



Residential Rental Property Inspections, Permits, and Registration: Questions and Answers

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Residential rental property inspection, permit, and registration (IPR) programs are employed by local governments to ensure that residential rental properties are maintained in a safe and decent condition. Such programs range in scope from comprehensive inspection and certification of every rental unit prior to occupancy by a tenant, to programs that focus only on properties with a history of problems, to spot-check systems that inspect a randomly selected portion of the total number of rental units in a community. Several North Carolina local governments have enacted variations of these programs pursuant to their authority to perform periodic building inspections for unlawful or hazardous conditions (Section 160A-424 of the North Carolina General Statutes (hereinafter G.S.) (cities) and G.S. 153A-364 (counties)) and to regulate and license businesses (G.S. 160A-194 (cities) and G.S. 153A-134 (counties)). Inspection standards are typically taken from building codes, housing codes, nuisance regulations, and the statutory requirements for providing fit premises to tenants under G.S. 42-42.

In an effort to protect code-compliant landlords from being subject to these inspection, permit, and registration requirements, the General Assembly enacted Session Law 2011-281 (S 683) (hereinafter the “IPR law,” included as Appendix A) to limit local government authority in this area. The IPR law was drafted as a series of prohibitions with permitted exceptions, rather than as a coherent statutory program, making the law resistant to an orderly and methodical description. This bulletin therefore employs a question-and-answer format to address issues that have arisen in the wake of the IPR law and attempts to provide clear answers for public officials to follow.

A. General Operation and Common Definitions

1. What does the IPR law regulate?

The IPR law essentially rewrote two statutes pertaining to periodic building inspections: G.S. 153A-364 (counties) and G.S. 160A-424 (cities). It adds reasonable cause conditions that must be found prior to conducting periodic inspections of residential properties, and it limits local government authority to impose permit programs, registration requirements, and fees on residential rental properties. The law proscribes certain activities and therefore, by implication, sets boundaries around local government authority to establish registration and inspection programs. Topics covered by the IPR law can be divided into four general categories of regulatory activity pertaining to residential properties:

- Periodic inspections: G.S. 153A-364(a) and (b) (counties) and G.S. 160A-424(a) and (b) (cities)
- Permit programs: G.S. 153A-364(c) (counties) and G.S. 160A-424(c) (cities)
- Registration programs: G.S. 153A-364(d) (counties) and G.S. 160A-424(d) (cities)
- Fees on residential rental property: G.S. 153A-364(c) and (d) (counties) and G.S. 160A-424(c) and (d) (cities)

The IPR law permits local governments to undertake the above regulatory activities only when certain threshold conditions are present. To evaluate whether the threshold conditions exist in order to permit the local government to use one of the IPR tools, the correct unit of analysis must first be determined. For example, in some cases an inspector must consider the conditions present in a single residential unit, such as a specific apartment. In other cases, an inspector must examine the conditions present in an entire building or property, and sometimes even all properties owned by a single landlord. Tables 1 through 4 below illustrate, for each IPR regulatory tool, the threshold conditions that must exist and the unit of analysis for assessing those conditions.

These regulatory activities will be discussed in greater detail in the remainder of this bulletin. Questions 2 through 5 below define certain terms used throughout the IPR law.

2. What is a “periodic inspection”?

The IPR law empowers inspection departments to conduct periodic inspections under certain enumerated conditions, but the term “periodic inspection” is not explicitly defined in the IPR law or elsewhere. Accordingly, the ordinary meaning of “periodic” must be used; an inspection

is therefore periodic if it occurs at regular or scheduled intervals or occurs from time to time without specific cause.

This ordinary meaning appears to track the statutory language that authorizes the issuance of administrative inspection warrants for inspections. G.S. 15-27.2 allows warrants to be issued for two types of inspections: (1) the inspection of property “to be searched or inspected as part of a legally authorized program of inspection which naturally includes that property” and (2) the inspection of property when “there is probable cause for believing that there is a condition, object, activity or circumstance which legally justifies such a search or inspection of that property.”

An example of the first type of inspection, in which an inspection is conducted as part of a program of inspection, would be one conducted as part of a requirement that all buildings be subject to an annual inspection. Another example of a program of inspection—conducted with less precise regularity—would be a requirement for an inspection to occur whenever a request is made for electricity to be restored to a building that has been disconnected for more than ninety days.

An example of the second type of inspection, in which an inspection is conducted in response to a condition or circumstance at a particular property, would be an inspection conducted by an inspector upon observing a code violation from outside the property. Another example of this type would be an inspection conducted in response to a complaint.

Both types of periodic inspections—those conducted as part of a program of inspection and those conducted in response to a specific condition—are permitted under the IPR law and reflected in the reasonable cause provisions set forth therein.¹

3. What are the definitions of “owner” and “landlord”?

The IPR law does not further define “owner” and “landlord,” but these terms are defined elsewhere in the General Statutes. The term “owner” appears several times in the same article of the General Statutes in which the IPR statutes are located, but it is formally defined in only one place: the minimum housing statutes. The definition there is “the holder of the title in fee simple and every mortgagee of record.”² A “mortgagee of record” is typically a bank that has loaned money to the owner and retains the power to sell the property (usually pursuant to a deed of trust) in order to pay off the loan in the event of default by the owner. The mortgagee is considered an owner because it retains this power of sale, which amounts to a substantial right of property ownership. Elsewhere in the same article, in a section on vested rights, *landowner* is defined as “any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner.”³ A local government could reasonably combine these definitions to define “owner” as the holder of title to a property, including the heirs, devisees, successors, and assigns of such owner, and any mortgagee of record.

Landlord is defined in a chapter of the General Statutes devoted to landlord and tenant law as “any owner and any rental management company, rental agency, or any other person having the actual or apparent authority of an agent to perform the duties imposed by this [section of

1. See Questions 6 and 7 for a discussion of reasonable cause and administrative inspection warrants.

2. Section 160A-442 of the North Carolina General Statutes (hereinafter G.S.).

3. G.S. 160A-385.1(b).

Table 1. Conduct periodic inspections of residential property (G.S. 153A-364(a) and (b); G.S. 160A-424(a) and (b))

Threshold conditions	Scope of property evaluated and affected
Landlord or owner has history of more than two verified violations of housing ordinances or codes in 12-month period	All residential buildings owned or managed by landlord or owner
Complaint or request for inspection	Entire building
Actual knowledge of unsafe condition	Entire building
Violations of local ordinances or codes are visible from outside the property	Property as a whole
Property located within designated geographic area as part of a targeted effort	Any property within designated geographic area

Table 2. Require landlord to obtain permission prior to renting units (G.S. 153A-364(c); G.S. 160A-424(c))

Threshold conditions	Scope of property evaluated and affected
More than three verified violations of housing ordinances or codes in 12-month period	Counties: rental unit (not property as a whole) Cities: property as a whole
Property is in top 10% of crime or disorder problems as locally defined	Property as a whole

Table 3. Require landlord to register rental property with local government (G.S. 153A-364(d); G.S. 160A-424(d))

Threshold conditions	Scope of property evaluated and affected
None (No limitations on registration programs)	Any property

Table 4. Levy a special fee or tax on residential rental property (G.S. 153A-364(c) and (d); G.S. 160A-424(c) and (d))

Threshold conditions	Scope of property evaluated and affected
When fee is also levied against other commercial and residential properties	Any property
As part of a residential rental property registration program when more than two verified violations in previous 12 months of “housing ordinances or codes” (counties) or of “local ordinances” (cities)	Specific rental units (not property as a whole)
As part of a residential rental property registration program when property is in top 10% of crime or disorder problems as locally defined	Property as a whole

the General Statutes pertaining to landlord and tenant law].”⁴ Notably, the IPR law itself likewise uses the terms “landlord” and “manager of rental property” interchangeably.⁵ In interpreting the IPR law, it is therefore reasonable for a local government to define “landlord” to include owners as well as rental management companies and agencies. This definition has consequences for the operation of periodic inspection programs in practice. As illustrated in Table 1, reasonable cause to conduct periodic inspections of a residential building is established when a “landlord or owner has a history of more than two verified violations of the housing ordinances or codes within a 12-month period.” Once the violation threshold is reached by a landlord, reasonable cause is established at all buildings owned or managed by the landlord. When the landlord is a management company under contract at several different properties, all buildings under management by that company could be placed in a program of inspections.

This bulletin uses the terms “owner” and “landlord” interchangeably.

4. What is a “verified violation”?

The term is undefined in the IPR law, but elsewhere, the term “verified violation” appears in North Carolina case law in reference to reports filed by probation officers of alleged probation violations. Verified violation reports are sworn reports by probation officers that are considered competent evidence to support a finding that a defendant violated his or her probation. A reasonable translation of that usage to the context of building code violations would be that a violation, to be verified, must be personally observed and reported by an inspector. A mere allegation of a violation by a resident or neighbor would not qualify as verified. Once personally observed by an inspector, a violation can be reported as verified on whatever standard complaint form is regularly used by the inspection department. If a complaint is issued, each violation listed in the complaint would qualify as a verified violation. It should not be necessary for the public official to take any enforcement action, and a violation can be considered verified by a public officer even if the violation has not been finally adjudicated or the landlord intends to appeal it. Of course, if a landlord appeals a verified violation and wins on appeal, the verified violation is essentially nullified and should no longer be considered a verified violation.

5. What is the difference between a rental unit, a building, and a property?

The IPR law does not define these terms, but some helpful definitions are found elsewhere in the landlord and tenant statutes pertaining to eviction. There the term *individual rental unit* is defined as “an apartment or individual dwelling or accommodation which is leased to a particular tenant, whether or not it is used or occupied or intended to be used or occupied by a single family or household.”⁶ Single-family structures would be expected to contain only one rental unit; multi-family structures may contain more than one.

The term *residential building* is found in statutes dealing with the North Carolina Home Inspector Licensure Board, where it is defined as a “structure intended to be, or that is in fact, used as a residence by one or more individuals.”⁷ A single building may contain multiple rental units.

The IPR law refers to “property” as distinct from a unit or building. “Property” is undefined in the IPR law, but the comparable terms *entire premises* or *leased residential premises* are

4. G.S. 42-40.

5. Compare G.S. 153A-364(a) and G.S. 160A-424(a) with G.S. 153A-364(c) and G.S. 160A-424(c).

6. G.S. 42-59.

7. G.S. 143-151.45.

defined in the landlord and tenant statutes as “a house, building, mobile home, or apartment, whether publicly or privately owned, which is leased for residential purposes.”⁸ An entire premises specifically includes “the entire building or complex of buildings or mobile home park and all real property of any nature appurtenant thereto and used in connection therewith, including all individual rental units, streets, sidewalks, and common areas.”⁹ Accordingly, a reasonable definition of “property,” as that term is used in the IPR law, would include the entire building and appurtenant real property in which a single rental unit is located, and it arguably would also include all buildings that are part of a complex of buildings owned by the same entity.

B. Periodic Inspection Programs

Reasonable Cause

6. When are local governments permitted to conduct periodic inspections?

Prior to enactment of the IPR law, a local government could establish almost any parameters for a program of periodic building inspections. Inspections could be required annually or on some other interval—whatever the inspections department deemed necessary. That flexibility remains in place for nonresidential buildings, but under the IPR law, residential buildings or structures may be inspected only when there is reasonable cause for the inspection. “Reasonable cause” is defined to mean any of the following:¹⁰

- The landlord or owner has a history of more than two verified violations of the housing ordinances or codes within a 12-month period.
- There has been a complaint that substandard conditions exist within the building or there has been a request that the building be inspected.
- The inspection department has actual knowledge of an unsafe condition within the building.
- Violations of the local ordinances or codes are visible from the outside of the property.

Therefore, a local government is not permitted to conduct a periodic inspection of a residential building unless one or more of the conditions listed above are present to establish reasonable cause. However, the law offers an exception to the reasonable cause requirement for “targeted efforts within a geographic area that has been designated” by the governing board. This exception for “targeted efforts” is discussed below in Questions 21 through 24.

7. Once reasonable cause is established under the IPR law, is the inspection department empowered to conduct an immediate inspection without further process?

No. All inspections must be conducted in compliance with the requirements of the Fourth Amendment of the United States Constitution, which protects citizens against unreasonable

8. ~~Id.~~ G.S. 42-59.

9. *Id.*

10. G.S. 153A-364(a) (counties) and G.S. 160A-424(a) (cities).

searches.¹¹ Prior to inspecting a dwelling, the inspector must first obtain the consent of the occupant or an administrative inspection warrant, unless there are exigent circumstances.¹²

To request an administrative inspection warrant for a periodic inspection, an inspector submits an affidavit form provided by the North Carolina Administrative Office of the Courts. Each type of inspection has its own affidavit form, so an inspector should submit the form that corresponds to the type of inspection to be conducted. The forms are provided as Appendixes B and C to this bulletin.

8. Reasonable cause is established when a landlord or owner has a “history” of more than two verified violations during a 12-month period. If three violations are discovered at the same time in a single inspection, has a “history” of more than two verified violations been established, or must the violations be discovered at different times?

Three different violations in a single unit, all reported as verified during one inspection, appear to establish a history of more than two violations in a 12-month period. The statute does not require that the violations be discovered at different times, and all of the violations can result from an inspection of a single housing unit.

9. Suppose a landlord or owner manages or owns several residential buildings, and one of those buildings has had three verified violations in the last year. Is the local government thus authorized to conduct periodic inspections at other buildings under the same ownership or management?

Yes. Reasonable cause for inspecting any residential building exists when the landlord or owner has a history of more than two violations of the housing ordinances or codes within a 12-month period, regardless of which of the landlord’s buildings incurred the violations. Accordingly, if a landlord owns two buildings, one of which has three or more verified violations and another that has never had even one complaint, the local government is authorized to conduct periodic inspections of both buildings due to that landlord’s history of violations.

10. Suppose a landlord or owner has only one violation at one building and two violations at another building. May the local government conduct periodic inspections of all residential buildings managed or owned by that landlord?

Yes. Reasonable cause has been satisfied when the landlord or owner has a history of more than two violations of “the housing ordinances or codes within a 12-month period.” That threshold can be reached by adding up the verified violations found at any or all of the landlord’s residential buildings that are regulated by “the housing ordinances or codes” of the local jurisdiction.

11. For an analysis of administrative inspections in the context of Fourth Amendment jurisprudence, see *Camara v. Mun. Court of S.F.*, 387 U.S. 523, 539–40 (1967).

12. The forms for obtaining administrative inspection warrants are provided in Appendixes B and C to this bulletin. For statutory guidance on administrative inspection warrants in North Carolina, see G.S. 15-27.2. See also DAVID W. OWENS, *LAND USE LAW IN NORTH CAROLINA* 172–74 (2006).

11. Suppose a landlord or owner owns or manages nonresidential buildings as well as residential buildings. Do code violations discovered in the nonresidential buildings count toward the number of violations needed to establish reasonable cause to inspect all of that landlord's residential buildings?

No. Violations discovered at nonresidential buildings do not appear to count toward the threshold. The IPR law requires a history of more than two verified violations of the "housing ordinances or codes" within a 12-month period. Obviously only violations involving residential buildings can violate the "housing ordinances or codes."

12. In its list of violations that establish reasonable cause, the IPR law distinguishes between violations of "housing ordinances or codes" and violations of "local ordinances and codes." What is the difference?

Reasonable cause is satisfied in the IPR law when a landlord has a history of more than two verified violations of the "housing ordinances or codes" within a 12-month period or when violations of the "local ordinances or codes" are visible from the outside of the property. Under long-standing rules of statutory interpretation, this distinction should be given meaning.¹³ Ordinances and codes refer to local government enactments, so a reasonable interpretation of "housing ordinances or codes" would include all local regulations pertaining to housing: building codes pertaining to residential buildings, aesthetic design standards for residential buildings, nuisance and general police power regulations applicable only to residential buildings, and regulations requiring that dwellings be kept in a state of good repair.¹⁴ This interpretation is in contrast to "local ordinances or codes," a clause which arguably includes any ordinance or code of the local jurisdiction, whether related to housing or not. Accordingly, if a violation of any local ordinance or code can be observed from outside the property, reasonable cause has been satisfied and the property may be placed in a program of inspections.

13. Reasonable cause is established when "there has been a request that the building be inspected." Can anyone make that request?

Apparently, yes. The statute places no conditions on the identity or motive of the requestor. It appears, therefore, that competitor landlords, tenant rights groups, legal aid organizations, and disgruntled tenants (among others) can all request an inspection of a building, and such request establishes reasonable cause under the statute.

14. Can a request for inspection come from a department of the city or county other than the inspection department?

Yes. As mentioned above, the statute places no conditions on the identity or motive of the requestor. Therefore, a social worker in the social services department could request that a

13. *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001) ("It is a cardinal principle of statutory construction that a statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant. . . . We are reluctant to treat statutory terms as surplusage in any setting."); *Montclair Twp. v. Ramsdell*, 107 U.S. 147, 152 (1883) (courts should "give effect, if possible, to every clause and word of a statute, avoiding, if it may be, any construction which implies that the legislature was ignorant of the meaning of the language it employed.").

14. Regulations covering the state of repair of dwellings are discussed in C. TYLER MULLIGAN & JENNIFER L. MA, *HOUSING CODES FOR REPAIR AND MAINTENANCE: USING THE GENERAL POLICE POWER AND MINIMUM HOUSING STATUTES TO PREVENT DWELLING DETERIORATION* 32–33 (2011).

building be inspected. However, local governments should develop reasonable procedures for making such interdepartmental requests to ensure that the basis for any request is genuine.

15. *Provided that reasonable cause is satisfied, the IPR law states that the inspection department may conduct periodic inspections. How is an “inspection department” defined?*

Members of inspection departments are described in G.S. 153A-351 (counties) and G.S. 160A-411 (cities) and may be given titles such as building inspector, electrical inspector, plumbing inspector, housing inspector, zoning inspector, or any other title that is descriptive of the inspector’s assigned duties. Certain members must be qualified pursuant to G.S. 153A-351.1 (counties) and G.S. 160A-411.1 (cities). The duties and responsibilities of an inspection department are described in G.S. 153A-352 (counties) and G.S. 160A-412 (cities).

16. *Minimum housing public officers are not specifically assigned to inspection departments. Can a local government get around the IPR law’s reasonable cause requirements by conducting inspections pursuant to authority granted under minimum housing statutes?*

Minimum housing public officers are not statutorily assigned to city or county inspection departments; they operate under a grant of authority¹⁵ that is separate and distinct from inspection departments. The new reasonable cause requirements of the IPR law are directed specifically at inspection departments, and minimum housing officers are not mentioned. It has therefore been argued that minimum housing inspections, conducted by minimum housing public officers and authorized under separate statutes, are not subject to the new reasonable cause requirements of the IPR law. A court, however, is unlikely to agree with that argument.¹⁶

As a threshold matter, it is doubtful that the minimum housing statutes grant independent inspection powers to minimum housing officers. While the minimum housing statutes do contain language pertaining to investigations and inspections,¹⁷ the references are general in nature and do not authorize minimum housing officers to conduct inspections in the absence of reasonable cause or outside the strict procedures set forth in G.S. 160A-443(2). The more likely interpretation of the references to inspections in the minimum housing statutes is that minimum housing officers are permitted to utilize the inspection powers granted to inspectors in inspection departments. Indeed, a local government may assign its minimum housing public officer to its inspection department under G.S. 153A-351 (counties) and G.S. 160A-411 (cities). In North Carolina, particularly in smaller jurisdictions, a minimum housing public officer often also carries the title of housing inspector.

Even if minimum housing statutes are viewed as providing independent authority for periodic inspections without reasonable cause, such an interpretation would directly conflict with the IPR law. When two statutes deal with the same subject—in this case, authority to inspect residential dwellings for code compliance—rules of statutory interpretation dictate that the statutes

15. G.S. 160A-441 to G.S. 160A-450.

16. For a fuller discussion of this issue, see Tyler Mulligan, *Minimum Housing: A Way Around Residential Inspection Limits?* Community and Economic Development in North Carolina and Beyond (September 20, 2011), available at <http://sogweb.sog.unc.edu/blogs/ced/?p=3383>.

17. See G.S. 160A-448 (authorizing public officers to investigate dwelling conditions within the jurisdiction and to enter upon premises to make examinations) and G.S. 160A-449 (authorizing local governments to make appropriations to fund the administration of a minimum housing program, to include “periodic examinations and investigations” of dwellings).

should be “read together and harmonized.”¹⁸ Reading the minimum housing statutes in such a way that allows minimum housing officers to disregard the new reasonable cause requirements would be repugnant to the IPR law and calls that reading into question. Additionally, the IPR law contains an explicit reference to minimum housing codes in the context of targeted periodic inspections in subsection (b) of G.S. 153A-364 (counties) and G.S. 160A-424 (cities). It is therefore difficult to conclude that minimum housing public officers are exempt from the reasonable cause requirements of the IPR law. However, no court has clarified the law on this point.

Program of Inspections

17. There are several different ways reasonable cause can be established. One is receipt of a complaint that substandard conditions exist within a building. Once a complaint is received, is the government authorized to conduct only a single inspection to verify the complaint, or can the local government subject the property to several periodic inspections (or a program of inspections)?

Once reasonable cause is established for a particular building, a local government can require the building to undergo a single inspection or an entire sequence of periodic inspections, essentially placing that building into a periodic inspection program for some length of time. The statute does not specify for how long a local government may conduct periodic inspections in a building once reasonable cause is established. Therefore, the local government can establish a reasonable length of time as a matter of policy. For example, say that a local government receives a complaint about a building, thereby establishing reasonable cause to conduct periodic inspections of the building. The local government could elect to conduct only one inspection of the building, or it could require the building to undergo periodic inspections over some period of time, such as semiannual inspections conducted over the following two years. The time period should be reasonable and rationally related to the government’s purpose for the inspections. For consistency, it is advisable for the local government to develop a written policy establishing how it will respond to each type of reasonable cause.

18. When a local government establishes how many periodic inspections (in a program of inspections) will be required for each type of reasonable cause, can it call for a different response depending on whether it is inspecting single-family or multi-family buildings?

No. The statute specifically prohibits a local government from discriminating between single-family and multi-family buildings in conducting periodic inspections. A local government may apply different standards during an inspection (for example, different plumbing requirements for multi-family dwellings consistent with state building laws), but as regards holding or scheduling inspections, it may not discriminate between single-family and multi-family buildings.

18. “Where there is one statute dealing with a subject in general and comprehensive terms, and another dealing with a part of the same subject in a more minute and definite way, the two should be read together and harmonized, if possible, with a view to giving effect to a consistent legislative policy; but, to the extent of any necessary repugnancy between them, the special statute, or the one dealing with the common subject matter in a minute way, will prevail over the general statute, according to the authorities on the question, unless it appears that the legislature intended to make the general act controlling; and this is true a fortiori when the special act is later in point of time, although the rule is applicable without regard to the respective dates of passage.” *Nat’l Food Stores v. N. Carolina Bd. of Alcoholic Control*, 268 N.C. 624, 628–29, 151 S.E.2d 582, 586 (1966).

19. In a program of inspections, can a local government establish a different sequence of periodic inspections depending on whether the residential building being inspected is owner-occupied or tenant-occupied?

Yes. Once reasonable cause is established, nothing in the law prevents a local government from imposing more inspections on residential rental properties than on owner-occupied dwellings,¹⁹ provided the local government has a rational basis for treating rental properties differently from owner-occupied properties. For example, a local government might reason that an owner is in a better position than a tenant to ensure that code violations are corrected and prevented; so, for the protection of tenants, it might enroll tenant-occupied dwellings into a program of inspection that is more rigorous than the program for owner-occupied dwellings in terms of number of inspections or the number of years over which the dwelling is subject to those inspections.

20. The IPR law was designed to limit inspections of residential rental properties. Are periodic inspections of nonresidential buildings similarly restricted?

Under prior law, local government inspection departments were authorized under G.S. 160A-424 and G.S. 153A-364 to conduct periodic inspections of all structures, residential or nonresidential. Additionally, inspection departments were authorized to conduct other “necessary” (or ad hoc) inspections when unsafe conditions were believed to exist in a particular building. The IPR law has created a distinction between residential and nonresidential buildings for inspection purposes. Now G.S. 160A-424 and G.S. 153A-364 contain new requirements that apply only to residential buildings; namely, inspections of residential buildings are permitted only when there is “reasonable cause” as explained in Question 6 above. Nonresidential buildings do not receive this special statutory protection and therefore local governments may continue to inspect those structures as they did under prior law.

Inspections as Part of a Targeted Effort within a Geographic Area

21. The law offers an exception to the reasonable cause requirements for “targeted efforts within a geographic area that has been designated” by the governing board. How does a governing board designate a geographic area for a “targeted effort”?

In selecting a geographic area for a targeted effort, a governing board “shall not discriminate in its selection of areas . . . to be targeted.” The statute does not explain how a governing board can select a geographic area without discriminating in its selection of areas. The very act of selecting an area, after all, involves discriminating between areas. One way to avoid discrimination entirely is to divide the entire jurisdiction into zones and assign targeted areas on a rotating basis at some regular interval, such as annually. For example, say that a city was divided into ten zones and the inspections department was staffed to handle a targeted effort in only two zones in a single year. The first two zones could be targeted during the first year, the next two zones targeted in the second year, and so on, such that every zone will have been targeted by the end of a five-year period. In this way, every neighborhood in the entire jurisdiction would eventually be subject to targeting and therefore no discrimination between areas would occur.

An objection to the rotating zone system described above is that it would waste time and resources on areas of no concern, suggesting that this strict reading of the statute is strained. A

19. An early draft of S.L. 2011-281 prohibited inspection departments from discriminating “between owner-occupied and tenant-occupied buildings or structures,” but that language was removed prior to enactment.

looser reading and more practical approach would dictate the establishment of neutral criteria for selecting areas at some specified time interval—without predetermining which areas will be targeted. For example, a local government could establish a program in which at the beginning of each year, the three neighborhoods with the highest numbers of housing code complaints in the prior year will be selected for targeting in the coming year. Such supposedly neutral criteria have not been tested in court, and at the time of this writing, no case law clarifies whether this approach meets the requirement that governing boards “shall not discriminate” when selecting areas to be targeted.

22. Can a local government simply designate most or all of its geographic area as a “targeted area”?

The IPR law does not impose any maximum dimensions that may be included in a targeted geographic area, nor is there any maximum percentage of the jurisdiction’s total area that may be designated. However, the law specifically calls for a “targeted effort.” An attempt by a jurisdiction to designate all or most of its residential areas in a single targeted effort, if challenged in court, could be viewed as exceeding the scope of the jurisdiction’s authority.

23. The governing board is not permitted to discriminate in its selection of “housing types to be targeted” within the designated geographic area. What does that mean?

The statute does not explain what it means by “housing types.” A reasonable interpretation is that “housing type” refers back to subsection (a) of G.S. 153A-364 and G.S. 160A-424, where discrimination between single-family and multi-family buildings is prohibited. Accordingly, local governments could discriminate between tenant-occupied and owner-occupied properties (provided there was a rational basis for such discrimination) but not between single-family and multi-family buildings. See Questions 18 and 19.

24. Once a geographic area is targeted, a plan must be developed to address the ability of low-income owners to comply with minimum housing code standards. What are the requirements for such a plan?

The statute offers no guidance on how to develop this plan. As a practical matter, a plan developed in consultation with and approved by low-income owners and organizations in targeted neighborhoods would presumably meet the statutory requirements and would probably minimize the risk of a legal challenge. Many local governments already have programs in place designed to assist low-income owners, such as low or zero interest rate rehabilitation loans with longer-than-average term lengths to enhance affordability, so these local governments could simply increase the availability of those products in targeted areas.²⁰

C. Permit and Registration Programs for Residential Rental Property

25. What is the difference between requiring a permit and establishing a registration program?

A permit program (sometimes called a certificate program) requires an owner or landlord to obtain a permit or other form of permission from the local government prior to renting or

20. The primary source of statutory authority for offering loans or other financial assistance to low-income owners for rehabilitation of private dwellings is provided in G.S. 153A-376 (counties) and G.S. 160A-456 (cities).

leasing units. In other words, an owner is prohibited from renting or leasing units until a permit has been obtained. Permit programs are restricted under the IPR law to units and properties that meet certain threshold conditions (see Table 2 above).

The term “residential rental property registration” appears in the IPR law but is not defined. Residential rental property registration programs in use at the time of the IPR law’s enactment typically required an owner or landlord to provide information about rental units (such as address, owner’s name, and property manager’s 24-hour contact information). A pure registration program would not require a permit or permission to rent units, only that rental units be registered with the local government. Authority to enact a registration program is derived either from a local government’s general police power or from its authority to regulate and license businesses (G.S. 160A-194 (cities) and G.S. 153A-134 (counties)). Fees associated with registration programs are permitted only in certain circumstances (see Table 4 above), but otherwise registration programs are left largely unregulated by the IPR law.

Permit Programs

26. When may a local government require a landlord or owner to obtain a permit prior to renting residential property?

As illustrated in Table 2, the standard is different depending on whether the local government is a city or a county. A city may impose a permit requirement on any *property* that has more than three verified violations in a 12-month period. At that point, the entire property (and all of the rental units on that property) may be placed into a permit program regardless of which rental units were the source of the violations.

Counties have similar authority, but the scope of that authority is limited to individual rental units. A county can impose a permit requirement on any *rental unit* that has more than three verified violations in a 12-month period. Accordingly, if only one unit in a multi-family property meets the violation threshold, then a county can place only that specific rental unit into the permit program. The other units in that building could not be placed in the permit program unless they separately reached the violation threshold. It should be noted, however, that although the other units in that building could not be placed into a *permit* program, all units on that property and all units of every other property owned or managed by the owner or landlord could be subjected to a program of periodic inspections. See Table 1 and Questions 8 through 10.

Both cities and counties may require an owner of a property to obtain a permit prior to renting units if the property is identified as being within the top 10 percent of properties with crime or disorder problems as set forth in a local ordinance.

27. Does the law provide any guidance regarding how local governments should determine which properties are in the top 10 percent of properties with crime or disorder problems?

No. The statute’s reference to crime and disorder problems was probably included to allow the City of Charlotte to continue its program of counting and comparing the number of reported violent crimes, property crimes, and other disorder-related requests for police assistance at residential rental properties in the city. Owners of properties with high counts must register those properties with the city and are given the opportunity to cooperate with the police in the development of a plan to address the crime and disorder problems. While Charlotte’s program is instructive as a model, the statute imposes no requirements for assessing and comparing the

crime and disorder problems of rental properties, so a local government is free to establish its own program requirements.

28. A city (not a county) may place an entire property into a permit program when it finds more than three verified violations on that property in a 12-month period. Would four different violations within a single housing unit on a multi-unit property during one inspection meet this threshold?

Similar to the response in Question 8, the answer appears to be yes. Four different violations in a single unit, all reported as verified during one inspection, would meet the threshold of more than three violations on the property in a 12-month period. The statute does not require that the violations be found in multiple units or discovered at different times.

29. Once a rental unit (in a county program) or a property (in a city program) meets the threshold for imposing a permit requirement, for how long can the permit requirement be imposed?

The statute does not specify. Once a property or rental unit meets the threshold for being placed into a permit program, the local government can keep it in the permit program for whatever length of time it deems appropriate as established in its permit policy. However, the time period established by the local government should be reasonable and rationally related to the purpose of the permit program.

30. Can a local government levy a fee on properties that are placed into a permit program?

Fees are restricted under the IPR law, but some general background is necessary to help clarify those restrictions. North Carolina case law permits local governments to impose fees to defray the costs of administering programs undertaken pursuant to express statutory authority.²¹ Accordingly, a local government can typically charge a fee for regulatory activities such as inspection and permit programs. However, the IPR law limits a local government's authority related to these types of fees; a tax or fee may be levied on residential rental property only when it is also levied against other commercial and residential properties. An exception to this rule is available, as illustrated in Table 4, for residential rental property registration fees. There is no exception for permit programs. Therefore, no permitting fees may be assessed against residential rental properties unless that fee is also levied against other commercial and residential properties. Fees for registration programs are discussed below in Questions 34 and 35.

31. The IPR law clearly prohibits a local government from making enrollment in a government program a condition of obtaining a certificate of occupancy (CO) for residential rental property, but it specifically allows a "permit or permission" program to be imposed under certain circumstances as explained above. How is withholding a CO different from imposing a permit requirement?

Clarification of these terms can be found in the statutes. As the term is used in the statutes, a certificate of occupancy (CO) is a particular kind of permit issued upon completion of construction of a building—and prior to occupancy—to certify that the building complies with building standards and is ready for human occupancy.²² Some local governments also condition issu-

21. See *Homebuilders Ass'n of Charlotte, Inc. v. City of Charlotte*, 336 N.C. 37, 46, 442 S.E.2d 45, 51 (1994) (concluding that a city has authority to assess user fees for a variety of governmental regulatory services and for the use of public facilities, provided such fees are reasonable).

22. See, e.g., G.S. 143-139.2 and G.S. 160A-374.

ance of a CO on compliance with other local ordinances and codes applicable to the building, even though that practice is not expressly authorized by statute. Thus, prior to the IPR law, local governments that had enacted rental property registration and permit programs might have required enrollment in those programs prior to issuing a CO. This practice is no longer permitted. The permit programs allowed under the IPR law cannot be enforced by withholding a CO; rather, they may be imposed only upon buildings that have already received their COs.

Prior to enactment of the IPR law, some residential rental property permit programs used the term “rental unit certificate of occupancy” to describe the rental unit permits to be obtained by owners or landlords prior to rental of a unit. Regardless of what such permits are called, they must now comply with the IPR law’s restrictions. To avoid confusion, the term “certificate of occupancy” should not be associated with rental unit permit programs.

Registration Programs

32. Can a local government require all landlords to register all rental units as part of a universal rental property registration program?

Rental property registration programs were described above in Question 25. The IPR law does not appear to prohibit universal rental property registration programs; indeed, the reference to registration programs in subsection (d) of revised G.S. 153A-364 and G.S. 160A-424 implies that such programs are permitted. This implication is supported by other statutes as explained above in Question 25, because authority to enact a registration program is derived either from a local government’s general police power or from its authority to regulate and license businesses. A simple registration program would require all landlords to provide basic information to the local government about each rental unit, such as the owner’s name and the property manager’s 24-hour contact information. It should be noted that the IPR law permits fees to be levied as part of a registration program only in certain circumstances (see Question 34 below). Additionally, participation in a registration program cannot be made a condition of receiving a certificate of occupancy as explained above in Question 31.

33. Can a local government assess a fine or civil penalty against owners and landlords that fail to register their rental units as part of a registration program?

The violation of any city or county ordinance may be made subject to a fine or civil penalty by general ordinance pursuant to G.S. 153A-123(b) (counties) and G.S. 160A-175(b) (cities). The IPR law prohibits the assessment of special fees and taxes against residential rental property, but it places no restrictions on fines and penalties. Accordingly, local governments retain their authority to impose fines or civil penalties upon owners and landlords who fail to comply with a registration requirement.

34. Can a local government levy a registration fee as part of a residential rental property registration program?

Although a local government is permitted to establish a residential rental property registration program and require universal participation, it may impose an associated fee with the registration program only under certain circumstances. As Table 4 illustrates, registration fees may be assessed against properties identified as being in the top 10 percent of properties with crime and disorder problems as locally defined. Additionally, fees may be imposed on rental units that within the previous 12 months have incurred more than two verified violations of housing

ordinances or codes (for counties) or local ordinances (for cities). Under the IPR law, these fees may only cover the costs of operating the registration program and may not be used to offset other costs, such as the costs of administering a permit or inspection program.²³

35. Counties may impose a rental property registration fee on rental units that have incurred more than two verified violations of housing ordinances or codes, whereas the threshold for a city is two verified violations of local ordinances. What is the difference between housing ordinances or codes (for counties) and local ordinances (for cities)?

This distinction is discussed in Question 12 above. To summarize, a reasonable interpretation of “housing ordinances or codes” would include all local regulations pertaining to housing: building codes pertaining to residential buildings, aesthetic design standards for residential buildings, nuisance and general police power regulations applicable only to residential buildings, and regulations requiring that dwellings be kept in a state of good repair. This is in contrast to “local ordinances or codes,” a clause which arguably includes any ordinance or code of the local jurisdiction, whether related to housing or not.

36. Once a property or rental unit reaches the violation threshold and a fee is imposed on it as part of a residential rental property registration program, for how long may a local government continue to impose the fee?

The statute does not specify. Once a property or rental unit reaches the violation threshold for having a fee assessed, the local government can continue to assess the fee for as long as the property remains in the registration program. The 12-month period referenced in the statute refers to the period in which the threshold number of violations must have been found prior to imposing the fee and has no bearing on the period of time during which a fee-eligible property may be made subject to a registration fee. As noted in Question 29, any time period established by the local government should be reasonable and rationally related to the purpose of the registration program.

37. Would a privilege license tax levied on the occupation or business of being a landlord pursuant to G.S. 160A-211 violate the IPR law’s prohibition against levying a special fee or tax on residential rental property that is not also levied against other commercial and residential properties?

A carefully crafted privilege license tax on landlords is probably permissible. At the time of this writing, G.S. 160A-211 authorizes cities to assess privilege license taxes on many different types of businesses and occupations, including landlords. The question is whether the IPR law, which bans taxes on residential rental property, would prevent a city from taxing the occupation of landlord. The concern is that a privilege license tax on landlords, if challenged, might be viewed by a court as a special tax on rental property rather than as a tax on a business or occupation. If such a privilege license tax is interpreted as a special tax on rental property, it would run afoul of the prohibition in the IPR law, which allows taxes against residential rental property only when the tax is “also levied against other commercial and residential properties.” However, a carefully crafted privilege license tax on landlords—one that avoids calculating the tax on a

23. The IPR law contains an exception for fees levied as part of registration programs in existence prior to enactment of the law. Those fee exceptions pertain to a small number of specific jurisdictions with programs already in place at the time the IPR law was enacted, so they will not be discussed here.

per-property basis and perhaps even taxes landlords under a general service or miscellaneous category rather than under a special category just for landlords—arguably does not run afoul of the ban on taxing residential rental property.²⁴

38. What effect does this law have on vacant property registration programs?

An examination of vacant property registration programs provides an example of an analysis under the IPR law as applied to a comprehensive registration program.

A vacant property registration program has three primary components: (1) it requires vacant buildings or properties of any kind to be registered with the local government; (2) it directs inspectors to periodically examine the exterior of registered properties and, as required, conduct interior inspections for fire code compliance and when violations are observable from outside the property; and (3) it assesses a fee on registered properties to cover the costs of inspections and administration of the program.²⁵ Each program component will be examined in light of the IPR law's requirements.

The first component of a vacant property registration program is a requirement that all vacant properties—residential, commercial, rental or otherwise—be registered with the local government. This registration requirement does not violate any of the IPR law's prohibitions. The IPR law prohibits only registration programs that (1) require an owner to obtain permission prior to renting or leasing residential property or (2) make participation in a government program a condition of obtaining a certificate of occupancy. Vacant property registration programs do not employ either prohibited mechanism—they do not attempt to regulate whether an owner may rent out property, and participation in the program is not required as a condition of obtaining a certificate of occupancy.

Second, vacant property registration programs typically involve external examinations of property to ensure the property is secure and that its appearance is acceptable. This type of external observation is clearly authorized by the IPR law. After all, one of the reasonable cause thresholds for interior inspections under the IPR law is reached when code violations are observable from outside the property, thereby plainly implying that inspectors are permitted to periodically assess property exteriors from public rights-of-way. Vacant property programs are primarily concerned with external appearances, and interior inspections are typically conducted only when a code violation is observable from outside the property. The exception is that regular fire safety inspections of the interior are usually required as part of a vacant property registration program, but the IPR law specifically allows such inspections provided they are conducted in accordance with North Carolina fire prevention code.²⁶

Third, most vacant property registration programs levy a fee on all registered properties. The IPR law prohibits levying fees against residential rental properties unless the fee is “also levied

24. For a fuller discussion of this point, see Chris McLaughlin, *How Does the New Residential Rental Inspection Law Affect City Privilege License Taxes?* Coates' Canons (August 11, 2011), available at <http://sogweb.sog.unc.edu/blogs/localgovt/?p=5146>.

25. For further analysis of vacant property registration programs under North Carolina law, see C. Tyler Mulligan, *Toward a Comprehensive Program for Regulating Vacant or Abandoned Dwellings in North Carolina: The General Police Power, Minimum Housing Standards, and Vacant Property Registration*, 32 CAMPBELL L. REV. 1 (2009).

26. See G.S. 58-79-20.

against other commercial and residential properties.” Because the fee typically assessed as part of a vacant property registration program does not single out rental properties—the fee is assessed against vacant properties of all kinds—it is permitted under the IPR law.

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Appendix A: S.L. 2011-281 (The IPR Law)

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

**SESSION LAW 2011-281
SENATE BILL 683**

AN ACT REQUIRING COUNTIES AND CITIES TO HAVE REASONABLE CAUSE
BEFORE INSPECTING RESIDENTIAL BUILDINGS OR STRUCTURES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-364 reads as rewritten:

"§ 153A-364. Periodic inspections for hazardous or unlawful conditions.

(a) The inspection department shall may make periodic inspections, subject to the board of commissioners' directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or structures within its territorial jurisdiction. Except as provided in subsection (b) of this section, the inspection department may make periodic inspections only when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a residential building or structure. For purposes of this section, the term 'reasonable cause' means any of the following: (i) the landlord or owner has a history of more than two verified violations of the housing ordinances or codes within a 12-month period; (ii) there has been a complaint that substandard conditions exist within the building or there has been a request that the building be inspected; (iii) the inspection department has actual knowledge of an unsafe condition within the building; or (iv) violations of the local ordinances or codes are visible from the outside of the property. In conducting inspections authorized under this section, the inspection department shall not discriminate between single-family and multifamily buildings. In addition, it shall make any necessary inspections when it has reason to believe that such conditions may exist in a particular building. 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.

(b) A county may require periodic inspections as part of a targeted effort within a geographic area that has been designated by the county commissioners. The county shall not discriminate in its selection of areas or housing types to be targeted and shall (i) provide notice to all owners and residents of properties in the affected area about the periodic inspections plan and information regarding a public hearing regarding the plan; (ii) hold a public hearing regarding the plan; and (iii) establish a plan to address the ability of low-income residential property owners to comply with minimum housing code standards.

(c) In no event may a county do any of the following: (i) adopt or enforce any ordinance that would require any owner or manager of rental property to obtain any permit or permission from the county to lease or rent residential real property, except for those rental units that have more than three verified violations of housing ordinances or codes in a 12-month period or upon the property being identified within the top 10% of properties with crime or disorder problems as set forth in a local ordinance; (ii) require that an owner or manager of residential rental property enroll or participate in any governmental program as a condition of obtaining a certificate of occupancy; or (iii) except as provided in subsection (d) of this section, levy a special fee or tax on residential rental property that is not also levied against other commercial and residential properties.

(d) A county may levy a fee for residential rental property registration under subsection (c) of this section for those rental units which have been found with more than two verified violations of housing ordinances or codes within the previous 12 months or upon the property being identified within the top 10% of properties with crime or disorder problems as set forth in a local ordinance. The fee shall be an amount that covers the cost of operating a residential

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registration program and shall not be used to supplant revenue in other areas. Counties using registration programs that charge registration fees for all residential rental properties as of June 1, 2011, may continue levying a fee on all residential rental properties as follows:

- (1) For properties with 20 or more residential rental units, the fee shall be no more than fifty dollars (\$50.00) per year.
- (2) For properties with fewer than 20 but more than three residential rental units, the fee shall be no more than twenty-five dollars (\$25.00) per year.
- (3) For properties with three or fewer residential rental units, the fee shall be no more than fifteen dollars (\$15.00) per year."

SECTION 2. G.S. 160A-424 reads as rewritten:

"§ 160A-424. Periodic inspections.

(a) The inspection department shall may make periodic inspections, subject to the council's directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings or structures within its territorial jurisdiction. Except as provided in subsection (b) of this section, the inspection department may make periodic inspections only when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a residential building or structure. For purposes of this section, the term 'reasonable cause' means any of the following: (i) the landlord or owner has a history of more than two verified violations of the housing ordinances or codes within a 12-month period; (ii) there has been a complaint that substandard conditions exist within the building or there has been a request that the building be inspected; (iii) the inspection department has actual knowledge of an unsafe condition within the building; or (iv) violations of the local ordinances or codes are visible from the outside of the property. In conducting inspections authorized under this section, the inspection department shall not discriminate between single-family and multifamily buildings. In addition, it shall make inspections when it has reason to believe that such conditions may exist in a particular structure. In exercising this power, members of the department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. 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.

(b) A city may require periodic inspections as part of a targeted effort within a geographic area that has been designated by the city council. The municipality shall not discriminate in its selection of areas or housing types to be targeted and shall (i) provide notice to all owners and residents of properties in the affected area about the periodic inspections plan and information regarding a public hearing regarding the plan; (ii) hold a public hearing regarding the plan; and (iii) establish a plan to address the ability of low-income residential property owners to comply with minimum housing code standards.

(c) In no event may a city do any of the following: (i) adopt or enforce any ordinance that would require any owner or manager of rental property to obtain any permit or permission from the city to lease or rent residential real property, except for those properties that have more than three verified violations in a 12-month period or upon the property being identified within the top 10% of properties with crime or disorder problems as set forth in a local ordinance; (ii) require that an owner or manager of residential rental property enroll or participate in any governmental program as a condition of obtaining a certificate of occupancy; or (iii) except as provided in subsection (d) of this section, levy a special fee or tax on residential rental property that is not also levied against other commercial and residential properties.

(d) A city may levy a fee for residential rental property registration under subsection (c) of this section for those rental units which have been found with more than two verified violations of local ordinances within the previous 12 months or upon the property being identified within the top 10% of properties with crime or disorder problems as set forth in a local ordinance. The fee shall be an amount that covers the cost of operating a residential registration program and shall not be used to supplant revenue in other areas. Cities using registration programs that charge registration fees for all residential rental properties as of June 1, 2011, may continue levying a fee on all residential rental properties as follows:

- (1) For properties with 20 or more residential rental units, the fee shall be no more than fifty dollars (\$50.00) per year.

Appendix A: S.L. 2011-281 (The IPR Law)

(2) For properties with fewer than 20 but more than three residential rental units, the fee shall be no more than twenty-five dollars (\$25.00) per year.

(3) For properties with three or fewer residential rental units, the fee shall be no more than fifteen dollars (\$15.00) per year."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of June, 2011.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 5:26 p.m. this 23rd day of June, 2011

Appendix B: Affidavit to Obtain Administrative Inspection Warrant for Particular Condition or Activity

(TYPE OR PRINT IN BLACK INK)
STATE OF NORTH CAROLINA
In The General Court Of Justice

_____ County

**AFFIDAVIT TO OBTAIN
ADMINISTRATIVE INSPECTION
WARRANT FOR PARTICULAR
CONDITION OR ACTIVITY**

I, _____, being
(name and position)

duly sworn and examined under oath, state under oath that there is probable cause for believing that there is

(describe condition, object, activity, or circumstance which the search is intended to check or reveal)

at the property owned or possessed by _____

and described as follows: _____

(precisely describe the property to be inspected)

The facts which establish probable cause to believe this are: _____

Signature Of Applicant

Name Of Applicant (Type Or Print)

SWORN AND SUBSCRIBED TO BEFORE ME:

Date

Signature

- | | | |
|--|--|---|
| <input type="checkbox"/> <i>Deputy CSC</i> | <input type="checkbox"/> <i>Assistant CSC</i> | <input type="checkbox"/> <i>Clerk Of Superior Court</i> |
| <input type="checkbox"/> <i>Magistrate</i> | <input type="checkbox"/> <i>District Court Judge</i> | <input type="checkbox"/> <i>Superior Court Judge</i> |

IMPORTANT: *Attach the Affidavit to the WARRANT if not on reverse side.*

Appendix B: Affidavit to Obtain Administrative Inspection Warrant for Particular Condition or Activity

<p><i>(TYPE OR PRINT IN BLACK INK)</i></p> <p>STATE OF NORTH CAROLINA In The General Court Of Justice</p> <p>_____ County</p>	<p>ADMINISTRATIVE INSPECTION WARRANT FOR PARTICULAR CONDITION OR ACTIVITY</p> <p style="text-align: right; font-size: small;">G.S. 15-27.2; 58-79-1</p>										
<p>TO ANY LAWFUL OFFICIAL EMPOWERED TO CONDUCT THE INSPECTION AUTHORIZED BY THIS WARRANT:</p> <p>The applicant named on the accompanying affidavit, which is hereby incorporated by reference, being duly sworn, has stated to me that there is a condition, object, activity, or circumstance legally justifying an inspection of the property described in that affidavit. I have examined this applicant under oath or affirmation and have verified the accuracy of the matters in the affidavit establishing the legal grounds for this Warrant. YOU ARE HEREBY COMMANDED TO INSPECT THE PROPERTY DESCRIBED IN THE ACCOMPANYING AFFIDAVIT.</p> <p>This inspection is authorized to check or reveal the conditions, objects, activities, or circumstances indicated in the accompanying affidavit.</p> <p>This Warrant must be served upon the owner or possessor of the property described in the accompanying affidavit. If the owner or possessor is not present on the property at the time of inspection and you have made reasonable but unsuccessful efforts to locate the owner or possessor, you may instead serve it by affixing this Warrant or a copy to the property.</p> <p>THIS WARRANT MAY BE EXECUTED ONLY BETWEEN THE HOURS OF 8:00 A.M. AND 8:00 P.M. AND ONLY WITHIN 24 HOURS AFTER IT WAS ISSUED. IT MUST BE RETURNED WITHIN 48 HOURS AFTER IT WAS ISSUED. HOWEVER, IF THIS WARRANT IS ISSUED PURSUANT TO A FIRE INVESTIGATION AUTHORIZED BY G.S. 58-79-1, IT MAY BE EXECUTED AT ANY TIME WITHIN 48 HOURS AFTER IT IS ISSUED. IT MUST BE RETURNED WITHOUT UNNECESSARY DELAY AFTER ITS EXECUTION OR AFTER 48 HOURS FROM THE TIME IT WAS ISSUED IF IT WAS NOT EXECUTED.</p>											
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<p>This WARRANT has been returned to this office on the date and time shown below.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;">Date Of Return</td> <td style="width: 50%; padding: 2px;">Signature</td> </tr> <tr> <td style="padding: 2px;">Time Of Return <input type="checkbox"/> AM <input type="checkbox"/> PM</td> <td style="padding: 2px;"><input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court</td> </tr> </table>		Date Of Return	Signature	Time Of Return <input type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court						
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<p>IMPORTANT: <i>Attach the Affidavit to the WARRANT if not on reverse side.</i></p>											
<p>AOC-CR-913M, Side Two, Rev. 7/01 © 2001 Administrative Office of the Courts</p>											

Appendix C: Affidavit to Obtain Administrative Inspection Warrant for Periodic Inspection

(TYPE OR PRINT IN BLACK INK)

STATE OF NORTH CAROLINA
In The General Court Of Justice

_____ County

**AFFIDAVIT TO OBTAIN
ADMINISTRATIVE INSPECTION
WARRANT FOR
PERIODIC INSPECTION**

I, _____, being
(name and position)

duly sworn and examined under oath, state under oath that there is a program of inspection authorized by

_____ *(identify statute or regulation authorizing inspection)*

which naturally includes the property owned or possessed by _____ *(name owner or possessor)*

_____ and described as follows: _____

_____ *(precisely describe the property to be inspected)*

The program of inspection referred to covers the area _____

_____ *(indicate town, county, or portion thereof, or other specific territory covered by inspection program)*

and is being conducted for the purpose of checking or revealing the following:

_____ *(state conditions, objects, activities, or circumstances covered by inspection program)*

This inspection program is a legal function of _____ *(name agency)*

and is under the supervision of _____ *(identify person responsible for inspection program)*

Signature Of Applicant

Name Of Applicant (Type Or Print)

SWORN AND SUBSCRIBED TO BEFORE ME:

Date

Signature

- | | | |
|-------------------------------------|---|--|
| <input type="checkbox"/> Deputy CSC | <input type="checkbox"/> Assistant CSC | <input type="checkbox"/> Clerk Of Superior Court |
| <input type="checkbox"/> Magistrate | <input type="checkbox"/> District Court Judge | <input type="checkbox"/> Superior Court Judge |

IMPORTANT: Attach the Affidavit to the WARRANT if not on reverse side.

Appendix C: Affidavit to Obtain Administrative Inspection Warrant for Periodic Inspection

<p><i>(TYPE OR PRINT IN BLACK INK)</i></p> <p>STATE OF NORTH CAROLINA In The General Court Of Justice</p> <p>_____ County</p>	<p style="text-align: right; font-size: small;">File No.</p> <hr/> <p style="text-align: center;">ADMINISTRATIVE INSPECTION WARRANT FOR PERIODIC INSPECTION</p> <p style="text-align: right; font-size: small;">G.S. 15-27.2</p>										
<p>TO ANY LAWFUL OFFICIAL EMPOWERED TO CONDUCT THE INSPECTION AUTHORIZED BY THIS WARRANT:</p> <p>The applicant named on the accompanying affidavit, being duly sworn, has stated to me that the property described in that affidavit is to be inspected as part of a legally authorized program of inspection which naturally includes that property. I have examined this applicant under oath or affirmation and have verified the accuracy of the matters in the affidavit establishing the legal grounds for this Warrant. YOU ARE HEREBY COMMANDED TO INSPECT THE PROPERTY DESCRIBED IN THE ACCOMPANYING AFFIDAVIT.</p> <p>This inspection is authorized to check or reveal the conditions, objects, activities, or circumstances indicated in the accompanying affidavit as a purpose of the inspection program.</p> <p>This Warrant must be served upon the owner or possessor of the property described in the accompanying affidavit. If the owner or possessor is not present on the property at the time of inspection and you have made reasonable but unsuccessful efforts to locate the owner or possessor, you may instead serve it by affixing this Warrant or a copy to the property.</p> <p>THIS WARRANT MAY BE EXECUTED ONLY BETWEEN THE HOURS OF 8:00 A.M. AND 8:00 P.M. AND ONLY WITHIN 24 HOURS AFTER IT WAS ISSUED. IT MUST BE RETURNED WITHIN 48 HOURS AFTER IT WAS ISSUED.</p>											
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%; padding: 2px;">Date Issued</td> <td style="width: 40%; padding: 2px;">Time Issued <input type="checkbox"/> AM <input type="checkbox"/> PM</td> </tr> <tr> <td colspan="2" style="padding: 2px;">Signature</td> </tr> <tr> <td style="padding: 2px;"><input type="checkbox"/> Deputy CSC</td> <td style="padding: 2px;"><input type="checkbox"/> Assistant CSC</td> <td style="padding: 2px;"><input type="checkbox"/> Clerk Of Superior Court</td> </tr> <tr> <td style="padding: 2px;"><input type="checkbox"/> Magistrate</td> <td style="padding: 2px;"><input type="checkbox"/> District Court Judge</td> <td style="padding: 2px;"><input type="checkbox"/> Superior Court Judge</td> </tr> </table>		Date Issued	Time Issued <input type="checkbox"/> AM <input type="checkbox"/> PM	Signature		<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC	<input type="checkbox"/> Clerk Of Superior Court	<input type="checkbox"/> Magistrate	<input type="checkbox"/> District Court Judge	<input type="checkbox"/> Superior Court Judge
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<input type="checkbox"/> Magistrate	<input type="checkbox"/> District Court Judge	<input type="checkbox"/> Superior Court Judge									
OFFICER'S RETURN											
I certify that this WARRANT was executed on the date and time shown below.											
Date Of Execution	Signature Of Inspecting Official										
Time Of Execution <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Inspecting Official (Type Or Print)										
CLERK'S ACCEPTANCE											
This WARRANT has been returned to this office on the date and time shown below.											
Date Of Return	Signature										
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<p>IMPORTANT: <i>Attach the Affidavit to the WARRANT if not on reverse side.</i></p>											
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