



RESOLUTION TITLE: TO AMEND SECTIONS OF CHAPTER 7 OF THE GASTON COUNTY CODE OF ORDINANCES TO CLARIFY THE APPEAL PROCESS OF NOTICE OF VIOLATIONS

WHEREAS, Chapter 7 of the Gaston County Code of Ordinances, among other things, enumerates nuisances and establishes a mechanism for the County to abate the nuisance and charge the property owner for the cost of the abatement; and,

WHEREAS, due to a possible oversight, the Code establishes an appeal process for all nuisances as set forth in Section 7-8 of the Gaston County Code of Ordinances except for nuisances concerning tall grass and weeds; and,

WHEREAS, the County wishes to clarify this omission by enabling a property owner cited for a nuisance concerning vegetation to be able to appeal to an appropriate individual.

NOW, THEREFORE, BE IT RESOLVED that the Gaston County Board of Commissioners hereby amends Section 7-10 and Section 7-11 as follows:

Chapter 7: Garbage and Trash
Sec. 7-10. Appeal of order of abatement.

At any time before the expiration of the fifteen-day abatement period specified in subsection 7-9(b), 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 7-8 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.

DO NOT TYPE BELOW THIS LINE

I, Donna S. Buff, Clerk to the County Commission, do hereby certify that the above is a true and correct copy of action taken by the Board of Commissioners as follows:

NO.	DATE	M1	M2	Brown	Fraley	Grant	Hovis	Keigher	Philbert	Worley	Vote
2017-255	10/24/2017	TP	AF	A	A	A	A	A	A	A	U

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Sec. 7-11. Abatement of nuisance by county.

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:

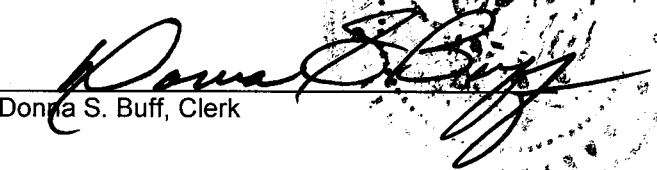
- (1) A hearing is requested and held under section 7-10 above resulting in either a final order with modifications or the reinstatement of the initial order as a final order, and such order is not complied with within ~~fifteen (15) days from date of the order~~ the time period as prescribed in the 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~~ the time prescribed in the order.

This Ordinance amendment shall be effective immediately upon its adoption.

Adopted the 24th day of October, 2017.

Certification

I, Donna S. Buff, Clerk to the Gaston County Board of Commissioners, do hereby certify that the above is a true and accurate copy of the ordinance amendment entitled TO AMEND SECTIONS OF CHAPTER 7 OF THE GASTON COUNTY CODE OF ORDINANCES TO CLARIFY THE APPEAL PROCESS OF NOTICE OF VIOLATIONS as adopted by the Board of Commissioners on October 24, 2017 and is to be set forth in the Gaston County Code of Ordinances.


Donna S. Buff, Clerk

SEAL



Gaston County

Gaston County
Board of Commissioners
www.gastongov.com

County Attorney

Board Action

File #: 17-341

Commissioner Philbeck - County Attorney - To Amend Sections of Chapter 7 of the Gaston County Code of Ordinances to Clarify the Appeal Process of Notice of Violations

STAFF CONTACT

Charles Moore - County Attorney - 704-866-3194

BUDGET IMPACT

N/A

BUDGET ORDINANCE IMPACT

N/A

BACKGROUND

Section 7-8 lists various nuisances which Gaston County can require a property owner to abate. Due to an oversight when the ordinance was created in 2003, there is an opportunity to appeal Staff's determination that a nuisance exists except for nuisances arising from tall grass complaints. It was never the intention for there not to be an appeal procedure for property owners receiving a notice of violation regarding tall grass. This amendment enables such property owner to make the appropriate appeals to the County Manager, or his designee.

POLICY IMPACT

The amendment will help ensure a property owner who is given a notice of violation for tall grass receives adequate due process as required by law.

ATTACHMENTS

Resolution modifying Section 7-10 and 7-11 of the Gaston County Code of Ordinances

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A=AYE, N=NAY, AB=ABSENT, ABS=ABSTAIN, U=UNANIMOUS