

TOWN OF SMITHFIELD North Carolina

DRAFT ORDINANCE # 505

AN ORDINANCE TO AMEND THE TOWN OF SMITHFIELD CODE OF ORDINANCES CHAPTER 8, ARTICLE II NOXIOUS WEEDS AND GRASS AND SIMILAR NUISANCES

WHEREAS, Chapter 8, Article II of the Town of Smithfield's Code of Ordinances outlines the regulations concerning noxious weeds and grass and similar nuisances within the Town; and

WHEREAS, the Planning Director Stephen Wensman, is requesting the Ordinance be amended as it pertains to declaration of nuisance for growth of weeds and grasses over 12" and adding a chronic violator provision.

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Smithfield that Chapter 8, Article II - Noxious Weeds and Grass and Similar Nuisances:

PART I

[Revise Article II, Section 8-27 (2) to exclude wooded areas and to define wooded areas and (3) to make a public nuisance unmaintained public right-of-way, except for agricultural properties]

ARTICLE II. NOXIOUS WEEDS AND GRASS AND SIMILAR NUISANCES

Sec. 8-27. The following enumerated and described conditions 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 and are found, deemed and declared to be public nuisances **per se** wherever the same may exist and the creation, maintenance or failure to abate any nuisances is hereby declared unlawful:

(1) Any condition which is a breeding ground or harbor for mosquitoes or a breeding ground or harbor for rats, snakes, or other pests or has the potential for becoming a breeding ground or harbor for such pests;

(2) A place, **other than a "Wooded Area"** of heavy growth of weeds or grasses over twelve (12) inches in height which lie less than one hundred (100) feet from any abutting open street or which lies less than one hundred (100) feet from any adjoining property line which contains a **dwelling or business** structure. or is a place of heavy growth of weeds or grasses over twelve (12) inches in height which lies within fifty (50) feet of any occupied dwelling; provided, that the nuisance defined by this subsection shall be cleared and cut to the satisfaction of **"Wooded Areas" are exempt from this restriction and are defined as any tax parcel of property which is covered over substantially all its surface with trees of a size and density that the trees in themselves prohibit cleaning with a five (5) foot wide bush hog type mower or which in the opinion of the town manager or his designee is so substantially**

covered by mature trees as to be a wooded lot; whether a parcel is so covered will be determined by a town code enforcement officer, if so designated by the Town Manager.

(3) Except for agricultural properties, any growth of weeds or grasses over twelve (12) inches in height, not including wooded areas, in or along a public right-of-way, including an alley or easement. The right of way as herein referenced is *defined* as the land between the “Edge”, hereinafter Edge, of pavement, alley or curb line and the property line. Some of that area herein defined to be right of way may not technically be the right of way of the street but nevertheless as herein defined the obligation to maintain growths extends to the Edge The maintenance of such right-of-way shall be the responsibility of the property owner with property adjacent to or fronting on such right-of-way.

(3) (4) A place of growth of noxious vegetation, including poison sumac (*Rhus vernix*), poison ivy (*Rhus radicans*) or poison oak (*Rhus toxicodendron*), in a location likely to be accessible to the general public;

(4) (5) (5) (6)

(6) (7) (7) (8) (8) (9)

An open place of collection of water for which no adequate natural drainage is provided and where Insects tend to breed or which is or is likely to become a nuisance or a menace to public health;

An open place of concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, trash, refuse, brush, old clothes, rags or any other combustible materials or objects of a like nature;

Is an open place of collection of garbage, food waste, animal waste or any other rotten or putrescible matter of any kind;

Hides, dried or green provided the same may be kept for sale in the town when thoroughly cured and odorless;

Any furniture, appliances, automotive parts or pieces or other wood or metal products of any kind or nature openly kept which have jagged edges of metal or glass, or areas of confinement, or areas which may provide a habitat for rats, snakes, insects, or other pests;

(9) (10) Any improper or inadequate drainage on private property which causes flooding, interferes with the use of, or endangers in any way the streets, sidewalks, parks or other town owned property of any kind;

(10) (11) Any stormwater retention or detention pond or other impoundment device which is operating Improperly;

(11) (12) Any stormdrain, sewer manhole, abandoned well or other private or public facility which is not properly covered with a grate or other means to remove any hazard to pedestrians or motor traffic;

(12) (13) Any ditch, trench, or below ground portion of a construction project which remains open for more than fourteen (14) days without being completed or which is not protected with barricades, flags or other means so as to constitute a hazard to pedestrians or motor traffic;

(13) (14) Failure to clean or clear a public street of mud and debris related to a construction, timbering or other similar land use project within twelve (12) hours after notification by the town manager or his designee for major and minor thoroughfares or within twenty-four (24) hours after such notification for collector and local streets; however, if it is found by the town manager or his designee that the situation is causing a clear and present danger or hazard to traffic or the general public, such cleaning or clearing may be required to take place as soon after notification as practicable;

(14) (15) Any condition which violates the rules and regulations of the Johnston County Health Department; or

(15) (16) Any other condition specifically declared to be a danger to the public health, safety, morals, and general welfare of inhabitants of the city and a public nuisance by the town council which proceeding may be initiated by the town manager or his designee before the board after giving written notice thereof. Such notice shall state the condition existing, the location and that the board will be requested on a day certain, after a public hearing at which the person notified may appear and be heard, to declare that the conditions existing constitute a danger to the public health, safety, morals and general welfare of the inhabitants of the city and a public nuisance. After such declaration by the board in the form of an ordinance, the condition will be abated as provided for in this chapter, provided no administrative appeal shall lie from the proceeding pursuant to the subsection and initiated by the town manager or his designee before the town council.

(17) The outdoor storage of any tire upon any premises with the Town in such a manner that it does not conform to the approved storage methods defined in Article III, Section 8-51.

PART II

[Revise Article II, adding Section 8-34-Chronic violator provision.]

Sec. 8-34 - Chronic violator provision.

The Town may notify a “chronic violator” of the Town’s public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the Town shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. A chronic violator is defined as a person who owns property whereupon, in the previous

calendar year, the city gave notice of violation at least three times under any provision of the public nuisance ordinance

The notice shall be sent by registered or certified mail. When service is attempted by registered or certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. If service by regular mail is used, a copy of the notice shall be posted in a conspicuous place on the premises affected.

Sec. 8-34 8-35– Civil Penalty Provided. **PART III**

That the Town of Smithfield's Code of Ordinances shall be page numbered and revision dated as necessary to accommodate these changes.

PART IV

That these amendments to the Town of Smithfield's Code of Ordinances shall become effective upon adoption.