

Alamance County Ordinance Regulating the Dead Storage of Manufactured Homes

ARTICLE I. IN GENERAL

Sec. 1. Short Title.

This chapter shall be known and may be cited as the "Alamance County Ordinance Regulating the Dead Storage of Manufactured Homes".

Sec. 2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- a) *Abandoned mobile home.* A manufactured home for which an owner cannot be determined through reasonable efforts that include utilizing the Alamance County Tax Assessor's records, and other appropriate sources.
- b) *Class I Mobile Home.* A manufactured home which is structurally sound with all windows, doors, and other means of access intact and secured, preventing unauthorized access to the structure. In addition, a Class I manufactured home shall be placed in a generally level position on a permanent or semi-permanent foundation and secured sufficiently to prevent accidental movement of the home. Class I manufactured homes will not be considered to constitute public nuisances for the purposes of this ordinance.
- c) *Class II Mobile Home.* A manufactured home which constitutes a public nuisance. Such a home may display one or more of the following characteristics:
 1. Is a point of heavy growth of weeds or other noxious vegetation over ten (10) inches in height; or
 2. Is a point of collection of pools or ponds of water; or
 3. Is being used for storage purposes rather than residence purposes; or
 4. Is a breeding ground or harbor for mosquitoes, other insects, rats, or other pests
- d) *Class III Mobile Home.* A manufactured home which rises to the level of a significant public nuisance. Such a home may display one or more of the following characteristics:
 1. Is so situated that there is a danger of it falling or turning over; or
 2. Has utilities that are being run by electric cords that extend from another structure; or
 3. Is structurally unsound; or
 4. Is a point of concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor; or
 5. Is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescent matter of any kind; or
 6. Has points of access which are not secured or is missing doors or windows; or
 7. Has parts thereof which are jagged or contain sharp edges of metal or glass.

- e) *Dead Storage.* Keeping or accumulating items or materials that are not being used for their intended purpose(s) for an extended period of time.
- f) *Manufactured Home.* A structure, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width, or forty (40) body feet or more in length, or, when erected on site, is three hundred and twenty (320) or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. For the purposes of this ordinance, mobile homes shall be synonymous with manufactured homes, but travel trailers and campers shall not be considered manufactured homes.
- g) *Mobile home, manufactured home, house trailer, trailer, or motor home,* referred in this chapter to only as “mobile home”, shall mean and shall be construed to mean any vehicle or structure so designed and constructed to permit occupancy thereof as sleeping quarters or as a residence, temporary or permanent, for one (1) or more persons; or the conduct of any business or profession, occupation or trade, or similar use thereof as a selling or advertising device; and so designed that it is or may be mounted on wheels for the purpose of conveyance on the public streets, roads or highways, propelled or drawn by its own or other power, and shall include all such mobile homes, regardless of the fact that they are underpinned or placed on a permanent foundation. This definition shall include, but not be limited to, a mobile home as defined in the County health regulations, and in G.S. Article 9A of Chapter 143. This definition shall include mobile homes which are listed in the office of the Planning Director of the County as real property for ad valorem tax purposes.
- h) *Owner of a mobile home* for the purposes of this chapter shall mean any person who is the legal or equitable owner of a mobile home and shall include:
 - 1. Any person whose name is entered upon a title to a structure deemed a mobile home under the provisions of this chapter;
 - 2. Any person whose name is entered upon a certificate of title of a vehicle deemed a mobile home under the provisions of this chapter;
 - 3. Any person who has purchased a mobile home as defined in this section under a contract of sale, conditional sales contract, lease-purchase agreement, or any other arrangement whereby at law such purchaser is the equitable owner of such mobile home, even though such purchaser's name is not entered on a title to or certificate of title of such a mobile home;
 - 4. Any person who has listed or by law is entitled or required to list a mobile home as defined in this section in the office of the Tax Administrator of the County for ad valorem property tax purposes;

If two (2) or more persons are deemed owners as defined in this section of a particular mobile home, each such person shall be required to comply with the provisions of this chapter and shall be subject to the non-conformance fee and charges for failure to comply, except that if one (1) such person complies or has complied with this chapter in a particular period of , other such persons may be excused from such compliance upon written application to and upon written notice of waiver from the Planning Director of the County.

- i) *Public nuisance.* Conduct which unreasonably and significantly interferes with the health, safety, peace, comfort, or convenience of the public at large. This may include an action or omission that interferes with the use and enjoyment of one's property.

Cross references: Definitions and rules of construction generally, § _____.

State law references: Definitions, G.S. §§ 143-143.9, 143-145.

Sec. 3. Non-Conformance Fee.

- (a) Any owner of a mobile home who shall willfully violate or willfully fail to comply with any of the provisions of this chapter, or any person who shall counsel or willfully aid or abet any violation or failure to comply or who willfully destroys or obliterates evidence of shall be guilty of a Class 3 misdemeanor that is punishable by a fine of up to five hundred dollars (\$500.00) and/or a maximum of thirty (30) days in jail, pursuant to N.C.G.S. § 14-4 and § 14-3.

It shall be unlawful for the owner of a manufactured home or the owner of the property upon which the manufactured home is located to cause or allow such manufactured home to become a nuisance that creates detrimental effects on the public health, safety, or welfare. Any owner who keeps a manufactured home or allows a manufactured home to be kept on his or her property in violation of this Ordinance is guilty of a Class 3 misdemeanor that is punishable by a fine of up to five hundred dollars (\$500.00) and/or a maximum of thirty (30) days in jail, pursuant to N.C.G.S. §14-4 and § 14-3.

- (b) This chapter may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction upon application therefore by the County.
- (c) This chapter may be enforced by any one (1) or more of the remedies authorized by this section and also may be enforced by compelled corrective action through the issuance of civil summons, by obtaining an order of abatement, injunctions, compliance bonds, or other remedies provided by applicable state law.
- (d) Each day of continuing violation of or failure to comply with this chapter by any owner of a mobile home shall be a separate and distinct violation or failure to comply which is subject to any one (1) or more of the remedies authorized by this section including but not limited to the non-conformance fee of (\$50.00) per day.
- (e) Upon issuance of a Notice of Violation, the owner shall have thirty (30) days for compliance or presentation of a satisfactory course of action to remedy the violation, pursuant to Section 10(a)(6). This Notice of Violation shall serve as a warning notice, and no civil penalty shall be assessed at this time.
- (f) After the thirty (30)-day period for compliance has expired, the Administrator shall assess non-conformance fees if the violation has not been remedied. Beginning on the first day after the expiration of the period for compliance, the owner of the manufactured home and the owner of the property upon which the manufactured home is placed shall incur non-conformance fees. After this first citation, the owner(s) has seven (7) days to correct the violation or make satisfactory progress to correct the violation before additional non-conformance fees are assessed. If the violation is not remedied by the eighth day, a second citation and fine will be issued, after which the owner(s) has three (3) days to correct the

violation. Any violation beyond this time period will result in each day's violation being considered a separate and distinct offense that is subject to a fine.

(g) Each manufactured home found to be in violation of this Ordinance shall constitute a separate and distinct violation that is subject to a non-conformance fee.

(h) The following non-conformance fees are established for violations under this Ordinance:

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| 1. Notice of Violation | Warning |
| 2. First citation for Class II mobile home | \$100.00 |
| 3. First citation for Class III mobile home | \$250.00 |
| 4. Second citation for Class II mobile home | \$250.00 |
| 5. Second citation for Class III mobile home | \$500.00 |
| 6. Any further citation(s) for Class II or Class III mobile home | \$500.00 per day |

Cross references: Non-conformance fee; continuing violations, § _____.

Sec. 4. Purpose.

The purpose of this chapter is to establish the requirement and procedures for the management of mobile homes, house trailers, and similar vehicular equipment designed for use as living or business quarters that have been allowed to deteriorate to the point of constituting a nuisance and for the identification of the owner for purposes of appropriately disposing of the mobile home. The Board of County Commissioners hereby finds that such is necessary to enforce state ad valorem property tax laws, public health and safety laws and ordinances and other applicable state and local laws including, but not limited to, the abatement of nuisances.

Sec. 5. Authority.

This article is enacted pursuant to the authority conferred by G.S. Sections 153A-121, 138, 340, and 347 and 130A-309.09A.

Sec. 6. Jurisdiction.

This chapter shall apply and control in all unincorporated areas within the County.

Sec. 7. Responsibility for enforcement.

The primary responsibility for enforcement of this chapter is hereby assigned to the Planning Director of the County, who is hereby authorized and directed to conduct and or delegate such inspections in the manner permitted by the laws of the state as are necessary to ascertain compliance or violation of this chapter. The Planning Director shall have the authority to appoint a designee, at his/her discretion, to assist in the enforcement of this Ordinance. Nothing in this section is or shall be construed to limit the authority of any other officer of the County, including without limitation, the Director of Public Health and agents, to observe and report violations of this chapter during the course of conduct and within the scope of official duties.

State law references: Warrants to conduct inspections authorized by law, G.S. § 15-27.2.

Secs. 8-- 35. Reserved.

ARTICLE II. COMPLAINT , INVESTIGATION, NOTICE OF VIOLATION

Sec. 36. Complaint and Investigation.

An individual or the County may initiate a complaint that identifies a manufactured home as a potential nuisance after the manufactured home has been in a state of non-occupancy for at least ninety (90) days. Such complaint should be made in writing to the Planning Director and should contain the name and address of the complainant, along with the address and name of the owner (if known) of the mobile home that is the subject of the complaint.

Upon receipt of a written complaint, the Planning Director, or his/her designee, shall conduct a preliminary investigation to determine whether the manufactured home that is the subject of the complaint constitutes a public nuisance. The investigator has the right, upon presentation of proper credentials, to enter onto any premises within the County's ordinance-making jurisdiction at any reasonable hour to determine if a manufactured home that is the subject of a complaint constitutes a public nuisance.

If the preliminary investigation results in the determination that the manufactured home is a Class I manufactured home, no enforcement action shall be taken unless there are violations of the health code. The Planning Director shall prepare a written record of his or her findings that states why the manufactured home has been deemed a Class I manufactured home and that it has been found to be in compliance with this Ordinance. The preliminary investigation and preparation of the findings of fact shall occur within ten (10) business days after the complaint is filed. If the preliminary investigation results in the determination that the manufactured home is a Class II or III manufactured home, the manufactured home will be deemed to be in violation of this Ordinance. The Planning Director shall prepare a written record of his or her findings that states why the manufactured home has been adjudged to be a Class II or III manufactured home. The preliminary investigation and preparation of the findings of fact shall occur within ten (10) business days after the complaint is filed.

The Planning Director's written findings of fact shall be sent by certified mail, return receipt requested, to the owner of the manufactured home and the owner of the property upon which the manufactured home is placed within 10 business days of the investigation.

If the owner of the manufactured home and/or lot cannot be readily determined, the Planning Director shall make reasonable efforts to identify the owner(s) by utilizing the Alamance County Tax Assessor's records and other sources as appropriate. In no situation shall efforts to locate the owner of the manufactured home delay enforcement activity for more than thirty (30) days.

Sec. 37. Notice of Violation.

Upon determining that the manufactured home is a Class II or Class III manufactured home, the Administrator shall issue a written Notice of Violation to the owner of the mobile home and the owner of the property upon which the mobile home is placed.

The Notice of Violation shall state specifically:

1. which section(s) of this Ordinance has/have been violated,

2. the date(s) of the violation(s),
3. the date of issuance of the Notice of Violation,
4. the name and position of the person issuing the Notice of Violation,
5. what acts are necessary to remedy the violation,
6. a deadline of not more than thirty (30) working days from the date of service of the Notice of Violation for compliance or presentation of a satisfactory course of action to remedy the violation, and
7. the availability of the appeal process that is set forth in Section 12 below.

The Notice of Violation shall be sent by certified mail, return receipt requested, to the owner of the mobile home deemed to be a nuisance and the owner of the property upon which the mobile home is placed. The written findings of fact required by Section 46, above, shall be sent along with the Notice of Violation. Both items shall be sent within ten (10) business days after the preliminary investigation and the preparation of the written findings of fact.

The Notice of Violation shall also be affixed in a prominent location upon the mobile home that has been deemed in violation of this Ordinance.

Sec. 38. Appeal Notice of Violation.

An appeal of a Notice of Violation shall be made in writing to the Planning Director. The appeal must be filed within the thirty (30) day period following the date of receipt of the Notice of Violation. If a written appeal is not received by the Planning Director within this thirty (30)-day period, the actions of the Planning Director regarding the Notice of Violation shall stand.

Such appeal shall be heard by the Board of Commissioners of the County of Alamance within thirty (30) days of the filing of the appeal and further enforcement proceedings shall be stayed pending the outcome of the appeal.

Sec. 39. Exceptions to the Notice of Violation and Probable Cause Hearing.

If the Planning Director, or Public Health Director, upon preliminary investigation, determines that the mobile home that is the subject of a complaint constitutes a situation that poses an imminent danger to the public and that immediate action needs to be taken in order to maintain and protect the public health, safety, and/or welfare; the Planning Director may institute proceedings to remove the mobile home from the property. Such findings shall be documented in written form by the Planning Director.

The Planning Director shall prepare and send a Notice of Violation in accord with Section 37, above, but the Notice of Violation shall include the findings of fact that led to the determination that the mobile home posed an imminent hazard to the public health, safety, or welfare or was found to be abandoned. In addition, the Notice of Violation shall contain information about the procedure to be followed in order to request a probable cause hearing on the removal of the mobile home.

If the mobile home is declared abandoned, the Notice of Violation shall be affixed in a prominent location to the abandoned mobile home that has been deemed in violation of this Ordinance.

After County-authorized removal of a mobile home found to present an imminent danger to the public health, safety, or welfare or found to be abandoned, and within ten (10) days from receipt of the notice required in Sections 37 and 38 above, the owner of the mobile home may file a request with the Alamance County Magistrate for a probable cause hearing. The sole issue at this hearing will be whether probable cause existed for the County to order the removal of the mobile home.

The Magistrate shall set the hearing within seventy-two (72) hours of receiving the request. The owner, the remover, and the person who authorized the removal shall be notified of the time and the place of the hearing.

The owner, remover, the person who authorized the removal, and other interested parties may present evidence at the hearing. The person authorizing the removal and the remover may submit affidavits in lieu of appearing personally, but an affidavit does not preclude that person from appearing and testifying.

If the Magistrate determines that probable cause for the removal existed, the owner of the mobile home will be responsible to the remover for any removal or storage fees.

If the Magistrate determines that the mobile home was removed in error, the Planning Director will notify the person or business in possession of the manufactured home to release it. The County will pay all applicable removal and storage charges. Any aggrieved party may appeal the Magistrate's decision to the Alamance County District Court.

Sec. 40. Equitable Remedies.

This Ordinance may be enforced by an appropriate equitable remedy issued by a court of competent jurisdiction pursuant to N.C.G.S. § 153A-123. This equitable remedy may be a mandatory or prohibitory injunction and/or Order of Abatement commanding the owner(s) to correct the violation of this Ordinance. An Order of Abatement may direct that the mobile home that has been found to be in violation of this Ordinance be closed, removed, and/or demolished; that fixtures, furniture, or other movable property be removed from the mobile home; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the mobile home into compliance with this Ordinance.

Pursuant to N.C.G.S. § 153A-123, if the court issues an Order of Abatement and the owner(s) fail or refuse to comply with the terms of the Order within the time allowed by the court, the owner(s) may be cited for contempt and the County may execute the Order of Abatement. If the County executes the Order, it may place a lien on the mobile home found to be in violation, or the real property upon which the mobile home is located, for all of the costs of executing the Order.

The owner(s) may secure cancellation of an Order of Abatement by paying all costs associated with the proceedings and by posting a bond for compliance with the Order. Cancellation of an Order of Abatement will not suspend or cancel an injunction issued in conjunction with the Order of Abatement.

Secs. 41 – 45 Reserved.

III. DISPOSITION OF REMOVED MOBILE HOMES

Sec. 46. Recycling and Disposal of Mobile Home.

Any mobile home determined to be lawfully removed pursuant to Article III or under an Order of Abatement issued by a court of competent jurisdiction may be disposed of by the County or the County-authorized person or entity having custody of the mobile home. Disposition of such mobile home may be carried out in compliance with any applicable recycling program and/or ordinances, and shall not occur until at least thirty (30) calendar days following the probable cause hearing.

Secs. 46 – 50 Reserved.

IV. EXCEPTIONS, IMMUNITY, AMENDMENT AND EFFECTIVE DATE

Sec. 51. Exceptions.

The provisions of this Ordinance shall not apply to mobile homes that are actively being used for residential purposes; provided that the mobile home has been properly permitted and is being operated in a lawful manner, including but not limited to, operation so as not to constitute a public nuisance.

The provisions of this Ordinance shall not apply to mobile homes being used for residential, commercial, or storage purposes on a bona fide farm.

The provisions of this Ordinance shall not apply to any Class I mobile home on the premises of a business enterprise being operated in a lawful place and manner if the mobile home is necessary to the operation of the enterprise, such as a mobile home dealership.

The provisions of this Ordinance shall not apply to any Class II or Class III mobile home on the premises of a bona fide junkyard that is being operated in a lawful manner.

Sec. 52. Immunity.

No person shall be held to answer in any criminal or civil action to any owner of a manufactured home found to be in violation of this ordinance for removing and/or disposing of such manufactured home as provided in this Ordinance.

Sec. 53. Amendment.

This ordinance may be amended from time to time by the Board of Commissioners of the County of Alamance upon its own motion or upon petition and after public notice and hearing.

Sec. 54. Effective Date.

This Ordinance shall take effect and be in force on January 1, 2008.

Secs. 55 – 60 Reserved.

V. MISCELLANEOUS

Sec. 61. Choice of Law and Venue.

The State Courts of the State of North Carolina shall have sole jurisdiction over any disputes which arise under this Ordinance or otherwise regarding the parties or properties subjected thereto, and venue shall be proper and shall lie exclusively in the District and Superior Courts of Alamance County, North Carolina.

Sec. 62. Conflict With Other Ordinances or Laws.

It is not intended that this Ordinance repeal, abrogate, annul, impair, or interfere with any existing provisions of any other ordinances or laws. However, if the requirements of any other lawfully-adopted rules, regulations, or ordinances of the County of Alamance conflict with this Ordinance, the more restrictive or that imposing the higher standards will govern.

Sec. 63. Severability.

If any section or specific provision or standard of this Ordinance is found by a court to be invalid, the decision of the court shall not affect the validity of any other section, provision, or standard of this Ordinance.

Adopted this the 17th day of December, 2007.

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The foregoing ordinance was approved by the Board of Commissioners for the County of Alamance during regular session on December 3, 2007, and adopted during regular session on December 17, 2007. See Minute Book No. 38, Page 174.