Harrison County
Susan J Thomas, Clerk
Instrument 201800029569
12/14/2018 @ 10:28:28 AM
ORDINANCE
Book 1 @ Page 59
Pages Recorded 6

**AN ORDINANCE PROVIDING PROCEDURES FOR IDENTIFYING PUBLIC
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 7 of the West Virginia Code, as amended, the Legislature has declared public nuisances to be a serious threat to public health, safety and welfare;

NOW, THEREFORE, an Ordinance providing procedures for identifying public 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 7, Article 1, Section 3kk 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, West Virginia adopts it.

Section 1.3 Title

This Ordinance shall be titled and cited as the Harrison County 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 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; 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. INTERPRETATIONS 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 item.
- (E) The term "shall" is mandatory and the term "may" is permissive.
- (F) The word "county" refers to Harrison County, West Virginia.
- (G) 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

BK0001 PG0061

- (B) Health Department Board of Health organized pursuant to Chapter 16, Article 2 or 2A of the West Virginia Code.
- (C) Public Nuisance anything, 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 the public at large and shall be deemed to include, but shall not be limited to, animals running at large; vessels or items holding stagnant water in which mosquitoes can breed; carcasses of animals not buried or otherwise disposed of in a sanitary manner; accumulations of manure non - agriculturally related or rubbish which are breeding places for flies, mosquitoes or vermin; 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 private property; in accordance with the International Property Maintenance Code pursuant to West Virginia Code §7-1-3n and Title 87, Series 4 (87CSR4), any condition of the structure, including appurtenances, considered an attractive nuisance to children, such as abandoned wells, shafts, basements, excavations or unsafe open structures; any structure that is unsafe for human habitation; any that is manifestly capable of being a fire hazard or is manifestly unsafe or unsecure so as to endanger life, limb or property; any structure in the state of dilapidation, deterioration, decay, faulty construction, overcrowded, open vacant or abandoned; damaged by fire to the extent so as not to provide shelter, in danger of collapse or failure and dangerous to anyone on or near the structure and surrounding premises; any premises used for illegal possession, storage or delivery of or trafficking in controlled substances, or other illegal drug activity is hereby declared a public nuisance; and all other acts, omissions to act, occupations and uses of property which are in fact a menace or detriment to the public health, safety and welfare, create conditions of slum and blight, or effect the quality of life for citizens in Harrison County.

ARTICLE 3. PROCEDURES FOR IDENTIFICATION AND ABATEMENT**Section 3.1 Filing of Complaint**

Any person may file a nuisance complaint pertaining to any property in Harrison County, West Virginia by filing a Public Nuisance Complaint Form with the Land Use - Planning Department.

Section 3.2 Investigation of Complaint

All nuisance complaints shall be referred to the Land Use - Planning Department for investigation and recommendation. The Planning Department shall investigate within fourteen (14) days after the date of reference.

Section 3.4 Notice to Show Cause

If the Land Use - Planning Department determines that sufficient evidence exists to issue a notice to show cause why a public nuisance should be abated, written notice shall be served upon the landowner/property owner charged with creation of such nuisance. The landowner/property owner shall have thirty (30) days after the date of reference to correct such violation. The Land Use - Planning Department may grant a thirty (30) day extension on a case by case basis.

If the landowner/property owner fails to comply with such notice, the Land Use - Planning Department will then send notice to the landowner/property owner of a public hearing before the Harrison County Commission with the designated time for the landowner/property owner to show cause why a public 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/property owner charged with creation of such nuisance.

Section 3.5 Public Hearing: Disposition of Complaint

Pursuant to such notice to show cause, the Harrison County Commission shall conduct a public hearing at which the landowner/property owner charged with creation of a public nuisance shall have the opportunity to be fully heard.

If the Harrison County Commission determines after such hearing that a public nuisance exists which should be abated, it shall issue an Order which shall require that the landowner/property owner charged with the duty to remove such nuisance within the time frame specified by the Order.

The Order of abatement shall require the landowner/property owner to take necessary measures reasonably calculated to prevent recurrence, including but not limited to any illegal drug activity.

The Order of abatement may also authorize the Land Use - Planning Department to contact the appropriate law enforcement personnel and/or personnel with the Office of the Prosecuting Attorney for the issuance of search warrants and/or other property entry order to determine whether the nuisance has been abated or whether the Order of the Harrison County Commission has sufficient compliance.

Such Order shall be served upon the landowner/property owner charged with the duty to remove such nuisance by the Land Use - Planning Department by certified mail and by service of process.

Section 3.6 Abatement of Nuisance by Injunction

The Harrison County Commission may apply to the Circuit Court of Harrison County for an injunction to abate such nuisance if the landowner/property owner charged with the duty to remove such nuisance does not do so within the timeframe of the Order. The Commission may file a lien on the property and/or take any other necessary action to recover cost of abatement.

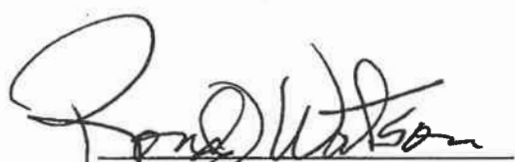
ARTICLE 4

Section 4.1 Effective Date

This Ordinance shall become effective thirty (30) days from final approval on second reading by the Harrison County Commission.

Ordinance considered for adoption and approval on first reading the 28TH day of NOVEMBER 2018.

Ordinance considered for adoption and approval on second reading the 12TH day of DECEMBER 2018.


Ronald R. Watson, President


Bernie L. Fazzini, Commissioner


David Hinkle, Commissioner

Attest:

Susan J. Thomas, Clerk of the County Commission