

Nuisance Ordinance for Abandoned Structures

"Abandoned Structure Ordinance"

Authority

Person County hereby exercises its authority to enact Abandoned Structure regulations pursuant to N.C.G.S 153A-12, 121,123 &140; 160A-443.

Jurisdiction

The jurisdiction of this Ordinance shall be described as any part of Person County not within the corporate limits or the extra territorial jurisdiction of any municipality. However, this ordinance shall not apply to any structure used or previously used for agricultural purposes.

Short Title

This ordinance shall be known as the Abandoned Structure Ordinance of Person County, North Carolina, and may be cited as the Abandoned Structure Ordinance.

Purpose

The purpose of this ordinance is to promote the public safety, health, and welfare of the citizens of Person County through the regulation of abandoned structures in the county. All abandoned structures defined herein are hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare, and safety of the residents of Person County. This ordinance is adopted pursuant to the authority contained in N.C.G.S. 153A-12, 121,123 &140; 160A-443.

Definitions

"Abandoned Structure" a residential or commercial building shall be considered an abandoned structure if it is unoccupied and damaged or in disrepair to the point of being condemnable as defined by NCGS §153A-366 and is found to be a nuisance because it creates or fosters one (1) or more of the following conditions:

- a. A breeding ground or harbor for mosquitoes, other insects, rats, or other pests;
- b. The collection of pools or ponds of water;
- c. Concentrated quantities of gasoline, oil, or other flammable or explosive materials;
- d. A source of danger for children because of the possibility of entrapment or injury from exposed sharp surfaces of metal, glass, or other rigid materials;
- e. A source of danger from the building structure, or parts thereof, falling or turning over;
- f. An accumulation of garbage, food waste, or any other rotten or putrefied matter of any kind;
- g. Accumulation of sewage or animal waste;
- h. Concentrated quantities of hazardous materials;
- i. The presence of dead animals; or,
- j. Any building structure specifically declared a public health and safety hazard by the Board of Commissioners.

“Abandoned Manufactured Home” shall be considered an abandoned structure if it is in a wrecked, scrapped, disassembled, unusable, cannibalized, burnt, inoperable or if available, is not connected to an approved sewer system and not occupied and is found to be a nuisance because it creates or fosters one (1) or more of the following conditions:

- a. A breeding ground or harbor for mosquitoes, other insects, rats, or other pests;
- b. The collection of pools or ponds of water;
- c. Concentrated quantities of gasoline, oil, or other flammable or explosive materials;
- d. A source of danger for children because of the possibility of entrapment or injury from exposed sharp surfaces of metal, glass, or other rigid materials;
- e. A source of danger from the home, or parts thereof, falling or turning over;
- f. An accumulation of garbage, food waste, or any other rotten or putrefied matter of any kind;
- g. Accumulation of sewage or animal waste;
- h. Concentrated quantities of hazardous materials;
- i. The presence of dead animals; or,
- j. Any manufactured home specifically declared a public health and safety hazard by the Board of Commissioners.

“Manufactured Home” is a structure, transportable in one or more sections, which in the traveling mode whose body is 8 feet or more in width or 40 feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. Such term shall include any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Department of Housing and Urban Development (HUD) and complies with the standards established under that Federal agency. For purposes of this ordinance, “manufactured home” includes both factory-built single-family structures built to meet standards established under The National Manufactured Housing Construction and Safety Standards Act of 1974 and mobile homes built prior to the effective date of those standards (June 15, 1976). The Federal Standards became effective on June 15, 1976, and all homes with a date of manufacture on or after this date were required to have a HUD label indicating compliance with the standards.

“Historic Structure” or, “Historic Property” is as defined by the State Historic Preservation Office and the National Register of Historic Places.

“Agricultural purpose” and “bona fide farm” as defined by NC GS §153A-340:

1. A farm sales tax exemption certificate issued by the Department of Revenue.
2. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3.
3. A copy of the farm owner's or operator's Schedule F from the owners or operators most recent federal income tax return.
4. A forest management plan.
5. A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency.

Exceptions

- This ordinance shall not apply to any structure used or previously used for agricultural purposes.
- This ordinance shall not apply to historic properties or structures.
- Ordinance shall not apply to structures further than 500' from residential or public uses (schools, playgrounds) on adjacent properties; and, not visible from transportation right-of-way.

Process

1. Upon receipt of a complaint, the Building Inspections Department will conduct an investigation to determine if the structure meets the definition of an "Abandoned Structure" as defined by this ordinance. The Building Inspections Department will be responsible for mailing notices, overseeing the removal of abandoned structures. The Building Inspections Director shall keep an accurate record of all enforcement proceedings begun pursuant to the provisions of this chapter.
2. In exercising these powers, each member of the inspection department has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action. Nothing in this section shall be construed to prohibit periodic inspections in accordance with State fire prevention code or as otherwise required by State law.
3. Upon determining that a violation of this ordinance exists, written notice shall be issued to:
 - a. The registered owner or person(s) entitled to possession of the abandoned or neglected structure;
 - b. The registered owner, lessee, or person(s) entitled to the land on which the abandoned or neglected structure is located;
 - c. Shall affix a notice of the dangerous character of the building to a conspicuous place on its exterior wall. (§ 153A-366) *(If a person removes a notice that has been affixed to a building by a local inspector and that states the dangerous character of the building, he is guilty of a Class 1 misdemeanor).*
4. The notice shall be provided by registered or certified mail. The notice shall:
 - a. Identify the property and describe the abandoned structure located thereon to be removed, abated, or remedied;
 - b. (1) Notify the owner that the building is in a condition that appears to constitute a fire or safety hazard or to be dangerous to life, health, or other property;
(2) Notify the owner that a hearing will be held before the inspector at a designated place and time, not later than 10 days after the date of the notice, at which time the owner is entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
(3) Notify the owner the following the hearing, the inspector may issue any order to repair, close, vacate, or demolish the building that appears appropriate.
 - c. Inform an owner who has received an order under G.S. 153A-369 that they may appeal from the order to the board of commissioners by giving written notice of appeal to the inspector and to the clerk within 10 days following the day the order is issued. In the absence of an appeal, the order of the inspector is final. The board of commissioners shall hear any appeal within a reasonable time and may affirm, modify and affirm, or revoke the order;

- d. State that the costs incurred by the county to remove, abate, or remedy the abandoned structure, if not paid by the violator(s), shall be a lien upon the property.
3. If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building in question at least 10 days before the day of the hearing and a notice of the hearing is published at least once not later than one week before the hearing.

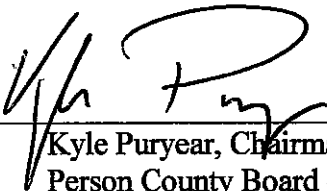
Penalties

If the owner of a building fails to comply with an order issued pursuant to G.S. 153A-369 from which no appeal has been taken, or fails to comply with an order of the Board of Commissioners following an appeal, the offender is guilty of a Class 1 misdemeanor.

Appeal

An owner who has received an order under G.S. 153A-369 may appeal from the order to the Board of Commissioners by giving written notice of appeal to the inspector and to the clerk within 10 days following the day the order is issued. In the absence of an appeal, the order of the inspector is final. The Board of Commissioners shall hear any appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

Adopted, this, the 16th day of March 2015.

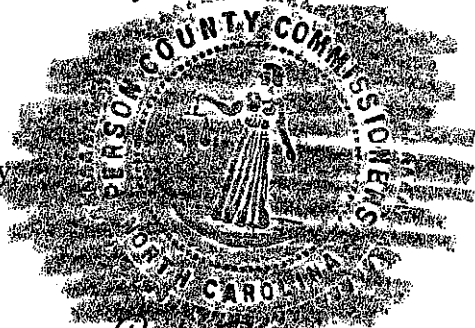


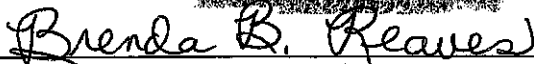
Kyle Puryear, Chairman
Person County Board of Commissioners

3/16/2015

Date

Attested by





Brenda B. Reaves, Clerk to the Person County Board of Commissioners