

CHAPTER 154: COMMUNITY APPEARANCE STANDARDS CODE

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§ 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 ADMINISTRATION AND ENFORCEMENT

- (A) *General.* The Community Appearance Standards Code is hereby created and the executive in charge thereof shall be known as the Director of Inspections and Codes.
- (B) *Officers.* In accordance with the prescribed procedures of the city and with concurrence of the City Manager, the Director of Inspections and Codes shall have the authority to appoint Code Enforcement Officers. 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.
- (C) *Liability.* A Code Enforcement Officer 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.
- (D) *Right of entry.* Code Enforcement Officers shall have the authority to enter upon property, to obtain an administrative inspection warrant if necessary, to issue a notice of violation, post

a notice of violation on the premises, to issue a citation, to enter upon or authorize an agent to enter upon and abate the premises if there is non compliance with the notice of violation.

(E) *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 inspection warrant and when carrying out the enforcement of this code after notice of violation has been issued and the time for compliance has expired.

(F) *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.

§ 154.04 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.

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 waste, refuse, can, bottle, box, container, wrapper, 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.

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 right-of ways up to the edge of the pavement or gravel of any public street.

PUBLIC NUISANCE. A condition on a property that creates a visual blight, substantial and unreasonable interferences with the reasonable and lawful use and enjoyment of a property, inhibits property values, deters tourism, or interferes with the public health, safety and general welfare of the citizenry.

REASONABLE EFFORT. Search of available resources provided by the county such as: Register of Deeds land records, property tax records or GIS.

YARD WASTE. Grass, weeds, leaves, tree trimmings, plants, shrubbery pruning's, and such other similar materials which are generated in the maintenance of yards and gardens.

§ 154.05 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 detrimental to the public health, safety, or general welfare and constitute a public nuisance:

- (1) Any uncontrolled growth of weeds, grasses or bushes to a height in excess of twelve (12) inches, causing or threatening to cause:
 - (a) The infestation by rats, mice, snakes, or vermin of any kind;
 - (b) Encroachment upon sidewalks, driveways, or the curb or edge of pavement of any abutting street;
 - (c) A fire hazard; or
 - (d) 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.

- (2) Any uncontrolled growth of vines, kudzu, honeysuckle or any other vegetation, causing or threatening to cause:
 - (a) The infestation of rats, mice, snakes, or vermin of any kind;
 - (b) Encroachment upon sidewalks, driveways, curb or edge of pavement of any abutting street, adjoining properties, buildings, structures, or fences;
 - (c) A fire hazard; or
 - (d) 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.

- (3) 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.

- (4) 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.

- (5) 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.

- (6) The open storage of any discarded freezer, refrigerator, stove, washer, dryer or any other type of household appliance.
- (7) 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.
- (8) 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.
- (9) Any accumulation of litter which is the result of overflowing or improperly closed trash or garbage containers.
- (10) 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.
- (11) 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.
- (12) Swimming pools, hot tubs and fountains shall:
 - (a) Be maintained in a clean and sanitary condition and in good repair;
 - (b) Shall not create a breeding grounds for mosquitoes; and
 - (c) 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.
- (13) Landscape pools and ponds shall be maintained in a condition so as to prevent noxious odors, breeding grounds for mosquitoes or refuge for snakes.
- (14) Any tree or tree limb which have fallen due to an act of nature or have been cut which is located in a front or side yard of a residential lot.
- (15) Any concentration of firewood or logs in any open space not free from rot and decay.

§ 154.06 APPEAL.

An owner may request a hearing before the City Manager or his/her designee to appeal the finding of the Code Enforcement Officer that a public nuisance as defined in section 154.04 exists on the property. The request for a hearing must be in writing and must be filed in the office of the City Clerk within ten (10) calendar days after the issue date of a notice of violation. The City Manager shall fix a time for the hearing and the initial notice of violation shall be temporarily suspended pending such

hearing. The hearing must be held by the City Manager or his/her designee within fifteen (15) calendar days following receipt of the request for hearing. At the hearing, the individual affected by the notice of violation shall be given the opportunity to present evidence to refute the findings which supported the notice of violation. Upon completion of the hearing, the City Manager or his/her designee shall consider the evidence and shall either revoke the initial order, issue a final order which differs from the initial order, or reinstate the initial order as a final abatement order.

§ 154.07 METHODS OF SERVICE

- (A) Notice of violations and citations 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 by reasonable effort, notice of violation shall be given by posting in a conspicuous place on the premises affected by the notice.
- (B) Statement of charges for cost incurred by the city for abatement, civil penalty assessments and appeal decisions shall be served upon persons personally or by first class mail. Service shall be deemed sufficient if the first class mail is not returned by the post office within ten (10) calendar days after the mailing.

§ 154.08 ENFORCEMENT AND ABATEMENT PROCEDURES.

When any public nuisance as set out in §154.05 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 of the property. The notice shall state the condition constituting such public nuisance and shall order the conditions to be abated 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 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 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 correct any unlawful condition relating to this code on the person's property.

(D) *Citations.* Code Enforcement Officers are empowered to issue citations to the owner 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 and will continue to accumulate until compliance and abatement has occurred up to a maximum penalty of \$500.00. The civil penalty will be waived if the violation is corrected within the time specified on the citation. If the violation is not corrected within the time specified on the citation, the civil penalty shall be paid within thirty (30) calendar 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 institute a civil action in the nature of debt in the appropriate division of the General Court of Justice for the collection of the civil penalty, attorney fees, and such other relief as provided in N.C.G.S. 160A-175.

(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.

§ 154.09 COST OF ABATEMENT.

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

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

(1) The city may institute a civil action in the nature of debt in the appropriate division of the General Court of Justice for the collection of the cost incurred by the city for abatement, attorney fees, and such other relief as provided in N.C.G.S. 160A-175.

(2) A lien may be levied against the property owner for the cost incurred by the city for enforcement of this chapter and/or abatement of violation(s).