

ORDINANCE NUMBER _____

AN ORDINANCE AFFECTING THE REGULATION OF SANITATION, HEALTH AND PUBLIC NUISANCES; ENACTING CHAPTER 46, ARTICLES I and II, THE CODE OF ORDINANCES OF THE COUNTY OF COLUMBUS

WHEREAS, Article 6 of Chapter 153A of the North Carolina General Statutes, N.C.G.S. 153A-121, et seq., delegates to counties the authority to exercise the general police power; and

WHEREAS, N.C.G.S. 153A-140 authorizes counties to summarily remedy, abate or remove public health nuisances; and

WHEREAS, the Board of Commissioners of the County of Columbus finds that it is in the public interest to enact Chapter 46, Article I and II of the Code of Ordinances to provide more specificity as to the requirements for regulating Public Health Nuisances; and

WHEREAS, the Board of Commissioners of the County of Columbus, after due notice, conducted a public hearing on the _____ day of _____ 2017, upon the question of enacting an ordinance in this respect.

THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF COLUMBUS, NORTH CAROLINA:

PART ONE. That Chapter 46, Article I: In General, Sections 46-01 through 46-19, of the Code of Ordinances of the County of Columbus, North Carolina, is hereby enacted and reserved.

PART TWO. That Chapter 46, Article II: Sanitation, Health and Public Nuisances, of the Code of Ordinances of the County of Columbus, North Carolina, is hereby enacted to read as follows:

“CHAPTER 46, ARTICLE II: SANITATION, HEALTH AND PUBLIC NUISANCES

Section 46-20 Administration.

For the purpose of this Chapter, 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.

An act constituting a violation of the provisions of this Chapter or a failure to comply with any of its requirements shall subject the offender to a civil penalty of \$50.00. Each day any single violation continues shall be a separate violation. A violation of this Chapter shall not constitute a misdemeanor pursuant to N.C.G.S. 14-4. If the offender fails to correct the violation by the

prescribed deadline after being notified of said violation, the penalty may be recovered in a civil action in the nature of a debt.

Section 46-21 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 County. They are hereby found, deemed and declared to be public nuisances wherever the conditions may exist in any part of Columbus County, not within the corporate limits or extraterritorial jurisdiction of any municipality, as is now or may hereafter be 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 eighteen (18) inches above the surrounding ground provided that the following shall not be considered to be a part of this condition: trees and ornamental shrubs; cultured plants; natural vegetation on undeveloped property or land used for agricultural purposes, that is not a threat to the character of surrounding properties; and flowers and growing and producing vegetable plants.
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. (Exception: bona fide farm or agricultural uses)
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. However, any property or parcel of land used for agricultural purposes or the lawful use of a permitted livestock or fowl operation shall not be considered to be a part of this condition.
8. The open storage of any discarded 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. 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.
12. A collection place for tree limbs, dried brush, dead vegetation, stumps or other decayed wood and materials or other similar rubbish.
13. 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.

14. 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 eighteen (18) 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 Board of Commissioners.
15. Any condition detrimental to the public health which violates the rules and regulations of the County Health Departments.

Section 46-22 Complaint; Investigation of Public Nuisance

When any condition in violation of this Chapter is found to exist, the Code Administrator or such persons as may be designated by the Board of Commissioners shall give notice to the owner of the premises to abate or remove such conditions. 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 prior to a specified date, (no sooner than 10 calendar days after the notice is mailed and/or affixed to the property), the County may proceed to correct the same as authorized by this Chapter. 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).

Section 46-23 Abatement Procedure.

If the owner of any property fails to comply with a notice given pursuant to this Chapter, 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 County 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 real property on which the work was done.

Section 46-24 Procedure Is Alternative

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.”

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

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

Adopted this _____ day of _____, 2017.

James E. Prevatte, Chairman
Columbus County Board of Commissioners

ATTEST:

Approved as to form:

June B. Hall, Clerk to the Board

Mike Stephens, Columbus County Attorney