

CITY OF ABSECON

ORDINANCE 09-2021

**AN ORDINANCE OF THE CITY OF ABSECON REPEALING AND REPLACING
CHAPTER 134 OF THE CODE OF THE CITY OF ABSECON CONCERNING THE
REMOVAL AND DESTRUCTION OF BRUSH, WEEDS, TRASH, DEBRIS AND
SOLID WASTE FROM PRIVATE PROPERTY WITHIN THE MUNICIPALITY**

WHEREAS, the City of Absecon ("City") is a municipal entity organized and existing under the laws of the State of New Jersey and located in Atlantic County; and

WHEREAS, pursuant to N.J.S.A. 40:48-2.13, the City authorized to enact and amend ordinances authorizing the removal and destruction of brush, weeds, trash and debris from private property within the municipality; and

WHEREAS, the Mayor and City Council have determined it to be in the best interest of the public health, safety and welfare to repeal and replace Chapter 134 to authorize the procedures for the removal and destruction of brush, weeds, trash and debris from private property within the municipality.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
ABSECON IN THE COUNTY OF ATLANTIC, STATE OF NEW JERSEY AS FOLLOWS:**

Section 1. Chapter 134 of the Code of the City of Absecon is hereby repealed in its entirety and replaced with the following new sections:

§134-1. Title.

Removal and Destruction of Brush, Weeds, Trash, Debris and Solid Waste from Private Property.

§134-2. Findings.

It is hereby determined and declared that the existence of obnoxious growths and other matter hereafter described, upon lands in the City and lands which are not filled to proper legal grades and which permit the accumulation of stagnant waters, refuse and other obnoxious materials, or any one (1) or more of said conditions, may provide a means for the breeding of mosquitoes, flies and insects and may tend to permit the existence of dirt and vermin which would be contrary to the public health, safety and general welfare and could become a fire hazard and a nuisance which should be abated and abolished in the public interest.

It is hereby declared that this section is necessary in the interest of the public and especially the health of the public.

§134-3. Prohibited Activity.

It shall be unlawful for any owner(s), tenant(s) or occupant(s) of any lot or tract of land or any part thereof in the City:

- A. to permit, or maintain on any such lot or tract of land, any brush, weeds and/or grass over ten (10) inches, dead, or dying trees, stumps, roots, ragweed, poison ivy, poison sumac, obnoxious growths, filth, garbage, trash or debris, removal of which may be necessary and expedient for the protection of the public health, safety, or general welfare or to eliminate a fire hazard, or which constitutes a nuisance.
- B. to permit the storage of any solid waste in such a way that it is accessible to and likely to be strewn about by animals such as but not limited to dogs, cats, raccoons, birds, or rodents.
- C. to keep any brush, hedges and other plant life, that exceed two and one-half feet (2 ½) in height, from growing within ten (10) feet of any roadway and within twenty-five (25) feet of any intersection of the two (2) roadways.
- D. to bury any bushes, logs, branches, foliage or any other vegetable matter, or garbage, trash or debris.

§134-4. Notice; Time Limit to Remove.

Whenever an Enforcement Official, as defined herein, shall determine that there exists a violation of this Chapter, he/she shall give notice in writing to the owner(s), tenant(s) and occupant(s) of such lands to abate the condition, within the time prescribed herein. It shall be the duty of the owner(s), tenant(s) or occupant(s) of the lot or tract of land or any part thereof in the City,

- A. to cut and remove or cause to be cut and removed or otherwise destroyed, all such brush, weeds, dead or dying trees, stumps, roots, ragweed, poison ivy, poison sumac, obnoxious growths, filth, garbage, trash or debris, within ten (10) days after receiving notice to do so. After removal, the lot or tract of land or any part thereof shall be leveled to grade to prevent puddles or water holes.
- B. to remove or cause to be destroyed, any solid waste stored in such a way that it is accessible to and likely to be strewn about by animals such as but not limited to dogs, cats, raccoons, birds, or rodents, within seventy-two (72) hours after receiving notice to do so.
- C. to cut and remove or cause to be cut and removed or otherwise destroyed, that exceed two and one-half feet (2 ½) in height, all brush, hedges and other plant life, growing within ten (10) feet of any roadway and within twenty-five (25) feet of any intersection of two (2) roadways.

The notice shall be given personally or by registered or certified mail, return receipt requested, directed in the case of an owner to the address of the owner as the same appears upon the last tax duplicate of the City and in the case of a tenant to the street address of the premises in question or to the last known address in case the lands are unimproved. In the event that

personal service cannot be made because the owner or agent is not a resident of the City or in the event that service by certified mail is unaccepted, then the Enforcement Official shall post said notice in a conspicuous place on the premises.

§134-5. Abatement by City.

If the owner(s), tenant(s) or occupant(s), upon being notified as provided by this Chapter, shall not comply with the notice within the time specified therein and fail to remove or abate such conditions, the City shall proceed to abate the nuisances and hazard or may cause it to be removed or abated and assess the costs thereof against the lands, and the costs shall become a lien collectible in the same manner as delinquent taxes.

§134-6. Costs to Become Lien.

In addition to any other penalties provided herein, if the Enforcement Officer removes or abates the condition as a result of the owner(s), tenant(s) or occupant(s)' failure or refusal to do so, the Enforcement Officer shall certify the cost thereof to the City Council, which shall examine the certificate and if found correct shall cause the cost as shown thereon to be charged against said lands, or in the event that such cost is excessive to cause the reasonable cost thereof to be charged against said lands. The amount so charged shall forthwith become a lien upon such lands and shall be added to and become and form part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same rate as other taxes and shall be collected and enforced by the same officers and in the same manner as taxes.

§134-7. Failure to Meet Time Limit.

Upon the failure of any owner(s), tenant(s) or occupant(s) to correct any condition described in this section within the time specified by any such notice, any and all of said persons are hereby deemed to have violated the provisions of this section based upon the state of facts as may be found to exist with respect to the notice.

§134-8. Enforcement.

The City Code Enforcement Official shall have primary responsibility for enforcing the provisions of this section. In addition, the following individuals shall also have the authority to enforce the provisions of this Chapter.

- A. Code Enforcement Official
- B. Zoning Official
- C. Construction Official
- D. Sub-code Officials
- E. The Chief of Police or any member of the Absecon Police Department as well as any other official authorized by resolution of the City Council to enforce this section.

§134-9. Proof of Notice.

Whenever any notice is required to be given, the person giving such notice shall file proof thereof by affidavit and shall file the same in the Office of the City Clerk; but a failure to file any such proof shall not invalidate the proceedings if service in fact has been made as provided for by law.

§134-10. Penalties.

- A. First Offense: Any person, entity, firm, corporation or group who has been cited for violation of this Chapter, may plead guilty by affidavit through the City of Absecon Municipal Court. The fine for a first time offense, plead guilty by affidavit, is fifty (\$50.00) dollars. The offending party may also appear in Municipal Court and plead not guilty to the citation, and be heard before the Court.
- B. Second and/or Subsequent Offenses: Any subsequent offenses of this section shall be scheduled for Court, at which time, the person, entity, firm, corporation, or group who has been cited for violation of this section will be required to appear in Municipal Court, and could be held responsible for court costs and subject to a fine of not less than one hundred (\$100.00) dollars nor more than five hundred (\$500.00) dollars. Each day that a violation continues shall be deemed a separate offense.

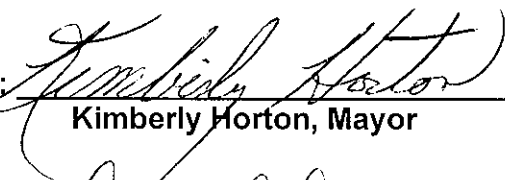
In addition to any penalty, the violation must be corrected by the notice date and must be properly maintained thereafter, or the owner of the property will be cited for an additional offense and will be required to appear in Municipal Court. Each day that a violation continues shall be deemed a separate offense.


Section 2. - If any section, paragraph, subsection, clause or revision of this Ordinance shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 3. - All Ordinances of the City of Absecon heretofore adopted that are inconsistent with any terms and revisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 4. - This Ordinance shall take effect immediately upon final passage and publication according to law.

DATED: July 15th, 2021

SIGNED: 
Kimberly Horton, Mayor

ATTEST: 
Carie A. Crone, RMC Municipal Clerk

Passed on first reading at a regular meeting of the Municipal Council held on June 17th, 2021.
Laid over and advertised for public hearing and final adoption on July 15th, 2021. Notice is
hereby given that the foregoing Ordinance was approved for final adoption by the Municipal
Council of the City of Absecon at a regular meeting held on July 15th, 2021.