

## Chapter 80 Nuisances

### Section 80.01 Authority

Pursuant to N.C.G.S. 153A-121 a county may by ordinance define, regulate, prohibit or abate acts, omissions or conditions detrimental to the health, safety or welfare of its citizens and the peace and dignity of the county; and may define and abate nuisances.

### Section 80.02 Administration

This Chapter shall be enforceable by an appointed Administrator who shall administer and enforce the provisions herein.

### Section 80.03 Public Nuisances Enumerated

The existence of any of the following conditions on any parcel of land except bona-fide farms within the unincorporated area of the county is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

- (1) The uncontrolled growth of weeds, grass or noxious growth to a height of twelve (12) inches or more within one hundred (100) feet of any residential or nonresidential structure.
- (2) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or which is inhabited by rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health.
- (3) Any accumulation of solid wastes or scrap materials not in compliance with the solid waste ordinances of Gates County.
- (4) An accumulation of stagnant water causing or threatening to cause the inhabitation thereof by mosquitoes.
- (5) Any condition detrimental to the public health, safety and welfare or which violates the rules and regulations of the Gates County Health Department or successor agencies thereto.
- (6) Parcels of land subject to this section shall be construed by extension to include the frontage of said parcel onto any right-of-way, either public or private, so that the standards described in Section 80.03 subsection 1 through 5 are applicable in a uniform manner. Nothing in this subsection shall be construed to require the State of North Carolina and its constituent agencies to adhere to any of the provisions of this chapter.

#### Section 80.04 Notice and Order to Abate Nuisances

- (A) For purposes of this chapter, the respondent is the person in possession of the property where a public nuisance (as described in Section 80.03) is located, as well as the owner of such property, if different from the former.
- (B) Upon determination by the Administrator that there exists on any property conditions constituting a public nuisance (as described by Section 80.03, subsections 2 through 5), the Administrator shall notify the respondent by personal services as described by GS 1A as amended or certified mail of such conditions and shall order the abatement thereof within fifteen (15) days of the receipt of such notice. If after due diligence the respondent's address cannot be determined, then the notice required by this subsection shall be posted conspicuously on the offending property.
- (C) Upon determination by the Administrator that there exists on any property conditions constituting a public nuisance (as described in Section 80.03), the Administrator shall notify the respondent by personal service as described by GS 1A as amended or certified mail of such conditions and shall order the abatement thereof within ten (10) days of the receipt of such notice. If after due diligence the respondent's address cannot be determined, then the notice required by this subsection shall be posted conspicuously on the offending property. When a person has failed to comply with a notice of violation as described above, the Administrator shall not be required to provide further notice of violation to that person with regard to the same property before taking any of the enforcement actions authorized by this chapter.

#### Section 80.05 Appeal of Abatement Order

At any time before the expiration of the fifteen-day abatement period specified in Section 80.04 the respondent may request a hearing before the County Manager or his designee to appeal the finding of the Administrator that a public nuisance as defined in Section 80.03 exists on the premises. The request for a hearing must be in writing and must be filed in the Office of the County Manager. The County Manager or his designee shall fix a time for the hearings, and the initial abatement order shall be temporarily suspended pending such hearing. The hearing must be held by the County Manager or his designee within thirty-one (31) calendar days following receipt of the request for hearing by the Office of the County Manager. At the hearing, the individual affected by the order shall be given the opportunity to present evidence to refute the findings which supported the abatement order. Upon completion of the hearing, the County Manager or his designee shall consider the evidence before it/him and shall either revoke the initial order, issue a final order which differs from the initial order, or reinstate the initial order as a final abatement order.

## Section 80.06 Abatement of Nuisance by County

- (A) Upon the occurrence of either the following conditions the administrator shall cause said condition to be removed or otherwise remedied by having employees of the county, or a contractor hired by the county, go upon said premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the administrator:
  - (1) A hearing is requested and held under Section 80.05 resulting in either a final order with modifications or the reinstatement of the initial order as a final order, and such order is not complied with within fifteen (15) days from date of the order.
  - (2) No hearing is requested or held, and the respondent having been ordered to abate such a public nuisance fails, neglects or refuses to abate or remove the condition constituting the nuisance within fifteen (15) days from receipt of said order.
- (B) The owner of property where a public nuisance has been found to exist under this chapter may request the county in writing to remove such condition, and the county may remove the offending condition pursuant to such request.

## Section 80.07 Charges for Abatement by County, Affixing of Liens

- (A) The actual cost incurred by the county in removing or otherwise remedying a public nuisance pursuant to Section 80.06 shall be charged to the owner of the offending property, and the owner shall pay these charges within thirty (30) days after receiving from the county a statement of charges.
- (B) In the event charges for the removal or abatement of a public nuisance are not paid within thirty (30) days after the receipt of a statement of charges under subsection (a), such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. 153A-140 as amended.

## Section 80.08 Inspections

Whenever it is necessary to make an inspection in the course of an investigation required by this chapter, the administrator is hereby empowered to enter upon property upon which there is alleged to exist a public nuisance at any reasonable time to inspect the same, but only if the consent of the person in possession of the premises is freely given or a search or inspections warrant is obtained as hereinafter provided:

- (1) If such property is occupied, the administrator shall first present credentials to the occupant and request entry, explaining the reasons therefore.
- (2) If such property is unoccupied, the administrator shall first make a reasonable effort to locate the person having charge or control of the property, present proper credentials and request entry, explaining the reasons therefore.
- (3) If such entry is refused or cannot be obtained because the person having charge or control of the property cannot be found after due diligence, the administrator shall obtain a warrant to conduct a search or inspection of the property.

## Section 80.09 Penalties

- (A) Civil penalty: Any person who is found in violation of this chapter shall be subject to a civil penalty not to exceed five hundred dollars (\$500.00), as provided in G.S. 153A-123 as amended.
  - (1) The first violation of this chapter shall subject the offender to a civil penalty of fifty dollars (\$50.00).
  - (2) The second violation of this chapter shall subject the offender to a civil penalty of one hundred dollars (\$100.00).
- (B) Remedies: The provisions of this chapter may be enforced by equitable remedy and any unlawful condition existing or in violation of this chapter may be enforced by injunction and or of abatement in accordance with the provisions of G.S. 153A-123 as amended.