

ORDINANCE 411
AN ORDINANCE OF THE BOARD OF ALDERMEN OF THE TOWN OF MOUNT OLIVE,
MISSISSIPPI, RELATING TO PROPERTY MAINTENANCE

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE TOWN OF MOUNT OLIVE, MISSISSIPPI, in regular meeting assembled as follows:

Purpose and Intent

The purpose and intent of the regulations contained herein are as follows:

- (A) To define as public nuisances and violations of this code those conditions which constitute visual blight and which could result in conditions which are harmful or deleterious to the public health, safety and welfare;
- (B) To develop regulations that will promote the sound maintenance of property and the enhancement of the livability, community appearance, and the social, economic and environmental conditions of the community; and
- (C) To establish guidelines for the correction of property maintenance violations and nuisances that afford due process and procedural guarantees to affected property owners.

Section 1: Property Maintenance-Prohibited Conditions

It is unlawful for any person owning, leasing, occupying or having charge or possession of any property in the Town of Mount Olive to maintain such property in such manner that any of the following conditions are found to exist thereon, except as may be allowed by the city code:

- (A) Building exteriors, walls, fences, driveways, sidewalks, walkways and parking areas which are maintained in such condition as to become so defective, unsightly, or in such condition of deterioration or disrepair that the same causes depreciation of the values of surrounding property or is materially detrimental to nearby properties and improvements;
- (B) The accumulation or storage of junk including tires, lumber, household appliances or parts thereof, inoperable vehicles, or parts thereof, furniture, sinks, toilets, cabinets or other household fixtures, equipment or parts thereof, rubbish, garbage, debris, or salvage materials, which constitute a fire hazard and/or are stored or accumulated in such a manner as to be visible from a public street, alley or adjoining property;
- (C) Heavy commercial vehicles, construction equipment, machinery of any type or description parked or stored without a permit on property where it is readily visible to the general public, except while excavation, construction or demolition operations covered by an active building permit are in progress on the subject property or on adjoining property;
- (D) Attractive nuisances dangerous to children including abandoned, broken or neglected equipment and machinery, hazardous pools, ponds and excavations;
- (E) Improper maintenance of signs on property relating to uses no longer conducted or products no longer sold on property;
- (F) Any property maintained in such a manner as to result in substantial pooled-oil accumulation, oil flowing onto public rights-of-way, or excessive accumulations of grease or oil on paved surfaces, buildings, walls or fences;
- (G) Any setback areas which lack appropriate turf or plant material so as to cause excessive dust, the accumulation of debris, or depreciated values of adjacent properties and neighborhood;
- (H) Maintenance or use of premises which, by reason of vibrations, noise, dust, odor or other effects caused by the use of said premises, diminish the livability, enjoyment, use and property values of neighboring properties;
- (I) Maintenance of property so out of harmony or conformity with the maintenance standard of adjacent properties as to cause substantial diminution of the enjoyment, use or property values of such adjacent properties;

(J) Maintenance of property in such condition as to be detrimental to the public health, safety or general welfare, or in such manner as to constitute a public nuisance as defined by Mississippi Civil Code § 41-25-1;

(K) Any condition existing on property which in the opinion of the property maintenance officer constitutes visual blight;

(L) Causing, maintaining or permitting graffiti to remain on exterior walls or facades of buildings, fences, or other structures of whatsoever nature;

(M) The failure or neglect of merchants owning or occupying places of business within the city to maintain the sidewalks and surrounding areas free of litter and trash.

Section 2: Declaration of public nuisance.

All property found to be in violation of the Town of Mount Olive Property Maintenance Ordinance is declared to be a public nuisance and shall be abated by rehabilitation, demolition or repair 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 other manner provided by law.

SECTION 3: Owner defined.

The term “owner” and “property owner,” as used herein, and unless otherwise required by the context, shall be deemed to include any person owning, leasing, occupying or having charge or possession of any property in the city.

SECTION 4: Notification of nuisance by property maintenance officer.

Whenever the property maintenance officer or such other city official as may be designated by the Town of Mount Olive Mayor and/or Board of Alderman determines that any property within the city is being maintained contrary to one or more of the provisions of the Town of Mount Olive Property Maintenance Ordinance, (s)he shall give ten days’ written notice to the owner of said property stating the sections being violated. Such notice shall set forth a ten-day time period for correcting the violation(s) and may set forth reasonable methods of correcting the same. Such notice shall be served upon the owner in accordance with provisions of Town of Mount Olive Property Maintenance Ordinance Section 7(A), covering service in person or by mail.

SECTION 5: Referral to city attorney.

In the event an owner shall fail, neglect, or refuse to comply with the notice to correct a violation, the property maintenance officer may refer the violation to the city attorney for legal action, including the institution of a civil or criminal proceeding to achieve compliance.

SECTION 6: Referral to the Town of Mount Olive Mayor and Board of Aldermen.

(A) In the event an owner shall fail, neglect, or refuse to comply with the notice to correct a violation, the property maintenance officer may seek compliance through an administrative process, in addition to, or as an alternative to, any other remedy allowed by law.

(B) The Town of Mount Olive Board of Aldermen shall be the body designated to conduct an administrative hearing to ascertain whether the violation constitutes a public nuisance, the abatement of which is appropriate under the police power of the town.

(C) Notice of said hearing shall be served upon the owner in accordance with the provisions of the Town of Mount Olive Property Maintenance Ordinance Section 7, and shall be served upon the said property owner not less than fourteen days before the time fixed for said hearing.

SECTION 7: Service of notice.

(a) Notice shall be given by delivering a written notice personally to the owner(s) of the property upon which the nuisance is located, or by depositing such notice in the United States mail, postage prepaid, and addressed to the owner(s) thereof at his last known address as the same appears on the last equalized assessment roll of the county. In the

event a notice to remove is also given to the person(s) in possession or control of the property, such notice shall be given in either manner specified in this section and may be addressed to “occupant” or “to whom it may concern,” if the name of such person(s) is not known.

- (b) The person giving such notice shall file a copy thereof in the office of the property maintenance officer/city clerk, together with an affidavit or certificate stating the time and manner in which such notice was given. The failure of any owner or other person to receive such notice shall not affect in any manner the validity of any proceedings taken under this chapter.

SECTION 8: Form of notice.

Notice of hearing before the Town of Mount Olive Mayor and Board of Aldermen shall be substantially in the format set forth below:

NOTICE OF HEARING ON ABATEMENT OF NUISANCE

This is a notice of hearing before the Town of Mount Olive Mayor and Board of Aldermen to ascertain whether certain property situated in the Town of Mount Olive, County of Covington, State of Mississippi, known and designated as _____, in said town, and more particularly described as _____ constitutes a public nuisance subject to abatement by the rehabilitation of such property or by the repair or demolition of buildings or structures situated thereon. If such property, in whole or part, is found to constitute a public nuisance as defined in this section and if the same is not properly abated by the owner, such nuisances may be abated by municipal authorities, in which the cost of such rehabilitation, repair, or demolition will be assessed upon such property and such costs will constitute a lien upon such property until paid.

Said alleged conditions constituting a public nuisance consist of the following:

The methods of abatement available are:

All persons having an interest in said matters may attend said hearing when their testimony and evidence will be heard and given due consideration.

Dated this ____ day of _____, 20 ____.

Property Maintenance Officer

SECTION 9: Hearing by the Town of Mount Olive Mayor and Board of Aldermen.

At the time stated in the notice, the Mayor and Board of Aldermen shall hear and consider all relevant evidence, objections or protests, and shall receive testimony from owners, witnesses, city personnel and interested persons relative to such alleged public nuisance and to proposed rehabilitation, repair or demolition of such property. Said hearing may be continued from time to time.

If the Board of Aldermen finds that such public nuisance does exist and that there is sufficient cause to rehabilitate, demolish, or repair the same, it shall prepare a report of such findings and recommendations with respect to the abatement. A copy of such report shall be served on all the owners of the subject property in accordance with the provisions of the Town of Mount Olive Property Maintenance Ordinance Section 7.

SECTION 10: Procedure – No appeal.

In the absence of any appeal, the Town of Mount Olive Board of Aldermen may without further hearing declare such property to be a public nuisance and order the abatement of the same within a reasonable time, by having such property, building, or structures rehabilitated, repaired or demolished in the manner and means specifically set forth in said report.

SECTION 11: Appeal Procedure- Action of Town Board-Appeal on Nuisance Hearing

- A. Any person entitled to service under this chapter may appeal from the decision of the Town of Mount Olive Board of Aldermen by filing at the office of the city clerk within seven days from the date of service of such decision, a written, dated appeal containing:
1. A specific identification of the property which is the subject of the nuisance abatement proceeding;
 2. A caption reading: "Appeal of _____," giving the names of all appellants participating in the appeal;
 3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order;
 4. A statement in ordinary and concise language of the specific order or action protested, together with any material facts supporting the contentions of the appellant;
 5. The signatures of all parties named as appellants, and their official mailing addresses;
 6. The verification of at least one appellant as to the truth of the matters stated in the appeal.
- B. As soon as practicable after receiving the written appeal, the city clerk shall set a date for hearing of the appeal by the Town Board of Aldermen, which date shall be not less than seven days nor more than thirty days from the date the appeal was filed. Written notice of the time and the place of the hearing shall be given at least five days prior to the date of the hearing to each appellant by the city clerk, either by causing a copy of such notice to be delivered to appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal. Continuances of the hearing may be granted by the Town Board of Aldermen on request of the owner for good cause shown, or on the town board's own motion.
- C. Upon the conclusion of the hearing on such appeal, the Town Board of Aldermen shall by resolution either:
1. Terminate the proceeding;
 2. Confirm the action and decision of the commission; or
 3. Modify such decision based upon evidence adduced at said hearing.

In the cases of alternatives in subsection (C)(2) or (3) of this section, the resolution shall declare such property to be a public nuisance and order the abatement of the same within a reasonable time by having such property, buildings or structures rehabilitated, repaired or demolished in the manner and means specifically set forth in said resolution.

SECTION 12: Service of Order to Abate

A copy of the resolution of the Town Board of Aldermen ordering the abatement of said nuisance shall be served upon the owners of said property and shall contain a detailed list of needed corrections and abatement methods. Any property owners shall have the right to have any such property rehabilitated or to have such buildings or structures demolished or repaired in accordance with said resolution and at his own expense provided the same is commenced prior to the expiration of said abatement period and thereafter diligently and continuously prosecuted to completion. Upon such abatement in full by the owner, then proceedings hereunder shall terminate.

SECTION 13: Removal of Graffiti

Whenever graffiti is found to exist in violation of SMC(M), if the property owner or person in control consents to the removal of the graffiti, the town may enter upon the property and remove such graffiti. If such a condition exists and the owner or person in control refuses to consent to the removal of the graffiti, the property maintenance officer may issue an order by certified mail, return receipt requested, to the owner, as shown on the first equalized assessment roll, to abate this condition. A copy of the order shall also be posted on the subject property. The order shall give a maximum of fifteen days from the date the notice was mailed to perform the work. The notice

shall further state that if the nuisance is not abated by the date specified in the order (A) the town or its contractor, may enter upon the parcel of land and remove or otherwise eliminate or abate the nuisance; and (B) that upon completion of such work the cost thereof, including administrative costs, may become a special assessment against that parcel; and (C) that upon confirmation of the assessment and recordation of that order, as provided by SMC, a lien may be attached to the parcel to be collected on the next regular property tax bill levied against the parcel.

SECTION 14: City Abatement

If such nuisance is not completely abated as directed by the city within said abatement period then the city clerk or his duly authorized representative may cause the same to be abated by city forces or private contract and the city clerk is expressly authorized to enter upon said property for such purposes.

SECTION 15: Cost Accounting-Notification

The city clerk shall keep an account of the cost (including incidental expenses) of abating such nuisance on each separate lot or parcel of land where the work is done by the city and shall render an itemized report in writing to the town board by showing the cost of abatement and the rehabilitation, demolishing or repairing of said property, buildings or structures, including any salvage value relating thereto; provided, that before said report is submitted to the board of aldermen, a copy of the same shall be posted for at least five days prior to submitting the same to the board of aldermen. Proof of said posting and service shall be made by affidavit filed with the city clerk. The term "incidental expense" shall include, but not be limited to, the actual expenses and costs of the city in the preparation of notices, specifications and contracts, and inspecting the work, and the costs of printing and mailing required hereunder.

SECTION 16: Assessment Lien

The total cost for abating such nuisance, as so confirmed by the town board, shall constitute a special assessment against the respective lot or parcel of land to which it relates, and upon recordation in the office of the county recorder of a notice of lien, as so made and confirmed, shall constitute a lien on said property for the amount such assessment.

After such confirmation and recordation, a copy may be turned over to the tax collector for the county whereupon it shall be the duty of said tax collector to add the amounts of the respective assessments to the next regular tax bills levied against said respective lots and parcels of land for municipal purposes and thereafter said amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes; or after such recordation, such lien may be foreclosed by judicial or other sale in the manner and means provided by law. Such notice of lien for recordation shall be in the form substantially as follows:

NOTICE OF LIEN
(Claim of the Town of Mount Olive)

Pursuant to the authority vested by the provisions of Section 8.30.150 of the Town of Mount Olive Municipal Code, the City Clerk of the Town of Mount Olive did on or about the _____ day of _____, 20____, cause the property hereinafter described to be rehabilitated or the building or structure on the property hereinafter described to be repaired or demolished in order to abate a public nuisance on said real property; and the Board of Aldermen of the Town of Mount Olive did on the _____ day of _____, 20____, assess the cost of such rehabilitation, repair, or demolition in the amount of said assessment, to wit: the sum of \$_____; and the same shall be a lien upon said real property until the same has been paid in full and discharged of record.

The real property hereinabove mentioned, and upon which a lien is claimed is that certain parcel of land lying and being in the Town of Mount, County of Covington, State of Mississippi, and particularly described as follows:

(description)

Dated this _____ Day of _____, 20_____

City Clerk, Town of Mount Olive

SECTION 17: Summary Abatement of Immediate Dangers

Whenever any condition on or use of property causes or constitutes, or reasonably appears to cause or constitute, an imminent immediate danger to the health and safety of the public, or a significant portion thereof, the property maintenance officer shall have the authority to summarily and without notice abate the same. The expenses of such abatement shall become a lien on the property and be collectible as provided in this chapter.

SECTION 18: Alternative Actions Available

Nothing in this chapter shall be deemed to prevent the town from commencing a civil or criminal proceeding to abate a public nuisance or from pursuing any other means available to it under provisions of applicable ordinances or state law to correct hazards or deficiencies in real property in addition to or as alternatives to the proceedings set forth in this chapter.

SECTION 19: Duty of Owner to Abate Public Nuisance

Nothing contained herein shall be deemed to impose any duty or liability upon the city, its officers or employees for failure to abate a public nuisance, nor to relieve the owner of any private property of the duty to keep his property free from those conditions constituting a public nuisance or to abate said conditions upon notice by the city.

SECTION 20: Violations

No person shall remove any notice or order posted as required in this chapter. No person shall obstruct, impede or interfere with any representative of the town department of with any person who owns or holds any estate or interest in the building which has been ordered to be vacated, repaired, rehabilitated or demolished and removed or with any person to whom such building has been lawfully sold pursuant to the provisions of this code whenever any such representative of the city, purchaser or person having any interest or estate in such building is engaged in vacating, repairing, rehabilitating or demolishing and removing any such building pursuant to the provisions of this chapter or in performing any necessary act preliminary to or incidental to such work as authorized or directed pursuant hereto.

SECTION 21. Effective Date

This ordinance shall become effective immediately upon its passage.

The above Ordinance was reduced to writing, read and considered paragraph by paragraph, and section by section and then as a whole at this regular meeting of the Mayor and Board of Aldermen on June 1, 2021, whereupon, Alderman Willie P. McCullum moved that Ordinance No 411 be adopted, which motion was duly seconded by Alderman Mary P. Norman, was submitted for a vote of all Aldermen present and voting and the following vote was recorded, to-wit:

VOTING AYE:

- Alderman Willie P. McCullum
- Alderman Mary P. Norman
- Alderman Roger Sullivan
- Alderman Terry Barron

VOTING NAY:

None

NOT Present: Alderman John L. Sullivan

WHEREUPON, the Mayor declared the Ordinance duly adopted on this the 1st day of June, 2021.

TOWN OF MOUNT OLIVE, MISSISSIPPI

JAMES C. KELLY, III, MAYOR

(SEAL)

ATTEST:

BREYON MAGEE, CITY CLERK

STATE OF MISSISSIPPI
COUNTY OF COVINGTON

CERTIFICATE

I, Breyon Magee, City Clerk in and for the Town of Mt. Olive, Mississippi, do hereby certify that the above and foregoing is a true and correct copy of ORDINANCE NUMBER 411 ADOPTED BY THE Mayor and Board of Aldermen at its Regular Meeting of June 1, 2021, and is duly of record in the office of the City Clerk, City Hall, 501 Main Street, Mt. Olive, Mississippi, in Minute book #29.

WITNESS MY SIGNATURE AND OFFICIAL SEAL OF OFFICE ON THIS THE 1st DAY OF June, 2021.

BREYON MAGEE, CITY CLERK
TOWN OF MT. OLIVE, MISSISSIPPI

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