

NUISANCE ABATEMENT ORDINANCE

BILL NO. _____

INTRODUCED BY COUNCIL

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 7 OF THE SPARKS MUNICIPAL CODE; AMENDING SECTION 7.16.010 “DEFINITIONS,” 7.16.050 “NOTICE OF VIOLATION,” AND 7.16.060 “TIME FOR ABATEMENT,” 7.16.070 “APPEAL PROCEDURES,” 7.16.100 “ABATEMENT REPORT HEARING PROCEDURE,” TO REFLECT THE NEW PROCEDURE FOR EACH; AND PROVIDING OTHER MATTERS PROPERLY RELATED THERETO.

THE CITY COUNCIL OF THE CITY OF SPARKS DOES ORDAIN:

Section 1. Section 7.16.010: “Definitions”...is hereby amended as follows:

Section 7.16.010 - Definitions.

As used in this chapter, unless the context requires otherwise, the following terms shall be defined as set forth in this section.

- A. "Authorized official" means any person designated and empowered by the city manager or district health officer to enforce the provisions of Title 7
- B. "Owner" means anyone having a legal or equitable interest in real property within the city; or the authorized agent of such person; or the person in possession or control of any lot or premises in the city.
- C. "Public nuisance" means any of the following conditions:
 - 1. Attractive Nuisance. Any area, structure or object which by its nature, location and/or character would tend to attract and endanger the safety of any minor person;
 - 2. Building Code Violation. Any violation of the Uniform Building Code, as adopted and amended by Title 15 of this code;
 - 3. Fire Code Violation. Any violation of the Uniform Fire Code, as adopted and amended by Title 14 of this code;
 - 4. Polluted Water. Any body of water which by its nature and/or location constitutes an unhealthy or unsafe condition;
 - 5. Refuse and Waste. Any material, regardless of its market value, which, by reason of its location and/or character, is unsightly or interferes with the reasonable use and enjoyment of adjacent properties; or which has a detrimental effect upon adjacent property values; or which would hamper or interfere with the containment of fire upon the premises;
 - 6. Sign Violation. Any sign which is in violation of Title 20 of this code;
 - 7. Zoning Violation. Any violation of Title 20 of this code;
 - 8. Nuisances in General. Any act or condition which, by reason of its nature, character and/or location, interferes with the reasonable use and enjoyment of

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adjacent properties; or which has a detrimental effect upon adjacent property values. Nuisances in general shall include, but not be limited to, the following:

- a. Weeds and turf grass in plain view within the front yard on a developed parcel or vacant parcel exceeding eight (8) inches in height, with the exception for useful grasses and pastures as set forth in Section 7.16.040
- b. Graffiti defined as the unauthorized spraying of paint, ink, chalk, dye or other similar marking substances on public or private buildings, walls, fences or other structures allowed to remain for more than twenty-four (24) hours;
- c. Unpainted or painted buildings, walls, fences or other structures upon which the condition of the structure has become so deteriorated as to permit decay, excessive cracking, peeling, chalking, dry rot, warping or termite infestation;
- d. Motor vehicles parked within the front yard area on an unpaved surface;
- e. Construction equipment and other commercial vehicles, supplies, material or machinery of any type parked or stored upon any lot or property within a residential zone not approved for a temporary construction yard for the residential subdivision or approved by special use permit or site plan review;
- f. Garbage cans or trash receptacles located or placed in a lot's front yard setback or in the public right-of-way, including sidewalks, at any time other than during the period commencing the day before a lot's regularly-scheduled garbage collection date and extending through the day following the lot's regularly-scheduled garbage collection date.
- g. Front yard paving which occurs after March 21, 2006 and which covers any area other than the area between a lot's driveway and the lot's nearest property line.
- h. Placing portable sporting equipment in the public right-of-way, including sidewalks, at any time.

D. *"Chronic nuisance" means:*

1. *When three or more nuisance activities exist or have occurred during any 30-day period on the property.*
2. *When a person associated with the property has engaged in three or more nuisance activities during any 30-day period on the property or within 100 feet of the property.*
3. *When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS.*
4. *When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog.*

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5. *When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:*

a. *The building or place has not been deemed safe for habitation by a governmental entity; or*

b. *All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.*

E. *“Abandoned nuisance” means:*

An “Abandoned nuisance” exists on any property where a building or other structure is located on the property, the property is located in a city that is in a county whose population is 100,000 or more, the property has been vacant or substantially vacant for 12 months or more and:

1. *Two or more abandoned nuisance activities exist or have occurred on the property during any 12-month period; or*

2. *A person associated with the property has caused or engaged in two or more abandoned nuisance activities during any 12-month period on the property or within 100 feet of the property.*

(Ord. 1830, 1994; Ord. 1452 § 1 (part), 1984.) (Ord. 2327, Amended, 05/08/2006; Ord. 2312, Amended, 03/20/2006; 2253, Amended, 12/13/2004; Ord. 2253, Amended, 12/13/2004)

Section 2. Section 7.16.050: “Notice of Violation”...is hereby amended as follows:

Section 7.16.050 - Notice of violation.

A. Issuance of Notice of Violation. If it is determined by an authorized official that a public nuisance exists within the city, that official shall cause a notice of violation to be issued to abate such nuisance. Such notice shall state the nature of the nuisance to be abated, require abatement to be performed within a specific time period, not less than ten days from the date of mailing, service or posting unless the existence of a health or safety hazard requires a shorter time period, and inform the owner of the right to appeal as provided in this chapter.

B. Service of Notice of Violation. ~~Such a~~ Notice of violation ~~may~~ shall be served in ~~any of the following ways:~~

1. ~~By personal service thereof upon the owner; or~~

2. ~~By mailing the notice by certified mail to the owner at their last known address; or.~~

3. ~~By posting the notice in a conspicuous place on the property, provided, however, that service by posting shall only be used when the authorized official cannot determine the last known address of the owner.~~

C. Within ten (10) days after service, mailing, or receipt of the notice of violation, the owner affected may request a hearing before the city manager or his authorized representative.

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(Ord. 1452 § 1 (part), 1984.)

Section 3. Section 7.16.060: “Time limit for abatement”...is hereby amended as follows:

Section 7.16.060 - Time limit for abatement.

A. Unless a hearing is requested, or an appeal is perfected in compliance with this chapter, the owner must abate a public nuisance within the time period set forth in the notice of violation.

B. *In the event a hearing is requested or an appeal is perfected, the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing or appeal and receives a decision.*

BC. In the event an appeal is perfected in compliance with this chapter, and the city council requires abatement of the public nuisance, the owner must abate the public nuisance within ten days after the city council's decision or such other time period as the city council may direct.

D. *If the condition is not an immediate danger to the public health, safety, or welfare, and was caused by the criminal activity by a person other than the owner, the owner shall be afforded a minimum of thirty (30) days to abate the condition.*

(Ord. 1452 § 1 (part), 1984.)

Section 4. Section 7.16.070: “Appeal procedures”...is hereby amended as follows:

Section 7.16.070 - Appeal procedures.

A. Within ten days ~~after service, mailing, or posting of receipt of the notice of violation decision of the city manager or his authorized representative regarding any hearing requested by the affected owner,~~ the owner ~~affected~~ may appeal ~~the decision~~ to the city council. Such appeal shall be in writing and shall be filed with the city clerk. Within five to fifteen days after the appeal has been filed, the applicant shall be given written notice of the scheduled hearing. At said hearing, which must be noticed in compliance with Chapter 241 of the Nevada Revised Statutes (Open Meeting Law), the city council shall hear and pass upon the appeal. The decision of the city council shall be final and conclusive. Any owner failing to appeal as herein provided shall be deemed to have waived any and all objections to the existence of a public nuisance and the abatement of such nuisance.

B. *If it is determined by an authorized official that a chronic or abandoned nuisance exists within the city, the affected owner shall be afforded an opportunity for a hearing before a court of competent jurisdiction.*

(Ord. 1452 § 1 (part), 1984.)

Section 5. Section 7.16.100: “Abatement report hearing procedure”...is hereby amended as follows:

Section 7.16.100 - Abatement report hearing procedure.

A. At the abatement report hearing, the city council shall either approve or disapprove of the report as submitted, or as modified or corrected by the city council. In the event the city council

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approves the report as submitted, modified or corrected, the following actions may be taken:

1. **Personal Obligation of Property Owner.** If the city council orders that the cost of abating the public nuisance shall be a personal obligation of the property owner, the city council shall direct the city attorney to collect the costs of abating the nuisance and interest thereon by use of all appropriate remedies.

2. **Lien Against Property.** If the city council orders that the cost of abating the public nuisance shall be assessed against the property, the city council shall confirm the assessment and have it filed with the county recorder. Thereafter, the assessment shall constitute a lien upon the property.

3. *Special Assessment Against Property. If the city council orders that the cost of abating the public nuisance shall be assessed against the property as a special assessment, the city council shall confirm the assessment which may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.*

B. **Status of Assessment Liens.** The assessment lien shall be perfected when the city clerk files with the county recorder a statement of the amount of expenses due and unpaid and describing the property subject to the lien. Such a lien shall be:

1. Coequal with the latest lien on the subject property to secure the payment of general taxes;

2. Not subject to extinguishment by the sale of the property on account of the nonpayment of general taxes;

3. Prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes. Assessment liens shall bear interest at the rate set by law for judgments from the date of recordation. The lien shall continue until the assessment and all interest due and payable thereon is paid.

(Ord. 1452 § 1 (part), 1984.)

SECTION 7: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 8: The City Clerk is instructed and authorized to publish the title to this ordinance as provided by law.

SECTION 9: This ordinance shall become effective upon passage, approval and publication.

SECTION 10: The provisions of this ordinance shall be liberally construed to effectively carry out its purposes in the interest of the public health, safety, welfare and convenience.

SECTION 11: If any subsection, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be

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deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

SECTION 12: The City Council finds that this ordinance is **not** likely to impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business, or is otherwise exempt from Nevada Revised Statutes Chapter 237.

PASSED AND ADOPTED this ____ day of _____, 2012, by the following vote of the City Council:

AYES: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

APPROVED this ____ day of _____, 2012, by:

GENO MARTINI, Mayor

ATTEST:

LINDA K. PATTERSON, City Clerk

APPROVED AS TO FORM AND LEGALITY:

CHESTER H. ADAMS, City Attorney