

§5-3 PUBLIC NUISANCE

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[See Commentary]

§5-3-1 PURPOSES

It is important for a community to appear clean, well kept, and generally clear of public nuisances, eyesores, and unhealthy conditions. The appearance of a community weighs heavily in the decisions of prospective residents and businesses in locating to a particular area. A clean, safe, and well-kept community can stabilize or increase property values, provide a healthy environment, and make citizens proud of the area in which they live. Accordingly, a community needs a set of regulations to keep the area clean, remove unsightly conditions, and prevent unhealthy and unsafe situations from occurring. It is therefore the purpose and intent of this Ordinance to encourage a clean, healthy, and satisfying environment; one free of nuisances, eyesores, and unhealthy, unsafe, or devaluating conditions. To this end, this Ordinance seeks to regulate and protect the health, safety, welfare, values, and aesthetics of properties.

§5-3-2 DEFINITIONS

For the purposes of this Ordinance, the following words are defined:

Abandoned vehicle: A vehicle, including cars, trucks, trailers, boats, motorcycles, recreational vehicles, mobile homes, manufactured homes, or any other similar vehicle, that meets one or more of the following conditions:

- (a) Has been left unattended upon a highway, street, or alley or other public property outside a designated parking space for a period of 48 hours; and/or,
- (b) Is within public view and is inoperable, partially or wholly dismantled, wrecked, junked, discarded, or of similar condition, or any vehicle without a current license plate if required by law, and is located outside of an enclosed building, garage, carport, wrecked motor vehicle compound, or other place of business designated and lawfully used for the storage of such inoperable vehicles, for a period exceeding 30 days.

Nuisance: Anything that causes hurt, inconvenience, or damage to another, and the fact that the act done may otherwise be lawful, shall not keep it from being a nuisance. The inconvenience complained of shall not be fanciful, or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary, reasonable person.

§5-3-3 ILLUSTRATIVE EXAMPLES OF NUISANCES

The following conditions, whether on occupied or unoccupied lands, public or private property, are hereby declared to be and constitute a public nuisance and shall be abated; although this section shall not be construed to be limiting with regard to its enumeration of public nuisances.

- (a) Weeds or grass allowed to grow to a height greater than 12 inches on the average, or any accumulation of dead weeds, grass, or brush, that may provide safe harborage for rats, mice, snakes and/or other vermin.
- (b) Vegetation that obstructs the safe passage or line-of-sight of motorists or pedestrians at an intersection or driveway connection with a public or private street or alley, or along any street or sidewalk.
- (c) Dead or dying trees or other vegetation which may cause a hazardous situation if they fall.
- (d) Accumulation of rubbish, trash, refuse, junk, construction debris, and other abandoned materials, metals, lumber, or other such items.
- (e) The keeping or maintenance of one or more abandoned vehicles in public view or in a manner inconsistent with this Resolution [Ordinance].
- (f) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (g) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a fire hazard.
- (h) All noises which may annoy or inhibit others in their enjoyment of the use of their property.
- (i) All disagreeable or obnoxious odors or stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches, including smoke and fires.
- (j) The pollution of any public well, stream, lake, canal, or body of water by sewage, dead animals, creamery, industrial wastes, agricultural wastes, industrial wastes, or other substances.
- (k) Any building, structure, or other place or location where any activity is conducted, performed or maintained in violation of local, state, or federal law.
- (l) Any accumulation of stagnant water.
- (m) Any method of human excretion disposal which does not conform to the provisions of local ordinances, or state or federal law.

§5-3-4 NUISANCE PROHIBITED

It shall be unlawful for any person, firm, corporation or other entity to cause, permit, maintain, or allow the creation or maintenance of a nuisance, as defined or more specifically described in this Ordinance.

§5-3-5 NOTICE TO ABATE

Whenever a nuisance is found to exist within the jurisdiction of the County [City], the Land Use Officer shall give written notice to the owner or occupant of the property upon which such a nuisance exists or upon the person causing or maintaining the nuisance, to abate the nuisance.

§5-3-6 CONTENTS OF NOTICE

The notice to abate a nuisance issued under the provisions of this Resolution [Ordinance] shall contain the following:

- (a) An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances;
- (b) The location of the nuisance, if the nuisance is stationary;
- (c) A description of what constitutes the nuisance;
- (d) A statement of acts necessary to abate the nuisance; and,
- (e) A statement that if the nuisance is not abated as directed, the County will file an action in Magistrate Court [City will file an action in Municipal Court] to abate the nuisance.

[See Commentary]

§5-3-7 PROVISIONS FOR SPECIFIC NUISANCES

§5-3-7.1 Animals. No domestic animals shall be permitted to run at large within the County [City] limits. It shall be unlawful for any domestic animal to be running at large on the streets or sidewalks of the County [City], unless said domestic pet is under the control of a leash, collar, or chain. It shall be the responsibility of the owner of any domestic animal to provide a proper enclosure or structure secured from the ground to a sufficient height so that the animal cannot escape enclosure. Structures for horses, cows, or other livestock shall not be located closer than 100 feet of any property line. All animal enclosures or yards shall at all times be kept in a clean condition to prevent any condition detrimental to the public health of the County [City]. No more than one horse, cow, or other type of livestock shall be kept per acre of land. No person shall deposit or cause to be deposited, the carcass of any dead animal in the streets, roads, alleys, woods, or waters within the County [City] limits.

§5-3-7.2 Abandoned Vehicles. It shall be unlawful to keep or maintain an abandoned vehicle as defined by this Ordinance, and any abandoned vehicle is hereby declared to be a public nuisance and shall be abated as provided in this Ordinance.

§5-3-7.3 Trees and Other Vegetation. It shall be unlawful for the owner or occupant of any lot or land lying and abutting on an intersection of two streets or the intersection of a driveway and a street to allow any trees, shrubs, or bushes lying on said lot or land to grow to a height or in a manner which restricts the line of sight, or which threatens safety or restricts passage of motorists or pedestrians within a public right-of-way or sidewalk.

§5-3-7.4 Noise. It shall be unlawful for any person to create or assist in creating, permit, or continue any unreasonably loud, disturbing, or unnecessary noise in the County [City]. Noise of such character, intensity, and duration that is detrimental to the reasonable comfort, health, or life of any individual is prohibited. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises that constitute a public nuisance in violation of this Ordinance, and which shall be abated.

- (a) The keeping or maintenance of any domestic animal which, due to prolonged or habitual barking, howling, whining, or other noises, causes annoyance to neighboring residents, or interferes with the reasonable use and enjoyment of the premises occupied by such residents, is hereby declared to be a public nuisance and shall be abated as provided in this Ordinance.

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- (b) The sounding of any bell, horn, whistle, mechanical device operated by compressed air, or signal device while not in motion, except as a danger signal, for an unnecessary and unreasonable period of time.
- (c) The use of any siren, other than police, fire, or emergency vehicle.
- (d) The use or operation of any musical instrument, radio, loud speaker, or sound amplifying device so loudly as to disturb persons in the vicinity thereof.
- (e) The erection, excavation, demolition, alteration, or repair of any building or structure in the vicinity of residential dwellings between the hours of 10:00 p.m. and 7:00 a.m., except in the case of urgent necessity in the interest of public safety, and then, only with a permit from the Land Use Officer.
- (f) The creation of excessive noise on any street adjacent to any school, institution of learning, court, or religious congregation while the same are in session, or within 150 feet of a hospital which unreasonably interferes with the working of such institution.
- (g) The shouting or crying of peddlers, vendors, or residents which disturbs the peace and quiet of a residential area.
- (h) The unnecessary creation of loud or excessive noise in connection with unloading or loading vehicles or merchandise.
- (i) The use of any vehicle that is in a state of disrepair as to create loud or unnecessary grinding, rattling, backfiring, or other noise.

Any one of these enumerated nuisances, if violated, would be a misdemeanor and could be prosecuted in the local court just as the violation of any other ordinances.

[See Commentary]

[See References]