

## CHAPTER 94: NUISANCES

### Article I: In General

#### 94.01 Creation of public nuisances unlawful.

- (A) It shall be unlawful for the owner, lessee, or occupant of any property to create, maintain, permit or fail to abate any public nuisance as defined in this article on such property.
- (B) Every owner, lessee, or occupant of any property within the town shall keep such property clean and clear of the nuisances enumerated in this article, including without limitation all weeds, and any wild growth thereon, including grass over ten inches in height. Every owner, lessee, or occupant shall also keep such property free and clear of all filth, open wells or containers, and all refuse materials of every kind and description.
- (C) The obligations set forth in this article shall extend to the area between the property line of a lot and curb-line or edge of the roadway.

#### 94.02 Public nuisances enumerated.

- (A) The existence of any of the following conditions on any parcel of land within the corporate limits of the town, whether on public or private property and whether such property is improved or unimproved, is hereby declared to be dangerous and prejudicial to the public health and/or safety, and to constitute a public nuisance.
  - (1) The uncontrolled growth of weeds or grass to a height of ten inches or more within 100 feet of any principal structure or public right-of-way.
  - (2) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or which is inhabited by rats, mice, snakes or vermin of any kind, which is or may be prejudicial to the public health.
  - (3) Any accumulation of trash garbage, or other waste not in compliance with the provisions of this chapter.
  - (4) Any accumulation of hazardous refuse or concentration of combustible items such as mattresses, carpet, boxes, paper, automobile tires, old clothes, or any other combustible materials or objects of like nature.
  - (5) Open wells.
  - (6) Any accumulation of stagnant water causing or threatening to cause the inhabitation thereof by mosquitos.
  - (7) The open storage of any item detrimental to the public health or safety, including but not limited to any furniture, appliance, refrigerator, freezer, stove automobile tire(s), glass, building materials, or building rubbish.
  - (8) Any condition detrimental to the public health which violates the rules and regulations of the county health department.
  - (9) The presence of any debris from the demolition of any structure on the property, including but not limited to partially demolished walls,

foundations, basements, building materials and rubbish, after the cessation of all active demolition activity on the property.

- (B) When any of the following conditions exist on a public right-of-way between the property line and the curb or edge of the roadway and threatens, limits, impairs or creates a hazard to the use of the right-of-way by vehicles or pedestrians, such condition is declared to be dangerous and prejudicial to the public health and safety and to constitute a severe nuisance:
- (1) Any accumulation of animal or organic matter that is offensive by virtue of odors or vapors or which is inhabited by rats, mice, snakes or vermin of any kind, which is or may be prejudicial to the public health.
  - (2) Any accumulation of trash, garbage or other waste not in compliance with the provisions of this chapter.
  - (3) Any accumulation of hazardous refuse or concentration of combustible items such as mattresses, carpet, boxes, paper, house-wares, tires, clothes or furniture.
  - (4) Any accumulation of appliances, glass, building materials, demolition materials or rubbish.

#### **94.03 Notice and order to abate nuisance.**

- (A) For the purposes of this article, the respondent is the person in possession of the property where a public nuisance, as described in §94.02, is located, as well as the owner of such property, if different from the former.
- (B) Upon determination by the town's Land Use Administrator that there exists on any property conditions constituting a public nuisance, as described in §94.02, the Land Use Administrator shall notify the respondent by certified and first class mail of such conditions and shall order the abatement thereof within 15 days of the date of such notice. If, after due diligence, the respondent's correct address cannot be determined, then the required notice shall be hand delivered by a designated representative of the town or shall be posted conspicuously on the offending property. The notice shall order the abatement of the nuisance within 15 days of the delivery or posting of the notice.
- (C) Upon determination by the Land Use Administrator that there exists on the public right-of-way conditions constituting a severe nuisance, the inspector shall notify the owner of the property abutting the right-of-way of such conditions and shall order the abatement thereof within 24 hours of such notice. This notice shall, if feasible, be given by telephone. Whether or not the owner is reached by telephone, notice shall be mailed by first class mail to the owner's last known address unless the landowner or the landowner's agent receive this notice in writing by personal delivery.

#### **94.04 Appeal**

- (A) At any time before the expiration of the 15 day abatement period described in §94.03, the respondent may request a hearing before the Town Manager to appeal the finding of the Land Use Administrator that a public nuisance as defined in this article exists on the premises. Upon completion of the hearing, the Town Manager shall consider the evidence before him and shall, within seven days, either revoke the initial order, issue a final order which differs from the initial order, or reinstate the initial order as a final abatement order.
- (B) If the town has caused the abatement of a severe nuisance as defined in §94.02(b), at any time within 30 days of the owner's receipt of a statement of charges from the town for the removal of the conditions, the property owner may request a hearing before the Town Manager to appeal the charges and the finding of the Land Use Administrator that a severe nuisance existed on the premises right-of-way. Upon completion of the hearing, the Town Manager shall consider the evidence before him and shall, within seven days, either uphold, modify or revoke the charges resulting from the abatement by the town.
- (C) Any request for a hearing pursuant to this section must be in writing and must be filed in the office of the Town Manager. The Town Manager shall fix a time for the hearing, and the initial abatement order or the accrual of interest on the statement of charges shall be temporarily suspended pending such hearing. The hearing must be held by the Town Manager within 31 calendar days following the receipt of the request for a hearing by the office of the Town Manager. At the hearing, the individual affected by the order shall be given the opportunity to present evidence to refute the findings that supported the abatement order or the removal of the nuisance condition.

**94.05 Abatement of nuisances by town.**

Upon the occurrence of any of the following conditions, the Land Use Administrator shall cause such condition to be removed or otherwise remedied by having employees of the town go upon such premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the Land Use Administrator:

- (1) A hearing requested under §94.04 results in either a final order with modifications or the reinstatement of the initial order as a final order, and such order is not complied with within 15 days from adjournment of the hearing.
- (2) No hearing is requested or held, and the respondent having been ordered to abate such public nuisance fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days of such order.
- (3) The property owner fails to abate conditions constituting a severe nuisance within 10 days of notification of the owner of such conditions.

**94.06 Charges for abatement by town; lien.**

(A) Pursuant to N.C.G.S. §160A-193, the actual cost incurred by the town in removing or otherwise remedying a public nuisance pursuant to §94.05 shall be charged to the owner of the offending property and shall be a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes.

(B) If charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges from the town, such charges shall bear interest at the rate of eight percent per annum until paid.

**Sections 94.07-94.50 Reserved.**

**Article II: Reserved**

**Sections 94.51-94.99 Reserved.**