

Chapter 14.5 - NUISANCES

ARTICLE I. - IN GENERAL

Secs. 14.5-1—14.5-25. - Reserved.

ARTICLE II. – MANUFACTURED HOME STORAGE

DIVISION 1. - GENERALLY

Sec. 14.5-26. - Title.

This article shall be known and be cited as the "Rowan County Manufactured Home Storage Ordinance" (hereafter referred to as "this article").

(Ord. of 12-18-00(1))

Sec. 14.5-27. - Purpose.

The purpose of this article is to establish guidelines for the dead storage of manufactured homes in the county. These standards are adopted to promote the health, safety and general welfare of the public. It is recognized that inappropriate storage of manufactured homes may have adverse impacts on surrounding areas. This article promotes the accountability and responsibility of owners of property on which manufactured homes are stored, owners of manufactured homes not used as residences as well as persons transporting manufactured homes to storage sites.

(Ord. of 12-18-00(1))

Sec. 14.5-28. - Authority.

This article is adopted under the authority of G.S. 153A-121 and G.S. 153A-140.

(Ord. of 12-18-00(1))

Sec. 14.5-29. - Jurisdiction.

This article governs storage of manufactured homes on all land not part of a municipality or the extraterritorial zoning jurisdiction of a municipality.

(Ord. of 12-18-00(1))

Sec. 14.5-30. - Abrogation.

It is not intended that this article repeal, abrogate, annul impair, or interfere with any existing provisions of any other ordinances or laws.

(Ord. of 12-18-00(1))

Sec. 14.5-31. - Severability.

If any section or specific provision or standard of this article 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 article.

(Amend. of 10-2-06)

Sec. 14.5-32. - Definitions.

[The following words and phrases when used in this article shall have the meanings respectively ascribed to them in this section.]

Administrative decision means a decision made in the implementation, administration, or enforcement of development regulations that involve the determination of facts or the application of objective standards set forth in this chapter. These are sometimes referred to as “ministerial” decisions or “administrative determinations”.

Administrative hearing means a proceeding to gather facts needed to make an administrative decision.

Board of commissioners or board means the County Board of Commissioners, Rowan County, North Carolina.

County means Rowan County, North Carolina.

Dead storage means to accumulate or keep items or materials not being used for their intended purpose for an extended period of time.

Determination means a written, final and binding order, requirement, or determination regarding an administrative decision.

Keeper means an individual or business, which stores manufactured homes.

Manufactured home means as defined in G.S. 143-145, a structure, transportable in one (1) 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 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. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Act.

For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semi-permanent foundation having a measurement of over thirty-two (32) feet in length and over eight (8) feet in width. "Manufactured home" also means a double-wide manufactured home, which is two (2) or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semi-permanent foundation having a measurement of over thirty-two (32) feet in length and over eight (8) feet in width. Travel trailers and campers shall not be considered manufactured homes. The term manufactured home is the same as a mobile home.

Manufactured home, category 1 means a manufactured home, which does not constitute a nuisance. Specifically, such a home shall be structurally sound with all windows, doors and other means of access intact and secured, preventing unauthorized access to the structure. The manufactured home shall also be positioned in generally level position and secured sufficiently to prevent accidental movement of the home.

Manufactured home, category 2 means a manufactured home, which constitutes a nuisance. Specifically the home is in a condition or stored on a fashion that presents a potential threat to the health, safety or welfare of the community.

Nuisance means a use which interferes with the enjoyment and use of property.

Owner means all owners and parties of interest of the real property upon which the manufactured home is located and the owner and all parties of interest of the subject manufactured home.

Planning department means the **Rowan County** planning ~~division of the county environmental services~~ **and development** department.

Planning ~~manager~~ director means the ~~manager~~ **director** of the Rowan County Planning Department who is authorized to supervise the enforcement of or perform the duties and responsibilities ~~[of]~~ this article.

“Written” or “in writing” means written communication, including by electronic mail, executed by a staff member to document a determination, order, interpretation, notification, or other purpose identified by this chapter. Unless specified otherwise, in the absence of evidence to the contrary, delivery by first class mail shall be deemed received on the third business day following deposit of the item with the United States Postal Service and delivery by electronic mail shall be deemed received on the date sent.

Zoning board ~~Board~~ of adjustment means the Rowan County ~~Zoning~~ Board of Adjustment which is authorized to consider appeals related to the enforcement of this article.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-33. - Fees.

Reasonable fees to cover the administration of this article may be established by the ~~county~~ board of commissioners.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-34. - Enumeration.

The dead storage of a manufactured home for a period of sixty (60) days, unless specifically provided otherwise herein, is declared a violation of this article. In addition, notwithstanding the provisions contained in this article, storage of category 2 manufactured home as defined by this article may be declared a nuisance. This article shall not apply to category 1 manufactured homes for sale by a manufactured home dealer stored on land owned or leased by a manufactured home dealer.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-35. - Enforcement.

(a) The provisions of this article shall be enforced by the ordinance enforcement officers of the ~~county environmental services~~ **planning** department, ~~planning division~~, (herein referred to as the "enforcement officer") or other duly authorized personnel. The county and in accordance with the provisions of this article and applicable state law may seek corrective action by issuance of civil citations, notice of abatement or other remedies provided by law.

(b) Initial enforcement activity shall be directed to the owner of the manufactured home in violation of provisions of this article. Reasonable efforts shall be made to determine ownership of

said manufactured homes and these efforts shall be documented in writing by the enforcement officer. In no situation shall efforts to locate the owner of the said manufactured home delay enforcement activity more than thirty (30) days.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-36. - Notice of violation.

Upon determining that there is probable cause to believe that this article has been violated, the enforcement officer shall issue a written notice of violation to the owner or shall initiate proceedings to declare a nuisance as provided by division 2 of this article, if appropriate. If a notice of violation is issued the notice shall state specifically which section of this article has been violated, the date of the violation, the date of issuance of the name and position of the person issuing the notice of violation, what acts are necessary to remedy the violation and a deadline of not more than sixty (60) 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.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-37. - Serving of notice of violations and citations.

Service of notice of violation and citation shall be made by mailing a copy of the same postage prepaid by certified mail, return receipt requested, or in the alternative by the county sheriff's office or such other duly authorized officials and/or representatives allowed by law.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-38. - Civil penalties.

(a) In addition to other remedies cited herein or otherwise provided by state law, this article may be enforced by the issuance of civil citations to the owner by the county. Civil citations shall not be issued until a determination regarding appeals, pursuant to section 14.5-41 of this article, is made by the zoning board of adjustment, or until the deadline for such appeal has passed. These citations shall be in the form of a civil penalty. The county may recover this penalty within seventy-two (72) hours after issuing a citation for a violation. In addition, failure to pay the civil penalty may subject the owner to civil action in the nature of debt if the penalty is not paid in the prescribed period of time. Each manufactured home in dead storage in violation of this article shall constitute a separate and distinct violation under this section.

(b) The following civil penalties are established for violations under this article. Upon issuance of a warning citation, first citation or second citation, the owner or keeper shall have seven (7) days to correct the violation or make satisfactory progress to correct the violation before additional penalties are assessed. Upon issuance of the third citation, each additional day's violation is a separate and distinct offence and shall incur an additional five hundred dollar (\$500.00) fine.

Warning citation	No Penalties
First citation for same offence	\$100.00
Second citation for same offence	\$250.00
Third and subsequent violation for same offence	\$500.00

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-39. - Misdemeanors.

Any owner or keeper who keeps a manufactured home in dead storage in violation of this article shall be guilty of a Class III misdemeanor, punishable by a fine of up to five hundred dollars (\$500.00) and/or a maximum of thirty (30) days in jail as provided by applicable state law. Each day's violation shall constitute a separate and distinct offense.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-40. - Equitable remedy.

This article may be enforced by an appropriate equitable remedy, injunction or order issued by a court of competent jurisdiction pursuant to G.S. 153A-123.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-41. - Appeals.

Any person with standing under G.S. 160D-1402(c) may appeal an administrative decision to the board of adjustment by Appeals of a notice of violation or other actions, (excluding an order of abatement of the enforcement officer) shall be made in writing **providing written notice** to the clerk to the **zoning** board of adjustment on forms obtained from the planning department. The appeal must be filed within **the thirty-day period following thirty (30) days of the date of receipt of said notice of violation or the date of action taken by the ordinance enforcement officer receiving actual or constructive notice of the determination. Appeals from an administrative decision of this chapter shall follow the procedure outlined in section 21-315 and 21-331 of the Zoning Ordinance.** If a written appeal is not made within said thirty-day period, the matter shall be deemed to be closed and the decision of the enforcement officer shall stand.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Secs. 14.5-42—14.5-60. - Reserved.

DIVISION 2. - ABATEMENT OF A NUISANCE

Sec. 14.5-61. - Determination of a nuisance.

(a) *Preliminary investigation.* Whenever a complaint concerning storage of a manufactured home is received or a possible violation of this article is observed by an enforcement officer, the enforcement officer shall conduct a preliminary investigation. If the preliminary investigation discloses the home as a potential nuisance, the enforcement officer shall schedule **a an administrative** hearing. Complaints received from the public shall be made in writing and shall contain the name and address of the complainant.

(b) *Notice.* The enforcement officer shall issue and cause to be served upon the owner a notice of **an administrative** hearing stating the finding of a nuisance. The notice of hearing shall also state that the hearing shall be held before the planning **manager director** at a place specified in the notice of hearing. Owners shall be determined utilizing county tax assessors records and other sources as appropriate. Notice shall be as provided below:

(1) Sent certified mail, return receipt requested to all owners more than twenty (20) days but less than thirty (30) days from the date of the hearing.

(2) Personal delivery of said notice more than twenty (20) days and less than thirty (30) days from the date of the hearing to the property upon which the manufactured home is located. If the owner is present at the site a notice shall be hand-delivered by the codes enforcement to that person.

(3) The ordinance enforcement officer shall affix the notice of hearing in a prominent place upon the subject manufactured home.

(c) **Administrative Hearing.** The owner shall have the right to file an answer to the complaint or preliminary investigation and appear in person and give testimony at the scheduled hearing. 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 be controlling in a hearing before the **manager director**.

(d) **Procedure after the hearing.** After notice and hearing as provided in this subsection, the planning **manager director** shall state in writing his determination whether the manufactured home in question is a category 1 or a category 2 manufactured home. The planning **manager director** shall state in writing the findings ~~of fact~~ supporting the determination. If the planning **manager director** determines that the manufactured home is a category 2 manufactured home and therefore a nuisance he shall issue a notice to abate as provided below. If the planning **manager director** determines the manufactured home is a category 1 manufactured home the enforcement officer may pursue corrective action as provided in division 1 of this article.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-62. - Notice to abate.

(a) **Notice.** When dead storage of a category 2 manufactured home on a property is found to be a nuisance and the county proceeds with a notice of abatement, the enforcement officer shall notify the owner and the occupant of the property where the nuisance is located.

(b) **Issuance of notice.** The notice to abate a nuisance issued under the provisions of this article shall contain:

(1) A statement that the dead storage of a manufactured home or homes on this property constitutes a public nuisance.

(2) A description of the condition, including the number of homes, condition of homes, and condition of the immediate surroundings.

(3) The location of the property on which the nuisance exists, including county tax map and parcel number.

(4) A provision allowing the owner or keeper of the home a thirty-day opportunity to dispose of the home at the Rowan County Landfill at no charge. An additional thirty-day period for disposal (not to exceed a total of sixty (60) days) may be granted by the **planner manager planning director** provided the owner or keeper submits a written request stating the reasons necessary for an extension. The extension request must be received by the planning department prior to termination of the initial thirty-day period.

(5) A statement that unless the condition is not abated or otherwise disposed of within the time period established in subsection 14.5-62(b)(4) from the mailing of the notice, the conditions will be abated and the cost of abatement shall constitute a lien against the property. The notice shall be sent as provided in section 14.5-37.

(c) **Appeal of notice of abatement.**

(1) Within thirty (30) days of ~~mailing the~~ **receiving actual or constructive** notice to abate, the owner of the property where the nuisance exists **or any person with standing under G.S. 160D-1402(c)** may appeal the findings of the planning ~~manager~~ **director** to the zoning board of adjustment by ~~giving~~ **providing** written notice ~~of the appeal~~ to the clerk to the zoning board of adjustment **on forms obtained from the planning department**. ~~Such appeal will stay the abatement of the nuisance by the enforcement officer until a final determination is made by the board.~~ **Appeals from an administrative decision of this chapter shall follow the procedure outlined in section 21-315 and 21-331 of the Zoning Ordinance.** If no action is taken the county may proceed to abate the nuisance.

(2) If an appeal is taken as provided in this section, the zoning board of adjustment may, after hearing all interested persons and reviewing findings of the planning ~~manager~~ **director**, reverse or affirm that the said storage of category ~~4~~ **2** manufactured homes constitutes a nuisance. If the board determines that the findings of the planning ~~manager~~ **director** are correct and proper, the board shall adopt an ordinance specifically declaring the said dead storage of manufactured home(s) to be a danger to the health, safety and general welfare of the inhabitants of the county and cause such condition to be abated.

(Ord. of 12-18-00(1); Amend. of 10-2-06)

Sec. 14.5-63. - Cost of abatement; lien.

(a) *Cost.* The cost of abatement shall reflect the actual costs incurred to the county per the invoice for removal of the category 2 manufactured home including any filing costs and reasonable attorney fees associated with abatement.

(b) *Lien.* After abatement of a nuisance as provided by this article the cost of such abatement shall become a lien against the property from which the manufactured homes were removed.

(Ord. of 12-18-00(1); Amend. of 10-2-06)