

CHAPTER 97: NUISANCES; WEEDS; SOLID WASTES AND REFUSE

Section

Weeds; Accumulation of Refuse

- 97.1 Certain conditions declared a nuisance
- 97.2 Notice of complaint; investigation
- 97.3 Abatement procedure
- 97.4 Additional remedies; criminal action
- 97.5 Mowing fees

Accumulation of Solid Wastes

- 97.15 Definition
- 97.16 Certain conditions declared a nuisance
- 97.17 Notice of complaint; investigation
- 97.18 Abatement procedure
- 97.19 Additional remedies; criminal charges and civil penalty

WEEDS; ACCUMULATION OF REFUSE

§ 97.01 CERTAIN CONDITIONS DECLARED A NUISANCE.

The existence of any of the following conditions on any vacant lot or other parcel of land within the corporate limits is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance.

(A) The uncontrolled growth of weeds, grass, or other similar ground cover vegetation, other than trees and shrubs, to a height in excess of 12 inches causing, or threatening to cause, a hazard detrimental to the public health or safety.

(B) Any accumulation of rubbish, trash, junk causing or threatening to cause, a fire hazard or causing, or threatening to cause, the accumulation of stagnant water or causing, or threatening to cause, the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health.

(C) Any accumulation of animal 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.

(D) The open storage of any abandoned ice box, refrigerator, stove, glass, building material, building rubbish, box springs and mattresses or similar items.

(E) Any condition detrimental to the public health which violates the rules and regulations of the County Health Department.
(1990 Code, §97.01) (Ord. passed 6-12-1990)

§ 97.02 NOTICE OF COMPLAINT; INVESTIGATION.

The Building Inspector, upon notice from any person of the possible existence of any of the conditions described in §97.01, shall cause to be made by the appropriate County Health Department official, or Building Inspector, the investigation as may be necessary to determine whether conditions exist which may constitute a public nuisance as declared in §97.01.
(1990 Code, §97.02) (Ord. passed 6-12-1990)

§ 97.03 ~~ABATEMENT PROCEDURE~~ Duty to give notice of existence of nuisance and require abatement.

~~(A) If it appears that the conditions exist, the Building Inspector shall cause to be delivered or mailed to the owner of the property upon which the conditions exist, a notice stating the reasons why the conditions may constitute a violation and that a hearing will be held before the Building Inspector at a place therein fixed, not less than ten or more than 30 days after the delivery or mailing of the notice. The owner or any party in interest shall have the right to file an answer to the notice and to appear in person, or otherwise, and give evidence at the place and time fixed in the notice. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in the hearings. Upon a determination that a public nuisance as described in §97.01 exists, the Building Inspector or his designee shall notify in writing the owner, occupant or person in possession of the premises in question of the condition constituting such public nuisance and shall order the prompt abatement thereof within ten (10) days from the receipt of such written notice.~~

~~(B) If a determination is made that the conditions constituting a public nuisance exist, the Building Inspector shall notify, in writing, the owner of the premises in question of the conditions constituting the public nuisance and shall order the prompt abatement thereof within 15 days from the receipt of the written notice.~~

~~(C)~~ (B) 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 ~~ten (10)~~ 15 days from receipt of the order, the Building Inspector or his designee shall cause the condition to be removed or otherwise remedied by either: i) having employees of the town to go upon the premises and remove or otherwise abate the nuisance under the supervision of an officer or employee designated by the Building Inspector OR ii) having and/or causing an entity engaged in the trade of mowing and/or landscaping services to go upon the premises of said owner and remove or otherwise abate the nuisance. Any person who has been ordered to abate a public nuisance may, within the time allowed by this subchapter, request the town in writing to remove the condition, the cost of which shall be paid by the person making the request. (Ordinance revised 3-24-2011)

~~(D)~~ (C) The actual cost incurred by the town in removing or otherwise remedying a public nuisance shall be charged to the owner of the lot or parcel of land, and it shall be the duty of the ~~Finance Director Tax Collector~~ to mail a statement of the charges to the owner or other person in possession of the premises with instructions that the charges are due and payable within 30 days from the receipt thereof. The Town may, at its discretion, and in the alternative, assign its right to collect the actual cost incurred by the Town in hiring an entity engaged in the trade of mowing and/or landscaping services to go upon the premises of said owner and removing or otherwise abating said nuisance.

~~(E)~~ (D) In the event charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges as provided for in division (C) above and as calculated in Town of

Nuisances; Weeds; Solid Wastes and Refuse

43

Benson Ordinance § 97.05, the charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. § 160A-193.. (1990 Code, §97.03) (Ord. passed 6-12- 1990) (Revised 3-24-2011)

Benson - General Regulations
§ 97.04 ADDITIONAL REMEDIES; CRIMINAL ACTION.

The procedure set forth in this subchapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances and this subchapter shall not prevent the town from proceeding in a criminal action against any person, firm or corporation violating the provisions of this subchapter, as provided in G.S. §14-4.

(1990 Code, §97.04) (Ord. passed 6-12-1990)

§ 97.05 MOWING FEES.

If a property owner, having been ordered to abate a public nuisance, fails, neglects or refuses to abate or remove the condition constituting the nuisance within ~~ten (10)~~15 days from receipt of the order, and the Building Inspector has caused the condition to be removed or otherwise remedied by either procedure i or ii as set forth in Town of Benson Ordinance 97.03(B), then said property shall be assessed fees for said abatement as follows:

I. If employees of the Town perform the removal or abatement, the fees assessed to the property owner shall be:

- (A) For the first offense: \$100 fee and supply a list of contacts that do mowing;
 - (B) For the second offense: \$100 fee plus \$100 penalty fee; and
 - (C) For the third offense and/or any additional offenses: \$100 fee plus \$200 penalty fee.
- (Ord. passed 8-10-2004) (Revised 3-24-2011)

II. If an entity acting as an agent of the Town performs the removal or abatement, the fees assessed to the property owner shall be:

- (A) For the first offense: the fees assessed to the property owner shall be equal to the actual costs charged by said entity in removal or abatement, and the property owner shall be supplied with a list of contacts that do mowing;
- (B) For the second offense: the fees assessed to the property owner shall be equal to the actual costs charged by said entity in removal or abatement plus \$100 penalty fee; and
- (C) For the third offense and/or any additional offenses: the fees assessed to the property owner shall be equal to the actual costs charged by said entity in removal or abatement plus \$200 penalty fee. (Ordinance passed 3-24-2011)

ACCUMULATION OF SOLID WASTES

§ 97.15 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

SOLID WASTES. All useless, unwanted or discarded nongaseous and non-liquid materials resulting from domestic, industrial, commercial or community activities.
 (1990 Code, §97.15) (Ord. passed 6-12-1990)

§ 97.16 CERTAIN CONDITIONS DECLARED A NUISANCE.

The existence of an accumulation of solid wastes on any lot or parcel of land within the corporate limits, uncovered, unenclosed or under circumstances otherwise resulting in or threatening to cause any of the following conditions is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a nuisance:

(A) A fire hazard;

(B) Accumulation of stagnant water;

(C) Inhabitation therein of rats or other vermin of any kind;

(D) Substantial risk of injury to minors or other persons, such as but not limited to open storage or accumulation of any abandoned refrigerator or other appliance, glass, building materials or similar items;

(E) Emission or effluence of noxious or offensive particulate matter, dust, sludge or other materials or substances which tend to pollute or contaminate land, water or air, rendering or tending to render it injurious to human health, habitation or welfare, to animal or plant life or to property, or interfering or tending to interfere with the enjoyment of life or property; provided that this division shall be construed consistent with and supplementary to, and not in conflict with, applicable state and federal laws and regulations; and

(F) Any condition detrimental to the public health which violates state or federal law, or the rules and regulations of the County Health Department.

(1990 Code, §97.16) (Ord. passed 6-12-1990)

§ 97.17 NOTICE OF COMPLAINT; INVESTIGATION.

The Building Inspector, upon notice from any person of the possible existence of any of the conditions described in §97.16, shall cause to be made by the appropriate County Health Department official or Building Inspector, the investigation as may be necessary to determine whether conditions exist which may constitute a public nuisance as declared in §97.16.

(1990 Code, §97.17) (Ord. passed 6-12-1990)

§ 97.18 ABATEMENT PROCEDURE.

~~(A) If it appears that the conditions exist, the Building Inspector shall cause to be delivered or mailed to the owner and any lessee or occupier of the property upon which the conditions exist, a notice stating the reasons why the conditions may constitute a violation and that an informal hearing will be held before the Building Inspector at a time and place therein specified, not less than ten nor more than 30 days after the delivery or mailing of the notice. The owner or any party in interest shall have the right to file an answer to the notice and to appear in person, or otherwise, and give evidence at the time and place fixed in the notice. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in the hearings. Upon a determination that a public nuisance as described in §97.16 exists, the Building Inspector or his designee shall notify in writing the owner, occupant or person in possession of the premises in question of the condition constituting such public nuisance and shall order the prompt abatement thereof within ten (10) days from the receipt of such written notice.~~

~~(B) If a determination is made that the conditions constituting a public nuisance exist, the Building Inspector shall notify, in writing, the owner and lessee or occupier of the premises in question of the conditions constituting the public nuisance and shall order the prompt abatement thereof within 15 days from the receipt of the written notice.~~

~~(C)~~ (B) If the owner, lessee or occupier, having been ordered to abate a public nuisance, fails, neglects or refuses to abate or remove the condition constituting the nuisance within ~~ten (10) days~~ 15 days from receipt of the order, the Building Inspector may cause the condition to be removed or otherwise remedied by having employees of the town to go upon the premises and remove or otherwise abate the nuisance under the supervision of an appropriate officer or employee. Any person who has been ordered to abate a public nuisance may within the time allowed by this subchapter, request the town in writing to remove the condition, the cost of which shall be paid by the person making the request.

Benson - General Regulations

(D)(C) The total costs incurred by the town in removing or otherwise remedying a public nuisance shall be charged to the owner of the lot or parcel of land, and it shall be the duty of the ~~Finance Director~~~~Fax Collector~~ to mail a statement of the charges to the owner or other person in possession of the premises with instructions that the charges are due and payable within 30 days from the receipt thereof. In any case in which the costs are imposed under the provisions of this

Nuisances; Weeds; Solid Wastes and Refuse

47

subchapter, the Building Inspector shall properly certify to the Tax Collector, in writing, the nature of the work and date performed, the name of the property owner, the address of the property, and the total costs to the town (including actual cost in labor and materials, investigation of ownership and violation, inspection and the like).

(E)(D) In the event charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges as provided for in this subchapter, the charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, together with any legal expenses including attorneys fees, as provided in G.S. §160A-193. (1990 Code, §97.18) (Ord. passed 6-12-1990)

§ 97.19 ADDITIONAL REMEDIES; CRIMINAL CHARGES AND CIVIL PENALTY.

(A) The procedure set in this subchapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances and this subchapter shall not prevent the institution of criminal charges against any person, firm or corporation violating the provisions of this subchapter, as provided in G.S. §14-4.

(B) In addition to other available remedies, this subchapter may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction and applied for by the town as provided in G.S. §160A-175(d).

(C) Also in addition to other available remedies, any violation of the provisions of this subchapter may subject the offender to a civil penalty in an amount up to \$50 per day, which may be recovered by the town within 30 days after he or she has been cited by the Building Inspector for violation as provided in G.S. §160A-175(c). (1990 Code, §97.19) (Ord. passed 6-12-1990) (Revised 3-24-2011)

CHAPTER 98: PARKS AND RECREATION

Section

Campgrounds

- 98.1 Definition
- 98.2 Conformance
- 98.3 Permit required
- 98.4 Display of permit
- 98.5 Unauthorized use
- 98.6 Sanitation requirement
- 98.7 Exceptions

- 98.99 Penalty

CAMPGROUNDS

§ 98.01 DEFINITION.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CAMPGROUNDS. The use of a tract of land for two or more campsites.

CAMPSITES. The temporary, nonpermanent overnight use of property by a sleeping bag, or a tent, or a trailer or other means of temporary use of property for overnight stays.
(’75 Code, § 10.74) (Ord. passed 4-28-88)

§ 98.02 CONFORMANCE.

All campgrounds shall be subject to the following rules and regulations as set forth in this subchapter.
(’75 Code, § 10.76) (Ord. passed 4-28-88) Penalty, see § 98.99

§ 98.03 PERMIT REQUIRED.

No persons shall maintain a campground within the town without first obtaining a permit therefore from the town.

(A) All persons maintaining a campground shall obtain a permit therefore from the Tax Collector of the town. Applications for such permits shall be made with the Tax Collector in such form as maybe required by the town and shall be accompanied by permit fee in the amount of \$100 per Campground plus \$10 garbage disposal fee for each campsite within the said campground. Said permit shall contain a sketch or drawing of the planned campground showing the number of campsites and the number of people estimated to use each campsite. Said permit shall need to be approved at least 7 days before use of said campground. Issuance of permit hereby authorizes Town of Benson Building Inspector or his designee to enter upon campgrounds for verification of number of campsites and that the campground meets all of Town of Benson ordinances and setbacks. ('75 Code, § 10.76(a) (approved 3/22/07)

Benson - General Regulations

(B) No person shall be able to obtain a campground permit for a campground unless said person is the owner of said property or lessee of said property. ('75 Code, § 10.76(b))

(C) The owner or lessee of the tract of land on which a campground is located shall be responsible for obtaining said permit and shall be the responsible person for any violations of the permit application. ('75 Code, § 10.76(f))

(D) No one shall be able to obtain more than four campground permits in a calendar year for a particular tract of land. ('75 Code, § 10.76(d))

(E) Campground permits shall be valid for a period of five days or 120 hours. ('75 Code, § 10.76(e)) (Ord. passed 4-28-88) Penalty, see § 98.99

§ 98.04 DISPLAY OF PERMIT.

The campground permit shall be prominently displayed on the campground tract and visible from the street at all times during the use of said tract for campsites. ('75 Code, § 10.77) (Ord. passed 4-28-88) Penalty, see § 98.99

§ 98.05 UNAUTHORIZED USE.

No person shall be permitted to use any tract of land within the town for campground purposes for any tract that has not received a permit for a campground. Any person using a tract within the town for a campground purposes on a tract of land that has not received a permit for a campground shall be in violation of this subchapter. ('75 Code, § 10.78) (Ord. passed 4-28-88) Penalty, see § 98.99