

Sec. 20-21. - NUISANCES PROHIBITED AND ENUMERATION.

Any of the following enumerated and described conditions occurring in an open place 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 Town of Roseboro 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.

- (a) Any condition which creates or provides a breeding ground or harbor for rodents, harmful insects, or other pests.
- (b) A place of dense growth of weeds or grasses, other than ornamental grasses, over twelve (12) inches in height, which:
 - (1) Lies less than one hundred (100) feet from any abutting open street, or
 - (2) Lies less than one hundred (100) feet from any adjoining property which contains a dwelling or commercial building; or
 - (3) Lies within fifty (50) feet of any dwelling or commercial building; or
 - (4) Is a focal point for any other nuisance enumerated in this ordinance.
- (c) A place of shrubs or other similar vegetation over twelve (12) inches in height when any of such shrubs or vegetation is:
 - (1) Encroaching upon the sidewalk, the parkway, or the curb or edge of the pavement of any abutting street, or
 - (2) A focal point for any other nuisance enumerated in this ordinance.
- (d) A place of vines including, but not limited to, honeysuckle or vegetation when any of such vines or vegetation is:
 - (1) Encroaching upon the sidewalk, the parkway, or the curb or edge of the pavement of any abutting street, or
 - (2) Encroaching upon any adjoining property, or
 - (3) A focal point for any other nuisance enumerated in this ordinance.
- (e) A concentrated growth of kudzu, poison sumac, poison ivy, poison oak, or other noxious vegetation unless said vegetation is fully contained in a heavily wooded area.
- (f) A collection or ponding of stagnant water with conditions causing, or likely to cause, mosquitoes or other harmful insects to breed.
- (g) Any concentration of combustible refuse.
- (h) Any concentration of building materials or building rubbish which are not suitable for building construction, alteration or repair, or any concentration of building materials which become a focal point for any other nuisance enumerated in this ordinance.
- (i) Any concentration of collection of garbage, animal waste, yard waste, or any rotten or putrescible matter of any kind which is not maintained for collection; however, nothing in this subsection shall be construed to prevent the generally accepted use of a properly maintained compost pile sited in the side or rear yard area being used for fertilizer for lawns and gardens and for other agricultural or horticultural purposes.
- (j) Household or office furniture, any household fixtures, white goods or other appliances, metal products of any kind and similar items not designed to withstand the elements or for outdoor use. This subsection shall not prevent:
 - (1) The use of household furniture on a totally enclosed porch having a roof, walls, screens, or glass windows; or

- (2) The use of furniture in good condition which is designed for outdoor use such as patio or lawn furniture, on porches or landings or in yard areas or other open places.
- (k) Any junk or any concentration of litter.
- (l) Flooding caused by improper or inadequate drainage from private property which interferes with the use of, or endangers in any way, the streets, sidewalks, parks or other Town of Roseboro-owned property of any kind provided that such determination shall be made by the Department of Public Works.
- (m) Any condition including, but not limited to stumps, brush, junk, litter, or other materials within or along the banks of such stream or drainage which blocks or obstructs the natural flow of a stream, creek, or defined ditches or drains to the extent that impounded water is outside the banks of such stream or drainage.
- (n) Any collection of stagnant water for which no adequate drainage is provided and which is, or is likely to become, a nuisance.
- (o) Any stormwater retention or impoundment device determined to be operating improperly by the Department of Public Works.
- (p) Any condition whereby any person owning or having the legal control of any land within the corporate limits of the Town of Roseboro maintains or permits upon any such land any fence, sign, billboard, shrubbery, bush, tree, mailbox, or other object or combination of objects which obstructs the view of motorists using any street, private driveway, or approach to any street intersection adjacent to and abutting such land so as to constitute a traffic hazard as a condition dangerous to public safety upon any such street, private driveway, or at any such street intersection.
- (q) Nuisance vehicle violation as defined by this ordinance.
- (r) A concentration of firewood or logs when:
 - (1) Such firewood or logs are not free from rot and decay, or
 - (2) Such concentration of logs is a focal point for any other nuisance in this ordinance.
- (s) Any tree or tree limb or any concentration of branches which have fallen due to an act of nature or have been cut, except in a heavily wooded lot or a maintained natural protective yard unless such tree or tree limb or concentration of branches becomes a focal point for any other nuisance in this ordinance.
- (t) Any unhealthy plant or tree which has not been removed or altered within fifteen (15) days of the notice of such determination from the Department of Public Works.
- (u) Any other condition specifically declared to be a danger to the public health, safety, morals, and general welfare of inhabitants of the Town of Roseboro and public nuisance by the Town Board.

Sec. 20-22. NUISANCE OFFICER.

The Board of the Town of Roseboro shall appoint a Nuisance Officer to carry out duties set out herein. Said Nuisance Officer shall be appointed to a two-year term. There shall be no limit on the number of terms said Nuisance Officer may serve if so appointed by the Board. In the event of a vacancy, the Board shall appoint a Substitute Nuisance Officer to fill out the term left by the vacancy. The main job of the Nuisance Officer shall be to address complaints of alleged nuisances. As such, all investigations by the Nuisance Officer must begin with a condition about which a citizen has complained.

Sec. 20-23. - NUISANCE ABATEMENT PROCEDURES.

When any public nuisance as set out in Sec. 20-21 is found by the Nuisance Officer to exist on any property, including rights-of-way and easements within the Town of Roseboro the following procedures shall be followed:

- (a) The Town of Roseboro shall notify the owner of the premises where the nuisance is located that:

1. The conditions identified in the notice of violation exist which constitute a public nuisance;
2. The ordinance provision(s) identified by ordinance section number are violated by the stated conditions on the property;
3. The Town of Roseboro will assess civil penalties for second and subsequent notice of violation of the Nuisance Code provisions occurring within twelve (12) months of the first such notice of violation as set forth in 20-24 below. There shall be no civil penalty for the first nuisance violation in a twelve (12) month period.
4. The property may have been posted on the date of the nuisance notice of violation in a prominent location on the street facing facade of any building with a placard or other appropriate means of notice declaring the property is a public nuisance property;
5. Unless the public nuisance is abated within fifteen (15) calendar days from the mailing of the notice, the Town of Roseboro may in its discretion initiate the procedures to abate the conditions constituting a nuisance;
6. The cost of abatement shall constitute a lien against the premises collectable in the same manner as property taxes.
7. The owner of the premises has the right to appeal the determination to the Town Board and stay any action until a ruling by the Town Board. Any such appeal must be done in writing at Town Hall within fifteen (15) days of the notice.

The Town of Roseboro shall make, and may from time to time alter and amend, guidelines to be used by the Nuisance Officer in the implementation of the procedures to be used for posting nuisance notices of violation. The Town of Roseboro, to the extent required by law, shall make application for and obtain any permit required prior to undertaking the activities to abate the nuisance:

- (b) The designees of the Town are hereby given full power and authority to enter upon the premises involved for the purpose of posting the property as a public nuisance and of abating the nuisance found to exist as herein set out. Within the fifteen-day period mentioned in subsection (a) hereof the owner of the property where the nuisance exists may appeal (a) hereof to the Town Board by giving written notice of appeal to the Town of Roseboro, the appeal will stay the abatement of the nuisances by the Town of Roseboro until a final determination by the Town Board. In the event no appeal is taken, the Town of Roseboro may proceed to abate the nuisance.
- (c) The Town Board in the event an appeal is taken as provided in subsection (b) hereof may, after hearing all interested persons and reviewing the original documentation, reverse the finding made pursuant to subsection (a) hereof; but if the Town Board shall determine that a nuisance exists it shall enter an order specifically declaring 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 Town of Roseboro and a public nuisance and directing the Town of Roseboro to cause the conditions to be abated.
- (d) After the abatement of the nuisance as provided in subsection (a), (b) or (c) hereof the cost of such abatement shall become a lien against the premises upon confirmation of the cost thereof by the Town Board, which said confirmation shall take place only after fifteen (15) days' written notice to the owner of the premises where the nuisance existed of the proposed confirmation. All other project costs, including the full labor costs, permit fees, and engineering and design costs of the project shall also be assessed to the owner. Upon confirmation the cost of abatement shall be a lien against the premises from which the nuisance was abated the same to be recorded as provided in G.S. 160A-216 et seq. and to be collected as unpaid taxes.

Sec. 20-24. - CIVIL PENALTY.

- (a) Any owner of a property within the Town of Roseboro notified pursuant this ordinance that the property is a public nuisance, upon the issuance of the second nuisance notice of violation within twelve (12) months of the first nuisance notice of violation, be subject to a civil penalty of one hundred dollars (\$100.00). For each subsequent nuisance notice of violation occurring prior to the

expiration of a twelve (12) month period following issuance of the first nuisance notice of violation, the owner shall be subject to a civil penalty of two hundred fifty dollars (\$250.00).

If a person fails to pay the civil penalty within thirty (30) days after being notified of the amount due, the Town of Roseboro may if it elects to do so recover the penalty together with all court costs including attorneys' fees by filing a civil action in the general court of justice in the nature of a suit to collect a debt.

- (b) An appeal of a civil penalty must be filed in writing with the Town of Roseboro within fifteen (15) days after service of the written demand for payment. The written appeal shall provide the reasons the petitioner contends that the civil penalty was wrongly applied and any supporting documentation.

Sec. 20-25. - METHODS OF SERVICE.

- (a) Nuisance notices of violation issued by the Town shall be served upon persons personally, by first-class mail to the record owner according to tax records at the address listed with the tax office, or by posting on the property in conjunction with first-class mail. Service shall be deemed sufficient if the first-class mail is not returned by the post office within fifteen (15) days after the mailing. Service by posting shall be deemed sufficient if the first-class mail is returned and notice of the pending proceedings was posted in a conspicuous place on the property affected on the day the first-class mail notice was sent. Said notice shall state the nature of the nuisance, the corrective action needed to abate it, and the right to an appeal.
- (b) Abatement notices, assessments of civil penalties and administrative fees, 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 fifteen (15) days after the mailing.

Sec. 20-26. - APPEALS OF CIVIL PENALTY ASSESSMENTS AND ADMINISTRATIVE FEES.

- (a) Any person assessed a civil penalty or an administrative fee may appeal by filing a written notice of appeal with the Town of Roseboro within fifteen (15) days after service of the written demand for payment of the assessment. The written appeal shall provide the reasons the petitioner contends that the administrative fee was wrongly applied and any supporting documentation. Failure to file a notice of appeal within this time period shall constitute a waiver of the right to contest the civil penalty or the administrative fee.
- (b) If the determination by the Nuisance Officer is appealed, the Town shall schedule the appeal for determination by the Town Board. The Town Board shall fix a reasonable time for the hearing of an appeal, shall give due notice of such hearing to the petitioner and the Town Board, and shall render its decision in a reasonable time.
- (c) The Town Board's decision on a civil penalty appeal is subject to further review in the superior court of the county by proceedings in the nature of certiorari. Any petition for writ of certiorari shall be filed with the clerk of superior court within thirty (30) days after the date that the Town Board's decision is issued.

Sec. 20-27. REMOVAL AND DISPOSITION OF ABANDONED AND NUISANCE MOTOR VEHICLES.

The Sampson County Sheriff's Office shall have the power to administer and enforce this chapter on behalf of and at the direction of the Town of Roseboro. The Sampson County Sheriff's Office may administer the removal and disposition of vehicles determined to be "abandoned" on the public streets and highways within the Town of Roseboro, and property owned by the Town. The Town of Roseboro may in its discretion be responsible for administering the removal and disposition of "abandoned" and "nuisance" vehicles located on private property. The Town of Roseboro may contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles and nuisance vehicles in compliance with this chapter and applicable state laws. Nothing in this chapter shall be construed to limit the legal authority or powers of officers of law enforcement in enforcing other laws or in otherwise carrying out their duties.

Sec. 20-28. - DEFINITIONS.

For purposes of this chapter, certain words and terms are defined as follows:

(a) Abandoned vehicle.

An abandoned motor vehicle is one that is:

- (1) Left upon a public street or highway in violation of a law or ordinance prohibiting parking; or
- (2) Left on a public street or highway for longer than seven (7) days; or
- (3) Left on property owned or operated by the Town of Roseboro for longer than twenty-four (24) hours; or
- (4) Left on private property without the consent of the owner, occupant, or lessee thereof, for longer than two (2) hours.

(b) Authorizing official.

The supervisory employee of the Sampson County Sheriff's Office or the Town of Roseboro, respectively, designated to authorize the removal of vehicles under the provisions of this chapter.

(c) Motor vehicle or vehicle.

A machine designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

(d) Nuisance vehicle.

A motor 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:

- (1) A breeding ground or harbor for mosquitoes or other insects or a breeding ground or harbor for rats or other pests; or
- (2) A point of heavy growth of weeds or other noxious vegetation over eight (8) inches in height; or
- (3) A point of collection of pools or ponds of water; or
- (4) A point of concentration of combustible items such as gasoline, oil, other flammable or explosive materials including but not limited to boxes, paper, old clothes, rags, refuse, or any other combustible materials or objects of a like nature; or
- (5) One which has parts thereof which may fall and injure members of the public or one which may have parts which fall or be closed and become an area of confinement which may not be released for opening from the inside; or
- (6) One which is so situated and located that there is a danger of the vehicle falling, rolling, turning over, or creating an unsafe movement such as unattended, blocked or jacked vehicles; or
- (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind; or
- (8) One which has parts thereof which are jagged or contain sharp edges of metal or glass; or
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Town Board.

(e) Non-consensual towing.

Non-consensual towing means motor vehicle towing performed by a tow truck if such transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle. This definition shall not include non-consensual tows that occur at the direction of the Sampson

County Sheriff's Office or the Town of Roseboro as a result of a vehicle seizure or repossession by a lien holder.

Sec. 20-29. - ABANDONED VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned as the term is defined herein.

Upon investigation, the Nuisance Officer may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

Sec. 20-30. - NUISANCE VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.

Upon investigation, the Nuisance Officer may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed.

Sec. 20-31. - REMOVAL OF ABANDONED OR NUISANCE VEHICLES; PRE-TOWING NOTICE REQUIREMENTS.

Except as set forth in Sec. 20-33 below, a vehicle to be removed because it has been abandoned or declared to be a nuisance vehicle shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In such instances, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the Town of Roseboro on a specified date (no sooner than seven (7) days after the notice is affixed), unless the vehicle is moved by the owner or legal possessor prior to this time. This notice shall also state that the owner or legal possessor of the vehicle has a right to appeal the determination that the vehicle is abandoned or a nuisance vehicle for a determination of that classification by the Town Board and give instructions on how to do so. Said notice shall also be mailed to the owner of the vehicle, if known, and to the owner of the property on which the vehicle is located.

With respect to abandoned vehicles on private property and nuisance vehicles, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned or a nuisance vehicle, such appeal shall be made to the Town Board at Town Hall in writing, the appeal will be heard at a meeting of the Town Board, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

Sec. 20-32. - EXCEPTIONS TO PRIOR NOTICE REQUIREMENT.

The requirement that notice be affixed to an abandoned or nuisance vehicle at least seven (7) days prior to removal may, as determined by the authorizing official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice include:

(a) Vehicles abandoned on the streets.

For vehicles left on the public streets and highways such circumstances include, and the Town Board hereby determines, that immediate removal of such vehicles may be warranted when they are:

- (1) Obstructing traffic,
- (2) Parked in a no-stopping or standing zone,
- (3) Parked in loading zones,

- (4) Parked in bus zones,
- (5) Parked in violation of temporary parking restrictions imposed under the laws of the State or ordinances of the Town of Roseboro.

(b) Other abandoned or nuisance vehicles.

With respect to abandoned or nuisance vehicles left on the Town of Roseboro-owned property other than the streets and highways, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety, and welfare. By way of illustration but not limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

Sec. 20-33. - REMOVAL OF VEHICLES; POST-TOWING NOTICE REQUIREMENTS.

Any vehicle which has been determined to be an abandoned or a nuisance vehicle may, as directed by the Town of Roseboro, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the Town. Whenever such a vehicle is removed, the Town of Roseboro shall immediately notify the last known registered owner of the vehicle, such notice to include the following:

- (a) The description of the removed vehicle;
- (b) The location where the vehicle is stored;
- (c) The violation with which the owner is charged, if any;
- (d) The procedure the owner must follow to redeem the vehicle; and
- (e) The procedure the owner must follow to request a probable cause hearing on the removal.

The Town of Roseboro shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in subsections (a) through (e) above, shall, unless this notice is waived in writing by the vehicle owner or his agent, also be mailed to the registered owner's last known address.

If the vehicle is registered in North Carolina, notice shall be given within twenty-four (24) hours. If the vehicle is not registered in this state, notice shall be given to the registered owner within seventy-two (72) hours from the removal of the vehicle.

Whenever an abandoned or nuisance vehicle is removed, and such vehicle has no valid registration or registration plate, the Town of Roseboro shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him or her of the information as set forth in subsections (a) through (e) above.

Sec. 20-34. - RIGHT TO PROBABLE CAUSE HEARING BEFORE SALE OR FINAL DISPOSITION OF VEHICLE.

After the removal of an abandoned motor vehicle or vehicle declared to be a nuisance vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed by the owner or other person entitled to possession in writing with the Sampson County Magistrate designated by the Chief District Court Judge to receive such hearing requests. The magistrate will set the hearing within seventy-two (72) hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. 20-219.11, as amended.

Sec. 20-35. - REDEMPTION OF VEHICLE DURING PROCEEDINGS.

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle.

Sec. 20-36. - SALE AND DISPOSITION OF UNCLAIMED VEHICLE.

Any vehicle declared to be an abandoned or a nuisance vehicle under this chapter which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle; Disposition of such a vehicle shall be carried out in coordination with the Town of Roseboro through a procedure similar to that provided in G.S. Chapter 44A, Article 1.

Sec. 20-37. - CONDITIONS ON REMOVAL OF VEHICLE FROM PRIVATE PROPERTY.

As a general policy, the Town of Roseboro will not remove a vehicle from private property if the owner, occupant, or lessee of such property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the Town of Roseboro from private property without a written request of the owner, occupant, or lessee of the property where the vehicle is located except in those cases where a vehicle is declared a nuisance vehicle. The Town of Roseboro may require any person requesting the removal of an abandoned or nuisance vehicle from private property to indemnify the Town against any loss, expense or liability incurred because of the removal, storage, or sale thereof.

Sec. 30-38. - PROTECTION AGAINST CRIMINAL OR CIVIL LIABILITY.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned or nuisance vehicle for disposing of such vehicle as provided in this chapter.

Sec. 30-39. - EXCEPTIONS.

Nothing in this chapter shall apply to any vehicle in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Town of Roseboro.

Sec. 30-40. - UNLAWFUL REMOVAL OF IMPOUNDED VEHICLE.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the Town of Roseboro any vehicle which has been impounded pursuant to the provisions of this ordinance unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.