

SHELLY HORTON JR
MAYOR



STEPHANIE SULLIVANT-COLLIER
CAO/TOWN CLERK

TOWN OF BENTON LOUISIANA

WORKSHOP MINUTES

MAYOR AND BOARD OF ALDERMAN
TOWN OF BENTON
105 SIBLEY STREET, BENTON, BOSSIER PARISH, LOUISIANA
THURSDAY, JUNE 9, 2022, 6:00pm

The Town of Benton Council met in regular and legal session on the 9th day of June 2022, at 6:00 p.m., in the Benton Council Chambers, Benton Town Hall, Benton, Louisiana. The Mayor, Shelly Horton, called the Work Session to order. Mrs. Stephanie Collier, Town Clerk, called the roll, with all members present as follows:

Alderman Tiffany Manning
Alderman Ron Jones
Alderman James Friday
Alderman Wayne Cathcart

Absent: Alderman Jackie Carr

Others present were Pat Done and various members of the public. She stated that after speaking with the Director of the State Fire Marshall Office, he stated that adopting the International Code has been a mistake for so many communities.

Mayor Horton explained that there are no decisions made in this session the Ordinance 577 will be introduced and set for Public Hearing, June 13, 2022. This Ordinance deals with Property Standards, and it is in line with the Louisiana Law.

105 Sibley Street / P O Box 1390
Benton, Louisiana 71006
(318) 965-2781 / (318)965-2577 fax
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ORDINANCE NO. 577 OF 2022

ORDINANCE AMENDING AND RE-ENACTING ARTICLE III AND ARTICLE IV OF CHAPTER 14 – NUISANCES, OF THE CODE OF ORDINANCES OF THE TOWN OF BENTON, LOUISIANA

WHEREAS, the Town desires to amend and re-enact Article III and Article IV of Chapter 14 – Nuisances, of the Code of Ordinances;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF BENTON, LOUISIANA:

§1. The Town supersedes and re-enacts Article III and Article IV of Chapter 14 – Nuisances, of the Code of Ordinance as follows:

ARTICLE III. WEEDS AND YARD VEGETATION.

Sec. 14-50. Owners required to keep cut or remove noxious weeds or grass.

All owners of any lot, place, or area within the corporate limits of the town are hereby required to keep cut, destroyed or removed from all lots, places or areas within the corporate limits of the town noxious weeds or grass or other deleterious, unhealthful or noxious growths on their property within the corporate limits of the town.

(Ord. No. 289, § 1, 4-8-1996)

State Law Reference - La. R.S. 33:5062 and La. R.S. 33:362.

Sec. 14-51. Encroachment of vegetation on streets, sidewalks, or other passageways prohibited.

No property owner shall permit any shrubbery, trees, or vegetation to encroach on streets, sidewalks, or other passageways in a manner that interferes with the use of such passageways by pedestrians or vehicular traffic, or that obstructs the clear view of vehicular traffic.

State Law Reference - La. R.S. 33:5062(A)

Sec. 14-52. Standards for vegetation maintenance.

In order to ensure that such lots, places or areas do not constitute a hazard to the health of the citizens of this town, the owner shall remove all vegetation and cut all weeds and grass to the following standards:

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- (1) All properties zoned residential: weeds and grass more than one foot, except R-A, residential agriculture.
- (2) All other properties, including R-A: weeds and grass more than two feet.
- (3) Any property adjacent to a property with a residential zoning classification shall maintain a 50-foot buffer strip with weeds and grass not to exceed one foot in height.
- (4) Any vegetation encroaching from the property onto streets, sidewalks, or other passageways in a manner that interferes with the use of the passageways by pedestrians or vehicular traffic, or that obstructs the clear view of vehicular traffic.

(Ord. No. 472, § 6, 5-10-2010)

Sec. 14-53. Notice to owner; failure to comply; abatement by Town.

- (a) In the event any owner of property shall fail or neglect to comply with the provisions of Section 14-52, the Town may perform the required work.
- (b) No such work shall be undertaken by the Town until the lot, place, or area, or the owner of the abutting property where the weeds or growths are to be removed, as shown on the last assessment roll of the Town, has an opportunity of doing the work within at least five days after notice has been given said owner by registered mail, addressed in accordance with the tax rolls of the Town, or by advertisement in the official journal of the Town for two consecutive publications. **La. R.S. 33:5062(B)**

Sec. 14-54. Mailing statement showing expense incurred, addition to tax liability.

The Town shall send to the property owner, by registered mail, a bill for the actual charges, costs, and expenses incurred by the Town for removal of noxious weeds or grass or other deleterious growth, pursuant to **La. R.S. 33:5062(A)**.

- (a) Upon failure of the property owner to pay the charges within thirty days of receipt of the bill, the tax collector of the Town shall furnish the owner, as shown on the last assessment roll of the Town, by registered mail a written statement showing the cost or expense incurred for the work, and the place or property on which the work was done. If the said statement is not paid within one month thereafter, the amount thereof shall be included in and form part of the taxes due by the owner of said property, and when collected shall be credited to the general fund of said municipality, pursuant to **La. R.S. 33:5063**.
- (b) The tax collector shall maintain a record of such charges prior to the filing of the tax rolls, which record shall be always open to inspection and which shall constitute legal notice to the purchasers of the property, or parties lending money thereon, of the assessment, pursuant to **La. R.S. 33:5064**.

Sec. 14-55. Repeat Offenses.

The town may undertake the cutting, destruction or removal of noxious weeds, grass or other deleterious, unhealthful or noxious growths on any property within the municipality that violates the restrictions set forth in this Article without the notice required in Section 14-53 if the property owner liable has been notified pursuant to said section at any time during the preceding 12 months and has failed to do the work

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himself after opportunity to do so. However, prior to undertaking such work, the governing authority shall file and record an affidavit, signed by the mayor. Such affidavit shall include the following:

- (1) A description of the property sufficient to reasonably identify it.
- (2) A photograph of the property sufficient to reasonably identify its unsafe or unsanitary condition and to justify the necessity for cutting, destroying, or removing weeds, grass or other noxious growths.
- (3) A statement that the property owner liable has within the past 12 months failed to do such work after notification and opportunity to do so pursuant to Section 14-53.

Secs. 14-56—14-89. Reserved.

ARTICLE IV. RUBBISH OR OTHER JUNK; ABANDONED OR NUISANCE VEHICLES.

Sec. 14-90. Rubbish Prohibited.

It shall be unlawful for any person, firm, or corporation to maintain, use, store, or abandon rubbish, as defined in this Chapter, on any vacant lot or tract of ground, or any unused portion of any occupied lot, neutral ground, street or sidewalk within the corporate limits of the town.

State Law reference —R.S. 33:4876.

Sec. 14-91. Definitions.

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

Abandoned vehicle means a motor vehicle that has been left unattended more than twenty-four hours, on the street or right-of-way of any street within the Town of Benton, or illegally on public property, or on private property without the consent of the owner or person in control of the property, as provided in **La. R.S. 32:471**.

Major appliance means refrigerator, freezer, range, stove, washing machine, dishwasher, and dryer.

Nuisance vehicle means any motor vehicle which is totally inoperable and is so damaged or dismantled as to be a total loss, which has been left unattended for a period of five (5) days or longer and is not stored within an enclosed building so that it is not visible from a street or other public or private property.

Rubbish means trash, debris (any material which is incapable of immediately performing the function for which it was designed), junk (equipment missing parts or otherwise in an obvious state of disrepair), garbage (food waste), discarded or abandoned appliances, machinery, metal, construction materials, or other discarded items.

Total loss means that the cost to repair a damaged or dismantled motor vehicle or part exceeds the junk value of said vehicle as determined by any recognized national appraisal book.

Sec. 14-92. Abandoning or discarding iceboxes or other airtight containers; penalty.

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- (a) It shall be unlawful for any person, firm, or corporation to leave outside of any building or dwelling in a place accessible to children, any abandoned, unattended, or discarded ice box, refrigerator, or any other container of any kind which has an airtight door or doors, or which may not be released for opening from the inside of said icebox, refrigerator, or container. It shall further be unlawful for any person, firm, or corporation, to leave outside of any building or dwelling in a place accessible to children any abandoned, unattended, or discarded icebox, refrigerator, or any other container of any kind which is airtight and has a snap lock or other device thereon without first removing said snap lock or locks, or door or doors, from said icebox, refrigerators, or containers.
- (b) Should any person, firm or corporation violate any of the provisions of this Section they shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding \$1,000.00, or imprisoned for not more than six months, or both, at the discretion of the court.

State Law reference — R.S. 14:324.

Sec. 14-93. Notice of Rubbish Violations.

- (a) The failure by any owner of a lot or tract of ground to keep the premises free of such rubbish shall subject the owner to notice from the Town ordering the removal of such rubbish from the premises and its proper disposal at the sole cost of the owner. The Mayor or Mayor's designee is authorized to issue a notice to such owner to rid his premises of the rubbish.
- (b) The notice shall be given by registered, return receipt mail to the last known address of the owner or, in case no address is known, then such notice shall be posted for a period of ten days upon the premises containing the rubbish to be removed.

State Law reference –R.S. 33:4876

Sec. 14-94. Appeals.

Any person desiring to appeal the requirements of the notice of rubbish violation shall request a hearing, in writing, before the Benton Town Council within ten days of receipt of the notice. Any person aggrieved by the decision of the Town Council shall have the right to appeal to a court of appropriate jurisdiction within 30 days of the decision by the Town Council.

Sec. 14-95. Removal of Rubbish by Town.

If after ten days from the date of the notice, the rubbish has not been removed, and no appeal has been filed under this Section, the Town shall have the right to enter the premises and remove the rubbish and charge the costs, not to exceed the maximum amount allowed by La. R.S. 33:4876, of such removal to the owner.

State Law reference –R.S. 33:4876 and R.S. 33:4766

Sec. 14.96. Cost Recovery for Removal of Rubbish.

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- (a) The Town shall send to the property owner, by registered mail, a bill for costs, not to exceed the maximum amount allowed by La. R.S. 33:4876, of such removal to the owner.
- (b) Upon failure of the property owner to pay the charges within thirty days of receipt of the bill, the tax collector of the Town shall furnish the owner, as shown on the last assessment roll of the Town, by registered mail a written statement showing the cost or expense incurred for the work, and the place or property on which the work was done. If the said statement is not paid within one month thereafter, the amount thereof shall be included in and form part of the taxes due by the owner of said property, and when collected shall be credited to the general fund of said municipality.

State Law reference –R.S. 33:4876 and R.S. 33:4766

Reserved Sec. 14-97-14-99.

Sec. 14-100. Abandoned and Nuisance Vehicles Prohibited.

The outside storage of abandoned or nuisance vehicles, as defined in this Article, has been found to create conditions that are a hazard to health, safety, and welfare of the residents of the Town, to promote blight and deterioration, to create fire hazards and breeding grounds for pests, to constitute an attractive nuisance, and to tend to reduce the value of property. The presence within the corporate limits of Benton of any abandoned or nuisance vehicle, except where expressly permitted herein, is unlawful, and may be abated by the Town in accordance with the provisions of this Ordinance, pursuant to La R.S. 32:471 et seq and La. R. S. 33:4876.

Sec. 14-101. Removal of abandoned vehicles within 24 hours.

- (a) Whenever any motor vehicle is found to be an abandoned vehicle, a notice shall be posted on the windshield of the vehicle directing that the vehicle is to be removed from that location within twenty-four hours, not to include weekends or legal holidays, and directing that the failure to remove the vehicle may result in the vehicle being removed by the Town, or by a tow truck operator on behalf of the Town.
- (b) If the abandoned vehicle is not removed within twenty-four hours, not to include weekends or legal holidays, from date of posting of the notice, the abandoned vehicle may be removed and disposed of by a tow truck operator on behalf of the Town, with all costs of towing and storage to be collected from the vehicle owner or lien holder retrieving the vehicle, or from the sale or disposition of the vehicle, as otherwise provided by law.
- (c) The tow truck operator shall store and may dispose of the vehicle pursuant to the Louisiana Towing and Storage Act. The Town shall have no civil or criminal liability pursuant to any provision of law for any act or omission of its own under the provisions of this Section or for the acts or omissions committed by the tow truck operator.
- (d) Within ten days of the date the vehicle was removed, notice shall also be provided to the registered owner of the abandoned vehicle and any registered lien holders, if they can be reasonably identified, at the address reflected by the records of the Louisiana Office of Motor Vehicles, by registered U.S. Mail, or by personal service through marshal of the Town or by any sheriff or deputy sheriff or constable having

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jurisdiction and power to serve legal process. If service by registered mail or personal service is unsuccessful, publication of the notice of the removal one time in the official journal of the Town shall be deemed sufficient.

State Law reference — R.S. 32:473.1.

Sec. 14-102. Abatement of nuisance vehicles; removal within 10 days.

- (a) Whenever any motor vehicle is found to be a nuisance vehicle, a notice shall be posted on the windshield of the vehicle directing that the vehicle is to be removed within ten days, not to include weekends or legal holidays, and directing that the failure to remove the vehicle may result in the vehicle being removed by the Town, or by a tow truck operator on behalf of the Town.
- (b) If the nuisance vehicle is not removed within ten days, not to include weekends or legal holidays, from date of posting the notice, the nuisance vehicle may be removed and disposed of by a tow truck operator on behalf of the Town, with all costs of towing and storage to be collected from the property owner, vehicle owner or lien holder retrieving the vehicle, or from the sale or disposition of the vehicle, as otherwise provided by law.
- (c) In addition to the notice to be placed upon the windshield of the nuisance vehicle, notice shall also be provided within ten days of the date the vehicle was removed to the property owner at the address reflected on the most recent tax roll or registered owner of the motor vehicle and any registered lien holders, if they can be reasonably identified, at the address reflected by the records of the Louisiana Office of Motor Vehicles, by registered U.S. Mail, or by personal service through marshal of the Town or by any sheriff or deputy sheriff or constable having jurisdiction and power to serve legal process. If service by registered mail or personal service is unsuccessful, publication of the notice of the removal one time in the official journal of the Town shall be deemed sufficient.

Sec. 14.103. Nuisance Vehicle Exceptions.

These provisions shall not apply to nuisance vehicles which are:

- (1) enclosed within a building in a manner that is not otherwise visible from the street or other public or private property;
- (2) in an appropriate storage place authorized by the zoning ordinance and other regulations;
- (3) licensed by the State as an antique, classic or vintage motor vehicle;
- (4) any motor vehicle stored as the property of a member of the armed forces of the United States who is on active-duty assignment.

Sec. 14.104. Appeals to Nuisance Vehicle Removal.

- (a) The registered owner or registered lien holder of a motor vehicle which the Town has found to be a nuisance vehicle has the right to appeal a notice of removal prior to the actual removal of the nuisance
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vehicle or for up to ten days from posting of the notice of removal on the windshield of the nuisance vehicle.

- (b) An appeal is initiated by filing a written objection to the removal with the Mayor. The appeal shall be heard by and decided by the Town Council.
- (c) Any person or persons jointly or severally aggrieved by any decision by the Town Council, may present to the district court having jurisdiction over the vehicle, a petition, duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the alleged illegality. The petition must be presented to the court within 15 days after the decision by the Town Council.

Sec. 14.105. Cost Recovery for Removal of Abandoned or Nuisance Vehicles.

- (c) The Town shall send to the property owner, by registered mail, a bill for the actual charges, costs, and expenses incurred by the Town for removal of the abandoned vehicle or nuisance vehicle.
- (d) Upon failure of the property owner to pay the charges within thirty days of receipt of the bill, the tax collector of the Town shall furnish the owner, as shown on the last assessment roll of the Town, by registered mail a written statement showing the cost or expense incurred for the work, and the place or property on which the work was done. If the said statement is not paid within one month thereafter, the amount thereof shall be included in and form part of the taxes due by the owner of said property, and when collected shall be credited to the general fund of said municipality.

State Law reference –R.S. 33:4876 and R.S. 33:4766

Sec. 14.106. Additional Remedies.

The implementation of any of the remedies set forth in this Chapter shall not limit the ability of the Town to proceed under the authority of any other provision of this Code or of Louisiana law.

§2. If any section, paragraph, sentence, clause and/or phrase of this Ordinance or the application thereof is declared unconstitutional, unenforceable or invalid by the valid judgment of any court of competent jurisdiction such unconstitutionality, unenforceability or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses and/or phrases of this Ordinance, since the same would have been enacted by the Town without the incorporation of this Ordinance of any such unconstitutional, unenforceable or invalid section, paragraph, sentence, clause or phrase. To this end, the provisions of this Ordinance are hereby declared severable.

§3. All other Ordinances, or parts thereof, which are in conflict with the provisions of this Ordinance, are hereby repealed. To the extent that any provision or provisions of this Ordinance are inconsistent or in conflict with any other provision of the Code of Ordinances or any regulation of the Town, the provisions of this Ordinance shall be deemed to control.

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§4. This Ordinance shall become effective upon final adoption and publication of the same in the manner prescribed by law.

Pat Done, explained that in addition to the State Code, there is an international code, and most states just adopt that code.

Mayor Horton explained that this breaks down into two parts, the code, and the enforcement. This is not appearance of a home it revolves around health and safety.

Alderman Cathcart stated that he noticed that it has expanded on the topics of the previous ordinance. He questioned what the differences from the previous Ordinance. He also asked about what he has observed around town such as campers, motorhomes, golf carts, atv's, boats, and outdoor cooking grills in people's front yards. He asked what does this ordinance do to address those types of items?

Pat Done said that this ordinance doesn't address everything on this list. She read the definition of "rubbish" and some of those items will fall under the definition. However, the Zoning code covers items parked in front of people's homes She also, stated that if the items are considered junk or rubbish. Then it does address those items.

Alderman Cathcart asked about writing an ordinance that covers what people can park in their front yards.

Mayor Horton gave an example about the various sizes of properties and not all have sufficient space to park items out of view of the front yard.

Alderman Manning asked Pat about section 14-90 concerning vacant lots. She asked if this only covers vacant lots.

Pat stated that it covers vacant lots and private lots. She also discussed that all communications concerning violations are always sent to the owner. Regardless of the property being rented or leased. The reason is that if a cost is incurred and goes unpaid the cost incurred by the Town would be added to the assessment of the property.

Several Council asked about the word "rubbish"?

Pat explained trailers are covered under rubbish. She also stated that when evaluating a nuisance, you would at least need to check off a minimum of three items on the checklist for determining a violation. She also stated that in Bossier City, the police are the ones who enforce their property standards.

A member of the public suggested that if people have motorhomes that they could put up a garage or something to keep it covered up. She also stated that when it is a lot of stuff in people's yards there are problems with rates and mosquitoes.

Alderman Cathcart stated what is all comes down to it is there needs to be laws that protect the citizens who respect others and keep their property clean and nice.

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Alderman Friday suggest that anything parked in the front yard should say that it should be parked on the driveway like Bossier City's code.

Pat said there are ways to do what you are talking about, but I recommend that you start gradually and ease into adding more a little at a time.

Mayor Horton stated that the goal of this ordinance was to address the junk.

Pat reviewed the check list that should be used by the Property Standards personnel when determining if a vehicle is considered a violation.

Alderman Manning asked about the time frame of the letter being sent in a 12-month period.

Mayor Horton clarified by stating that once a letter is sent out to someone about a violation and a second violation occurs on the same property for the same violation a second letter does not have to be sent out because the first letter covers a 12-month period.

Pat explained the penalties and that the Town cannot collect civil fines only a court can collect those types of fines. The Town can only collect the cost incurred for removal of the junk or cutting the high grass.

Alderman Friday asked if we are going to notify the citizens about the changes and give them time to correct things prior to implementing this ordinance?

Mayor Horton said that we plan on sending out a letter and a specific date of when this will be implemented. We are also going to offer people that if they have junk and want to move it out by the curb, we will pick it up for them. We also plan on starting a program like "Adopt a Yard" for those who are unable to tend to their own yards. We will have some volunteers who will be assigned those yards.

Mayor Horton, if there is no more questions, we will adjourn this meeting.

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Motion was made by Alderman , seconded by Alderman to approve the Workshop agenda. The mayor called for public comments. There being none, motion carried with the following votes recorded:

YEAS: Alderman Jackie Carr, Alderman Tiffany Manning, Alderman Ron Jones, Alderman James Friday, and Alderman Wayne Cathcart

NAYS: None

ABSTAIN: None

ABSENT: None

WORKSHOP ITEMS

1. Ordinance 577 of 2022 – Ordinance amending and re-enacting Article III and Article IV of Chapter 14 – Nuisances, of the code of ordinances of the Town of Benton

Comments & Questions

ADJOURN

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