

CHAPTER 12. HEALTH PROTECTION AND DISEASE PREVENTION, PUBLIC NUISANCES

ARTICLE I. NUISANCES

Abatement of nuisances, N. C. Gen. Stat. § 160A-193.

Section 12-1. General

Most litter is generated from the following sources: motorists, pedestrians, household and business putouts, commercial putouts, loading/unloading areas, construction sites and uncovered vehicles. It is the purpose of this ordinance to insure that these sources are regulated in such a manner as to:

1. Reduce the generation of litter in the town and to protect the public safety, health, welfare, and environment.
2. Preserve and enhance the aesthetic beauty and quality of the environment in Holly Ridge for the benefit of the general public.
3. Screen from public view unsightly accumulated junk and to prevent the establishment of new unscreened accumulation of junk.

Section 12- 2. Definitions

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Administrator shall mean the officer or officers designated by the town manager to enforce this chapter of the town code.

Nuisance: Any condition which:

1. Injures or endangers the comfort, repose, health, safety or welfare of others;
2. Is offensive to the senses;
3. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage;
or
4. Interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

Section 12-3. Prohibited.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance as defined herein.

ARTICLE II STANDARDS

Section 12-4. Miscellaneous Nuisances (Illustrative Enumeration)

The maintaining, using, placing, depositing, leaving, permitting, or the remaining of any of the following items on any public or private property conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limited or restrictive:

- A. Noxious weeds and other rank vegetation; any growth of weeds, grass or other vegetation to a height greater than twelve (12) inches on the average; or any accumulation of dead weeds, grass or brush on any occupied or unoccupied lot or land or any part thereof.
- B. Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.
- C. Any condition which provides harborage for rats, mice, snakes and other vermin.
- D. Any building or other structure which is in such dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.
- E. All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.
- F. The carcasses of animals not disposed of within a reasonable time after death.
- G. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
- H. Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
- I. Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.

- J. Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.
- K. Any method of human excreta disposal which does not conform to the provisions of this Code, state law or town ordinance, rule or regulation.
- L. In the event of home composting activities, this accumulated material must be maintained in an enclosed area in such a manner that the composting material cannot be blown, washed, or otherwise transported off the property onto adjacent properties.
- M. Any condition which contributes to neighborhood blight or endangers public health or safety.

Section 12-5. Uncontrolled Growth of Vegetation – Undeveloped Property

Any uncut uncontrolled growth of noxious weeds, vegetation, grasses or brushes to a height in excess of twelve (12) inches on an undeveloped property shall constitute a nuisance. This only applies to the outer perimeter of such property at a depth of twenty-five (25) feet and bordering a public right-of-way and/or developed properties.

Section 12-6. Outdoor Swimming Pool

Fence required. In the interest of public safety and particularly the safety of children, all outdoor swimming pools in the town having a depth of water of eighteen (18) inches or greater at its deepest point shall be completely surrounded by a fence or wall not less than four (4) feet in height. Such wall shall be so constructed as not to have any openings larger than six (6) inches in height except where width is five (5) inches or less, the height may extend full height of fence or wall. If a picket fence is erected, the width between pickets shall not exceed five (5) inches. A fence or wall may be made of any material, wood, metal, wire, masonry, concrete, tile, and plastic material, or any combination of these or other suitable materials if the openings in the fences do not exceed the maximum width described above. A dwelling house or accessory building may be used as part of such enclosure. All gates or doors opening through such fence or wall shall have self-closing and self-latching devices for keeping the gate or door closed at all times when not in actual use except that the door of dwelling which furnished part of the enclosure need not be so equipped.

Section 12-7. Modification and Exceptions

The inspections division may make modifications with respect to the height, nature or location of the fence, wall, gates or latches, in individual cases, upon a showing of good cause provided the protection as sought hereunder is not reduced thereby. The inspections division may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the wall, fence, gate and latch described herein.

Section 12-8. Drained or Covered

Any pool that is not in use for more than thirty (30) days shall either be drained or covered.

Section 12-9 Retention/Retention Ponds or Any other Pond

Every person owning or occupying any retention/detention ponds or any other ponds in the corporate limits shall keep the property free from noxious weeds, trash and all other forms of animal or vegetable refuse which is dangerous or prejudicial to the public health or which constitutes a public nuisance. If said weeds or other noxious growth are not cut in compliance with this section, the Town Manager or his designee shall proceed to have said weeds or other noxious growth cut and the owner or person in possession of said property shall be responsible to the Town for the cost thereof.

Section 12-10 Human Waste

No person shall urinate or deposit any human waste of any kind on any street, lot or property except in approved sanitary facilities.

Section 12-11 Stagnant Water

No owner or occupant of any property shall allow stagnant water to accumulate or remain anywhere on their property.

Section 12-12 Sale of Food - Eating Establishments

All persons, firms or corporations selling food of any kind or serving prepared meals, shall comply with all requirements pertaining thereto of the North Carolina State Board of Health.

Section 12-13 Debris from New Construction

All refuse, lumber and debris remaining both as a result of the repair of any new buildings, or of the erection and completion of any new buildings, shall be removed by the property owner within ten days from the completion of the aforesaid work.

ARTICLE III - ENFORCEMENT

Section 12-14 Enforcement of article under supervision of Town Manager or designee

The enforcement of this Chapter shall be under the supervision of the Town Manager or his designee.

Section 12- 15 Unlawful to hinder Town Manager or his designee

It shall be unlawful for any person to hinder, obstruct or delay the Town Manager or any of his

designees in the lawful discharge of their duties.

Section 12-16 Right to enter

The Administrator or or other person designated by the Town Manager shall have the right to enter at any reasonable time any property for the purpose of making inspections or investigations as required by this Chapter. If the owner or lawful occupant of the property refuses entry, then the Administrator or other person designated by the Town Manager shall enter the property only after the issuance of an administrative search warrant.

Section 12-17 Notice to abate.

Whenever a nuisance is found to exist within the town, the Town Manager or his designee shall give written notice to the owner or lawful occupant of the property upon which such nuisance exists or upon the person causing or maintaining the nuisance.

Section 12-18 Contents of notice.

The notice to abate a nuisance issued under the provisions of this chapter shall contain:

- A. An order to abate the nuisance or to request a hearing within a stated time, not to exceed ten (10) days.
- B. The location of the nuisance, if the same is stationary.
- C. A description of what constitutes the nuisance.
- D. A statement of acts necessary to abate the nuisance.
- E. A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the town will abate such nuisance, assess the cost thereof against such person, and/or will assess a civil penalty.

Section 12-19 Service of notice

The notice to abate a nuisance shall be served by certified mail or personally delivered to the violator.

Section 12-20 Persons liable

The owner, tenant, or occupant of any building or land or part thereof who participates or acts in concert, assists, directs, creates, or maintains any condition that is a violation of the requirements of this chapter may be held responsible for the violation and subject to the penalties and remedies herein provided.

Section 12-21 Abatement by town

Upon the failure of the violator to abate the nuisance, the Administrator may proceed to abate such nuisance and prepare a statement of costs incurred in the abatement thereof.

Section 12-22 Payment of costs

Upon completion of the abatement of any nuisance by the Town under the provisions of this Chapter, the inspection division shall deliver to the town finance officer a statement including the costs of labor, hauling and other necessary items of expense for such abatement. The town finance officer shall thereupon mail to the violator a bill covering the costs. When the violator is the property owner, the amount of the bill may be collected in a civil action, and shall become a lien upon said property and if not paid within thirty (30) days may be collected in the same manner as provided for the collection of delinquent taxes. If the violator is not the property owner, the amount shall be recovered by the town in a civil action in the nature of debt.

Section 12-23 Civil remedies.

- A violator who fails to abate a nuisance in the time specified shall be subject to a civil penalty of fifty dollars (\$50.00). No penalty shall be assessed until the person alleged to be in violation has been notified of the violation by certified mail, return receipt requested, or by personal service.
- For each day the violation is not corrected, the violator will be guilty of a new and separate offense and subject to additional civil penalties.
- If the violator fails to pay this penalty within fifteen (15) days after being cited for violation, the penalty may be recovered by the town in a civil action in the nature of debt.
- In addition to or in lieu of the penalty, the Town Manager or his designee may seek a mandatory injunction seeking enforcement of this chapter.
- If the same violation occurs within a five-year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to an additional civil penalty as set forth in this section.

Section 12-24 Appeal of order of abatement of a nuisance.

At any time before the expiration of the abatement period specified, the person receiving an order of abatement may request a hearing before the Town Manager or his/her designee with the administrator to appeal the finding that a public nuisance exists on the premises. The request for a hearing must be in writing and must be filed in the office of the Town Manger or his designee. The Town Manager or his designee shall fix a time for the hearing, and the initial abatement order shall be temporarily suspended pending such hearing. Failure to request a hearing shall waive the right to do so after the abatement period has elapsed. 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 Manager or his/her designee with the administrator 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 along with appropriate civil penalties.