



## **ORDINANCE CONCERNING NOXIOUS WEEDS GRASS AND SIMILAR NUISANCES**

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### **Statutory reference:**

Abatement of public nuisances, see G. S. 160A-193.

### **Section 1. Procedures in article not exclusive.**

The procedures set forth in this ordinance shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, and this ordinance shall not prevent the town from proceeding in a criminal action against any person violating the provisions of this ordinance as provided in General Statutes, section 14-4.

### **Section 2. Nuisances declared.**

The following enumerated and described conditions 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 town and are found, deemed and declared to be public nuisances wherever the same may exist and the creation, maintenance or failure to abate any nuisances is hereby declared unlawful:

- (1)** Any condition which is a breeding ground or harbor for mosquitoes or a breeding ground or harbor for rats, snakes, or other pests or has the potential for becoming a breeding ground or harbor for such pests;

(2) A place of heavy growth of weeds or grasses over twelve (12) inches in height which lie less than one hundred (100) feet from any abutting open street or which lies less than one hundred (100) feet from any adjoining property line which contains a structure, or is a place of heavy growth of weeds or grasses over twelve (12) inches in height which lies within fifty (50) feet of any occupied dwelling; provided, that the nuisance defined by this subsection (2) shall be cleared and cut to the satisfaction of the Chief of Police;

(3) A place of growth of noxious vegetation, including poison sumac, poison ivy or poison oak, in a location likely to be accessible to the general public;

(4) An open place of collection of water for which no adequate natural drainage is provided and where insects tend to breed or which is or is likely to become a nuisance or a menace to public health;

(5) An open place of concentration of combustible items such as mattresses, boxes, old clothes, rags or any other combustible materials or objects of a like nature;

(6) Is an open place of collection of garbage, food waste, animal waste or any other rotten or putrescible matter of any kind;

(7) Hides, dried or green provided the same might be kept for sale in the town when thoroughly cured and odorless;

(8) Any furniture, appliances, automotive parts or pieces of other wood or metal products of any kind or nature openly kept which have jagged edges of metal or glass, or areas of confinement, or areas which may provide a habitat for rats, snakes, insects, or other pests;

(9) Any condition which violates the rules and regulations of the Johnston County Health Department; or

(10) Any other condition specifically declared to be a danger to the public health, safety, morals, and general welfare of inhabitants of the city and a public nuisance by the Board of Commissioners which proceeding may be initiated by the Chief of Police before the board after giving written notice thereof. Such notice shall state the condition existing, the location and that the board will be requested on a day certain, after a public hearing at which the person notified may appear and be heard, to declare that the conditions existing constitute a danger to the public health, safety, morals and general welfare of the inhabitants of the town and a public nuisance. After such declaration by the board in the form of an ordinance, the condition will be abated as provided for in this ordinance, provided no administrative appeal shall lie from the proceeding pursuant to the subsection and initiated by tile Chief of Police before the Board of Commissioners.

**Section 3. Duty to cause investigation of possible nuisances.**

The Chief of Police, upon notice from any person of the existence of any of the conditions described herein, shall cause to be made by the appropriate town official or county health department official such investigation as may be necessary to determine whether in fact such condition exists as to constitute a public nuisance.

**Section 4. Duty to give notice of existence of nuisance and require abatement.**

(1) Upon a determination that a public nuisance as described in this ordinance exists, the Chief of Police shall notify in writing the owner, occupant or person in possession of the premises in question of the condition constituting such public nuisance and shall order the prompt abatement thereof within ten (10) days from the receipt of such written notice.

(2) Within the ten (10) day period mentioned in subsection (a) above, the owner of the property where the nuisance exists may appeal the findings of the Chief of Police made pursuant to subsection (a) above to the Board of Commissioners by giving written notice of appeal to the town clerk. The filing of the appeal shall stay the abatement of the nuisance by the town until a final determination by the board, unless the Chief of Police certifies to the board that, because of the facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property or that, because the violation is transitory in nature, stay would seriously interfere with the effective enforcement of this ordinance. In that case, abatement proceedings shall not be stayed except by order of the Board of Commissioners or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the Chief of Police. In the event no appeal is taken, the town may proceed to abate the nuisance.

(3) The board, in the event an appeal is taken as provided in subsection (b) above and after hearing all interested persons and reviewing the findings of the Chief of Police, may reverse the findings made pursuant to subsection (a) above ; but if the board shall uphold the findings of the Chief of Police made pursuant to such subsection, the board shall adopt an ordinance specifically declaring the condition existing on the property to be a danger and hazard to the health, safety, morals, and general welfare of the inhabitants of the town and public nuisance and directing the appropriate town employees to cause the condition or conditions to be abated.

(4) If any of the above-defined nuisances are found to exist, the responsibility for abatement shall rest with the owner, occupant or person in possession of the property or their agent, notwithstanding that the nuisance is found to exist, wholly or in part, within a town easement that crosses private property.

**Section 5. Abatement of nuisance by town; violator may have town abate nuisance.**

(1) If any person, after having been ordered to abate a public nuisance described in this ordinance, fails, neglects or refuses to abate or remove the condition constituting the nuisance within ten (10) days from receipt of the order, the Chief of Police shall cause the

condition to be removed or otherwise remedied by having employees of the town or a private contractor hired by the town go upon such premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the Chief of Police. In such instances, weeds or grass shall always be cut to a height satisfactory to the Chief of Police.

(2) Any person who has been ordered to abate a public nuisance may within the time allowed by this ordinance request the town in writing to remove such condition, the cost of which shall be paid by the person making such request.

**Section 6. Cost of nuisance abatement to be charged to owner of premises; statement of charges.**

The actual cost incurred by the town in removing or otherwise remedying a public nuisance defined in this article shall be charged to the owner of such lot or parcel of land, and it shall be the duty of the collector to mail a statement of such charges to the owner or other person in possession of such premises with instructions that such charges are due and payable within thirty (30) days from the receipt thereof.

**Section 7. Lien created upon failure to pay nuisance abatement costs.**

In the event charges for the removal or abatement of a public nuisance described by this ordinance are not paid within thirty (30) days after the receipt of the statement of charges as provided for in Section 6, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes.

**Section 8. Second and subsequent violations.**

Upon second and subsequent violations of this ordinance, no notice of the violation as required in Section 4 shall be given, but the town, through its agents and employees, may enter upon such lots or premises and cut and destroy such weeds, and the cost and expense thereof shall be paid by the owner, lessee, occupant or agent or it shall become a lien against the property the same as taxes.

**Section 9. Civil penalty provided.**

(1) A violation of any provision of this ordinance shall constitute a misdemeanor, punishable by a civil penalty as set forth below.

(2) A violation of any provision of this ordinance shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00). No penalty shall be imposed if the offender abates the nuisance within the prescribed time or requests the town to abate the nuisance as allowed in section 5 (b). If the offender does not abate the nuisance within the prescribed time limit, the penalty may be imposed for each day the nuisance remained after the written notice of violation was given and terminating on the date the nuisance was abated by the town.

(3) The offender shall be issued a written citation by delivery in person or mailed by certified or registered mail. The civil penalty must be paid within ten (10) days of its receipt by the offender.

(4) The penalty may be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty within the prescribed period of time after he or she has been issued a citation.

This ordinance shall be in effect as of the date of its adoption and shall supercede any such ordinance(s) that might have existed prior to the date of adoption.

DULY ADOPTED, this the 14th, day of May, 1996.

Michael H. Walter  
MAYOR

ATTEST:  
Sharon Thompson  
Town Clerk