



AMENDMENT TO TITLE 12 PUBLIC NUISANCE ORDINANCE NO.10-2009

TOWN OF ATLANTIC BEACH TITLE 3

PUBLIC NUISANCE ORDINANCE

Version: JANUARY 25, 2019 (current)

AMENDMENT TO ORDINANCE NO. 1-2019

ADOPTING ORDINANCE NO. 11-2020— SECOND READING

An Ordinance of the town of Atlantic Beach, South Carolina, Adopting a Revision and Codification of the Ordinances of the town of Atlantic Beach, South Carolina, Entitled "The Code of Ordinances, town of Atlantic Beach, South Carolina," Providing for the Repeal of Certain Ordinances Not Included Therein, With Certain Exceptions, and for Other Purposes Hereinafter Set Out.

The Town Council of the Town of Atlantic Beach, South Carolina, Hereby Ordains:

Chapter 12 - HEALTH AND SANITATION

State Law reference— Authority to establish board of health, S.C. Code 1976, § 44-3-10; food generally, S.C. Code 1976, Rule 61-25; sewage disposal, § 44-55-10 et seq.

ARTICLE I. - IN GENERAL

Sec. 12-1. - Nuisances—Acts constituting generally.

(a) A common nuisance is defined as an offense against the public order and economy of the town, by unlawfully doing any act or by omitting to perform any duty which the common good, public decency or morals, or the public right to life, health and use of property requires and which at the same time annoys, injures, endangers, renders insecure or interferes with the rights of property of the whole community or any considerable number of people.

(b) Any person who creates a common nuisance shall be guilty of a misdemeanor. The town manager or his designee may cause to be abated any common nuisance. This section shall be cumulative in effect and shall not be construed to repeal any existing ordinances in regard to nuisances.

Sec. 12-2. - Same—Enumeration.

It is hereby declared to be a nuisance, the enumerations of which are merely indications of the nature and type of acts, occurrences and conditions and shall not be deemed to be exclusive:

- 1) For any person to cause or allow any animal carcass or any filth or substance to be collected, deposited or to remain in any place to the detriment of public health;
- 2) For any person to throw, deposit or discharge into or suffer to be collected, deposited or remain in any street, alley or other public place, or in any house, building, premises, sewer or gutter any filth, garbage, noxious substance or any waste paper, rags or any rubbish of any kind;

- 3) For any person to allow, suffer or permit any lot or premises, common area or place of any kind whatsoever to become neglected so as to become a detriment to public health by weeds growing thereon, or by depositing of rubbish of any kind which may be injurious to the health and well-being of the community;
- 4) To allow, suffer or permit any stagnant water to accumulate or stand upon the surface of the ground or upon or within any receptacle or structure deposited or erected, either above or below the ground, without exercising necessary precautions to prevent the propagation of mosquitoes therein;
- 5) For any person to keep, herd or feed any animals, such as hogs, horses, chickens, rabbits and guinea pigs, in any manner which may be injurious to the health and well-being of any person due to noxious odors, noises, etc.;
- 6) Any attraction which may prove detrimental to any human being, whether in a building, on the premises of a building or upon an unoccupied lot. This includes, but is not limited to, any abandoned wells, shafts, basements, excavations, abandoned refrigerators or other similar appliances, and motor vehicles, or any structurally unsound fences or structures or any lumber, debris or vegetation which may prove a hazard for inquisitive minors;
- 7) For any person, either as the owner or occupant of a building, structure or property, to utilize the premises of the property for the open storage of any abandoned motor vehicle, icebox, refrigerator, stove, glass, building material, building rubbish or similar items;
- 8) To allow, suffer or permit any building or structure, by act of God, fire, decay or other cause, to become structurally dangerous, unsafe, dilapidated, unsanitary or vermin infested so as to create a hazard to the health or safety of the occupants or the public;
- 9) For any person to place any wastewater or foul water, petroleum products or dangerous chemicals in any pit, pipe, gutter or storm sewer, or upon any public or private property, including public rights-of-way, within the town;
- 10) For any person to throw, deposit or collect any garbage, trash or rubbish of any kind into a storm sewer, drainageway, gutter, drainage ditch, or canal which may impede the natural flow of stormwater drainage.

Sec. 12-3. - Notices, hearings, abatement of conditions, costs.

- a) Whenever it is made to appear to the town manager or his designee after investigation that any acts, occurrences or conditions constitute a nuisance, the town manager or his designee may, by order in writing, direct any nuisance affecting the sanitary condition of the town or the public health of the occupant or person having the care or custody of

the particular property involved, if he is found upon the premises or within the town, or may be delivered by mail or posted in a conspicuous place upon the premises.

- b) Within ten (10) days after the mailing, serving or posting of notice to him, the owner and/or occupant of the property may make written request to the town council for a hearing before that body to show that the condition does not constitute a public nuisance. The hearing shall be held at the next scheduled meeting of the town council. At the hearing, the town manager or his designee and the property owner and/or occupant may introduce such evidence as deemed necessary.

- c) Ten (10) days after mailing, serving or posting of the notice, if no hearing has been requested and the condition described in the notice has not been remedied, the town manager or his designee shall cause the condition to be remedied by the town at the expense of the property owner and/or occupant. If a hearing has been held and has concluded adversely to the property owner and/or occupant, the town manager or his designee may cause the condition to be remedied by the town at the expense of the property owner and/or occupant unless the town council otherwise directs.

- d) After causing the condition to be remedied, the town manager or his designee shall certify to the Town Accountant the expenses incurred in remedying the situation, whereupon the expenses, plus a charge equal to one hundred (100) percent of expenses to cover town administrative expenses, shall become payable within thirty (30) days. Upon failure to make payment within thirty (30) days, a lien shall be placed upon the real value of the property which shall be payable with interest at the rate of ten (10) percent per annum from the date of certification until paid. The lien shall be enforceable in the same manner as a tax lien in favor of the town and may be satisfied at any time by payment thereof, including accrued interest.

State Law reference— Authority to abate nuisances, S.C. Code 1976, §§ 5-7-30, 5-7-80; pollution abatement § 48-1-240; junkyard abatement, §§ 57-27-45, 57-27-80.

Sec. 12-4. - Penalty for violation.

Any person who violates any provision of this article shall be punished as provided in section 1-6. Each day of violation of this section shall constitute a separate offense.

ARTICLE II. - CARE AND MAINTENANCE OF LOTS, DEBRIS AND LITTER

Sec. 12-5. - Duties of owners and occupants to care for and maintain property.

Care and maintenance of lots generally shall be the joint and several duty of the owner, occupant or person having the care or custody of any property to keep such property in a safe, clean and sanitary condition and to remove therefrom all yard rubbish, trash, garbage, litter and other debris.

Sec. 12-6. - Accumulation of overgrowth vegetation, debris, etc., declared nuisance.

No owner, occupant or person having care or custody of any improved real property within the town, or the agent of the owner or person in control, shall permit on such lot, place or area or upon abutting right-of-way any weeds, grasses or other deleterious growth to exceed an average height of twelve (12) inches; nor shall any owner or persons having care and custody of any unimproved real property permit an accumulation of deleterious growth, weeds or grasses, trash, litter or other debris so as to allow unhealthy and unsanitary conditions, a breeding place for vermin, animals or insects, or a fire hazard. Such real properties are hereby declared to be a public nuisance.

State Law reference— Abatement of nuisance on property, S.C. Code 1976, § 5-7-80; pollution abatement, § 48-1-240.

Sec. 12-7. - Notice to cut, destroy, remove, etc.

- a) The town manager or his designee, annually or near the commencement of the growing season, shall notify, by general publication in a newspaper of general circulation or by such newsletters as the town may cause to be published, all such owners, persons in control or agents to cut, destroy or remove any such weeds, grass, growth or matter found growing or located on such property and to remove any trash, litter or debris.

- b) Upon the failure, neglect or refusal of any such owner, occupant or person having care and custody to cut, destroy or remove any such weeds, grasses, overgrowth, trash, debris, etc., the town manager or his designee may, by order in writing, direct that such condition be abated. The order may be served upon the owner, occupant or person having care and custody of the property involved, if such person is found upon the premises or within the town or may be delivered by certified mail.

Sec. 12-8. - Action upon noncompliance.

Within fifteen (15) days after serving, mailing or posting of notice to him, and upon the failure, neglect or refusal of any such owner or person having care and custody so notified to cut, destroy or remove any such weeds, grass, growth or other debris, the town or its authorized agent shall cut, destroy or remove any weeds, grass, growth, trash, debris or other matter, and any expense incurred by the town or its authorized agent in doing so shall be charged against the property owner, occupant or person having care and custody so failing, which charge may be recovered.

Sec. 12-9. - Payment of charges, assessment of lien.

After causing the condition to be remedied, the town manager or his designee shall certify to the Town's Accountant the expenses incurred in remedying the condition, whereupon such expense, plus a charge equal to one hundred (100) percent of the expense to cover town administrative expenses, plus advertising costs, shall become payable within thirty (30) days, after which a lien will be placed upon the real property which shall be payable with interest at a rate of ten (10) percent per annum from the date of the certification until paid.

The lien shall be enforceable in the same manner as a tax lien in favor of the town and may be satisfied at any time by payment thereof, including accrued interest.

Sec. 12-10. - Scattering of refuse, littering, advertising.

- a) It shall be unlawful for any person to scatter about or litter any public or private place or store any refuse described herein in such a manner that it may be carried or deposited by the elements upon any public or private place.

- b) The owners and/or occupants of residential and commercial property are hereby required to keep the sidewalk to the curbing or street edge in front of such property free of litter.

- c) It shall be unlawful for any person to throw or place any circular, posters, scraps of paper or any advertising matter of any kind upon any streets, sidewalks, beaches or public places within the town, or upon private property without the knowledge and consent of the owners. It shall also be unlawful to place any circular, poster or advertising matter in or affix or tie such advertising matter to any motor vehicle without the consent of the owner thereof.

- d) It shall be unlawful for any person to distribute or cause to be distributed on any beach, street, sidewalk, public way or park or any property within the town any paper handbills, circulars or other advertising matter without a permit from the Town Manager of the town.

State Law reference— Litter control, S.C. Code 1976, § 44-67-10 et seq.

ARTICLE III. - ABANDONED OR DERELICT MOTOR VEHICLES

Sec. 12-11. - Definitions.

For the purpose of this article, the following items shall have the meanings respectively ascribed to them:

Abandoned vehicle: A vehicle shall be determined to have been abandoned in the following circumstances:

- 1) It has been left upon a street or highway in violation of a law or ordinance;

- 2) It is left on any public street or highway in the town for a period of not less than forty-eight (48) hours;

- 3) It is left on property owned or operated by the town for a period of not less than twenty-four (24) hours;

- 4) It is left on private property without the consent of the owner, occupant or lessee thereof for a period of not less than seven (7) days.

Derelict vehicle: A vehicle shall be determined to be derelict if:

- (1) The certificate of registration has expired, and the registered and legal owner no longer resides at the address listed on the last certificate of registration on record with the department of highways and public transportation; or
- (2) The manufacturer's serial plate, motor vehicle identification numbers, license number plate, and any other means of identification have been removed or obliterated so as to nullify efforts to locate or identify a registered and legal owner; or
- (3) It is incapable of self-propulsion or being moved in the manner for which it was originally intended and is incapable of passing inspection as required under existing standards; or
- (4) The registered owner of record disclaims ownership or releases such person's rights thereto; or
- (5) The vehicle is more than seven (7) years old and does not bear a current license plate.

Sec. 12-12. - Abandoned or derelict motor vehicles.

- a. Abandoned or derelict motor vehicles are declared to be unlawful. It shall be unlawful to abandon any motor vehicle on any public street or public street or public grounds or upon any privately owned property, and it shall be unlawful for any person controlling privately owned property to abandon or to permit the abandonment thereupon of any motor vehicle.
- b. It shall be unlawful to park, store or leave or to permit the parking, storage or leaving of any motor vehicle which is derelict upon any right-of-way of any road, street, highway, or upon any public property.
- c. It shall be unlawful to park, store or leave or to permit the parking, storage or leaving of any motor vehicle which is derelict upon private property.
- d. Notwithstanding (a), (b) and (c) above, no more than one (1) such vehicle is permitted in the rear yard as required in Zoning Code, provided the motor vehicle is completely covered and does not otherwise constitute a nuisance. The section shall not apply to vehicles parked on private property in connection with a duly licensed business or commercial enterprise operated and conducted pursuant to law when the parking or storing of vehicles is necessary to the operation of the business or commercial enterprise.
- e. Violation of this section shall be a misdemeanor punishable by fine or imprisonment, or both; provided, however, that no person controlling privately owned property shall be criminally liable for the abandonment of motor vehicles thereupon by others if he shall

assist the duly designated officials and agents of the town in disposing of the vehicle in the manner prescribed by this section.

State Law reference— Authority and procedure, S.C. Code 1976, §§ 56-5-5610 et seq., 58-5-5810 et seq.

Sec. 12-13. - Declaration of public nuisance.

The accumulation and storage of derelict, junked, abandoned, wrecked, partially dismantled or inoperative motor vehicles are hereby found to create an undue and unnecessary traffic hazard, when on public rights-of-way, when on private premises, tending to reduce value of private property, to invite plundering, to create fire hazards and to constitute an attractive nuisance creating a hazard to the health and safety of minors. This accumulation and storage of vehicles are further found to promote urban blight and deterioration in the community; to violate the zoning regulations of the town in many instances; and that these wrecked, junked, derelict, abandoned or partially dismantled or inoperative motor vehicles are in the nature of rubbish, litter and unsightly debris and are a detriment to the public health, safety and welfare. The abandonment, accumulation or storage of any such vehicles on public rights-of-way or on private property is hereby declared to constitute a public nuisance which may be abated as such, which remedy shall be cumulative and in addition to any other remedy provided by law.

State Law reference— Authority to abate nuisances, S.C. Code 1976, §§ 5-7-30, 5-7-80.

Sec. 12-14. - Immunity.

No person shall be held to answer in any civil or criminal action to any owner, lienholder or other person legally entitled to the possession of any abandoned, derelict, lost or stolen motor vehicle for disposing of it as contemplated herein.

Sec. 12-15. - Penalties.

Any person who violates any provision of this article shall be punished as provided in section 1-6. Each day of violation shall constitute a separate offense.

ARTICLE IV. - NOISE

Sec. 12-18. - General prohibition.

It shall be unlawful for any person to make, continue or cause to be continued any excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the Town.

Sec. 12-19. - Specific prohibition.

- a) It shall be unlawful for any person in the town to maintain and operate in any building, motor vehicle or on any premises in the town any radio or television device or mechanical musical instrument, phonograph, jukebox, loudspeaker, or sound-creating or transmitting device of any kind whereby the sound therefrom is cast directly upon the public streets, strand, beach or alleyway in such a manner as to create unreasonably loud, excessive or disturbing noise, or where such noise annoys or disturbs the quiet, comfort

or repose of persons in any dwelling, hotel or other type of residence, or where any such device is maintained or operated for advertising purposes or for the purpose of attracting the attention of the passing public, or which is so placed and operated that the sound coming therefrom can be heard to the annoyance or inconvenience of travelers upon any street or public place or of persons in neighboring premises.

- b) Except as required by law, no person shall activate or cause to be activated within the town any horns or other sound producing device, except as alarm signals in case of fire, collision or other emergency.
- c) No person shall use or display a band or any noise-making devices in such a manner as to be heard or seen from any public street, strand, beach or alleyway in the town. It shall be unlawful for any person, group, organization or association to use any noise-making devices in any public strand, beach or alleyway in the town unless permitted under section 4-13.
- d) It shall be unlawful for any person in the operation of a motor vehicle to cause or allow any loud, excessive, or unusual noise in the operation or use of such motor vehicle upon any of the streets of the town or for any person to race the engine of any motor vehicle, while such vehicle is not in motion, except when necessary to do so in the course of repairing, adjusting or testing the same.
- e) It shall be unlawful for any person to own, possess or harbor any animal which frequently or for continued duration howls, barks, or makes other sounds which create excessive or unnecessary noise across a residential area. For the purpose of this section, "barking dog" shall mean a dog that barks, bays, cries, howls, or makes any other noise continuously or incessantly for a period of five (5) minutes or barks intermittently for ten (10) minutes or more to the disturbance of any person, particularly between 11:00 p.m. and 7:00 a.m. and regardless of whether the dog is physically situated in or upon private property; provided, however, that a dog shall not be deemed a "barking dog" if, at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon property in or upon which the dog is situated.
- f) It shall be unlawful to operate or permit the operation of tools or equipment used in construction, drilling or any demolition work between the hours of 10:00 p.m. and 7:00 a.m., except for emergency work of public service utilities, or by a temporary exception granted by the town manager for extraordinary circumstances relating to a construction activity.
- g) It shall be unlawful for any person to play any radio, phonograph or musical instrument in such a manner or with such volume, particularly between 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel, condo or other type residence.

- h) It shall be unlawful for any person to operate, cause or permit to be operated any instrument of sound producing or sound amplifying device so loudly as to unreasonably disturb persons in any dwelling, hotel, condo or other type residence, particularly between 11:00 p.m. and 7:00 a.m.
- i) The operation of pile driving equipment is prohibited at any time on Sundays and before the hour of 8:00 a.m. or after the hour of 6:00 p.m., Monday through Saturday.

Sec. 12-20. - Exemptions.

The following uses and activities shall be exempt from noise control regulation:

- 1) Lawnmowers, agricultural equipment and hobby equipment, when operated between the hours of 7:00 a.m. and 10:00 p.m.
- 2) Noises of safety signals, warning devices and emergency pressure relief valves.
- 3) Noises resulting from any authorized emergency vehicles, when responding to an emergency call or acting in time of emergency.
- 4) Noises resulting from emergency work.
- 5) Noise from school bells, church bells or chimes.
- 6) Sounds generated by natural phenomena.
- 7) Sanitation collection vehicles that empty solid waste from dumpsters or compactors.
- 8) Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit has been granted by the town, or activities sponsored or cosponsored by the town.

Sec. 12-21. - Undue hardship.

Application for permission to hold a public event which may violate the provisions of this article shall be made to the town manager. Such permission, if granted, shall be valid only at the specific location, times, dates, and upon the conditions as specified by the town manager.

Sec. 12-22. - Enforcement standards.


(a) An excessive, unnecessary or unusually loud noise is defined as any sound regulated by section 12-19, which is plainly audible at a distance of fifty (50) feet from its source or from a public road, alleyway, beach, motel or other public place, particularly between 11:00 p.m. and 7:00 a.m.

(b) The complaints of one (1) or more persons and/or the complaints of one (1) or more public safety officer are prima facie evidence that a sound regulated by section 12-19 annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others in violation of this article.

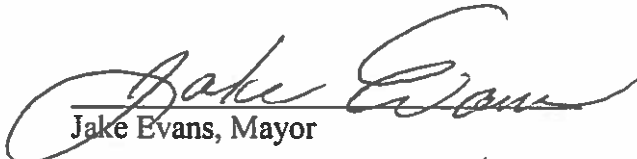
(c) Noises audible in public streets or public places which violate the standards of this article are hereby declared to be a public nuisance which may be abated by the director of public safety as authorized by section 5-7-30 of the Code of Laws of South Carolina, 1976, as amended. (d) Violation of this article is a misdemeanor and is punishable as provided in section 1-6 of the Code of Ordinances of the Town of Atlantic Beach.

DONE IN COUNCIL ASSEMBLED THIS 9TH DAY OF NOVEMBER 2020.

ATTEST:



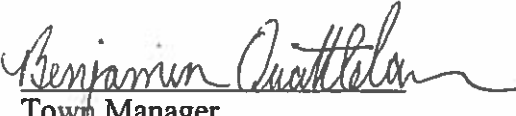
Town Clerk



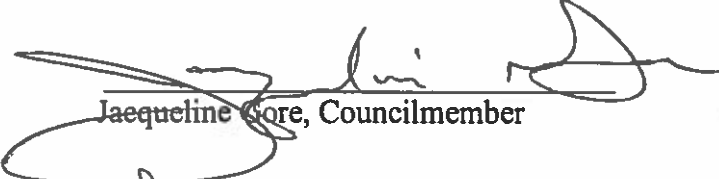
Jake Evans, Mayor



Josephine Isom, Councilmember



Town Manager



Jacqueline Gore, Councilmember

First Reading: October 5, 2020

Second Reading: November 9, 2020



Glenda Williams, Councilmember

Lenearl Evans, Councilmember