

Chapter 26

ENVIRONMENT

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ARTICLE I. IN GENERAL

Secs. 26-1 thru 26-25. Reserved.

ARTICLE II. NUISANCES

Sec. 26-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building materials and debris means any and all accumulations of sand, wood, stone, brick, cement, concrete, roofing and any other materials used or which may be used for building construction, renovation or alteration.

Commercial trash means any and all accumulations of paper, rags, excelsior or wooden, paper or cardboard boxes or containers and any other accumulation, not included in the definition of garbage, generated by the operation of stores, offices and other business places. Commercial trash shall also include all trash placed in public receptacles in parks, playgrounds, public streets, golf courses and all other public places in the city.

Garbage means all accumulations of animal, fruit or vegetable matter that attends the preparation, use, cooking and dealing in or storage of meat, fish, fruit, fowl, vegetable and any other matter, excluding human body waste, or of any nature whatsoever which is subject to decay, putrefaction, the generation of noxious and offensive gases or odors, which, during and after decay, may serve as breeding or feeding material for flies and any other germ-carrying insects and rodents.

Garden and yard trash means any and all accumulation of grass, palm fronds, leaves, branches, shrubs, vines, tree stumps and other similar items which are normally generated by maintenance of lawns, shrubs, gardens and trees.

Household trash means any and all accumulations of waste materials from the operation of the home, which are not included in the definition of garbage. Household trash shall include all appliances, furniture, toys, building material wastes from do-it-yourself projects and anything else put out for collection. Waste generated by building contractors, subcontractors and/or tree surgeons rendering professional services is not to be considered household trash.

Industrial wastes means any and all debris and waste products generated by canning, manufacturing, food processing (except restaurants), and public works type construction projects, whether performed by governmental unit or by contract.

Land clearing debris means all trees, trunks, stumps, rocks, scrub brush and other materials accumulated during site preparation.

Refuse means all garbage, garden and yard trash, rubbish, household trash, commercial trash and industrial waste trash.

Trash includes commercial and industrial trash, household trash and garden and yard trash as defined in this section, unless specifically provided to the contrary.

(Code 1976, §9.1-1)

Sec. 26-27. Penalty.

Any person who is found guilty of violating any provision of this article shall, upon conviction thereof, be subject to punishment as provided in section 1-13.

(Code 1976, §9.1-6)

Sec. 26-28. Remedies cumulative.

The remedies provided in this article are cumulative and shall not limit any remedies available to the city to abate nuisances or code violations.

(Code 1976, §9.1-9)

Sec. 26-29. Conditions declared to be nuisance.

The following conditions existing, permitted, maintained, kept or caused by any person shall constitute prima facie evidence in maintaining a nuisance injurious to health:

- (1) Untreated or improperly treated human waste, garbage, trash, dead animals or dangerous waste materials from manufacturing process as harmful to human or animal life and air pollutants, gases and noisome odors which are harmful to human and animal life.
- (2) Improperly built or maintained septic tanks, water closets or privies.
- (3) The keeping of diseased animals dangerous to human health.
- (4) The creation, maintenance or causing of any condition capable of breeding flies, mosquitoes or other arthropods capable of transmitting diseases directly or indirectly to humans.
- (5) The creation, maintenance or causing of any condition capable of breeding vermin and rodents.
- (6) The creation, maintenance or causing the accumulation of any refuse, building material and debris or land clearing debris exposed to the weather or which, because of its characteristics, may cause damage to life or property in storm conditions.
- (7) The natural presence of mosquito larvae in standing or running water.
- (8) The creation or maintenance of any type of condition which makes it difficult to ascertain the depth of any pool.
- (9) Any condition which may prove detrimental to children and other members of the general public whether in a building, on the premises of a building, or upon an unoccupied lot. This includes, but is not limited to, any abandoned *or* unsecured, structure, grease pit, pool, excavation, appliance with door, lid or other closure, shafts, vehicles or vessel; enclosed sealed container, any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard.

(Code 1976, §9.1-2; Ord. 984, §1, 3-5-08)

Sec. 26-30. Deposits in streets or on property.

No person shall deposit or cause to be deposited on any land, public square, street, alley, vacant lot or unoccupied lot, water of the Banana River or Atlantic Ocean or any other watercourse or ditch within the city any garbage, trash, building waste materials and debris or land clearing debris.

(Code 1976, §9.1-3)

Sec. 26-31. Burning refuse.

(a) No person shall cause, suffer, allow, or permit open burning except as permitted by the fire department or exempted by this section. For purposes of this section, "outdoor burning" shall mean the combustion of material outside of a structure with or without control of combustion air and without a stack or chimney to vent emitted products of combustion into the atmosphere.

(b) Exemptions. The following activities shall be exempt from the prohibition set forth in subparagraph (a).

- (1) Outdoor fires used for cooking of food, including barbeques in outdoor fireplaces, tar pots and commercial and industrial operations requiring open flames for operation. Such outdoor fires shall be operated in a safe manner.
- (2) Ceremonial fires, recreational fires, bon fires, camp fires and similar fires shall be permitted on Samsons Island only (i) in areas designated by the city for such use and (ii) on grills approved by the city.

(c) The following "outdoor burning" shall be allowed only pursuant to a permit issued by the fire department:

- (1) Ceremonial fires, recreational fires, bonfires, camp fires and similar outdoor burning activities not otherwise covered in subparagraph (b).
- (2) Fires set for the training and instruction of public and/or private personnel who are responsible for fire control and extinguishment activities, and "open burning" for habitat management, control burns and similar purposes on city property.
- (3) Notwithstanding the exemptions to the prohibition provided in subparagraph (a), or otherwise permitted under this section or by a permit issued by any other regulatory agency, the fire department may extinguish or cause to be extinguished such fires or open burning if based upon environmental, atmospheric or local circumstances such fires are or may create a nuisance, health hazard or safety hazard. Further, the fire chief may prohibit any and all open burning based upon environmental, atmospheric or local circumstances which would make such fires or open burning a hazard.

(Code 1976, §9.1-4; Ord. 804, §1, 3-21-01)

Sec. 26-32. Burying refuse.

No person shall bury any garbage, trash, building waste materials and debris or land clearing debris.

(Code 1976, §9.1-5)

Sec. 26-33. Action upon noncompliance.

Upon the failure, neglect or refusal of any owner, or agent of such owner, to abate a nuisance within 15 days after receipt of written notice of violation of section 26-29; or within 15 days after the date of such notice if it is returned to the city because of the inability of the postal service to make delivery thereof, provided that notice was properly addressed to the last known address of the owner, or the agent of such owner; or within 15 days of personal service of the notice upon the owner, or the agent of the owner, the code enforcement officer may authorize the nuisance to be remedied. The city, its agents, employees or contractors are authorized to enter upon the property described in this notice to remedy the violations. The code enforcement officer shall invoice the

owner of the property for the services rendered pursuant to this section. Also, the city may seek other remedies provided by law.

(Code 1976, §9.1-7)

Sec. 26-34. Recorded statement constitutes lien.

Where the amount due the city is not paid by the owner within 30 days after the nuisance is remedied by or on behalf of the city under section 26-33 the city manager shall cause to be recorded in the public records of the county a sworn statement showing the cost and expense incurred for the work done and the date, place and property on which the work was done. The recordation of such sworn statement shall constitute a lien on the property for the amount due in principal for labor, administrative costs and fees incurred by the city, plus interest and costs of court, if any, for collection, including reasonable attorney's fees, until payment has been made. The effective date of such lien shall relate back to the mailing of the invoice provided for in this article. Such costs and expenses shall be collected in the manner fixed by law for the foreclosure of mortgages or, Alternatively, for the foreclosure of special assessment liens, and further, shall be subject to interest at the highest rate established by law. Sworn statements recorded in accordance with the provisions of this section shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily, and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that it is due and collectible as provided by law. A lien created under this article shall have the same force, effect, stature and character of liens for special assessments authorized pursuant to F.S. ch. 170, with the same penalties and with the same rights of collection, foreclosure, sale, payment, fees, and costs and all other rights and remedies that pertain to special assessment liens. Specifically, the lien shall remain in force as long as it shall remain unpaid.

(Code 1976, §9.1-8)

Secs. 26-35 thru 26-54. Reserved.

ARTICLE III. LOST OR ABANDONED PROPERTY

State Law Reference: Mandatory procedure for lost and abandoned property on public property, F.S. §705.101 et seq.

Sec. 26-55. Designation of code enforcement officer as additional enforcement authority.

The code enforcement officer for the city is hereby authorized and empowered to administer and enforce the provisions of this chapter, as well as F.S. ch. 705, pursuant to the authority granted therein. This designation shall not affect the powers and ability of the police department to enforce such provisions.

(Ord. 614, §4(14-5), 11-23-94)

Sec. 26-56. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned property means all tangible, personal property having no value other than nominal salvage value, if any, which has been left abandoned or unprotected from the elements or which has no identifiable owner, and shall include junked, disabled, wrecked, discarded or otherwise unused or partially dismantled vehicles, trailers, boats, machinery, refrigerators, washing machines, plumbing fixtures, furniture and any other similar article which has no value other than nominal salvage value, if any, and which has been left abandoned and unprotected from the elements.

Inoperable condition means any condition or disability of a vehicle over a period exceeding 72 consecutive hours which disables or prevents its normal operation.

Lost property means all tangible, personal property which does not have an identifiable owner and which has been mislaid on public property, upon a public conveyance, on premises used at the time for business purposes, or in parks, places of amusement, public recreation areas or other places open to the public and which is in a substantially operable, functioning condition, or which has an apparent intrinsic value to the rightful owner.

Major repairs means:

- (1) Any painting accomplished by spraying, whether by aerosol application or by mechanical or electrical spray application, when such work disables a vehicle or boat or prevents the normal use or operation of a vehicle or boat over a period exceeding 48 consecutive hours.
- (2) Any sheet metal work or other repair work to the body of a vehicle or boat where such work disables a vehicle or boat or prevents the normal use or operation of a vehicle or boat over a period exceeding 48 consecutive hours.
- (3) Any mechanical or electrical repair of any nature which disables a vehicle or boat or prevents, over a period exceeding 72 hours, its normal use or operation.
- (4) Performing the activities set forth in subsections (1), (2) or (3) on more than one vehicle or boat, irrespective of the length of time such vehicles or boats are disabled or precluded from normal operation.

Residential zoning means any area within the city zoned R-1, R-2, R-3, R-4, R-5, 1M-1, RM-2 or RM-3, in accordance with the zoning ordinance of the city.

Storing, depositing and keeping means placing in location for safekeeping, preservation, future use or disposal.

Vehicle means motor vehicles and trailers as defined in F.S. §316.003.

(Code 1976, §14-2; Ord. 614, §2(14-2), 11-23-94)

Sec. 26-57. Storing, depositing, keeping abandoned property.

It shall be unlawful for any person, either as owner, occupant, lessee, agent, tenant or otherwise, to store, deposit or keep or cause to be stored, deposited or kept, any abandoned property upon any private real property within the city limits except in an enclosed building or structure. Up to five abandoned vehicles may be stored within an area enclosed by a six-foot opaque fence by a business licensed by the city to perform automotive repairs. Vehicles may not be stacked.

(Code 1976, §14-3)

Sec. 26-58. Presumption of abandonment; rebuttal.

It shall be prima facie evidence that a motor vehicle, boat or trailer is abandoned property within the definition in section 26-56, irrespective of its age or value, if the motor vehicle or trailer does not have a current vehicle registration and a current license plate issued pursuant to the laws of the state or if the boat does not have a current registration issued pursuant to the laws of the state. Such presumption may be rebutted by the owner of such vehicle, boat or trailer by providing the city, within five days from the date of any notice provided pursuant to this article, a current vehicle registration, boat registration, or license plate reflecting his ownership. Boat dealers who have a valid and current occupational license shall be exempt from the registration requirements of this section.

(Code 1976, §14-2)

Sec. 26-59. Certain repairs to vehicles, certain vehicles in inoperable condition prohibited in residential zones.

(a) *Restriction on major repairs.* No person shall accomplish, perform or permit to be accomplished or performed any major repair of a vehicle or boat in a residential zone unless such major repair is done within an area enclosed by a six-foot opaque fence.

(b) *Restriction on vehicles in inoperable condition.* No person shall leave or permit or allow to be left in a residential zone any vehicle or boat in an inoperable condition except one inoperable vehicle or boat is permitted within enclosed building or structure or an area enclosed by a six-foot opaque fence.

(Code 1976, §14-4(a), (b))

Sec. 26-60. Notice of violation; disposition of abandoned and lost property.

(a) *Notice to owner of vehicle or boat found in violation.* If any vehicle or boat is found in violation or apparent violation of section 26-57 or 26-59, any police officer or the code enforcement officer shall place or cause to be placed on such vehicle or boat a weather-resistant notice of the violation or apparent violation. Such notice shall be in substantially the following form for each section:

As to section 26-57:

NOTICE TO THE OWNER AND ALL PERSONS
INTERESTED IN THE ATTACHED PROPERTY

This property, to wit: _____,

is in violation or apparent violation of section 26-57 of the Satellite Beach City Code. That section prohibits the storing, depositing or keeping of abandoned property, which includes vehicles and boats, within the city except in an enclosed building or structure. This vehicle or boat must be removed or the violation corrected within 72 hours of the time of this notice; otherwise, this vehicle or boat will be subject to removal and impoundment by the City of Satellite Beach if found in violation by the Satellite Beach Code Enforcement Board.

LOCATION OF VEHICLE OR BOAT:

DATE OF NOTICE:

TIME OF NOTICE:

NAME OF ENFORCING OFFICER:

City of Satellite Beach
510 Cinnamon Drive
Satellite Beach, FL 32937
(407) 773-4400

As to section 26-59:

NOTICE TO THE OWNER AND ALL PERSONS
INTERESTED IN THE ATTACHED PROPERTY

This property, to wit: _____,

is in violation or apparent violation of section 26-59 of the Satellite Beach City Code. That section prohibits the storage, depositing or keeping of abandoned property, which includes inoperable vehicles and boats in residential areas, within the city, except in an enclosed building or structure. This vehicle or boat must be removed or the violation corrected within 72 hours of the time of this notice; otherwise, this vehicle or boat will be subject to removal and impoundment by the City of Satellite Beach if found in violation by the Satellite Beach Code Enforcement Board.

LOCATION OF VEHICLE OR BOAT:

DATE OF NOTICE:

TIME OF NOTICE:

NAME OF ENFORCING OFFICER:

City of Satellite Beach
510 Cinnamon Drive
Satellite Beach, FL 32937
(407) 773-4400

(b) *Impoundment of vehicles or boats after notice and hearing.* If any vehicle or boat to which a notice has been affixed pursuant to subsection (a) of this section is not removed by the owner or otherwise brought into compliance with this section within 72 hours of the time such notice has been affixed by the city, the matter shall be referred to the code enforcement board. If after a hearing on the alleged violation the code enforcement board finds a violation exists, the city shall be authorized to impound such vehicle or boat in accordance with section 34-41 of this Code in addition to any other remedy available. If the vehicle or boat is so impounded, notice shall be given to the owner as set forth in section 34-41 and the vehicle or boat may be disposed of by the city as provided in section 34-41.

(c) *Removal of article from public property.*

(1) Whenever a law enforcement officer or the code enforcement officer determines that an article of lost or abandoned property is present on public property and is of such a nature that it cannot be easily removed, such officer shall comply with the procedures set forth in F.S. § 705.103.

(2) Whenever a law enforcement officer or the code enforcement officer determines that an article of lost or abandoned property is present on public property and is of such nature that it can be easily removed, such officer shall take such article into custody and shall make a reasonable attempt to ascertain the rightful owner or lien-holder pursuant to the provisions of F.S. ch. 705.

(Ord. 614, §5(14-6), 11-23-94)

Sec. 26-61. Abandoned refrigerators, iceboxes, deep-freeze lockers, clothes washers, clothes dryers, other airtight units.

No person shall place, discard, abandon or store any refrigerator, icebox, deep-freeze locker, clothes washer, clothes dryer or similar airtight unit from which the doors or latch have not been removed, outside of any building or in any unenclosed garage or carport within the city.

(Code 1976, §14-1; Ord. 614, §1, 11-23-94)

State Law References: Abandoned refrigerators or containers, F.S. §§823.07 thru 823.09

Secs. 26-62 thru 26-80. Reserved.

ARTICLE IV. NOISE

State Law References: Motor vehicle noise, F.S. §§316.293, 403.415

Sec. 26-81. Prohibited generally.

No person shall make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the city.

(Code 1976, §14-24)

Sec. 26-82. Exceptions.

This article shall not be construed to prohibit music upon streets or sidewalks by brass bands or other bands, nor to prohibit religious organizations from beating drums in the course of their religious services.

(Code 1976, §14-25)

Sec. 26-83. Certain acts construed as noise.

The following acts are declared to be loud, disturbing and unnecessary noises, but such enumeration shall not be deemed to be exclusive:

- (1) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place, except as a danger warning, the creation of any unreasonably loud or harsh sound by means of any such signaling device and the sounding of any such device for an unnecessary or unreasonable period of time. The use of any signaling device except one operated by hand or electricity, the use of any horn, whistle or other device operated by engine exhaust and the use of any such signaling device when traffic is for any reason held up.
- (2) *Radios, stereos, phonographs, electronic devices, etc.* Using, operating or permitting to be played, used or operated any radio receiving set, stereo, phonograph, electronic device or other machine or device for the production or reproduction of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person who is in the building, structure or vehicle in which the machine or device is operated and who is a voluntary listener thereto. The operation of any such set, stereo, phonograph, electronic device, machine or device in such a manner as to be heard at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this subsection.
- (3) *Sound trucks.* Sound trucks or other devices or mediums for amplifying sound operated or permitted to be operated within the city for advertising purposes or to attract the attention of the

- public, where the sound therefrom is transmitted from, to, in or over any public thoroughfare, park or other public place. This subsection shall not prohibit the use of sound amplification for dissemination of religious or political messages, or information concerning civic, recreational and other matters of general public interest; provided that prior permission has been obtained from the chief of police, who is hereby authorized, directed and empowered to make and enforce reasonable conditions as to the time, place, volume of sound, etc.
- (4) *Dropping or throwing objects.* The unnecessary dropping or throwing of objects on or against the ground, pavement, concrete walk or other object so as to create loud or unnecessary clanging, grating, rattling or other noise.
 - (5) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or any time or place so as to annoy or disturb the quiet, comfort or repose of any person in any office, dwelling, hotel or other type of residence or of any person in the vicinity.
 - (6) *Animals, birds, etc.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.
 - (7) *Steam whistles.* The blowing of any train whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of city officials.
 - (8) *Exhausts.* Discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
 - (9) *Defect in vehicle or load.* The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
 - (10) *Loading, unloading, opening boxes.* Creation of a loud and excessive noise in connection with loading or unloading any vehicle, or opening and destruction of bales, crates and containers.
 - (11) *Construction or repairing of buildings.* Erection (including excavation), demolition, alteration or repair which requires a permit of any building other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and between the hours of 9:00 a.m. and 7:00 p.m. on Saturdays.
 - (12) *Schools, courts, churches, hospitals.* Creation of any excessive noise on any street adjacent to a school, institution of learning, church or court while the same is in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution or which disturbs or unduly annoys patients therein; provided, that conspicuous signs are displayed in such streets indicating the proximity of a school, hospital, church or court.
 - (13) *Hawkers, peddlers, etc.* Shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
 - (14) *Noises to attract attention.* Use of any drum or other instrument or device for the purpose of attracting attention to any performance, show or sale by the creation of noise.
 - (15) *Transportation of metal rails, etc.* Transportation of rails, pillars or columns of iron, steel or other material over and along streets and other public places upon carts, drays, cars, trucks or in

any other manner so loaded as to cause noises or disturb the peace and quiet of such streets or other public place.

- (16) *Pile drivers, hammers, etc.* Operation, between the hours of 7:00 p.m. and 7:00 a.m., of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other machine or equipment, the use of which is attended by loud or unusual noise.
- (17) *Blowers, fans, etc.* Operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the blower or fan is equipped with a muffler device sufficient to deaden the noise.
- (18) *Equipment, machinery or tools utilized for lot leveling or clearing.* Operation of any mechanical equipment, power tools, engines (gasoline, diesel or steam) or other equipment, machinery or tools which disturb the peace and are utilized for leveling or clearing of lots, other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and between the hours of 9:00 a.m. and 7:00 p.m. on Saturdays.

(Code 1976, §14-26)

ARTICLE V. ATTRACTIVE NUISANCE CONDITION

§26-101. Attractive nuisance defined.

As used in this article, the term “attractive nuisance” shall be construed to mean any artificial condition, whether in a building, on the premises of a building or upon an unoccupied job site, which by its nature, location or character would tend to attract and substantially endanger the safety of any minor person. This includes, but is not limited to, unsecured swimming pools, abandoned wells or shafts; excavations; abandoned refrigerators/freezers with doors or motor vehicles with unlocked doors; any structurally unsound fences or structures; lumber, trash/debris, or any other materials which may provide a hazard; or any condition which is determined to be a life safety violation. A “life safety violation” includes: i) a violation of the Florida Fire Prevention Code, as adopted pursuant to Rule 69A-60.002(3), Florida Administrative Code, which includes the National Fire Protection Association (NFPA) 101, Life Safety Code and National Fire Protection Association (NFPA) 1, Life Safety Code; or ii) a violation of the Preston de Ibern/McKenzie Merriam Residential Swimming Pool Act, section 515.21 *et seq.*, Florida Statutes and in particular sections 515.27(1)(a) and 515.29, Florida Statutes.

§26-102. Attractive nuisance prohibited.

No person shall have, keep, maintain, cause or permit an attractive nuisance condition on any parcel of land within this City. Having, keeping, maintaining, causing, or permitting an attractive nuisance in violation of this section is hereby prohibited and declared to be a public nuisance.

§26-103. Attractive nuisance condition - violation.

- (a) Any person responsible for any parcel of land on which an attractive nuisance condition shall exist shall take all necessary measures to remedy the attractive nuisance condition within three (3) days after written notice by the City, or within such reasonable time as may be specified in the notice from the City.
 - (1) If a code enforcement officer finds and determines that a public nuisance as described in §26-101 exists and declares same to exist on a particular parcel of land, the code enforcement officer shall so notify the owner and the occupant of record of the offending property and any mortgagee. Said notice shall be given in writing and shall require that the condition be remedied. The notice shall specify a date for the completion of the remedying of the attractive nuisance condition. The notice shall be given by certified U.S. mail, return receipt requested, or as otherwise provided in

§162.12, Florida Statutes, said notice being addressed to the owner or owners of the property described and any mortgagee of the property. If notice is mailed, notice to a property owner shall be given as their names and addresses are shown upon the record of the county property appraiser, and notice given to a mortgagee shall be addressed to the address as shown by any mortgage, note or assignment in the public records. Mailed notice shall be deemed complete and sufficient when so addressed and deposited in the United States mail with proper postage prepaid.

- (2) Simultaneous with mailing the notice, the property shall be posted with a notice in substantially the following form:

NOTICE OF PUBLIC NUISANCE

Name of owner . . .
Address of owner . . .
Name of mortgagee, if any (§_____, City Code)...
Address of mortgagee . . .

Our records indicate that you are the owner(s) of the following property in the CITY OF SATELLITE BEACH, Florida:
(describe property)

An inspection of this property reveals that a public nuisance exists and constitutes a violation of §26-101 of the CITY OF SATELLITE BEACH Code, in that:
(describe here the condition which places the property in violation)

You are hereby notified that unless the above-described condition is remedied so that it is no longer in violation of the City Code within _____ (___) days from the date of this notice, the CITY OF SATELLITE BEACH will proceed to remedy this condition and the cost of the work, including advertising costs and other expenses, will be imposed as a lien on the property if not otherwise paid within thirty (30) days after receipt of billing. Appeal of such billing or lien of the property may be undertaken pursuant to §26-103(b) and (c), Satellite Beach City Code, within not more than twenty-one (21) consecutive days after the taking of the action complained of. Further information regarding this notice or any appeal may be obtained by contacting . . ., at Satellite Beach City Hall, 565 Cassia Boulevard, Satellite Beach, FL 32951, telephone number . . .; e-mail . . .

(b) Within 10 days after the mailing or other service of the notice to the property owner and mortgagee (if the property is registered), and the posting of the property, the owner or mortgagee of the property may make written request to the City Manager for a hearing before the City Manager or said manager's designee to show that the condition alleged in the notice does not exist or that such condition does not constitute a public nuisance.

(c) At the hearing, the City and the property owner or mortgagee may introduce such evidence as is deemed necessary. The City Manager, or said manager's designee, shall establish rules and regulations for the hearing procedure. The formal rules of evidence shall not apply; provided, that fundamental due process is provided. Following a review by the City Manager, the owner or mortgagee, as applicable, will have exhausted said owner's or mortgagee's administrative remedies.

(d) Should the condition to be abated be deemed an emergency condition necessitating immediate action to preserve the health, safety or welfare of the neighborhood in which the parcel of land on which an attractive nuisance exists, the City may, but shall not be obligated, to abate the nuisance as provided in this article absent written notice but after it has attempted reasonable means of notifying the owner, occupant, lessee, mortgagee, or other person in control of the land. As soon as practicable after abatement, notice shall be sent to said owner, occupant, lessee, mortgagee, or other person in control of the parcel of land on which the attractive nuisance exists, of the action taken and a lien shall arise as provided in §26-104.

§26-104. Condition may be remedied by city.

(a) If within 20 days after mailing of the notice, no hearing has been requested, or if the property owner or mortgagee, as applicable, has been found in violation at the hearing specified in §26-103 before the City Manager or said manager's designee, and the condition described in the notice has not been remedied, the attractive nuisance condition may be remedied by the City at the expense of the property owner and mortgagee.

(b) After causing the attractive nuisance condition to be remedied, the City Manager, or said manager's designee, shall certify to the City Clerk the expense incurred in remedying the condition and shall include a copy of the notice above-described and a copy of the decision, if any, by the City Manager, or said manager's designee. If the expense is not paid within 30 days, a special assessment lien and charge will be made upon the property, which shall be payable with interest at the then legal rate of interest on judgments from the date of such certification until paid. Such lien may be satisfied at any time by payment thereof including accrued interest. Such lien shall be recorded in the public records of the county and shall remain a lien, co-equal with the lien of all state, county, district and municipal taxes, superior in dignity to all other liens, titles and claims until paid. Upon payment of a lien, the satisfaction and cancellation of such lien shall be recorded in the public records of the county. If the charge and special assessment lien shall not be paid within two years from the date of recording of said lien, the City may at anytime thereafter institute foreclosure and other proceedings as provided in section 170.10, Florida Statutes, or chapter 173, Florida Statutes, to recover the amount of the charge plus interest, court costs, and attorneys' and paralegals' fees.

Ord. 1013, §1, 4-15-09)

END CHAPTER 26