

TITLE 7

OFFENSES - MISCELLANEOUS

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CHAPTER 1 Enumerated

Section 7-101 Assault; Battery

(a) Assault It shall be unlawful for any person to attempt to commit a violent injury to the person of another or to commit an act which places another in reasonable apprehension of immediately receiving a violent injury.

(b) Battery It shall be unlawful for any person to make physical contact of an insulting or provoking nature with the person of another or intentionally cause physical harm to another person.

Section 7-102 Disturbing the peace

It shall be unlawful for any person to disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him under his control. No person shall threaten, traduce, quarrel, challenge to fight or fight, or use obscene, offensive, profane, or unseemly language to annoy, disturb, or vex another.

Section 7-103 Indecent exposure; Public indelicacy

(a) Indecent exposure It shall be unlawful for any person intentionally to expose his sex organs or anus under circumstances in which he knows his conduct is likely to cause affront or alarm.

(b) Public indelicacy It shall be unlawful for any person to engage in any overt act of sexual gratification or expose the private or intimate parts of his body or the body of another person to public view.

Section 7-104 Willful disruption of governmental processes

It shall be unlawful for any person to willfully interrupt or molest the orderly and peaceful process of any department, division, agency or branch of the municipal government.

Section 7-105 Impersonating a government officer or employee

It shall be unlawful for any person not a member of the official police force of the Town to wear, use, copy or imitate in any respect or manner the uniform, or the badge or other insignia prescribed for members of the official police force, and it shall be unlawful for any person to falsely represent himself to be an officer or any other government employee.

Section 7-106 Weapons and firearms

(a) Carrying dangerous or deadly weapons without license or other authorization It shall be unlawful for any person, without a state license therefor or except as provided in the West Virginia Code of 1931, as amended, to carry about his person any revolver or pistol, dirk, bowie knife, sling shot, razor, billy, metallic or other false knuckles, or other dangerous or deadly weapon of like kind or character.

(b) Brandishing or exposing weapons It shall be unlawful for any person armed with a pistol, gun or other dangerous or deadly weapon, whether licensed to carry the same or not, to carry, expose, brandish, or use such weapon in a way or manner to cause, or threaten, a breach of the peace.

Section 7-107 Weapons, firearms, etc., discharge of

It shall be unlawful for any person to discharge, within this Town, any firearm, air rifle, B.B. gun, slingshot, or other weapon or instrument which discharges a projectile capable of inflicting bodily injury, except in the lawful defense of person or property and except in the performance of a lawful duty.

Section 7-108 Noise pollution

(a) It shall be unlawful for any person within the Town to use or operate any radio receiving set, musical instrument, phonograph, television set, or other machine or device for the production or reproduction of sound in such a manner as to disturb the peace, quiet, and comfort of neighboring residents or any reasonable person of normal sensitiveness residing in the area. The operation of any such set, instrument, television, phonograph, machine or device at any time in such a manner as to be plainly audible at either the property line from which the sound emanates or 25 feet from a vehicle on public rights-of-ways is a violation of this section.

(b) The above section shall not apply to any person who is participating in a school band or in a parade for which the Town has given permission.

(c) It shall be unlawful for any person, other than personnel of law enforcement, fire department, or governmental agencies to install, use, or operate within the Town a loudspeaker or sound-amplifying equipment for the purposes of giving instruction, directions, talks, addresses, lectures, or transmitting music to any persons or assemblages of persons in or upon any street, alley, sidewalk, park, place, or public property, without first filing a registration statement and obtaining approval thereof as set forth in a form to be determined by the mayor.

(d) It shall be unlawful for any person to discharge in the open air the exhaust of any power device or motor vehicle which is not

equipped with an adequate muffler in constant operation and properly maintained to prevent any excessive unusual, or unnecessary noise, and no such muffler or exhaust system shall be modified or used with a cutoff, bypass or similar device.

Section 7-109 False alarm of fire

It shall be unlawful for any person to turn in or telephone, or by use of any means or methods of communication aid, or abet in making or turning in of, any alarm of fire which he knows to be false at the time of making or turning in the alarm.

Section 7-110 Riots and unlawful assemblages

(a) It shall be unlawful for any person to engage in a riot, rout, or unlawful assembly.

(b) It shall be the duty of the official police force of the Town to go among, or as near as may be with safety, to persons riotously, tumultuously, or unlawfully assembled, and in the name of the law command them to disperse; and if they shall not thereupon immediately and peaceably disperse, such member of the official police force of the Town shall command the assistance of all persons present, and all or any part of other law enforcement personnel available to him, as need be, in arresting and securing those so assembled.

Section 7-111 Malicious mischief

(a) It shall be unlawful for any person to take and carry away, or destroy, injure or deface any property, real or personal, not his own.

(b) It shall be unlawful for any person willfully or maliciously to destroy or injure any of the wires, poles, insulators, or other property belonging to any telephone, telegraph or railroad company, or any public utility company.

Section 7-112 Drinking of alcoholic beverages in public

It shall be unlawful for any person to drink alcoholic beverages on the streets or sidewalks of the town.

Section 7-113 Houses of ill fame; Prostitution

(a) Houses of ill fame It shall be unlawful for any person knowingly to keep, set up, maintain, operate, own, let, sublet, or rent a house, place, building, hotel, tourist camp or other structure for the purpose of prostitution.

(b) Prostitution It shall be unlawful for any person to engage in, solicit, induce, entice, or procure another to commit or participate in an act of prostitution.

Section 7-114 Weeds

No owner or tenant of property shall permit grass or other vegetation, commonly recognized as weeds, on such property, to exceed a height of one (1) foot.

Section 7-115 Nuisances on private property

(a) For the purposes of this section, the term "nuisance" is defined to mean any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located. This includes, but is not limited to, the keeping or the depositing on, or the scattering over the premises of any of the following:

- (1) Lumber, junk, trash, or debris:
- (2) Abandoned, discarded or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers.

(b) No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.

(c) Exterior storage of nonoperating vehicles is prohibited. No person in charge of or in control of premises, whether as owner, lessee, tenant, occupant or otherwise shall allow any partially dismantled, wrecked, junked, discarded or otherwise nonoperating motor vehicle to remain on such property within the town for a longer time than ten days; except that this section shall not apply with regard to any vehicle in an enclosed building or so located upon the premises as not to be readily visible from any public place or from any surrounding private property. This section shall further not apply with regard to any vehicle on the premises of a business enterprise operated in a lawful place, other than in a residential district, and operated in a lawful manner, when the keeping or maintenance of such vehicle is necessary to the operation of such business enterprise; or with regard to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the town or any other public agency or entity

(d) The municipal police department may employ its own personnel, equipment and facilities for the purpose of removing, preserving, or storing abandoned vehicles

AN ORDINANCE AMENDING SECTION 7-115 OF THE DANVILLE CITY CODE

Section 7-115 Nuisances on private property

(a). For the purposes of this section, the term "nuisance" is defined to mean any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located. This includes, but is not limited to, the keeping of any of the following:

(1) Lumber, junk, trash, or debris:

(2) Abandoned, discarded or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers, or dilapidated buildings.

(b) No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.

(c) Exterior storage of nonoperating vehicles is prohibited. No person in charge of or in control of the premises, whether as owner, lessee, tenant, occupant or otherwise shall allow any partially dismantled, wrecked, junked, discarded or otherwise nonoperating motor vehicle to remain on such property within the town for a longer time than ten days; except that this section shall not apply with regard to any vehicle in an enclosed building or so located upon the premises as not to be readily visible from any public place or from any surrounding private property. This section shall further not apply with regard to any vehicle on the premises of a business enterprise operated in a lawful place, other than in a residential district, and operated in a lawful manner, when the keeping or maintenance of such vehicle is necessary to the operation of such business enterprise; or with regard to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the town or any other public agency or entity.

(d) If a violation of this ordinance occurs the Town of Danville may pursue any or all of the following:

(1) Proceed to remedy the nuisance by such means as are necessary, including, but not limited to, cutting weeds, filling cisterns, removing rubbish, dilapidated fences, outside toilets, dilapidated buildings and other debris, or by taking any action authorized by (a) or (c) of this section. The municipal police department may employ its own

personnel, equipment and facilities for the purpose of removing, preserving, or storing abandoned vehicles.

(2) Charge the actual cost of remedying the nuisance to the person violating this ordinance. The actual cost incurred in remedying the nuisance, plus any fine imposed by virtue of section 7-116, plus all court costs or attorney fees incurred by the Town in enforcing the lien hereby created, shall be a lien against the property upon which the nuisance has been maintained and upon any other property within the Town that in which the owner of the property constituting the nuisance has an interest; and notice of such lien shall be filed by the City Recorder in the Office of the Clerk of the Boone County Commission pursuant to Article 10C of Chapter 38 of the West Virginia Code. Such lien may be enforced by the same procedure that is set out in the West Virginia Code for enforcement of judgment liens.

(3) Order the property owner to remedy the nuisance prior to remedying the nuisance.

(e) Ten (10) days prior to the town using any remedy available under (d) of this section, the head of the municipal police department shall give notice to the property owners. The notice shall inform the property owners of what action is being taken and what nuisance is being removed or altered. Notice shall be given by personal service. In the event that no personal service can be made, notice shall be given by United States Registered or Certified Mail, return receipt requested. If neither personal service nor service by mail can be completed, the notice shall be by publication as a Class II publication in compliance with the provisions of Article 3, Chapter 59 of the West Virginia Code, and a publication area shall be in Boone County.

(f) If the person receiving notice requests a hearing on the nuisance within 10 days of receiving notice, or within 20 days from the final publication of the notice if done by publication, a hearing shall be held before the Town Council within 20 days of the request. If no hearing is requested, default judgement will be entered against the owner and the town may proceed with any remedy available under section (d) of this section. Hearings shall be recorded by electronic device or by court reporter. The West Virginia rules of evidence do not apply to the proceedings, but each party has the right to present evidence and examine and cross examine all witnesses. The chief of the police department has the burden of proving the nuisance by a preponderance of the evidence, and has the duty to go forward with the evidence. At the conclusion of the hearing, the Council shall make findings of fact and conclusions of law as to whether the nuisance exists. If the Council finds that this ordinance has been violated, it shall order the property owner to remedy the nuisance within 30 days. If the person fails to fix the nuisance

within 30 days the town may proceed with the remedies provided in (d) of this section.

(g) In the event of exigent circumstances that pose immediate risk of serious damage to property or injury to person, the Town may proceed to remedy the nuisance prior to engaging in the procedures described in (e) and (f) of this section, but such procedures shall be carried out prior to the filing of notice of lien pursuant to (d)(2).

Section 7-116 Penalties

A violation of any of the foregoing prohibitions set forth in this title shall be punishable by a fine not to exceed \$100.00. Any violation continuing from day to day shall constitute separate individual violations and may be prosecuted as such.