

CHAPTER 14. NUISANCES*

ARTICLE I. IN GENERAL

Sec. 14-101. Nuisances enumerated.

The existence of any of the following conditions on any vacant lot or other parcel of land in open places (for purposes of this chapter, "open places" are defined as areas of properties or portions thereof that are open to the exterior, including building openings of residential dwelling units, such as carports or porches, and any other exterior portions of properties ordinarily exposed to the outside and/or public view, including front, side and rear yards) within the corporate limits-is hereby prohibited and is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

- (1) The uncontrolled growth of noxious weeds or grass to a height of eight (8) inches or greater or which otherwise causes or threatens to cause a hazard detrimental to the public health or safety. For the purposes of this subsection, height shall be measured from the ground at the base of a plant to the top of the freestanding plant;
- (2) 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 are or may be dangerous or prejudicial to the public health;
- (3) Any accumulation of 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 or vermin of any kind which are or may be dangerous or prejudicial to the public health;
- (4) Any litter which is scattered, cast, thrown, blown, placed, swept, or deposited anywhere so as to accumulate on any property in open places. The owner and occupant of any dwelling unit or other nonresidential premises shall keep exterior premises clean of litter, including, but not limited to, glass, bottles, waste paper, wrapping paper, paper napkins, cartons, package containers, bags of trash, and other used or waste materials intentionally or unintentionally scattered, discarded, thrown or left on such premises, and to prevent same from drifting or blowing to adjoining premises by removing such waste or ensuring that same is placed in approved refuse containers and/or locations for collection by the town as specified in section 11-106, "Refuse to Be Stored in Containers";
- (5) Any concentration of unusable building materials, including, but not limited to, concrete, steel, masonry or any construction and demolition debris which due to deterioration or age are no longer suitable for building construction, alterations or repair;

* **Cross references**-General penalty, § 1-111; animals which are nuisances, § 4-105; garbage and refuse, Ch. 11; health and sanitation, Ch. 12; abandoned vehicles, § 20-1201 et seq.

State law references-Public health, G.S. § 130A-1 et seq.; general police power, G.S. §§ 160A-174 and 175; abatement of public health nuisances, G.S. § 160A-193.

(6) Any worn-out, deteriorated or abandoned household or office furniture, appliances or other similar products of any kind;

(7) Any product with jagged edges of metal or glass;

(8) Any junk or scrap materials, waste materials, trash, garbage, oily rags, barrels, cans, papers, bricks or brickbats and other litter, refuse, rubbish, combustible materials, or other solid wastes which are scattered, cast, placed or deposited in open places. Junk materials may be stored in accordance with the following:

(i) Storage of junk shall only be allowed on any properties used for nonresidential purposes if in compliance with all other town codes, or if not addressed by a town code, completely enclosed within a building; and

(ii) Storage of junk shall only be allowed on any property used for residential purposes if completely stored in an enclosed building or limited to one hundred (100) square feet in area and completely concealed by a solid fence so as not to be visible from abutting properties or public streets; and

Cross reference- junked vehicles, Chpt. 20, Art. XII.

(iii) Whether stored on a residential or nonresidential property such storage of junk shall be maintained in such a manner so as to prevent overgrown grass or weeds or an infestation of wild animals, reptiles and rodents;

For the purposes of this chapter, “junk or scrap materials” means pieces or fragments of metal, wood, glass, masonry, plastic, textiles, rope, leather, rubber, paper, or any substance, that formerly were part of the construction, including construction and demolition debris, of some useful object or thing or that consist of the excess resulting from the creation of some useful object or thing. Junk and scrap materials also include objects or things, including, but not limited to, machines, tools, equipment, hardware, furniture, appliances, automobile parts, and similar items that are no longer in serviceable condition or are valuable only as raw material for reprocessing;

(9) All fences, retaining walls or similar structures that are not firmly anchored to the ground, maintained in good structural condition and free of deterioration. Wooden or other fence features subject to deterioration or weathering shall be properly maintained to retard deterioration or provide protection from the weather. Deteriorated features shall be replaced, repaired or completely removed. Grass, weeds and other vegetation shall be mowed around said fences and structures in compliance with section 5-408(h) of this code. Fences and similar structures are also subject to the provisions in section 17-334 of this code;

(10) Any accessory building or structure that is too small to be regulated by the North Carolina State Building Code that has become so deteriorated or dilapidated so as to constitute a public nuisance;

(11) Any other building or structure that is regulated by the North Carolina State Building Code that has become so deteriorated or dilapidated so as to constitute a public nuisance. Before proceeding under this subsection, the town shall obtain the concurrence of the Catawba County Building Services Department that such building or structure is so deteriorated that it is appropriate to treat it as public nuisance;

(12) Usable building materials, unless

(i) permitted as an authorized storage under this code; or

(ii) if stored on any residential lot where construction has stopped or never commenced for a period of one (1) year and there is not a current, valid outstanding building permit issued for construction on the residential lot, such storage is inside a completely enclosed building (if otherwise permitted on the lot) or placed in the rear of the lot and stored in accordance with subsection 14-101(8);

(13) Construction fill materials, unless such materials are: (i) stored in a level, safe manner for a period of time not to exceed twelve (12) months, or (ii) approved by the code enforcement officer as a landscape feature evidenced by a comprehensive landscape plan showing such features for legitimate landscape purposes as part of the total development of the lot;

(14) Firewood, except when such storage is neither in excess of a total area of one hundred (100) square feet nor stacked to a height more than six (6) feet above the ground; and

(15) Any condition detrimental to the public health which violates the rules and regulations of the county health department.

(Code 1976. § 9.19(a))

Cross reference-This section contains the provisions formerly located in section 14-404.

Sec. 14-102. Cutting weeds, grass and other noxious growth.

Every owner or person in possession of a lot within the corporate limits shall mow or shrub down within four (4) inches of the ground, all weeds, grass or other noxious growth from such lot at least four (4) times each year in accordance with the time frames and provisions listed below. The first mowing shall be no later than May fifteenth (15th), the second time shall be no later than July first (1st), the third time shall be no later than August fifteenth (15th), and the fourth time shall be no later than October first (1st). If such weeds or other noxious growth are not cut in compliance with this section, the code compliance officer shall proceed to have such weeds or other noxious growth cut, and the owner or person in possession of such lot shall be responsible to the town for the cost hereof, in accordance with sections 14-103 and 14-108.

(Code 1976, § 9.19(b); Ord. No. 5-90, 3-5-90)

Sec. 14-103. Complaint and investigation.

The code enforcement officer, upon notice from any person or based upon his or her own observation of the existence of any of the conditions described in section 14-101, shall investigate whether in fact such conditions exist as to constitute a public nuisance as declared in section 14-101.

(Code 1976, § 9.20)

Sec. 14-104. Notice to abate nuisance.

(a) Upon a determination that such conditions constituting a public nuisance exist, the code enforcement officer shall notify, in writing, the owner and, if possible, the occupant or person in possession of the premises in question of the conditions constituting such public nuisance and shall order the prompt abatement thereof within ten (10) days from the receipt of such written notice and informing the responsible persons of the possible consequences of failing to comply. The notice shall be personally served by a town employee or served by first class mail and certified mail to the last known address of the owner as indicated by the county tax records. If the occupant of the property is someone other than the owner, in addition to serving the owner, the town shall attempt to serve the occupant in the same manner as provided herein for service on the owner.

(Code 1976, § 9.21; Ord, No. 2-94, 2-21-94)

Sec. 14-105. Appeal Hearing; Abatement Procedure

(a) Request for Appeal Hearing.

Within seven days from receipt of the notice provided for in Sec. 14-104, the owner, occupant or person in possession of the premises may request, in writing, a hearing before the Town Council and the Town Code Enforcement Officer whose investigation and findings resulted in the initial abatement order. The Town Council shall fix a time for the hearing, and the initial abatement order shall be temporarily suspended pending a hearing. At the hearing, the individual affected by the order shall be given the opportunity to present evidence to refute the findings which supported the abatement order. Upon completion of the hearing, the Town Council shall consider the evidence before them and shall 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) Abatement Procedure.

Upon the occurrence of the following conditions, the Town Code Enforcement Officer or other responsible Town official or designee shall cause that condition to be removed or otherwise remedied by having Town employees or independent contractors to go upon those premises and remove or otherwise abate the identified nuisance:

- (1) A hearing is requested and held under Sec. 14-105 resulting 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; or

(2) No hearing is requested or held, and the person having been ordered to abate that public nuisance fails, neglects, or refuses to abate or remove the condition constituting the nuisance within 10 days from receipt of the order.

(3) That the expenses incurred by the town in connection with the actions described in this section, if not paid by the owner, shall become a lien upon the land, as provided in section 14-108.

Notice shall be personally served by a town employee or served by first class mail and certified mail to the owner's last known address as indicated by the county tax records. If the code enforcement officer has reason to believe that owner is someone other than the person listed in the county tax records or that the owner cannot be reached at the address provided in the county tax records, then the officer shall use reasonable diligence to locate the owner. If the occupant of the property is someone other than the owner, in addition to serving the owner, the town shall attempt to serve the occupant in the same manner as provided herein for service on the owner. Notice served in compliance with this subsection shall be presumed to be valid and sufficient. (Ord. 14-2013, 5/16/13)

(c) Hearing Procedures.

At the hearing held pursuant to this section, the code enforcement officer shall be responsible for presenting sufficient evidence to the council to substantiate a finding that a condition exists that is dangerous or prejudicial to the public health or safety. The council may consider all reliable evidence and need not be bound by the strict rules of evidence applicable to courts of law, but all witnesses shall be sworn. The owner and occupant may be represented by counsel and may present evidence. All parties may cross-examine adverse witnesses. At the conclusion of the hearing, the council shall make findings of fact, state its conclusions, and enter an appropriate order. The council's findings of fact, conclusions, and order shall be reduced to writing and a copy sent by first class and certified mail or personally delivered to the owner within three (3) days following the hearing.

(d) Order.

If the council concludes that a situation or condition exists that is dangerous or prejudicial to the public health or safety, it may:

(1) Order appropriate town staff or contractors to summarily remove, abate, or remedy everything so found and to assess the cost of this action against the owner in accordance with sections 14-106 through 14-108; or

(2) Order the owner to correct the situation within a specified time period not more than sixty (60) days or such other period as the council deems appropriate and reasonable, and if the owner fails to act within the prescribed time period, order town staff or contractors to abate, correct, or remedy the offending condition and to assess the cost of this action against the owner in accordance with sections 14-106 through 14-108.

(e) Emergencies. Nothing in this section shall require notice and a hearing before a public nuisance may be abated where the nuisance constitutes an imminent danger to the public health and safety, creating an emergency necessitating immediate action. In such cases, the town shall provide as much notice of the town's intended action to the property owner and occupant as is reasonable under the circumstances.

(Code 1976, § 9.22)

Sec. 14-106. Owner may request city to remove; costs.

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

(Code 1976, § 9.22)

Sec. 14-107. Cost incurred by owner.

The actual cost incurred by the town in removing or otherwise remedying a public nuisance shall be charged to the owner of such lot or parcel of land and it shall be the duty of the town clerk or town tax 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.

(Code 1976, § 9.23)

Sec. 14-108. Charges become a lien.

(a) If charges for the removal or abatement of a public nuisance are not paid within thirty (30) days after the receipt of a statement of charges as provided for in section 14-107, it is a lien on the land or premises where the nuisance occurred. A lien established pursuant to this section shall have the same priority and be collected as unpaid ad valorem taxes. A lien established pursuant to this subsection shall remain valid irrespective of who caused the public nuisance.

(b) The expense of the action is also a lien on any other real property owned by the person in default within the town limits or within one mile of the town limits, except for the person's primary residence. A lien established pursuant to this subsection is inferior to all prior liens and shall be collected as a money judgment. This subsection shall not apply if the person in default can show that the nuisance was created solely by the actions of another.

(Code 1976, § 9.24)

Sec. 14-109. Procedure is alternative to other authorized procedures; chronic violators.

(a) The procedure set forth in this chapter shall be in addition to those remedies provided in section 1-111 and any other remedies that may now or hereafter exist under law for the abatement of public nuisances.

(b) Chronic Violators. The town may notify a chronic violator of this article that, if the violator's property is found to be in violation of this 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. For the purposes of this subsection, a “chronic violator” is a person who owns property whereupon, in the previous calendar year, the town gave notice of violation at least three times under any provision of this article.
(Code 1976, § 9.25)

State law reference-chronic violators, G.S. §§ 160A-200 and 160A-200.1.

Sec. 14-110. Human and animal waste; dead animals.

Repealed.

Cross reference-This section has been moved to Chpt. 12, “Health and Sanitation.”

Sec. 14-111. Open Burning.

Open burning shall be permitted only in accordance with 15A N.C.A.C. 02D .1903, and such other statutes and rules as may be adopted by the State. 15A N.C.A.C. 02D .1903 authorizes open burning without a State permit for several purposes including, but not limited to, the following:

- (1) Open burning of leaves, tree branches or yard trimmings, excluding logs and stumps, if the following conditions are met:
 - (a) The material burned originates on the premises of private residences and is burned on those premises;
 - (b) There are no public pickup services available;
 - (c) Non-vegetative materials, such as household garbage, lumber, or any other synthetic materials are not burned;
 - (d) The burning is initiated no earlier than 8:00 a.m. and no additional combustible material is added to the fire between 6:00 p.m. on one day and 8:00 a.m. on the following day;
 - (e) The burning does not create a nuisance; and
 - (f) Material is not burned when the Division of Forest Resources has banned burning for that area; and

- (2) Open burning for land clearing or right-of-way maintenance if the following conditions are met:
 - (a) The wind direction at the time that the burning is initiated and the wind direction as forecasted by the National Weather Service at the time that the burning is initiated are away from any area, including public roads within 250 feet of the burning as measured from the edge of the pavement or other roadway surface, which may be affected by smoke, ash, or other air pollutants from the burning; and
 - (b) The location of the burning is at least 1,000 feet from any dwelling, group of dwellings, or commercial or institutional establishment, or other occupied structure not located on the property on which the burning is conducted.

For a complete list of open burning activities authorized without a State permit, a property owner should contact either the code enforcement officer or the staff at the NC DENR, Division of Air Quality.

Secs. 14-112 - 14-199. Reserved.

ARTICLE II. NOISE*

Sec. 14-201. Unnecessary noises prohibited.

It shall be unlawful to create or assist in creating, permit, continue or permit the continuance of any unreasonably loud, disturbing and unnecessary noise in the town. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual is prohibited.

(Code 1976, § 11.2)

Sec. 14-202. Same: noises expressly prohibited.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article, but this enumeration shall not be deemed to be exclusive, namely:

- (1) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after, or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time;
- (2) The use of any gong or siren upon any vehicle, other than police, fire or other emergency vehicle;
- (3) The use or operation of any piano, manual or automatic, phonograph, radio, loud-speaker or any other instrument, or sound amplifying devices so loudly as to disturb persons in the vicinity thereof or in such a manner as renders the same a public nuisance; provided, however, that upon application to the manager, permits may be granted to responsible organizations to produce programs in music, speeches or general entertainment; church chimes and bells operated between the hours of 7:00 a.m. through 11:00 p.m. shall not violate this article;
- (4) The keeping of any animal or bird which by causing frequent or loud continued noise shall disturb the comfort and repose of any person in the vicinity;
- (5) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling or other noise;
- (6) The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger;
- (7) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises there from;

* State law reference-Authority to regulate noise, G.S. § 160A-184.

- (8) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced;
- (9) The erection (including excavation), demolition, alteration or repair of any building in a residential district other than between Dawn until dusk, except in the case of urgent necessity in the interest of public safety and then only with a permit from the town Manager, which permit may be renewed for a period of three (3) days or less while the emergency continues;
- (10) The creation of any excessive noise on any street adjacent to any school, institution of learning or court while the same is in session, or within one hundred fifty (150) feet of any hospital, which unreasonably interferes with the working of such institution, provided conspicuous signs are displayed in such streets indicating that the same is a school, court or hospital street;
- (11) The creation of any excessive noise on Sabbath days on any street adjacent to any church or other religious institution, provided, conspicuous signs are displayed in such streets adjacent to churches or other religious institutions indicating that a church or other religious institution is located on the street;
- (12) The creation of loud and excessive noise in connection with loading or unloading any vehicle, of the opening and destruction of bales, boxes, crates and containers;
- (13) The sounding of any bell or gong, attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof;
- (14) The shouting and crying of peddlers, barkers, hawkers and vendors which disturbs the quiet and peace of the neighborhood;
- (15) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale or display of merchandise;
- (16) The use of any mechanical loudspeakers or amplifiers on trucks or other moving vehicles for advertising purposes or other purposes except where specific license is received from the board;
- (17) The conducting, operating or maintaining of any garage or filling station in any residential district so as to cause loud or offensive noises to be emitted there from between the hours of 11:00 p.m. and 7:00 a.m.;
- (18) The firing or discharging of squibs, crackers, gunpowder or other combustible substance in the streets or elsewhere for the purpose of making noise or disturbance except by permit from the manager; and

(19) It shall be unlawful for any person to play, use or otherwise operate, either from a motor vehicle or as a pedestrian, any radio, tape player or other sound amplification device emitting sound that is audible from a distance of fifty (50) or more feet from the source of the sound, unless such device is being used to request assistance or warn against an unsafe condition.

(Code 1976, § 11.3; Ord. No. 17-93, 10-18-93; Ord. No. 30-98, 8-31-98)

Cross references-Animals, Ch. 4; buildings and building regulations, Ch. 5; peddlers, soliciting and itinerant merchants, § 6-401 et seq.; firearms regulated, § 15-101; streets, sidewalks and other public places, Ch. 19; traffic and motor vehicles, Ch. 20.

Sec. 14-203. Penalty.

Violation of this chapter shall be a misdemeanor. The penalty for any offense shall be a fine of fifty dollars (\$50.00). This article may also be enforced by any or all method set forth in section 1-111.

(Ord. No. 17-93, 10-18-93; Ord. No. 5-98, 2-16-98)

ARTICLE III. COMMUNITY APPEARANCE STANDARDS

Repealed.

Cross reference-The provisions of this article have been moved to section 14-101.