

Buncombe County

Rules Governing the Control of Mosquitoes

Whereas mosquitoes are known vectors of encephalitis, West Nile virus, and other diseases, and;

Whereas effective control of mosquitoes is essential for protecting the public health from said diseases, and;

Whereas uncontrolled mosquito breeding significantly increases the risk of transmission of said diseases through mosquito bites,

Be it resolved that:

The Local Board of Health does hereby adopt the following rules governing the control of mosquitoes for the express purpose of protecting the public health, pursuant to Chapter 130A-39(a) of the General Statutes of North Carolina. These rules shall apply throughout Buncombe County, including – but not limited to – all cities, towns, hamlets, and villages whether incorporated or unincorporated.

SECTION 1: PURPOSE

It is the intent of these regulations to control and reduce the mosquito population of Buncombe County by causing the reduction or elimination of mosquitoes' breeding sources. The Division of Environmental Health of the Buncombe County Health Center shall enforce the provisions of these rules to reduce or eliminate where possible, breeding sources or other such conditions found to be conducive to the reproduction and continued existence of mosquitoes. Implementation of these rules shall be accomplished through education and public information, conference, persuasion, and these having failed, by administrative and judicial proceedings as provided in these rules and the General Statutes of North Carolina.

SECTION 2: DEFINITIONS

1. **Artificial Container:** means any bucket, barrel, tin can, tire, bottle, tub, tank, gutter, bird bath, wading pool, swimming pool, ornamental pond, flower pot, jar, and other such man-made items capable of collecting water.
2. **Breeding Source:** means any area capable of sustaining the reproduction of mosquitoes.
3. **Department:** means the Buncombe County Health Center.
4. **Director:** means the Health Director of Buncombe County and his or her designee.
5. **Board of Health:** means the Buncombe County Local Board of Health.
6. **Evidence of Mosquito Breeding:** means the natural presence of mosquito larva or pupa.
7. **Insecticide:** means a chemical agent that destroys insects.
8. **Larva:** means the immature, fully aquatic stage of mosquito development in which the insect appears as a small, wingless, worm-like form.
9. **Larvacide:** means a chemical agent that destroys mosquito larvae

10. **Mosquito:** means a small long-legged, two-winged insect of the family Culicidae, in which the female of the species is distinguished by a long proboscis for sucking blood.
11. **Occupant:** means the person who has the use of or occupies any building or any part thereof or who has the use or possession, actual or constructive, of the premises whether the actual owner or tenant. In the case of vacant buildings or vacant portions of a building, or in case of occupancy in whole or in part by the owner, the owner of the building shall be deemed to be, and shall have the responsibility of an occupant of such building.
12. **Owner:** means the person owning the building or premises.
13. **Person:** means individuals, firms, partnerships, associations, public or private institutions, municipalities, political subdivisions of the state of North Carolina, governmental agencies, or public or private corporations.
14. **Premises:** means a parcel of real property, including all buildings and structures located thereon.
15. **Pupa:** means the immature, fully aquatic stage of mosquito development immediately following the larval stage and preceding the adult form in which the insect appears as a small, wingless, worm-like shape with a greatly enlarged head.

SECTION 3: GENERAL PROVISIONS

All premises within Buncombe County shall be maintained in such a manner as to prevent the breeding of mosquitoes. It shall be the responsibility of the owner or occupant of the premises to maintain artificial containers, ditches, streams, flooded areas, and all other such sources of standing water or other liquid, in such a manner as to prevent mosquito breeding. Where the Department determines that evidence of mosquito breeding exists, effective methods of eliminating and/or treating mosquito breeding sources shall be initiated by the person occupying the premises, or in the absence of an occupant, by the owner within 48 hours of notification by the Department.

SECTION 4: METHODS of ELIMINATING and TREATING MOSQUITO BREEDING SOURCES

Owners or occupants of premises where breeding sources have been identified shall utilize one or more of the following methods to reduce or eliminate mosquito breeding:

- A. Filling, draining, removing, or otherwise eliminating the breeding source.
- B. Completely emptying, drying, and cleaning the breeding source(s) of all water at least every four (4) days.
- C. Treating or applying, in accordance with all laws and rules governing pesticide application, breeding sources with an effective insecticide and/or larvicide. It shall be the responsibility of the owner, occupant, or person(s) applying insecticide or larvicides to ensure compliance with all applicable pesticide application laws and rules.
- D. Thoroughly emptying artificial containers of all liquid and storing in a structure(s) or area(s) in a manner that will prevent the collection of liquid in said containers.
- E. Other methods proven to be effective in controlling mosquitoes subject to approval of the Director.

SECTION 5: RIGHT of ENTRY – INSPECTION

Pursuant to GS 130A-17, the Director shall have the right of entry upon any premises where entry is necessary to carry out the provisions of these rules. If consent for entry is not obtained, an administrative search and inspection warrant shall be obtained pursuant to BS 15-272. However, if an eminent hazard exists, no warrant is required for entry upon the premises.

SECTION 6: PENALTIES and ENFORCEMENT

- A. **Criminal:** In accordance with GS 130A-25, any person who violates a provision of these rules shall be guilty of a Class I misdemeanor.
- B. **Civil Proceeding:** If a person shall violate any provision of this ordinance, the Director may institute an action for injunctive relief, irrespective of all of the remedies at law, in the Superior Court or the county where the violation occurred or where a defendant resides. In addition, the Director may take action pursuant to GS 130A-19 or GS 130A-20 under appropriate circumstances to abate any public health nuisance which exists as a result of the violation.

SECTION 7: SEVERABILITY

If any provision or clause of this ordinance shall be declared invalid, such declaration shall not invalidate any other provision or clause of this ordinance.

SECTION 8: PRIOR RULES and REGULATIONS REPEALED

SECTION 9: EFFECTIVE DATE

These regulations shall be effective on June 1, 2002.

ADOPTED this 9th day of May, 2002.

SIGNED: J. Paul Martin, MD, Chair
Board of Health for the County of Buncombe

ATTEST: George F. Bond, Jr., Secretary
Board of Health for the County of Buncombe