

REVISED MINUTES-AMENDMENT IN BOLD

**COMMITTEE OF THE WHOLE
CITY HALL, THIRD FLOOR
TUESDAY, AUGUST 25, 2020
8:30 A.M.**

PRESENT: Committee members, Joe Gibbons, Crissy Thomas, Ralph Prestwood, Ike Perkins, and David Stevens.

ABSENT: Councilmember Jonathan Beal and Joshua Harris, Communications Director.

STAFF PRESENT: City Manager Scott Hildebran and City Clerk Shirley Cannon.

VIA TELECONFERENCE:

Participating via teleconference were Councilmembers Todd Perdue and Ben Willis, Fire Chief Ken Hair, Finance Director Donna Bean, Police Chief Brent Phelps, Recreation Director Kenny Story, Main Street Director Kaylynn Horn, Planning Director Jenny Wheelock, Public Utilities Director Radford Thomas, Public Works Director Jared Wright and Garrett Stell, *News-Topic*.

I. CALL TO ORDER

A. Mayor Pro-Tem Crissy Thomas welcomed everyone and called the meeting to order.

II. **B. Ordinance-Nuisances: Amending Chapter 12-Nuisances, Related to Disease Vector Species, Providing for Severability, Codification, and an Effective Date.**

A copy of the Ordinance is hereby incorporated into these minutes as information. (Refer to pages 8-13.)

A public hearing was held at the City Council meeting on Tuesday, August 18, 2020 for consideration of approval of an Ordinance amending Chapter 12-Nuisances. Action was deferred by Council until the August 25, 2020 Committee of the Whole meeting in order to meet the state's guidelines for public hearings.

Motion

Upon a motion by Councilmember Perkins, City Council voted 7 to 0 to approve the Ordinance Amending Chapter 12-Nuisances, Related to Disease Vector Species, Providing for Severability, Codification, and an Effective Date as submitted. The City's Code of Ordinances will be amended to reflect this change.

III. CITIZEN COMMENT PERIOD

IV. COMMITTEE ITEMS

A. Public Utilities: Public Utilities Director Radford Thomas reported on the

**AN ORDINANCE OF THE CITY COUNCIL OF LENOIR,
NORTH CAROLINA, AMENDING CHAPTER 12 - NUISANCES,
RELATED TO DISEASE VECTOR SPECIES, PROVIDING FOR
SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

Whereas, Chapter 12 currently addresses nuisance conditions related to harboring pests or creating breeding grounds for the same, but does not specifically address rabies-vector species; and

Whereas, From time-to-time staff fields complaints related to raccoons, bats, and other rabies-vector species, in addition to the more common complaints related to other disease-vectors and pests such as mosquitos, rats, and snakes, which are already specifically addressed in the nuisance ordinance; and

Whereas, Property conditions that harbor snakes, rats, and mosquitos may be different than conditions promulgating rabies-vector species, but the control of all of these types of nuisances is vital to maintaining a healthy and safe community; and

Whereas, the Lenoir City Council hereby finds and declares that this ordinance and these amendments are in the best interest of the public health, safety, and welfare; and

NOW, THEREFORE, LET IT BE ENACTED BY THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA, AS FOLLOWS:

SECTION 1. Chapter 12 of the Code of Ordinances, City of Lenoir, North Carolina, "Nuisances" is hereby amended to read as follows:

ARTICLE 1. – IN GENERAL

Sec. 12-1. Designation of nuisances.

- (a) No occupant or owner of any building, structure, dwelling, dwelling unit or vacant lot of land shall place, leave or allow anything which is unsightly as to create a nuisance, including but not limited to the following:
- (1) Refuse, debris, dead animals, stagnant water, rubbish, decayed vegetables and fruits, and household garbage;
 - (2) Stables, lots or shelters for animals causing an offensive odor;
 - (3) Appliances, including but not limited to any icebox, refrigerator, stove, dishwasher, freezer, clothes washer or dryer, or television;
 - (4) Machinery, to include but not be limited to, any mowers or parts thereof or any used vehicle part, or other item which is either in a wholly or partially wrecked, junked, dismantled or inoperative condition and which is not enclosed within a building (this section shall not apply to authorized junk dealers);

- (5) Used equipment, including but not limited to worn-out furniture or building materials which are not being used during construction; or
- (6) Outside storage of wood products being used as firewood which are not stacked.
- (b) This section shall apply to any item that may cause injury to the health, safety or general welfare of any other person, or that is unreasonably detrimental to neighboring properties. All properties within the city limits shall remain clean and in such order as to not harbor or attract disease vector species and pests (including but limited to rodents, snakes, mosquitos, cockroaches, raccoons, skunks), rats or any other vermin. ~~This section shall apply to any such item which remains on the same property of the same occupant for a period not less than 15 days. This section shall not apply to authorized junk dealers.~~
- (c) Any person violating, failing, refusing or neglecting to comply with any of the provisions of this section shall be subject to a civil penalty. This provision is adopted pursuant to and in accordance with G.S. 160A-175(c). Failure to abate a violation may also constitute a misdemeanor or infraction pursuant to G.S. 14-4, as provided in Sec. 1-15(h) of the Lenoir City Code.
- (d) Any nuisance violation that constitutes an immediate and substantial risk of harm shall constitute a misdemeanor offense pursuant to G.S. 14-4.
- (e) The Lenoir Planning Department and the Lenoir Police Department shall have the authority to enforce the provisions of this Chapter.

ARTICLE II. – PUBLIC NUISANCES

Sec. 12-12. Nuisances declared.

(a) 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 to the inhabitants of the city or are unsightly, unattractive and contribute measurably to visual blight within the city, 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.

- (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 disease vectors, including but not limited to raccoons, bats, and skunks, or has the potential for becoming a breeding ground or harbor for such pests;
- (2) A growth of weeds, grasses and/or other vegetation on one's residential, business, or vacant lot which is over 12 inches in height on the average. It will be the responsibility of the owner to cut and remove all weeds and other overgrown vegetation as often as necessary so as to comply with the provisions of this section. This provision shall not apply to lots greater than one acre. Lots that are larger than one acre will only be required to be maintained to this provision if and only if adjacent property is occupied by a

dwelling, commonly used structure or building and said dwelling, structure, or building is within a distance of 100 feet to the adjacent property line. If this occurs then the owner will be responsible for cutting and removing all overgrown vegetation within a 20-foot border along occupied lots and street frontage. This provision will not apply to wooded vacant lots that are more than 75 percent covered with mature trees, or property that consist of ravines, creek banks, or severe slopes which may cause the maintenance process to be dangerous or unsafe. Furthermore this provision will not apply to vacant lots that are larger than three acres in size;

- (3) A place of vines, shrubs or other vegetation over eight inches in height when such vines, shrubs or vegetation are a focal point for any other nuisance enumerated in this Code; provided, the nuisance herein defined by this subsection shall be cleared and cut only when it is necessary to abate any other nuisance described in this section;
- (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;
- (5) Any hedge, shrubbery, tree or plant along any street, alley or sidewalk planted closer than 18 inches or extending closer than 12 inches or lower than 14.5 feet to such street, alley or sidewalk, or any of the above-mentioned vegetation that obscures clear vision for a distance of 15 feet from the intersection of one street with another;
- (6) 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;
- (7) A collection place, storage or accumulation of lumber, bricks, blocks, nails, building hardware, roofing materials, scaffolding, masonry materials, electrical supplies or materials, plumbing supplies or materials, heating and air conditioning supplies or material or any other type of old or unusable building supplies (especially those with nails, staples or sharp objects and edges) unless such conditions are temporary in nature and caused by a current construction project in progress pursuant to a lawfully issued building permit;
- (8) A collection place, storage or accumulation for garbage, garbage bags, food and kitchen waste, litter, animal waste, trash and refuse or any other rotten or putrescible matter of any kind;
- (9) Hides, dried or green, provided the same may be kept for sale in the city when thoroughly cured and odorless;
- (10) Deteriorated or dilapidated sheds, outbuildings, garages or other uninhabited structures which have collapsed, partially collapsed or are likely to collapse; or pose a danger of fire, is or is likely to become a breeding place or habitat for rats, mice and other pests; or present a risk of injury to neighborhood children who are likely to be attracted to the place or to adjacent property and property owners;
- (11) The use of carports, open porches, decks, open garages and other outdoor areas that are visible from the streets as a storage or collection place for boxes, appliances, furniture (not including outdoor furniture), tools, equipment, junk, garbage, old, worn out, broken or discarded machinery and equipment, cans, containers, household goods or other similar conditions that increase the likelihood of a fire; may conceal dangerous conditions; may be a breeding place or habitat for mice, rats or other pests; or create an unattractive condition or visually blighted property;

- (12) The placement, storage or use of upholstered sofas, couches, chairs or other indoor furniture, appliances, seats removed from motor vehicles or other furniture not intended for outdoor use by the manufacturer used on any open porch, carport, stoop, deck, veranda, terrace, patio or other outdoor area that is visible from nearby streets or sidewalks;
- (13) A collection place, storage or accumulation of old, worn out, broken or discarded machinery, vehicle parts, junk, tires, tire rims and tubes, metal products, old clothes, rags, furniture, stoves, refrigerators, appliances, cans and containers, household goods, mattresses, boxes, paper, plumbing or electrical fixtures, glass products, brush, limbs, fencing materials, wood products (not including firewood);
- (14) Any improper or inadequate drainage on private property which causes flooding, interferes with the use or endangers in any way the streets, sidewalks, parks or other municipal property of any kind;
- (15) Failure to clean or clear a public street of mud and debris related to a construction, timbering, or other similar land use project within 12 hours after notification by the city for major and minor thoroughfares or within 24 hours after such notification for collector and local streets; however, if it is found by the city 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; and
- (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 declared to be a public nuisance by the city council. Proceedings to abate the violation(s) may be initiated by the city prior to the nuisance declaration of the city council after giving written notice thereof. Such notice shall state the condition existing, the location of the violation and that the city council will be requested, after 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 city inhabitants and a public nuisance. After such declaration by the city council, in the form of an ordinance, the condition will be abated as provided for in this chapter.
- (17) Property owners are required to maintain any area of their property which is located between a public sidewalk and the curb of a paved street in accordance with the guidelines set forth in this section.

(b) Appeal from a notice of violation initiated by the city council shall be made to county superior court within 30 days following the issuance of such order.

SECTION 2. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

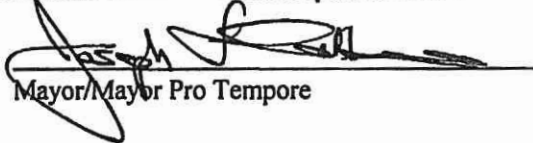
SECTION 3. CODIFICATION. The City Clerk shall cause the Code of Ordinances of Lenoir, North Carolina to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

SECTION 4. EFFECTIVE DATE. This ordinance takes effect upon adoption.

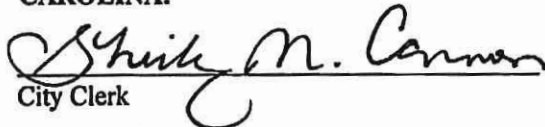
DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Lenoir, North Carolina, by the City Clerk of the City of Lenoir, North Carolina, this 8th day of August day of N/A, 2020.

DONE, THE PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of the a majority of a quorum present of the City Council of the City of Lenoir, North Carolina, at a regular meeting, this 25th day of August, 2020.

BY THE MAYOR/MAYOR PRO TEMPORE OF THE CITY OF LENOIR, NORTH CAROLINA:


Mayor/Mayor Pro Tempore

ATTEST, BY THE CLERK OF THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA:


City Clerk

CITY OF LENOIR, NC
CHARTERED
JANUARY 28, 1851

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SEAL