

CHAPTER 91: HEALTH AND SANITATION; NUISANCES

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§ 91.01 NUISANCES ENUMERATED.

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

(A) A place of dense or uncontrolled growth of weeds, grass or other noxious vegetation to a height in excess of 12 inches;

(B) An open place of concentration of combustible items, including but not limited to mattresses, boxes, paper, automobile tires, tubes, garbage, trash, refuse, brush, old clothes, rags, construction materials such as wood, insulation, sheet rock, or any other combustible materials or objects of a like nature;

(C) An open place of collection of garbage, food waste, animal waste or other rotten or putrescible matter of any kind;

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(D) Any furniture, appliances, or metal products of any kind or nature, openly kept which have jagged edges of metal or glass or areas of confinement;

(E) 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;

(F) Any accumulation of rubbish, trash or junk, causing or threatening to cause a fire hazard, causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation of rats, mice, snakes, or vermin of any kind;

(G) Any condition which constitutes a breeding ground or harbor for rats, mosquitoes, harmful insects or other pests;

(H) 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 are not free from standing water, or create standing water on any other property; or

(I) Any condition detrimental to the public health, which violates the rules and regulations of the County Health Department as may be promulgated under G.S. §§ 130A-1 *et seq.*
(Ord. 17, passed 2-9-1989) Penalty, see § 91.99

§ 91.02 COMPLAINT AND INVESTIGATION.

The Town Manager, or such person as he or she authorizes, upon notice from any person of the existence of any of the conditions described in § 91.01 above, may request to be made by the appropriate County Health Department official, or town official, or such other person as the Town Manager may designate, such investigation as may be necessary to determine whether, in fact, the conditions exist as to constitute a public nuisance as declared in § 91.01 above.

(Ord. 17, passed 2-9-1989)

§ 91.03 NOTICE TO ABATE.

If the Investigating Official informs the Mayor that in his or her judgment, the conditions constituting a public nuisance exist, he or she shall describe the conditions and the measures necessary to correct same, in writing and the Mayor shall notify, in writing, the owner, occupant or person in possession of the premises in question of the conditions constituting the public nuisance and the measures necessary to correct same and shall order the prompt abatement thereof within 15 days from the receipt or posting of notice in accordance with § 91.05 below, provided that if, in the opinion of the

Investigating Official, the unlawful condition is such that it is of imminent danger or peril to the public, then the Mayor may without notice proceed to direct the abatement of same, and the cost thereof shall be charged against the property as is provided under § 91.06 below.
(Ord. 17, passed 2-9-1989)

§ 91.04 FAILURE OF OWNER TO ABATE; RIGHT OF ENTRY.

(A) If any person, having been ordered to abate such a public nuisance, fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of the order, or the posting of same, the Mayor shall cause the condition to be removed or otherwise remedied by having agents or employees of the town go upon the premises and remove or otherwise abate the nuisance under the supervision of an officer or employee designated by the Council.

(B) (1) The authorized representative of the Mayor shall have the right of entry upon any facility where entry is necessary to carry out the provisions of this chapter.

(2) If consent for entry is not obtained, an administrative search and inspection warrant shall be obtained pursuant to G.S. § 15-27.2. However, if an imminent hazard to life, health, or the environment exists, no warrant is required for entry upon the premises.

(C) (1) Any person who has been ordered to abate a public nuisance may request in writing that the town remove the condition, the cost of which shall be paid by the person requesting the removal. Any request for removal by a person ordered to abate a public nuisance shall be made within the time allowed by this chapter.

(2) However, the town, in its discretion, and without cause, may refuse the request of the person ordered to abate the public nuisance. In such an event, it shall be the responsibility of the person ordered to abate the public nuisance to remove the condition, at his or her own cost.
(Ord. 17, passed 2-19-1989)

§ 91.05 SERVICE OF NOTICE.

(A) The owner of the subject property shall be notified of violation of this chapter, by personal delivery of the notice or by registered or certified mail, return receipt requested.

(B) If the owner refuses to accept notice of the violation, then the property shall be posted with notice.

(C) If the name of the owner cannot be ascertained by a reasonably diligent examination of the county tax records.

(Ord. 17, passed 2-19-1989)

§ 91.06 COST TO BE PAID BY OWNER AND CHARGES BECOME LIEN ON PROPERTY.

(A) Upon the removal and abatement of the public nuisance by the town, if the owner fails to do so within the time prescribed in §§ 91.03 and 91.04 above, the officer designated by the Council to supervise the abatement of the nuisance shall deliver to the Town Tax Collector a statement showing the actual cost of the abatement of the unlawful condition, plus an additional charge of \$25 to cover the cost of notice and cost of collection.

(B) The Town Tax Collector shall thereupon mail by certified mail, return receipt requested to the owner of the subject property a statement covering the cost, if with reasonable diligence the name and address of the owner can be ascertained, and the amount of the bill shall immediately become a lien upon the subject property, and if not paid within 30 days, shall be collected as in the manner provided for the collection of delinquent taxes as provided in G.S. §§ 160A-193 *et seq.*

(Ord. 17, passed 2-19-1989)

§ 91.07 DEFECT IN NOTICE NOT TO AFFECT LIEN.

Any defect in the method of giving the notice required by § 91.05 above, or in the form thereof, or the giving of notice to an improper person, shall not prevent the town, in any case, where the work of abating an unlawful condition upon any property done, or caused to be done by the town, from collecting the costs thereof from the owner, nor shall it affect the validity of the lien on the property for the costs.

(Ord. 17, passed 2-19-1989)

§ 91.08 RIGHT OF INSPECTION.

The person or persons charged with the responsibility of inspection and abatement of the nuisance, are hereby given full power and authority to enter upon the premises involved for the purpose of inspecting and abating the nuisance found to exist as herein set out.

(Ord. 17, passed 2-19-1989)

§ 91.09 APPEAL.

(A) Within the 15 day period following receipt of notice of abatement, the owner of the property where the nuisance exists may appeal the findings of the Inspector to the Town Council, by giving

written notice of appeal to the Town Clerk; the appeal will stay the abatement of the nuisance by the town until a final determination is made by the Council.

(B) In the event no appeal is taken, the person or persons designated by the Mayor to abate the nuisance may proceed.

(Ord. 17, passed 2-19-1989)

§ 91.99 PENALTY.

(A) Pursuant to G.S. § 160A-175, any person, firm or corporation violating any provision of this chapter may be subject to a civil penalty not to exceed \$50 per day, for each day that the violation exists, following the period permitted by the town to the offender to remedy the nuisance.

(B) Pursuant to G.S. § 160A-175, the town may file a civil action to recover the penalty, if the offender does not pay the penalty after the offender has been cited for violation of this chapter.

(C) Pursuant to G.S. § 160A-175, the town may also seek any appropriate equitable relief that it deems necessary to ensure the health, safety and welfare of the citizens or the natural resources of the town, including but not limited to civil damages resulting from the violation of this chapter.

(D) Pursuant to G.S. § 160A-175, the town may seek an injunction and an order of abatement commanding the offending to correct the unlawful condition upon or cease the unlawful use of the subject premises.

(E) The above remedies are cumulative, and the town may pursue any or all of same at its discretion.

(F) Violation of this chapter shall be a misdemeanor as provided by G.S. § 14-4, and the town may proceed in a criminal action to prosecute any violators; violation of this chapter is punishable by a fine of up to \$50 or a term of imprisonment of ten days, or both in the discretion of the court.

(Ord. 17, passed 2-19-1989)

