

CITY OF SALISBURY
ORDINANCE NO. 1980

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SALISBURY TO AMEND CHAPTER 8.08 OF THE SALISBURY MUNICIPAL CODE TO PERMIT THE DEPARTMENT OF NEIGHBORHOOD SERVICES AND CODE COMPLIANCE TO ABATE CERTAIN CONDITIONS ON REAL PROPERTY LOCATED WITHIN THE CITY WITHOUT NOTICE TO THE OWNER UNDER CERTAIN CIRCUMSTANCES.

WHEREAS, the City Council enacted an ordinance to require land owners to cut or remove grass, weeds, brush and plant growth and keep curbs, gutters and sidewalks clear of growth;

WHEREAS, it has come to the attention of the Mayor and Council that some landowners refuse to comply with said ordinance;

WHEREAS, the City Council desires to amend the ordinance to allow the Department of Neighborhood Services and Code Compliance abate conditions in violation of Chapter 8.08 without notice when an owner repeatedly violates this chapter.

NOW, THEREFORE, be it enacted and ordained by the City Council of the City of Salisbury in regular session, that Chapter 8.08 of the Salisbury Municipal Code be amended as set forth below:

Chapter 8.08

BRUSH, WEEDS AND OBNOXIOUS GROWTH

Sections:

- 8.08.010 Cutting or removal of grass, weeds, brush and plant growth required.
- 8.08.020 Maintenance of curbs, gutters and sidewalks clear of growth.
- 8.08.030 ~~Notice to remove growth: Warning letter of violation.~~
- 8.08.040 Action upon noncompliance with notice to remove growth.
- 8.08.050 Removal by city = Assessment of costs:
- 8.08.060 Appeal.

8.08.010 Cutting or removal of grass, weeds, brush and plant growth required.

Every owner of any area, lot or parcel of land shall cut, trim or otherwise remove or cause to be cut, trimmed or otherwise removed all grass, weeds, brush or plant growth thereon in excess of eight (8) inches. "Weeds" shall be defined as all grasses, annual plants and vegetation other than trees or shrubs; provided, however, that this term shall not include cultivated flowers and gardens. It shall be the duty of any person owning any plat of ground in the city to prevent the growth of weeds thereon as shall constitute a health hazard, fire hazard, safety or traffic hazard or public nuisance.

(Prior code §50-1)

8.08.020 Maintenance of curbs, gutters and sidewalks clear of growth.

Property owners of any lot or land located in the city shall maintain their respective curbs, gutters and sidewalks bordering their parcels of land in such condition as to be clear of all growth of grass, weeds, brush or plant growth within the curb, gutter and sidewalk. (Prior code §50-2)

~~8.08.030 Notice to remove growth:~~

~~A.—The director of the department of building, housing and zoning is authorized and empowered to give written notice to the owner of any lot or parcel of land who has permitted the excessive growth of grass, weeds, brush or plant growth upon his property or has permitted the same to grow in the curb, gutter and sidewalk to cut, destroy and remove the same within ten days from the date of such notice:~~

~~B.—In the event that an owner has been given a notice to cut, destroy and remove excess growth of grass, weeds, brush or plant growth on his property and then receives a subsequent notice in regard to the same property in any calendar year, then the period of time provided to cut, destroy and remove such excess growth of grass, weeds, brush or plant growth shall be two days:~~

~~C.—Any notice required by this chapter to be served shall be deemed to have been served when served by any of the following methods:~~

1. ~~By depositing the notice or order in the United States Post Office, first class postage prepaid, addressed to the owner at his last known address as recorded in the real estate assessment records of the City of Salisbury and by posting a copy of the notice or order in a conspicuous place on the property subject to the order;~~

2. ~~When delivered to the person to be notified; or~~

3. ~~When left at the usual residence or place of business of the person to be notified with a person of suitable age and discretion then resident or employed therein.~~

8.08.030 Warning letter of violation.

A. When a violation of Section 8.08.010 or 8.08.020 occurs, a warning letter of violation shall be sent to the owner or occupant of the property. This warning letter of violation shall:

1. Be in writing.

2. State the nature of the violation and that such condition constitutes a violation.

3. Describe the premises where the violation is alleged to exist.

4. For a first violation in any calendar year:

a. State that the condition must be removed from the property within 10 days of the date of the notice.

b. State that the Department of Neighborhood Services and Code Compliance shall conduct a re-inspection of the property after 10 days have passed since the date of the notice.

5. For a second violation in any calendar year,

a. State that the condition must be removed from the property within 7 days of the date of the notice.

b. State that the Department of Neighborhood Services and Code Compliance shall conduct a reinspection of the property after 7 days have passed since the date of the notice.

6. State that, if during the inspection of the premises, the violation complained of in the warning letter is found, it shall be abated by the city as soon as practicable, and the costs of such abatement shall be specially assessed and shall be deemed a personal debt against the owner and constitute a lien against the property from which abated.

7. State that upon violation of Section 8.08.010 or 8.08.020, the owner shall be guilty of a municipal infraction, and upon conviction shall be fined \$25 for a first offense and \$50 for each day the condition remains unabated up to a maximum of \$500.

8. Be served by one of the following methods:

a. By depositing the notice or order in the United States Post Office, first class postage prepaid, addressed to the owner at his last known address as recorded in the real estate assessment records of the City of Salisbury and by posting a copy of the notice or order in a conspicuous place on the property subject to the order;

b. By hand-delivering the notice to the person to be notified; or

c. By leaving the notice at the usual residence or place of business of the person to be notified with a person of suitable age and discretion then resident or employed therein.

9. State that only two warning letters will be issued to the same property owner in any calendar year and that if further violations of this Chapter occur, the condition causing a violation may be abated without notice.

8.08.40 Action upon noncompliance with notice to remove growth.

Upon failure, neglect or refusal of any property owner duly so notified to cut, destroy and remove such excessive growth of grass, weeds, brush or plant growth from his property or any growth on his respective curb, gutter or sidewalk, either or both upon his property within the time specified in the notice provided for in Section 8.08.030, the owner shall be in violation of this chapter and shall be guilty of a municipal infraction and, upon conviction in any court of competent jurisdiction, shall be fined twenty-five dollars (\$25.00) for the initial offense and fifty dollars (\$50.00) for each day that the offense remains unabated up to a maximum of five hundred dollars (\$500.00). Every such person may be guilty of a separate offense for every day such violation shall continue. (Ord. 1571 (part), 1933: prior code § 50-4)

8.08.050 Abatement Removal by city =Assessment of costs:

A. In the event of failure, neglect or refusal of any owner duly notified pursuant to Section 8.08.030, to cut, destroy or remove such excessive growth of grass, weeds, brush or plant growth from his property or any growth on his respective curb, gutter or sidewalk within the applicable time period specified in the notice, the Ddirector of the Ddepartment of Building Housing and Zoning Neighborhood Services and Code Compliance may cause the condition to be abated by appropriate means. ~~shall have the power or contract to cut, trim or remove such weeds, grass, brush or plant growth or accumulation of dead weeds, grass, brush or plant growth on any such area, lot or parcel of land or sidewalk area in the city of Salisbury and assess the cost to the property.~~ (Prior code §50-5)

B. The Director of the Department of Neighborhood Services and Code Compliance shall send only two warning letters to the same property owner in any calendar year. If further violations of this Chapter occur, the condition causing a violation may be abated without notice.

8.08.060 Costs of removal to constitute lien on property–Interest– Collection.

~~The cost or expense of such work ordered by the director of the Department of Neighborhood Services and Code Compliance, plus one hundred dollars (\$100.00) for administrative costs incurred under this chapter, unless paid in full by the property owner within thirty (30) days after the same is billed by the city treasurer, shall cause a lien on the property and shall draw interest from and after such thirty (30) days at the same rate that applies to real estate taxes. (Prior code §50-6)~~

A. If the Director of the Department of Neighborhood Services and Code Compliance causes a condition to be abated under this Chapter, the cost or expense of such abatement, plus one hundred dollars (\$100.00) for the cost of administering the provisions of this chapter, shall be assessed, and the Director of the Department of Neighborhood Services and Code Compliance shall issue a notice to the property owner. The notice shall be in writing and shall state the following:

1. The amount of the fees due as of the date of the notice.

2. That if the owner fails to pay the fees due within 30 days after billing, the Director of the Department of Neighborhood Services and Code Compliance shall cause to be recorded in the Finance Department the amount of fees due and owing, and such amount will be carried on the records of the City of Salisbury and shall be collectible in the same manner as real estate taxes are collected;

3. The owner's right to appeal and method for appeal under Section 8.08.070.

B. If the full amount of any fees due to the City is not paid by the owner within 30 days after billing and the property owner does not file a timely appeal, the Director of the Department of Neighborhood Services and Code Compliance shall cause to be recorded in the Finance Department the amount of fees due and owing, and such amount will be carried on the records of the City of Salisbury and shall be collectible in the same manner as real estate taxes are collected, including the accrual of interest.

8.08.070 Appeal

A. Any person wishing to appeal a determination of the Director of the Department of Neighborhood Services and Code Compliance regarding the provisions of this chapter shall file a written notice of appeal with the Department of Neighborhood Services and Code Compliance within 21 days after receipt of a notice sent pursuant to the provisions of this chapter. The notice of appeal shall contain a statement of grounds for

the appeal. The notice of appeal shall be accompanied by a fee of one hundred dollars (\$100.00).

B. The Director of the Department of Neighborhood Services and Code Compliance shall refer the appeal to the Housing Board of Adjustments and Appeals. The Board shall meet monthly, or more frequently at the call of the chair, to hear appeals. The Board shall notify the owner in writing of the time and place of the hearing.

C. When hearing appeals under this chapter, the Board shall follow the procedures set forth in chapter 15.24 of the Salisbury Municipal Code.

AND BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, that this ordinance shall take effect upon final passage.

THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on the ____ day of _____, 2005, and having been published as required by law, in the meantime, was finally passed by the Council on the ____ day of _____, 2005.

Brenda J. Colegrove, City Clerk

Michael P. Dunn,
President of the Council of
the City of Salisbury

Approved by me, this _____
day of _____, 2005.

Barrie P. Tilghman,
Mayor of the City of Salisbury