

TOWN OF HASTINGS, FLORIDA

TOWN CODE

Chapter 13

Offenses and Nuisances

Sec. 13-1. Fires No person or persons may start, maintain or enhance a fire located outside any building or structure located within the boundaries of the Town, except as provided below.

A. No person or persons may start, maintain or enhance a fire within a building or structure located within the boundaries of the Town unless the fire is started, maintained or enhanced in a device suitable for such fires, except as provided below. Such devices include, but are not limited to, ovens, fireplaces, lanterns and bar-be-que grills.

B. A person or persons may employ outside fires in the preparation of food provided fires are contained in devices designed for and approved for such uses and provided the devices are in good repair and operated for their intended uses and in the manner designed. Such devices are limited to bar-be-que grills, whether permanent or portable, and other cooking grills.

C. A person or persons may maintain an outdoor fire contain pit with grate or a 50 gallon steel barrel with grate for use in the burning of yard debris defined as leaves, tree limbs, bushes and moss provided such pit is located sufficiently far from the canopy of the nearest tree and the nearest structure as required by prevailing weather conditions to protect such trees and structures from the sparks from the outdoor fire.

D. No outdoor fire contain pit with grate or 50 gallon steel drum with grate may be operated during times of moderate to high fire danger as designated by the State of Florida Division of Forestry and may be operated only after acquiring such permits as may be required by local, state or federal agencies exercising proper jurisdiction.

E. The person or persons who start, maintain or enhance an outdoor fire or indoor fire allowed pursuant to this Ordinance shall make available at the place where the fire is located, the necessary, approved equipment needed to extinguish that fire and shall be present at the location of the fire at all times after the fire is started until the fire is completely extinguished.

F. The person or persons who start, maintain and enhance any fire allowed pursuant to this Ordinance shall assure extinguishing such fire completely.

Cross Reference: See Section 6-5.

Sec. 13-2. Littering. It shall be unlawful for any person to throw, place, deposit or allow to fall or drain into any street or lane, or the public places of the Town, the peel, rind or covering of any fruit, vegetable or melon, or any garbage, trash, offal, waste paper, printed circular, litter, sweepings, shellfish, including drainage therefrom, or waste of any kind, or to leave in any streets, lanes, alleys, sidewalks, public rights-of-way or any other public places for an unreasonable period of time any sink, barrel, box or receptacle for garbage, wastewater or waste of any kind, either liquid or solid.

Sec. 13-3. Unregistered vehicles. No motor vehicles, manufactured homes, mobile homes or trailers of any type, without current license plates, except vehicles customarily used in agricultural pursuits, shall be parked or stored other than in a completely enclosed building.

Sec. 13-4. Repair of vehicles. No major repairs shall be made to any such motor vehicles or trailers of any type other than in a completely enclosed building; and if such repairs are made, all parts shall be kept inside such enclosed building.

Sec. 13-5. Open Containers -- Alcohol.

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

1. *Beer, wine or other intoxicating beverages* has those meanings described by state law, and there shall be exempt therefrom those wines, vinous spirits or vinous liquors defined and provided for in F.S. 564.03(5).
2. *Parking lot* means all spaces providing room for the parking of more than five (5) automobiles operated in conjunction with any commercial establishment, whether such parking lot is publicly owned or leased or is privately owned and operated.
3. *Public place* means any grounds or property owned by any public agency external of any building.
4. *Unsealed container* means any container that is not the original container in which the alcoholic beverage was originally bottled, canned or otherwise encased. "Unsealed container" also means any container that has been opened, tapped or unsealed regardless of whether or not the container has been resealed or reclosed.

B. Open Consumption Prohibited.

1. It shall be unlawful for any person to consume or drink any beer, wine or other intoxicating beverage on any public street, highway, sidewalk, parking lot, public parking lot, athletic field, park, playground or other public place not duly licensed to permit consumption of such beverages on the premises within the TOWN except as approved by the TOWN COUNCIL for special events.

2. It is unlawful for any person to be in actual or constructive possession of any unsealed bottle, can or other container that contains beer, wine, whiskey or other beverage or liquid containing alcohol when such unsealed container and person are within the boundaries of the TOWN and on any public street, highway, sidewalk, parking lot, public parking lot, athletic field, parks, playground or other public place not duly licensed to permit consumption of such beverages on the premises in the TOWN except as approved by the TOWN COUNCIL for special events.

3. It is unlawful for the owner, driver, possessor or occupant of any vehicle to have in any vehicle any unsealed bottle, can or other container that contains beer, wine, whiskey or other beverage or liquid containing alcohol within the boundaries of the TOWN and on any public street, highway, sidewalk, parking lot, public parking lot, athletic field, park, playground or other public place not duly licensed to permit consumption of such beverages on the premises within the TOWN except as approved by the TOWN COUNCIL for special events.

C. Evidence of Possession. Possession of an open or an unsealed container containing an alcoholic beverage by any person in the areas prohibited by this Ordinance shall be prima facie evidence of a violation of Section 2 of this Ordinance.

History: Ordinance 98-06, superseding Ordinance 78-01. Note: Town records reflect two ordinances numbered 78 - 1. The superseded ordinance was introduced by Councilman Irvin.

Sec. 13-6. Weeds, noxious plants.

A. It is unlawful for anyone to permit any weeds, grass, or plants, other than those for which an exception is made in the preceding fact finding above, to grow to a height exceeding 18 inches anywhere in the town or to remain in any such place anywhere in the town; any such plants, grass or weeds exceeding such height are hereby declared to be a nuisance.

B. It shall be the duty of the public works director to inspect land within the town and if a nuisance as provided herein exists, the town clerk shall give

notice to the owner of any such lands, as the owner is designated on the then current tax roll for real property within the town, to abate such nuisance within 10 days of the date upon which such notice is mailed to the owner by certified mail, return receipt requested. The failure of any such owner to accept delivery of the notice by certified mail, return receipt requested, shall be deemed for purposes of this ordinance, as the receipt of such notice by the owner of the land in question.

C. Upon failure of the owner to abate the nuisance within the 10 day period as more particularly described in the preceding paragraph, the public works director or his designated assistant shall cause the nuisance to be abated by the town. In such event, the public works director shall determine the cost of the town's abating the nuisance, basing his determination upon the number town employees required, the time required and the town's equipment required to abate the nuisance and in all such cases, the cost determination made by the director of public works shall include, over and above the actual cost for abating each particular nuisance, a blanket charge for the town's overhead and administrative expense which shall be \$15.00 for the first time that such a nuisance is required to be abated by the town for any particular owner of land within the town during any one calendar year and \$25.00 for each subsequent time that such nuisance must be abated upon land owned by the same owner during any one calendar year. The town clerk shall thereupon send by certified mail, return receipt requested, to the owner as listed on the most current tax roll of real property in the town, a bill for the town's cost in abating such nuisance (including the blanket charge for overhead and administrative expense) which bill shall include a statement that the same must be paid within thirty days from the date upon which the town clerk mails it in default of which a lien will be filed against the owner's property for collection of the bill in the manner hereinafter set forth, together with a statement that upon failure to pay the bill within the time period hereinafter prescribed, the town shall bring an action against the owner and land for foreclosure of the lien. Failure of the owner to whom any bill is sent by the town clerk to accept receipt of the bill by certified mail, return receipt requested, shall be deemed, for purposes of this ordinance, as the actual receipt of said bill by the owner to whom it is addressed.

D. If the owner to whom any such bill for the town's cost in abating such nuisance shall fail to pay the bill within thirty days from the date upon which it is mailed to the owner by the town clerk, the town clerk shall prepare, upon the form prepared by the town attorney, a certificate of expense and claim of lien against the property upon which the town has abated such nuisance. The certificate of expense and claim of lien shall be recorded with

the Clerk of the Circuit Court of St. Johns County, Florida, among the public records of said county, it shall constitute a lien upon the property as described in it and the sum claimed to be due for the town's abating such nuisance, together with the cost of recording the certificate of expense and claim of lien with the Clerk of the Circuit Court, shall bear interest at the rate of 18% per annum until it is paid. Upon making payment of the amount claimed by the town for abating such nuisance, together with the interest which has accrued thereon, the town clerk shall deliver to the owner a release and cancellation of lien in the form prescribed by the town attorney. The town clerk shall affix the town seal both to any certificate of expense and claim of lien and to any release and cancellation of lien which shall be prepared by the town clerk according to the provisions of this Ordinance.

E. If the owner of the property against which a claim of lien is filed as providing in the preceding section shall not have paid the amount claimed to be due the town therein not later than six (6) months from and after the date upon which the certificate of expense and claim of lien is recorded with Clerk of the Circuit Court of St. Johns County, Florida, the town attorney shall institute in the Circuit Court for St. Johns County, Florida, or in such other court as may, from time to time, have jurisdiction of the foreclosure of liens against real property, an action to foreclose the said lien. The procedure for foreclosure shall be that which is applicable generally to the foreclosure of statutory liens under the provisions of the Florida Statutes and the Florida Rules of Civil Procedure and the provisions of Chapter 45 of the Florida Statutes concerning judicial sales shall apply. Nothing contained in this section, however, shall be construed to impose upon the town any period of limitations for commencing the foreclosure action different from the period of limitations as set forth in the Florida Statutes applicable generally to actions brought by municipalities and to actions brought for the foreclosure of statutory liens in favor of municipalities. The town council, by majority vote, may extend the six (6) month period after which the town attorney is required to commence foreclosure proceedings under this Ordinance. The town council, in cases of hardship, by motion adopted in any regular or special meeting of the town council, may provide that the owner of any lands against which claims of lien have been filed according to the terms of this Ordinance may satisfy the indebtedness by making periodic payments to the town and in addition, in the case of extreme hardship, the town council, by motion adopted in any regular or special meeting, may forgive all or any part of the indebtedness owed to the town by virtue of the town's abating a nuisance as declared and found according to the terms of this ordinance. In any action brought to enforce a lien under this Ordinance, the town, if it is

the prevailing party, shall be entitled to recover a reasonable fee for the services of its attorney, to be determined by the court, both at trial and appellate level, which fee shall be taxed as part of the costs.

F. All monies derived by the town from the town's charges for abating nuisances under this Ordinance, including all monies collected by the town in foreclosure proceedings brought under this Ordinance shall be deposited in the general fund of the town treasury. Any real property acquired by the town as a result of the foreclosure procedure set forth herein may be used for the town for any governmental or proprietary purpose of the town in the manner that the town council shall determine or, in the alternative, any real property acquired by the town as a result of the foreclosure procedure set forth in this Ordinance may be declared surplus property by the own council and sold by the town at public or private sale in the same manner as any other surplus property of the town.

G. Person, firms or corporations desiring to carry on the business of mowing or cutting vegetation on real property within the town limits may submit to the town clerk their names, mailing addresses and telephone numbers. The town clerk is hereby authorized and directed to furnish a list containing all of the names, mailing addresses and telephone numbers of those person, firms or corporations desiring to engage in the business of mowing or cutting vegetation on real property within the town in the event that any property owner or agent of property owner shall inquire of the town clerk or any deputy town clerk or other employee of the town if the clerk, etc., is aware of any person, firms or corporations available to contract with that owner in order to comply with the requirements of this Ordinance.

H. Nothing contained in this Ordinance shall be construed to prevent the summary abatement of any nuisance when such summary abatement of any nuisance shall be deemed necessary by the town council because of the existence of any condition likely to have any immediate adverse effect upon public health, safety or welfare and in the case which the town council determines that an immediate adverse effect upon the public health, safety or welfare creates a condition which must be remedied by summary abatement, none of the procedures set forth in this

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