

## CHAPTER 152: ABANDONED BUILDINGS

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#### § 152.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ABANDONED.** As applied to a building, shall mean unoccupied by persons for the purpose for which the building was intended to be used.

**BUILDING.** Any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind which has enclosing walls for 50% of its perimeter.

**BUILDING INSPECTOR.** The officer or other designated authority charged with the administration and enforcement of this code, or his or her duly authorized representative.

**OWNER.** The holder of the title in fee simple and every mortgagee of record.

**PARTIES IN INTEREST.** All individuals, associates and corporations who have interests of record in a dwelling or structure and any who are in possession thereof.

**STRUCTURE.** That which is built or constructed.

(<sup>90</sup> Code, § 4-100)

#### § 152.02 SCOPE.

The provisions of this chapter shall apply to every type of building, including any appurtenances attached thereto, wherever it might be situated in the corporate limits.

(<sup>90</sup> Code, § 4-101)

#### § 152.03 DUTIES OF BUILDING INSPECTOR.

The Building Inspector shall be appointed by the Council and is designated to enforce the provisions of this chapter. It shall be the duty of the Building Inspector to:

(A) Locate abandoned structures within the city and determine which structures are in violation of this chapter.

(B) Take such action pursuant to this chapter as may be necessary to provide for the repair, closing or demolition of the structures.

(C) Keep an accurate record of all enforcement proceedings begun pursuant to the provisions of this chapter.

(D) Perform such other duties as may be prescribed herein or assigned to him or her by the City Council.

(^90 Code, § 4-102)

§ 152.04 POWERS OF BUILDING INSPECTOR.

The Building Inspector is authorized to exercise such powers as may be necessary to carry out the intent and provisions of this chapter, including the following powers in addition to others herein granted:

(A) To investigate the condition of buildings within the city in order to determine which structures are abandoned and in violation of this chapter.

(B) To enter upon premises for the purpose of making inspections.

(C) To administer oaths and affirmations, examine witnesses and receive evidence.

(D) To designate such other officers, agents and employees of the city as he or she deems necessary to carry out the provisions of this chapter.

(^90 Code, § 4-103)

§ 152.05 STANDARDS FOR ENFORCEMENT.

(A) Every abandoned structure within the city shall be deemed in violation of this chapter whenever the structure constitutes a hazard to the health, safety or welfare of the city citizens as a result of the following:

(1) The attraction of insects or rodents.

(2) Conditions creating a fire hazard.

(3) Dangerous conditions constituting a threat to children.

(4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.

(B) In making the preliminary determination of whether or not an abandoned structure is in violation of this chapter, the Building Inspector may, by way of illustration and not limitation, consider the presence or absence of the following conditions:

(1) Holes or cracks in the structure's floor, walls, ceilings or roof which might attract or admit rodents and insects or become breeding places for rodents and insects.

(2) The collection of garbage or rubbish in or near the structure which might attract rodents and insects or become breeding places for rodents.

(3) Violations of the North Carolina State Building Code, Volume I, the State Electrical Code, Volume IV, or the Fire Prevention Code, Volume V, which constitute a fire hazard in the structure.

(4) The collection of garbage, rubbish or combustible material which constitutes a fire hazard in the structure.

(5) The use of the structure or nearby grounds or facilities by children as a play area.

(6) Violations of the North Carolina State Building Code, Volume I, which might result in danger to children using the structure or nearby grounds or facilities as a play area.

(7) Repeated use of the structure by transients and vagrants, in the absence of sanitary facilities, for living, sleeping, cooking or eating.  
(^90 Code, § 4-104)

§ 152.06 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the Building Inspector shall be served upon persons either personally or by certified or registered mail, but if the whereabouts of the persons are unknown and the same

cannot be ascertained by the Building Inspector in the exercise of reasonable diligence, the Building Inspector shall make an affidavit to that effect, and service of the complaint or order upon the person may be made by publication in a newspaper having general circulation in the city at least once, no later than the time at which personal service is required under § 152.08. Where service is made by publication, a notice of the pending proceedings shall be posted in conspicuous place on the premises affected by the complaint or order.

(^90 Code, § 4-105)

§ 152.07 IN REM ACTION BY BUILDING INSPECTOR PLACARD.

(A) After failure of an owner of a structure to comply with an order of the Building Inspector issued pursuant to the provisions of this chapter, and upon adoption by the City Council of an ordinance authorizing and directing him or her to do so as provided by G.S. § 160A-443(5) and § 152.08(C), the Building Inspector shall proceed to cause the structure either to be repaired or else removed or demolished, as directed by the ordinance of the Council, and shall cause to be posted on the main entrance of the structure a placard prohibiting the use or occupation of the structure. Use or occupation of a building so posted shall constitute a misdemeanor.

(B) Each such ordinance shall be recorded in the office of the County Register of Deeds and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. § 160A-443(5).

(^90 Code, § 4-106) Penalty, see § 10.99

§ 152.08 PROCEDURE FOR ENFORCEMENT.

(A) Preliminary investigation; notice and hearing. Whenever a petition is filed with the Building Inspector by at least five residents of the city, charging that any structure exists in violation hereof, or whenever it appears to the Building Inspector upon inspection that any structure exists in violation hereof, he or she shall, if his or her preliminary investigation discloses a basis for the charges, issue and cause to be served upon the owner of the building and parties in interest in the structure, a complaint stating the charges and containing a notice that a hearing will be held before the Building Inspector at a place therein fixed, not less than ten days, nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of the hearing shall also be given to at least one of the persons signing a petition relating to the structure. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Building Inspector.

(B) Procedures after hearing. After the notice and hearing, if the Building Inspector determines that the structure is in violation, he or she shall state in writing his or her finding of fact to support the determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve the structure or else remove or demolish the same within a specified period of time not to exceed 90 days.

(C) (1) Failure to comply with order; in personam remedy. If the owner of any structure shall fail to comply with an order of the Building Inspector within the time specified therein, the Building Inspector may submit to the City Council at its next regular meeting a resolution directing the City Attorney to petition the Superior Court for an order directing the owner to comply with the order of the Building Inspector, as authorized by G.S. § 160A-446(g).

(2) In rem remedy. After failure of an owner of a structure to comply with an order of the Building Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in division (C)(1), the Building Inspector shall submit to the City Council an ordinance ordering the Building Inspector to cause the structure to be removed or demolished, as provided in the original order of the Building Inspector and pending the removal or demolition, to placard the structure as provided by G.S. § 160A-443.

(D) Petition to Superior Court by owner. Any person aggrieved by an order issued by the Building Inspector shall have the right, within 30 days after issuance of the order, to petition the Superior Court for a temporary injunction restraining the Building Inspector pending a final disposition of the cause, as provided by G.S. § 160A-446(f).

(^90 Code, § 4-107)

#### § 152.09 COST A LIEN ON PREMISES.

As provided by G.S. § 160A-446(6), the amount of the cost of any removal or demolition caused to be made or done by the Building Inspector pursuant to this chapter shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority and be enforced, and the cost collected as provided by G.S. Ch. 160A, Art. 10.

(^90 Code, § 4-108)

#### § 152.10 ALTERNATIVE REMEDIES.

Neither this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their abatement by summary action or otherwise or to enforce this chapter by criminal process, and the enforcement of any other remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

(^90 Code, § 4-109)