

**ORDINANCE TO AMEND TITLE IX, CHAPTER 93: PUBLIC HEALTH NUISANCE
OF CITY OF MONROE CODE OF ORDINANCES
O-2012-21**

Preamble

Pursuant to authority conferred by Article 16 of Chapter 160A of the North Carolina General Statutes, as amended and for the purpose of promoting the health, safety, morals, or general welfare of the inhabitants of the City by lessening congestion in and around the streets; securing safety; preventing the overcrowding of land; avoiding undue congestion; and facilitating the adequate provision of transportation,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONROE THAT TITLE IX, CHAPTER 93: PUBLIC HEALTH NUISANCE, OF THE CITY OF MONROE CODE OF ORDINANCES BE AMENDED AS FOLLOWS:

TEXT AMENDMENT

Section 1. Amend Section §93.01 as follows:

§93.01 DEFINITIONS.

For the purposes of this chapter the following definitions shall apply unless the context clearly indicates a different meaning.

BUILDING MATERIAL (ALSO CALLED CONSTRUCTION AND DEMOLITION MATERIAL). Brick, stone, carpet, plumbing materials, plaster, concrete, asphalt, roofing, floor coverings, gutters, or other material or substances accumulated as a result of construction, repairs, or additions to existing structures or accessory structures or demolition of such.

BUSINESS TRASH. Any accumulation of incidental waste products, garbage, other than household trash, which is associated with the operation of stores, offices, and commercial establishments.

GARBAGE. A by-product of animal or vegetable foodstuffs resulting from the handling, preparation, cooking, and consumption of food or other matter which is subject to decomposition, decay, and/or the generation of noxious or offensive gases or odors, or which during and/or after decay may serve as breeding or feeding material for flies, insects, and/or animals.

HAZARDOUS WASTE. Potentially dangerous by-products which cannot be handled, treated, or disposed of without special precautions. Hazardous waste includes ignitable, corrosive, reactive, and toxic wastes such as acetone, gasoline, industrial metal, alkaline cleaners, acids, cyanide, chlorine, arsenic, pesticide

wastes, paint, caustics, infected materials, offal, fecal matter (human and animal), and explosives.

HOUSEHOLD TRASH. Accumulation of sweepings, rags, or other matter of any kind, other than garbage and recyclables, which is usually attendant to housekeeping.

INDUSTRIAL WASTE. All waste, including solids, semi-solids, sludges, and liquids created by factories, processing plants, or other manufacturing enterprises (sometimes referred to as special waste, as it requires special handling).

JUNK. Any item creating a littered condition including, but not limited to, household or office furnishings, household appliances, mattress, box springs, lawn equipment, machinery, lawn furniture, swing set, trampoline, above-ground pools, or other similar items which are either in a wholly or partially rusted, wrecked, junked, dismantled, or inoperative condition.

LITTER. All discarded man-made materials, including, but not limited to, solid waste materials, building materials, industrial materials, and hazardous waste.

PREMISES. Lots, including sidewalks, rights-of-way, easements, grass strips, or curbs up to the edge of the pavement of any public street.

RECYCLABLES. Newspapers and accompanying inserts, magazines, junk mail, cardboard, glass, food and beverage containers, plastic soft drink and liquor bottles, spiral paper cans, aluminum, bi-metal cans, steel and tin cans, yard waste, and other items determined by the City to be recyclable.

RUBBISH. Useless waste or any material thrown away as worthless.

SOLID WASTE. Solid waste is defined as accumulations consisting of any combination of business trash, garbage, household trash, bulky items, yard waste, recyclables, and junk.

TRASH. Defined herein as either household trash or business trash.

UPHOLSTERED FURNITURE. Any furniture made of materials such as fabrics, padding and springs used to make a soft covering for seating or other non-weatherproof household, automobile, or office items including, but not limited to, sofas, chairs, end tables, lamps, desks and materials designed primarily for interior household or office use.

YARD WASTE. Grass, weeds, leaves, tree trimmings, plants, shrubbery pruning, and such other similar materials which are generated in the maintenance of yards and gardens, which are separate from other solid waste materials and placed in a designated recycling collection area. Yard waste shall not include trees, tree

limbs, brush and other material resulting from commercial tree trimmers and/or commercial lawn-care services.

Section 2. Amend Section §93.03 as follows:

§93.03 DECLARATION OF A PUBLIC HEALTH NUISANCE.

The following conditions shall constitute a nuisance to public health or safety and shall be prohibited within the City's jurisdiction:

- (A) *Neglect of property.* It shall be unlawful for any person to endanger the public health, safety, and welfare through the neglect of property by causing or allowing the accumulation of solid waste or unsightly litter, waste products causing the existence of foul odors, dead animals, unsecured appliances, building material, hazardous waste, or potentially dangerous devices to be discarded, abandoned, or remain on or emanate from any such property, or to cause or allow the accumulation of solid waste or unsightly litter, waste products causing the existence of foul odors, dead animals, unsecured appliances, building material, construction and demolition material, hazardous waste, or potentially dangerous devices to be discarded, abandoned, or remain on public property, private property, lots, ponds, streams, or bodies of water or banks thereof.
- (B) *Unauthorized accumulation of solid waste, trash, recyclables, garbage, junk, rubbish or building material.*
- (1) It shall be unlawful for any person to allow or cause the accumulation of solid waste, trash, recyclables, garbage, junk, rubbish or building material which produces offensive, noxious or foul odors or vapors or which provides refuge or sustenance for rats, mice, snakes, pests, or other vermin.
- (2) It shall be unlawful for the owner and/or occupant of any property to cause or allow the accumulation of solid waste, trash, recyclables, garbage, junk, rubbish or building material causing or threatening to cause a fire hazard or causing or threatening to cause the accumulation of stagnant water.
- (C) *Unauthorized accumulation of litter.* It shall be unlawful for any person to scatter, cast, throw, blow, place, sweep, or deposit any litter, business trash, building materials, household trash, recyclables, or trash in such a manner that it may be carried or deposited upon any street, sidewalk, alley, body of water, sewer, parkway, lot, public property, or private property.

- (D) *Dilapidated condition on premises.* It shall be unlawful for any person to have on their premises material that creates a littered condition, such as, but not limited to, lawn furniture which is not in good condition and designed for outdoor use on porches or patios, appliances, white goods, machinery, equipment, building materials, automotive parts, tires, fencing, swing sets, trampolines, above-ground pools, or any other items which are in a wholly or partially rusted, wrecked, junked, dismantled, or inoperative condition and which are not completely enclosed within a building or dwelling.
- (E) *Storage or use of upholstered furniture outdoors.* It shall be unlawful for any person to keep, store, or use any upholstered furniture in any outdoor location on any property unless it is totally enclosed in a weathertight building.
- (F) *Fire Wood.* Fire wood shall at all times be neatly stacked, free from excessively rotted wood, and not harbor rats, mice, snakes, pests, or other vermin
- (G) *Fallen trees and limbs.* No person shall cause or allow on premises under their ownership or control, including curbs, rights-of-ways, one-half of alleyways, easements, and sidewalks abutting such premises the accumulation of fallen trees, dead trees, sections of tree trunks, laps, limbs, or brush resulting from timber cutting, tree trimming or removal operations, that becomes or threatens to become a fire hazard, harboring place for rats, mice, snakes, pests, or other vermin, or otherwise poses a danger to public health except on parcels of land that are heavily wooded.
- (H) *Land clearing debris may not remain on the property and must be disposed of in a proper manner.*
- (I) *Uncontrolled growth of weeds or grass.* Subject to the provisions of subsections (I)(1) (2) and (3) hereinafter set out, it shall be unlawful for the owner and/or occupant of a property to allow grass, weeds, and other overgrowth vegetation to exceed a height greater than twelve (12) inches. It shall be the duty of the owner and/or occupant to cut and remove all grass, weeds, and other overgrowth vegetation as often as necessary to comply with the provision of this section.
- (1) Lots under two acres and adjacent to improved property or a public street, except as defined as heavily wooded, shall be maintained in their entirety as defined herein.
- (2) Lots over two acres and adjacent to improved property or a public street shall be maintained such that the area of the vacant lot lying

within one hundred feet of such improved property or public street meets the requirements of this section.

(3) Property which is actively engaged in the commercial growing of crops constituting a bona fide farming operation and is kept in a neat and orderly manner utilizing best farming practices is exempt from the provisions of this Section (I).

(J) *Any other conditions constituting a nuisance.* In addition to the conditions set out in this section, any other condition which poses a threat to the public's health, also shall constitute a nuisance and shall be prohibited within the City's jurisdiction.

Section 3. Amend Section §93.06 as follows:

§93.06 NOTICE TO ABATE PUBLIC HEALTH NUISANCE.

(A) Upon a determination that such conditions constituting a public health nuisance exist other than pursuant to §93.03(I), the Code Enforcement Officer shall notify, in writing, the owner, occupant, and/or person in possession of the premises in question of the conditions constituting such public health nuisance and shall order the prompt abatement thereof within fifteen (15) days from the mailing of written notice by first class mail to the address of the owner/responsible party as shown on the most recent Union County tax records or upon personal delivery to the owner, occupant, and/or person in possession of the premises. Notice shall be complete upon personal delivery or deposit of the notice enclosed in a post-paid, properly addressed wrapper in a post office or official depository under the care of the United States Postal Service.

(B) Upon a determination that such conditions constituting a public health nuisance exist pursuant to §93.03(I) - *Uncontrolled growth of weeds or grass*, the Code Enforcement Officer shall notify, in writing, the owner, occupant, and/or other person in possession of the premises in question of the conditions constituting such public health nuisance and shall order the prompt abatement thereof within seven (7) days from the mailing of written notice by first class mail to the address of the owner/responsible party as shown on the most recent Union County tax records or upon personal delivery to the owner, occupant, and/or person in possession of the premises. In addition, the property shall be posted with a notice by the Code Enforcement Officer the same day the notice is mailed or delivered to the owner/responsible party. The providing of notice shall be complete upon posting of the property and personal delivery or deposit of the notice enclosed in a post-paid, properly addressed wrapper in a post office or official depository under the care of the United States Postal Service.

- (C) An owner of real property whereupon, in the previous calendar year, the City of Monroe took remedial action at least three (3) times during the previous calendar year to abate a nuisance pursuant to §93.03(I) - *Uncontrolled growth of weeds or grass*, shall be deemed a chronic violator. A chronic violator as defined herein shall be notified by the Code Enforcement Officer if property owned, occupied, or in possession of the chronic violator is determined to be in violation of §93.03(I) the City shall take action to remedy the violation without further notice during the calendar year in which annual notice is given and the expense of such action including any administrative fees shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice required herein shall be served by registered or certified mail and shall be complete upon delivery or deposit of the notice along with the appropriate fees under the care of the United States Postal Service.

Section 4. Amend Section §93.07 as follows:

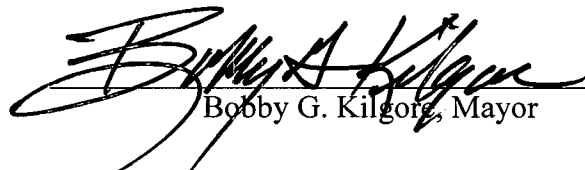
§93.07 FAILURE OF OWNER TO ABATE PUBLIC HEALTH NUISANCE.

- (A) If any person, having been ordered to abate such a public nuisance, fails, neglects, or refuses to abate or remove the condition constituting the nuisance within the time allowed pursuant to Section 93.06 of such order, the Code Enforcement Officer shall cause such condition to be removed or otherwise remedied by having employees of the City go upon such premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the City Council, and such party shall be subject to civil penalties as specified in Section 10.19 of the Code of Ordinances. The cost of abatement or removal, including administrative costs, shall be due and payable to the City of Monroe within thirty (30) days of notification, which notification shall be deemed given when written notice is sent by first class mail to the property owner at the address shown on the most recent property tax records.
- (B) Any person who has been ordered to abate a public nuisance may, within the time allowed by this Chapter, request the City, in writing, to remove such condition, the cost of which shall be paid by the person making the request.
- (C) All bulky items and/or debris generated by cleaning out rental or other residential properties not removed immediately by the property owner(s) will be declared a public health nuisance. Any property owner(s) or person(s) who fails to immediately remove the items or debris shall be ordered to abate the nuisance within ten (10) days of the notice of violation provided pursuant to this Chapter. Upon failure to abate the nuisance by the owner within the time period allowed, the City of Monroe

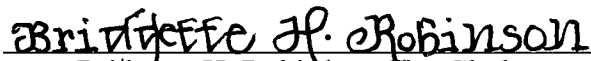
shall take action to remove or hire a third party contractor to remove the debris. Charges incurred by the City for the cost of removal including the cost of a third party waste removal company to remove debris from noncompliant property shall be levied against said property owner(s) pursuant to this Chapter and, if unpaid, such costs shall become a lien on the property pursuant to § 93.08 and G.S. § 160A-193.

Section 5. This Ordinance shall be effective January 1, 2013.

Adopted this 21st day of August, 2012.


Bobby G. Kilgore, Mayor

Attest:


Bridgette H. Robinson, City Clerk

