

Chapter 12
NUISANCES

ARTICLE I. IN GENERAL

Sec. 12-1. Prohibited.

- (a) It shall be unlawful for any person to create, allow or maintain a nuisance on his premises or lot, or on any lot or premises occupied by him, or on any lot or premises belonging to another of which such person acts as agent or tenant.
- (b) The following acts or things, among others, are hereby declared nuisances, but such enumeration shall not be deemed to be exclusive: Making or creating noises of such a character as to be of actual physical discomfort to persons of ordinary sensibilities; allowing stagnant water, decaying animal matter, decaying vegetables or fruits, or anything causing offensive odors or whatsoever is dangerous to human life or health to remain on such lot or premises; allowing anything whatsoever which renders the air, food or water or other drink unwholesome to remain on such lot or premises.
- (c) Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Sec. 12-2. Accumulations of offensive matter.

The accumulation of any animal or vegetable, substance or of other offensive matter in the form of rubbish, garbage or offal, in or upon any lot, street or highway, or in or upon any public or private place, and allowing the same to remain until it shall become hazardous to health, is hereby declared to be a nuisance.

Sec. 12-3. Accumulation of junk and trash prohibited.

It shall be unlawful to allow to accumulate on any premises or in the rear of stores, factories or residences, old fixtures, junk, trash or any other material which tends to keep the premises wet, exclude the sun and catch and favor the accumulation of filth.

Sec. 12-4. Derelict vehicles on private property.

- (a) Prohibited. It shall be unlawful for any owner of any property in the City to allow a derelict vehicle to remain on property which he owns, or which he is in control of for

more than fifteen (15) days after receiving notice that a derelict vehicle is located thereon.

(b) Derelict vehicle means a motor vehicle:

- (1) Which does not have a current motor vehicle license and on which property tax has not been paid; or
- (2) Which is partially dismantled or wrecked or incapable of self-propulsion or being moved in the manner for which it was originally intended; or
- (3) Whose registered and legal owner of record disclaims ownership or releases his rights thereto; or
- (4) Which has been left on private property without the consent of the owner, occupant or lessee thereof for a period of time exceeding twenty-four (24) consecutive hours.

(c) Exceptions.

- (1) This section shall not apply to a motor vehicle located on a licensed new or used car lot, commercial garage, wrecker or storage facility, or stored in a three (3) or more sided garage or building;
- (2) An exception will be made for maintenance, repair, or restoration of motor vehicles not to exceed one (1) in number by the property owner for a period not to exceed three (3) months. The Housing Services Division of the City shall make available tags to be placed on the vehicle to be restored or repaired, which shall specify the date of commencement and deadline of the restoration or repair.

(d) Tagging of derelict vehicles. When any motor vehicle is derelict and the City has provided the vehicle owner the required (15) day notification to remove the vehicle, the City shall cause a tag designated same to be placed on the vehicle, which shall be notice to the owner, the person in possession of the motor vehicle, or any other lien holder that such vehicle, or any lien holder that such vehicle is considered to be derelict and may be towed seven (7) days after the tag has been placed on the vehicle.

If the owner of the vehicle is known, the vehicle shall be tagged and the person whose name the vehicle is last registered shall be notified by regular mail at their last known address that the vehicle is derelict and must be

removed within seven (7) days after the tag has been placed on the vehicle or the vehicle may be towed.

If the owner of the vehicle is not known, the vehicle shall be tagged and notice shall be given through the publication on one (1) occasion in a newspaper of general circulation in the county of Spartanburg, which shall be deemed as sufficient notice. Fifteen (15) days after publication, the vehicle is subject to being towed.

In all cases, the Housing Services Division shall store vehicles towed from private property for a period of thirty (30) days, if the owner claims the vehicle, the owner shall pay the cost of storage and towing. If a vehicle is unclaimed, it shall be disposed of and the proceeds of the sale applied to the costs of the towing and storage.

- (e) Violation of section. The City may at its option bring a summons in the municipal court against the owner for violation of this section.
- (f) Variances. The Community Development director shall consider any variance from the terms of this section for good cause.
- (g) Screening. Vehicles remaining on the property for repairs, maintenance, or restoration by the owner must be so located on the premises so as to not be readily visible from any public place. Grass and weeds shall not be allowed to grow in excess of eighteen (18) inches high around the vehicle(s) nor can the vehicle(s) be used for storage or contain household rubbish or debris.

Secs. 12-5--12-25. Reserved.

ARTICLE II. WEEDS, BRUSH AND DEBRIS

Sec. 12-26. Definitions.

- (1) Vacant lot: Any undeveloped lot, tract or parcel in the City.
- (2) Occupied property: A lot containing any structure.
- (3) Wooded lots: Any property containing trees of a size and density that prohibits cleaning with a bush hog or mechanical cleaning equipment.

- (4) Unsafe lots: Lots having steep and difficult topography (gullies, ravines, swamps, etc.), as determined by the City Manager or other designated officer of the City.

Sec. 12-27. Duty of owners, etc., to keep property clean.

- (a) It shall be the duty of the owner, agent, occupant or lessee to keep exterior private property free of unsightly growth. This requirement applies not only to removal of loose litter, but to materials that already are, or become, trapped at such locations as fences and wall bases, grassy and planted areas, borders, embankments and other lodging points.
- (b) Owners, agents, occupants or lessees whose properties face on a City right-of-way shall be responsible for keeping up to, and including, the curb, gutter or street line free of unsightly growth.
- (c) It shall be the duty of every non-resident owner of a vacant lot or other vacant property to appoint a resident agent who shall have responsibility for keeping that lot or other property free of litter and unsightly growth.
- (d) If an owner, agent, occupant or lessee fails to remove unsightly growth and other debris from any private and public property, the City shall serve written notice to the owner or appointed agent to correct such violation.

Sec. 12-28. Removal required.

The owner, agent, occupant, lessee, or person in charge of any property in the City shall, upon notification by the City manager or other designated officer of the City, remove from such property the following conditions which are declared to be a menace to the public health and a nuisance:

- (a) Any weeds, brush, undergrowth or debris on any real property located within the City that grows to a height of eighteen (18) inches or more; or
- (b) Undergrowth or vines grown to such density as to constitute a haven for rats, snakes or other vermin; or
- (c) The conditions described in sections 12-2 and 12-3;
- (d) Any accumulation of trash, litter, debris, bottles, cans, bricks, concrete, scrap lumber or other building debris which is found on any real property.

Sec. 12-29. Guidelines for removal.

A lot less than one (1) acre shall be cleaned entirely. A lot greater than one (1) acre shall have a buffer cleared one hundred fifty (150) feet from an adjacent structure or public street.

Any property classified a wooded lot shall have a buffer of fifteen (15) feet cleared (remove undergrowth) along the property line adjacent to a structure. Unsafe lots will be cleared as determined reasonable.

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Sec. 12-30. Public utilities/railroads.

Public utilities and railroads must clear their rights-of-way no less than twice annually between the months of April and September.

Sec. 12-31. Alleys.

Owners and occupants of properties which abut an alley shall be responsible for clearing alleys up to the center point of such alley.

Sec. 12-32. Notification to remove.

Whenever it is made to appear to the City manager or any other designated officer of the City that the conditions set forth in section 12-28 exist on any real property within the City and are a menace to public health, or a nuisance, the owner, agent, occupant, lessee, or person in charge of the property shall be provided one notice by regular mail within any 12 month period, at the last known address, setting forth the provisions of Section 12-27. Included with that notice will be a summons to appear in court if the violations are not corrected within the time limits established. Thereafter, whenever the property is not in compliance to Section 12-28, the Community Development Director or a designated code enforcement officer is authorized to issue a summons to the owner, agent, occupant, lessee, or person in charge of the property. No further notices will be provided prior to the issuance of a summons within the 12 month period.

Sec. 12-33. Failure to comply with notice; objection removal or abatement; prosecution and/or removal by City.

- (a) If any person after receipt of the notice set forth in section 12-32 objects to the proposed removal or abatement set forth in the article, objection shall be presented in writing to the director of Community Development within five (5) days after the mailing of such notice. Once written notice of the decision of the director of Community Development is given, any person shall request a hearing before the Housing Board of Adjustments and Appeals. Failure to object and request a hearing shall be deemed to be a consent to the determination that the conditions of such property constitute a menace to public health or a nuisance.
- (b) Upon the failure or refusal of any persons so notified in section 12-32 to comply with the removal of weeds or removal of brush, undergrowth or debris from any real property, within fifteen (15) days from the date such notice was mailed and summons issued, the City may in that event then:
 - (1) Seek the issuance of a municipal ordinance summons and prosecute same; and/or
 - (2) Seek the issuance of a municipal summons for multiple violations after the annual notice.
 - (3) Proceed to remove weeds, brush, undergrowth or other debris or take other such corrective action at the cost of the lot owner in accordance with section 12-34.
- (c) Whenever it is made to appear to the City Manager or any other designated officer of the City that the conditions set forth in section 12-28 exist on any real property within the City and are a menace to public health, or a nuisance, the owner, agent, occupant, lessee, or person in charge of the property shall be notified by mailing at the last known address, a notice setting forth the provisions of section 12-27.

Sec. 12-34. Cost of removal; collection.

- (a) The City Manager may direct the city personnel and equipment to be used to correct nuisance violations, filing the cost of removal with the City's finance department.
- (b) In the alternative, the City Manager may solicit bids from independent contractors for the correction of nuisance violations, awarding the contract to the lowest bidder and submitting the cost to the finance division.

(c) The finance division shall prepare an invoice for the City's costs, sending a copy of the invoice to the violator which cost shall be a lien upon the real property upon which the costs were incurred.

(d) If the invoice is not paid within sixty (60) days, the City Finance Division shall prepare a statement of the City's costs of correcting the condition along with reasonable attorney fees and other costs and forward same to the Spartanburg County Tax Collector with a copy being forwarded by ordinary mail or other means to the property owner with the direction by the City Manager to the Spartanburg County Tax Collector to enter the lien and collect same as other City taxes.

(e) Upon receipt of this invoice, the Spartanburg County Tax Collector shall enter the costs and expenses in the tax records as a City tax lien and proceed to collect the costs in the same manner as City taxes pursuant to §5-7-80, et seq., §12-49-10, et seq., and §12-51-40, et. seq., S.C. Code Ann.

Sec. 12-35. Shrubs, etc. on property adjacent to street intersections interfering with view of vehicles.

(a) Prohibited. It shall be unlawful for owners, tenants or occupants of property contiguous or adjacent to intersections of streets to permit or maintain on such property or lot any trees, bushes, shrubbery or other plant or any sign or structure which obstructs the view of the operators of motor vehicles or which creates a dangerous or hazardous condition.

(b) Exception. This section shall not be applicable to intersections in which traffic is controlled by a traffic-control signal exhibiting green, yellow and red signals.

(c) Notification of owners to cut or remove. The owners, tenants or occupants of such property shall, within ten (10) days after receiving written notice from the City Manager or other duly authorized agent of the City, remove such trees, bushes, shrubbery or other plant or sign or structure of any type as referred to in subsection (a) so that the vision of persons operating motor vehicles entering intersections of streets will not be obscured or obstructed thereby, and so that the approach of other vehicles may be readily observed.

(d) Failure of owner to comply with notice; removal by City; report and collection of cost. Upon the failure of the owner, tenant or occupant to comply with the notice of the City Manager or other duly authorized agent of the City

within ten (10) days, under the provisions of subsection (c) or when such property is vacant and the owner thereof cannot be found in the City, the City Manager or other duly authorized agent of the City shall cause such weeds, hedges, shrubs or other vegetation to be cut or removed so that they will not obscure or obstruct the vision of persons operating motor vehicles entering such intersections, and will not prevent the ready observation of the approach of other vehicles, and shall report the cost thereof to the collector of City taxes, who shall add the same to the taxes assessed on such property for the next ensuing year, and the same shall become a part thereof and shall be collected in the manner prescribed by law for the collection of taxes.

- (e) Failure to remove to constitute misdemeanor. Any owner, tenant or occupant of property who shall fail or refuse to remove or cut weeds, hedges, shrubs or other vegetation therefrom, after receiving notice from the City Manager or other duly authorized agent of the City, and within the time prescribed in subsection (d), shall be guilty of a misdemeanor.

Secs. 12-36--12-50. Reserved.

ARTICLE III. MOSQUITOES

Sec. 12-51. 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:

Health officer means the City manager of the City of Spartanburg or his designee.

Sec. 12-52. Collections of water in which mosquitoes may breed prohibited.

It shall be unlawful for any person to have, keep, maintain, cause or permit within the City, any collection of standing or flowing water in which mosquitoes breed or are likely to breed, unless such collection of water is treated so as to effectively prevent such breeding as provided by this article.

Sec. 12-53. Collections of water defined.

The collection of water considered by Section 12-52 shall be held to be those contained in, but not limited to ditches, ponds,

pools, excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, troughs (except horse troughs in frequent use), urns, cans, boxes, bottles, tubs, buckets, defective house roof gutters, tanks of flush closets or other similar water containers.

Sec. 12-54. Methods of treatment.

The method of treatment of any collections of water that are specified in section 12-53, directed toward the prevention of breeding of mosquitoes, shall be approved by the health officer and may be any of the following:

- (1) Screening with wire netting of at least sixteen (16) meshes to the inch each way or any other material which will effectually prevent the ingress or egress of mosquitoes;
- (2) Complete emptying every seven (7) days of unscreened containers, together with their thorough drying or cleaning;
- (3) Using a larvicide approved and applied under the direction of the health officer;
- (4) Covering completely the surface of the water with kerosene, petroleum or paraffin oil once every seven (7) days;
- (5) Cleaning and keeping sufficiently free of vegetable growth and other obstructions, and stocking with mosquito-destroying fish; absence of half-grown mosquito larvae shall be evidence of compliance with this measure;
- (6) Filling or draining to the satisfaction of the health officer;
- (7) Proper disposal of tin cans, tin boxes, broken or empty bottles and similar articles likely to hold water.

Sec. 12-55. Mosquito larvae as evidence of breeding.

The natural presence of mosquito larvae in standing or running water shall be evidence that mosquitoes are breeding there. Failure to prevent such breeding within three (3) days after notice by the health officer shall be deemed a violation of this article.

Sec. 12-56. Right of entry of health officer.

The health officer shall enforce the provisions of this article and for this purpose, he, or any person acting under his authority, may at all reasonable times enter in and upon any premises within his jurisdiction.

Sec. 12-57. Persons responsible.

The person held under this article to be responsible for the correction of conditions on premises giving rise to or likely to give rise to the breeding of mosquitoes shall be the owner, and in his absence, the agent of the owner of the premises; provided, that any tenant causing or permitting such conditions without the consent of the owner or agent shall be held responsible. Where a trespasser or other person is known to cause or to have caused the condition without the consent of the owner, agent or tenant, then such person will be held responsible.

ARTICLE IV. CHRONIC NUISANCE PROPERTY

Sec. 12-58. Short Title. This Ordinance may be cited as the City of Spartanburg Chronic Nuisance Property Ordinance.

Sec. 12-59. Purpose

- (a) Chronic nuisance properties have a tremendous negative impact on the quality of life, safety and health of the neighborhoods where they are located. This chapter is enacted to remedy nuisance conducts that are particularly disruptive to the quality of life that repeatedly occur or exist at properties providing a process for abatement. This remedy is not an exclusive remedy available under any state or local laws and may be used in conjunction with other such laws.
- (b) Also, chronic nuisance properties are a financial burden to the City by the repeated calls for service by City personnel to the properties because of the nuisance conducts that repeatedly occur or exist on or adjacent to such property. This chapter is a means to ameliorate those conditions and hold accountable those person(s) responsible for such property.

Sec. 12-60. Scope. This chapter applies to all owners and occupants of private property which is the subject or the location of nuisance conditions or conducts which

require repeat service calls by the City.

Sec. 12-61. Definitions. For the purposes of this chapter, the following words or phrases shall have the meaning prescribed below:

- (a) Abate means to repair, replace, remove, destroy, or otherwise remedy a condition, which constitutes a violation of this chapter by such means in such a manner and to such an extent as the applicable City department director or designee determines is necessary in the interest of the general health, safety and welfare of the community.
- (b) Control means the ability to regulate, restrain, dominate, counteract or govern property, or conduct that occurs on a property.
- (c) Chronic nuisance property means property on which a combination of three (3) or more nuisance conducts occur or exist during any sixty (60) day period.
- (d) Drug-related activity means any unlawful activity at a property which consists of the manufacture, delivery, sale, storage, possession, or giving away of any controlled substance as defined by state law.
- (e) Nuisance conduct means and includes any activity, conduct, or condition occurring upon private property within the City that unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any member of the public; or will, or tend to, alarm, anger or disturb others or provoke breach of peace, to which the City is required to respond, including, but not limited to, the following:
 - (1) Any activity, conduct, or condition deemed as a public nuisance under any provision of the City Code;
 - (2) Any activity, conduct, or conditions that constitute a material violation of the City's Property Maintenance Codes and/or affect the life and safety of the public;
 - (3) Any conduct, activity or condition constituting a violation of any state law, including, but not limited to, prohibiting or regulating prostitution, gambling, controlled substances, drug-related activities, gang-

related activities, use of firearms; and/or

- (4) Any conduct, activity, or condition constituting disorderly conduct, or disturbing the peace, including, but not limited to, nuisance parties, gatherings on the property or adjacent sidewalks and streets.
- (f) Person(s) responsible for the property or Person(s) responsible means, unless otherwise defined, any person who has titled ownership of the property or structure which is subject to this chapter, an occupant in control of the property or structure which is subject to this chapter, a developer, builder, or business operator or owner who is developing, building or operating a business on the property or in a structure which is subject to this chapter and/or any person who has control over the property and allows a violation of this chapter to continue.
- (g) Person(s) means natural person(s), joint venture, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, officer or employee of any of them.
- (h) Premises and property may be used by this chapter interchangeably and means a private building, lot, parcel, dwelling, rental unit, real estate or land or portion thereof including property used as a residential or commercial property.
- (i) Rental unit means any structure or that part of a structure, including, but not limited to, single family home, room or apartment, which is rented, even if for no compensation, to another and used as a home residence, or sleeping place by one or more persons.

Sec. 12-62. Violation

- (a) Any property within the City of Spartanburg which is a chronic nuisance property is in violation of this chapter and subject to its remedies; and
- (b) Any person responsible for property who permits the property to be a chronic nuisance property shall be in violation of this chapter and subject to its remedies.

Sec. 12-63. Procedure

- (a) When a City department receives documentation confirming the occurrence of three (3) or more nuisance conduct violations within a sixty (60) day period on any property, such documentation shall be submitted to the City Manager and the City Attorney to make a determination whether it is a nuisance conduct enumerated in Section 12-61(c). Upon such a finding, the City Manager or his designee shall warn the person(s) responsible for such property and the tenants of the property, in writing by certified mail and by posting the property that the property is in danger of being declared a chronic nuisance property.
- (b) The warning shall contain:
- (1) the street address or legal description sufficient for identification of the property;
 - (2) a concise description of the nuisance conduct violations that exist, or that have occurred on the property;
 - (3) a demand that the person(s) responsible for such property respond to the City Manager or his designee within ten (10) days of service of the notice to discuss the nuisance conduct and create a plan to abate the chronic nuisance;
 - (4) offer the person(s) responsible an opportunity to abate the nuisance conduct giving rise to the violations; and
 - (5) a statement describing that if the nuisance is not abated, the matter would be subject to a hearing where it could be determined that the property would have to be vacated until the nuisance is abated and that any further violations may ultimately subject the parties to the Court imposing penalties and/or costs assessed up to Five Hundred Dollars (\$500) per day if the chronic nuisance property is not abated.
- (c) The City Manager or his designee shall serve or cause to be served such warning upon the person(s) responsible in accordance with the procedures set forth above.
- (d) If the person(s) responsible fail(s) to respond to the warning within the time prescribed, the City Manager or his designee shall issue a notice declaring the

property to be a chronic nuisance property and post such notice at the property. If the person(s) responsible fail(s) to respond to the issued infraction and/or continues to violate the provisions of this chapter, the matter shall be referred to the Hearing Officer for further action.

- (e) If the person(s) respond(s) as required by the notice and agree(s) to abate the nuisance conduct, the City Manager or his designee, and the person(s) responsible, may develop an agreed-upon action plan which would abate the nuisance conduct. If an agreed course of action does not result in the abatement of the nuisance conduct or if no agreement concerning abatement is reached, the matter shall be forwarded to an Administrative Hearing Officer for enforcement action. Provided, that in the event the City Manager or his designee or the Administrative Hearing Officer determines that the person(s) responsible has/have taken reasonable steps to abate the nuisance conduct, the Administrative Hearing Office shall not commence an enforcement action under this chapter, notwithstanding the continuance of the nuisance conduct.
- (f) Any Correction Action Plan should be in writing with the abatement of the nuisance conduct violation to be remedied within thirty (30) day of the date of the Corrective Action Plan or such other longer period as agreed to by the City.

Sec. 12-64. Administrative Hearing

In the event that the correction action has not been taken or the course of action does not result in abatement of the nuisance, the City Attorney or his designee may initiate an action before an Administrative Hearing Officer to abate the chronic nuisance conduct and/or seek alternative remedies under local or state laws and seek any other relief authorized by law.

The Administrative Hearing will provide for both parties to be heard and shall be conducted such that there is due process. The Hearing Officer shall not be bound by the strict rules of evidence.

Sec. 12-65. Remedies

If the Hearing Officer determines a property is a chronic nuisance property or in default of the Corrective Action Agreement pursuant to this chapter, the Hearing Officer may

order any of the following: (1) order the person(s) responsible to immediately abate nuisance conduct from occurring on the property; (2) in the event the property is rental property, the Court may order the person(s) responsible to cease renting or leasing the property or order that the tenant(s) vacate the property; (3) make any other order that will reasonably abate the nuisance conduct from occurring on the property including authorizing the City to take action to abate nuisance conduct from occurring on the property if other Hearing Officer's Orders are not complied with or do not abate the nuisance conduct on the property, including, but not limited to, the City's vacating the property and providing that the costs of such City Action are to be paid for by the person(s) responsible for the property.

In the event that the property is a rental unit, the Hearing Officer may order the person(s) responsible to cease renting or leasing the property and property will be posted as such.

Sec. 12-66. Penalties and fines for failure to comply with the Hearing Officer's Order.

In the event the Hearing Officer's Order has not been complied with within thirty (30) days, the City Prosecutor may initiate an action to abate the chronic nuisance conduct whereby the Court may impose penalties of up to Five Hundred Dollars (\$500) per day against the person(s) responsible, for each day from the day the initial notice was issued until such time it is confirmed that the property is no longer a chronic nuisance property, and/or thirty (30) days in jail, any other alternative remedies under local or state law, and seeking any other relief authorized by law.

Sec. 12-67. Method of abating properties previously determined by Order as a property to be vacated or to cease renting.

To abate a property previously vacated or ceased to be rented by Order, the following actions are necessary:

- (1) Person(s) responsible for the property must show that all nuisance violations have been remedied;
- (2) The property has been inspected by City personnel; and
- (3) The Order to vacate or cease renting has been marked satisfied by City personnel.