



**Meeting Date: June 26, 2017
Agenda Item #: 7b**

TO: Mayor and Town Council
FROM: Hiram J. Marziano, II, Planning Director
THRU: Susan Parker, Town Administrator
TITLE: Proposed Amendments to § 93.01 - PREMISES TO BE KEPT CLEAN; NOTICE OF VIOLATION

The Town of Sunset Beach Code of Ordinances from time to time need to be reevaluated and updated to meet the desires of the Council and the Public. In order to more effectively enforce the nuisance complaints being regularly received by Town Staff, the language under § 93.01 - PREMISES TO BE KEPT CLEAN; NOTICE OF VIOLATION needs to be reexamined.

This section of the Code of Ordinances is what deals with common nuisance violations involving, grass, weeds, vegetation, trash, debris, etc. As it is currently written, it is vague in some areas and detailed in others. One of the vague areas involves grass/weed violations and often a question of if it is truly applicable to improved (i.e. developed) lots or parcels of land. To remedy this vagueness, Staff is proposing the addition of language specifically for developed land.

Also, the current language is intended for land to achieve a specific height of four (4) inches for grass after maintenance but with no listing of what constitutes the violation. This strictly enforced would have any grasses over four (4) inches be in violation. The proposed language for improved lands calls for a twelve (12) inch height for violation. This is a more reasonable and manageable height to determine violations.

This proposal also covers various qualifiers for determination of a nuisance violation related to grasses: heavy growth, pest development, and noxious weed species. It also allows for controlled growth, or cultivated vegetation.

Finally, some of the existing language is proposed for amendment for clarification reasons.

What follows is Staff's proposal for the changes to § 93.01 - PREMISES TO BE KEPT CLEAN; NOTICE OF VIOLATION.

§ 93.01 - PREMISES TO BE KEPT CLEAN; NOTICE OF VIOLATION.

A. The growth of weeds, grass, undergrowth and other noxious growth on an unimproved lot or **unimproved** parcel of land to a height in excess of 4 inches is hereby declared to be dangerous or prejudicial to the public health and safety. In addition, the placement or maintenance of any trash, building materials, scraps, tree trimmings or any yard debris in any alley, public place or private property within the Town limits and ETJ, except yard debris that are bundled and placed at the curb for pickup, is hereby declared to be dangerous or prejudicial to the public health and safety.

1. Every owner or other person in possession of a vacant lot or parcel of land within the Town limits or ETJ shall, between May 1st and May 31st and between September 1st and September 30th of each year, shrub down, within four inches of the ground, all weeds, grass, undergrowth and other noxious growth from the lot in order to prevent a public health nuisance.
2. In the event that the owner or other person in possession of the vacant lot or parcel fails to timely cut and shrub down the lot or parcel as required herein, the Town shall **have the property maintained through removal of the nuisance vegetation by a third-party as needed** ~~cut and shrub down the lot or parcel~~ in order to prevent the creation and existence of a public health nuisance.
3. The expense incurred by the Town shall be paid by the person in default. If the expense is not paid, it is a lien on the land or premises where the nuisance occurred and shall be collected as unpaid ad valorem taxes. In addition, the expense incurred shall constitute a lien on other real property of the person in default located within the town limits or within one mile thereof and shall be collected as a money judgment pursuant to state law.

B. The growth of weeds, grass, undergrowth and other noxious growth on any improved lot or parcel of land is hereby declared to be dangerous or prejudicial to the public health and safety if it meets any of the following conditions:

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 of heavy growth of weeds or grasses over twelve (12) inches in height which lies less than 100 feet from any adjoining property line which contains a structure. Whenever this division (2) is violated, the entire lot must be cleaned.**
3. **A place of growth of noxious vegetation, including poison sumac, (rhus vernix), poison ivy, (rhus radicans), or poison oak, (rhus toxicodendron), likely to be accessible to the general public.**
4. **This section shall not apply to planted and cultivated vegetative areas, flowers, shrubbery, vegetables, crops, or to public areas maintained as natural habitats or environs such as parks, nature trails, greenways, or wooded lots which are maintained in an undeveloped state.**

B.C. No person shall throw, place or deposit any trash, building materials, scraps, tree trimmings or any yard debris in any alley, public place or private property within the **city-town** limits and ETJ so as to create a public health or safety nuisance, except yard debris that are bundled and placed at the curb for pickup as follows:

1. Plastic trash bags are prohibited. Thirty-gallon brown paper lawn and refuse bags will be accepted. Thirty-gallon cans may be used in place of lawn bags.
2. Limbs and branches cannot be longer than four feet and must be bundled together with rope. Each bundle, can or bag cannot weigh more than 50 pounds. It is unlawful to place yard debris at the curb for pickup if it is not bagged or bundled as herein provided. In addition, if the debris is not bagged or bundled as described herein, it will not be picked up.
3. All yard debris must be placed at the street in accordance with subsections **(B)(C)**(1) and **(B)(C)**(2) before the day of pickup. In the event that the yard debris is contained in a reusable container, the container must be pulled back to the house and out of view by 2:00 p.m. on the day after pickup.
4. It is illegal to place anything other than leaves, branches and limbs in the bags or cans for pick up. No trash, building materials, metal, plastic, rocks, carpet or wet garbage shall be placed in said bags or cans. If items other than leaves, branches and limbs are found in the bags or cans, It will not be picked up and said items must be removed from the curb and properly disposed of within 48 hours of notification by Town.
5. In the event that subsection (4) hereof is violated resulting in damage to Town equipment or property, the offender shall be liable to Town for the damage to Town's equipment or property in addition to other penalties or remedies provided to Town for violation of Town ordinances.

C.D. In addition, if any person shall violate the provisions of subsection (B) **or (C)** above, it shall be the duty of the Town **Clerk Administrator** or his or her designee to give notice to the owner or person violating this subsection that, within 30 days from the date of that notice, all **nuisance or noxious vegetation**, trash, building materials, scraps, tree trimmings or any yard debris and other offensive animal or vegetable matter, shall be removed from the lot. Should any owner or person violating this subsection fail to comply with this notice, then the Town may proceed to have it removed and the expense incurred by the town shall be paid by the person in default. If the expense is not paid, it is a lien on the land or premises where the nuisance occurred and shall be collected as unpaid ad valorem taxes. In addition, the expense incurred shall constitute a lien on other real property of the person in default located within the town limits or within one mile thereof and shall be collected as a money judgment pursuant to state law.