

TUESDAY, AUGUST 21, 2007
TOWN OF SAWMILLS REGULAR TOWN COUNCIL MEETING
6:00 P.M.

COUNCIL PRESENT

Bobby Austin
Joe Norman
Bob Gibbs
Eddie Bowman
Gerelene Blevins
Joe Wesson

STAFF PRESENT

Robert Frye
Susan Noll
Terry Taylor

CALL TO ORDER: Mayor Austin called the meeting to order.

INVOCATION: Reverend Kenny Duke gave the invocation.

PLEDGE OF ALLEGIANCE: Mayor Austin led the Pledge of Allegiance.

APPROVAL OF JULY 17TH REGULAR MEETING MINUTES: Mayor Austin asked for a motion to approve the July 17, 2007 minutes.

On a motion made by Joe Norman and seconded by Gerelene Blevins, the regular minutes were approved. All were in favor.

ADOPT AGENDA: Mayor Austin asked for a motion to adopt the agenda with the following addition: add ratify Board of Adjustments as item 8C.

On a motion made by Eddie Bowman and seconded by Joe Norman, the Agenda with changes was adopted. All were in favor.

PUBLIC HEARING: SEWER BOND ORDER:

OPEN PUBLIC HEARING: Mayor Austin asked for a motion to open the public hearing. A motion by Bob Gibbs and seconded by Joe Wesson, to open the public hearing was made. All were in favor.

BOND COUNSEL COMMENTS: The Town's Bond Counsel Mr. Bob Jessup was on hand to answer any questions about the sewer bond.

PUBLIC COMMENTS: Mayor Austin asked if anyone had signed up wishing to speak.

A citizen stated that he thought that the Town had voted against the sewer bond.

CLOSE PUBLIC HEARING: Mayor Austin asked for a motion to close the Public Hearing.

On a motion made by Joe Wesson and seconded by Eddie Bowman a motion to close the public hearing was made. All were in favor.

COUNCIL ACTION: On a motion made by Joe Wesson and seconded by Joe Norman the Council will proceed with the bond order. All were in favor.

FINANCIAL MATTERS:

BID AWARD: BAIRD DRIVE PARK PROJECT: This year's current budget included funds for the refurbishment of the concession/storage building and for construction on a new restroom facility at the Baird Drive Park.

The Town has received three bids for this project. The bids were as follows:

InSite Development	\$324,900.00
Vegter Builders	\$199,900.00
Wilkie Construction	\$228,850.00

On a motion made by Joe Norman and seconded by Eddie Bowman a motion was made to approve Vegter Builders the low bidders for this project in the amount of \$199,900.00.

BUDGET AMENDMENT: VETERANS PARK PROJECT: Mayor Austin and Town Administrator Robert Frye met with representatives from Moss-Marlow Construction to discuss issues regarding the \$5,500.00 in liquidated damages that the Town Levied against Moss Marlow for failing to complete the project at the Veteran's Park restroom on time.

The Town has proposed an agreement reached with Moss-Marlow to adjust the penalty amount from \$5,500.00 to \$3,500.00 and to have Council reinstate them on The Town's bidding list.

The Town will need to do a budget amendment in the amount of \$2,000.00 to cover several items not listed in the original contract to be able to close out this project. This item was not included in this year's current budget so the Town will have to do a fund balance appropriation.

On a motion made by Eddie Bowman and seconded by Joe Norman the Council agreed to endorse the enclosed agreement with Moss-Marlow. Joe Norman, Bob Gibbs, Eddie Bowman, and Joe Wesson were all in favor of the agreement. Gerelene Blevins was opposed to the agreement. The motion passed by a vote of 4 to 1. (See attached).

Joe Norman made the motion to approve the budget amendment and fund balance appropriation in the amount of \$2,000.00 with Eddie Bowman seconding. Gerelene Blevins opposed. Joe Norman, Bob Gibbs, Eddie Bowman, and Joe Wesson were in favor. The motion passed on a vote of 4 to 1.

REQUEST TO SURPLUS EQUIPMENT: There was one bid on the 1989 Ford F-150 pick up truck that the Town has recently surplused.

Ash Mann of 2095 Woodside Terrance Granite Falls, NC 28630 submitted a bid of \$301.00.

On a motion made by Bob Gibbs and seconded by Gerelene Blevins, the Town will accept the bid by Mr. Mann and sell the surplused 1989 Ford F-150 truck to Mr. Mann in the amount of \$301.00.

PLANNING MATTERS:

FRIENDSHIP ACRES (PHASE 3) MAJOR SUBDIVISION APPROVAL: Friendship Acres Subdivision is located off Horseshoe Bend Road and is owned by Gary Bolick.

This is Phase 3 of this particular subdivision and will have ten lots, which will all have road frontage.

The Planning Commission has reviewed the request and would recommend Council's approval.

Joe Norman made a motion and Gerelene Blevins seconded to approve Phase Three of Friendship Acres Subdivision. All were in favor.

BEN GRIFFIN: HICKORY NUT RIDGE ROAD MAJOR SUBDIVISION APPROVAL: Phase One of a Major Subdivision owned by Ben Griffin and located off Hickory Nut Ridge Road has been submitted for final approval.

Ben Griffin's subdivision would consist of two phases. The first phase would be requesting approval for creating six lots. The remaining 6.14 acres would be developed at a later time.

The Subdivision would have approximately two phases. The first phase will have six lots with the remaining 6.14 acres to be developed at a later time.

The Planning Commission has reviewed a request for preliminary approval of property located off Hickory Nut Ridge Rd. owned by Ben Griffin.

On a motion made by Gerelene Blevins and seconded by Joe Wesson, The final approval for the Major Subdivision owned by Ben Griffin located on Hickory Nut Ridge Road has been approved. All were in favor.

RATIFY BOARD OF ADJUSTMENTS: The Town has appointed seven members to be on the Board of Adjustments.

The members are as follows:

Carolyn Evert
Elden Smith
Pat Harrison
Mark Townsend
Billy Slater
Danny Hamby
Todd Hess

On a motion made by Gerelene Blevins and seconded by Joe Wesson, the members listed will be the Sawmill's Board of Adjustments. All were in favor.

DISCUSSION: LAWN UPKEEP: Town Attorney Terry Taylor brought before the Council members a proposed Ordinance Amendment for the nuisance provisions that they need to review. Also enclosed is a summary sheet for the procedure once someone receives a nuisance complaint and also a proposed Complaint Form, Investigation Form and Notice of Hearing. There is also the Notice of Hearing Letter, Notice of Code Violation, and Civil Citation Notice for review. (See attached)

Town Administrator Robert Frye asked the Council to read over the information come to consensus at the next Council meeting and vote by a majority vote.

There is no action needed at this time. The Council will table this matter until the next Sawmill's Town Council regular meeting.

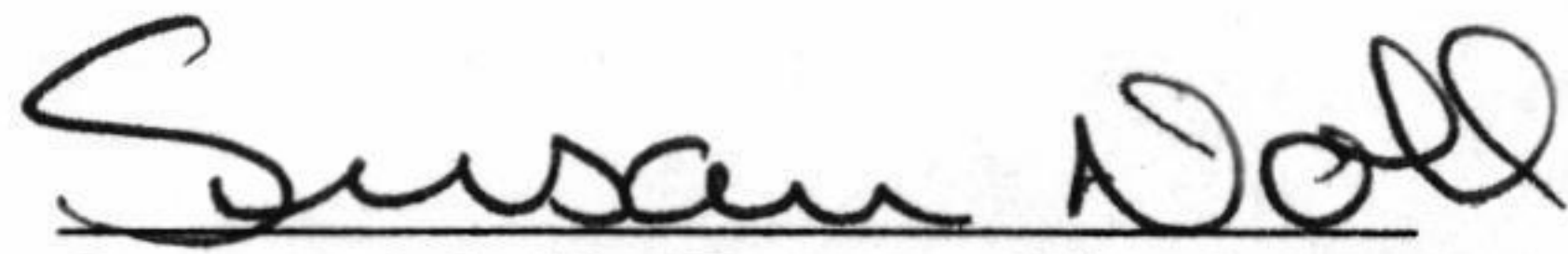
DISCUSSION: NEW TOWN HALL BUILDING COMMITTEE: Mayor Austin has appointed Joe Norman and Bob Gibbs to serve on the architect selector committee.

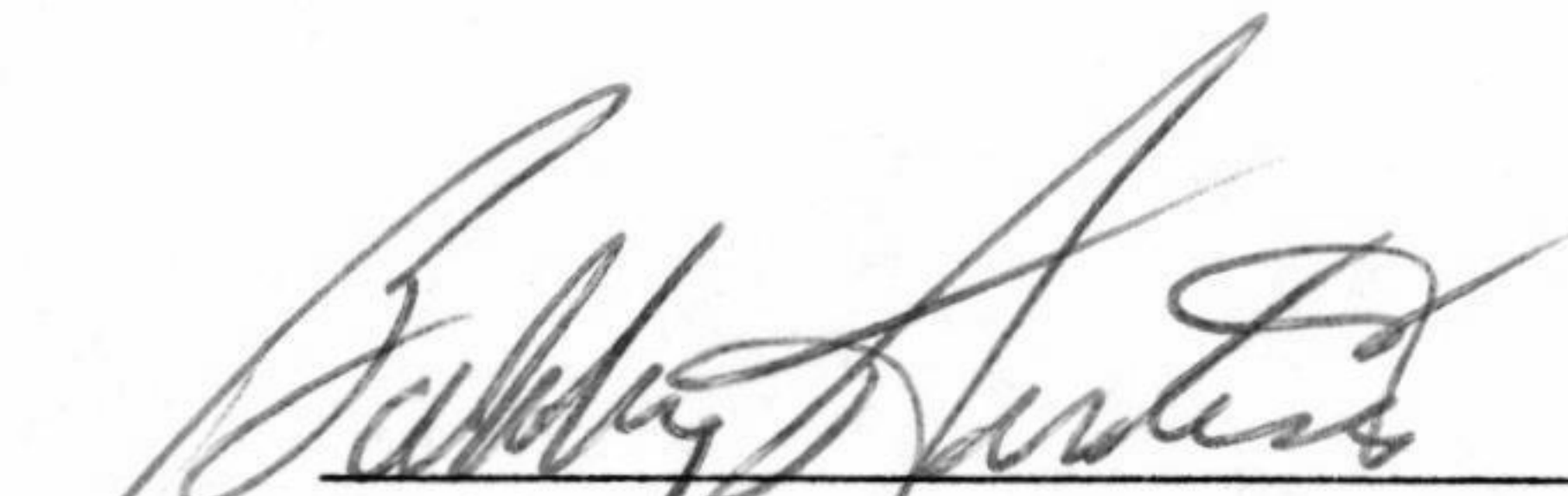
No Council action was required.

TOWN HALL MEETING: Grace Robbins and Virginia Godfrey spoke against sewer because of the high rates.

ADJOURN: Mayor Austin asked for a motion to adjourn the meeting.

On a motion made by Joe Norman and seconded by Joe Wesson, the meeting was adjourned at 6:41 p.m. All were in favor.


Susan Noll, Town Clerk


Bobby Austin, Mayor

SWORN STATEMENT OF DEBT

For the Town of Sawmills, North Carolina

I, Bonnie Mann, being first duly sworn, do hereby state that I am the Finance Officer for the Town of Sawmills, North Carolina, that I have been designated by the Town Council of the Town of Sawmills, North Carolina, to make and file with the Town Clerk a sworn statement of debt, and that the following is the statement of debt for the Town of Sawmills, North Carolina, as shown by the books in my office, prepared in accordance with, and made pursuant to the requirements of, Section 159-55 of the North Carolina General Statutes.

A. Gross Debt

1. Outstanding debt evidenced by bonds:

<u>Purpose</u>	<u>Amount (\$)</u>
<i>Total</i>	\$ <u>0</u>

2. Bonds authorized by orders introduced but not yet adopted:

<u>Purpose</u>	<u>Amount (\$)</u>
Sewer	\$9,800,000
<i>Total</i>	\$ <u>9,800,000</u>

3. Unissued bonds authorized by adopted orders:

<i>Total</i>	0
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4. Outstanding debt not evidenced by bonds:

<u>Purpose</u>	<u>Amount (\$)</u>
PURCHASED WATER LINE FROM CALDWELL COUNTY WATER DEPT.	
Total	<u>\$ 68,969</u>

Total Gross Debt (sum of 1 through 4)	<u>\$ 9,868,969</u>
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B. Deductions from Gross Debt

1. Funding and refunding bonds authorized by orders introduced but not yet adopted.	\$9,800,000
2. Funding and refunding bonds authorized but not yet issued.	\$ 0
3. Amounts held in sinking funds or otherwise for the payment of any part of the principal of gross debt, other than debt incurred for water, gas, electric light or power purposes or sanitary sewer purposes (to the extent deductible under Section 159-55(b) of the General Statutes), or two or more of these purposes.	\$ 0
4. Bonded debt included in gross debt and incurred, or to be incurred, for water, gas or electric light or power purposes, or any two or more of such purposes.	\$
5. Bonded debt included in gross	\$ 0

debt and incurred, or to be incurred, for sanitary sewer purposes (to the extent deductible under Section 159-55(b) of the General Statutes).	
6. Uncollected special assessments levied for local improvements for which any part of gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the special assessments will be applied, when collected, to the payment of any part of the gross debt.	\$ 0
7. Estimate of special assessments to be levied for local improvements for which any part of gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the special assessments will be applied, when collected, to the payment of any part of the gross debt.	\$ 0

Total deductions (Sum of 1 through 7)

\$ 9,800,000

C. Net Debt, <i>being the difference between Total Gross Debt (A) and Total Deductions (B).</i>	\$ 68,969
D. Appraised Value of property subject to taxation, <i>being the value from which the assessed value last fixed for taxation was computed, as revealed by the County tax records and certified by the County Tax Assessor.</i>	\$ <u>198,879,561</u>
E. Percentage that Net Debt bears	

to the appraised value of property
subject to taxation.

.0003 %

WITNESS my signature this 31 day of July, 2007.

Bonnie Mann

Bonnie Mann

Finance Officer

Town of Sawmills, North Carolina

STATE OF NORTH CAROLINA

CALDWELL COUNTY

Subscribed and sworn before me this 31st day of July, 2007.

Kimberly M. Turville
Notary Public

[Seal]

My commission expires 8-1-2011.

July 31, 2007

West Consultants
Attn: Benjie Thomas
405 S. Sterling St.
Morganton, NC 28655

Re: Veteran's Memorial Park
Moss-Marlow Job # 06-224

Benjie,

Thank you for arranging the meeting yesterday with the representatives from the Town of Sawmills. As a result of this meeting, the following was agreed:

1. The number of penalty days will be reduced from 11 to 7. This adjustment will revise the penalty amount to \$3,500.00
2. The mayor of Sawmills will present this information to the town council at the next meeting scheduled for August 21st.
3. Once approved by the council, a check in the amount of \$17,492.00 will be prepared for Moss-Marlow as final payment for the project.
4. When Moss-Marlow picks up the new check, they will return the check in the amount of \$14,492.00 dated 6/6/07 marked as full and final payment.
5. Moss-Marlow will present a check in the amount of \$1,000.00 to the town and this check will be held by the town until the grass around the building is established per the contract. Once the grass is established, the check will be returned to Moss-Marlow.
6. Moss-Marlow will be considered in good standing with the Town of Sawmills and be invited to bid on future projects.
7. As part of this agreement, Moss-Marlow will execute Change Order #3.

If you have any questions, please call me at (828) 328-2333 Ext. 307.

Respectfully,



Todd W. Rhodes
President

BUDGET AMENDMENT
TOWN OF SAWMILLS
GENERAL FUND

The Town Council of the Town of Sawmills at a meeting on the 21 day of August, 2007 passed the following resolution.

Be it resolved that the following amendments be made to the Budget Resolution for the fiscal year ended June 30, 2006.

Account Number	Description	Increase	Decrease
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Expenditures General Fund

1-00-4493	Operating Transfer to Special Projects	\$2,000	
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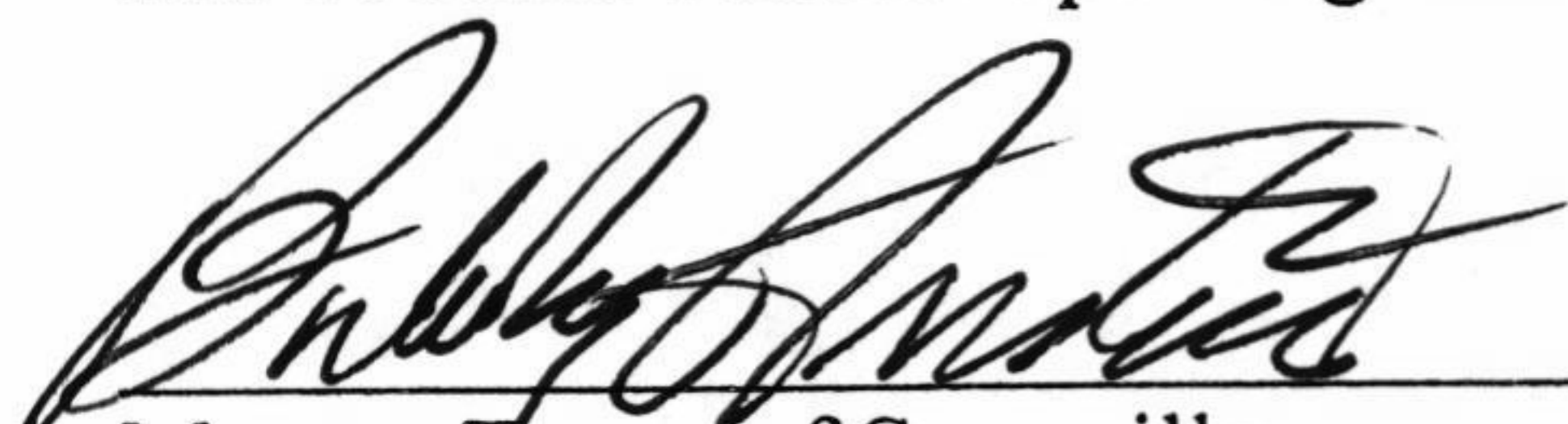
Revenues General Fund

1-00-3990	Fund Balance Appropriated	\$2,000	
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Explanation: To pay remaining expenses for the portion of the project completed by Moss-Marlow.

Total Appropriation in Current Budget	\$ 0
Amount of Increase(Decrease) of Above Amendment	\$ 2,000
Total Amount in Current Amended Budget	\$ 2,000

Passed by majority vote of the Town Council of the Town of Sawmills on the 21 day of August, 2007. This amendment shall be attached to the minutes of such meeting and become official upon signature of the Mayor and Town Clerk.



Mayor, Town of Sawmills



Town Clerk, Town of Sawmills

**ORDINANCE OF AMENDMENT
TOWN OF SAWMILLS**

CHAPTER 82 - WEEDS, GRASS AND REFUSE

EFFECTIVE this the _____ day of _____, 2007, the Town of Sawmills does by Ordinance formally amend the Ordinance Book and specifically that being Chapter 82, Section 82.02, shall read as follows:

Section 82.02. - Investigation.

The Town Clerk, upon notice from any person, *on a pre-preprinted form to be provided by the Town Clerk*, of the existence of any of the conditions described in § 82.01, shall cause to be made by the appropriate County Health Department official, or town official, such investigation as may be necessary to determine whether conditions exist which may constitute a public nuisance as declared in § 82.01. *The individual conducting said investigation shall submit a written report, on a pre-printed form to be provided by the Town Clerk, summarizing the investigator's findings to the Town Clerk within thirty (30) days of contact by the Town Clerk regarding the need for an investigation.*

(Ord., passed 1-22-91), (Ord., amended _____ - _____-2007)

These provisions enacted this the _____ day of _____, 2007.

TOWN OF SAWMILLS

BY: _____
Mayor

ATTEST:

Town Clerk

Procedure For the Hearing of a Nuisance Complaint Regarding Weeds, Grass and Refuse:
(assuming that all resolutions are adopted)

1. Notice from any person given to the Town Clerk, on a pre-printed form provided by the Town Clerk, of a condition that may qualify as a nuisance under § 82.01 of the Sawmills Town Code;
2. The Town Clerk shall cause the appropriate official, such as a County Health Department official or a fire department examiner, to investigate the complaint and determine if a nuisance condition truly exists. The investigating official shall report back to the Town Clerk within thirty (30) days of notification of a need for investigation on a pre-printed form provided by the Town Clerk.
3. If the investigator determines a nuisance does exist, the Town Clerk shall notify the offending party that (1) a potential nuisance violation exists and (2) a hearing will be held before the Clerk not less than 10 and not more than 30 days from the mailing of the notice;
4. The hearing before the Town Clerk is open to the public, is not subject to judicial rules of evidence and the potential violator must be given a chance to present evidence and be heard;
5. If the Town Clerk determines that a nuisance does exist, the violator shall be issued a Notice of Code Violation in writing which states (1) the nature of the nuisance and (2) that they have fifteen (15) days to remove the nuisance;
6. If there is no abatement of the nuisance within the required time period the Town Clerk shall issue a Civil Citation for Notice of Code Violation.
 - (A) Civil penalties shall be assessed against the violator.
 - (B) Injunctive relief may be sought against the violator.
 - (C) Criminal charges may be pursued against the violator.
7. If the violator so requests, the Town of Sawmills may remove the nuisance under the supervision of the Town Clerk or their designee;
 - (A) The cost to the Town of Sawmills for removal shall be chargeable to the violator and shall be paid within thirty (30) days of a written instructions to pay from the Town Clerk;
 - (B) Should a violator fail to pay, the charges for removal shall become a lien of the violator's property.

TOWN OF SAWMILLS

WEEDS, GRASS AND REFUSE NUISANCE COMPLAINT FORM

Dear Citizen,

Thank you for your interest in keeping the Town of Sawmills free of weeds, grass and refuse which may constitute a nuisance. Before you complete this form please read what constitutes a nuisance for weeds, grass and refuse pursuant to Section 82.01 of the Sawmills Town Code. If after reading this ordinance you still believe that a nuisance exists in the Town of Sawmills please fill out this form and return it to the Town Clerk.

Upon receiving a completed form the Town Clerk will begin the weed, grass and refuse nuisance investigation process. Please note that this process may take several months and that you are responsible for communicating with the Town Clerk regarding the status of the investigation.

Section 82.01 Nuisance Conditions.

The existence of any of the following conditions on any vacant lot or other parcel of land within the corporate limits is declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

- (C) The uncontrolled growth of noxious weeds or grass to a height in excess of 24 inches causing or threatening to cause a hazard detrimental to the public health or safety.
- (D) Any accumulation of rubbish, trash, or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous to the public health.
- (C) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health
- (D) The open storage of any abandoned ice box, refrigerator, stove, glass, building material, building rubbish, or similar items.
- (E) Any condition detrimental to the public health which violates the rules and regulations of the County Health Department.

(Ord., passed 1-22-91)

1. Have you read the above definition as to what constitutes a nuisance regarding weeds, grass and refuse?

Yes: _____ No: _____

2. Do you feel that the above definition of nuisance for weeds, grass and refuse applies to the condition you are reporting today? Yes: _____ No: _____
3. Please list the full address (including zip code) for the property you feel contains a nuisance. _____

4. Please list the name (if known) of the owner of the complained about property. _____
5. Please list the name (if known) of the of whomever currently resides at the complained about property. _____
6. Please provide a detailed description of the condition(s) which constitute a nuisance at the complained about property.

7. Printed name of individual filing this complaint. _____
8. Current address for individual filing this complaint. _____

Complainant's Signature: _____ Date: _____

Town Clerk's Initials: _____ Date of Form Review: _____

TOWN OF SAWMILLS

WEEDS, GRASS AND REFUSE NUISANCE COMPLAINT INVESTIGATION FORM

Printed Name of Investigator: _____ Investigation Date: _____

Date Investigator Received Notice From Town Clerk: _____

Address of Property Investigated: _____

Name and Address of Record Property Owner: _____

Name of Individual/Entity Residing at Investigated Property: _____

Investigator's Detailed Description of the Property being Investigated: _____

Does Investigator feel that conditions exist on the property which may constitute a weed, grass or refuse nuisance? Yes: _____ No: _____

Investigator's Signature: _____ Date Returned to Town Clerk: _____

Town of Sawmills

4076 US Hwy. 321-A

Sawmills, NC 28630

(828) 396-7903

_____[date]

NOTICE OF HEARING LETTER

Potential Nuisance Ordinance Violation on Your Property Located at:

Dear _____:

The Town of Sawmills is committed to maintaining quality neighborhoods and an excellent community environment. Our citizens expect us to do everything we can in this regard. We know that this can only be achieved through the cooperation of everyone involved.

The purpose of this letter is to inform you that a complaint was filed with the Town Clerk regarding the potential existence of a nuisance on your property located at the address listed above

on _____, _____ [insert date of complaint here]. The Town of Sawmills Municipal Code Chapter 82, Weeds, Grass and Refuse requires that all nuisance complaints presented to the Town Clerk be investigated. An investigation of this nuisance complaint was conducted by

_____ [insert investigator's name], with

the _____ [insert investigator's employer], on _____

_____, _____ [insert date of investigation here].

The investigator determined that your property located at above address is potentially in violation the Town of Sawmills Municipal Code 82, Weeds, Grass and Refuse. Specifically, the investigator determined that the Town of Sawmills Municipal Code Section 82.01 _____ [insert

subsection being violated here] is being violated. This code section states that _____

_____ [insert actual text of subsection being violated here].

Pursuant to Sawmills Municipal Code Chapter 82, Weeds, Grass and Refuse a hearing will be held before the Town Clerk on _____, _____ [insert date of hearing here] at the Sawmills Town Hall to determine whether a nuisance does in fact exist on your property located at the above address. At this hearing you will have the opportunity to file an answer in this matter, be heard before the Town Clerk and present evidence on your behalf.

Should the Town Clerk determine that a nuisance does in fact exist on your property located at the above address, you will have fifteen (15) days from receipt of notice of the Town Clerk's determination to remove the nuisance.

Please be advised that failure to remove the nuisance within fifteen (15) days shall result in a "CIVIL CITATION" being issued against you. Once a CIVIL CITATION is issued, you will incur a civil penalty in the amount of fifty dollars (\$50.00) per day per violation. **Note that each day a violation continues is a separate and distinct offense and the above penalty will be assessed daily so long as the violation continues.** The Town of Sawmills is also authorized pursuant to North Carolina General Statute § 160A-175 and Sawmills Town Code § 10.99 to apply to the appropriate court of jurisdiction for injunctive relief and orders of abatement. Violation of an ordinance is also a Class 3 misdemeanor pursuant to North Carolina General Statute § 14-4(a).

If you have any questions regarding this process please contact me at the number listed above.

Sincerely,

Sawmills Town Clerk

Town of Sawmills

4076 US Hwy. 321-A

Sawmills, NC 28630

(828) 396-7903

NOTICE OF CODE VIOLATION

Nuisance Ordinance Violation on Your Property Located at:

Dear _____:

Please be advised that this letter serves as notice of your violation of § 82 of the Sawmills Town Code on _____.

Date of Letter: _____

Date of Violation: _____

Nature of Violation: _____

Action Required to Correct Violation: _____

Please be advised that you must immediately cease this activity upon receipt of this notice, or incur penalties pursuant to North Carolina General Statute § 160A-175 and Sawmills Town Code § 10.99. Failure to comply with this request within fifteen (15) days shall result in a "CIVIL CITATION." In the event you have failed to react to this warning by _____ you will begin to incur a civil penalty in the amount of fifty dollars (\$50.00) per day per violation. **Note that each day a violation continues is a separate and distinct offense and the above penalty will be assessed daily so long as the violation continues.** The Town of Sawmills is also authorized pursuant to North Carolina General Statute § 160A-175 and Sawmills Town Code § 10.99 to apply to the appropriate court of jurisdiction for injunctive relief and orders of abatement. Violation of an ordinance is also a Class 3 misdemeanor pursuant to North Carolina General Statute § 14-4(a).

Sawmills Town Clerk

Town of Sawmills

4076 US Hwy. 321-A
Sawmills, NC 28630
(828) 396-7903

**CIVIL CITATION
FOR
NOTICE OF CODE VIOLATION**

Dear _____:

Please be advised that pursuant to our letter to your, dated _____ (see attached copy), you are in continued violation of § 82 of the Sawmills Town Code. As stated in the "NOTICE OF CODE VIOLATION" letter, you will now be assessed a penalty of one hundred dollars (\$100.00) per day per violation. You will be assessed at a rate of fifty dollars (\$50.00) per day per violation. **Note that each day a violation continues is a separate and distinct offense and the above penalty will be assessed daily so long as the violation continues.** The Town of Sawmills is also authorized pursuant to North Carolina General Statute § 160A-175 and Sawmills Town Code § 10.99 to apply to the appropriate court of jurisdiction for injunctive relief and orders of abatement. Violation of an ordinance is also a Class 3 misdemeanor pursuant to North Carolina General Statute § 14-4(a).

You are hereby directed to make payment to the Town Clerk, located in the above address, within ten (10) days from the date of this citation. The violation for which you have been cited must be corrected in order to pay the citation. Further citations shall be issued until such violations are corrected. Furthermore, if you fail to pay the penalty pursuant to this citation within ten (10) days of its issuance, you are hereby notified that the Town of Sawmills may institute a civil action against you in the nature of a debt.

Sawmills Town Clerk