

**AN ORDINANCE OF THE CITY COUNCIL OF LENOIR,
NORTH CAROLINA, AMENDING CHAPTERS 1, 10, 12, AND
APPENDIX A OF THE LENOIR CITY CODE, RELATED TO
CODE ENFORCEMENT PROCEDURES OF NOTIFICATION,
PENALTIES, ABATEMENT, NUISANCES, AND APPEAL
PROCEDURES, PROVIDING FOR SEVERABILITY,
CODIFICATION, AND AN EFFECTIVE DATE.**

Whereas, at its regularly scheduled meeting of February 24, 2014, the Lenoir Planning Board recommended to the Lenoir City Council that the ordinance be amended to ensure consistency with the City's adopted Comprehensive Plan; and

Whereas, the Lenoir City Council hereby finds and declares that this ordinance and these amendments are in the best interest of the public health, safety, and welfare; and

NOW, THEREFORE, LET IT BE ENACTED BY THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA, AS FOLLOWS:

SECTION 1. Chapter 1 of the Code of Ordinances, City of Lenoir, North Carolina, "General Provisions" is hereby amended to read as follows:

Sec. 1-13. Penalty not exclusive.

- (a) The imposition of a penalty under the provisions of this Code shall not prevent the revocation or suspension of any license, franchise or permit issued or granted under the provisions of this Code.
- (b) If any violation of this Code is designated as a nuisance under the provisions of this Code, such nuisance may be summarily abated by the city directly or through a private contractor in addition to the imposition of a civil monetary penaltyies or remedies or misdemeanor penaltyies, as provided under the provisions of this Code.

Sec. 1-15. Civil and Criminal Penalties. ~~penalty.~~

- (a) Upon the determination that any provision of this Code is being violated, the Citycode enforcement officer shall provide due notice to the person(s) responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Notice may include written notice by registered mail to such person(s). Such notice shall provide the time period for abatement, and shall state the penalties for noncompliance provided in this section. ~~The provisions of this section are adopted pursuant to G.S. 160A-175(c) and shall not constitute a misdemeanor infraction pursuant to G.S. 14-4 unless the ordinance or code section provides otherwise.~~
- (b) This section is enacted pursuant to G.S. 160A-175, and may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction as more fully set out and stated in G.S. 160A(d) and (e), incorporated herein by reference and as said statute may be subsequently amended.

- (c) Violation of any provision of this Code not corrected as provided in subsection (a) shall subject the offender to a civil penalty in the amount of \$50.00 ~~to \$500.00, in accordance with the citation schedule in subsection (e)~~, to be recovered by the city in a civil action in the nature of debt if the offender does not pay the penalty within a period of 72 hours after being cited. The citation shall be in writing, signed by the authorized person issuing the citation, and shall be delivered in person or by mail to the offender ~~either at his residence, place of business, or at the place where the violation occurred~~.
- (d) Each day that a violation continues to exist, beginning 72 hours after the issuance of the original citation, ~~shall may~~ constitute a separate and distinct offense ~~without multiple citations being issued~~, and ~~shall may~~ be subject to additional civil penalties ~~of \$50.00 per day at the discretion of the authorized person issuing the citation in accordance with the citation schedule in subsection (e), below~~.

(e) Civil Penalties Schedule

Violation of any provision of this ordinance shall subject the offender to civil penalties in the following amounts, as applicable. All Civil Penalties must be paid within 72 hours of receipt by the offender.

<u>First Penalty</u>	<u>Second Penalty</u>	<u>Third Penalty</u>	<u>Fourth Penalty</u>	<u>Fifth Penalty</u>	<u>Sixth Penalty</u>	<u>Seventh Penalty</u>	<u>Eighth Penalty</u>	<u>Ninth Penalty</u>	<u>Tenth Penalty</u>
\$50.00	\$50.00	\$50.00	\$100.00	\$100.00	\$100.00	\$250.00	\$250.00	\$250.00	\$250.00

* If violations continue to exist past the tenth penalty, subsequent penalties shall be \$500.00 each.

(f) Unless otherwise specifically provided in this Code and authorized by state law, no single offense (as described in subsection (d), above) may be punished by a fine or civil penalty in excess of \$500.00.

(g) Failure to abate a violation in the specified time period for abatement given pursuant to subsection (a) shall constitute a misdemeanor infraction pursuant to G.S. 14-4. This section is adopted pursuant to G.S. 160A-175(b).

(h) Penalties imposed under this ordinance may be recovered by the City in a civil action in the nature of debt.

SECTION 2. Chapter 10 of the Code of Ordinances, City of Lenoir, North Carolina, “Housing” is hereby amended to read as follows:

Sec. 10-1. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter.

Housing Inspector shall mean any person employed by the City, or any Caldwell County employee designated by the City, who is duly authorized and directed by the City Planning Director to investigate violations of the housing provisions of this Code and to take appropriate actions to enforce such provisions.

Infestation shall mean the presence, within or around a dwelling, of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or to the public.

~~*Inspector* shall mean a building inspector of the city or any agent of the department of planning and community development who is authorized by the director of the department.~~

Sec. 10-26. ~~Housing~~ Board of Adjustment ~~and appeals~~.

~~There is hereby created a housing appeals board to which appeals may be taken from decisions or orders of the inspector. All appeals will be taken to the board of adjustments. The board shall consist of five members to serve for three year staggered terms. The board shall have power to elect its own officers, to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties. The board shall keep an accurate record of all its proceedings. The Board of Adjustment as established by Sec. 1309 of the Zoning Ordinance (Appendix A of Lenoir's Code of Ordinances) shall hear appeals of decisions and orders of the housing inspector.~~

Sec. 10-35. Appeals from orders of inspector.

(a) An appeal from any decision or order of the housing inspector may be taken by any person ~~aggrieved thereby who is the subject of the decision or order~~. Any appeal from the inspector shall be taken within ten days from the rendering of the decision or ~~service notice~~ of the order, and shall be taken by filing ~~with the inspector and with the housing board of adjustment~~ appeals a notice of appeal with the Planning Department which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the inspector shall forthwith transmit to the ~~h~~Board of Adjustment all papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the housing inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the housing inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing of the ~~h~~Board of Adjustment, unless the inspector certifies to the ~~h~~Board of Adjustment, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate, a copy of which shall be furnished the appellant, a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the housing inspector, by the ~~h~~Board of Adjustment, or by a court of record upon petition made pursuant to G.S. 160A-446(f) and the provisions of this article.

(b) The ~~h~~Board of Adjustment shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its

opinion ought to be made in the matter, and to that end it shall have all the powers of the inspector, but the concurring vote of four members of the board shall be necessary to reverse or modify any decision or order of the inspector. The board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

~~(e) Every decision of the board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the board, but not otherwise.~~

SECTION 3. Chapter 12 of the Code of Ordinances, City of Lenoir, North Carolina, “Nuisances” is hereby amended to read as follows:

Sec. 12-1. Designation of nuisances.

- (a) No occupant or owner of any building, structure, dwelling, dwelling unit or vacant lot of land shall place, leave or allow anything which is unsightly as to create a nuisance, including but not limited to the following:
 - (1) Refuse, debris, dead animals, stagnant water, rubbish, decayed vegetables and fruits, and household garbage;
 - (2) Stables, lots or shelters for animals causing an offensive odor;
 - (3) Appliances, including but not limited to any icebox, refrigerator, ~~or~~ stove, dishwasher, freezer, clothes washer or dryer, or television;
 - (4) Machinery, to include but not be limited to, any mowers or parts thereof or any used vehicle part, or other item which is either in a wholly or partially wrecked, junked, dismantled or inoperative condition and which is not enclosed within a building;
 - (5) Used equipment, including but not limited to worn-out furniture or building materials which are not being used during construction; or
 - (6) Outside storage of wood products being used as firewood which are not stacked.
- (b) This section shall apply to any item that may cause injury to the health, safety or general welfare of any other person, or that ~~may be~~ is unreasonably detrimental to neighboring properties. All properties within the city limits shall remain clean and in such order as to not harbor rats or any other vermin. This section shall apply to any such item which remains on the same property of the same occupant for a period of ~~or~~ not less than 15 days. This section shall not apply to authorized junk dealers.
- (c) Any person violating, failing, refusing or neglecting to comply with any of the provisions of this section shall be subject to a civil penalty. This provision is adopted pursuant to and in accordance with G.S. 160A-175(c). ~~and shall not~~ Failure to abate a violation may also constitute a misdemeanor or infraction pursuant to G.S. 14-4, as provided in Sec. 1-15(h) of the Lenoir City Code.
- (d) Any nuisance violation that constitutes an immediate and substantial risk of harm shall constitute a misdemeanor offense pursuant to G.S. 14-4.

(e) The Lenoir Planning Department and the Lenoir Police Department shall have the authority to enforce the provisions of this Chapter.

Sec. 12-2. Noise.

(a) No person within the city shall create any unreasonably loud, disturbing or unnecessary noise or noise of such character, intensity or duration as to be detrimental to the repose, life or health of others.

(b) Without limiting the generality of subsection (a) of this section, the following acts within the city shall be unlawful:

(1) The sounding of any horn or other signal device on any automobile, truck, bus or motorcycle except in accordance with state law.

(2) The discharge into the air of the exhaust of any internal combustion engine, except through a muffler in good working order and so designed and constructed as to prevent excessive or unusual noise.

(3) The playing of any radio, phonograph, television set or any other musical instrument in such manner or with such volume as to disturb the quiet, comfort or repose of persons in any dwelling, hotel, hospital or sanitorium.

(4) The keeping of any animal which, by causing frequent, loud or long-continued noise, shall disturb the comfort or repose of persons dwelling in the vicinity of the place where the animal is kept.

(5) The use of any automobile, truck, bus or motorcycle so out of repair or so loaded or in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(6) The pounding or hammering on any metallic object or thing, except inside a building, or in the construction or alteration of a building.

(7) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention, by the creation of noise, to any performance, show, sale or display of merchandise without permission from the city.

(8) The play, use or operation for any purpose whatsoever, on the public streets, alleys or thoroughfares in the city, any device known as a soundtruck, loudspeaker or sound amplifier, or any radio or phonograph with a loudspeaker or sound amplifier, or any instrument known as a calliope or any instrument of any kind or character which emits loud and raucous noises and is attached to or upon any vehicle operated or standing upon such streets or public places.

(9) The play, use or operation for any purpose whatsoever, anywhere in the city as near as 1,500 feet from any residence, any device known as a soundtruck, loudspeaker or sound amplifier, or radio or phonograph with a loudspeaker or sound amplifier, or any other instrument known as a calliope or any instrument of any kind or character which emits therefrom loud and raucous noises and is attached to and upon any vehicle operated or standing within 1,500 feet of any residence.

(c) Any person creating unlawful noise as described in this section shall be guilty of a misdemeanor, punishable upon conviction by a fine or imprisonment as provided by G.S. 14-4.

Sec. 12-12. Nuisances declared.

- (a) The following enumerated and described conditions are hereby found, deemed and declared to constitute a detriment, danger and hazard to the health, safety, morals and general welfare to the inhabitants of the city or are unsightly, unattractive and contribute measurably to visual blight within the city, 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.
- (1) 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;
 - (2) ~~A place of heavy growth of weeds or grasses over 12 inches in height which lies less than 100 feet from any abutting open streets or which lies less than 100 feet from any adjoining property line which contains a structure, or is a place of heavy growth of bedsore grasses over 12 inches in height which lie within with 50 feet of any occupied dwelling; provided, that the nuisance defined by this subsection shall be cleared and cut to the satisfaction of the code administrator or designee; A growth of weeds, grasses and/or other vegetation on one's residential, business, or vacant lot which is over 12 inches in height on the average. It will be the responsibility of the owner to cut and remove all weeds and other overgrown vegetation as often as necessary so as to comply with the provisions of this ordinance. This provision shall not apply to lots greater than one acre. Lots that are larger than one acre will only be required to be maintained to this provision if and only if adjacent property is occupied by a dwelling, commonly used structure or building and said dwelling, structure, or building is within a distance of 100 feet to the adjacent property line. If this occurs then the owner will be responsible for cutting and removing all overgrown vegetation within a 20ft border along occupied lots and street frontage. This provision will not apply to wooded vacant lots that are more than 75 percent covered with mature trees, or property that consist of ravines, creek banks, or severe slopes which may cause the maintenance process to be dangerous or unsafe. Furthermore this provision will not apply to vacant lots that are larger than 3 acres in size.~~
A growth of weeds, grasses and/or other vegetation on one's residential, business, or vacant lot which is over 12 inches in height on the average. It will be the responsibility of the owner to cut and remove all weeds and other overgrown vegetation as often as necessary so as to comply with the provisions of this ordinance. This provision shall not apply to lots greater than one acre. Lots that are larger than one acre will only be required to be maintained to this provision if and only if adjacent property is occupied by a dwelling, commonly used structure or building and said dwelling, structure, or building is within a distance of 100 feet to the adjacent property line. If this occurs then the owner will be responsible for cutting and removing all overgrown vegetation within a 20ft border along occupied lots and street frontage. This provision will not apply to wooded vacant lots that are more than 75 percent covered with mature trees, or property that consist of ravines, creek banks, or severe slopes which may cause the maintenance process to be dangerous or unsafe. Furthermore this provision will not apply to vacant lots that are larger than 3 acres in size.
 - (3) A place of vines, shrubs or other vegetation over eight inches in height when such vines, shrubs or vegetation are a focal point for any other nuisance enumerated in this Code; provided, the nuisance herein defined by this subsection shall be cleared and cut only when it is necessary to abate any other nuisance described in this section;
 - (4) 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;
 - (5) Any hedge, shrubbery, tree or plant along any street, alley or sidewalk planted closer than 18 inches or extending closer than 12 inches or lower than 14.5 ft. to such street, alley or sidewalk, or any of the above-mentioned vegetation that obscures clear vision for a distance of 15 feet from the intersection of one street with another.
 - (56) 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;

- (67) A collection place, storage or accumulation of 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 material 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;
- (78) A collection place, storage or accumulation for garbage, garbage bags, food and kitchen waste, litter, animal waste, trash and refuse or any other rotten or putrescible matter of any kind;
- (89) Hides, dried or green, provided the same may be kept for sale in the city when thoroughly cured and odorless;
- (910) ~~Rotten, damage~~ Deteriorated or dilapidated sheds, outbuildings, garages or other uninhabited structures which have collapsed, partially collapsed or are likely to collapse; or pose a danger of fire, is or is likely to become a breeding place or habitat for rats, mice and other pests; or present a risk of injury to neighborhood children who are likely to be attracted to the place or to adjacent property and property owners;
- (4011) The use of carports, open porches, decks, open garages and other outdoor areas that are visible from the streets as a storage or collection place for boxes, appliances, furniture (not including outdoor furniture), tools, equipment, junk, garbage, old worn out broken or discarded machinery and equipment, cans, containers, household goods or other similar conditions 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;
- The placement, storage or use of upholstered sofas, couches, chairs or other indoor furniture, appliances, seats removed from motor vehicles or other furniture not intended for outdoor use by the manufacturer used on any open porch, carport, stoop, deck, veranda, terrace, patio or other outdoor area that is visible from nearby streets or sidewalks;
- (4412) A collection place, storage or accumulation of old, worn out, broken or discarded machinery, vehicle parts, junk, tires, tire rims and tubes, metal products, old clothes, rags, furniture, stoves, refrigerators, appliances, cans and containers, household goods, mattresses, boxes, paper, plumbing or electrical fixtures, glass products, brush, limbs, fencing materials, wood products (not including firewood);
- (4213) Any improper ~~to~~ or inadequate drainage on private property which causes flooding, interferes with the use or endangers in any way the streets, sidewalks, parks or other municipal property of any kind;
- (4314) Failure to clean or clear a public street of mud and debris related to a construction, timbering, or other similar land use project within 12 hours after notification by the ~~city manager or his designee~~ City for major and minor thoroughfares or within 24 hours after such notification for collector and local streets; however, if it is found by the ~~city manager or designee~~ City 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; and
- (4415) Any other condition specifically declared to be a danger to the public health, safety, morals and general welfare of inhabitants of the city and declared to be a public nuisance by the city council. Proceedings to abate the violation(s) may be initiated by the ~~code administrator or designee~~ City prior to the nuisance declaration of the city council after giving written notice thereof. Such notice shall state the condition existing, the location of the violation and that the

city council will be requested, after 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, morals, and general welfare of the city inhabitants and a public nuisance. After such declaration by the city council, in the form of an ordinance, the condition will be abated as provided for in this chapter.

- (b) Appeal from a notice of violation initiated by the city council shall be made to county superior court within 30 days following the issuance of such order.

Sec. 12-14. Duty to give notice of existence of nuisance; requiring abatement.

- (a) Upon a determination that a public nuisance as described in this article exists, the City code administrator or designee shall notify in writing the person in possession of the premises in question of the condition constituting the public nuisance and shall order the prompt abatement thereof. ~~within ten days from the receipt of such written notice. The City will allow at least fifteen days from the receipt of such written notice for abatement of the nuisance.~~
- (b) Within the ~~ten day~~ period for abatement specified on the notice of violation in subsection (a) of this section, the owner of the property may request in writing a review of the nuisance determination by the Chief of Police or his designee ~~appeal the findings of the code administrator or designee made pursuant to this section to the city council by giving written notice of appeal to the city clerk. The filing of the appeal~~ Such written request shall stay the abatement of the nuisance by the city until a final determination the completion of the review by the city council ~~Chief of Police or his designee~~, unless the city officer or inspector making the nuisance determination and notice certifies in writing to the Chief of Police or his designee and to the offender ~~code administrator certifies to the city council~~ that, because of the facts stated in the certificate, a stay would 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 article. In that case, abatement proceedings shall not be stayed except by order of the Chief of Police or his designee ~~city council~~ or a court, issued on application of the party seeking the stay, for due cause shown. In the event no appeal is taken, the city may proceed to abate the nuisance.
- (c) ~~The city council~~ Chief of Police or his designee, in the event ~~an appeal a review is requested is taken~~ as provided in this section and after hearing all interested persons and reviewing the ~~finding of the code administrator~~ nuisance determination, may reverse the findings made pursuant to subsection (a) of this section. ~~But~~ However, if the ~~city council~~ Chief of Police or his designee upholds the findings, ~~the council shall adopt an ordinance specifically declaring and declares the~~ condition existing on the property to be a danger and hazard to the health, safety, morals and general welfare of the inhabitants of the city and a public nuisance ~~and directing~~ , he may direct the appropriate ~~city employees~~ personnel to cause the condition or conditions to be abated.
- (d) The Chief of Police, in his sole discretion, may refer the review of any notice of violation to the City Council rather than conduct the review himself when he finds good cause for such review by the Council.
- (~~e~~) If any of the above-defined nuisances are found to exist, the responsibility for abatement shall rest with the owner, occupant or person in possession of the property or their agent, notwithstanding that the nuisance is found to exist, wholly or in part, within a city easement which crosses private property.
- (f) Nothing in this section shall prevent the property owner or responsible party from abating the nuisance in question in accordance with the notice of violation prior to any requested review by the offender.

~~(e) Appeal from an order of abatement issued by the city council shall be made to county superior court within 30 days following the issuance of such order.~~

Sec. 12-15. Abatement of nuisance by city; violator may have city abate nuisance.

- (a) If any person, after having been ordered to abate a public nuisance described in this article, fails, neglects or refuses to abate or remove the condition constituting the nuisance ~~within ten days from receipt of~~ by the date specified in the notice of violation, the ~~code administrator~~ City shall cause the condition to be removed or otherwise remedied by having employees of the city or a private contractor hired by the city to go upon such premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the ~~city manager~~ Chief of Police or his designee. The cost of abatement shall be paid by the property owner.
- (b) Any person who has been ordered to abate a public nuisance may, within the time allowed by this article, request the city in writing to remove such condition causing the nuisance, the cost of which shall be paid by the person making the request.
- (c) In the event the costs for abatement are not paid within 30 days after receipt of the statement of charges, such charges may be recovered by the city in a civil action in the nature of debt or may become a lien against the real property upon which such costs are incurred. The amount of the lien shall be added to the tax roll, or it shall become a lien against the property the same as taxes.

Sec. 12-18. Second and subsequent violations.

Upon second and subsequent violations of this article within a calendar year of the notice of violation, no notice of the violation as required in this article shall be given, and the city, through its agent and employees, may enter upon such lots or premises and remedy such violations, and the cost and expense thereof shall be paid by the owner, lessee, occupant or agent. ~~In the event such charges are not paid within 30 days after receipt of the statement of charges, such charges shall become a lien against the real property upon which such costs are incurred. The amount of such lien shall be added to the tax roll, or it shall become a lien against the property the same as taxes.~~

Sec. 12-19. Civil and Criminal penalties provided.

- ~~(a) A violation of any provision of this article shall constitute a misdemeanor punishable as provided in this article or as a civil penalty as set forth below.~~
- ~~(b)~~ A violation of any provisions of this article ~~shall~~ may subject the offender to ~~a civil and criminal penalties as stated in Chapter 1, Section 15 of this Code. in the amount of \$50.00.~~ No penalty shall be imposed if the offender abates the nuisance within the prescribed time or requests the city to abate the nuisance as allowed in this article. If the offender does not abate the nuisance within the prescribed time period, the penalty may be imposed for each day the nuisance remains after the notice of violation was given and terminating on the date the nuisance was abated by the city.
- ~~(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 72 hours of its receipt by the offender.~~
- ~~(d) The penalty may be recovered by the city in a civil action in the nature of debt if the offender does not pay the penalty or within the prescribed period of time after he has been issued a citation.~~

Sec. 12-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned vehicle or abandoned motor vehicle shall mean a vehicle which:

- (1) Has been left upon a street or highway within the city in violation of a law or ordinance prohibiting parking for a period of 24 hours; or
- (2) Fails to display a current license plate; or
- (3) Is partially dismantled or wrecked; or
- (4) Is incapable of self-propulsion or of being moved in the manner for which it was originally intended; or
- (5) Is left on property owned or operated by the city for a period of not less than 24 hours; or
- (6) Is left on private property without the consent of the owner, occupant or lessee thereof for a period of not less than two hours; or
- (7) Is left on any public street or highway within the city for a period of not less than ~~seven days~~ 48 hours.

Junk motor vehicle shall mean a vehicle found to be an abandoned motor vehicle and, in addition, is found to be inoperable, or dismantled or damaged, or five years old or older, and worth less than ~~\$100.00~~ \$500.00.

Vehicle or motor vehicle shall mean all machines designed to be self-propelled or pulled and intended to travel along the ground or water by means of wheels, treads, runners, ~~or~~ slides, or propeller.

Sec. 12-27. Exceptions.

Nothing in this article shall apply to any vehicle in an enclosed building or vehicle on the premises of a business enterprise being operated in a lawful place and manner and the vehicle being necessary to the operation of such business enterprise, including any vehicle lawfully located on premises being lawfully used in conducting an active junkyard, automobile graveyard or garage business, or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city.

A maximum of one junked motor vehicle of a singular model and year maybe located in the rear yard if the junked motor vehicle is entirely concealed from public view by an approved motor vehicle cover. The approved motor vehicle cover must remain in good repair and must not be allowed to deteriorate.

Sec. 12-28. Declared to be a health or safety hazard.

Any partially dismantled or wrecked vehicle, vehicle which is incapable of self-propulsion or being moved in the manner for which it was originally intended, vehicle left on private property without the consent of the owner, occupant or lessee thereof, or any junk motor vehicle is declared to be an attractive nuisance for children, a breeding place for rats and vermin, and a potential fire hazard. ~~and a source of fire and explosions~~. All vehicles abandoned upon privately owned property, which have been abandoned for as long as 30 days are declared to constitute a health and safety hazard.

Sec. 12-31. Removal from private property.

- (a) Before any vehicle may be removed by the city from private property pursuant to the provisions of section 12-28, the owner of the real property on which any such vehicle is located must be given at least five days' written notice from the City of the vehicle removal. The owner may request in writing that the Chief of Police or his designee review the determination that the vehicle to be removed is in violation of the ordinance. Such a request shall follow the procedures outlined in Sec. 12-14 for nuisances. ~~of a hearing before the city council. At such hearing the council shall hear and consider all objections and protests, if any, to the proposed removal by the city of the vehicle in question and shall adopt a resolution pertaining thereto.~~
- (b) Any vehicle abandoned on privately owned property within the city may be removed there from for safekeeping by or under the direction of the city manager, the department of planning and community development, ~~or the department of public works,~~ or the Police Department to a storage garage or area. No such vehicle shall be removed from privately owned premises without the written request of the owner, lessee or occupant of the premises on which the vehicle is located unless the vehicle has had the status of an abandoned vehicle on such privately owned premises for as long as 30 days and has, therefore, become a health and safety hazard in accordance with the declaration of the council as set out in section 12-28. When a vehicle is removed from privately owned property at the request of a person, the person at whose request such vehicle is moved shall indemnify the city against loss or expense incurred by reason of removal, storage or sale thereof.

Sec. 12-32. Notice of removal.

Written notice of each removal of a junked or abandoned car shall be given promptly by mail to the registered owner of such vehicle. Such notice shall be sent to any lienholder of the vehicle and to the owner's last known address as listed with the department of motor vehicles, or if the address or owner is unknown, notice shall be by publication in a newspaper of general circulation in the city.

Sec. 12-33. Costs; reclamation.

~~All reasonable costs and expenses incurred by the city in connection with the removal, storage, locating the owner, or efforts to locate the owner shall be paid by the owner of any abandoned vehicle which has been removed. by the city. The owner of any such abandoned and removed motor vehicle may reclaim his vehicle during the applicable retention periods prescribed in this article by exhibiting proof of ownership to the department of planning and community development and paying to the city all reasonable costs incidental to the removal and storage of the vehicle and administrative expenses.~~

Sec. 12-34. Sale of abandoned vehicles.

~~If the owner of any abandoned vehicle which has been removed by the city fails or refuses to pay the costs incidental to the removal, storage and locating the owner of a vehicle or if the identity or whereabouts of the owner is unknown and unascertainable after a diligent search has been made, and after notice to him at his last known address and to the holder of any liens of record in the office of the department of motor vehicles against the vehicle, the property control officer shall, after the vehicle has been held by the city for 30 days and after the value of the vehicle has been determined by three disinterested dealers or garagemen, and after 20 days' notice has been given to the department of motor vehicles before the date of sale, dispose of the same by public or private sale or by other means serving the best interest of the city in the discretion of the city manager or his representative. The proceeds of the sale shall be forwarded to the city's finance officer. The finance officer shall pay from the proceeds of any~~

~~sale the cost of removal, storage, investigation as to ownership and sale, and liens in that order. If, after the sale, the ownership of any vehicle at the time of its removal is established satisfactorily to the department of planning and community development by the person claiming such ownership, the owner shall be paid by the city so much of proceeds from the sale of such vehicle as remains after paying the costs of removal, storage, investigation as to ownership and sale and any liens as statute or ordinance requires. If the ownership of a vehicle is not so established, any proceeds remaining after the payment of costs of removal, storage, investigation as to ownership and sale, and liens, shall be deposited to the general fund of the city. Any vehicle which is offered for sale and on which no bid or offer is made, may after notice and in lieu of sale thereof, be scrapped, burned or otherwise disposed of by the department of planning and community development in any manner they shall deem most appropriate and in the best interest of the city.~~

Sec. 12-35. Sale of junk motor vehicles.

~~Any junk motor vehicle removed under the authority of this article shall be held at least 15 days. The value of every such vehicle shall be determined by three disinterested dealers or garagemen as soon as feasible after removal to the city's storage area or garage. If, after holding the junk motor vehicle for 15 days, it remains unclaimed, the vehicle shall be destroyed, sold at public or private sale or otherwise disposed of as the city shall deem to be most appropriate and in the best interest of the city. Any proceeds derived from the disposition of junk motor vehicles shall be deposited into the general fund of the city. Notice shall be given by the property control officer within 15 days after final disposition of a junk motor vehicle to the department of motor vehicles, that such vehicle has been deemed to be a junk motor vehicle and has been disposed of as such. The notice shall contain as full and accurate a description of the vehicle as can be reasonably determined.~~

Sec. 12-38. Violation.

~~Any person violating, failing, refusing, or neglecting to comply with any provisions of this article shall be assessed a fee for each day during which such violation continues.~~

Secs. 12-39—12-55. Reserved.

ARTICLE IV. WEEDS

Sec. 12-56. Control near streets.

~~No person having control of any occupied lot or any part thereof in the city shall permit or maintain on any such lot, or on or along the sidewalk or street adjacent to the same between the property line and the curb or middle of the alley, or for ten feet outside the property line if there is no curb, any growth of weeds, grass or other rank vegetation that would be dangerous or prejudicial to the public health, or an accumulation of dead weeds, grass or brush. No person shall cause, suffer or allow poison ivy, ragweed or other poisonous or detrimental plants to grow on any such lot or land so that any part of such ivy, ragweed or other poisonous or harmful weed shall extend upon, cover, overhang or border any public place.~~

Sec. 12-57. Trees and plants along streets and sidewalks.

~~No person shall plant or maintain any hedge, shrubbery, tree or plant along any street, alley or sidewalk closer than 18 inches to such street, alley or sidewalk, or to permit the same to extend closer than 12~~

~~inches to any street, alley, or sidewalk, or lower than 14 1/2 feet above the street, alley, or sidewalk. It shall further be unlawful for any person to allow, on his property, any of the above mentioned vegetation to grow in such a manner as to obscure clear vision for a distance of 15 feet from the intersection of one street with another.~~

~~Sec. 12-58. Cutting.~~

~~Every person owning or occupying any lot shall cut or cause to be cut and removed all weeds, grass or other rank, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of this article, provided, that cutting and removing such weeds, grass and vegetation shall be done at least three times annually, with the first cutting to be completed before April 1, the second cutting to be completed between May 1 and July 31, and the last cutting to be completed between August 1 and October 16 each year.~~

~~Sec. 12-59. Removal by city.~~

- ~~(a) Notice. If the provisions of this article are not complied with, the code administrator shall serve written notice upon the owner, lessee or occupant or any person having the care or control of any such lot to comply with the provisions of this article.~~
- ~~(b) Removal. If the person upon whom the notice is served fails, neglects or refuses to cut and remove or to cause to be cut and removed such weeds, grass or other vegetation within ten days after receiving such notice or if the owner or his representative cannot be found in the city, the director of public works shall cause such weeds, grass or other vegetation to be cut and removed.~~
- ~~(c) Cost. The actual cost of the cutting and removing such weeds, grass or other vegetation by the city, plus five percent for inspection and additional costs in connection therewith, shall be certified by the finance officer to be a lien upon the property upon which such weeds, grass and other vegetation were located. Such cost shall be added to the taxes next to be assessed and levied upon such lot, shall bear interest at the same rate as taxes and shall be collected and enforced by the same officer and in the same manner as taxes.~~

~~Sec. 12-60. Refusal or failure to comply; obstructing city officials.~~

~~No person shall neglect to cut and remove weeds, grass or other vegetation as directed in this article, shall fail, neglect or refuse to comply with the provisions of any notice provided by this article, or shall resist or obstruct the director of public works or his agents in the cutting and removal of weeds, grass or other vegetation.~~

SECTION 4. Appendix A of the Code of Ordinances, City of Lenoir, North Carolina, “Zoning” is hereby amended to read as follows:

ARTICLE IV. - DEFINITIONS

Zoning Inspector – Any agent of the Department of Planning and Community Development who is authorized by the director of the department to perform inspections and other general duties related to the enforcement of the Zoning Ordinance.

ARTICLE XII – ADMINISTRATION

1305 Complaints Regarding Violations

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written or verbal complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Planning Department. A representative of the Planning Department shall record properly such complaint, immediately investigate, and take action thereon as provided by this ordinance.

1307 Notification, Abatement, and Penalties for Violation

~~1307.1 Notification and Abatement-~~

Upon the determination that any provision of this ordinance is being violated, the ~~Code Enforcement Officer~~ Zoning Inspector shall send a written notice by registered mail to the person(s) responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Person(s) responsible for violations may include the owner and/or the occupant of the land on which the violation exists. Such notice shall provide time period for abatement, and shall state the penalties for noncompliance provided in ~~Section 1307.2. The provisions of Section 1307.1 through 1307.3 are adopted pursuant to N.C.G.S. 160A-175(e) and shall not constitute a misdemeanor or infraction pursuant to N.C.G.S. 14-4. Section 1-15 of the City of Lenoir code.~~

~~1307.2 Penalties-~~

~~Violation of any provision of this ordinance not corrected as provided in Section 1307.1 shall subject the person(s) responsible for such violation to a civil penalty in the amount of fifty dollars (\$50.00), to be recovered by the City in a civil action in the nature of debt if the person(s) responsible for such violation does not pay the penalty within a period of seventy two (72) hours after being cited. Citation shall be in writing, signed by the Code Enforcement Officer, and shall be delivered to the person(s) responsible for such violation either at their address of record according the county tax abstracts, residence, place of business,. The citation can also delivered in person to the place where the violation occurred, or through certified mail. or the place where the violation occurred.~~

~~1307.3 Continuing Violations-~~

~~Each day that a violation continues to exist seventy two (72) hours after issuance of the original citation shall constitute a separate and distinct offense without multiple citations being issued, and shall be subject additional civil penalties of fifty dollars (\$50.00) per day.~~

~~1307.4 Second and Subsequent Violations-~~

~~Upon second and subsequent violations of any provision of this ordinance, no notice of the violation as required in this article shall be given, provided an initial notice of violation has been issued for the same violation within the previous two (2) years. Second and subsequent violations of this ordinance shall subject the person(s) responsible for such violation to civil penalties as outlined in Section 1307.2 and 1307.3 of this ordinance.~~

1308 Appeal from the Decision of the Zoning Inspector Planning Department

~~—It is the intent of this ordinance that all questions arising in connection with the enforcement of the ordinance shall be presented first to the Planning Department and that such questions shall be presented to the Board of Adjustment only upon written appeal of the decision of the Planning Department. An appeal from any decision or order of the zoning inspector may be taken by any person aggrieved thereby. Any appeal from the inspector shall be taken within ten days from the rendering of the decision or notice of the order, and shall be taken by filing a notice of appeal with the Planning Department which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the zoning inspector shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the zoning inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the zoning inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing of the board, unless the inspector certifies to the board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate, a copy of which shall be furnished the appellant, a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the inspector, by the board, or by a court of record upon petition made pursuant to G.S. 160A-446(f) and the provisions of this article.~~

SECTION 5. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 6. CODIFICATION. The City Clerk shall cause the Code of Ordinances of Lenoir, North Carolina to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

SECTION 7. EFFECTIVE DATE. This ordinance takes effect upon adoption.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Lenoir, North Carolina, by the City Clerk of the City of Lenoir, North Carolina, this 7th day of March and this 14th day of March, 2014.

DONE, THE PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of the a majority of a quorum present of the City Council of the City of Lenoir, North Carolina, at a regular meeting, this 18th day of March, 2014.

BY THE MAYOR/MAYOR PRO TEMPORE OF THE CITY OF LENOIR, NORTH CAROLINA:

Mayor/Mayor Pro Tempore

ATTEST, BY THE CLERK OF THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA:

City Clerk

****[Remainder of page intentionally left blank.]****