

**ABANDONED STRUCTURE ORDINANCE
OF
COLUMBUS COUNTY, NORTH CAROLINA**

Section 500 - General Requirements

Section 500.1 Authority

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

Section 500.2 Jurisdiction

The jurisdiction of this Ordinance shall be described as any part of Columbus 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 other than residential. In addition, the Governing Board of any municipality may by resolution permit this Ordinance to be applicable within the municipality. If it does so the municipality shall give written notice to the county of its withdrawal of such permission. Thirty (30) days after the day the county receives the notice this Ordinance ceases to be applicable within the municipality.

Section 500.3 Short Title

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

Section 501. Purpose

The purpose of this ordinance is to promote the public safety, health, and welfare of the citizens of Columbus 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 Columbus County. This ordinance is adopted pursuant to the authority contained in N.C.G.S. 153A-12, 121,123 &140; 160A-443.

Section 502. Definitions

The following words, terms, and phrases shall have the following meanings when used in this ordinance:

Abandoned Structure: For the purposes of this Ordinance, abandoned structures shall be defined in two (2) categories, one related to manufactured homes and the other related to all other building structures except those identified as exempt in Section 500.2 of this Ordinance.

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

1. A breeding ground or harbor for mosquitoes, other insects, rats, or other pests;
2. A point of heavy growth of weeds or other noxious vegetation over eight (8") inches in height;
3. The collection of pools or ponds of water;
4. Concentrated quantities of gasoline, oil, or other flammable or explosive materials;
5. 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;
6. A source of danger from the home, or parts thereof, falling or turning over;
7. An accumulation of garbage, food waste, or any other rotten or putrefied matter of any kind;

8. Accumulation of sewage or animal waste;
9. Concentrated quantities of hazardous materials;
10. The presence of dead animals; **or**
11. Any manufactured home specifically declared a public health and safety hazard by the Board of Commissioners.

Building Structure: A building structure shall be considered an abandoned structure if it is unoccupied and damaged or in disrepair to the point of being condemnable as defined in the most current edition of the North Carolina State Building Code (International Building Code with NC Amendments) as related to being structurally unsound, unable to support the design loads as determined by the Columbus County Building Official and is found to be a nuisance because it creates or fosters one (1) or more of the following conditions:

1. A breeding ground or harbor for mosquitoes, other insects, rats, or other pests;
2. A point of heavy growth of weeds or other noxious vegetation over eight (8") inches in height;
3. The collection of pools or ponds of water;
4. Concentrated quantities of gasoline, oil, or other flammable or explosive materials;
5. 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;
6. A source of danger from the building structure, or parts thereof, falling or turning over;
7. An accumulation of garbage, food waste, or any other rotten or putrefied matter of any kind;
8. Accumulation of sewage or animal waste;
9. Concentrated quantities of hazardous materials;
10. The presence of dead animals; **or**
11. Any building structure specifically declared a public health and safety hazard by the Board of Commissioners.

Manufactured homes that are abandoned as defined herein shall be considered personal property and, if previously characterized as real property for tax or other purposes, shall forfeit that characterization.

Manufactured Home: 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.

Section 503. Regulated Activities

Section 503.1 Administration

A. The Columbus County Planning Department and Columbus County Building Inspections Department are jointly and mutually responsible for the administration and enforcement of this ordinance.

B. The county may secure, make safe, remove, store, and dispose of abandoned structures in compliance with this ordinance and applicable state laws.

C. Nothing in this ordinance shall be construed to limit the legal authority or powers of officers or the employees of the county or state in enforcing other laws or in otherwise carrying out their duties with regard to abandoned manufactured homes.

Section 503.2 Abandoned manufactured homes unlawful; removal authorized

A. It shall be unlawful for the registered owner or persons entitled to the possession of an abandoned manufactured home, or for the registered owner, lessee, or occupant of the real property upon which an abandoned manufactured home is located, to cause or allow a manufactured home to be an abandoned manufactured home.

B. If, following the second notice required by Section 503.3-G, no action is taken to remove or abate the abandoned structure pursuant to the time limitations period identified in the second notice of violation or following appeal pursuant to this Ordinance, the county may enter the property and remove, abate, or remedy the abandoned structure as provided herein.

Section 503.3 Notice, Hearing, Appeal, Lien on Property

A. Upon determining that a violation of this ordinance exists, the Planning Director shall issue a written notice, in accordance with Section 504 of this Ordinance, to:

- (1) the registered owner or person(s) entitled to possession of the abandoned structure;
- (2) the registered owner, lessee, or person(s) entitled to the land on which the abandoned structure is located; **and**
- (3) the occupant of the abandoned structure.

B. The notice shall be provided by hand delivery, service of process, or certified mail.

C. The notice shall:

- (1) identify the property and describe the abandoned structure located thereon to be removed, abated, or remedied;
- (2) direct that the abandoned structure be removed, abated, or remedied;
- (3) advise that the property must comply within one hundred eighty (180) days;
- (4) state that the county may enter the property to remove, abate, or remedy the abandoned structure if appropriate action is not taken during the time period provided;
- (5) 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 abandoned structure, the abandoned structure owner's real or personal property upon which it is located and shall be collectable as unpaid taxes; **and**
- (6) notify the violator(s) of a right to appeal the basis of the notice to the Columbus County Planning Board, provided the appeal is made within fifteen (15) calendar days of receipt of the notice.
- (7) If the owner of the real property on which the abandoned structure is located can demonstrate that the cost of removal, abatement or remediation would create an undue financial hardship, the county may assume responsibility for removal of the abandoned structure by a licensed and/or bonded contractor.

D. If the name or whereabouts of the owner, tenant, possessor, or occupant cannot, after due diligence, be discovered, the notice shall, in addition to the above, include the date, time, and location for a hearing before the Planning Board on the matter. The notice shall be considered properly and adequately served if a copy thereof is conspicuously posted on the property in question at least ten 10 days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the county at least once not later than

- (1) one week prior to the hearing.

E. The owner, tenant, possessor, occupant, or agent of the owner may appeal a notice by the Planning Director for decision by the Planning Board. The owner or his/her agent may either rely

on written materials or appear before the Planning Board for a hearing at which he/she shall be heard in person or by counsel and may present arguments and evidence pertaining to the matter. The only issues for appeal are:

(1) whether the person is actually entitled to the notice; **or**
(2) whether the action or condition that serves as the basis of the notice is dangerous or prejudicial to public health or safety. The fact that an owner did not bring the manufactured home to the property or does not have a possessory interest in the condition creating the abandoned structure is not a defense.

F. The Planning Board shall within thirty (30) days of the date of the hearing or the date of the written appeal if a hearing is not requested, issue an order either canceling the notice or directing the violator(s) to remove, abate, or remedy the identified structure. The owner, tenant, possessor, or occupant may appeal decisions of the Planning Board to the Columbus County Board of Commissioners within fifteen (15) days of the decision.

G. If the property is not removed, abated or remedied within one hundred eighty (180) days of the initial notice and an appeal has not been filed, the Planning director shall issue a second notice. The notice shall:

(1) identify the property and describe the abandoned structure located thereon to be removed, abated or remedied;

(2) direct that the abandoned structure be removed, abated or remedied;

(3) advise that the property must comply by a specific date, such date not to be less than ten (10) days nor more than one hundred eighty (180) days from date of the second notice;

(4) state that the county may enter the property to remove, abate, or remedy the abandoned structure if appropriate action is not taken before the date provided;

(5) state that the cost incurred by the county to remove, abate, or remedy the abandoned structure, if not paid by the violator(s) and any unpaid civil penalties, shall be a lien upon the abandoned structure, the abandoned structure owners real or personal property upon which it is located and shall be collectable as unpaid taxes;

(6) advise that civil penalties, in accordance with Section 505-.1-A, are being assessed daily as of the date of the second notice; **and**

(7) advise that in addition to any and remedies above, the Columbus County Board of Commissioners may request criminal penalties in accordance with Section 505.1-C.

H. If the property is not removed, abated or remedied before the date provided in the second notice, the Planning Director shall present the case to the Planning Board with a recommendation of action based on severity, location and available resources. The Planning Board shall then direct the Planning Director of their desired action. The Planning Board shall base their recommendation on a point system identified in this Ordinance as "**Attachment A**". If the action requires the utilization of county resources, the Planning Director shall prepare and present a Resolution to the Board of Commissioners for their consideration and adoption. The Board of Commissioners shall consider the recommendation(s) of the Planning Board, the structure's score as related to Attachment A and available resources, but is not obligated to adopt the Resolution.

I. Any person who removes an abandoned structure pursuant to this Ordinance shall not be held liable for damages for the removal of the abandoned structure to the owner, lien holder, or other person legally entitled to the possession of the abandoned structure removed; however, any person who intentionally or negligently inflicts injury upon any person or real property in the removal of such abandoned structure, may be held liable for damages.

Section 504. Enforcement

A. Enforcement of this Ordinance shall rest with those governmental agencies and personnel authorized to exercise police powers to include the Director of the Columbus County Planning Department and the Director of the Columbus County Building Inspections Department.

B. The provisions of this Ordinance shall be enforced by the inspection of property and by observation of persons who are engaged in or responsible for a violation of an action or condition that is prejudicial to public health or safety. Enforcement personnel are empowered to issue citations, warning citations, or letters of warning when any of the provisions of this Ordinance have been violated. Citations shall be delivered by enforcement officials in person to the alleged violator or delivered by registered mail return receipt requested to the person so charged. Any citation of violation so delivered or mailed shall direct the alleged violator to appear in district court on or before a specific day or hour named in the citation. The period so specified shall not be less than seventy-two (72) hours after its delivery to the violator.

C. Where enforcement personnel determine that a violation is a first offense for the person charged, a written letter or warning citation shall be issued. Such warning letter or warning citation shall state therein the nature of the violation, the corrective measures to be taken, and the time and date when corrections are to be completed. Failure to comply with the corrective measures stated in such warning notices shall be just cause for enforcement personnel to issue a citation for violation of this Ordinance.

D. The Columbus County Planning Director shall cause all citation forms to be serially numbered and accounted for. The Columbus County Auditor or his representative may periodically inspect these records to determine the disposition of the forms and shall report the result of such inspection to the Columbus County Manager. For the purpose of this inspection, the Columbus County Auditor shall have access to all necessary records and files.

Section 505. Penalties

Section 505.1 Penalties

A. **Civil penalty:** The County may assess a civil penalty twenty-five and 00/100 (\$25.00) dollars, which amount may be recovered by the county in a civil action in the nature of a debt. Each day in which the violation occurs, or continues, shall constitute a separate offense. No civil penalty shall be assessed prior to notice of violation by citation or letter.

B. **Injunction and order of abatement:** The provisions of this Ordinance may be enforced by injunction and order of abatement.

C. **Criminal penalties:** In addition to other remedies cited in this Ordinance, any person violating the provisions of this Ordinance shall be guilty of a Class 3 Misdemeanor and shall be subject to fines in accordance with GS 14-4. A fine of not more than one hundred and 00/100 (\$100.00) dollars for the first offense, two hundred and 00/100 (\$200.00) dollars for the second offense, and five hundred and 00/100 (\$500.00) dollars for each subsequent offense, is hereby established. Each day in which the violation occurs or continues shall constitute a separate offense.

Section 505.2 Ordinance Cumulative

Procedures set forth in this ordinance shall be in addition to any other remedies that may exist under law or ordinance for the abatement of public nuisances or for the removal of abandoned structures.

Section 506 - Administration

Section 506.1 Severability

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this Ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

Section 506.2 Conflict with Other Laws

Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted statutes, rules, regulations or ordinances, the most restrictive or that imposing higher standards shall govern.

Section 506.3 Effective Date

This Ordinance shall take effect and be in force this the 4th day of January, 2011.

APPROVED and **ADOPTED** this the 3rd day of January, 2011.

COLUMBUS COUNTY BOARD OF COMMISSIONERS

/s/ GILES E. BYRD, Chairman

ATTESTED BY:

/s/ JUNE B. HALL, Clerk to the Board

ATTACHMENT A
ABANDONED STRUCTURE PRIORITIZATION RANKING

CONDITION	POINTS
Structurally unsound (wall, roof, or flooring)	10
Unsecured (windows, doors not locked/boarded)	8
Located on a road designated as an "Entrance Corridor"	7
Located within 500' of an occupied building	4
Located within 1000' of an education/ religious facility	3
Unightly (littered with excessive junk, debris, graffiti or vegetation)	2