

Section 3.7 - Minimum Public Health and Safety Standards.

Sec. 3.7-1. Conditions deemed dangerous and prejudicial to the public's health and safety.

Pursuant to G.S. 153A-140, the existence of any of the following conditions on any parcel of land with an inhabited dwelling, within the unincorporated areas of Cleveland County is hereby declared to be dangerous and prejudicial to the public's health and safety and therefore constitutes a violation of this Section:

(1). Any accumulation of solid waste not in compliance with this article or any

other ordinance.

(2). Maintaining, permitting to be maintained, or otherwise allowing any premises, upon which an inhabited dwelling is located, to accumulate any of the following non-exhaustive items in a manner that is deleterious to good health and public safety: trash, garbage, offal, stagnant water, overgrown grasses or vegetative growth, building materials, glass, wood, household appliances, tools, inoperative lawn care equipment, broken, inoperative, or discarded furniture or other household equipment, packing boxes, discarded clothing, junk metal, automobile parts, tires, inoperative boats, motorized equipment or machinery, building materials or other matter deleterious to good health and public sanitation which is permitted or caused to accumulate in any manner which is or may become harmful or cause injury to the health or welfare of residents or the public in the vicinity or causing injury to neighboring property.

a. The words "weeds" and "rank vegetation" as used herein include poison ivy, kudzu, plants of obnoxious odors, weeds and grasses causing hay fever, those which serve as a breeding ground for mosquitoes or as a refuge for snakes and rodents or any growth that creates a fire or traffic hazard or a blight due to unsightliness.

b. Nothing herein shall be applicable to grasses or any other vegetative growth that appear to have been reasonably maintained.

(3). Maintaining or permitting to be maintained kudzu, honeysuckle, ivy or any other woody or vine-type plant upon any premises with an inhabited dwelling, when such plant grows beyond the bounds of said premises so as to entwine fences, buildings, trees, public utilities or onto any other property.

This Section shall not apply to bona fide farms in Cleveland County.

Sec. 3.7-2. Enforcement; right of entry onto premises.

Whenever it is necessary to make an inspection in the course of an investigation required by this article, an agent designated by the county manager is hereby empowered to enter, at any reasonable time, upon property where there is reasonable cause to believe a violation

exists to inspect the same, but only if the consent of the person in possession of the premises is freely given or a search warrant is obtained as hereinafter provided:

- (1) If such property is occupied, the county's designated agent shall first present credentials to the occupant and request entry, explaining the reasons.
- (2) If such property is unoccupied, the county's designated agent shall make a reasonable effort to locate the person having charge or control of the property.
- (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 and a good faith search, the county's designated agent shall obtain an administrative search warrant to conduct a search or inspection of the property.

Sec. 3.7-3. Notice of alleged violation.

- (a) In collaboration with county staff, the county attorney or other designee shall send written notice to any property owner the county determines is in violation of Section 3.7-1 and include a brief articulation of the alleged violation. This notice must also clarify that the property owner has ten (10) calendar days to remedy or otherwise abate the violation. The notice must also inform the property owner that he or she has the right to an administrative hearing before a designated county official, as well as the right to appeal to the General Court of Justice.
- (b) The county attorney or other designee may notify a chronic violator of Section 3.7-1 of the county's ordinances and that, if the violator's property is found to be in violation of the ordinance, the county shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the remedial action shall become a lien upon the property that the county collects as unpaid taxes. The notice shall be sent by certified mail. A chronic violator is defined as any person who owns real property whereupon, in the previous calendar year, the county gave notice of violation at least three times under any provision of Section 3.7-1.

Sec. 3.7-4. Right to hearing.

At any time before the expiration of the abatement period of ten (10) calendar days specified in the notice to the respondent property owner, the respondent property owner may request an administrative hearing before the county manager or his designee to appeal the county's finding that a violation has occurred and continues to be unabated or otherwise remedied at or on the subject premises. The request for a hearing must be in writing and be delivered to the office of the county manager. The county manager or his designee shall schedule a time for the hearing, and the initial abatement order shall be temporarily suspended upon such filing, pending the hearing. The hearing must be held by the county manager or his designee within five (5) business days following receipt of the request for hearing. At the hearing, the individual affected by the notice of violation must be given the opportunity to present evidence to refute the findings which led to the notice of violation. Upon completion of the hearing, the county

manager or his designee shall consider the evidence and shall either revoke the initial notice of violation, issue a final decision which differs from the initial notice of violation, or affirm the county's notice of violation as the county's final decision within three (3) business days. The county's final decision must remind the property owner in writing of his or her right to appeal to the General Court of Justice.

Sec. 3.7-5. Abatement of violation by county.

Upon the occurrence of either of the following conditions, the county's designated agent or contractors of the county may cause said conditions to be removed or otherwise remedied by engaging a duly contracted third party or employees of the county to enter onto said premises and remove or otherwise abate the violation(s):

- (1) A hearing is requested and held under Section 3.7-4 resulting in a final order, and the property owner does not comply in abating the violation with within ten (10) calendar days from adjournment of the hearing.
- (2) If no hearing is requested and/or held, and the respondent property owner fails, neglects, or refuses to abate or remove the condition constituting the violation within ten (10) calendar days of the date on which the notice of violation from the county attorney is delivered.

Sec. 3.7-6. Charges for abatement by county; lien.

- (a) The actual cost incurred by the county to remove or otherwise remedy a violation of Section 3.7-1 will be charged to the owner of the subject property, and the owner shall pay such charges within 30 calendar days after receiving a statement of charges from the county.
- (b) If charges for the removal or abatement of a violation of Section 3.7-1 are not paid within 30 calendar days after the receipt of a statement of charges, the charges will become a lien upon the land or premises where the violation occurred and shall be collected in the same manner the county collects unpaid taxes, pursuant to G.S. 153A-140.