

CODIFIED ORDINANCES OF BELLE
PART ELEVEN – HEALTH AND SANITATION CODE

**ARTICLE 1111
Nuisances**

<p>1111.01 Conflict.</p> <p>1111.02 Nuisances prohibited within City.</p> <p>1111.03 Certain nuisances prohibited.</p> <p>1111.04 Liability of owner for condition of leased premises.</p> <p>1111.05 Inspections, investigations and complaints.</p> <p>1111.06 Right to enter upon private premises; duty of occupants.</p> <p>1111.07 Actions and reports by inspecting and investigating officers.</p>	<p>1111.08 Order to remedy activity or condition; public hearing; action by Mayor.</p> <p>1111.09 Conduct of public hearing.</p> <p>1111.10 Remedy by City.</p> <p>1111.11 Apportionment of cost of abatement.</p> <p>1111.12 Injunctive relief; nonliability of City employees.</p> <p>1111.13 Arrest.</p> <p>1111.99 Penalty.</p>
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CROSS REFERENCES

Authority to abate public nuisances – see W. Va. Code 8-12-5(13), (23)

Authority to establish local health units – see W. Va. Code 8-12-5(40)

1111.01 CONFLICT.

Various nuisances are defined and prohibited in other Town Ordinances and it is the intent of Council in enacting this article to make it supplemental to those other ordinances 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.

(Ord. 173. Passed 12-2-86.)

- (k) Whenever in any cellar, basement or part thereof, or any house or building there may be found water occasioned by leakage from defective hydrants, water pipes, sewer pipes, cisterns, wells, gutters, drains, running spouts or seepage from the surrounding earth, or whenever the walls of any cellar or basement shall be found to be damp or moist from any cause named in this subsection, then such water, leakage, seepage, or moisture shall be deemed a nuisance.
- (l) Every act or thing done or which may be permitted allowed or continued by the owner, agent, assignee, occupant or tenant of any premises, property or structure, which act or thing done relates to the location, construction, repair, maintenance, use emptying and cleaning of all water closets, privies, sinks, plumbing, drains, yards, lots, areaways, pens, stables and other places where offensive, unsightly, unwholesome, objectionable or dangerous substance or liquids are or may be accumulated, to the damage or injury of any of the inhabitants of the city, and not hereinbefore specified.
- (m) All open, unguarded or unprotected excavations, refrigerators with intact doors, swimming pools or buildings which, when abandoned or left open or otherwise unprotected will likely prove dangerous to life or limb, or abandoned, open uncovered, or otherwise unprotected wells, cesspools, cisterns or catch basins.
- (n) All emissions of dense smoke from the smokestack of any stationary engine, steam roller, steam derrick, pile driver, tar kettle or other similar machine or contrivance, or from the smokestack or chimney of any building or premises, except for a period aggregating not to exceed seven minutes in any one hour, during which period the fire box is being cleaned or a new fire is being built therein. All emissions of dense smoke from the stack of any locomotive for a period of more than seventy-five seconds except for a period aggregating not to exceed twelve minutes in any one hour, during which period the fire box is being cleaned or a new fire is being built therein. For the purpose of grading the density of smoke, the Ringleman's smoke chart as published and used by the Federal Bureau of Mines, a copy of which is on file in the office of the City Clerk and which is hereby incorporated in and made a part of this subsection, shall be the standard of comparison. Smoke shall be considered "dense" when it is of greater density than Number 3 of such chart.
- (o) All infected or infested bedding or clothing, or any putrid or unsound meat, beef, pork, fish, hides, or skins of any kind, decayed or unsound vegetables or fruit, or any other articles which are dangerous to the health of the inhabitants of the City.
- (p) The storing or parking of any unlicensed automobile or other type of vehicle on private or public property. This shall not apply where the vehicle is properly garaged, unless the storage in such garage violates other provisions of the town ordinances as to creating a condition unsafe, dangerous, unhealthy, injurious, or annoying to the public.

1111.07 ACTIONS AND REPORTS BY INSPECTING AND INVESTIGATING OFFICERS.

(a) If at any time any officer mentioned in Section 1111.05, finds a condition to exist or an activity being engaged in which constitutes a nuisance, he shall warn any person who may be responsible therefor and who is present or readily on call that the nuisance must be abated without delay and that failure so to do may result in appropriate action against him and that he will be subject to all expenses incurred by the City as well as to a possible criminal penalty; and if it appears to such officer that the nuisance constitutes an imminent health, fire or safety hazard to any person he shall forthwith take such lawful action within his capabilities as may be necessary to negate the hazard, or else to clear the endangered area of persons, and he shall notify the Mayor or official acting in that capacity promptly by the most expeditious means of communication.

(b) All City officers mentioned in Section 1111.05, and all police officers of the City, shall report through proper administrative channels to the Mayor the facts as to any nuisance found by them upon investigation and the action, if any, taken by them pursuant to subsection (a) hereof of this action, together with recommendations as to the manner of abatement, the time limit for abatement, and such other professional recommendations and comment as they may deem pertinent. (Ord. 173. Passed 12-2-86.)

**1111.08 ORDER TO REMEDY ACTIVITY OR CONDITION;
PUBLIC HEARING; ACTION BY MAYOR.**

(a) The Mayor, upon the report and recommendation of any City officer mentioned in Section 1111.05 that an activity is being engaged in or a condition exists which constitutes a nuisance shall issue an order in writing to the owner, occupant or person in charge of the premises where the activity is being engaged in or the condition exists, stating therein the activity or condition which constitutes the nuisance, and directing such addressee to remedy the activity or condition within the time stated in such order, which shall be not less than ten days; and no such owner, occupant or person in charge shall fail to comply with the terms of such order; provided, that the owner, occupant or person in charge of the premises may, within ten days of being served with such order, apply to the Mayor for a public hearing on the matter, in which case the terms of such order shall be stayed pending action by the Mayor subsequent to the hearing; provided further, that if the Mayor shall state in such order that the activity or 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 such emergency order shall be effective immediately, provided however, that any person to whom such an emergency order is directed shall be afforded a hearing upon petition to the Mayor, but if such petition not be filed within twenty-four hours of that person being served with such an emergency order, the person to whom such an emergency order is directed shall comply therewith by the end of such twenty-four hour period.

1111.11 APPORTIONMENT OF COST OF ABATEMENT.

The cost of abating nuisances on private property shall be apportioned to each lot in proportion to the amount of work done and material used in abating the nuisance located on such lot, or if this apportionment is impracticable in any case, then such cost shall be apportioned upon such a basis as will be fair and equitable.
(Ord. 173. Passed 12-2-86.)

1111.12 INJUNCTIVE RELIEF; NONLIABILITY OF CITY EMPLOYEES.

Any person aggrieved by an order issued by the Mayor pursuant to this article may apply to the Circuit Court of Kanawha County for a temporary injunction restraining the enforcement thereof pending final disposition of the case, but no officer, agent or employee of the City shall be personally liable for damages arising from his lawful performance of his duties under this article.
(Ord. 173. Passed 12-2-86.)

1111.13 ARREST.

Nothing in this article shall be construed to prohibit any police officer from arresting any person for committing or maintaining a nuisance when such arrest is made pursuant to law as provided in other provisions in the statutes and ordinances of the Town of Belle.
(Ord. 173. Passed 12-2-86.)

1111.99 PENALTY.

(EDITOR'S NOTE: See Section 101.99 for general Code penalty.)