



**ORDINANCE 20-**  
AMENDING THE CODE OF ORDINANCE  
OF THE CITY OF KINGS MOUNTAIN

**WHEREAS**, the City of Kings Mountain has previously adopted a Code of Ordinance which does provide for the regulation of community appearance and public nuisance for the promotion and protection of the health, safety and general welfare of the residents; and

**WHEREAS**, the Code Enforcement Department of the City of Kings Mountain has recommended an amendment to the Code of Ordinance, and more particularly that which modifies Chapter 154: Community Appearance Standards Code due to the fact that the administration and enforcement of this ordinance will be conducted by the Code Enforcement Department upon its adoption.

**NOW THEREFORE, BE IT ORDAINED** and established by the City Council of Kings Mountain, North Carolina, assembled in regular session this the **24<sup>th</sup>** day of **November, 2020**, as follows:

CHAPTER 154: COMMUNITY APPEARANCE STANDARDS CODE

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## GENERAL PROVISIONS

### § 154.01 PURPOSE

It is hereby found and determined that areas within the corporate limits of the city have need for a property maintenance code, because of the existence of conditions herein determined to be unlawful, constitute a visual blight and detriment upon the surrounding neighborhood and create substantial and unreasonable interferences with the reasonable and lawful use and enjoyment of other premises in the neighborhood, or the conditions inhibit property values, deter tourism, interfere with the public health, safety and general welfare or otherwise discourage the happiness, comfort and emotional stability of the citizenry.

### § 154.02 TITLE

This chapter shall be known as the "Community Appearance Standards Code of the City of Kings Mountain" and may be referred to as the "Community Appearance Code."

### § 154.03 DEPARTMENT OF COMMUNITY APPEARANCE STANDARDS

- (A) *General.* The Department of Community Appearance Standards is hereby created and the executive official in charge thereof shall be known as the Director of Code Enforcement.
- (B) *Deputies.* In accordance with the prescribed procedures of the city and with concurrence of the City Manager, the Director of Code Enforcement shall have the authority to appoint Code Enforcement Officers and other employees.
- (C) *Conflict of interest.* An official or employee connected with the enforcement of this code shall not be engaged in or directly connected with, the furnishings of labor, materials or appliances for the construction alteration or maintenance of a building or the premises or the preparation of construction documents thereof unless that person is the owner of the building; nor shall the officer or employee engage in any work that conflicts with official duties or with the interest of the Department.
- (D) *Liability.* An official or employee charged with the enforcement of this code, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties.

### § 154.04 ADMINISTRATION AND ENFORCEMENT

- (A) *General.* The Code Enforcement Officer shall enforce the provisions of this code, and is hereby authorized to use either city equipment or private contractors at his or her discretion.
- (B) *Right of entry.* Officers, employees or representatives of the city shall have the authority to enter upon property, to obtain an administrative search warrant if necessary, to issue a notice of violation, post a notice of violation on the premises, to issue a citation notice, to

enter upon or authorize an agent to enter upon and clean up the premises if there is no compliance with the notice of violation.

(C) *Interference with personnel.* It shall be unlawful for any person to interfere, harass or otherwise impede any city employee or agent carrying out official duties, when acting within the scope of official duties, or when the city employee or agent has authority to conduct an investigation under the authority of a lawfully issued administrative search warrant and when carrying out the enforcement of this code after notice of violation has been issued and the time for compliance has expired.

(D) *Responsibility of owners and agents.* The owner, agent, tenant, occupant and/or lessee of all residential, commercial, industrial, institutional or governmental establishments shall be responsible for compliance with this code.

## **§ 154.05 DEFINITIONS**

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

**CHRONIC VIOLATER.** A person who owns property whereupon, in the previous calendar year, the city took remedial action at least three times under any of its Community Appearance Standards Code.

**PUBLIC NUISANCE.** Anything that causes injury or damage to the health or life of any person, is a detriment to the surrounding property values or that causes an offensive odor.

**JUNK.** Any item which has a resale or salvage value or does not have a resale or salvage value including, but not limited to, dilapidated furniture, appliances, machinery, equipment, building materials, automobile parts, tires or other items which are either wholly or partially rusted, wrecked, junked, dismantled or in an inoperative condition.

**LITTER.** Any discarded materials including, but not limited to, garbage, rubbish, household trash, yard trash, refuse, can, bottle, box, container, wrapper, paper, paper product, tire, appliance, mechanical equipment or part, tool, machinery or equipment, wood, automobile parts, vessel, dead animals, solid waste materials, industrial materials and hazardous waste and other solid waste.

**OCCUPANT.** Any person who occupies a dwelling or building for seven or more consecutive days.

**OPEN SPACES.** Areas of properties or portions thereof that are open to the exterior, including building openings of residential dwelling units, such as carports and porches, and any other portion of properties ordinarily exposed to the outside or public view, including front, side and rear yards, driveways, parking areas, storage areas, bodies of water, sidewalks, curbs or rights-of way up to the edge of the pavement or gravel of any public street.

## *GENERAL STANDARDS REQUIREMENTS*

### **§ 154.20 CONDITIONS CONSTITUTING A PUBLIC NUISANCE**

It shall be unlawful for any person owning, occupying, possessing, or controlling any lot or parcel of land to have on such lot or parcel of land any of the following conditions which are hereby

declared to be noxious, dangerous, detrimental, and prejudicial to the public health and safety, and constitute a public nuisance:

- (A) Any uncontrolled growth of weeds, grasses or bushes to a height in excess of twelve (12) inches, causing or threatening to cause:
  - (1) The infestation by rats, mice, snakes, or vermin of any kind;
  - (2) A fire hazard; or
  - (3) A condition in which in any other way is detrimental to the public health, safety, or general welfare. This subsection shall not apply to areas which customarily have such growth in its natural condition, such as predominantly forested areas with numerous trees, or areas that consist of managed landscaped plantings, shrubs, or other cultivated and managed vegetation.
  - (4) Any litter which is scattered, discarded, cast, thrown, blown, placed, swept, or deposited in a persistent, continuous, or ongoing manner so as to accumulate in any open space. The owner or occupant of any property or dwelling unit shall exercise reasonable diligence at all times to keep the exterior of such property or dwelling unit clean of litter, and other used or wasted materials from being scattered, discarded, cast, thrown, blown, placed, swept, or deposited on such premises in a persistent, continuous, or ongoing manner, and shall prevent from drifting or blowing to adjoining premises any such matter by removing it or ensuring that the same is placed in approved refuse containers or other appropriate location for collection.
  - (5) Any concentration of unusable building materials, including but not limited to concrete, steel, and masonry, which is no longer suitable for building construction, alterations, or repair, and which is located in any open space.
  - (6) The accumulation, concentration, presence, storage, or placement in any open space of any junk, including but not limited to, furniture, appliances, machinery, equipment, building materials, motor vehicle parts, tires, or any other man-made items which are either in whole, or in part, wrecked, junked, deteriorated, worn out, dismantled, unusable, or inoperative.
  - (7) The open storage of any discarded freezer, refrigerator, stove, washer, dryer or any other type of household appliance.
  - (8) Any accumulation of animal or human waste, food 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.

- (9) 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.
- (B) Any accumulation of litter which is the result of overflowing or improperly closed trash or garbage containers.
- (C) Private sidewalks, walkways, stairs, driveways, parking areas and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions.
- (D) Fences, retaining walls, and similar landscape features shall be maintained in good structural condition and appearance and free from deterioration. Wooden or other fence features subject to deterioration or weathering shall be properly maintained to retard deterioration or provide protection from the weather. Deteriorated features shall be replaced, repaired or shall be completely removed.
- (E) Swimming pools, hot tubs and fountains shall be maintained in a clean and sanitary condition and in good repair.
- (F) Landscape pools and ponds shall be maintained in a condition so as to prevent noxious odors, breeding grounds for mosquitoes or refuge for snakes.

#### **§ 154.21 SWIMMING POOLS**

It shall be unlawful for the owner or occupant of property to fail to comply with the following provisions concerning private swimming pools.

(A) *Specific requirements.*

- (1) There shall be no cross-connection of the city water supply with any other source of water supply for the pool. The line from the city water supply to the pool shall be protected against backflow of water by means of an air gap and shall discharge at least six feet above the maximum high-water level of the makeup tank or pool.
- (2) The drain line for the pool may be connected to the city sewage disposal system if the following provisions are complied with:
  - (a) The pool drain shall be connected to the storm sewer if one is available;
- (3) Where a storm sewer is not available, the pool drain may be connected to a sanitary sewer or a combined sewer subject to the approval of the city; provided an air gap discharge connection is installed; and

- (b) The pool shall be kept free, at all times, of floating material, sediment and other debris either by an automatic surface skimmer, scum gutter or by some other approved means.
- (B) *Barrier.* Existing swimming pools shall be enclosed by a barrier which shall be at least four feet in height and which shall be of a type not readily climbable by children. The gates of the barrier shall be of a self-closing and latching type with the latch not readily available for children to open. However, this provision may be waived by the Codes Enforcement Officer for above ground pools or if the entire premises of the property are enclosed by a barrier. New constructed swimming pools and barriers shall comply with the most current state building code.
- (C) *Lighting.* Maintaining lights in and around swimming pools shall be so erected, installed and shielded as to eliminate rays and minimize reflected rays upon adjoining premises.
- (D) *General authority to make inspections of pools.* The County Health Department and the City Codes Enforcement Officer shall have the right, at any reasonable hour, to inspect any swimming pool for the purpose of determining that all provisions of this code are fulfilled and complied with.
- (E) *Water Department to regulate filling.* The city may regulate the hours for the filling of swimming pools as well as prohibit the filling of any pool during a water shortage or restriction.
- (F) *Drainage regulated.* No swimming pool shall be drained during periods of rainfall, nor shall any pool be drained in a manner which causes the drained water to flow onto another's property.

#### **§ 154.22 METHODS OF SERVICE**

Notices, citations or any other documents issued by the Code Enforcement Officer pursuant to this code shall be served upon persons either personally, by certified mail, or by posting on the property in conjunction with first class mail. Service shall be deemed sufficient if the first-class mail is returned and notice of violation was posted in a conspicuous place on the property affected on the day the first-class mail was sent. If the names or addresses of any owners cannot be ascertained, notice of violation shall be given by posting in a conspicuous place on the premises affected by the notice.

#### **§ 154.23 ENFORCEMENT AND ABATEMENT PROCEDURES.**

When any public nuisance as set out in §154.20 or §154.21 is found to exist on any property within the corporate limits of the city, the following procedures shall be followed:

- (A) *Notice of violation.* A written notice of violation shall be served to the owner and occupant of the property. The notice shall state the condition constituting such public nuisance and

shall order the prompt abatement of the condition within a specified time. It shall be unlawful for any person, upon receipt of the notice of violation to fail to comply within the time specified on the notice. Should an owner or occupant be deemed a chronic violator, as defined by this code, then only one initial annual notice within the next calendar year is required to be served.

(B) *Posting of notice.* The property may be posted by the Code Enforcement Officer on the date of the notice of violation in a prominent location on the street facing façade of any building or yard, with a placard or other appropriate means of notice declaring the property is a public nuisance property.

(C) *Failure to comply.* If the owner or occupant having been ordered to abate a public nuisance, fails, neglects, or refuses to abate or remove the condition constituting the nuisance within the time specified on the notice of violation, the Code Enforcement Officer shall cause the condition to be removed or otherwise abated by one of the following courses of action.

(1) The Codes Enforcement Officer shall cause the condition to be removed or otherwise abated by city personnel or private contractor designated by the Code Enforcement Officer.

(2) The city may apply to the appropriate court for an injunction and order of abatement which would require that the owner or occupant correct any unlawful condition relating to this code on the person's property.

(D) *Citations.* Enforcement officers are empowered to issue citations to the owner or occupant of any property in violation of this code. A civil penalty of \$50.00 will be charged for each day a violation continues to exist after the issuance of a citation notice and will continue to accumulate until compliance and abatement has occurred. The civil penalty will be waived if the violation is corrected within the time specified on the citation notice. If the violation is not corrected within the time specified on the citation notice, the civil penalty shall be paid within thirty (30) days after the issue date of a statement of charges. The city may take one of the following courses of action to collect an unpaid civil penalty.

(1) The city may turn the bill over to a collection agency as provided by the authority of the city.

(2) A lien may be levied against the property owner for the cost of the citation fee as provided by the authority of the city.

#### **§ 154.24 COST OF ABATEMENT.**

(A) The actual cost incurred by the city in abating any public nuisance shall be charged to the owner and/or occupant of the property where the abatement occurred.

(B) If the charges for the abatement of a public nuisance are not paid within thirty (30) days after the issue date of a statement of charges, the city may take one of the following course of action to collect the cost incurred by the city for abatement.

(1) The city may turn the bill over to a collection agency as provided by the authority of the city.

(2) A lien may be levied against the property owner for the cost of the citation fee as provided by the authority of the city and any other charges incurred by the city for enforcement of the ordinance and/or abatement violation(s).