

CODIFIED ORDINANCES OF ELEANOR
PART ELEVEN - HEALTH AND SANITATION CODE

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ARTICLE 1109
Nuisances

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CROSS REFERENCES

Authority to regulate - see W. Va. Code 8-12-5(23)

1109.01 PROHIBITED.

Every nuisance as declared, mentioned or defined in this article shall be prohibited. (Ord. 68-3. Passed 3-8-68.)

1109.02 NOTICE TO ABATE NUISANCE.

(a) Whenever the Health Officer shall have knowledge of the existence of any thing or condition constituting a nuisance dangerous to the public health or whenever the Mayor or Chief of Police shall have knowledge of the existence of any thing or condition constituting a nuisance but which is not, per se, dangerous to the public health, such Health Officer, Mayor or Chief of Police shall give notice to the person responsible for such nuisance to show cause before Council why such nuisance shall not be abated, discontinued or removed. Such notice shall not be valid unless served on the party to whom it is directed at least five days before the time specified in such notice for the hearing before Council. In case of epidemic, the Health Officer, with the approval of Council, may, by general order, direct a shorter time.

(b) Such notice shall be served as summons are served in civil cases.

(c) In the event such notice cannot be personally served upon the person to whom directed for the reason that such person cannot be found in the Town, the Health Officer, Mayor or Chief of Police shall cause such notice to be published for five successive days in a newspaper of general circulation published in the Town. In computing such five successive days, only those days upon which the newspaper in question is published shall be counted. The return of "Not to be found in Town" made upon the notice of the officer attempting to serve the same shall be conclusive evidence that the person to whom the notice is directed cannot be found in the Town. (Ord. 68-3. Passed 3-8-68.)

1109.03 HEARING BY COUNCIL.

At the time and place indicated in such notice for the hearing before Council, the person to whom the notice is directed may appear before Council in person or by attorney or he may show cause by affidavit. (Ord. 68-3. Passed 3-8-68.)

1109.04 ORDER OF ABATEMENT.

(a) If, in the opinion of Council after hearing all the facts in the case, no good and sufficient cause be shown why such nuisance should not be abated, discontinued or removed, Council shall order the person to whom the notice was directed to abate, discontinue or remove the same within such time as Council may deem reasonable.

(b) Any person failing or refusing to obey the order of Council relating to the abatement of nuisance, shall, upon conviction, be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), with costs, and such person shall be subject to like fine for each and every day such nuisance shall continue after the expiration of the time specified in such order. (Ord. 68-3. Passed 3-8-68.)

1109.05 ENTRANCE ON PREMISES FOR ABATEMENT OR REMOVAL.

Whenever any nuisance has been ordered to be abated or removed under the provisions of this chapter, any officer shall have the right to enter upon the property on which the nuisance exists, for the purpose of abating or removing the same in accordance with the order of Council directing such removal or abatement. (Ord. 68-3. Passed 3-8-68.)

1109.06 LIABILITY OF OWNER.

Whenever any owner or agent of any building in the Town shall rent, lease or hire out to be occupied, any building or part thereof, as a home or residence of more than two families living independently of one another, or a building to different persons for stores and offices in said building, giving to each family or person the common right to hall, yards, water closets, privies, or some of them, then such owner or agent shall be liable for the condition of said hall, yards, water closets, privies, and said owner or agent may also be made a defendant in a prosecution for the violation of any of the provisions of this article and be subject to fine, the same as the occupant of the premises. Any prosecution for violation of this section may be maintained against the owner, occupants or agents of the premises, or either, or all of said parties. (Ord. 68-3. Passed 3-8-68.)

1109.07 APPORTIONMENT OF COST OF ABATING.

The cost of abating nuisances on private property shall be apportioned to each lot in proportion to the amount of the 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. 68-3. Passed 3-8-68.)

1109.08 BOARDING OR LODGING HOUSES.

Any boarding house, lodging house, or any building used for such purposes, or any part thereof, within the limits of the Town, which shall be leased, let or rented, to be occupied by any person, in which to dwell or lodge, and which boarding house, lodging house or building or any part thereof, is not sufficiently lighted or ventilated, and provided with water and not kept in a cleanly and sanitary manner, or which, any part whereof the strength, ventilation, light or sewerage is in any manner, shape or form, dangerous, insufficient or prejudicial to life or health, or which shall not be provided with adequate and properly constructed privies or water closets, shall be deemed a nuisance. (Ord. 68-3. Passed 3-8-68.)

1109.09 MANUFACTURE INJURIOUS TO HEALTH OR EMITTING OFFENSIVE ODOR.

No person shall erect any building for the purpose of manufacturing or producing any article, or to manufacture or to produce any article, the manufacture of which is injurious to public health. (Ord. 68-3. Passed 3-8-68.)

1109.10 PIPES, TANKS, CUTTERS, CANS, ETC.

Any unclean, stinking, foul, defective or filthy drainpipes, tank or gutter, or any leaking, broken slop, garbage or manure boxes, or receptacle of like character, whenever or wherever found within the limits of the Town, shall be deemed a nuisance.
(Ord. 68-3. Passed 3-8-68.)

1109.11 OPERATION OF ENGINES, FURNACES OR BOILERS.

The owners, lessees, tenants, occupants and managers of every building, vessel or place in or upon which a locomotive or stationary engine, furnace, or boiler is used and when gas is not used, shall cause all ashes, cinders, rubbish, dirt and refuse to be removed to some proper place, so that the same shall not accumulate, nor shall any person cause, suffer or allow smoke, cinders, dust, gas, steam or offensive or noxious odors to escape or be discharged from any such building, vessel or place to the detriment or annoyance of any person not being therein or thereupon engaged. Any violation of this section shall constitute a nuisance.
(Ord. 68-3. Passed 3-8-68.)

1109.12 SLAUGHTER AND SLAUGHTERHOUSES.

No person shall slaughter any cattle, calf, sheep or hog within the Town, except in slaughterhouses erected and used previous to the passage of this article. No building shall hereafter be erected or converted into, or used as a slaughterhouse, within the limits of the Town. In all buildings used as slaughterhouses previous to the passage of this section, the floors shall be of tight plank, or be paved with brick laid in cement, or be of concrete, and they must be properly drained and connected with the sewerage system. Every such slaughterhouse shall be whitewashed at least once in each month between the first of April and the first of November of each year. Any such slaughterhouse in the Town shall not be permitted to remain unclean. Any violation of this section shall constitute a nuisance. (Ord. 68-3. Passed 3-8-68.)

ARTICLE 1119
Grass, Weeds and Vegetation

**1119.01 Grass, weeds and
vegetation.**

CROSS REFERENCES

Power to regulate - see W. Va. Code 8-12-5(10)

1119.01 GRASS, WEEDS AND VEGETATION.

(a) No owner, occupant or person in charge of any premises shall allow or permit thereon any growth of weeds to the height of more than six inches, nor shall any person allow or permit the growth of any weeds or grass upon any part of any sidewalk abutting said premises.

(b) All premises shall be maintained by the owners, occupants or persons in charge thereof, free of vegetation which affords a breeding place for insects, reptiles or rodents and upon all premises not devoted to agricultural uses, the grass thereon shall be trimmed to a height of not more than six inches.

(c) Grass, weeds and vegetation, when cut down shall be removed from the premises and disposed of in such a manner as not to create a nuisance.

(d) Whenever garbage, rubbish, trash or other refuse shall be allowed to accumulate upon any premises within the Town of Eleanor, in such quantities as to be a fire hazard or detrimental to public health or other in violation of this section, the owner or person in charge of property upon which such accumulation is found shall be jointly and severally responsible for its removal and shall be required to remove or cause to be removed such accumulation within forty-eight hours after receipt of notice to do so from the Mayor or the Town Council of Eleanor; and if both the owner and/or the person in charge of such property fails within the time indicated in the notice to comply with such notice, the Mayor or the Town Council shall thereupon authorize and direct the Street Department to remove such accumulations of refuse; and after removal of such refuse, the Town of Eleanor shall collect from the property owner the amount of the expense the Town incurred in such removal. The Town of Eleanor shall have the authority to place a lien on the property in question regarding the collection of the charges assessed by this section. (Ord. 92-3. Passed 11-5-92.)

(e) Whenever any owner, occupant or person in charge of any premises shall allow or permit any growth of weeds or grass to a height greater than six inches, as noted in subsections (a) and (b) hereof, such person shall be jointly and severally responsible for cutting and/or removal of such weeds and grass, and such person shall be required to make such cutting and/or removal within forty-eight hours after receipt of notice to do so from the Mayor or the Town Council of Eleanor; and if such person fails within the time indicated in the notice to comply with the notice, and fails to present good cause as to why such cutting and/or removal was not completed, the Mayor or the Town Council shall thereupon authorize and direct the Street Department to enter onto such premises and cut and/or remove such weeds and grass. Following such removal, the Town of Eleanor shall collect from the property owner and/or person in charge of such premises the amount of the expense the Town incurred in such cutting or removal. The Town of Eleanor shall have the authority to place a lien on the property in question regarding the collection of the charges assessed by this section. (A.O.)

ARTICLE 1129
Trash, Garbage and Refuse

1129.01 Prohibited disposal of waste matter.	1129.04 Mandatory refuse collection and disposal.
1129.02 Littering.	1129.05 Curbside collection.
1129.03 Debris removal; collection of refuse from lots.	

CROSS REFERENCES

Power to regulate - see W. Va. Code 8-12-5(10) et seq.
Placing material in streets - see TRAF. 311.01
Loads dropping or leaking - see TRAF. 347.04

1129.01 PROHIBITED DISPOSAL OF WASTE MATTER.

(a) No person shall dispose of any refuse (or other waste matter) of any kind, solid or liquid, including but not limited to animal carcasses, excrement, offal, putrescible matter, hay, straw, sawdust and shavings, upon any street, sidewalk or public place (other than a lawful refuse disposal site) or upon any vacant lot, or upon the premises of another without his knowledge and consent and then only at such place and in such manner as to not create a hazard to the health, safety or welfare of any person or so as otherwise to create a nuisance.

(b) No person shall dispose of any waste matter of any kind, solid or liquid, in any river, creek or other watercourse or in any reservoir, lake, pond, well, spring or cistern or in any gutter or drain. (Ord. 96-07. Passed 12-5-96.)

1129.02 LITTERING.

(a) No person shall deposit or permit to fall on any street, sidewalk, square or other public place any grass, scrap iron, nails, tacks, wire, other litter or any offensive matter or anything likely to injure the feet of individuals or animals or the tires of vehicles.

(b) Any person who deposits or permits to fall upon any street, sidewalk, square or other public place any article mentioned in the above subsection of this section shall immediately remove the same or cause it to be removed. (Ord. 96-07. Passed 12-5-96.)

1129.03 DEBRIS REMOVAL; COLLECTION OF REFUSE FROM LOTS.

Building contractors, excavators and other persons who in the course of their respective businesses cause debris or refuse of any kind to accumulate upon any street or at any other place within the Town shall remove and dispose of such debris or refuse within forty-eight hours of notification by the Town or, as directed by the Mayor, before it becomes a hazard to the public health, safety or welfare, and at the completion of each project shall remove all such debris and refuse and dispose thereof in a sanitary and lawful manner; provided, that when debris or refuse accumulates on any lot so as to become a nuisance and is not subject to removal by any contractor or other person as above provided, the Town, after notice to the property owner to do so and his failure to comply within a reasonable time, may collect and dispose of such debris and refuse and the cost of such collection and disposal shall become a charge against the owner of such lot and shall be collectable in any manner provided by law.
(Ord. 96-07. Passed 12-5-96.)

1129.04 MANDATORY REFUSE COLLECTION AND DISPOSAL.

(a) Definitions. For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) "Certificated hauler" means a person, firm, corporation or other legal entity holding a proper certificate of convenience and necessity issued by the Public Service Commission of the State of West Virginia to engage in the general business of solid waste disposal in accordance with the statutes, rules and regulations promulgated and enforced by the Public Service Commission of the State of West Virginia and whose rates, fees and charges are subject to the regulation of the said Public Service Commission.
- (2) "Garbage" means putrescible animal or vegetable wastes resulting from the handling, preparation, cooking, serving or consumption of food and food containers.
- (3) "Refuse" means discarded waste materials in a solid or semi-liquid state, consisting of garbage, rubbish or a combination thereof.
- (4) "Refuse collection" means the gathering of refuse as placed at the curbs of streets for pick-up and loading into any collection vehicles operated by a properly certificated hauler operating in accordance with rules and regulations of the Public Service Commission of the State of West Virginia as the same now or hereafter may be in effect.
- (5) "Refuse disposal" means the disposition of refuse in accordance with this article.
- (6) "Refuse removal" means the hauling and transportation of refuse from point of collection to point of disposal.
- (7) "Rubbish" means non-putrescible solid wastes consisting of combustible and noncombustible materials including leaf wastes.
- (8) "Solid waste" means garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semi-solid or contained gaseous material resulting from operation of residential, municipal, commercial or institutional establishments or from community activities.
- (9) "Yard (green) waste" means leaves, garden residues, shrubbery and tree trimmings, and similar material, including grass clippings.

(b) Mayor Ex Officio Sanitation Inspector. The Mayor shall be ex officio sanitation inspector and shall have authority to prescribe, publish, promulgate and enforce any and all reasonable rules and regulations deemed by him necessary or proper, consistent with this article and other ordinances, to carry out the objects and purposes thereof and for the safety and health of the residents of the Town in respect of the collections, removal and disposal of refuse.

(c) Who to Collect Refuse. On and after the effective date of this article, the owner of each business establishment within the Town of Eleanor and the occupier of each residence whether single family, manufactured housing, apartment, room or otherwise, shall contract with a certificated hauler for the collection, transportation and disposal of all refuse, raw garbage or prepared garbage generated at such business or residential unit.

- (1) It shall be the mandatory duty of each such person to prepare the refuse, raw garbage or prepared garbage so generated for collection, transportation and disposal in accordance with the rules and requirements of such certificated hauler and to pay to such certificated hauler such fees and charges for said collection, transportation and disposal as are from time to time approved by the Public Service Commission of West Virginia.
- (2) The entry of such contract arrangement with a certificated hauler shall be mandatory upon all residents and business owners within the Town of Eleanor and such agreement shall require the collection, transportation and disposal of said materials not less than one time during each seven consecutive day period.
- (3) No person, except a certificated hauler, shall engage in or conduct the business of collection, transportation or disposal of refuse, raw garbage or prepared garbage within the corporate limits of the Town of Eleanor.

(d) Storage of Refuse. No person shall store or permit the storage of refuse on or about his premises, or the premises occupied by him, unless such refuse is kept in standard containers for refuse and garbage.

(e) Use of Plastic Bags. Garbage and refuse shall be placed in opaque plastic bags and properly secured to prevent spillage.

(f) Collection. No person shall collect any garbage or refuse from any residential district as defined by the Town Council or within two hundred feet therefrom, in the Town between the hours of 9:00 p.m. and 6:00 a.m., it being the finding of the Town Council that such collections during the prohibited hours would disturb the peace, good order and quiet of such residential districts.

(g) Open Burning. No person shall dispose of refuse within the Town of Eleanor by open burning in containers, drums, barrels, on the ground or any other means of containment.

(h) Permit for Burning. Where burning of solid waste or yard waste is deemed to be necessary, a permit for such burning may be issued by the State of West Virginia Division of Forestry. (Ord. 96-07. Passed 12-5-96.)

1129.05 CURBSIDE COLLECTION.

(a) All garbage, refuse, yard waste, and bulky waste shall be placed for collection either at the curb or at a point not more than five feet from the curb on the collection day. In areas where there are no curbs, all waste materials shall be placed not more than five feet back from the edge of the traveled roadway.

(b) Council may grant an exception from the requirements of the above paragraph to residences occupied by persons with physical limitations which prevent them from placing waste at curb; provided, however, that such person make arrangements with a certificated hauler for backyard collection.

(c) For the purpose of the above paragraph, "physical limitations" shall mean: any illness, injury, incapacity, or other physical handicap which prevents such person from placing waste materials at the curb.

(d) Garbage to be collected shall not be placed for collection before 7:00 p.m. on the day preceding the collection day nor after 10:00 a.m. on the day of collection.

(e) No municipal employee shall collect or remove, at the Town of Eleanor's expense, any refuse from the premises of any person, or tenant thereof.

(f) Any person violating the provisions of this article, shall be subject to a fine of twenty-five dollars (\$25.00) plus court costs. Any owner of a multi-family dwelling violating this article shall be subject to a fine up to one hundred dollars (\$100.00) plus court costs. (Ord. 96-07. Passed 12-5-96.)