

**AN ORDINANCE AMENDING ARTICLE VI, CHAPTER 26 OF THE DURHAM CITY CODE CAPTIONED “REMOVAL OF TRASH AND UNDERGROWTH FROM PROPERTY” BY REVISING SECTIONS 26-183 26-184, & 26-190; AND ADDING SECTION 26-192**

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**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DURHAM THAT:**

*New text is indicated by underline. Text that has been deleted is struck through or omitted.*

**Section 1:** Durham City Code Section 26-183 is rewritten to read as follows:

“Sec. 26-183. Property conditions prohibited

The following enumerated and described conditions are prohibited:

- (1) A place upon which refuse or debris is permitted or caused to accumulate. The term "refuse or debris" shall be taken to refer to all classifications of solid waste and shall include garbage, rubbish, bulky waste items, yard waste, construction debris, ashes, street refuse, dead animals, abandoned automobiles and industrial refuse. Refuse derives from such places as homes, hotels, institutions, stores, restaurants, markets, wholesalers, processing plants, factories, shops, garages, office buildings, streets, sidewalks, alleys, vacant lots, power plants and the like. Provided, however this section does not apply to:
  - a. Industrial refuse temporarily stored within a delineated storage area for purposes of refuse or disposal;
  - b. Building rubbish temporarily stored in a confined area on construction sites during construction;
  - c. Sites approved by the state as sanitary landfills, provided such sites comply with state landfill rules and regulations; and
  - d. Salvage or junk operations carried on in compliance with the UDO.
- (2) Where found to constitute a public nuisance under the provisions of this article:
  - a. A place of dense growth of weeds, grass, vines, briars, or an area reasonably considered as a lawn, over ~~12-10~~ inches in height, and within either 100 feet of an abutting public street or 50 feet on all sides of a house or other residential, commercial or industrial building; provided, however, the term building shall not include detached structures which are accessory to a dwelling unit or other residential, commercial or industrial building. The weeds, grass, vines or briars constituting a prohibited condition described by this subsection shall be cleared and cut to not more than four ~~six~~-inches in height.

- b. Areas of vegetation including natural areas; and flower, vegetable or other gardens; shall be kept free of trash, debris, and weeds kept to a height not to exceed 10 inches.
  - c. The public sidewalk, curb and gutter that abut the owner's property consist of an accumulation of dirt, grass, weeds, mud, trash, debris and vegetation of any kind.
  - d. Any vegetation protruding from the abutting owner's property onto or over the public sidewalk, curb, alley and/or gutter shall be removed, cut or trimmed so as not to require a pedestrian or vehicle to take evasive action to avoid physical contact with the same or otherwise hinder safe passage.
  - e. The area, between the sidewalk that abuts the owner's property and the curb, or between the owner's property and the curb, becomes a place of dense growth of weeds, grass, vines, briars, over ~~12~~10 inches in height.
  - f. Any portion of any alley that abuts owner's property and is bounded by the property lines of the adjoining properties and the mid-point of such alley is not maintained in a clean and sanitary condition, free of garbage, rubbish, bulk trash, or other offensive material.
- (3) A place upon which any dead tree, under the circumstances specified in section 26-180 been allowed to remain.
  - (4) No person shall place or allow to remain exposed to the elements, whether outdoors or on a porch or similar area, any upholstered chair, sofa, bed, table or similar furniture, which is not designed and intended for outdoor use and which is thereby readily susceptible to deterioration. This section shall not apply to furniture which is placed outside as refuse for collection and disposal.
  - (5) No person shall place or allow to remain exposed to the elements appliances or other electro-domestic items not intended for outdoor use.
  - (6) No person shall place or allow to remain exposed to the elements laundry, clothing, rags, or other cloth items hung or stored on a front porch or front or other street yard of a dwelling.”

**Section 2:** Durham City Code Section 26-184 is rewritten to read as follows:

“Sec. 26-184. Procedure for notice of violation; definitions.

- (a) When any condition prohibited by this article is found to exist, the housing code administrator shall notify the owner of the property by posting a notice of violation in a conspicuous place on the property. The notice shall include the following:
- (1) The property location and a description of the prohibited conditions found to exist.
  - (2) An order that the owner correct the conditions within ten days from ~~mailing and~~ posting of the notice of violation; provided, however, the housing code administrator may extend the time for correcting said conditions, where he or she finds such extension to be necessary and reasonable.
  - (3) An explanation of the hearing and appeal procedure set forth in section 26-186.

Service of a notice of violation shall be complete upon posting of the notice. In addition, the City shall mail a copy of the notice of violation to the owner of the property as shown on the county tax listing of the subject property on the date of posting, or within a reasonable time after posting the property. The housing code administrator shall adopt a policy for mailing and posting a notice of violation.

- (b) The term “owner”, or “property owner” when used in this article, means the holder of the title in fee simple, every mortgagee of record, all individuals, associations and corporations who have an interest of record in the property, and any individual, association or corporation in possession of the property. The phrase “any individual, association or corporation in possession of the property” is intended to include persons who occupy real property under any recognized form of tenancy.”

**Section 3:** Durham City Code Section 26-190 is rewritten to read as follows:

“Sec. 26-190. Civil penalty.

Any owner who fails to comply with any of the provisions of this article shall be subject to an initial civil penalty of \$50.00 and an additional civil penalty of \$50.00 shall be imposed each month thereafter. The penalty shall be imposed until the property is brought into compliance. However, the maximum cumulative civil penalty shall not exceed \$1,000.00. This penalty may be recovered by the city in a civil action in the nature of a debt if the owner does not pay the same within 30 days after the initial day of noncompliance.”

**Section 4:** Article VI, Chapter 26 of the Durham City Code is amended by adding a new section to read:

“Section 26-192. Cancellation or reduction of cost of abatement liens in limited circumstances.

- (1) The city manager may authorize the reduction or cancellation of the cost of abatement to correct conditions prohibited by this article which is a lien against the real property upon which the cost was incurred in the following circumstances:

- a. When the owner of the property completes construction of a dwelling on the property to be used for affordable housing. The owner must also obtain and provide a certificate of compliance from the city/county inspections department.
  - b. When the owner of the property conveys the property subject to the lien to a person who completes construction of a dwelling on the property to be used for affordable housing. Completion of construction shall be evidenced by a certificate of compliance issued by the city/county inspections department.
- (2) The city council may, in its discretion, reduce or cancel the cost described in this section, when the cost is past due, the owner offers to convey the property to the city and the city council agrees to accept the deed to the property in payment of the cost.
- (3) The city manager shall establish a policy to implement this section. For each instance of exercising the authority to reduce or cancel a lien under this section, the city manager shall make a record of the reasons why such action is appropriate. “

**Section 5.** This ordinance shall be in full force and effect from the date of passage.