

**AN ORDINANCE
TO AMEND CHAPTER 13: NUISANCES, SECTION 13-26 “DECLARATION OF
NUISANCE”, & CHAPTER 5: BUILDINGS AND BUILDING REGULATIONS
SECTION 5 “PROPERTY MAINTENANCE CODE”
OF
THE OFFICIAL ZONING ORDINANCE
OF THE CITY OF PICKENS, SOUTH CAROLINA**

Section I: Findings and Enabling Citation

Whereas, the City of Pickens has adopted an Official Zoning Ordinance in accordance with South Carolina State Enabling Legislation, as included in Title VI, Chapter 29 of the South Carolina Code of Laws, for the purpose of promoting the public health, safety, and general welfare of the community, and

Whereas, the City Council and Planning Commission of the City of Pickens do find that it is necessary to amend the Official Zoning Ordinance from time to time in order to most effectively promote the goals of the Ordinance, as established above,

Now therefore, the City Council of the City of Pickens, upon review of a recommendation from the Planning Commission of the City of Pickens, does adopt this Ordinance to allow for the following sections to be amended as printed below:

Section II:

A. Amendments to Chapter 13 “Nuisances”, Article II “Weeds and Wild Growth; Unightly and Unsanitary Conditions”, Section 13-26 “Declaration of Nuisance” of the Official Zoning Ordinance of the City of Pickens

The title and language included in Section 13-26 of the Official Zoning Ordinance of the City of Pickens, which addresses nuisances such as the weeds and wild growth or other unsightly or unsanitary conditions within the City of Pickens shall be amended to encompass all nuisances within the city limits and shall read:

13-1: “Declaration of a nuisance”

The existence of any of the following conditions on any vacant lot or other parcel of land within the corporate limits is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance.

1. Vegetation, Plant Life and Miscellaneous

- a. The uncontrolled growth of noxious weeds, poison sumac, poison ivy, poison oak, grasses, weeds, kudzu, vines, and other vegetation to a height in excess of ten (10) inches, causing or threatening to cause a hazard detrimental to the public health or safety;

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- b. A place of growth of vines, shrubs or other vegetation when such condition creates a breeding ground for rodents or is a focal point for any other nuisance enumerated in this section;
 - c. Any condition which is a breeding ground or harbor for mosquitoes or a breeding ground or harbor for rats or other pests;
 - d. An open place of collection of stagnant water where insects tend to breed;
 - e. A tree or branch of any tree which is in danger of falling due to decay or rot or any other reason, or any tree which contains any disease or insects which can spread to other trees;
 - f. Roots of trees obstructing any portion of a sewer located on City property or within City easements;
 - g. Any place of growth of shrubs, trees or other vegetation that impedes public safety vehicle and firefighting equipment ingress and egress in the following locations that are utilized as public safety vehicle and firefighting equipment access routes and areas: private street easements, private drives, parking lots and/or drive isles, fire hydrant easements, designated fire lanes or other public vehicular areas; and
 - h. Any condition whereby any fence, sign, billboard, shrubbery, bush, tree, mailbox or other object or combination of objects which obstructs the view of motorists using any street, private driveway or approach to any street intersection adjacent to and abutting such and so as to constitute a traffic hazard as a condition dangerous to public safety upon any such street, private driveway or at any such street intersection.
2. Trash, Junk and Rubbish
- a. Any accumulation of rubbish, trash or junk causing a concentration of combustible materials such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, causing or threatening to cause a fire hazard;
 - b. Any concentration of building materials including concrete, steel or masonry which are not suitable for building construction, alterations or repairs, and which are in open places;
 - c. Any products which have jagged edges of metal or glass kept in open places;
 - d. Any open place of concentration of trash, refuse, discarded bottles, cans or medical supplies;
 - e. An open place of collection of garbage, food waste, animal waste or any other rotten matter of any kind; however, nothing in this subsection shall be construed to prevent the generally accepted use of a properly maintained compost pile or storage of animal manure being used as fertilizer for lawns and gardens and for other agricultural or horticultural purposes;
 - f. Any household or office furniture, unused dilapidated toys, appliances or other metal products of any kind kept in open places or any indoor

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upholstered furniture kept outside in a location exposed to the weather;
and

- g. Any condition which occurs when a tenant leaves leased property either voluntarily or involuntarily (including but not limited to ejection or other landlord removal action) and leaves or abandons trash, debris and property and the owner or property manager fails to remove the trash, debris or property from the leased property within 24 hours after the voluntary or involuntary removal of the tenant.
 - h. Any junk vehicles or any similar items of junk.
3. Unsafe Structures
- a. The continued vacancy of a structure or building resulting in lack of reasonable of adequate maintenance of the building or structure and grounds;
 - b. A vacant building or structure which is open and not secured against unauthorized entry;
 - c. A building or structure, or any portion, member or appurtenance or ornamentation thereof, likely to fail or become detached, dislodged or to collapse and there by injure person or damage property;
 - d. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
 - e. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
 - f. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
 - g. Any building or structure, because of a lack of sufficient or proper fire resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.
 - h. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

4. Any other condition declared to be dangerous or prejudicial to the public health or public safety and a public nuisance by the City Council or the state board of health.

B. Amendments to Chapter 5 Section 5 “Property Maintenance Code” of the Official Zoning Ordinance of the City of Pickens

The language included in Section 5.5 of the Official Zoning Ordinance of the City of Pickens, which addresses the adoption of the International Property Maintenance Code shall be amended to allow for the appointing of a code official and nuisance board and shall read:

1. The City Administrator or his/her designee is the code official for administration and code enforcement of the International Property Maintenance Code.
2. The City will have a Nuisance Review Board to hear appeals as permitted by the International Property Maintenance Code
 - a. **Application for appeal.** Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.
 - b. **Membership of board.** The board of appeals shall consist of a minimum of three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The code official shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the chief appointing authority, and shall serve staggered and overlapping terms.
 - i. **Alternate members.** The chief appointing authority shall appoint a minimum of two alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.
 - ii. **Chairman.** The board shall annually select one of its members to serve as chairman.
 - iii. **Disqualification of member.** A member shall not hear an appeal in which that member has a personal, professional or financial interest.
 - iv. **111.2.4 Secretary.** The City Administrator shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the City Administrator officer.

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- c. **Notice of meeting.** The board shall meet upon notice from the chairman, within 20 days of the filing of an appeal, or at stated periodic meetings.
- d. **Open hearing.** All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of a minimum of two-thirds of the board membership.
 - i. **Procedure.** The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.
- e. **Postponed hearing.** When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.
- f. **Board decision.** The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed board members.
 - i. **Records and copies.** The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.
 - ii. **Administration.** The code official shall take immediate action in accordance with the decision of the board.
- g. **Court review.** Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.
- h. **Stays of enforcement.** Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.

Section III: Enactment

This Ordinance shall be in full force and effect upon its adoption by the City Council of the City of Pickens.

Attested:

First Reading *June 5, 2017*
Second Reading *July 17, 2017*



Mayor David Owens



Clerk to Council, Brittany Chapman