

**AN ORDINANCE ON PROTOCOL FOR DECLARING
PROPERTY TO BE A PUBLIC NUISANCE AND ESTABLISHING
PROCEDURES FOR THE ABATEMENT THEREOF**

Section 201: Definitions

As used herein, the following words and terms shall be defined as follows:

1. **Abate/Abatement** means action to terminate, stop, cease, repair, rehabilitate, replace, demolish, correct or otherwise remedy nuisance activity, condition, premises or conduct by such means and in such manner as to bring the activity, condition, premises or conduct into compliance with the laws or regulations of the City of Florence and/or the State of Mississippi and/or the United States of America or in such manner as is necessary to promote the health, safety or general welfare of the public.
2. **City** shall mean the City of Florence, Mississippi, acting under the authority of its Governing Authority.
3. **Owner** means the owner or owners of any premises or real property.
4. **Premises or real property** shall mean, in context, any location, building, structure, residence, garage, room, shed, shop, store, dwelling, lot, parcel, land or portion thereof, whether improved or unimproved.
5. **Public Nuisance** shall mean any condition, instrumentality, or machine located in a building or on premises that constitutes a health hazard and/or which is or may be unsafe or dangerous to members of the general public by reason of their inability to appreciate the peril therein, and/or which may reasonably be expected to attract children to the premises and risk injury by playing with, in, or on it.
6. **Recreational vehicle** means any device licensed to be driven upon the public streets with propulsion provided by an internal motor or engine under its own power or which is towed or drawn on the public streets by a Vehicle and which provides accommodation for eating, sleeping, or bathing.
7. **Responsible party or person** means any individual, business or entity responsible for creating, causing, maintaining or permitting the nuisance activity, premises, condition or conduct; and includes, but is not limited to, the property owner, tenant, lessee, possessor, or occupant of real property, the president or other officer of the corporation, a business owner or manager of a business.
8. **Trailer** means any portable structure built on a chassis and which is designed to have at least two (2) wheels and which is designed to be drawn or towed by a Vehicle or a tractor.
9. **Vehicle** means any device for carrying passengers designed to be driven upon the public streets with propulsion provided by an internal motor or engine under its own power and does not provide accommodations for eating, sleeping, or bathing. For purposes herein, no distinction is made between a Vehicle that is inoperative and/or unlicensed and a Vehicle that is operative and/or licensed.
10. **Yard** means a required open space, other than a court, unoccupied and unobstructed by

any structure or portion of a structure from thirty (30) inches above the general ground level of the graded lot upward, provided, however, that fences, walls, poles, posts, and other customary Yard accessories, ornaments, and furniture may be permitted in any Yard subject to height limitations and requirements limiting obstruction of visibility.

11. **Yard, Front** means a Yard extending between side lot lines across the front of a lot adjoining a public street.
12. **Yard, Rear** means a Yard extending across the rear of a lot between inner Side Yard lines
13. **Yard, Side** means a yard extending from the rear line of the required Front Yard to the rear lot line, or in the absence of any clearly defined Rear Lot line to the point on the lot farthest from the intersection of the lot line involved with the public street.

Section 202: Unlawful Property Nuisance

It is unlawful for any person owning, renting, leasing, occupying, managing or having charge, or possessing any real property in this City to maintain such premises in such a manner that any of the following conditions are found to exist thereon:

1. A building, structure, or portion thereof, which is in a dilapidated or dangerous condition so as to be unfit, unsafe, or unsuitable for human occupancy. Such conditions include, but are not limited to:
 - (a) Inadequate or inoperable mechanical, electrical, plumbing, or sanitation systems or equipment;
 - (b) Lack of sound and effective exterior walls or roof covering to provide weather protection;
 - (c) Lack of structural integrity, including deteriorated or inadequate foundations, joints, vertical or horizontal support;
 - (d) Broken, missing, or inoperable windows, glass, or doors constituting a hazardous condition or a potential attraction to trespassers;
 - (e) Buildings or structures which are unpainted or which otherwise lack exterior coating, which can cause dry rot, warping, and/or termite infestation;
 - (f) Broken, deteriorated, or substantially defaced structures visually impacting on the neighborhood or presenting a risk to public safety;
 - (g) Substandard building conditions described in the International Building Code.
2. An abandoned building or structure such as:
 - (a) An unoccupied and unsecured building or structure;
 - (b) A partially constructed, reconstructed, or demolished building or structure where work is abandoned for 120 consecutive days;
 - (c) A damaged or partially destroyed building or structure not removed or repaired within 120 days after the damage or destruction, or, if the removal or repair cannot reasonably be accomplished within 120 days, upon which removal or repair has not been commenced within such period and prosecuted diligently toward completion.
3. Property maintained in a condition so defective, unsightly, or in a state of such deterioration, disrepair or neglect that it causes a health, safety and/or fire hazard or an public nuisance to children or others such as:
 - (a) The accumulation of dirt, litter, refuse, trash or debris in carports, parking areas,

- driveways, front yards, side yards, rear yards, vestibules, doorways of buildings, the adjoining sidewalk, or alley;
- (b) Storage of personal property (other than items designated for outdoor use) in front, exterior side, or rear yard areas visible to public view, including, but not limited to unregistered, inoperative or dismantled vehicles or vehicle parts, building materials not currently being used for the construction of improvements on the site, appliances, household furnishings or equipment, tools, machines, garbage cans, packing boxes, debris, rubbish, and broken or discarded furniture;
4. Trees, weeds, grass, vines, brush, or other vegetation which are dead, decayed, infested, diseased, overgrown, or likely to harbor rats or vermin, or which are detrimental to neighboring property or property values. This paragraph shall be applicable to every track of land upon which any building, facility or other structure of any type is located, regardless of the condition of the structure. This paragraph shall not be applicable to:
 - (a) Tracts of land in its natural forested or unimproved state that have not been subdivided, platted, or recorded for development purposes;
 - (b) Tracts of land used primarily for agricultural purposes;
 - (c) Tracts of land that have not been improved or occupied for a period of at least 25 years and upon which no structure exists;
 - (d) Open fields or other similar situated tracts of land; Provided, however, where soil or other materials have been piled/loaded upon a tract of land, same, in and of itself, is deemed a nuisance.
 5. Abandoned industrial buildings, broken equipment, or machinery, or parts thereof;
 6. The discharge of sewerage or untreated wastewater into any yard, open ditch, storm sewer line or any other open public or private property area;
 7. Fences or walls:
 - (a) which lack structural support because of missing or wet soil, missing or failed footings, or missing or failed fastenings; or which otherwise do not stand erect;
 - (b) which are in disrepair due to damage, crumbling mortar, missing bricks or wood, rotted wood, breaks or dents in their structure;
 8. Front yards, and street side yards on improved lots, including corner lots, which lack required landscaping with a lawn, ground cover, bushes, or trees, or which lack required covering with rock or other decorative material, except during permitted construction, demolition, or remodel work on the lot;
 9. A surface excavation or grading on private property which:
 - (a) Contains four (4) or more inches of standing water for a period in excess of five (5) days during which no rain has fallen; or
 - (b) Has sides which slope at an angle that exceeds City standards.
 - (c) This prohibition does not apply to:
 - (i) Completed drainage facilities which are owned or maintained by, or approved and maintained in the manner approved by the City of Florence or Rankin County
 - (ii) Excavations made as part of construction approved by the City and protected with barriers or fences that meet City, County and/or State standards; or
 - (iii) Excavations which are completely surrounded by a fence or other secure barrier at

least six (6) feet tall.

10. A Vehicle or Vehicles, or Recreational Vehicle(s) parked or stored in a required front or corner side yard, except on a driveway or a paved area or behind a solid fence or wall a minimum of six (6) feet in height, on lots in a residentially zoned district. No more than fifty percent (50%) of the front yard may be paved or used for such parking.
11. Clothing, linen, towels, laundry, rugs, mattresses, and other similar material hung, placed, or attached to power lines, trees, bushes, fences, buildings, railings, or walls and visible from public property or an area open to the public.
12. Waste matter or personal property placed on rooftops.
13. Construction or agricultural equipment, machinery, or materials, parked or placed on residential premises and visible from public property or an area open to the public, except during permitted construction, demolition or remodel work on the site.
14. A commercial Vehicle with a gross weight of 10,000 pounds or more which is parked on the street right-of-way or on a lot or parcel in a residentially zoned district, unless the vehicle is in the process of delivering goods or services.
15. Vehicle or vessel repair which occurs in a residentially zoned district and is offensive or detrimental to the health, safety, or welfare of other persons, or which substantially interferes with the reasonable enjoyment of property by other persons, because of the substances, odors, noise, or visual clutter created by the repair; or because of the items stored in connection with the repair, or because the repair is performed on a vehicle not owned by the occupant of the property;
16. Any building or structure which is a public nuisance under common law.
17. Any violation of the zoning ordinances or occupying or otherwise using property in violation of the provisions of any conditional use permit, planned development permit, variance or other land use entitlement or land use permit.
18. Any condition or activity which is a "nuisance" or a "public nuisance" as defined in by the State of Mississippi or which is specifically declared to constitute a nuisance by any statute of the State of Mississippi or by any ordinance of the City of Florence.
19. Any building or structure which is constructed, altered, repaired, modified, maintained or used in violation of the provisions of the City of Florence, Mississippi Zoning Ordinances.
20. A Trailer that is parked or stored outside on any Yard in a residential district, excepting those Trailers that are parked or stored in a carport or enclosed building or behind the nearest portion of a building to a street, provided, however, that any Trailer anywhere on residential premises for a period not to exceed twenty-four (24) hours during loading or unloading.

Section 203: Public Nuisance Declared

All property found to be maintained in a manner prohibited by the provisions of Section 202 of this Ordinance is hereby declared to be a public nuisance and shall be abated pursuant to the procedures set forth herein. The procedures for abatement set forth herein shall not be exclusive and shall not in any manner limit or restrict the City from enforcing other City ordinances or abating public nuisances in any manner provided by law.

Section 204: Responsibility for Property Maintenance

Every Responsible Party who owns or is in possession of premises within the City is required to maintain such premises in a manner so as not to violate the provisions of this Ordinance.

Section 205: Abatement Procedure

1. **Prohibited Conditions.** It shall be unlawful for any Responsible Party to allow or permit his/her premises or real property to be in such a state that same is a violation of Section 202 hereinabove. The Police Chief, Fire Marshall, Zoning Administrator or their designee shall have the authority to declare a premises unsanitary and/or unsightly. Prior to any official action, said Police Chief, Fire Marshall, Zoning Administrator or their designee shall notify the landowner by letter or in person that the premises or real property is in need of clearing/cleaning, and request that the Responsible Party causes the premises or real property to be cleaned and the nuisance abated within fifteen (15) days. If the Responsible Party fails to do so, then the following is to be followed.
2. **Hearing, Notice, and Opportunity to be Heard.** To determine whether property or a parcel of land located within the City is in such a state of uncleanness so as to be a menace to the public health, safety and welfare of the City, the Governing Authority shall conduct a hearing, on its own motion, or upon the receipt of a petition signed by a majority of the residents residing within four hundred (400) feet of any premises or real property alleged to be in need of cleaning or in violation of Section 202 herein. Notice shall be provided to the property owner by:
 - (a) United States Postal Service mail two (2) weeks before the date of the hearing, mailed to the address of the subject property and to the address where the *ad valorem* tax notice for such property is sent by the office charged with collecting *ad valorem* tax; and
 - (b) Posting, in a conspicuous place, notice for at least two (2) weeks before the date of a hearing on the subject property and at City Hall or another place in the City where such notices are posted. The said notice shall include language that informs the property owner that the purpose of said hearing is to adjudicate whether premises or real property is in need of cleaning or is in violation of Section 202 herein, and that the City will be authorized to re-enter the property or parcel of land for a period of one (1) year after the hearing without any further hearing if notice is posted on the premises or real property and at City Hall, or at another place in the City where such notices are generally posted, at least seven (7) days before the premises or real property is re-entered for cleaning. A copy of the required notice mailed and posted as required by this section shall be recorded in the minutes of the Governing Authority in conjunction with the hearing required by this Section.
3. **Adjudication of Nuisance.** If, at such hearing, the Governing Authority shall adjudicate the premises or real property in its then condition to be in violation of Section 202 herein, and thus a nuisance and a menace to the public health, safety and welfare of the community, the Governing Authority, if the Responsible Party does not do so himself within thirty (30) days of the said hearing, can proceed to clean the property, by the use of City employees or by contract, by cutting grass and weeds; filling cisterns; removing rubbish, dilapidated fences, outside toilets, dilapidated buildings, personal property, which removal of personal property shall not be subject to the provisions of

Section 21-39-21, and other debris; and draining cesspools and standing water therefrom. The Governing Authority may by resolution adjudicate the actual cost of cleaning the property and may also impose a penalty not to exceed One Thousand Five Hundred Dollars (\$1,500.00) or fifty percent (50%) of the actual cost, whichever is more. The cost and any penalty may become a civil debt against the Responsible Party, or, at the option of the Governing Authority, an assessment against the property. The "cost assessed against the property" means either the cost to the City of using its own employees to do the work or the cost to the City of any contract executed by the City to have the work done, together with administrative costs and legal costs of the City. For subsequent cleaning within the one-year period after the date of the said hearing, upon seven (7) days' notice posted both on the premises or real property adjudicated in need of cleaning, and at City Hall or another place in the City where such notices are generally posted, and consistent with the City's adjudication as authorized hereinabove, the City may re-enter the property or parcel of land to maintain cleanliness without further notice or hearing no more than six (6) times in any twelve-month period with respect to removing dilapidated buildings, dilapidated fences and outside toilets, and no more than twelve (12) times in any twenty-four-month period with respect to cutting grass and weeds and removing rubbish, personal property and other debris on the land, and the expense of cleaning of the property shall not exceed an aggregate amount of Twenty Thousand Dollars (\$20,000.00) per year, or the fair market value of the property subsequent to cleaning, whichever is less. The Governing Authority may assess the same penalty for each time the property or land is cleaned as otherwise provided in this section.

- 4. Cost and Penalty Collection.** If the Governing Authority declares, by resolution, that the cost and any penalty shall be collected as a civil debt, the Governing Authority may authorize the institution of a suit on open account against the Responsible Party in a court of competent jurisdiction in the manner provided by law for the cost and any penalty, plus court costs, reasonable attorney's fees and interest from the date that the property was cleaned. If the Governing Authority does not declare that the cost and any penalty shall be collected as a civil debt, then the assessment above provided for shall be a lien against the property and may be enrolled in the office of the circuit clerk as other judgments are enrolled, and the Tax Collector of the City, or the Tax Collector of Rankin County, Mississippi, acting for the City, shall, upon order of the Governing Authority, proceed to sell the land to satisfy the lien as now provided by law for the sale of lands for delinquent municipal taxes.

All assessments levied under the provisions of this Section shall be included with municipal *ad valorem* taxes and payment shall be enforced in the same manner in which payment is enforced for municipal *ad valorem* taxes, and all statutes regulating the collection of other taxes in a municipality shall apply to the enforcement and collection of the assessments levied under the provisions of this section, including utilization of the procedures authorized under Section 17-13-9(2), and 27-14-2.

All assessments levied under the provisions of this section shall become delinquent at

the same time municipal *ad valorem* taxes become delinquent. Delinquencies shall be collected in the same manner and at the same time delinquent *ad valorem* taxes are collected and shall bear the same penalties as those provided for delinquent taxes. If the property is sold for the nonpayment of an assessment under this section, it shall be sold in the manner that property is sold for the nonpayment of delinquent *ad valorem* taxes. If the property is sold for delinquent *ad valorem* taxes, the assessment under this section shall be added to the delinquent tax and collected at the same time and in the same manner.

Section 206: Criminal Liability

If at the hearing specified in Section 205 hereinabove, the Governing Authority adjudicates the property or parcel of land in its then condition to be in violation of Section 202 hereinabove, and thus a nuisance and a menace to the public health, safety and welfare of the community, then the Responsible Party shall have thirty (30) days to clean the property or otherwise abate the nuisance, and any failure of a Responsible Party to do so shall be deemed to be a misdemeanor and shall be punished by a fine of not less than \$100.00 or more than \$1000.00, or by imprisonment in the county jail for not to exceed ninety (90) days, or by both such fine and imprisonment. Each day that a violation continues to exist shall constitute a separate offense.

Section 207: Appeal

All decisions, orders, and adjudications rendered by the Governing Authority under Ordinance may be appealed in the same manner as other appeals from municipal boards or courts are taken.

Section 208: Severability

The procedures provided in this Chapter shall be cumulative and in addition to any other procedure or legal remedy provided for in the Code of Ordinances of the City of Florence or the laws of the State of Mississippi for the abatement of nuisance related activities, premises, conditions or conduct. Nothing in this Chapter shall be deemed to prevent the City from commencing a civil or criminal proceeding to abate a nuisance under applicable civil, criminal or municipal code provisions as an alternative or alternatives to the proceedings set forth in this Ordinance. The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of the Ordinance other than said part of portion thereof.