

**Revisions to Nuisance
Abatement Procedures under
WSPD General Order 5.05**

Nuisance Abatement

Chapter 19 of the General Statutes provides that:

- (a): any property which is built, established, continued, maintained, used, owned or leased for the purposes of **assignation, prostitution, gambling, illegal possession or sale of alcohol, illegal possession or sale of controlled substances or illegal possession of obscene or lewd matter**, constitutes a nuisance.

Nuisance Abatement

Chapter 19 of the General Statutes further provides that:

- (b) the building, establishment, continuance, maintenance, use, ownership or leasing of any property or place **wherein or whereon are carried on, conducted or permitted repeated acts which create and constitute a breach of the peace**, constitutes a nuisance.

Nuisance Abatement

“Breach of the peace” means “repeated acts that disturb the public order.”

Such acts specifically include **homicide, assault, affray, communicating threats, unlawful possession of dangerous or deadly weapons and discharging firearms.**

Nuisance Abatement

Some actions or incidents which may be thought to be disturbing to the public order but which do **NOT**, under NC law, rise to the level of a “breach of the peace” include **noise violations, trespasses, traffic accidents and thefts.**

Nuisance Abatement

Note that as of 2013, the General Assembly enacted legislation prohibiting local governments to bring a nuisance abatement action against a property if the action is based solely on conduct regulated by Chapter 18B of the General Statutes (alcoholic beverage control).

Nuisance Abatement

Previous procedure:

For subsection (a):

Within 10 days of seizure of contraband or arrest of an occupant of a property for listed violations, the case officer must complete a Request for Nuisance/Abatement letter and send to the Senior Office Administrator for his/her bureau (along with supporting information)

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For subsection (b):

For a property identified as an origin of nuisance activity, the case officer must provide certain information as to the property to the Senior Office Administrator for his/her bureau, who will generate notification letters to the property owner, neighbors and HAWS (if HAWS property)

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For subsection (b) only:

On initiation of a notification letter, the property is designated as a “mandatory IR location” (meaning that any call for service to that property must be documented in a written report).

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All notification letters were required to be signed by the Chief of Police and sent both by registered mail and hand delivery

Follow-up was assigned to the Crime Prevention Unit

The Public Safety Attorney's Office was to keep copies of all notification letters

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Based on follow up, the property would be categorized as:

Active

Inactive

Cleared

Referred

with differing additional follow up requirements

Nuisance Abatement

No revisions since 2000

Process not being consistently followed as to initiation and record-keeping

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New procedure:

Initiation of Review:

Any officer who believes a location might meet the criteria of a nuisance under NC law may initiate a review of that location

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The officer will:

1. Obtain calls for service for the property over the past 5 years;
2. Obtain the tax listing for the property;
3. Obtain a list of immediately surrounding properties; and
4. Forward this information to the Public Safety Attorney.

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The PSA's office will review the material provided and analyze the calls for service to determine if the activity meets the threshold for a nuisance under State law.

If any listed calls for service are not applicable, they are redacted and not used.

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The redacted calls for service report is returned to the officer for use in drafting a Nuisance/Abatement letter for the property, using standard templates for owners, tenants and surrounding properties.

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The draft nuisance/abatement letters are reviewed by the officer's Division Commander and the PSA.

Once finalized, the letters are signed by the Division Commander and mailed or delivered.

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Once a nuisance/abatement letter has been sent to a property, it becomes a “mandatory IR location,” meaning that any call for service to that property must be documented in a written report.

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The PSA's office maintains a spreadsheet for purposes of tracking all nuisance/abatement letters and for follow-up purposes.

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Within 60 days of the issuance of a nuisance/abatement letter, the PSA's office will request an updated calls for service report as to the property.

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If there have been no further applicable calls for service at the property within that 60-day period, the file is considered inactive.

If there have been further applicable calls for service, the file on the property will be forwarded to the City Attorney's Office for consideration of legal action.

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Revisions to the General Order also provide for “single incident notification letters”

If an officer believes that a single applicable event at any property – by itself – warrants a nuisance/abatement letter, that officer may initiate a review of that property under the process just outlined.

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Benefits of new procedure:

1. Allows any officer to request an assessment at any time (not tied to a single event or incident)
2. Removes the burden of attempting to determine applicability of statutes from the case officer and provides instead a centralized and consistent review of locations for qualifying incidents

Nuisance Abatement

3. Ensures that only relevant calls for services are included in the assessment
4. Removes burden of follow up from Crime Prevention Unit
5. Maintains ability of WSPD to address single incidents in a separate process

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6. Ensures centralized record-keeping and tracking of notification letters and compliance by recipients
7. Assures that problem locations progress from a notification process to an enforcement process in a timely manner

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A progress report on the revised process, and its effectiveness, will be presented in 2019.

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Questions?