

**Nuisance Violations**

**ABERDEEN, NC TOWN CODE**

**GENERAL PROVISIONS**

**§ 53.01 DEFINITIONS.**

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ASHES.** Refuse resulting from the burning of wood, coal, coke and other combustible material.

**AUTOMATIC CONTAINERS.** Waterproof and odor proof containers, in size from one cubic yard to eight yards, approved by the town for use in commercial, business, industrial residential and other approved areas.

**BUILDING RUBBISH.** Rubbish from construction, remodeling and repair operations on houses, commercial buildings and other structures, including but not limited to excavated earth, stones, brick, plaster, lumber, concrete and waste parts occasioned by installations and replacements.

**BUSINESS BUILDING.** Any structure, whether public or private, that is adapted *for the* transaction of business, for rendering of professional services, for amusement, for the display or sale or storage of goods, wares, merchandise, articles or equipment, including hotels, apartment houses, rooming houses, office buildings, public buildings, stores, theatres, markets, restaurants, abattoirs, warehouses, sheds, barns and other structures on premises used for or adapted to business purposes.

**DIRECTOR OF PUBLIC WORKS.** The Director of Public Works of the town or his agent.

**GARBAGE.** Animal and vegetable refuse resulting from the handling, preparation, cooking and consumption of food, including a minimum amount of liquid necessarily incidental thereto.

**INDUSTRIAL WASTE.** Sawdust, shavings, feathers, excelsior, cartons, boxes, metal, glass, paper, wood, textiles, chemicals, plastic or other waste materials from processing plants, factories or manufacturing operations.

**REFUSE.** Solid waste, including but not limited to garbage, rubbish and ashes.

**RUBBISH.** Refuse, exclusive of garbage and ashes, including but not limited to paper, rags, cartons, boxes, wood, excelsior, rubber, leather, trees, bush and hedge branches, cuttings and trimmings, yard trimmings, grass, leaves, tin cans, metals, small mineral matter, glass,

crockery, dirt, earth and dust.

**WASTE.** Useless, unused, unwanted or discarded materials resulting from natural community activities, including solids, liquids and gases.

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§ 53.02 CLEAN AND ORDERLY CONDITION OF PREMISES.

Every owner and every occupant or other person in control of any building or land in the town, including vacant property, shall keep the same in a clean and orderly condition and shall deposit refuse for collection in accordance with the provisions of this chapter and the regulations of the Director of Public Works. Combustible and noncombustible refuse shall be stored in containers complying with this chapter.

('75 Code, § 9-2)

§ 53.03 WASTE ON PUBLIC LANDS OR IN WATERS PROHIBITED.

No person shall throw, drop or deposit, or cause to be thrown, dropped or deposited, on any land in the town, vacant or occupied, including specifically streets, alleys, sidewalks and other public and semipublic areas, and all waters under the jurisdiction of the town, any waste, including but not limited to refuse, garbage ashes, rubbish, dead animals or fish, paper, drinking cups, broken glass, tacks, brush, grass, weeds and anything injurious to health. If any person, while transporting or hauling or causing to be transported or hauled, such rubbish or material, or earth excavation, coal or other material, shall throw, drop or deposit, or cause to be thrown, dropped or deposited such rubbish or material from the body of the vehicle, in violation of the provisions of this section, such person must daily clean up and remove such rubbish or material in a manner satisfactory to the Director of Public Works. If any person fails to clean up and remove such rubbish and material the Department of Public Works may clean up and remove such rubbish and material, and the town may recover the cost of such cleaning up and removal from such person.

('75 Code, § 9-3)

§ 53.04 STORAGE OF MATERIAL ON PRIVATE PROPERTY.

(A) No person or business shall store any crates, bottles, equipment, machinery, materials or junked motor vehicles on any property within the Town of Aberdeen, except within an enclosure of such nature that the property so stored is hidden from public view.

(B) For the purposes of this section, the term “junk motor vehicle” means a vehicle that does not display a current license plate issued to that specific vehicle and that it:

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- (3) Is more than five years old and appears to be worth less than one hundred dollars (\$100.00).

(C) Any violation of this section shall be subject to a civil penalty and/or equitable relief provided for in § 10.98 of this Code.

(Am. Ord. passed 8-9-10)

(D) Machinery and equipment may be exempted from such provisions by the

express consent of the Board of Commissioners.

(E) Where it is impractical to store materials as provided in this section, such materials may be stored without an enclosure with the express consent of the Board of Commissioners, but such materials shall at all times be stacked or stored in compact units so that they will not constitute a nuisance. The Board of Commissioners, in granting such permission, may specify such other conditions as it may deem advisable.

(F) Weeds and grass on such lot shall be kept cut around the enclosure or machinery so that it does not constitute a nuisance.  
(’75 Code, § 15-3) (Am. Ord. passed 4-14-03)

**§ 53.05 WEEDS AND OTHER CONDITIONS DEEMED TO BE A PUBLIC NUISANCE.**

The existence of any of the following conditions on any vacant lot or other parcel of land within the corporate limits is hereby ~~declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance.~~ found, deemed and declared to constitute a detriment, danger, and hazard to the health, safety, 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:

(A) The uncontrolled growth of noxious weeds or grass to a height in excess of 24 12 inches is deemed causing or threatening to cause a hazard detrimental to the public health or safety.

(B) Any accumulation of rubbish, trash, junk or condition of any nature whatsoever, any accumulation of rubbish, trash, junk or condition causing or threatening to cause a fire hazard, or any accumulation of rubbish, trash, junk or condition causing or threatening to cause the accumulation of stagnant water, or any accumulation of rubbish, trash, junk or condition causing or threatening to cause the inhabitation therein of rats, mice, snakes or vermin of any kind, which is or may be dangerous or prejudicial to the public health.

(C) 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 is or may be dangerous or prejudicial to the public health.

(D) The open storage of any abandoned ice box, refrigerator, stove, glass, building material, building rubbish or similar items.

(E) Any condition detrimental to the public health which violates the rules and regulations of the County Health Department.

(F) 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.

(G) A place of heavy growth of weeds, grasses or vegetation over twelve (12) inches in height on any subdivided property, or 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 shall be cleared and cut to the satisfaction of the town manager or his designee.

(H) A place of growth of noxious vegetation, including poison sumac (*Rhus vernix*), poison ivy (*Rhus radicans*) or poison oak (*Rhus toxicodendron*), in a location likely to be accessible to the general public.

(I) 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.

(J) An open place of concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, trash, refuse, brush, old clothes, rags or any other combustible materials or objects of a like nature.

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

(L) Hides, dried or green provided the same may be kept for sale when thoroughly cured and odorless, and provided that the handling and/or sale of the hides is in compliance with Aberdeen Unified Development Ordinance.

(M) Any furniture, appliances, automotive parts or pieces or 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.

(N) Any improper or inadequate drainage on private property which causes flooding, interferes with the use of, or endangers in any way the streets, sidewalks, parks or other town owned property of any kind.

(O) Any stormwater retention or detention pond or other impoundment device which is operating improperly *as designed, is clogged, breached, or otherwise not operating as permitted.*

(P) Any stormdrain, sewer manhole, abandoned well or other private or public facility which is not properly covered with a grate or other means to remove any hazard to pedestrians or motor traffic.

(Q) Any ditch, trench, or below ground portion of a construction project which

remains open for more than five (5) days without being completed, or properly permitted and secured, or which is not protected with barricades, flags or other means so as to constitute a hazard to pedestrians or motor traffic.

(R) Failure to clean or clear a public street of mud and debris related to a construction, timbering or other similar land use project within twelve (12) hours after notification by the town manager or his designee for major and minor thoroughfares or within twenty-four (24) hours after such notification for collector and local streets; however, if it is found by the town manager or his designee that the situation is causing a clear and present danger or hazard to traffic or the general public, such cleaning or clearing may be required to take place as soon after notification as practicable.

(S) Any condition which violates the rules and regulations of the Moore County Health Department. Or,

(T) Any other condition specifically declared to be a danger to the public health, safety, morals, and general welfare of inhabitants of the town and a public nuisance by the town board of commissioners which proceeding may be initiated by the town manager or his or her designee before the board and 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, and general welfare of the inhabitants of the town and a public nuisance. After such declaration by the board, the condition will be abated as provided for in this chapter, provided no administrative appeal shall lie from the proceeding..

(\*75 Code, § 9-13) (Ord., passed 1-8-79; Am. Ord., passed 8-10-87)

§ **53.06** INVESTIGATION OF CONDITIONS BY TOWN MANAGER.

The Town Manager, upon notice from any person of the possible existence of any of the conditions described in § 53.05 shall cause to be made by the appropriate County Health Department official, or town official, such investigation as may be necessary to determine whether conditions exist which may constitute a public nuisance as declared in § 53.05.

(\*75 Code, § 9-14) (Ord., passed 1-8-79; Am. Ord., passed 8-10-87)

§ **53.07** NOTICE TO ABATE NUISANCE.

(A) If it appears that such conditions exist, the Town Manger shall cause to be posted on the property, or delivered, or mailed to the owner of the property upon which the conditions exist, a notice stating the reasons why the conditions may constitute a violation and that a hearing will be held before the Town Manager at a place therein fixed, not less than ten nor more than 30 days after the delivery or mailing of the notice. The owner or any party in interest shall have the right to file an answer to the notice and to appear in person, or otherwise, and give evidence at the place and time fixed in the notice. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. and a public nuisance and,

further, shall order the prompt abatement thereof within ten (10) days from the receipt of such written notice. The date of mailing plus three days shall constitute the date of receipt by the property owner for purposes of this section 53 for all notices required hereunder. Notice by posting or delivery shall occur on the actual date of posting or delivery for all purposes hereunder.

(B) Within the ten-day period mentioned in subsection (A) above, the owner of the property where the nuisance exists may appeal the findings of the town manager or his or her designee made pursuant to subsection (A) above to the town board 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 town board, unless the town manager or his or her designee 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, a stay would seriously interfere with the effective enforcement of this chapter. In that case, abatement proceedings shall not be stayed except by order of the town board or a court of competent jurisdiction, issued on application of the party seeking the stay, for due cause shown, after notice to the town manager or his designee. In the event no appeal is taken, the town may proceed to abate the nuisance. If an appeal is conducted by the town board, the rules of evidence prevailing in courts of law or equity shall not be controlling in such hearings.

(C) The town 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 town manager or his or her designee, may reverse the findings made pursuant to subsection (A) above; but if the board shall uphold the findings of the town manager or his or her designee, the board shall adopt an ordinance or other written finding specifically declaring 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 public nuisance and directing the appropriate town employees to cause the condition or conditions to be abated as soon as practical.

(’75 Code, § 9-15) (Ord., passed 1-8-79; Am. Ord., passed 8-10-87)

(D) Any decision by the town board may be appealed to Superior Court pursuant to G.S. 160A-393.

## § 53.08 ABATEMENT OF NUISANCE BY TOWN.

(A) If the owner, having been ordered to abate such a public nuisance, fails, neglects or refuses to abate or remove the condition constituting the nuisance within 10 15-days from receipt of said order or notice, the Town Manager or his or her designee 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 administrative officer. In such instances, weeds or grass shall be cut to a height satisfactory to the manager or his or her designee. shall cause said condition to be removed or otherwise remedied by having employees of the town to go upon said premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the Town Manager. Any person who has been ordered to

~~abate a public nuisance may within the time allowed by this chapter request the town in writing to remove such condition, the cost of which shall be paid by the person making such request.~~

(B) 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 ~~Tax Collector~~ or town 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 15 ~~30~~ days from the receipt thereof.

(’75 Code, § 9-16) (Ord., passed 1-8-79; Am. Ord., passed 8-10-87)

§ **53.09** **FAILURE TO PAY CHARGES.**

In the event charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges as provided for in § 53.07, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. § 160A-193.

(’75 Code, § 9-17) (Ord., passed 1-8-79; Am. Ord., passed 8-10-87)

§ **53.10** **WHEN NOTICE CANNOT BE GIVEN.**

In any case in which the Building Inspector or Town Clerk is unable to give written notice to owner, lessee, occupant or person in possession of premises upon which a nuisance exists, whether by reason of inability to identify any such person or to ascertain his address, the Building Inspector or Town Clerk shall give such notice by publication in a newspaper of general circulation which is qualified under U.S. § 160A-597 to publish legal advertisements in the county. At the same time, the Building Inspector or Town Clerk shall post a copy of such notice at a conspicuous place upon the premises in question. The 10 ~~15~~-day period provided in §53.07 shall commence to run from the beginning date of such newspaper publication, and the cost of such publication shall be included in the cost of removal of the conditions which constitute the nuisance.

§ **53.11** **SECOND AND SUBSEQUENT NOTICES AND VIOLATIONS**

(A) Upon the third violation within a calendar year, the town shall provide a chronic violator notice that without further notice the town may abate a chronic public nuisance. The notice shall be sent by registered or certified mail. When service is attempted by registered or certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. If service by regular mail is used, a copy of the notice shall be posted in a conspicuous place on the premises affected

(B) Upon the fourth violation within a calendar year, the town may, through its agen employees, or a contractor, enter a premises to abate any public nuisance without any notice to the property owner.

(’75 Code, § 9-18) (Ord., passed 1-8-79)

§ **53.12** **VIOLATIONS.**

The procedure 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 and this chapter shall not prevent the town from proceeding in a criminal action against any person, firm or corporation violating the provisions of this chapter as provided in G.S. § 14-4.

§ **53.13** **CIVIL PENALTY PROVIDED.**

(A) A violation of any provision of this article shall constitute a misdemeanor punishable as provided in section 10.98 and as set forth below.

(B) A violation of any provision of this article shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00) in addition to any cost of abatement. 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 53.07. 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. The town may pursue concurrently or independently violations of other ordinances on the same property that involve relevant penalties of a lesser or greater amount than those described herein.

(C) 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 the ten (10) days of its receipt by the offender or property owner.

(D) 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.

(’75 Code, § 9-19) (Ord., passed 1-8-79; Am. Ord., passed 8-10-87)