

Chapter 12 HEALTH AND SANITATION

Art. I. Nuisances, §§ 12-1--12-6.2

Art. II. Mosquito Control, §§ 12-7--12-13

ARTICLE I. NUISANCES*

*Editor's note: Section 1 of Ord. No. 93-6, adopted July 6, 1993, amended Art. I to read as herein set out. Formerly, Art. I consisted of §§ 12-1--12-5.1 and 12-6, which pertained to nuisances and derived from § 2 of Ord. No. 86-17, adopted Jan. 6, 1987, and § 1 of Ord. No. 89-1, adopted Feb. 7, 1989. Section 1 of Ord. No. 93-6 provided for Art. I to consist of §§ 12-1--12-8; inasmuch as provisions designated as §§ 12-7 and 12-8 already existed in this Code, such new provisions have been included herein as §§ 12-1--12-6.2 at the editor's discretion.

Cross references: Fire prevention, Ch. 10; garbage and trash, Ch. 11; noise, § 14-35 et seq.; abandoned refrigerators, etc., § 14-45.1.

State law references: Abatement of nuisances by court action, § 60.05 et seq., Fla. Stats.; by state health officials, § 386.02, Fla. Stats.; manner of indictment, § 823.01, Fla. Stats.

Sec. 12-1. Definitions.

As used in this article, the following terms shall have the following meanings:

- (a) Nuisance means allowing or causing any condition or thing to exist which:
- (1) Injures or endangers the comfort, repose, health or safety of any person; or
 - (3) Is offensive to the senses; or
 - (4) Interferes with, obstructs or renders dangerous for passage any public or private street, alley, highway, right-of-way, easement, sidewalk, stream, ditch, channel or drainage of any property; or
 - (6) Interferes with the comfortable and quiet enjoyment of life or property; or
 - (7) Tends to or could depreciate the value of property of any person; or
 - (8) Is declared by ordinance or statute to be a nuisance, unlawful or prohibited.
- (b) Person includes any natural person, firm, partnership, association, corporation, organization or entity of any kind.

(Ord. No. 93-11, § 1, 9-21-93)

Sec. 12-2. Specific nuisances.

The maintaining, using, placing, depositing, leaving, permitting, allowing or causing any of the following items, conditions or things to exist in, on, over or under any public or private property shall constitute a nuisance; provided however that this enumeration shall not be construed to exclude the identification of other nuisances not specifically identified herein:

- (a) Any weeds, grasses or other vegetation of a height exceeding twelve (12) inches, including without limitation, broom grass, jimson, burdock, ragweed or sandspur and not including trees, flowers and ornamental bushes or plants;
- (b) Any trash, litter, debris, garbage, bottles, paper, plastic, metal, cans, rags, offal, bricks, concrete, lumber, building materials, dead or decaying trees, plants, fruits, vegetables or animals of any kind;
- (c) Any condition which provides, or could provide, harborage for rats, mice, snakes, insects or other vermin;
- (e) Any noises or vibrations, including animal noises, which disturb the peace of the surrounding area or are otherwise unlawful;

- (f) Any foul, offensive or unlawful emissions, odors or stench and the causes thereof;
- (g) The pollution of any well, body of water or drainage system by sewage, dead animals, industrial wastes, debris or other substances;
- (i) Stagnant or insufficiently treated water, in a pool, pond or container of any kind, including water in which algae is allowed to grow or in which mosquitoes or other insects are able to breed;
- (m) Blocking of drainage inlets, pipes, ditches, swales, channels, culverts or streams;
- (p) Any worn-out, scrapped, rusting, dismantled, non-operative, unusable or discarded materials, machinery or objects, or parts thereof, or any other item of junk, except where specifically allowed by law;

(Ord. No. 93-6, § 1, 7-6-93; Ord. No. 99-18, §§ 1, 2, 12-21-99; Ord. No. 2003-02, §§ 1--5, 2-4-03)

Sec. 12-3. Nuisances prohibited.

It shall be unlawful for any person to create, cause or allow a nuisance to exist within the City of Gulfport. The owner and any person having care, custody or control of any parcel of real property within the city shall be responsible for any nuisance existing at, on, over or under said property and any right-of-way adjacent thereto. Each day in which a nuisance is allowed to exist shall constitute a separate and distinct offense for the purpose of assessing an appropriate fine or penalty.

(Ord. No. 93-6, § 1, 7-6-93)

Sec. 12-4. Enforcement.

(a) The provisions of this article shall be enforced as provided herein, as provided elsewhere in this Code of Ordinances, or as otherwise provided by law. Citations may be issued by the city's police officers, environmental safety officers or other officials of the city, as designated by the city manager or a designated representative. Fines and penalties shall be assessed against any person who violates the provisions of this article, in accordance with section 1-6 of this Code. Each day that a nuisance exists shall constitute a separate offense, for purposes of levying a fine or penalty.

(b) In addition to, or as an alternative to, enforcement of this article as provided in subsection (a) hereof, a civil action may be maintained in an appropriate court to abate such nuisance. In any such action, the city shall be entitled to recover reasonable attorneys fees and court costs incurred by the city, through all appellate proceedings. The court may assess an appropriate fine, in addition to providing any equitable remedy requested by the city.

(Ord. No. 93-6, § 1, 7-6-93; Ord. No. 99-18, § 3, 12-21-99)

Sec. 12-5. Alternate procedure for abatement of nuisances.

If a nuisance exists in violation of this article, and it would be in the best interest of the public health, safety or general welfare for the city to abate said nuisance, the procedure set forth in this section may be utilized, in addition to any other remedy provided in this article.

(a) Written notice shall be given to the violator, the owner of any property on which the nuisance exists, and any person known to have care, custody or control of any property on which the nuisance exists, at the last known address for each said person, by certified mail or by posting the notice on the effected property if the exigency of the circumstances warrant. Such notice shall be deemed served as of the date deposited in the mail or the date posted, as applicable.

(b) The aforesaid notice shall inform the person to whom it is given of the nature of the violation, and shall allow seven (7) days, or such other reasonable time commensurate with the exigency of the circumstances, in which the violation must be corrected, and shall state that if the violation is not corrected within such time, the same will be abated by the city.

(c) The aforesaid notice shall state that the cost of any work required to abate the nuisance, together with an administrative fee of one hundred dollars (\$100.00), shall be charged to the violator and constitute an assessment lien against any property on which the nuisance exists.

(d) If the condition is not remedied within the time provided in the aforesaid notice, the city manager or a designated representative shall cause the nuisance to be abated by the city or by

independent contractors employed by the city, and a claim of lien shall be filed against the property on which the nuisance existed for all costs incurred by the city in abating said nuisance and the administrative fee provided herein.

(e) The lien imposed pursuant to this section shall constitute a first priority assessment lien against the effected property, superior to all liens except any lien for taxes against said property. Said lien may be foreclosed as provided by law.

(Ord. No. 93-6, § 1, 7-6-93)

Sec. 12-6.1. Enforcement officers.

(a) Any police officer, environmental safety officer or other official of the city designated to enforce the provisions of this article shall have full authority to enter in or upon any property in which a violation of this article is suspected, as provided by law.

(b) Any interference or hindrance of any such police officer, environmental safety officer or other official in the performance of the duties imposed by this article shall constitute an offense punishable as provided in this Code of Ordinances.

(Ord. No. 93-6, § 1, 7-6-93; Ord. No. 99-18, § 5, 12-21-99)

Sec. 12-6.2. Article supplemental.

The provisions of this article shall be supplemental to all other ordinances or laws, and any procedures or remedies provided herein shall be supplemental to any other available procedures or remedies, and the availability of alternate procedures and remedies shall not be abrogated in any way by the provisions hereof.

(Ord. No. 93-6, § 1, 7-6-93)