

Chapter 14 – Nuisances

Sec. 14-1. Creation of Public Nuisances Unlawful.

- A. This Chapter is enacted pursuant to the Town's authority to define, prohibit, regulate, and abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens or the peace and dignity of the Town and to define and abate nuisances pursuant to N.C.G.S. §§ 160A-174 and -175; to summarily remove, abate, or remedy everything in the Town limits or within one (1) mile thereof that is dangerous or prejudicial to the public health or public safety pursuant to N.C.G.S. § 160A-193; and to provide annual notice to chronic violators pursuant to N.C.G.S. § 160A-200.1.
- B. Any person whose intentional acts or omissions results in a violation of this Chapter is responsible for the violation as provided herein. Any person who is a Responsible Person with respect to real property where a nuisance is or was maintained is responsible to abate the nuisance and/or may be subject to penalties as specified herein. For purposes of this Chapter, a Responsible Person includes any person who has ownership, legal control of, or actual possession of the property in question, including an owner, lessee, sublessee and/or occupant, as well as the invitees of any such person.
- C. The obligations set forth in this Chapter shall extend to the area between the property line of a lot and curb-line or edge of the roadway.

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Sec. 14-2. Public Nuisances Enumerated.

- A. The existence of any of the following conditions on any parcel of land within 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 (10'') inches or more within one hundred feet (100') 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, vehicle parts, 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) and parts, glass, building materials, or building rubbish.
8. Any condition detrimental to the public health which violates the rules and regulations of the Mitchell 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. All abandoned, nuisance and junked vehicles shall be governed pursuant to Chapter 12, Article VI of the Town Code.

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Sec. 14-3. Duty to Investigate Possible Nuisance.

If an authorized code enforcement officer shall have reasonable cause to believe there is a violation of this Chapter, said code enforcement officer shall have the right to enter on any premises within the Town at any reasonable hour in order to determine if there is a violation of this Chapter.

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Sec. 14-4. Notice and Order to Abate Nuisance.

A. Notice of Existence and Opportunity to Abate Nuisance.

1. Upon a determination that a public nuisance as described in this Chapter exists, the code enforcement officer shall notify in writing the property owner and, to the extent actually known to the code enforcement officer,

any other Responsible Person of the condition constituting the public nuisance and shall order the prompt abatement thereof.

2. The notice of violation shall notify the recipient of the following:
 - i. That condition(s) exist on the property which constitute a public nuisance;
 - ii. The condition(s) existing and the Code provision(s) that are violated by such condition(s);
 - iii. The location of such condition(s);
 - iv. That the property owner and any other Responsible Person are ordered to abate the public nuisance, and that, unless the condition is abated within the prescribed period, the conditions constituting a nuisance will be abated by the Town and the cost of abatement shall constitute a lien against the premises, may be collected in the nature of a civil action.

B. Manner of Notice.

1. The notice of a violation of this Chapter shall be served on the property owner, and any Responsible Party if actually known to the code enforcement officer:
 - i. Personal delivery of such notice;
 - ii. By mail sent by both regular first-class mail and by certified mail, return receipt requested, to the address then on file in the Mitchell County property tax assessor's office; or
 - iii. By electronic mail, if the property owner confirms receipt of the notice by electronic mail.
2. Any such notice may be served by any authorized representative of the Town Manager, or Town Manager's designee, the code enforcement officer, or by any Town police officer. If service cannot otherwise be made on a property owner, the property shall be posted with the notice. Notice shall be served in the same manner upon any other Responsible Party of whom the code enforcement officer is actually aware.

- C. Except as provided at subsection (D) of this section, the Town ordinarily shall allow fifteen (15) calendar days from the receipt of such written notice for abatement of the nuisance. However, for good cause expressed in the written notice to abate, the code enforcement officer may provide a shorter or longer time for the abatement.

- D. Notwithstanding the foregoing provisions or any other provision of this Chapter, if, in the opinion of the Town Manager, their designee, or the code enforcement officer, an unlawful condition is such that it poses imminent danger or peril to public, the Town may, with or without prior notice, proceed to abate the same, and the cost thereof shall be charged against the property owner.
- E. Any defect in the method of giving the notice required by this section, or in the form thereof, or the giving of such notice to an improper person, shall not prevent the Town, in any case where the work of abating an unlawful condition upon any property is borne by the Town, from collecting the cost thereof from the owner, nor shall it affect the validity of the lien on the property for such cost, nor shall it subject the Town to any liability.

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Sec. 14-5. Appeal.

- A. Within the period for abatement specified on the notice of violation, the property owner or other Responsible Party may request in writing a review of the nuisance determination by the Town Manager. Unless the unlawful condition is dangerous so as to require summary abatement per the preceding section, such written request shall stay the abatement of the nuisance by the Town until the completion of the review by the Town Manager or Town Manager's designee. In the event no appeal is taken, the Town may proceed to abate the nuisance.
- B. Within (10) ten days of receiving a request for review, the Town Manager shall hold a hearing to review the nuisance determination. At this hearing, all interested persons shall be heard and may offer evidence and be represented by an attorney. The hearing shall be conducted in an informal manner to determine whether there is a sufficient legal and factual basis to affirm the nuisance determination, and the rules of evidence shall not apply; provided, that the decision of the Town Manager shall be based upon substantial and reliable evidence. If, following the hearing, the Town Manager upholds the findings, and declares the condition existing on the property to be a danger and hazard to the health, safety, and general welfare of the inhabitants of the Town and a public nuisance, the Town Manager shall issue a written order directing the property owner or other Responsible Party to abate the nuisance within ten (10) days and/or, if the nuisance is not abated by the property owner, directing the Town to abate the condition constituting a nuisance.
- C. Rather than reviewing an appeal, the Town Manager, in sole discretion, may for good cause refer the review of any notice of violation to the Town Council.
- D. If a nuisance is found to exist, the responsibility for abatement shall rest with the property owner and any other Responsible Party, notwithstanding that

the nuisance is found to exist, wholly or in part, within a Town easement which crosses private property.

- E. Nothing in this section shall prevent the property owner or other Responsible Party from abating the nuisance in question in accordance with the notice of violation prior to any requested review pursuant to this section.

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Sec. 14-6. Abatement of Nuisance by Town.

Upon the occurrence of any of the following conditions, the code enforcement officer shall cause such condition to be removed or otherwise remedied by having employees of the Town, or the Town authorized agents, go upon such premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the code enforcement officer:

- A. A hearing requested under § 14-5 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 ten (10) days from adjournment of the hearing.
- B. No hearing is requested or held, and the property owner and Responsible Party having been ordered to abate such public nuisance fails, neglects or refuses to abate or remove the condition constituting the nuisance within fifteen (15) days of such order.

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Sec. 14-7. Cost of Nuisance Abatement to be Charged to Property Owner.

Upon the completion of abatement by the Town, the Town Manager, or Town Manager's designee, or the code enforcement officer shall deliver to the Town's Finance Director a statement showing the actual cost of the abatement of the unlawful condition plus any additional charges, in accordance with the schedule of fees and charges established by the Town Council. The Finance Director shall thereupon mail to the owner of the subject property a bill covering the cost, if with reasonable diligence the name and address of such owner can be ascertained, with instruction that such charges are due and payable within thirty (30) days from the receipt thereof. In the event the costs for abatement are not paid within thirty (30) days after receipt of the statement of charges, such charges may be recovered by the Town in a civil action in the nature of debt.

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Sec. 14-8. Lien Created upon Failure to Pay Nuisance Abatement Costs.

In the event charges for the removal or abatement of the public nuisance are not paid within thirty (30) days after receipt of the statement of charges, such charges shall become a lien against the real property upon which such costs are incurred. The amount of such lien shall be added to the tax roll and collected as unpaid ad valorem taxes, provided, such charges shall bear interest at eight percent (8%) per annum until paid.

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Sec. 14-9. Chronic Violators.

A chronic violator is a person who owns property within the Town whereupon, in the previous calendar year, the Town gave notice of violation at least three (3) times under any provision of this Chapter. The Town may notify any chronic violator that, if the chronic violator's property is found to be in violation of this Chapter, the Town shall, without further notice in the calendar year in which the 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.

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Sec. 14-10. Procedures in Chapter not Exclusive.

The procedures set forth in this Chapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances.

- A. Nothing in this Chapter shall be deemed to prevent the Town from proceeding in a criminal action against any person violating the provisions of this Chapter as provided in G.S. § 14-4.
- B. Nothing in this Chapter shall be deemed to limit the Town's authority to summarily remove, abate, or remedy any condition within the Town limits or within one (1) mile thereof that is dangerous or prejudicial to the public health or public safety as provided in N.C.G.S. § 160A-193.
- C. In addition to or in lieu of proceeding under any other provision(s) of this Chapter, the town may file a legal action to abate a nuisance as provided at N.C.G.S. § 160A-175.

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