

## TOWN OF JONESVILLE

### AN ORDINANCE AMENDING THE CODE OF ORDINANCES FOR THE TOWN OF JONESVILLE WITH RESPECT TO THE PREVENTION AND ABATEMENT OF PUBLIC NUISANCES ON PRIVATE PROPERTY

**WHEREAS**, pursuant to N.C Gen. Stat. §160A-174 a town may by ordinance define, prohibit, regulate or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the town; and

**WHEREAS**, pursuant to N.C. Gen. Stat. §160A-193 a town has the authority to summarily remove, abate, or remedy everything in the town limits, or within one mile thereof, that is dangerous or prejudicial to the public health or public safety.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Commissioners of the Town of Jonesville, North Carolina that the Code of Ordinances of the Town of Jonesville be amended as follows:

That the ordinance, **Providing for the Prevention and Abatement of Public Nuisances on Private Property**, is hereby rewritten to read as follows:

#### **Section 1. Definitions.**

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

**Appliance.** Any machinery and all instruments used in operating it, a mechanical thing, device or apparatus. The machine or instrument does not have to be operational.

**Building Material (also called Construction and Demolition Material).** Brick, stone, carpet, plumbing materials, plaster, concrete, asphalt, roofing, floor coverings, gutters, wooden pallets, or other material or substances accumulated as a result of construction, repairs, or additions to existing structures or accessory structures or demolition of such.

**Business Trash.** Any accumulation of incidental waste products, garbage, other than household trash, which is associated with the operation of stores, offices, and commercial establishments.

**Garbage.** A by-product of animal or vegetable foodstuffs resulting from the handling, preparation, cooking, and consumption of food or other matter which is subject to decomposition, decay, and/or the generation of noxious or offensive gases or odors, or which during and/or after decay may serve as breeding or feeding material for flies, insects, and/or animals.

**Hazardous Waste.** Potentially dangerous by-products which cannot be handled, treated, or disposed of without special precautions. Hazardous waste includes ignitable, corrosive, reactive, and toxic wastes such as acetone, gasoline, industrial metal, alkaline cleaners, acids, cyanide, chlorine, arsenic, pesticide wastes, paint, caustics, infected materials, offal, fecal matter (human and animal) and explosives.

**Household Trash.** Accumulation of sweepings, rags, or other matter of any kind, other than garbage and recyclables, which is usually attendant to housekeeping.

**Industrial Waste.** All waste, including solids, semi-solids, sludges and liquids created by factories, processing plants, or other manufacturing enterprises (sometimes referred to as special waste, as it requires special handling).

**Junk.** Any item creating a littered condition including, but not limited to household or office furnishings, household appliances, mattress, box springs, lawn equipment, machinery, or other similar items which are either in a wholly or partially rusted, wrecked, dismantled, or inoperative condition.

**Litter.** All discarded dead animals and man-made materials, including, but not limited to, solid waste materials, building materials, industrial materials, and hazardous waste.

**Premises.** Lots, including sidewalks, rights-of-way, easements, grass strips, or curbs up to the edge of the pavement of any public street.

**Recyclables.** Newspapers and accompanying inserts, magazines, junk mail, cardboard, glass, food and beverage containers, plastic soft drink and liquor bottles, spiral paper cans and yard waste.

**Rubbish.** Useless waste or any material thrown away as worthless.

**Solid Waste.** Solid waste is defined as accumulations consisting of any combination of business trash, garbage, household trash, bulky items, yard waste, recyclables and junk.

**Trash.** Defined herein as either household trash or business trash.

**Yard Waste.** Grass, weeds, leaves, tree trimmings, plants, shrubbery pruning, and such other similar materials which are generated in the maintenance of yards and gardens, which are separate from other solid waste materials and placed in a designated recycling collection area. Yard waste shall not include trees, tree limbs, brush and other material resulting from commercial tree trimmers and/or commercial lawn-care services.

## **Section 2. Jurisdiction.**

The provisions of this ordinance shall apply within the corporate limits of the Town of Jonesville and its extraterritorial jurisdiction.

## **Section 3. Declaration of a public health nuisance.**

The following conditions shall constitute a nuisance to public health or safety and shall be prohibited within the town's jurisdiction:

1. *Neglect of Property.* It shall be unlawful for any person to endanger the public health, safety or welfare through the neglect of property by causing or allowing the accumulation of appliances, building materials, construction and demolition material, business trash, garbage, hazardous waste, household trash, industrial

- waste, junk, litter, recyclables, rubbish, solid waste, trash, yard waste or potentially dangerous devices to be discarded, abandoned, or remain on or emanate from any such property.
2. *Unauthorized accumulation of solid waste, trash, recyclables, garbage, junk, rubbish or building material.*
    - (a) It shall be unlawful for any person to allow or cause the accumulation of solid waste, trash, recyclables, garbage, junk, rubbish or building material which produces offensive, noxious or foul odors or vapors or which provides refuge or sustenance for rats, mice, snakes, or other vermin.
    - (b) It shall be unlawful for the owner and/or occupant of any property to cause or allow the accumulation of solid waste, trash, recyclables, garbage, junk, rubbish or building material causing or threatening to cause a fire hazard or causing or threatening to cause the accumulation of stagnant water.
  3. *Unauthorized accumulation of litter.* It shall be unlawful for any person to scatter, cast, throw, blow, place, sweep, or deposit any litter in such a manner that it may be carried or deposited upon any street, sidewalk, alley, body of water, sewer, parkway, lot, public property, or private property.
  4. *Dilapidated condition on premises.* It shall be unlawful for any person to have on their premises material that creates a littered condition, such as but not limited to, lawn furniture, appliances, machinery, equipment, building materials, automotive parts, tires, fencing, or any other items which are in a wholly or partially rusted, wrecked, junked, dismantled, or inoperative condition and which are not completely enclosed within a building or dwelling.
  5. *Uncontrolled growth of weeds and grass.* It shall be unlawful for the owner and/or occupant of a property to allow grass, weeds and other overgrowth vegetation to exceed a height greater than twelve (12) inches above the surrounding ground provided that the following shall not be considered to be overgrowth vegetation: trees and ornamental shrubs; cultured plants; natural vegetation on undeveloped property that is not a threat to the character of surrounding properties; and flowers and growing and producing vegetable plants. It shall be the duty of the of the owner and/or occupant to cut and remove all grass, weeds and other overgrowth vegetation as often as necessary to comply with the provisions of this section.
  6. *Unauthorized accumulation of hazardous or toxic materials and chemicals.* It shall be unlawful to accumulate hazardous or toxic materials and chemicals in an open place.
  7. *Obstruction of Town or State Rights-of-Way.* It shall be unlawful for the owner and/or occupant of any property to cause or allow any trees or shrubbery that shall interfere with or endanger the use of the public streets; interfere with or obstruct illumination of street lights; obscure sight distance or create a traffic hazard; interfere with the visibility of any traffic control device or sign; obstruct or impair

the free passage of pedestrians on sidewalks or other town or state rights-of-way at a vertical clearance of less than seven (7) feet; or endanger the life, health, safety or property of the public.

8. *Burned or partially burned buildings and structures.* 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 town building official can reasonably determine that there is a likelihood of personal or property injury to any person or property entering the premises.
9. *Storm or erosion damaged structures and resulting debris.* The existence of any of the following conditions associated with storm or erosion damaged structures or their resultant debris shall constitute a public nuisance.
  - a. Damaged structure in danger of collapsing.
  - b. Damaged structure or debris from damaged structures where it can reasonably be determined that there is a likelihood of personal or property injury.
10. *Conditions Violating Health Department Rules.* Any condition detrimental to the public health, which violates the rules and regulations of the Yadkin County Health Department.
11. *Any other conditions constituting a nuisance.* In addition to the conditions set out in this section, any other condition declared by the Town Board of Commissioners to pose a threat to the public's health or safety, also shall constitute a nuisance and shall be prohibited within the town's jurisdiction.

#### **Section 4. Administration and Enforcement Responsibility.**

The Town Manager and the town's Code Enforcement Officer or their designee(s) are hereby charged with the administration and enforcement of this ordinance.

#### **Section 5. Complaints and investigations.**

The Town Manager or Code Enforcement Officer shall, upon notice from any citizen or public official of the existence of any of the conditions described in Section 3, investigate to determine whether conditions exist as to constitute a public nuisance as declared in Section 3.

#### **Section 6. Notice to abate public health nuisance.**

- (A) Upon a determination that such conditions constituting a public health nuisance exist, the Town Manager or Code Enforcement Officer shall notify, in writing, the owner/responsible party as shown on the most recent Yadkin County tax records, occupant, and/or person in possession of the premises in question of the conditions constituting such public health nuisance and shall order the prompt

abatement thereof within fifteen (15) days from the date the notice is served upon the responsible person(s). 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 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).

Within the fifteen (15) day period mentioned above, the owner, occupant, and/or person in possession of the premises where the nuisance exists may appeal the findings of the Town Manager or Code Enforcement Officer by giving written notice of appeal to the Town Clerk, the appeal to stay the abatement of the nuisances until a final determination by the Town Board of Commissioners. In the event no appeal is taken, the town may proceed to abate the nuisance.

- (B) The Town Board of Commissioners in the event an appeal is taken as provided in Section 6 (A) may, after hearing all interested persons and reviewing the findings of the Town Manager and/or the Code Enforcement Officer, reverse those findings, but if the Town Board of Commissioners determines that the findings of the Town Manager and/or Code Enforcement Officer are correct and proper it shall adopt an ordinance specifically declaring that the condition on the property to be a danger and hazard to the health, safety, morals, and general welfare of the inhabitants of the town and a public nuisance and directing the Town Manager and/or Code Enforcement Officer to cause the conditions to be abated.
- (C) An owner of real property whereupon, in the previous calendar year, the Town of Jonesville took remedial action at least three (3) times during the previous calendar year to abate a nuisance pursuant to Section 3 (5) of this ordinance - *Uncontrolled growth of weeds or grass*, shall be deemed a chronic violator. A chronic violator as defined herein shall be notified by the Town Manager/Code Enforcement Officer if property owned, occupied, or in possession of the chronic violator is determined to be in violation of Section 3 (5) the town may take action to remedy the violation without further notice during the calendar year in which annual notice is given and the expense of such action including any administrative fees shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice required herein shall be served by registered or certified mail and shall be complete upon delivery or deposit of the notice along with the appropriate fees under the care of the United States Postal Service.

- (D) Abatement of a public nuisance shall consist of taking whatever appropriate steps are reasonably necessary to remove the condition or conditions which result in the declaration of a public nuisance. Without limitation the Town Manager and/or Code Enforcement Officer, in ordering the abatement of a public nuisance, may require the removal of debris, rubbish, accumulations of animal or vegetable matter, growth of weeds and grass, burned or partially burned buildings, the isolation of the condition to be abated so that access cannot be gained by persons or property which may be injured by the nuisance or such other steps which are reasonably necessary to abate the nuisance.

**Section 7. Failure of owner to abate public health nuisance.**

If any person, having been ordered to abate such a public nuisance, fails, neglects, or refuses to abate or remove the condition constituting the nuisance within fifteen (15) days of being provided notice pursuant to Section 6 of such order, 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 Manager 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.

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 to mail a statement of such charges to the owner with instructions that such charges are due and payable within thirty (30) days from the receipt thereof.

In the event 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, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid property taxes, as provided in G.S. 160A-193

**Section 8. Alternate remedies.**

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

**Section 9. Repeal and reenactment of existing nuisance ordinance of the Town of Jonesville**

The rewriting of this Ordinance in part carries forth by reenactment some of the provisions of the existing Nuisance Ordinance of the town and is not intended to repeal , but rather to reenact and continue in force such existing provisions so that all rights and liabilities that have been accrued are preserved and may be enforced. All provisions of the Nuisance Ordinance which are not reenacted are hereby repealed.

**Section 10. Severability.**

If any part of this ordinance or the application thereof to any person or condition is held invalid such invalidity shall not effect other parts of this ordinance or their application to any other person or condition, and to this end, the provisions of this ordinance are hereby declared to be severable.

This ordinance shall become effective upon its adoption.

**ADOPTED** this the \_\_\_\_\_ of \_\_\_\_\_, 2006 by the Board of Commissioners of the Town of Jonesville, North Carolina.

ATTEST:

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Lindbergh Swaim, Mayor

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Glenda Gilliam, Town Clerk