



**SURFSIDE BEACH TOWN COUNCIL WORKSHOP – NUISANCE ORDINANCE
TOWN COUNCIL CHAMBERS
115 US HIGHWAY 17 NORTH, SURFSIDE BEACH, SC
DECEMBER 11, 2017 AT 5:00 P.M.**

CALL TO ORDER. Mayor Childs called the workshop to order at 5:00 p.m. Mayor Childs, Mayor Pro Tempore Ott, and Councilmembers Courtney, Johnson, Pellegrino, Samples and Stevens were in attendance. A quorum was present. Others present: Administrator Fellner, Deputy Administrator Harrah, and Events Supervisor Ellis.

Mr. Harrah introduced the nuisance ordinance saying this is the third workshop on this ordinance. During this workshop we will discuss some of the requirements and understandings to better clarify any questions you may have. For the public's benefit, the nuisance ordinance is not affecting everybody. It's actually designed for those that wants to be slumlords; are derelict in property maintenance, or business owners that become a nuisance to their neighbors and an atmosphere of better welfare for the citizens. The nuisance ordinance is to present processes required to follow through to comply with state statutes, whether it's unfit dwellings, or any of those aspects. I suggest councilmembers ask specific questions.

Mr. Ott asked that the process be explained, because in my opinion, the nuisance ordinance is very detailed, and that was lacking before. The more detail you have, the better you know how it's going to be handled. My biggest concern was how enforcement was done. I think it's very important that we all see how this is done; the due process is very controlled. Mr. Harrah explained that every time a complaint is received by phone call, by email or on the town website, the inspector makes an inspection and take photos of the site, Horry County Tax Records are searched to determine the property owner, and then based on the complaint, appropriate action would be taken

- For a grass debris removal or similar simple complaint
 - A certified mail complaint letter is sent to the owner stating there is a *lis pendens*
 - A copy of the complaint letter and the *lis pendens* is sent to the town attorney for filing with the Horry County Register of Deeds
 - The building official keeps a copy of the documents sent to the attorney; staff receives the duly recorded *lis pendens*
 - Follow-up seven (7) days after the date of the complaint letter
 - If the property has been brought into compliance, a notice of nullification is sent to the owner, the town attorney and the building official
 - The town attorney will satisfy the recorded *lis pendens*, and notify the clerk
 - If the property is not in compliance, or no response is received from the owner then staff will notify a contractor to resolve the matter. Staff would let a request for services; secure or repair the property, and if the town does not received payment within 30 days of the invoice, then a lien is placed on the property.
- Violations against the International Property Maintenance Code, blighted properties, no heat, no fire alarm, smoke detectors, windows won't open, etc.
- The first four steps are the same
- Send the certified mail complaint letter and *lis pendens* listing all the violations and set a date for the building official hearing no less than ten days and no more than 30 days from the date of the letter
- Public Notice published in the local newspaper for two consecutive weeks
- Send the complaint letter and *lis pendens* to the attorney for filing with the Horry County Register of Deeds; receive recorded copies from the town attorney
- Hearing by building official to allow the owner to present evidence and set a date for the property to be brought into compliance
- Follow-up inspection 10 days prior to the deadline date of the building official's orders to determine if a title search is necessary.
- A building official hearing is held during which evidence is heard from the owner, tenant or owner's representative so it can be determined whether to allow 30 days or 60 days to bring the property into compliance.

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- 55 • Once it's been determined that they're not bringing the property into compliance, staff will follow up
56 within the 10 days to determined get a title search to notify all people on the title history, including banks
57 and other lienholders.
- 58 • Once the order has expired, if the property is in compliance, the town attorney will nullify the *lis pendens*.
- 59 • If the property has been brought into compliance, a notice of nullification is sent to the owner, the town
60 attorney and the building official
- 61 • If the property is not in compliance
 - 62 - Staff will issue a notice of failure to all parties involved by certified mail
 - 63 - The administrator will be asked to place it on the second council meeting agenda after the notice date of
64 failure
 - 65 - A copy of the notice of failure will be sent to the town attorney
 - 66 - An ad will be published in the local paper for a to Rule to Show Cause hearing date
 - 67 - A Notice of Failure will be posted on site; pictures will be taken
 - 68 - At the Rule to Show Cause Hearing, which is held before Town Council, the building official will give a
69 brief presentation of the evidence, including a title search information, copies of all proof of agents from
70 the South Carolina Secretary of State website, and copies of all letters and return certified mail receipts,
71 current pictures of the site, and a closing statement.
 - 72 - Council will hear the evidence and listen to the owners and the citizens that have appeared
 - 73 - Council will rule and execute an Order stating whether to dismiss the case or repair, or demolish the
74 property
 - 75 - Executed Orders of Council are mailed to the owner and all other the parties of interest by certified mail
 - 76 - Post a copy of the signed Order on site; take pictures
 - 77 - Complete a follow-up inspection on the date of the Order by Town Council
 - 78 - If the owner does not comply, the administrator has the authority to bring the property into compliance
79 by repair or demolition based on Town Council's Order
 - 80 - Cost for repair or demolition as Ordered by Town Council are placed upon the property as a lien
 - 81 - If they owner did comply with the Order, the *lis pendens* is nullified by the town attorney
- 82 • Emergency Circumstances – When a structure is unsafe or unsecure that may cause harm to the public
 - 83 - If the complaint is of an emergency nature, an emergency order will be issued by the building official and
84 approved by the administrator
 - 85 - The emergency order will be posted on site and pictures taken
 - 86 - Hand deliver or certified mail a copy of the order to the owner
 - 87 - In cases of an emergency order, Town Council can immediately hear the matter
- 88 • There is some discretion with the time lines. When an owner is working to correct the violation, there is a
89 provision to issue a stay on the order (meaning extra time may be allowed) by Town Council and the
90 building official at the respective hearings. A lengthy discussion about the processes.

91
92 Mr. Stevens objected to the ordinance, because in his opinion this violated several Amendments to the
93 Constitution. Staff cannot serve as a judge, which is what a hearing officer is. In his opinion, these matters should go
94 before the court; not the town administrator. Everybody in this town have a right to a trial by jury. Town Council's
95 job is to legislate; not to be a jury. If this ordinance is adopted, I will publish everywhere, don't go to the [hearing],
96 request a trial by jury. I will not participate in any hearing brought before Town Council. Mr. Pellegrino said houses
97 have been condemned since I've been on council. What was a process in the past? Mr. Harrah said if the town uses
98 state law, then you have follow the procedures as laid out by statute. Mr. Courtney said the reason why this
99 ordinance came back is because it was poorly written to begin with. My main concern was due process to ensure it
100 was done fairly and everybody had the right to go in front of the court, if they choose to do so. The old ordinance
101 was written in the interest in maintaining clean, sanitary a quiet neighborhood it shall be unlawful for any person,
102 firm or corporation or others to keep or exhibit within the Town of Surfside Beach any horses, mules, swine, goats,
103 sheep, cattle, chickens, or fowl, unless such animals are kept inside a residence. There was no due process under the
104 old ordinance. Mr. Courtney described several cases that appeared before the board of zoning appeals (BZA) from
105 when he served. Some things are commons sense, but there was no discretion used by code enforcement. Under the
106 old ordinance, when a complaint was made, the code enforcement officer inspected the property, issued a summons
107 when there was a violation, and the individual had the right to go in front of Judge Arakas, who went by the book.
108 Under the proposed ordinance there would be a due process: a warning would be issued; time allowed to correct and
109 fix the problem, and would allow the town to follow up. This allows the owner to correct the problem without

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110 getting a fine or having to go to the front of a judge. If the problem is not corrected, then a hearing date would be
111 set so the owner could plead his case. If you are not satisfied with that you could go to Town Council; and then the
112 next step would be Circuit Court. Mr. Harrah said that is correct, the proposed ordinance gives the owner an
113 opportunity to be heard and gives some discretion to allow time for repair or to get the property into compliance.
114 Mr. Courtney asked if the town attorney issued a legal opinion on the proposed ordinance. Mr. Harrah said yes, Mr.
115 Battle reviewed and approved the ordinance. Mr. Harrah cited various sections of the Town Code that defined
116 “administrator;” Sections 14-4, 14-13, 14-15; and 14-16. A lengthy discussion followed about which staff member
117 is designated the “administrator” in the various codes and how equity hearings (such as staff holds) occur, and the
118 processes therefore. Mr. Pellegrino believed the board of zoning appeals should hear these matters and then go to
119 Circuit Court, because he, as a councilmember, has no knowledge or skill set to pass judgment on these matters. I
120 just don't think counsel is the right forum to make that judgment. Mr. Harrah explained that time is of the essence in
121 these matters. Sometimes there is an issue getting a quorum for a BZA meeting. Town Council has regular meetings
122 twice monthly, therefore the hearings could be held timely. The current business license ordinance requires that an
123 individual appear at a hearing before Town Council if his business license is revoked and he wants to appeal the
124 decision. Mr. Courtney asked if an individual could bypass the process and go straight to a judge. Mr. Harrah said it
125 depends on the circumstance, for instance a grass complaint could, but an unsafe or unfit dwelling was involved, the
126 state law would have to be followed. A lengthy discussion was held regarding time limits to come into compliance,
127 and the necessity for following legal procedures to avoid the town becoming liable for its decision, and various
128 scenarios that might occur. Mr. Harrah explained that the ordinance protects the town, its citizens, and also allows
129 the citizen to be heard.

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131 Mayor Childs declared the workshop adjourned at 6:22 p.m.

132 Prepared and submitted by

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134
135 _____
136 Debra E. Herrmann, CMC, Town Clerk

137	VOTE:	Yes	No	SURFSIDE BEACH TOWN COUNCIL
138		<input type="checkbox"/>	<input type="checkbox"/>	_____
139				Robert F. Childs, III, Mayor
140		<input type="checkbox"/>	<input type="checkbox"/>	_____
141				Ron Ott, Mayor Pro Tempore
142		<input type="checkbox"/>	<input type="checkbox"/>	_____
143				Timothy T. Courtney, Town Council
144		<input type="checkbox"/>	<input type="checkbox"/>	_____
145				Mark L. Johnson, Town Council
146		<input type="checkbox"/>	<input type="checkbox"/>	_____
147				David L. Pellegrino, Town Council
148		<input type="checkbox"/>	<input type="checkbox"/>	_____
149				Julie M. Samples, Town Council
150		<input type="checkbox"/>	<input type="checkbox"/>	_____
151				Randle M. Stevens, Town Council
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161 Clerk's Note: This document constitutes minutes of the workshop that was digitally recorded, and is not intended to be a
162 complete transcript. Appointments to hear recordings may be made with the town clerk; a free copy of the audio will be given to
163 you provided you bring a new, unopened flash drive. In accordance with FOIA §30-4-80(A) and (E), workshop notice was
164 distributed to local media and interested parties via the town's email subscription list. The notice was posted on the entry door at
165 Town Council Chambers. Workshop notice was also posted on the town website at www.surfsidebeach.org and the marquee.