

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 2008-37

No. 324

AN ORDINANCE RELATIVE TO STAGNANT WATER AS A PUBLIC NUISANCE

Approved August 8, 2008

Be it ordained by the City of Providence:

SECTION I. Chapter 12 of the Code of Ordinances of the City of Providence is hereby amended by adding thereto the following Article:

ARTICLE VI. STAGNANT WATER

Prohibition against the accumulation of stagnant water in swimming pools, spas, hot tubs, artificial ponds, and containers on private property.

(a) *Purpose.* The city council finds that the accumulation of stagnant water in swimming pools, spas, hot tubs, artificial ponds and other man-made containers and objects on private property constitutes a health hazard since such accumulations of stagnant water serve as breeding grounds for mosquitoes which have been found to serve as conduits for serious and possibly fatal diseases such as Eastern Equine Encephalitis (EEE) and the West Nile Virus. The city council further finds that in the interest of the health, safety and welfare of the citizens of the City of Providence that accumulations of stagnant water in swimming pools, spas, hot tubs, artificial ponds and other man-made containers and objects on private property be declared a public nuisance and that the department of public works be empowered to issue citations for violations of this article, punishable in the municipal court, and that the city be empowered to abate said nuisance if not abated by the owner or occupier of land on which it exists.

(b) *Definitions.*

Artificial Pond: Any body of water, which is located or placed on private property as a result of human labor or means and shall include any excavation, trench, hole, or manmade object intended to serve as an artificial fish or garden pond. Any wetland or body of water designated as wetlands by either the Rhode Island Department of Environmental Management or the Rhode Island Coastal Resources Management Council is hereby exempted from the provisions of this article.

Container. Any manufactured or handmade vessel which has the capability of retaining more than one inch of water, including, but not limited to, buckets, pails, tires and portable and/or storable swimming pools.

Director. The director of the department of public works, or any person acting in said capacity.

Hot tub. Any manufactured or handmade container designed to hold water in which one or more persons bathe or soak, and shall include spas and whirlpools.

Spa. Any manufactured or handmade container designed to hold water in which one or more persons bathe or soak, and shall include hot tubs and whirlpools.

Stagnant water. Any body of water, one inch of depth or more, in any swimming pool, spa, hot tub, artificial pond, or container, which is not fully enclosed in a building, house or other structure and which is neither moving by artificial or natural means, nor chemically treated nor filtered so as to prevent the growth of mosquito larvae. Stagnant water as used in this article shall not include any body of water designated as wetlands by either the Rhode Island Department of Environmental Management or the Rhode Island Coastal Resources Management Council.

Swimming pool. Any container or tank, whether constructed in ground or placed above ground, designed for one or more persons to swim.

Private property: Any parcel of real property located either partly or entirely within the City of Providence which is owned, leased or occupied by any person, firm, corporation, trust, association or other entity other than the City of Providence, or any of its departments or agencies, the State of Rhode Island, or any of its departments or agencies or of the United States, or any of its departments or agencies.

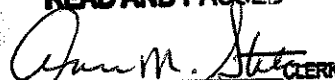
(c) Stagnant water as a public nuisance; violations. It is hereby declared by the city council that any accumulation of stagnant water in any swimming pool, spa, hot tub, artificial pond or other manufactured or handmade container, which is not fully enclosed in a building, house or other structure, for more than seven (7) consecutive days is a public nuisance and a public health hazard. It shall be unlawful for the owner, lessee or occupier of any parcel of real property to cause or to allow to exist said public nuisance on any parcel of real property he or she owns, leases or occupies. Any person found in violation of this section shall subject to a fine pursuant to Sec. 1-10 of the Providence Code of Ordinances.

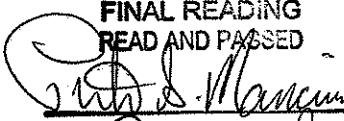
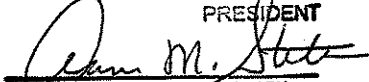
(d) Notice of violation. Upon a finding by the director, or his or her designee, that there exists stagnant water on a parcel of private property, a notice of violation shall be issued to the owner, lessee or occupant of the property by leaving same with any person of the age of majority in occupancy of said property, or if no person is available to receive notice, by posting same on any entry door to the primary structure which sits on said property, or if there is no structure, then by posting notice to any tree, pole or other object which sits upon said property. Notice shall also be mailed, by certified mail, return receipt requested, to the owner of record of said property according to the tax assessor's records. The notice shall contain the address of the property, notify the person receiving notice that the property is in violation of this article of the Code of Ordinances of the City of Providence describe generally, the nature of the violation and notify the recipient that he or she shall have five (5) days from the date of the notice within which to abate the nuisance. The notice shall also provide that if the nuisance is not abated within five (5) days of the mailing of the notice, then the department of building inspection may then forthwith proceed in the municipal court for imposition of fines and an order of abatement. The notice shall contain the date and time of the hearing, if any before the municipal court.

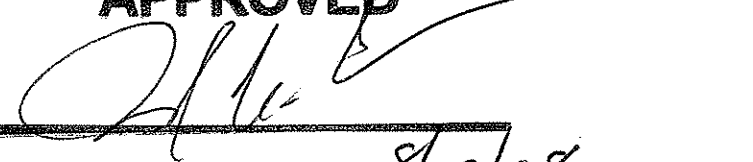
(e) Order of abatement. If, after the expiration of five (5) days following the date of issuance of a notice of violation pursuant to this article, the nuisance remains unabated, then the director, or his or her designee may proceed for imposition of fines and an order of abatement to issue from the municipal court. A photograph or video recording of the body of stagnant water, together with evidence of the address of the property, the name and address of the property owner, lessee or occupier and that said nuisance remains unabated on the date of hearing before the municipal court shall constitute prima facie evidence of the existence of the unabated nuisance. Upon a finding by a judge of the municipal court that the nuisance remains unabated, then the court may impose a fine pursuant to Sec. 1-10 of the Providence Code of Ordinances for each day that the nuisance has existed and may issue an order of abatement after notice and opportunity for hearing has been given to the owner of the parcel according to the tax assessor's records and to the occupier of the land. Said order of abatement shall allow the director, or his or her designee, to enter upon the property and take whatever steps are necessary to abate the nuisance including, but not limited to filling, draining, or removal of the body of stagnant water which is the subject of the order of abatement. The director is authorized to request assistance from other city departments or agencies in performing the work needed to abate the nuisance and to contract said work pursuant to municipal bidding requirements under state law, and the charter and ordinances of the City of Providence. All costs incurred by the City in abating the nuisance shall be reimbursed by the owner, lessee, or occupier of the land.

(f) Lien for abatement costs and fines. Any unpaid fines imposed pursuant to this article and costs incurred by the city in abating a stagnant water nuisance pursuant to subsection (e) shall constitute a lien on the property, which shall be recorded in the land evidence records of the City of Providence, and shall be discharged only upon payment of all fines and costs imposed pursuant to this article.

SECTION II. This ordinance shall take effect upon passage and publication as prescribed by law.

IN CITY COUNCIL
JUL 17 2008
FIRST READING
READ AND PASSED

CLERK

IN CITY COUNCIL
JUL 28 2008
FINAL READING
READ AND PASSED

PRESIDENT

CLERK

APPROVED

MAYOR 8/07/08