

**TOWN OF CLOVER – CODE OF ORDINANCES
PUBLIC NUISANCES**

§ 90.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABATE. Repair, replace, remove, destroy, or otherwise remedy the condition in question by such means, in such time, in such a manner, and to such an extent as the enforcement officer or Town Council, after hearing pursuant to § 90.07, shall determine to be in the best interest of the public, taking into account all facts and circumstances.

BUSINESS DAYS. Monday through Friday.

ENFORCEMENT OFFICER. A law enforcement officer or the Code Enforcement Officer of the Town of Clover.

GRAFFITI. Any unauthorized inscription, word, figure, painting, or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or despite advance authorization.

INDUSTRIAL WASTES. All liquid- and water-borne solid, liquid, or gaseous wastes resulting from industrial manufacturing, food processing operation, processing any natural resource, or mixture of the wastes with water or domestic sewage.

PERSON. Any landlord, property owner, manager, lessee, tenant, or individual, group, association, corporation, partnership, trust, estate, or receiver having the capacity to sue or be sued.

PREMISES. Any building, lot, parcel, real estate, or land or portion of land whether improved or unimproved, occupied or unoccupied, including adjacent parking.

PUBLIC NUISANCE.

(1) All matters specifically declared to be public nuisances in § 90.02; and

(2) Matters determined by an enforcement officer based upon the facts and circumstances found after reasonable inquiry, investigation, or upon citizen report to be those conditions or events which constitute an unreasonable interference with rights of the public in general, and where, in a public place,

or where the public congregates, or where the public is likely to come within the range of influence through the senses, a person unlawfully does an act or omits to perform a duty, which act or omission does any one or more of the following:

(a) Annoys, injures, subverts, or endangers the public's order, economy, resources, safety, health, welfare, comfort, repose, or offends public decency; and/or

(b) Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any waters or public places or way.

STRUCTURE. Anything constructed, built, or planted upon, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which structure requires location on the ground or is attached to something having a location on the ground.

(Ord. 06-16, passed 11-13-2006)

§ 90.02 NUISANCES GENERALLY.

(A) *Nuisances affecting public health.* The following are hereby declared to be public nuisances affecting public health:

(1) All decayed or unwholesome food products or food waste not properly contained either inside or outside for more than 24 hours before pick up;

(2) Litter, debris, trash, or refuse which is not placed within the appropriate container; or containers for waste which are not properly placed upon their pads;

(3) All pools of stagnant water or vessels holding stagnant water in which mosquitoes can breed, excluding required retention ponds;

(4) Swimming pools which either:

(a) Are empty, excluding those pools that are completely and effectively covered; or

(b) Contain liquids and/or debris which are not bacteriologically, chemically, or physically safe for swimming or other intended uses.

(5) Animal carcasses not buried or disposed of in a lawful and sanitary manner within 24 hours after its death;

(6) Leaking septic tanks or sewer lines or other sewage existing in an unsanitary manner;

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(7) Weeds or other rank growths of vegetation upon private or public property, and all other vegetation at any stage of maturity which:

(a) Exceeds 12 inches in height, except for healthy trees, shrubs, or plants grown in a tended and cultivated garden or plot;

(b) Regardless of height, harbors, conceals, or invites rodents, pests, or vermin or deposits of refuse;

(c) Gives off noxious odors; and/or

(d) Constitutes a fire or traffic safety hazard.

(8) Damaged or diseased limbs of trees or trees to the extent they pose a risk of potential injury to the public at large due to imminent structural failure;

(9) Deliberate placement or discharge of into any part of a storm water drainage system of: untreated sewage, sewage solids, process wastewater, refuse, explosive or combustible liquid, solid or gas, oils, greases, industrial water, or other polluted water except where a federal, state, or local permit for connections, discharge, or disposal has been obtained prior to the event; or waters or wastes containing toxic or poisonous wastes to constitute a hazard to humans, plants, or animals or to cause corrosion, discoloration, or deposition on real or personal property; or any solid or viscous substances in the quantities or of the size capable of causing obstruction to the flow in the storm water drainage system or other interference with the proper operation of the drainage system of the Town of Clover;

(10) Accumulation of organic waste of animals;

(11) Buildings having no provision which is suitable for the discharge of sewage and other organic filth; and

(12) Release of airborne pollutants, particles, contaminants, dust, industrial waste, or by products by industry, business, or individuals by reason of their failure to utilize means at their disposal to prevent those releases.

(B) *Nuisances offending public decency, peace, and order.* The following are hereby declared to be public nuisances affecting public decency, peace, and order, when those violations are of a continual, reoccurring, or constant nature; provided, however, that no person shall be held liable and no structure

shall be declared a nuisance in the event that person does not generate, enable, or contribute to the occurrence of unlawful behavior by a management policy or practice, personal conduct, lack of control or supervision, absence or ineffectiveness of security, or other factors:

(1) Any structure, whether commercial or residential, where gambling devices, slot machines, punch boards, and other contrivances of similar character involving any elements of chance as a consideration or any type of gambling, bookmaking, wagering, or betting is carried on, and all gambling equipment, except where the specific form of gambling is permitted by applicable law;

(2) Any structure, whether commercial or residential, operated as a bawdy house, house of assignation, place of prostitution, or used and maintained for the commercial or criminal purposes of unlawful sexual activity in violation of federal, state, or local law;

(3) Any structure, whether commercial or residential, where intoxicating liquors are manufactured, sold, bartered, or given away in violation of federal, state, or local law, or where intoxicating liquors kept for sale, barter, or distribution in violation of federal, state, or local law, and all liquors, bottles, kegs, pumps, bars, and other property kept at and used for maintaining such a place;

(4) Any structure, whether commercial or residential, where acts of sale, possession, or distribution of controlled substances occur in violation of federal, state, and local law; and

(5) Any structure, whether a commercial operation or a residential use, where breaches of the peace, disorderly conduct, or offences against the person found in S.C. Code Title 16, Chapter 3 occur with the disproportionate frequency when compared to frequency of law enforcement action required at other similarly situated structures, or where the intensity of law enforcement response, when required, is disproportionate to the intensity of response required at other similarly situated structures. After notice of the continuing nature of the nuisance and specific identification of the facts and circumstances that either generate, enable, or contribute to the nuisance, the owner, lessee, renter, management, or the person in control, may be held responsible for the maintenance of a public nuisance and the structure declared a public nuisance.

(a) For purposes of this division (B)(5) only, a **COMMERCIAL OPERATION** is defined as activity in which goods or services are exchanged for money or barter, or the rental or lease of accommodations for any length of time less than 30 days; a residential use is defined as single-family residences or multi-family residences. It is the intent of this subchapter that **COMMERCIAL OPERATIONS** shall be held responsible for actions which generate, enable, or contribute to the requirement of frequent or intensive law enforcement action due to a management policy or practice, personal conduct, lack of control or supervision, absence or ineffectiveness of security, or other factors. When such a management policy or practice, personal conduct, lack of control or supervision, absence or ineffectiveness of security, or other factors are identified by law enforcement as generating, enabling, or contributing to the disproportionate need for frequent or intensive law enforcement action, notice shall be provided to the commercial operation; the notice shall identify with particularity the management policy or practice, personal conduct, lack of control or supervision, absence or ineffectiveness of

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security, or other factors that are generating, enabling, or contributing to the frequency and intensity of unlawful behavior, and that further occurrences may result in a declaration of a public nuisance. If, after notice, the management policy or practice, personal conduct, lack of control or supervision, absence or ineffectiveness of security, or other factors that are generating, enabling, or contributing to the frequency and intensity of unlawful behavior are not changed or modified, the owner, lessee, renter, management, or the person in control, may be held responsible for the maintenance of a public nuisance and the structure declared a public nuisance.

(b) For purposes of this division (B)(5) only, a **RESIDENTIAL USE** is defined as any residence in which a family or individual or individuals reside for a period exceeding 30 days. It is the intent of this subchapter that owners, lessees, or renters of the property shall be held responsible for the conduct of the residents, invitees, or guests that generate, enable, or contribute to the requirement of frequent or intensive law enforcement action. When conduct is identified by law enforcement as generating, enabling, or contributing to the disproportionate need for frequent or intensive law enforcement action, notice shall be provided to the owner, lessee, or renter; the notice shall identify with particularity the conduct that is generating, enabling, or contributing to the frequency and intensity of unlawful behavior, and that further occurrences may result in the declaration of a public nuisance. If, after notice, the conduct that is generating, enabling, or contributing to the frequency and intensity of unlawful behavior is not changed or modified, the owner, lessee, renter, management, or the person in control may be held responsible for the maintenance of a public nuisance and the structure declared a public nuisance.

(C) *Nuisances affecting public welfare and safety.* The following are hereby declared to be public nuisances affecting public welfare and safety:

(1) All trees, hedges, signs, or other obstructions, or any portion of the same, so located on private property which prevent persons driving vehicles approaching an intersection of streets from having a clear, safe view of traffic approaching the intersection;

(2) All trees, hedges, signs, or other obstructions, or any portion of the same, so located on private property which prevents the clear and unobstructed view of a fire hydrant, Fire Department connection or other fire protection device, or directional or identification signage pertaining to the above, from a public way;

(3) Any obstruction, erosion, or depression which poses a potential hazard to vehicles or pedestrians using a right-of-way on private property where the public is invited or permitted to traverse for commercial purposes;

(4) All wires, strings, ropes, or lighting contrivances over streets, alley, or public grounds which are not authorized or permitted by the town or which are strung so that the lowest portion is less than 13-1/2 feet above the surface of the ground;

(5) All explosives, flammable liquids, and other dangerous substances stored in any manner or in any amount other than that manner or amount permitted by law;

(6) All hanging signs, awnings, canopies, and other similar structures over the streets or sidewalks so situated or constructed as to endanger public safety or to be contrary to ordinance;

(7) Any motor vehicle that is unregistered, inoperative, wrecked, junked, partially dismantled, derelict, or abandoned on any highway or right-of-way, or other public or private property, unless the vehicle is stored inside of a building;

(8) Any icebox, refrigerator, ice chest, freezer, or other type of airtight container that has been abandoned or discarded or left outside unattended whose door, lid, or other closing device has not been removed;

(9) Dilapidated and abandoned shacks and other buildings which are unsightly and imperil the health and safety of children and others who may go upon the premises;

(10) The storage of junk, refuse, and other discarded materials;

(11) Partially damaged or destroyed buildings;

(12) Occupied and vacant lots upon which building materials, glass, wood, discarded and unused products or machinery, junk, or other matter or debris which is unsightly or detrimental to public health, sanitation, or safety is allowed to accumulate; and

(13) Accumulation of grass, leaves, debris, and other materials that impede, restrict, or block the flow of water through drainageways that are part of the surface water drainage system of the Town of Clover.

(D) *Nuisances affecting public economy.* The following are hereby declared to be public nuisances affecting the public economy:

(1) All structures bearing graffiti;

(2) All structures which, for a period of one month, remain unoccupied and boarded up, and whose exterior finish is destroyed, decayed, dilapidated, or deteriorated; provided, however, unoccupied structures shall not be considered a public nuisance affecting public economy if the building exterior is weathertight and maintained for purposes of appearance and security and the material which secures the building is compatible with the exterior in appearance, color, texture, and design, and the premises are kept in compliance with all applicable building, property maintenance, zoning, and land use laws;

(3) All businesses or commercial enterprises operating without a valid, current, and displayed business license;

(4) All premises continually not in compliance with applicable licensing, zoning, and land use laws;

(5) All business with an outstanding arrearage of applicable town liens, taxes, fees, charges, or assessments; and

(6) All premises which originate false fire or burglar alarms, as defined by applicable law. (Ord. 06-16, passed 11-13-2006) Penalty, see § 90.99

§ 90.03 OTHER NUISANCES.

The enumeration of specific nuisances in this subchapter shall not be deemed to make lawful any other act or condition declared to be a nuisance by any other town ordinance, state law, federal law, court decision, or as determined by the enforcement officer.

(Ord. 06-16, passed 11-13-2006)

§ 90.04 REPORTING EMERGENCIES AND EMERGENCY ACTION.

Any person who directly observes a nuisance posing an emergency threat to the public health or safety or to the environment shall immediately report the incident to the Clover Police Department and shall provide any information requested by the enforcement officer needed to investigate or abate the potential emergency. If any nuisance exists in such a condition so menacing to the public health, peace, or safety that it is necessary that it be summarily abated, the enforcement officer, after consultation with and concurrence from the Town Administrator, may proceed to abate the nuisance without a hearing.

(Ord. 06-16, passed 11-13-2006)

§ 90.05 NUISANCES PROHIBITED AND UNLAWFUL.

No person shall create any public nuisance in the town, and no person shall by action or inaction permit a public nuisance to occur or continue on any real property under that person's control, whether by recorded or unrecorded instrument or permission. Nor shall any person permit a public nuisance to occur involving any personal property under that person's control.

(Ord. 06-16, passed 11-13-2006) Penalty, see § 90.99

§ 90.06 PUBLIC ABATEMENT; NOTICE; SERVICE.

(A) If a person fails or refuses to discharge the duty imposed by § 90.05, the town may concurrently serve an administrative notice to abate a public nuisance upon the owner, occupant, and lien holder and demand that compliance must be achieved within 14 consecutive days, after service of the notice, not including the date of receipt or posting.

(B) The town shall determine the name and address of the person who is the individual, firm, or corporation and lien holder who, from the records in the County Tax Assessor's office or other public records, appears to be the titled owner or lien holder of the property and cause a written notice of public nuisance to be served on the individual, firm, or corporation and lien holder by:

(1) Personal service as attested to by affidavit of service;

(2) Copy mailed to the owner or lien holder at the place or address by United States certified mail return receipt requested; and/or

(3) After due diligence, if service is unable to be perfected as described in divisions (B)(1) and (B)(2) above, the town shall cause a copy of the aforesaid notice to be posted at the structure, location, or premises, which shall serve as notice to the public and the owner and lien holder.

(C) The notice to abate the nuisance shall inform the person of the specific nuisance with citation to this section, provide names, numbers, and addresses for contact with the town; inform them of their rights to appeal and that, upon the fifteenth day after receipt of service or posting, the town may abate the condition and assess an administrative fee and all costs of abating the condition as a lien against the property.

(Ord. 06-16, passed 11-13-2006)

§ 90.07 APPEAL PROCEDURES; HEARING.

(A) *Appeal of finding of nuisance.*

(1) Where the town proceeds under § 90.06, the responsible person, owner, or occupant, or the lien holder of the property, may make a written demand to the Town Administrator for a hearing before Town Council on the question of whether a public nuisance in fact exists. This appeal stays the public abatement until such time as the matter is heard and decided by the Town Council. The appeal must be received by the Town Administrator within five business days of the posting or appellant's receipt of the notice to abate, excluding town-recognized holidays and weekends. The written demand shall include a contact number, either phone or facsimile, in order for the person to be informed of the hearing location, date, and time. It shall not be a defense to the determination that a public nuisance exists that the property is boarded up or otherwise enclosed. The Town Council, after the hearing, may amend or modify the notice to abate the public nuisance, or when appropriate under the facts presented, extend the time for compliance by the owner to the date as the majority of the Town Council may determine. The decisions shall be delivered orally to the appellant on the date of the hearing, and then, if requested, written and mailed to the address provided. Decisions of the Town Council are final unless appealed to the Court of Common Pleas within ten days of the decision of the Town Council.

(2) Failure to timely appeal constitutes a waiver of the right to appeal the existence of a public nuisance.

(B) *Appeal of assessment.*

(1) In those instances where the nuisance has been abated by the town after the required notice of § 90.06 or after appeal hearing before the Town Council, the owner or occupant or lien holder of the property who has been served with a notice of assessment pursuant to § 90.08 may make a written demand to the Town Administrator for a hearing to review the cost of the abatement. This appeal stays the attachment of the lien until the time as the matter is heard and decided by the Town Council. The appeal of the assessment must be received by the Town Administrator within five business days of the posting or the appellant's receipt of the notice of assessment, excluding town-recognized holidays and weekends. The written demand shall include a contact number, either phone or facsimile, in order for the person to be informed of the hearing location, date, and time. In an appeal of the assessment of costs, no testimony shall be permitted on the issue of the existence of the public nuisance. The decisions of the Town Council shall be delivered orally to the appellant on the date of the hearing, and then, if a requested, written and mailed to the address provided. Decisions of the Town Council are final unless appealed to the Court of Common Pleas within ten days of the decision of the Town Council.

(2) Failure to timely appeal constitutes a waiver of the right to appeal the assessment of costs.

(C) *Notice of the hearing.* By way of the contact numbers provided in the written demand, the Town Administrator shall orally advise the owner, occupant, and lien holder of the location, date, and time of the hearing provided for hereunder. Notice of the hearing must be provided at least five business days prior to the hearing, excluding town-recognized holidays and weekends.

(D) *Time and manner of hearings.* The hearings as allowed under this section shall be held as soon as practical.

(1) The hearing as to the existence of a public nuisance shall not be conducted under the strict rules of evidence. The hearing shall be informally conducted by the Town Administrator or his or her designee. The enforcement officer shall present the facts and circumstances that resulted in a conclusion that a public nuisance existed. The owner, occupant, or lien holder, or their agents, representatives, or attorneys, shall be given the opportunity to present evidence to the Town Council in the course of the hearing, and shall have the right of cross examination of the enforcement officer and other witnesses.

(2) When the nuisance has been abated by the town and the person has appealed the assessment of the administrative fee and actual costs, the hearing shall be conducted in the same manner as division (D)(1) above. The Town Council shall have discretion to waive the administrative fee or the public cost of abating a nuisance, in whole or in part, if, in the course of the hearing reviewing the decision, the Town Council finds that justice and equity require the waiver.

(Ord. 06-16, passed 11-13-2006)

§ 90.08 LIABILITY FOR COSTS.

In the event of refusal or neglect of a person to cause the nuisance to be abated in the manner and within the time provided herein, it shall be reported to the Town Administrator. The Town Administrator may, in a reasonable and prudent manner, direct the expenditure of public resources to abate the nuisance condition. The cost of abatement shall include an administrative assessment of \$250, in addition to the actual cost expended in public abatement of the nuisance. The persons who are the owners, occupants, and lien holders of the real property on which the nuisance is abated shall be served with a notice of assessment following completion of the abatement. The notice of assessment shall include the administrative fee and a statement of public cost, attested to by affidavit, and shall be issued and served, as provided for in § 90.06(B), and shall require that payment be made within 30 days of the date of service. Upon the expiration of the 30-day period or in the event of appeal, upon expiration of 30 days following the decision of the Town Council, if the amount of the assessment has not been paid in full, the Town Administrator may cause a lien in that amount to be filed with the County Clerk of Court and with the Treasurer of the town. The lien shall be filed of record in the office of the York County Clerk of Court, until paid or recovered, or otherwise released. The lien shall be collectible in the same manner as municipal taxes.
(Ord. 06-16, passed 11-13-2006)