

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE CREATING A NEW ARTICLE VII, NUISANCE PROPERTIES, UNDER CHAPTER 14, HOUSING, DWELLINGS AND BUILDINGS, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA

BE IT ORDAINED, by the City Council of the City of Fayetteville, North Carolina, that:

Section 1. Chapter 14, Housing, Dwellings and Buildings, is amended by creating a new

Article VII, Nuisance Properties, as follows:

**Article VII. – Nuisance Properties**

**Sec. 14-130. Purpose.**

The purpose of this article is to establish an accountability requirement for owners of property whose property is in repeated violation of the Fayetteville City Code as defined and established by this article. The city desires to establish a method to hold owners of property accountable for failing to use effective methods to reduce reoccurring code violations on their property.

**Sec. 14-131. Definitions.**

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

**Nuisance Property** means, with the exception of un-developed lots as defined in Chapter 22, Section 22-3, any property that has been found with more than three verified violations in the previous 12-month period, whether those violations have been resolved by corrective action or not. A nuisance property is no longer a nuisance when there have been no verified violations within 12 months of the nuisance property findings.

**Development Services Official** means a person designated by the city manager of the City of Fayetteville who is primarily responsible for the administration of this article.

**Owner** means the person, persons or legal entity that holds legal title to a residential rental property, or the property owner's heirs, persons, or legal entity that is exercising ownership control of such property.

**Verified Violation** means a violation of Chapter 22, Sections 22-16a. and 22-16.c., or Chapter 16, Sections 16-354.a., 16-355.a., or 16-356.a., of the

Fayetteville City Code as designated and determined by the development services official. **Multiple violations that are detected or should have been detected during the inspection of a property, on the same day of such inspection, shall constitute one Verified Violation for the purpose of this Article.**

**Sec. 14-132. – Notice of Nuisance Property Finding.**

Upon finding that a property is a nuisance property, a notice of such findings, penalties, and appeal rights shall be served upon the owner by the development services official.

The required notice shall be served upon the owner of the subject property either personally or by first-class mail and by posting the notice on the subject property. If the whereabouts of such owner is unknown and the owner cannot be ascertained by the building inspector in the exercise of reasonable diligence, and the building inspector shall make an affidavit to that effect, then the serving of such notice upon such owner may be made by serving any person in possession of the subject property, or, if there is no person in possession of it, by posting the notice on the subject property.

Any such notice may be served by the development services official or any authorized representative of the development services department or by any police officer of the city when so authorized through the development services office.

**Sec. 14-133. – Appeal of Nuisance Property Finding.**

An owner may appeal the notice of nuisance property findings to the board of appeals. A request for an appeal hearing by the board of appeals must be filed in writing with the city clerk's office within ten business days of the date of the nuisance property findings notice to the property owner. The property owner shall provide a valid current address for the purpose of all notifications required to be made pursuant to this section. The request must state the reason for the appeal. The board of appeals, after a hearing, may grant or deny the appeal.

The owner shall have the right to seek judicial review of the board of appeals' decision in a proceeding in the nature of certiorari instituted in the superior court of the county within 30 days after the board of appeals decision.

**Sec. 14-134. – Penalties for Violations.**

Upon failure to appeal the nuisance property findings notice or upon completion of an appeal denial of such notice, the owner of a nuisance property shall be subject to a one-time civil penalty of \$1,000.00. If the penalty as set forth in the citation issued pursuant to this article is not paid within the prescribed time, then the matter shall be referred to the office of the city attorney, who shall

institute an action in the nature of a debt in a court of competent jurisdiction to collect the civil penalty. **The owner of a nuisance property shall be subject to a civil penalty of \$1,000.00 for each** additional verified violation within a 12-month period since the last verified violation.

Section 2. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code or Ordinances, City of Fayetteville, North Carolina, and the section of this ordinance may be renumbered to accomplish such intention.

ADOPTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF FAYETTEVILLE

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MITCH COLVIN, Mayor

ATTEST:

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PAMELA J. MEGILL, City Clerk