

ORDINANCE NUMBER _____

AN ORDINANCE AFFECTING THE REGULATION OF PUBLIC HEALTH AND SAFETY MATTERS; PUBLIC NUISANCES, AMENDING ORDINANCE O-1999-001, PUBLIC NUISANCE ORDINANCE, THE TOWN OF SUMMERFIELD

WHEREAS, Article 8 of Chapter 160A of the North Carolina General Statutes, N.C.G.S. 160A-174, et seq., delegates to municipalities the authority to exercise the general police power; and

WHEREAS, Article 8 of Chapter 160A of the North Carolina General Statutes, N.C.G.S. 160A-193, authorizes municipalities to summarily remedy, abate or remove public health nuisances; and

WHEREAS, the Town Council of the Town of Summerfield finds that it is in the public interest to amend Ordinance O-1999-001, Public Nuisance Ordinance, to provide more specificity as to the requirements for regulating Public Nuisances.

WHEREAS, the Town Council of the Town of Summerfield, after due notice, conducted a public hearing on the 8th day of October 2013, upon the question of an Ordinance in this respect.

THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SUMMERFIELD, NORTH CAROLINA;

PART ONE. That Ordinance O-1999-001, Public Nuisance Ordinance of the Town of Summerfield, North Carolina, is hereby amended and rewritten in its entirety to read as follows:

“PUBLIC NUISANCE CONDITIONS, PRIVATE PROPERTY

(A) Administration.

For the purpose of this ordinance, the term "nuisance" shall mean or refer to any condition or any use of property or any act or omission affecting the condition or use of property which threatens or is likely to threaten the safety of the public; adversely affects the general health, happiness, security or welfare of others; or, is detrimental to the rights of others to the full use of their own property and their own comfort, happiness and emotional stability because of decreased property values and the unsightliness and decreased livability of neighborhoods.

(B) Declaration of Public Nuisance

The following enumerated and described conditions, or any combination thereof, 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. They are hereby found, deemed and declared to be public nuisances wherever the conditions may exist within the corporate limits as

now or hereafter established. The creation, maintenance or failure to abate any nuisances is hereby declared unlawful:

1. Any weeds or other vegetation having an overall height of more than twelve (12) inches above the surrounding ground provided that the following shall not be considered to be a part of this condition:
 - a. trees and ornamental shrubs, cultured plants, flowers and growing and producing vegetable plants;
 - b. natural vegetation on undeveloped property that is not a threat to the character of surrounding properties;
 - c. active farming or agricultural uses;
 - d. those lands dedicated and accepted by the town as flood plain and open space, which are established in order to preserve natural green ways and/or natural connecting networks along flood ways, streams and creeks;
 - e. It shall be the duty of every person occupying, owning or having control of property abutting on a street or highway that utilizes a portion of the unused street or highway right-of-way as a yard or any other use to maintain said right-of-way in the same character and manner as the abutting use.
2. Any accumulation of trash, garbage, food waste and other trash which is the result of the absence of, or overflowing of, or improperly closed trash or garbage containers, that attracts or is likely to attract mice and rats, flies and mosquitoes or other pests.
3. An open or unsecured storage or collection place for chemicals, acids, oils, gasoline, flammable or combustible materials or flammable or combustible liquids, poisonous materials or other similar harmful or dangerous substances, gasses or vapors.
4. An open place, collection, storage place or concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, rags, or any other combustible materials collection.
5. An open storage place for old worn out, broken or discarded machinery, car parts, junk, tire rims, furniture, stoves, refrigerators, appliances, cans and containers, household goods, plumbing or electrical fixtures, old rusty metal, fencing materials or other similar materials.
6. Any accumulation of garbage, 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, mosquitoes, or vermin prejudicial to the public health.

7. 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.
8. The open storage of any ice box, furniture, refrigerator, stove, glass, building materials, building rubbish or similar items. The use of carports, open porches, decks, open garages and other outdoor areas that are visible from the street as a storage or collection place for boxes, appliances, furniture (not typical outdoor or yard furniture), tools, equipment, junk, garbage, old worn out broken or discarded machinery and equipment, cans, containers, household goods or other similar condition that increase the likelihood of a fire; may conceal dangerous conditions; may be a breeding place or habitat for mice, rats or other pests; or, create an unattractive condition or visually blighted property
9. A collection place for lumber, bricks, blocks, nails, building hardware, roofing materials, scaffolding, masonry materials, electrical supplies or materials, plumbing supplies or materials, heating and air conditioning supplies or materials or any other type of old or unusable building supplies (especially those with nails, staples or sharp objects and edges) unless such conditions are temporary in nature and caused by a current construction project in progress pursuant to a lawfully issued building permit.
10. Any building or other structure which has been burned, partially burned or otherwise partially destroyed and which is unsightly or hazardous to the safety of any person, is a continuing fire hazard or which is structurally unsound to the extent that the Code Administrator or his designee can reasonably determine that there is a likelihood of personal or property injury to any person or property entering the premises.
11. The placement, storage or use of upholstered sofas, couches, chairs or other indoor type furniture, appliances, seats removed from motor vehicles or other furniture not intended for outdoor use by the manufacturer, use on any open porch, carport, stoop, deck, veranda, terrace, patio or other outdoor area that is visible from nearby streets and sidewalks.
12. A collection place, pool or pond of stagnant or foul water or persistent dampness caused by overflowing septic tanks, manmade dams, open ditches, overflowing pipes, foundation trenches or other impoundments of any kind.
13. Barns or farm animal pens, pastures or enclosures for farm animals which are not kept sanitary and clean or otherwise become a collection place for animal waste

and which because of the conditions associated therewith attract rats, mice, flies or other pests or emit foul odors that can be detected or noticed on adjacent properties or are otherwise not kept in a sanitary condition.

14. Dog lots, pens, pet enclosures of all kinds, outdoor areas where dogs or other pets are chained or kept or areas where dogs and cats are permitted to roam which become a collection place for dog, cat or pet waste and excrement and which attract flies or other pests, emit foul odors which can be detected or noticed on adjacent property or are not kept in a sanitary condition.
15. A collection place for sewage and sewage drainage or the seepage from septic tanks, broken or malfunctioning plumbing and sewer pipes or any other seepage of dangerous, hazardous or poisonous liquids.
16. A collection place for tree limbs, dried brush, dead vegetation, stumps or other decayed wood and materials or other similar rubbish.
17. Any discharge into or polluting of any stream, creek, river or other body of water or the discharge of any dangerous substance or any other material likely to harm the water or any vegetation, fish or wildlife in or along the water or the storage of such harmful materials and substances in a manner so that it is likely that such streams, creeks, rivers or other bodies of water will become polluted or adversely affected in any manner.
18. Any condition which blocks, hinders, or obstructs in any way the natural flow of branches, streams, creeks, surface waters, ditches, or drains, to the extent that the premises is not free from standing water.
19. Any conditions or use of property, which results in the emission of pollutants and particles into the atmosphere or causes noxious odors, vapors and stenches to be discharged into the air.
20. Nuisance vehicle: A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:
 - a. A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or
 - b. A point of heavy growth of weeds or other noxious vegetation which exceeds eight (8) inches in height ; or
 - c. In a condition allowing the collection of pools or ponds of water; or
 - d. A concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor; or

- e. An area of confinement which cannot be operated from the inside, such as, but not limited to, trunks or hoods; or
 - f. So situated or located that there is a danger of it falling or turning over; or
 - g. A collection of garbage, food waste, animal waste, or any other rotten or putrescent matter of any kind; or
 - h. One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass;
 - i. Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Town Council.
21. Any condition detrimental to the public health which violates the rules and regulations of the County Health Departments.

(C) Complaint; Investigation of Public Nuisance

When any condition in violation of this Ordinance is found to exist, the Code Administrator or such persons as may be designated by the Town Council shall give notice to the owner of the premises to abate or remove such conditions within ten (10) days. Such notice shall be in writing, shall include a description of the premises sufficient for identification and shall set forth the violation and state that, if the violation is not corrected within ten (10) days, the town may proceed to correct the same as authorized by this ordinance. Service of such notice shall be by any one of the following methods.

1. By delivery to any owner personally or by leaving the notice at the usual place of abode of the owner with a person who is over the age of sixteen (16) years and a member of the family of the owner.
2. By depositing the notice in the United States Post Office addressed to the owner at his last known address with regular mail postage prepaid thereon.
3. By posting and keeping posted, for ten (10) days, a copy of the notice, in placard form, in a conspicuous place on the premises on which the violation exists, when notice cannot be served by method (1) and (2).

(D) Abatement Procedure

If the owner of any property fails to comply with a notice given pursuant to this ordinance, within ten (10) days after the service of such notice, he shall be subject to prosecution for violation of this ordinance in accordance with law and each day that such failure continues shall be a separate offense. In addition, the Town may have the condition described in the notice abated, removed or otherwise corrected and all expenses incurred thereby shall be chargeable to and paid by the owner of the property and shall be collected as taxes and levies are collected. All such expenses shall constitute a lien against the property on which the work was done.

(E) Procedure is Alternative

The procedure 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. In addition to the remedies provided for herein, any violation of the terms of this ordinance shall subject the violator to the penalties and remedies as set forth in General Penalties; Enforcement of Ordinances; Continuing Violations Ordinance of the Town of Summerfield”

PART TWO. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

PART THREE. If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

PART FOUR. The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions, or otherwise cure any existing violations.

PART FIVE. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this 8th day of October 2013.

Tim Sessoms, Mayor

ATTEST:

Approved as to form:

Valarie Halvorsen, Town Clerk

William L. Hill, Town Attorney