

CHAPTER THIRTEEN

ARTICLE I - Nuisances

13.1.1 Disorderly Houses; Maintenance or Operation of Place of Business in Disorderly or Noisy Manner, or in Manner Injurious to Public; Illegal Consumption of Intoxicating Liquors, Gambling, or Prostitution in Place of Business; Prohibition Thereof – It shall be unlawful for any person in the Town:

- (a) To maintain or operate a disorderly house within the common law meaning of that term;
- (b) To maintain or operate a place of business to which persons recurrently resort for purposes injurious to public morals, health, convenience, or safety;
- (c) To maintain or operate a place of business which recurrently constitutes a disturbance to the order and tranquility of the neighborhood in which the business is situate;
- (d) To maintain or operate a place of business which recurrently produces or permits noises of such nature as to constitute a disturbance or annoyance to the neighborhood in which the place of business is situate;
- (e) To maintain or operate a place of business which is frequented by dissolute or disorderly persons, or in which disorderly or boisterous conduct is recurrently permitted;
- (f) To maintain or operate a place of business wherein the illegal consumption of intoxicating liquor recurrently occurs or is recurrently permitted;

(g) To maintain or operate a place of business wherein gambling recurrently occurs or is recurrently permitted; or

(h) To maintain or operate a place of business in which prostitution is permitted, or a place of business of the type commonly known as a house of ill fame or bawdy-house.

13.1.2 . Ownership of Premises Wherein Offense Designated in Section

13.1.1 Committed – It shall be unlawful for any person, owning any premises in the Town, knowingly to permit the occupancy of such premises by any person, firm, or corporation, as tenant or otherwise, in a manner violating the provisions of any subdivision of Section 13.1.1 of this Chapter.

13.1.3 Violation of Chapter as Prima Facie Nuisance – The owner of any premises on which shall be situate a business operated in violation of the provisions of Section 13.1.1 of this Chapter, and the owner or operator of any business which is operated in violation of the provisions of Section 13.1.1 of this Chapter, shall prima facie be guilty of the commission of a public nuisance.

13.1.4 Procedure for Abatement of Nuisance Committed in

Violation of Chapter – In the event the Council has reason to believe that any business in the Town is operated in violation of the provisions of Section 13.1.1 hereof, and that, by reason thereof, the owner or operator of the business and/or the owner of the premises in which the business is conducted is guilty of the commission of a public nuisance, the Council may enter an order directing the owner and/or operator of the business and/or the owner of the premises in which the business is conducted to appear before the Council and show cause why such nuisance should not be abated. The order

shall state the name or names of the person or persons against whom it is directed; shall designate the business and describe the premises in which it is conducted; shall state briefly the manner in which the business is charged to be in violation of Section 13.1.1 of this Chapter; shall fix the time and place at which the person or persons so charged shall appear before the Council to answer such charge; and shall state that if the person or persons against whom the order is directed shall be found to be in violation of the provisions of Section 13.1.1 of this Chapter and shall, by reason thereof, be found guilty of the commission of a nuisance, the said nuisance will be stated.

13.1.5 Service or Publication of Order – The order mentioned in Section 13.1.4 of this Chapter shall, at least ten days before the date specified therein for the appearance before the Council of the person or persons against whom it is directed, be served upon such person or persons against whom it is directed in the manner prescribed in Section 1, Article 2, Chapter 56 of the Code of West Virginia or, if any person be not found within the State of West Virginia or be a nonresident of this State, be published as to such not found or nonresident person one time in a newspaper of general circulation in the Town.

13.1.6 Order of Abatement – If the Council, on or after the return day of the order described in Section 13.1.4 of this Chapter and after a due hearing thereon, finds that any person against whom the order is directed is in violation of the provisions of Section 13.1.1 of this Chapter and, by reason thereof, is guilty of the commission of a public nuisance, the Council may enter an order declaring such conduct as is in violation of Section 13.1.1 hereof to be a public nuisance; may order the person or persons found guilty of the commission of such nuisance to cease and desist therefrom

within a stated period of time which shall be not less than 24 hours from entry of such order and the posting thereof upon the premises involved; and may, in the event such order is not complied with by the person or persons to whom it is directed, order a police officer of the Town to go upon premises and close such business, and may order any personal property therein situate, belonging to the person or persons to whom said order to cease and desist was directed, to be seized, removed, and sold or otherwise disposed of by such police officer. In the event of the sale of any such personal property under the authority of this Section, the proceeds of sale shall be first applied to the payment of expenses provided for in Section 13.1.7 hereof, and the remainder shall be paid to the person or persons who were the owner or owners thereof at the time of such seizure. Any police officer performing services under the authority of this Section may employ and use the services of such other persons as he may deem to be necessary.

13.1.7 Expenses of Procedure or Action Under Sections 13.1.4, 13.1.5, and 13.1.6 – Any expenses incurred by the Town in connection with any procedure or action taken by the Town, its officers, and servants under the authority of Sections 13.1.4, 13.1.5, and 13.1.6 of this Chapter may be charged against and recovered from the person or persons found by the Council to have committed a public nuisance in violation of the provisions of Section 13.1.1 of this Chapter.

13.1.8 Violation of Chapter; Penalties; Jurisdiction – Any person who shall violate the provisions of any subdivision of Section 13.1.1 of this Chapter or the provisions of Section 13.1.2 of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof, may, for the first offense, be fined not less than \$10.00 nor more than \$100.00, and may, for any second offense, be fined not less than \$50.00 nor more

than \$500.00, or imprisoned in the municipal or county jail for not less than 10 days nor more than 60 days, or may be both fined and imprisoned. Jurisdiction to try cases under this Section is hereby vested in the Mayor of the Town and in any Magistrate of Kanawha County, West Virginia.