

**Resolution 2015-18 (Passed March 16, 2015)**  
**Administrative Policy Regarding Nuisances and Property Maintenance Violations and Enforcement**

Be it resolved by the Common Council of Hot Springs to adopt the following policy:

**Policy:**

It shall be City policy that the Planning Administrator acting as the designated Building Official (or in his/her absence or designation, the Chief of Police), will apply the rules and regulations of the City's nuisance ordinances, and adopted International Property Maintenance Code fairly and consistently in accordance with the guidelines listed herein.

**Filing a Nuisance or Property Maintenance Complaint:**

Complaints shall be in writing and shall be made on a form provided by the City. The written complaint shall contain the following information:

1. Name, address and phone number of the person making the complaint;
2. Address of the property for which the complaint is being filed; and
3. Nature of the complaint

Complaints shall be forwarded to the Building Official who shall document for record all contacts and actions in the space provided on the form. The Building Official may request assistance from other City Departments as is necessary based upon the nature of the complaint, including but not limited to the Chief of Police. Names of complainants shall not be released to the public except as required by law.

**Notice Issued without Complaint:**

The Building Official may issue courtesy or abatement notices to property owners without a complaint being made or received when in the opinion of the Building Official there exists a need for immediate action. Nothing in this policy shall be interpreted as to interfere with the City's authority to immediately abate public nuisances that has been determined by the City or other public agency that there is an immediate threat to the health and safety of the public.

**Anonymous and Verbal Complaints; Right to Anonymity:**

Anonymous complaints may be investigated by the Building Official on a case-by-case basis, based on the nature of the complaint. The Building Official may request that the complainant submit a written complaint in order for action to be taken where the need for documentation may be needed for legal purposes.

**Neighboring Properties with Same or Similar Violations**

Where a property maintenance or nuisance code violation complaint is received, neighboring properties within a reasonable distance will also be reviewed for same or similar discrepancies. Neighboring

properties that do have same or similar property maintenance or nuisance code violations will also receive a courtesy notice or notice to abate.

**Courtesy Notice; Notice of Violation:**

In the event the Building Official or other designated employee and/or agent concludes that a violation does exist on the property, the Building Official shall issue a Courtesy Notice to the property owner of record or post a courtesy notice door hanger on the property. In the event the violation is not corrected from the Courtesy Notice within a reasonable time or the time period specified in the notice, a Notice of Violation shall be issued to the property owner of record as per the procedure outlined in Chapter 18-A of the City's Ordinances.

**Appeals:**

Unless otherwise required by ordinance, Complainants of violations and Respondents of violation notices may appeal the decision or determination of the Building Official. The appeal must be in written form, and all documents, decisions and agreements shall be made part of the case file maintained by the Building Official. The appeals process is as follows:

1. An aggrieved person (appellant) shall first file a written request for review with the City Administrator, or in his/her absence, the Mayor, setting forth the basis for which he/she believes the determination of the Building Official is not correct. The request shall also include the person's name and mailing address.
2. The City Administrator (or Mayor in his/her absence) shall have the authority to reverse or affirm the order, wholly or in part, or may modify the order, decision or determination made by the Building Official.
3. If the notice is found to be properly issued and the ordinance properly interpreted, the appellant will be informed that the process outlined in the notice will be followed and the violations need to be corrected.
4. In the event that the appellant is not satisfied with the City Administrator or Mayor's determination on the issue the appellant shall have the right to request to appeal the matter to the City Council. Upon such request the City Administrator shall place the appellant on the agenda for the next regularly scheduled City Council meeting for the City Council to hear the appeal.
5. The City Council shall have thirty (30) days to review the case and give a written decision to the complainant.

Exception: Appeals to Zoning Ordinance Violations and variance requests are required to be heard by the Planning and Zoning Committee prior to being heard by the Common Council.

**Failure to Comply; Issuance of Summons and Complaint for Violations:**

If the property owner fails to abate the nuisance or request an appeal within the specified time, the City may issue a complaint and summons to the landowner ordering the property owner to appear in Court

to answer said violation(s). Each violation shall be subject up to a \$200 per day fine for each day of the violation until the nuisance is abated; each violation constitutes a separate violation. (City Ordinance, Chapter 1-7).

**Abatement of Nuisance Violations:**

In lieu of or in addition to the issuance of a complaint, the City shall also have the authority to abate said nuisance as set forth in SDCL 21-10-6. The Building Official or other designated employee shall have the authority to employ a contractor to assist with said abatement.

**Property Owner Responsible For Costs of Abatement:**

Any related expenses, receipts, and administrative, legal, and/or investigative fees shall be billed to the property owner. In the event the property owner fails to pay said bill, the City Finance Officer may file a special assessment on the property with the Fall River County Auditor's Office. The City may also commence a civil action against the property owner for the costs of abatement.