
ORDINANCE NO. 2022-_____

AN ORDINANCE AMENDING ARTICLE I OF CHAPTER 10 “HEALTH AND SANITATION” OF THE TOWN OF APEX CODE OF ORDINANCES

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Apex as follows:

Section 1. That Sections 10-1, 10-5, 10-6 and 10-7 of Article I of Chapter 10 of the Town of Apex Code of Ordinances are hereby amended as shown below with additions shown by underlined text and deletions shown as struck-through text:

Sec. 10-1. Cleanliness of premises—Generally.

- (a) It shall be unlawful for any person to ~~allow the uncontrolled growth of noxious weeds and grass, or the accumulation of offensive animal or vegetable matter dangerous and prejudicial to the public health, or the accumulation of rubbish or trash creating a fire hazard dangerous to the public safety, or allow the existence of any condition which may constitute a public nuisance, upon any premises within the town.~~ neglect a premise or property or create a dilapidated condition upon any premises within the town. Any of the following described conditions in or on a yard, vacant lot, deck, landing, patio, porch, unenclosed carport, or driveway between a sidewalk and curb or pavement edge are hereby found and declared to constitute a detriment, danger and hazard to the health, safety, morals, and general welfare of the inhabitants of the town and are found and declared to be public nuisances wherever the same may exist and the creation, maintenance, or failure to abate any of the following nuisances, is hereby declared to be unlawful:
- (1) The accumulation of noxious weeds and grass, litter, junk, rubbish, trash, discarded human-made materials, refuse, wood, solid waste materials, industrial materials, or hazardous waste, or potentially dangerous devices.
 - (2) The creation of a littered condition by leaving materials on property which are partially or wholly rusted, wrecked, dismantled, junked or otherwise in an inoperative condition and which are not completely enclosed within an enclosed structure. Examples of such materials include, but are not limited to, dilapidated or decaying furniture, appliances, machinery,

equipment, building materials, automotive parts, tires, or any other items in a state of disrepair.

(3) Placement or accumulation of household fixtures, household or office furniture, domestically used electrical goods or appliances, metal products of any kind and similar items not designed or intended to withstand the elements for outdoor use. This subsection shall not prohibit the following:

- (i) The use of household furniture on an enclosed porch having a roof, walls, screens, or glass windows; or
- (ii) The use of furniture in good condition which is designed for outdoor use such as patio or lawn furniture on porches, landings, or yard areas; or
- (iii) Recreational equipment designed for outdoor use such as swing sets, playhouses, or trampolines.

(b) No owner or occupant of any premises shall bury or allow to remain therein any animal or vegetable matter which, on decaying, may become dangerous or prejudicial to the public health or may constitute a nuisance.

(c) It shall be unlawful for any person to permit or allow to accumulate or remain on any lot or premises, litter or articles of a combustible or flammable nature which create a fire hazard dangerous to the public safety.

(Code 1973, §§ 16-2, 16-10)

Cross reference(s)—Collection of garbage and trash, § 12-110 et seq.; removal of rubbish in cemetery, § 6-23.

State law reference(s)—Regulating disposal of refuse, G.S. 160A-192; littering, G.S. 14-399, 14-399.1.

Sec. 10-2. Same—Businesses.

It shall be unlawful for any person operating any business within the town to fail, refuse or neglect to keep the premises of such business free from trash, empty boxes or any other debris unless such trash, box or other debris is placed in authorized containers for collection as provided in this Code.

(Code 1973, § 16-3)

Sec. 10-3. Same—Care of plots along sidewalk.

The occupant or owner of every lot abutting a sidewalk shall keep the space along the sidewalk cut and in a sanitary condition. Failure to do so will subject the premises to the necessary work by the town, and the cost shall be assessed against the owner of the abutting lot and collected as taxes.

(Code 1973, § 16-13)

Charter reference(s)—Keeping sidewalks free of debris, § 5-4.

Sec. 10-4. Same—Sweeping trash on streets.

No person shall sweep or in any manner cause trash to be deposited on the streets or sidewalks.

(Code 1973, § 18-10)

Cross reference(s)—Littering in parks, § 15-7(d).

Sec. 10-5. Same—~~Weeds to be cut~~ Accumulation of weeds and undergrowth declared to be a public nuisance.

(a) It is found and determined that there are lots and tracts of land in the town upon which dense growths of weeds, vines, briars or undergrowth have been allowed to grow, accumulate, or remain. Where such conditions provide a harborage for rodents, vermin, mosquitoes or other pests, or exist in such proximity to houses and other structures as to increase the hazards of disease, injury or fire, or otherwise constitute a detriment, danger or hazard to the health, safety and welfare of the residents of the town, they are hereby declared to be unlawful and a public nuisance. Further, where weeds, vines, briars, or turfgrass (narrow-leaved grass species tolerant to low mowing heights including but not limited to fescue, bermuda, zoysia, and centipede) are over eight inches in height, such conditions are hereby declared to be unlawful and a public nuisance. Under such circumstances, a public necessity exists to exercise the police power of the town to cause the abatement of such public nuisance in the manner provided by this article. This subsection shall not apply to grasses grown for the purpose of feeding livestock that are permitted within town limits in accordance with section 4-3 of this Code.

(b) The owner or any person in possession of any ~~vacant~~ lot ~~vacant~~ of any buildings or structures shall cut ~~or shrub down~~ within four inches of the ground all weeds, grass or ~~other~~ noxious growth from the lot at least ~~twice~~ three times each year; the first time not later than May 31, the second time not later than July 31, ~~June 15~~ and the ~~second~~ final time not later than September 30 ~~August 15~~ of each year. Each day after these dates, respectively, shall be and constitute a separate offense, punishable by civil

~~penalty of. The delinquent shall, on conviction, pay a fine of \$1.00 for each day any weeds, grass, or other noxious growth shall remain uncut. If, for any cause, the weeds or other noxious growth are not cut down on the lot on or before June 15 and August 15 the dates designated in this subsection, the town may cause the same to be cut down and the cost of cutting may be charged against each of the lots from which the weeds or other noxious growth are moved and against the owners thereof, and charged to them and collected as taxes.~~

(Code 1973, § 16-12)

Sec. 10-6. Discarded refrigerators, etc.

It shall be unlawful for any person to place, discard, or discard or have stored outside any icebox, refrigerator, freezer chest or any other airtight box on any lot, street, alley, yard, platform or any other location outside of a building without first removing or making the latching mechanism inoperative in such a manner as not to prevent the opening from the inside of such items by small children, or in the alternative shall remove the doors.

(Code 1973, § 16-1)

State law reference(s)—Similar provisions, G.S. 14-318.1.

Sec. 10-7. Persons to comply with order; action by town.

- (a) This article may be enforced by any one, all, or a combination of the remedies provided below, elsewhere in this article, or otherwise authorized by state statute.
- (b) If any person shall violate any provision of sections 10-1 through 10-6, or create, allow, or maintain a public nuisance as described in sections 10-1 through 10-6, the town shall notify the owner of the property by posting notice of the violation in a conspicuous place on the property describing the conditions found to exist and an order requiring the owner to correct the conditions in violation within the time specified in the notice which shall not exceed ten days from the posting of said notice. The town may extend the time for compliance where the town finds such extension to be reasonable. The town shall also mail a copy of the notice of violation to the owner of the property as shown on the Wake County tax listing of the subject property as of the date of the notice.
- (c) A violation of this article is punishable as a misdemeanor as provided by G.S. 14-4.
- (d) Any person who fails to comply with any provisions of this article shall be subject to an initial civil penalty of \$50.00 and an additional civil penalty of \$50.00 for each day thereafter in which the violation remains. The penalty may be recovered by the town in the nature of a debt if the owner does not pay the same within 30 days after the date for

compliance provided in the notice of violation. Upon correction of the violation the person cited may request, in writing, a reduction or waiver of a civil penalty. The town manager is authorized to waive or reduce civil penalties for violations of this article when the penalty does not exceed the sum of ten thousand dollars (\$10,000.00).

~~(e) If any person shall violate any provision of sections 10-1 through 10-5, it shall be the duty of the code enforcement officer or the chief of police to give notice to the owner or to any person in possession of the lot, directing that within 12 hours or sooner from the time of notice, all weeds, trash and other offensive vegetable or animal matter shall be removed from the lot. Should any owner or any person in possession of a property refuse or fail to abate the a nuisance within the time specified in the notice of violation, the code enforcement officer or the chief of police town may shall proceed to remove same or otherwise correct the conditions; and the cost thereof shall be charged against the lot and shall become a lien on the lot. If not paid within 30 days, the lien shall be collected as in the manner provided for the collection of delinquent taxes.~~

(Code 1973, § 16-11)

State law reference(s)—Authority of town to abate public health nuisances, G.S. 160A-193; abatement of nuisance by local health director, G.S. 130A-19.

Secs. 10-8—10-19. Reserved.

Section 2. It is the intention of the governing body, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances and the sections of this ordinance may be renumbered to accomplish such intention.

Section 3. The Town Clerk and/or Town Manager are hereby authorized to renumber, revise formatting, correct typographic errors, to verify and correct cross references, indexes and diagrams as necessary to codify, publish, and/or accomplish the provisions of this Ordinance or future amendments as long as doing so does not alter the terms of this Ordinance.

Section 4. Severability, Conflict of Laws. If this ordinance or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to the end the provisions of this ordinance are declared to be severable. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 5. Effective Date. This ordinance shall be effective upon adoption.

Introduced by Council Member: _____

Seconded by Council Member: _____

This the _____ day of _____, 2022.

Jacques K. Gilbert
Mayor

ATTEST:

Allen L. Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Laurie L. Hohe
Town Attorney