

Ordinance 21-03

An Ordinance amending Article XI, Section 2 of the Town Code relative to Nuisance Abatement. The Public Nuisance Ordinance is rewritten and amended as follows:

Article XI- PUBLIC NUISANCE CONDITIONS ON PRIVATE PROPERTY

Section 2.

Administration: For the purpose of this article, the term “Nuisance” shall mean or refer to any conditions or any use of property or any act or omission affecting the condition or use of property which threatens or is likely to threaten the safety of the public, adversely affect the general health, security or welfare of others, or detrimental to the rights of others to the full use of their property and their comfort,.

Declaration of public nuisance;

The following enumerated and described conditions, or any combination thereof, are hereby found, deemed, and declared to constitute a detriment, danger and hazard to the health, safety, morals and general welfare of the inhabitants of the City and are found, deemed and declared to be public nuisances wherever the conditions may exist and the creation, maintenance or failure to abate any nuisances is hereby declared unlawful:

1. +Any weeds or other vegetation having an overall height of more than Twelve (12”) inches above the surrounding ground provided that the following shall not be considered to be a part of this condition: trees and ornamental shrubs; cultured plants; natural vegetation on undeveloped property that is not a threat to the character of surrounding properties; and flowers and growing and producing vegetable plants.
2. Any accumulation of trash, garbage, food waste and other trash which is the result of the absence of, or overflowing of, or improperly closed trash or garbage containers, that attracts or is likely to attract mice and rats, flies and mosquitoes or other pests.
3. An open or unsecured storage or collection place for chemicals, acids, oils, gasoline, flammable or combustible materials or flammable or combustible liquids, poisonous materials or other similar harmful or dangerous substances, gasses or vapors.

4. An open place, collection, storage place or concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, rags, or any other combustible materials collection.
5. An open storage place for old worn out, broken or discarded machinery, car parts, junk, tire rims, furniture, stoves, refrigerators, appliances, cans and containers, household goods, plumbing or electrical fixtures, old rusty metal, fencing materials or other similar materials.
6. Any accumulation of garbage, rubbish, trash, or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, mosquitoes, or vermin prejudicial to the public health.
7. Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health. This does not include compost piles.
8. The open storage of any discarded ice box, furniture, refrigerator, stove, glass, building materials, building rubbish or similar items. The use of carports, open porches, decks, open garages and other outdoor areas that are visible from the street as a storage or collection place for boxes, appliances, furniture (not typical outdoor or yard furniture), ~~tools, equipment~~, junk, garbage, old worn out broken or discarded machinery and equipment, cans, containers, household goods or other similar condition that increase the likelihood of a fire; may conceal dangerous conditions; may be a breeding place or habitat for mice, rats or other pests; or, create an unattractive condition or visually blighted property
9. A collection place for lumber, bricks, blocks, nails, building hardware, roofing materials, scaffolding, masonry materials, electrical supplies or materials, plumbing supplies or materials, heating and air conditioning supplies or materials or any other type of old or unusable building supplies (especially those with nails, staples or sharp objects and edges) unless such conditions are temporary in nature and caused by a current construction project in progress pursuant to a lawfully issued building permit, if required.
10. Any building or other structure which has been burned, partially burned or otherwise partially destroyed and which is unsightly or hazardous to the safety of any person, is a continuing fire hazard or which is structurally unsound to the extent that the Code Administrator or his designee can reasonably determine that there is a likelihood of personal or property injury to any person or property entering the premises. Provisions for extra time may be given for removal due to extenuating circumstances such as insurance investigation, crime scene, or other investigative matters.

11. The placement, storage or use of upholstered sofas, couches, chairs or other indoor type furniture, appliances, seats removed from motor vehicles or other furniture not intended for outdoor use by the manufacturer, use on any open porch, carport, stoop, deck, veranda, terrace, patio or other outdoor area that is visible from nearby streets and sidewalks.
12. A collection place, pool or pond of stagnant or foul water or persistent dampness caused by overflowing septic tanks, manmade dams, open ditches, overflowing pipes, foundation trenches or other impoundments of any kind.
13. Barns or farm animal pens, pastures or enclosures for farm animals which are not kept sanitary and clean or otherwise become a collection place for animal waste and which because of the conditions associated therewith attract rats, mice, flies or other pests or emit foul odors that can be detected or noticed on adjacent properties or are otherwise not kept in a sanitary condition.
14. Dog lots, pens, pet enclosures of all kinds, outdoor areas where dogs or other pets are chained or kept or areas where dogs and cats are permitted to roam which become a collection place for dog, cat or pet waste and excrement and which attract flies or other pests, emit foul odors which can be detected or noticed on adjacent property or are not kept in a sanitary condition.
15. A collection place for sewage and sewage drainage or the seepage from septic tanks, broken or malfunctioning plumbing and sewer pipes or any other seepage of dangerous, hazardous or poisonous liquids.
16. A collection place that is visible from the street right of way for tree limbs, dried brush, dead vegetation, stumps or other decayed wood and materials or other similar rubbish. Consideration for length of time to remove debris and rubbish will be given in the event of a major storm.
17. Any discharge into or polluting of any stream, creek, river or other body of water or the discharge of any dangerous substance or any other material likely to harm the water or any vegetation, fish or wildlife in or along the water or the storage of such harmful materials and substances in a manner so that it is likely that such streams, creeks, rivers or other bodies of water will become polluted or adversely affected in any manner.
18. Any condition which blocks, hinders, or obstructs in any way the natural flow of branches, streams, creeks, surface waters, ditches, or drains, to the extent that the premises is not free from standing water.
19. Any conditions or use of property, which results in the emission of pollutants and particles into the atmosphere or causes noxious odors, vapors and stenches to be discharged into the air.

20. Nuisance vehicle: A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:
- a. A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or
 - b. A point of heavy growth of weeds or other noxious vegetation which exceeds (12”) twelve inches in height ; or
 - c. In a condition allowing the collection of pools or ponds of water; or
 - d. A concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor; or
 - e. An area of confinement which cannot be operated from the inside, such as, but not limited to, trunks or hoods; or
 - f. So situated or located that there is a danger of it falling or turning over; or
 - g. A collection of garbage, food waste, animal waste, or any other rotten or putrescent matter of any kind; or
 - h. One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass;
 - i. Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Board of Commissioners.
21. Any condition detrimental to the public health which violates the rules and regulations of the County Health Departments.

Section 2-1. Complaints, investigation of public nuisance

When any conditions in violation of this article is found to exist. The Code Enforcement Officer or such persons as may be designated by the Town council shall give notice to the owner or the premises to abate or remove such conditions within ten (10) days of receiving said notice. Such notice shall be in writing, shall include a description of the premises or property sufficient for identification, and shall set forth the violation and state that the violation must be corrected within ten (10) days. The town may proceed to correct the same as authorized by this section. Service of such notice shall be by any one of the following methods

1. By delivery to anyone personally or by leaving the notice at a place of abode of the owner with a person over the age of 18 years and a member of the family of the owner
2. By mailing a notice by registered or certified mail in the United States Postal Service mail addressed to the owners last known address. When

service is attempted by registered or certified mail, a copy of the notice may also be sent by regular mail.

3. By posting and keeping posted for ten days, a copy of the notice in a placard form, in a conspicuous place on the premise on which the violation exists, when notice cannot be served by methods #1 or #2 of this subsection.

Section 2-2. Abatement Procedure (and rights to appeal)

If the owner of any property fails to comply with a notice given pursuant to this section, within ten days after the service of this notice. He shall be subject to prosecution for violation of this article in accordance with law and each day that such failure continues shall be a separate offense.

Any person having been ordered to abate such a public nuisance, shall have the right to appeal such order within three (3) days of said notice and order (as herein provided) by giving written notice of said appeal to the Town Administrator (who shall hear said appeal upon three (3) days' notice to the Code Enforcement Officer or other designated person and appealing party and either affirm, reverse or remand the order of the code enforcement officer after hearing such appeal).

If any person, having been ordered to abate such a public nuisance, fails to abate or remove the conditions constituting the nuisance within ten (10) days from the receipt of the order (or within ten (10) days after said order has been affirmed (if an appeal was taken), the code enforcement officer shall cause the condition to be removed or otherwise remedied by having employees of the Town go onto the premises and remove or otherwise abate the nuisance under the supervision of an employee designated by the Town Administrator: in lieu of or addition thereto, the code enforcement officer may exercise any other reasonable means to abate such nuisance.

The cost incurred by the Town in removing or otherwise remedying a public nuisance shall be paid by the property owner. Furthermore, the property owner may, in writing and within the time allowed by this section, request that the Town remove or abate the condition, the cost of which shall be paid by the property owner or person making the request.

It shall be the duty of the Town Administrator or other designated person to mail a statement of the charges to the owner or other person in possession of the premises with the instruction that the charges are due and payable within thirty (30) days from the receipt thereof.

If charges for the removal or abatement of a public nuisance are not paid within thirty (30) days after receipt of a statement of charges, such charges shall become a lien on the land or premises where the public nuisance existed and shall be collected as unpaid taxes.

Section 2-3. Procedure is alternative

The procedure set forth in this article shall be in addition ~~that~~ to any other remedies that may now or thereafter exist under law for abatement of the nuisance. And the article shall not prevent the town from proceeding in a criminal action against any person, firm or corporation violating the provisions of this chapter as provided in G.S. 14-4. In addition to the remedies provided for herein, any violations of the terms of this article shall subject the violator to the penalties and remedies, either criminal or civil or both, as set forth in the general penalties ordinance of the town.

Section 2-4. Penalty

- (A) Any owner or persons of any property who fails to comply with any order of the code enforcement order to remedy any problems or nuisances covered by this article, within the time specified by this article, within the time specified in the order, shall be subject to a civil penalty in the amount of twenty five dollars (\$25.00) per day after the tenth day of non-compliance (following the specified time period) until the property is brought into compliance with the order, with a maximum civil penalty of five hundred dollars (\$500.00)

Notwithstanding the above provisions, in the event of a second violation by any person or entity within any twelve (12) calendar month period after a prior violation under this article (or similar ordinance) the code enforcement officer shall levy an additional civil penalty in an amount of fifty (\$50.00) per day after the tenth day of non-compliance, with a maximum penalty of five hundred dollars (\$500.00).

The notice given to violators required in section 2-1 is modified as set forth for chronic violators. A chronic violator is a person who owns property whereupon, the town gave notice of violation at least three (3) times, within the calendar year, under any provision of the public nuisance ordinance. The town may notify a chronic violator of the town's public nuisance ordinance that, if the violator's property is found to be in violation of the article, the town shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The notice shall be sent by certified mail.

Notwithstanding the above provisions, in the event of a third violation by any person or entity within any twelve (12) month period after prior violations under this ordinance (or similar ordinance) the code enforcement officer shall levy an immediate civil penalty in an amount of five hundred dollars (\$500.00) after the tenth day of non-compliance.

- (B) Penalties are subject to appeal to the Town Board by giving written notice of appeal to the Town Administrator.
- (C) If a higher penalty is set out in this article, the higher fine or penalty shall apply.

This foregoing Ordinance amendment shall become effective on __ (date) __ and upon Motion of Town Commissioner ** and second by Town Commissioner **, and having been submitted to a roll call vote received the following votes and was ***** on this the ** day of ***2021. Yes:. No:. Abstain:.
Absent:.

Marsha Strawbridge , Mayor

Attest:

Pamela Perry, Town Clerk

Approved as to Legal Form:

Ben Williamson, Town Attorney