

NUISANCES AND HAZARDOUS OR INSANITARY CONDITIONS*

Sec. 14-1. Definitions.

Words in the present tense include the future. Words in the masculine gender include the feminine and neuter. Words in the feminine and neuter include the masculine. The singular number includes the plural and the plural includes the singular.

Whenever the words "dwellings," "dwelling units," "rooming house," "rooming units," "premises," or "buildings" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

The following definitions shall apply to the interpretation and enforcement of this chapter:

Construction material shall include all types of debris resulting from construction of any type, including blocks, stones, rocks, boards, plaster, cement products, nails, roofing material, or other materials and waste as a result of any construction or land clearing.

Discarded personal property shall mean all items of personal property rendered unusable by wear and time of use; including, but not limited to, furniture; appliances; tools; containers of all types, whether glass, plastic, wooden, or other materials; household goods of all types; clothing and wearing apparel.

Enforcement officer shall mean the city inspector or other officers or persons designated by the city council with the administration and enforcement of this chapter, or their duly authorized representative.

Garbage shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Rubbish shall mean combustible and noncombustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, coke and other combustible material; paper; rags; cartons; boxes; wood; excelsior; rubber; leather; tree branches; yard trimmings; tin cans; metal; mineral matter; glass crockery; and dust.

Trash shall include wooden pasteboard boxes, cartons and their contents, newspapers, all leaves, moss, small shrubbery, cuttings and small tree trimmings, bark, grass, weeds, as may come from the upkeep of any adjacent residential premises.

***Editor's note**—Ord. No. 485, §§ I—VIII, enacted May 11, 1981, and codified herein as §§ 14-1—14-3, and 14-5—14-11, has been treated as superseding former §§ 14-1—14-7, prohibiting the maintenance of nuisance conditions, and specifying the remedies therefor. Said former sections were derived from Ord. No. 411, §§ I—VI, enacted Dec. 13, 1971, and the 1981 Code.

Cross references—Abandonment or storage of vehicles or property, § 11-26 et seq.; adoption of provisions of state law regarding abandoned property, § 15-12.

State law references—Municipal Home Rule Powers Act, F.S. Ch. 166; abatement of nuisances by injunction, F.S. § 60.05 et seq.; nuisances injurious to health, F.S. Ch. 386; public nuisances generally, F.S. Ch. 823.

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Tree and branches shall include all trees, limbs, trunks and branches, including citrus prunings, regardless of size. (Ord. No. 485, § I, 5-11-81)

Sec. 14-2. General requirements.

(a) All buildings or structures shall be maintained in a safe and sanitary condition. The owner, or his designated agent, shall be responsible for the safety and maintenance of buildings.

(b) Every owner of a building or dwelling containing two (2) or more dwelling units shall be responsible for maintaining in a clean, safe and sanitary condition the shared or public areas of the dwelling and premises thereof.

(c) Every occupant of a dwelling unit or building shall keep in a clean and sanitary condition that part of the dwelling or dwelling unit and premises thereof which he occupies and controls or which is provided for his particular use.

(d) Every occupant of a building or dwelling unit shall dispose of all his garbage and other organic waste, which might provide food for rodents, and all rubbish, in a safe and sanitary manner by placing it in the garbage disposal facilities or garbage or rubbish storage containers.

(e) Every occupant of any building shall be responsible for the extermination of any insects, rodents or other pests within the building or premises.

(f) All waste water from any premises shall be connected to the city sewer system or an approved septic tank, where city sewer is not available. Every occupant of a dwelling unit or building shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

(g) Trash, which includes wooden pasteboard boxes, cartons, and their contents, newspapers, all leaves, moss, small shrubbery, cuttings and small tree trimmings, bark, grass and weeds, as may come from the upkeep of any premises, shall only be placed in the alley right-of-way or, if no alley, then on the street right-of-way adjacent to the owner's lot or parcel of land, and shall be placed on the owner's side of the street.

(h) Every person making, using, storing or having charge or control, of any shavings, excelsior, rubbish, sacks, bags, litter, hay, straw or combustible trash, waste or fragments shall, at the close of each day, cause all such material which is not compactly baled and stacked in an orderly manner to be removed from the premises or stored in suitable and covered receptacles or bins. (Ord. No. 485, §§ II, III, 5-11-81)

Sec. 14-3. Violations enumerated.

(a) Any nonconformance with the requirements set forth in section 14-2 shall be a violation of this chapter.

(b) No person shall occupy as owner-occupant, or let or sublet to another for occupancy, any dwelling unit designated or intended to be used for the purpose of living, sleeping, cooking or eating therein, which does not comply with the requirements specified in section 14-2.

(c) It shall be unlawful for the owner or occupant of any building, structure or property to utilize the premises of any building for open storage of any abandoned ice box, refrigerator, stove, Supp. No. 1

glass, building material, building rubbish or similar items. It shall be the duty and responsibility of every such owner or occupant to keep the premises of such property clean and to remove from the premises all such abandoned items as listed above, including, but not limited to, weeds, dead trees, trash, garbage, etc.

(d) It shall be unlawful for any person to deposit, throw, discard or place, any trash, litter of any type, paper, garbage, cans, cartons, bottles or other discarded waste materials, onto any public street or sidewalk, except in compliance with this chapter; and in the event that there shall be found any such trash or discarded personal property within any public street, sidewalk, or right-of-way, the owner, lessee, or any person in control of the said property adjacent to the street, sidewalk, or right-of-way, upon the side of the street where said trash or discarded personal property shall be found, shall be responsible for the removal, where and in such cases the city sanitation department does not provide removal service.

(e) No person shall within the city allow his property to become overgrown with grass, weeds or wild vegetation to a height of twelve (12) inches or more from the ground:

- (1) This subsection does not apply to those parcels of land that exceed two (2) acres in size.
- (2) Property two (2) or more acres in size will maintain a strip in accordance with subsection (e) of ten (10) feet on all boundaries.
- (3) No person shall allow his property to accumulate discarded personal property, construction materials or other materials, trash, garbage, rubbish of any kind or other waste materials.
- (4) No person shall allow trees, vines or shrubs to obstruct the vision of pedestrians, motor vehicle operators or bicycle riders within the right-of-way or travel ways of any street, sidewalk or alley within the city. (Ord. No. 528, 9-22-86)

(f) It shall be unlawful for any person, firm, or corporation to store, dispose of, or allow to stand unattended in the open, outside any enclosure or outside of any store or building or inside any abandoned structure or building within the city limits, any abandoned refrigerators or appliances, with doors thereon, unless the abandoned refrigerators or appliances so stored shall first have the doors removed or securely locked in a closed position.

(g) The accumulation of any wild vegetation, weeds, plant matter, materials, trash, garbage, rubbish or other waste materials shall constitute a menace to health and a fire hazard and shall be deemed a nuisance. Also, any accumulation that could become a breeding place for insects or vermin or cause unpleasant odors shall be deemed a nuisance.

(h) No person shall permit to remain upon any roof or in any court, yard, vacant lot or open space, any accumulation of wastepaper, grass, weeds, litter or combustible or flammable waste or rubbish of any kind. (Ord. No. 485, § III, 5-11-81)

State law reference—Ice box, refrigerators, deep-freeze lockers, etc.; abandonment, discard; attractive nuisance; violation; penalty, F.S. § 823.07 et seq.

Sec. 14-4. Litter control.

(a) It shall be unlawful for any person, firm, or corporation, in person or by his agent, employee or servant, to cast, throw, sweep, sift or deposit in any manner, in or upon any public way or other public place in the city or any canal, public water, drain, sewer or receiving basin within the jurisdiction of the city, any kind of dirt, rubbish, waste article, thing or substance whatsoever, whether liquid or solid. Nor shall any person, firm or corporation, cast, throw, sweep, sift or deposit any of the aforementioned items anywhere within the jurisdiction of the city in such manner that it may be carried or deposited, in whole or in part, by the action of the sun, wind, rain or snow, into any of the aforementioned places. Provided, that this section shall not apply to the deposit of material under a permit authorized by any ordinance of the city; or to goods, wares or merchandise deposited upon any public way or other public place temporarily, in the necessary course of trade, and removed therefrom within two (2) hours of being so deposited; or to articles or things deposited in, or conducted into, the city sewer system through lawful drains, in accordance with the ordinances of the city relating thereto.

(b) It shall be unlawful for any person, firm or corporation, in person or by his or its agent, employee or servant, to use any vehicle to haul any kind of dirt, rubbish, waste articles or things or substance, whether liquid or solid, unless such vehicle is covered to prevent any part of its load from spilling or dropping, at all times while such vehicle is in motion on any street or alley in the municipality. Provided, however, that the requirements herein for covering such vehicles shall not apply to vehicles carrying brush cuttings, tree trimmings, branches, logs and similar waste material, if such matter is securely lashed to such vehicle to prevent spilling or dropping as aforesaid. (Ord. No. 484, § VII, 5-11-81)

Editor's note—Ord. No. 484, § VII, enacted May 11, 1981, nonamendatory of the Code, was included herein as § 14-4, at the discretion of the editor.

Sec. 14-5. Investigation and enforcement—Powers and duties of enforcement officer.

There is hereby established by the city council the following provisions for the enforcement of this chapter by the enforcement officer designated by the city council:

- (1) *Right of entry.* The enforcement officer shall enforce the provisions of this chapter, and he, or his duly authorized representative, upon presentation of proper identification to the owner, agent, or tenant in charge of such property, and upon reasonable belief or complaint that a violation of this chapter exists, may enter any building, structure, dwelling, apartment, apartment house, or premises, during all reasonable hours, except in cases of emergency where extreme hazards are known to exist, which may involve the potential loss of life or severe property damage, in which case the above limitations shall not apply.
- (2) *Inspections.* The enforcement officer, upon reasonable belief or complaint that a violation of this chapter exists, shall make or cause to be made inspections to determine the condition of buildings, dwellings, dwelling units, rooming units, and premises, in the

interest of safeguarding the health and safety of the occupants of dwellings and of the general public. For the purpose of making such inspections, the enforcement officer, or his duly authorized representative, is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, buildings, rooming units, and premises. The owner or occupant of every dwelling, dwelling unit, building or rooming unit, or the person in charge thereof, shall give the enforcement officer free access to such dwelling, dwelling unit, building or rooming unit and its premises, at all reasonable times, for the purpose of such inspection, examination and survey. (Ord. No. 485, § IV, 5-11-81)

Sec. 14-6. Same—Notice of violation.

(a) *Form of notice.* Whenever the enforcement officer has declared a building, a dwelling unit, a multifamily dwelling or premises as constituting a nuisance, or shall find any other violations of this chapter, he shall give notice to the owner or occupant of such. Such notice shall:

- (1) Be in writing;
- (2) Include a description of the real estate sufficient for identification, such as street address, as well as a description of the violation and/or conditions to be corrected;
- (3) State the time within which occupants and/or owners must correct the conditions cited;
- (4) Said notice shall further state that, if such removal, abatement or discontinuance of the cited nuisance or conditions are not voluntarily completed within the stated time as set forth in the notice, the city shall institute such legal proceedings charging the person or persons, firm or corporation, or agent with a violation of this chapter, and/or seek other remedies as are specified in sections 14-2 and 14-10.

(b) *Service of notice.* Service of notice shall be as follows:

- (1) By delivery to the owner or occupant personally; or by leaving the notice at the usual place of abode of the owner or occupant with a person of suitable age and discretion; or
- (2) By depositing the notice in the United States Post Office, addressed to the owner or occupant at his last known address, with postage prepaid thereon; or
- (3) By posting and keeping posted for twenty-four (24) hours a copy of the notice, in placard form, in a conspicuous place on the premises.

(c) *Removal of placard or notice.* No person shall deface or remove the placard placed on the premises by the enforcement officer. (Ord. No. 485, § IV, 5-11-81)

Sec. 14-7. Same—Time allowed for abatement.

Conditions requiring removal, abatement, or discontinuance of the cited nuisance or other conditions shall have a time [limit for abatement] requirement of ten (10) days, unless the enforcement officer declares that less than ten (10) days is appropriate in order to protect the health and/or safety of the general public. (Ord. No. 485, § IV, 5-11-81)

Sec. 14-8. Appeals—Grounds; procedure; time limitations.

(a) Where the literal application of the requirements of this chapter would appear to cause undue hardship on an owner or tenant, or when it is claimed that the true intent and meaning of this chapter or any of the regulations therein have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of the enforcement officer, to the city council.

(b) Any person receiving written notice from the enforcement officer of deficiencies in this property under this chapter may, within the time limitations of such notice, enter an appeal in writing or in person to the city council. Such appeal shall state the location of the property, the

date of the notice of violations, and the violation mentioned. The appellant must state the variance or modification requested, the reason therefor, and the hardship or conditions upon which the appeal is made.

(c) No appeal filed later than the time limitations of such notice shall be acted upon by the city council, unless the enforcement officer shall consent thereto. (Ord. No. 458, § IV, 5-11-81)

Sec. 14-9. Same—Duties and decisions of city council.

(a) *Duties.* The duties of the city council shall be:

- (1) To consider and determine appeals whenever it is claimed that the true intent and meaning of this chapter or any of the regulations hereunder have been misconstrued or wrongly interpreted;
- (2) To permit, in appropriate cases, where the application of the requirement of this chapter in the allowance of the stated time limitation for the performance of any action required hereunder would appear to cause undue hardship on an owner, a reasonable extension of time.

(b) *Decisions.* All decisions of the city council to vary the application of any provision of this chapter or to modify an order of the enforcement officer shall specify in what manner such variance or modification is made, the conditions upon which it is made, and the reasons therefor. Every decision shall be in writing and shall indicate the vote upon the decision. A copy of all decisions shall be promptly filed in the office of the city clerk and shall be open to public inspection. The city clerk shall notify the appellant, in writing, of the final action of the city council. (Ord. No. 485, §§ V, VI, 5-11-81)

Sec. 14-10. Remedy procedure upon failure of owner or tenant to comply.

In the event that abatement of the conditions cited in the notice provided in section 14-6 does not occur within the time requirements specified, and provided that any additional requirements resulting from an appeal have been fulfilled, then the city, at its expense, may do such necessary acts to remove, abate and discontinue the nuisance. All costs and fees expended shall be kept upon a separate roll by the city clerk or his designee and after a thirty (30) day billing to the property owner or owners, the city may, by action at law, collect the same; and the costs of said services shall constitute a lien against the property, when duly filed as a labor and material lien under Florida law.

Should the costs and fees be reasonably expected to exceed one hundred dollars (\$100.00), then a second notice shall be provided; and necessary acts by the city to remove, abate, and discontinue the nuisance shall be postponed until the specified time for appeal and/or abatement has expired for a second time. (Ord. No. 485, § VIII, 5-11-81)

Sec. 14-11. Violations and penalties.

Any person, firm, corporation or agent, who shall violate a provision of this chapter, or fail to comply therewith or with any of the requirements hereof, shall be guilty of a misdemeanor and be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term not

exceeding sixty (60) days, or by both such fine and imprisonment. Each day any violation of any provision of this ordinance shall continue shall constitute a separate offense. (Ord. No. 485, § VII, 5-11-81)

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