

Ordinance # 14-002  
"An Ordinance To Adopt the  
2012 International Property Maintenance Code"

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**Mayor**

**Attest:**

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Felicia Turner, City Clerk

**Approved as to Form:**

City Attorney, Robert H. Corley

First Reading: 1-14-13

Final Reading & Adoption: 2-11-14

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CITY OF MULLINS  
NUISANCES

ARTICLE I. IN GENERAL

**ARTICLE I. IN GENERAL** <sup>[2]</sup>

Sec. 10-1. Authority.

Sec. 10-2. Code official duties and powers.

Sec. 10-3. Vacant and boarded up structures.

Secs. 10-4—10-20. Reserved.

**Sec. 10-1. Authority.**

- (a) Pursuant to S.C. Code 1976, § 5-7-80, the city is authorized to provide that the owner of any lot or property in the municipality shall keep such lot or property clean and free of rubbish, debris and other unhealthy and unsightly material or conditions which constitute a public nuisance.
- (b) Pursuant to S.C. Code 1976, § 5-7-30, the city is authorized to provide for the abatement of nuisances.
- (c) Pursuant to S.C. Code 1976, § 5-25-340, an inspector shall have a right to enter premises to inspect without molestation, upon permission or upon probable cause to believe that a violation of provisions respecting fire laws, or there exists imminent danger to the occupant thereof.
- (d) Pursuant to S.C. Code 1976, § 6-9-10, building codes shall be enforced by local government.
- (e) Pursuant to S.C. Code 1976, § 6-9-130, adopted codes are applicable to building inspections.
- (f) Pursuant to S.C. Code 1976, § 31-15-10 et seq., the city is authorized to abate unfit or unsafe dwellings.
- (g) Pursuant to South Carolina Code, the cost of public abatement under this chapter shall become a lien upon the real estate and shall be collectable in the same manner as municipal taxes.

**Sec. 10-2. Code official duties and powers.**

- (a) *In general.* The building code official, his deputies and designees, or other appropriately appointed official administering or enforcing codes regulating buildings, and constructions services (hereinafter code official) shall enforce the provisions of this Code. If a code official determines that any of the provisions of any division of this chapter are being violated, he shall enforce the requirements of the ordinance by any and all lawful means. The code enforcement officer is not required to warn a violator before the issuance of an ordinance summons or the institution of enforcement procedures. The code enforcement officer may invoke a single course of enforcement or parallel courses of enforcement in his discretion as the exigencies of the circumstances demand.
- (b) *Administrative and interpretive authority.* The code official, with the consent of the administrator, shall have authority as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and procedures; to interpret and implement the provisions of the applicable codes; to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this Code, or of violating accepted engineering methods involving public safety.

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- (c) *Inspections.* The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this Code. The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority. The code official shall issue all necessary notices or orders to ensure compliance with this Code. The code official shall keep official records of all business and activities of the department specified in the provisions of this Code. Such records shall be retained in the official records as long as the building or structure to which such records relate remains in existence, unless otherwise provided for by other regulations.
- (d) *Right of entry, permissive and by warrant.*
- (1) The code official shall, after proper presentment of identification and notification, have the right and authority to go onto the grounds of any premises within the city at any reasonable time for the purpose of making inspections to ascertain if the premises are in compliance with this chapter.
  - (2) The code enforcement officer, city health officer, or any other appropriate city official shall, after proper presentment of identification and notification, have the right and authority to enter premises after receiving permission from a responsible person within the city at any reasonable time for the purpose of making inspections to ascertain if the premises are in compliance with this chapter.
  - (3) If any responsible person owning or residing in the premises shall refuse to allow the city official to enter onto any grounds or enter into any premises in the city for the purposes of conducting the inspection as provided in this section, the city official shall make no entry, but shall withdraw and make application to the municipal judge for an administrative search warrant to be issued.
  - (4) An administrative search warrant can be obtained if there is a showing that reasonable administrative or legislative standards are in place for the issuance of the administrative warrant and the conduct of the search. For the purposes of establishing reasonable standards, and for securing an administrative search warrants, the requesting official must affirm that:
    - a. The relevant codes, regulations or statutes are in place pertaining to the property;
    - b. The requesting official has attempted peaceful entry or has sought permission to enter for the limited purpose of code inspection;
    - c. Permission has been denied;
    - d. There exist facts and circumstances that lead the affiant to believe, based upon his education, training or experience, that code violations exist that could impact fire laws, or could pose imminent danger to the occupant;
    - e. The stated object and purpose of the search must be adequately specific so that the reasonableness of the scope of the search is not expanded past regulatory purposes; and
    - f. The search warrant shall not be used as a pretext for a criminal search.
- (e) The municipal court judge for the city is hereby authorized to issue administrative search warrants to allow the code enforcement officer, city health officer, or any other appropriate city official to enter any premises within the city under the terms and conditions as deemed by the municipal court judge.
- (f) A law enforcement officer must accompany the official to the premises to assist in the safer execution of the administrative search warrant under the provisions of this section.

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- (g) It shall be unlawful for any person having control of any premises for which an administrative search warrant has been issued to prohibit the entry onto the premises by the person as authorized.

**Sec. 10-3. Vacant and boarded up structures.**

- (a) The building official may order a property owner to board up a vacant or uninhabited structure upon finding that the unsecured structure poses a threat to public health, safety or welfare. The order may be appealed according to the procedures described within this ordinance.
- (b) Whether by administrative order or voluntary action, an owner shall ensure that the building is boarded in compliance with the standards for boarding a vacant building, as enforced by the building inspector using the standards set forth in the International Property Maintenance Code.
- (c) *Trespass notice.* The code official may require the owner of the vacant building and boarded up structures to post "No Trespassing" signs on the property, and require the owner to participate in the city's trespass authorization program with the city police department authorizing the department to enforce no trespassing on the premises.
- (d) *Violations.*
- (1) It shall be unlawful for any person to fail in performing owner responsibilities in maintaining vacant structures.
  - (2) It shall be unlawful for an person to board up a vacant building in any manner except as required by the building official, according to standards of code.
  - (3) It shall be unlawful for any person to fail to post "No Trespassing" signs on vacant and boarded up property and fail to participate in the trespass program, as required herein.

**Secs. 10-4—10-20. Reserved.**

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FOOTNOTE(S):

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DIVISION 1. GENERALLY

***DIVISION 1. GENERALLY***

Sec. 10-21. Definitions.

Sec. 10-22. Nuisances.

Sec. 10-23. Other nuisances.

Sec. 10-24. Reporting emergencies and emergency action.

Sec. 10-25. Nuisances prohibited and unlawful.

Sec. 10-26. Institution of criminal process and penalty.

Sec. 10-27. Public abatement; notice, service.

Sec. 10-28. Appeal procedures; hearing.

Sec. 10-29. Liability for costs.

Sec. 10-30. Reserved.

**Sec. 10-21. Definitions.**

As used in this article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

*Abate* means repair, replace, remove, destroy or otherwise remedy the condition in question by such means, in such time, in such a manner and to such an extent as the enforcement officer or hearing committee shall determine to be in the best interest of the public, taking into account all facts and circumstances.

*Business days* means Monday through Friday.

*Enforcement officer* means a law enforcement officer, code enforcement official or city employee or official as may be designated in writing by the city administrator or chief of police to enforce the provisions of this division.

*Event promoter* or *promoter* means generally any person who conducts, manages, promotes, organizes, aids or solicits attendance at a commercial or noncommercial special event. An event organizer may also referred to as an event promoter.

*Graffiti* means any unauthorized inscription, word, figure, painting or other defacement that is written, marked etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization.

*Hearing board: Three persons* means city administrator, and two designees of the city.

*Industrial wastes* means all liquid and water-borne solid, liquid or gaseous wastes resulting from industrial manufacturing, food processing operation, processing any natural resource or mixture of such wastes with water or domestic sewage.

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*Person* means any landlord, property owner, manager, lessee, tenant, or individual, group, association, corporation, partnership, trust, estate or receiver having the capacity to sue or be sued.

*Premises* means any building, lot parcel, real estate, or land or portion of land whether improved or unimproved, occupied or unoccupied, including adjacent parking.

*Public nuisance* means as determined by an enforcement officer based upon the facts and circumstances found after reasonable inquiry, investigation or upon citizen report, those conditions or events which constitute an unreasonable interference with rights of the public in general, and where, in a public place, or where the public congregates, or where the public is likely to come within the range of influence through the senses, a person unlawfully does an act or omits to perform a duty, which act or omission does any one or more of the following:

- (1) Annoys, injures, subverts or endangers the public's order, economy, resources, safety, health, welfare, comfort, repose or offends public decency;
- (2) Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any waters or public places or way;

*Structure* means anything constructed, built or planted upon, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which structure requires location on the ground or is attached to something having a location on the ground.

**Sec. 10-22. Nuisances.**

(a) *Nuisances affecting public health.* The following are hereby declared to be nuisances affecting public health:

- (1) All decayed or unwholesome food products or food waste not properly contained either inside or outside for more than 24 hours before pickup;
- (2) Reserved.
- (3) All pools of stagnant water or vessels holding stagnant water in which mosquitoes can breed, excluding required retention ponds;
- (4) Swimming pools which either (i) are empty, excluding such pools that are completely and effectively covered, or (ii) contain liquids and/or debris which are not bacteriologically, chemically or physically safe for swimming or other intended uses;
- (5) Animal carcasses not buried or disposed of in a lawful and sanitary manner within 24 hours after its death;
- (6) Leaking septic tanks or sewer lines or other sewage existing in an unsanitary manner;
- (7), (8) Reserved.
- (9) Deliberate placement or discharge of into any part of a stormwater drainage system of: untreated sewage, sewage solids, process wastewater, refuse, explosive or combustible liquid, solid or gas, oils, greases, industrial water or other polluted water except where a federal, state or local permit for connections, discharge or disposal has been obtained prior to the event; or waters or wastes containing toxic or poisonous wastes to constitute a hazard to humans, plants or animals or to cause corrosion, discoloration or deposition on real or personal property; or any solid or viscous substances in such quantities or of such size capable of causing obstruction to

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the flow in the stormwater drainage system or other interference with the proper operation of the drainage system of the city.

- (b) *Nuisances offending public decency, peace and order.* The following are hereby declared to be public nuisances affecting public decency, peace and order, whether such violations are of an intermittent, cyclical, continual, reoccurring or constant nature; when the responsible party generates, enables, or contributes to the occurrence of the unlawful behavior by an absence or failure of property management policy or practice, absence or failure of control over the property, absence or failure of supervision of guests or invitees, absence or failure of security measures.
- (1) Any structure, whether commercial or residential, where gambling devices, slot machines, punch boards and other such contrivances of similar character involving any elements of chance as a consideration or any type of gambling, bookmaking, wagering or betting is carried on, and all gambling equipment, except where such specific form of gambling is permitted by applicable law;
  - (2) Any structure, whether commercial or residential, operated as a bawdy house, house of assignation, place of prostitution or used and maintained for the commercial or criminal purposes of unlawful sexual activity in violation of federal, state or local law;
  - (3) Any structure, whether commercial or residential, where intoxicating liquors are manufactured, sold, bartered or given away in violation of federal, state or local law, or where intoxicating liquors kept for sale, barter or distribution in violation of federal, state or local law, and all liquors, bottles, kegs, pumps, bars and other property kept at and used for maintaining such a place;
  - (4) Any structure, whether commercial or residential, where acts of sale, possession or distribution of controlled substances occur in violation of federal, state and local law;
  - (5) Any structure, whether a commercial operation or a residential use, where municipal code violations, breaches of the peace, disorderly conduct or offences against the person found in Chapter 3, Title 16 of the South Carolina Code of Law, Offences Against the Public Peace, Morals and Welfare found in Title 9 of the Code of Ordinances of the City of Mullins occur with disproportionate frequency or intensity that they require an excessive public safety response cost. *Excessive public safety response* means the reasonable deployment of three or more law enforcement officers to the scene at any one time, or the need for public safety personnel or emergency vehicles, or code enforcement or public works equipment or personnel due to an observation or report of public disturbances, or public health/safety or code violations at the location of the structure when compared to the frequency or intensity of law or regulation enforcement required at other similarly situated structures:
    - a. For purposes of subsection (5) only, a commercial operation is defined as activity in which goods or services are exchanged for money or barter, or the rental or lease of accommodations for any length of time less than 30 days; a residential use is defined as single-family residences or multifamily residences. It is the intent of this section that commercial operations shall be held responsible for the acts or commission which generate, enable or contribute to the requirement of frequent or intensive law enforcement action due to a management policy or practice, personal conduct, lack of control or supervision, absence or ineffectiveness of security or other factors. When such a management policy or practice, personal conduct, lack of control or supervision, absence or ineffectiveness of security or other factors are identified by law enforcement as generating, enabling or contributing to the disproportionate need for frequent or intensive law enforcement action, notice shall be provided to the commercial operation; such notice

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shall identify with particularity the management policy or practice, personal conduct, lack of control or supervision, absence or ineffectiveness of security or other factors that are generating, enabling or contributing to the frequency and intensity of unlawful behavior, and that further occurrences may result in a declaration of a public nuisance. If, after notice, the management policy or practice, personal conduct, lack of control or supervision, absence or ineffectiveness of security or other factors that are generating, enabling or contributing to the frequency and intensity of unlawful behavior are not changed or modified, the owner, lessee, renter, management or the person in control, may be held responsible for the maintenance of a public nuisance and the structure or private property may be declared a public nuisance.

- b. For purposes of subsection (5) only, a residential use is defined as any residence in which a family or individual or individuals reside. It is the intent of this section that owners, lessees or renters of the property shall be held responsible for the conduct of the residents, invitees or guest that generate, enable or contribute to the requirement of frequent or intensive law enforcement action. When conduct is identified by law enforcement as generating, enabling or contributing to the disproportionate need for frequent or intensive law enforcement action, notice shall be provided to the owner, lessee or renter; such notice shall identify with particularity the conduct that is generating, enabling or contributing to the frequency and intensity of unlawful behavior, and that further occurrences may result in the declaration of a public nuisance. If, after notice, the conduct that is generating, enabling or contributing to the frequency and intensity of unlawful behavior is not changed or modified, the owner, lessee, renter, management or the person in control, may be held responsible for the maintenance of a public nuisance and the structure declared a public nuisance.
- (6) Any overgrown, uninhabited, undeveloped or vacant land, lot or property not licensed or zoned for camping that has been identified by law enforcement as an area used by persons other than the owner as a area to inhabit or camp, or any overgrown, uninhabited, undeveloped or vacant land, lot or property used by persons as an area to flee or evade police upon approach, or used to avoid detection or investigation by law enforcement without regard to the time of day or night regarding such conduct, as identified by a citizen or police reported incident level of more than two times in a 60-day period.
- (c) *Nuisances affecting public welfare and safety.* The following are hereby declared to be public nuisances affecting public welfare and safety:
  - (1) All trees, hedges, signs or other obstructions, or any portion of the same, so located on private property which prevent persons driving vehicles approaching an intersection of streets from having a clear safe view of traffic approaching such intersection, pursuant to Code of Ordinances, Appendix A, §§ 204.99 and 910.15;
  - (2) All trees, hedges, signs or other obstructions, or any portion of the same so located on private property which prevents the clear and unobstructed view of a fire hydrant, fire department connection or other fire protection device, or directional or identification signage pertaining to the above, from a public way;
  - (3) Any obstruction, erosion or depression which poses a potential hazard to vehicles or pedestrians using a right-of-way on private property where the public is invited or permitted to traverse for commercial purposes;
  - (4) All wires, strings, ropes or lighting contrivances over streets, alley or public grounds which are not authorized or permitted by the city or which are strung so that the lowest portion is less than 13½ feet above the surface of the ground;



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- (5) All explosives, flammable liquids and other dangerous substances stored in any manner, in any amount other than that manner or amount permitted by law;
  - (6) All hanging signs, awnings, canopies and other similar structures over the streets or sidewalks so situated or constructed as to endanger public safety or to be contrary to ordinance;
  - (7) Any motor vehicle that is unregistered, inoperable, derelict or abandoned on any highway or right-of-way, or other public or private property, unless such vehicle is stored inside of a building or protected from the elements by way of a complete covering;
  - (8) Any abandoned or discarded icebox, refrigerator, ice chest or other type of air-tight container whose door, lid or other closing devise has not been removed.
  - (9) Any tents, trailers, structures, cooking devices, appliance, chairs, tables, coolers or other objects used in impromptu, unpermitted or unmanaged outdoor events or gatherings in a required parking area or landscaped area of a business license holder, or the site of any short-term residential rental, unless that such outdoor events that are specifically permitted through legislative or administrative action, or sponsored by the business license holder in compliance with regulations governing such outdoor events.
- (d) *Nuisances affecting public economy.* The following are hereby declared to be public nuisances affecting the public economy:
- (1) All structures bearing graffiti, to be abated by applicable law;
  - (2) All structures in violation of the International Property Maintenance Code, as adopted and all structures, for a period of one month, which remain unoccupied and boarded up, and whose exterior finish is destroyed, decayed, dilapidated or deteriorated in violation of the International Property Maintenance Code, as adopted, provided however, unoccupied structures shall not be considered a public nuisance affecting public economy if the building exterior is weather tight and maintained for purposes of appearance and security according to the International Property Maintenance Code, and the material which secures the building is compatible with the exterior in appearance, color, texture and design, and the premises are kept in compliance with all applicable building, property maintenance, zoning, and land use laws;
  - (3) All businesses or commercial enterprises operating without a valid, current and displayed business license;
  - (4) All premises providing habitation that are found not in compliance with applicable licensing, zoning, land use laws and adopted codes;
  - (5) All business with an outstanding arrearage of applicable city liens, taxes, fees, charges or assessments;
  - (6) All premises which originate false fire or burglar alarms, as defined by applicable law.

**Sec. 10-23. Other nuisances.**

The enumeration of specific nuisances in this division shall not be deemed to make lawful any other act or condition declared to be a nuisance by any other city ordinance, state law, federal law, or court decision.

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**Sec. 10-24. Reporting emergencies and emergency action.**

Any person who directly observes a nuisance posing an emergency threat to the public health or safety or to the environment shall immediately report the incident to the Mullins Police Department and shall provide any information requested by the law enforcement officer needed to investigate or abate the potential emergency. If any nuisance exists in such a condition so menacing to the public health, peace or safety that it is necessary that it be summarily abated, the city enforcement officer, after consultation with and concurrence from the city administrator may proceed to abate the nuisance without a hearing.

**Sec. 10-25. Nuisances prohibited and unlawful.**

No person shall create any public nuisance in the city, and no person shall by inaction permit a public nuisance to occur or continue on any real property under such person's control, whether by recorded or unrecorded instrument or permission. Nor shall any person permit a public nuisance to occur involving any personal property under such person's control.

**Sec. 10-26. Institution of criminal process and penalty.**

The public nature of a public nuisance must be made by an enforcement officer or other appropriate governmental official. Enforcement of this chapter's provisions may be accomplished upon the institution of criminal process by way of uniform traffic ticket, municipal ordinance summons or warrant made only by a law enforcement officer or appropriate government official. Each day of violation constitutes a separate misdemeanor offence, subject to a fine up to \$500.00 fine and/or up to 30 days' imprisonment for each offense. In its discretion, the city may elect to use other applicable Code sections pertaining to remediation, abatement or offences.

**Sec. 10-27. Public abatement; notice, service.**

- (a) If a person fails or refuses to discharge the duty imposed by section 10-25, the city may concurrently serve an administrative notice to abate a public nuisance upon the owner or occupant and demand that compliance must be achieved within the time specified in the notice.
- (b) The city shall determine the individual, firm or corporation or lien holder who, from the records in the county tax assessor's office, appears to be the titled owner or lien holder of the property and cause a written notice of public nuisance to be served on such individual, firm or corporation or lien holder by:
  - (1) Personal service as attested to by affidavit of service; or by
  - (2) Copy mailed to such owner or lien holder at such place or address by United States certified mail return receipt requested; or
  - (3) The city shall cause a copy of the aforesaid notice to be posted at such structure, location or premises, which shall serve as notice to the public.
- (c) The notice to abate the nuisance shall inform the person of the specific nuisance with citation to this section, provide names, numbers and addresses for contact with the city; inform them of their rights to appeal and that, upon the day after the time specified in the notice, the city may abate the condition and assess and administrative fee and all public costs, including attorneys fees and costs as a lien against the property.

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**Sec. 10-28. Appeal procedures; hearing.**

- (a) *Appeal of finding of nuisance:* The responsible person, owner or occupant, or the lien holder of the property, may make a written demand to the administrator for a hearing on the question of whether a public nuisance in fact exists. This appeal stays the public abatement until such time as the matter is heard and decided by the hearing board. The appeal must be received by the administrator before the time specified in the notice. The appeal may be faxed or emailed to the administrator. The written demand shall include a contact number, either phone or facsimile in order for the person to be informed of the hearing location, date and time. It shall not be a defense to the determination that a public nuisance exists that the property is boarded up or otherwise enclosed. The board may amend or modify the notice to abate the public nuisance, or when appropriate under the facts presented, extend the time for compliance by the owner to such date as the majority of the appeals board may determine. The decisions of the board are final, and shall be delivered orally to the appellant on the date of the hearing, and then, if requested, written and mailed to the address provided.
- (b) *Failure to appeal:* Failure to timely appeal constitutes a waiver of the right to appeal the existence of a public nuisance.
- (c) *Appeal of assessment:* Further, in those instances where the nuisance has been abated by the city after the required notice of subsection 10-27(b), the owner or occupant of the property who has been served with a notice of assessment pursuant to section 10-29 of this article may make a written demand to the manager for a hearing to review the cost of the abatement. This appeal stays the attachment of the lien until such time as the matter is heard and decided by the hearing board. The appeal of the assessment must be received by the administrator within five business days of the appellant's receipt of the notice of assessment. The written demand shall include a contact number, either phone or facsimile in order for the person to be informed of the hearing location, date and time. In an appeal of the assessment of costs, no testimony shall be permitted on the issue of the existence of the public nuisance. The decisions of the board are final, and shall be delivered orally to the appellant on the date of the hearing, and then, if requested, written and mailed to the address provided.
- (d) *Failure to appeal assessment:* Failure to timely appeal constitutes a waiver of the right to appeal the assessment of costs.
- (e) *Notice of the hearing:* By way of the contact numbers provided in the written demand, the administrator shall orally advise the owner of the location, date and time of the hearing. Notice of the hearing must be provided at least two business days prior to the hearing, excluding city recognized holidays and weekends.
- (f) *Time and manner of hearings:* The hearings as allowed under this section shall be held as soon as practical but in any event no later than five business days after receipt of the appeal, excluding city recognized holidays and weekends. The hearing shall not be conducted under the strict rules of evidence. The hearing shall be informally conducted by the administrator, and two other designees. The enforcement officer shall present the facts and circumstances that resulted in a conclusion that a public nuisance existed. The owner, occupant or lien holder, or their agents, representatives or attorneys shall be given the opportunity to present evidence to the appeals board in the course of the hearing, and shall have the right of cross examination of the enforcement officer. When the nuisance has been abated by the city and the person has appealed the assessment of the administrative fee and actual costs, the appeals board shall have discretion to waive the administrative fee or the public cost of abating a nuisance, in whole or in part, if, in the course of the hearing reviewing the decision, the appeals board finds that justice and equity require such waiver or that any of the following did not conform to the provisions of this article:

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- (1) The notice to remove the nuisance;
- (2) The work performed in abating the nuisance;
- (3) The computation of charges.

**Sec. 10-29. Liability for costs.**

In the event of refusal or neglect of a person to cause such nuisance to be abated in the manner and within the time provided herein, it shall be reported to the manager. The manager may, in a reasonable and prudent manner, direct the expenditure of public resources to abate the nuisance condition. Fee and costs shall be established by ordinance. The cost of abatement shall include an administrative assessment, title search costs, lien filing costs and any attorney's fees and costs made necessary when the public is compelled to collect through legal process, in addition to the actual cost of labor and materials expended in public abatement. The person shall be served with a notice of assessment within seven days of the completion of the abatement. The notice of assessment shall include the administrative fee and a statement of public cost, attested to by affidavit, and shall be issued and served, as provided for in section 10-27(b), upon the person responsible for payment who shall make payment within 30 days of the date of service. Upon the expiration of the 30-day period, if the amount has not been paid in full or contested before the administrator, the administrator may cause a lien in that amount to be filed with the county clerk of court and with the finance director of the city. The lien shall be of record in the county courthouse and the office of the finance director in the book of liens, until paid or recovered, or otherwise released. Collection of the lien by way of foreclosure may be instituted by the city attorney on behalf of the city.

**Sec. 10-30. Reserved.**

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DIVISION 2. RANK GROWTH, YARD WASTE, DEBRIS AS PUBLIC NUISANCE; ABATEMENT

***DIVISION 2. RANK GROWTH, YARD WASTE, DEBRIS AS PUBLIC NUISANCE;  
ABATEMENT***

Sec. 10-31. Definitions.

Sec. 10-32. Imposition of civic duties.

Sec. 10-33. Prohibited conditions and/or acts.

Sec. 10-34. General published notice.

Sec. 10-35. Initial individual complaint; method of service; contents of complaint.

Sec. 10-36. Unaddressed or recurrent violations; administrator's declaration.

Sec. 10-37. Public abatement; appeal of assessment.

Sec. 10-38. Costs.

Secs. 10-39, 10-40. Reserved.

**Sec. 10-31. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Any and all other objectionable, unsightly or unsanitary matter of whatever nature* shall apply to objects and matters not included within the meanings of the other terms used in this article, which are liable to produce or tend to produce an unhealthy, unwholesome or unsanitary condition to the premises within the general locality where the same are situated.

*Blight* means the physical deterioration of property that results in the reduction in value of that property, thus affecting the value of nearby property.

*Debris* includes material and objects that are placed placed outside of the house, barn or shed that is composed of litter, rubbish, trash, and any putrid, unhealthy or unwholesome part of any dead animal, or waste parts of plants, vegetables or animal matter in any quantity, and the accumulations of plant cuttings or trimmings, the remains of fallen trees, any construction materials that are unstacked and exposed to the elements, parts of vehicles or other machinery, broken furniture, furniture that is not designed to be weather proof and is exposed to the elements, large house hold appliances such as refrigerators, freezers, trash compactors, washing machines, dryers, commodes, and the like even if intended as art of some other use, accumulations of bottles, cans, glass, ashes, paper or paper products, small pieces of scrap iron, wire, metal articles, small household appliances, bric-a-brac or cement, broken concrete, broken glass, broken plaster and all such trash or abandoned material unless it is kept in approved covered bins or appropriate containers as a means of temporary retention until appropriate disposal.

*Lot or parcel of real estate* means, in addition to those grounds within their respective boundaries, all lots or parcels of ground lying and being adjacent thereto and extending beyond the property line of any such lot or parcel of real estate to the curblineline of adjacent streets where a curblineline has been, and 14 feet beyond the property line where no curblineline has been established.

*Rank growth/weeds* means grass which has grown to more than 12 inches in height, and all other vegetation at any stage of height or maturity which is uncultivated, and has the potential to harbor, conceal or invites rodent, pests or vermin, debris, or to emit noxious odors; or constitute a fire or traffic

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safety hazard; or produce an unhealthy, unsightly, unwholesome, or unsanitary condition contributing to neighborhood blight.

*Responsible person* means record fee title owners, beneficiaries of any trust holding title to any real estate, trustees, conservators, guardians, executors, administrators, individual(s), partnership(s), firm(s) or corporation(s) having a legal or equitable interest in, owning, leasing, occupying, controlling, or possessing in any manner any lot or parcel of real property as reflected in the public records of Marion County, specifically including rights acquired by note, mortgage, lien or other publicly recorded document that provides for the right of entry to preserve an asset.

*Yard waste* means all trees, all shrubbery, hedge trimmings, tree limbs, branches and trimmings, plant and shrub trimmings, leaves and limbs, yard cleanings, and other similar items which are not cultivated nor cared for by persons owning or controlling the premises.

**Sec. 10-32. Imposition of civic duties.**

- (a) To comply with the provisions of this article to preserve property values, prevent blight and enhance the quality of life for all citizens, all responsible persons are under an affirmative civic duty to cut or remove as often as may be necessary all rank growth, yard waste, debris and any and all other objectionable, unsightly or unsanitary matter of whatever nature from his lot or parcel of real estate and the abutting public way so no public nuisance shall exist or continue, and so that the public health, safety and welfare will not be harmed.
- (b) As to plant growth, the prohibitions set forth shall not apply to living trees, cultivated bushes, shrubs or flowers; any intentionally cultivated agricultural vegetation; any vegetation intentionally cultivated or maintained in a clearly defined and physically discrete area for landscaping, ornamental or other aesthetic purposes as a representative within a diverse planting plan, or land subject to or zoned as farming, forestry practices, timbering or wildlife management.
- (c) All responsible persons and commercial maintenance firms and landscapers are under an affirmative civic duty to place yard waste along the roadways so as not to obstruct the normal flow of traffic, and to cut tree trunks and limbs to four feet or less, when yard waste removal is done by the city. Commercial [establishments] are required to remove and/or haul from such premises promptly and dispose of in an appropriate manner.

**Sec. 10-33. Prohibited conditions and/or acts.**

- (a) It shall be unlawful for any responsible person to permit or maintain rank growth, the accumulation of yard waste, debris or any and all other objectionable, unsightly or unsanitary matter of whatever nature on the lot or parcel of real estate property and the abutting public way for which they are responsible within the city.
- (b) It shall be unlawful for any responsible person to allow or permit the existence of any tree on such lot or parcel of real estate premises when such tree is dead or damaged to such a degree that the condition poses a serious threat to that lot, or to any abutting lot or adjacent public right-of-way, and such condition is hereby declared to be a nuisance in the city.
- (c) It is unlawful for any responsible person, owner, agent, or person in possession of any premises to refuse to allow the city employees or contracting agents to enter upon the premises for the purpose of abating the nuisance prohibited in this article.
- (d) Each day of violations shall be a separate violation.

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**Sec. 10-34. General published notice.**

A general notice in January of each year shall be accomplished by publication in a newspaper of general circulation within the city, stating substantially the following: A civic duty to remove yard waste, rank growth and debris, and maintaining one's yard is property maintenance, which is required under law, and shall be done year round as needed, and that upon the first complaint, the maintenance shall be done within seven days of the complaint. Any failure to perform the duty, or upon any second violation shall result in the matter recurrent violations being declared recurrent by the city administrator, who shall order that:

- (1) The general public notice and the initial complaint are sufficient notice to any person to keep their grounds free from rank growth, the accumulation of yard waste, debris or any and all other objectionable, unsightly or unsanitary matter of whatever nature;
- (2) The current and subsequent violations be addressed expeditiously without need of further notice except for the posting of the property by hang tag on the premises or posting the complaint on the premises; and
- (3) The work will be done at public expense, and the enhanced costs of same shall be set forth, and if incurred by the public, the costs shall be assessed against the property in the manner provided by law, and shall be as lien upon the property to be collected in the same manner as taxes.

(Ord. No. 2013-7, 1-22-13)

**Sec. 10-35. Initial individual complaint; method of service; contents of complaint.**

- (a) Upon finding an initial violation, the enforcement officer shall determine the responsible persons, and shall serve notice of the violation in the form of an administrative complaint on the responsible persons. The initial individual complaint shall be served by any one of the three following described methods:
  - (1) By a written notice sent by United States regular mail, postage prepaid, to the last known person owning, leasing, occupying or controlling the real estate as determined by the name on the water bill or business license, and as to the owner, the notice may be addressed to the address shown on the most recent tax bill for the real estate; or
  - (2) By a written notice personally delivered by the code officer or such other authorized city representative to the person owning, leasing, occupying, or controlling the real estate, to be attested to by affidavit of service; or
  - (3) By posting or door tagging a written notice on the property of the person owning, leasing, occupying, or controlling the real estate upon which the violation exists.
- (b) The complaint shall state the property address, property tax map number from the county's public records, date of the inspection and shall require the responsible person to perform the abatement of the nuisance condition of rank growth, the accumulation of yard waste, debris or any and all other objectionable, unsightly or unsanitary matter of whatever nature within seven days after the notice has been mailed, served or posted on the property. The initial complaint shall provide that, upon failure to perform the duty imposed herein, the city, or its agent, may enter the property to abate the nuisance at public expense as set forth in the ordinance. A copy of any complaint or order shall also be filed with the Clerk of Marion County and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. The initial complaint shall inform that the failure to act upon the initial complaint or any subsequent violations after acting on the initial complaint shall result in the enforcement officer's completion of a title search, and petition to the administrator to declare that the passage of the ordinance, the published notice and service of the